



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

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Draft Advisory Opinion No. 2011-1

February 24, 2011

Question Presented: **May a Department of Developmental Services employee fulfill postdoctoral licensing requirements in psychology at the place of her state employment and during regular state work hours?**

Brief Answer: **Yes. The Department of Developmental Services employee may fulfill her postdoctoral licensing requirements in psychology at the place of her state employment. The employee in question may also fulfill her postdoctoral licensing requirements in psychology during her regular state work hours but only to the extent of the overlap between her established state job duties and the licensing requirements. Any postdoctoral experience requirements that do not overlap with the established state job duties must be performed outside of the employee’s regular state work hours.**

At its December 2010 regular meeting, the Citizen’s Ethics Advisory Board (“Board”) granted the petition for an advisory opinion submitted by Dr. Valencia Bagby-Young (“Petitioner”). The Board issues this advisory opinion on the date shown below in accordance with General Statutes § 1-81 (a) (3). The opinion interprets only the Code of Ethics for Public Officials¹ (“Ethics Code”) and its regulations; is binding on the Board concerning the person who requested it and who acted in reliance thereon, in good faith; and is based solely on the facts provided by the Petitioner.

¹Chapter 10, part 1, of the General Statutes.

Facts

The facts provided by the Petitioner are set forth below and are considered part of this opinion:

I am employed with the Department of Developmental Services [“DDS”], North Region, as a Director of Health Services. I have been a Registered Nurse for 26 years, and possess a Bachelors’ Degree in Psychology, Masters’ degree in Educational Psychology, as well as a Doctorate in Educational Psychology. In addition to maintaining my state licensure as a registered nurse, I am also in the process of completing postdoctoral requirements for licensure in psychology.

According to the Department of Public Health [“DPH”] Psychology Licensure Requirements, my postdoctoral work experience must be either no less that (sic) 35 hours/week for 1 year or no less than 1,800 hours over a two years period of time...The Department of Developmental Services is a qualified agency in CT for psychology pre and post doctoral experiences. Work experience must be supervised by one or more doctoral level licensed psychologists. I am a full time employee of DDS. My postdoctoral responsibilities are supervised by the Director of Clinical Services, Dr. Covino (licensed psychologist), with input from per diem licensed psychologists. In March 2010, all of my documentation was submitted to DPH and accepted to initiate postdoctoral work experience at DDS. DDS has had other doctorate level psychologists complete their postdoctoral work experience and receive licensure.

My postdoctoral work experience has already been initiated. Recently, another employee approached our Human Resources Director as to whether or not there was an ethical conflict. Subsequently, the Human Resources Director requested that I contact the Office of State Ethics. The supervising psychologists and I am not aware of an ethical conflict.

There is an overlap between my responsibilities as a DDS Director of Health Services and the postdoctoral requirements for licensure in psychology. The overlapping areas are as follows [confirmed by Dr.

Covino – Petitioner’s supervisor of postdoctoral licensure in psychology at DDS]:

- involvement with client cases that are complicated by both medical and psychological concerns;
- involvement in the Program Review Committee (“PRC”) - PRC reviews and approves (or disapproves) the use of behavior modifying medications and behavioral support plans. This includes the review of aversive and restrictive behavior plans. PRC assures that psychiatric and behavioral treatments are used in accordance with current standards of medical practice[];
- participation in the competency restoration - when the Judicial System assigns DDS the responsibility of competency restoration for individuals found not competent, but restorable;
- attendance of Probate Court proceedings regarding guardianship for medical/psychology related client concerns;
- guardianship evaluations; and
- Do Not Resuscitate Orders, including competency/psychology issues.

The individuals who receive psychological testing or other services from me are clients of DDS or have been referred for specific evaluations. I have no other relationship with those individuals.

I do not receive any additional compensation [for my postdoctoral experience.]... [B]ecause I am in a salaried management position[, I] do not receive additional compensation for working extended hours. Other psychologists in our department have also completed their postdoctoral hours during their regular work schedules, and Dr. Covino has provided their clinical supervision. The question is whether or not there is a conflict with my position and providing the additional services to individuals that DDS serves.

Analysis

Under General Statutes § 1-84 (c), a state employee must not use his state position, or confidential information gained in that position, for financial gain. Because some of the Petitioner's core established duties as a DDS Director of Health Services overlap with the requirements of postdoctoral licensure in psychology, the question is whether the Petitioner may fulfill those requirements during her regular working hours, without violating § 1-84 (c).

The Petitioner's performance of postdoctoral psychology licensure requirements, whether within the context of regular state employment or not, is not compensated and, therefore, it is not treated as other employment. In a prior informal staff opinion, unpaid fulfillment of educational credits was approved in the context of state employment, provided that the employee in question received approval and supervision by someone who is not subordinate to the employee at the state agency she worked.² Further, the employee was not prohibited from working with a client population she normally served as a state employee.³ Here, the Petitioner has been approved for the postdoctoral psychology licensure program and is being supervised by someone who is not her subordinate at DDS. Accordingly, the Petitioner may fulfill her postdoctoral licensing requirements during her regular state work hours to the extent her state duties overlap with the licensing requirements.

However, the additional postdoctoral licensure responsibilities that do not overlap with her established state work duties must be performed outside of her regular state employment. The Petitioner has stated that her postdoctoral work experience involves extra work beyond her regular state employment responsibilities. Therefore, the permissibility of performing the licensure requirements within the context of state employment applies only to those areas that overlap with previously established state job duties of the Petitioner's state position. Based on the facts presented by the Petitioner, it appears that the aforementioned caveat has already been considered and that appropriate precautions have been taken.

By order of the Board,

Dated:

Chairperson

²Request for Advisory Opinion No. 3180 (2002).

³Id.