

**42 IAC 1-5-6 Conflicts of Interests (IC 4-2-6-9)**  
**42 IAC 1-5-7 Prohibition against financial interest in contract (IC 4-2-6-10.5)**  
**42 IAC 1-5-14 Post-Employment (IC 4-2-6-11)**  
**42 IAC 1-5-10 Benefiting from confidential information**  
**42 IAC 1-5-11 Divulging confidential information**  
**IC 4-2-6-6 Compensation resulting from confidential information**  
**IC 4-2-6-17 Use of state property**

The Ethics Officer for the Indiana Family Social Services Administration sought advice on behalf of the Director of Clinical Operations for FSSA's Office of Medicaid Policy and Planning regarding a post-employment opportunity with a hospital that contracts with FSSA. The Commission finds that the post-employment opportunity would not violate the post-employment restrictions.

May 11, 2023  
2023-FAO-005

The Indiana State Ethics Commission (Commission) issues the following advisory opinion concerning the State Code of Ethics (Code) pursuant to IC 4-2-6-4(b)(1). The following opinion is based exclusively on sworn testimony and documents presented by the requestor and the state employee whose post-state employment activities serve as the basis for the request.

**BACKGROUND**

The Ethics Officer for the Indiana Family and Social Services Administration (FSSA) is requesting an advisory opinion on behalf of the new Director of Clinical Operations (Director) for FSSA's Office of Medicaid Policy and Planning (OMPP). Specifically, the Ethics Officer is requesting an opinion from the Commission regarding the Director's proposed post-state employment opportunity with Eskenazi Hospital.

The Director previously sought a formal advisory opinion from the Commission ([2022-FAO-005](#)) to determine the ethical implications of his continued employment with Eskenazi Hospital (Eskenazi), Indiana University Health (IU Health) and the Indiana University School of Medicine (IU School of Medicine) after beginning his role at FSSA. The Ethics Officer provides that the Director has adhered to the Commission's requirements that he screen himself from participation in any matters in which Eskenazi, Indiana University Health Physicians (IU Health Physicians) or IU Health would have a unique financial interest.

The duties of the Director of Clinical Operations for OMPP include providing medical oversight, expertise and leadership to projects and operations within OMPP. He also works with FSSA's Pharmacy Team and the Coverage and Benefits Team, and he occasionally assists the Program Integrity Team. The Program Integrity Team is primarily responsible for reviewing suspected cases of fraud and abuse and making recommendations regarding Medicaid providers. In addition to those duties, the Director also participates in rulemaking and vendor procurement activities at OMPP. Those activities generally apply to all Medicaid providers.

The Director has been offered the position of Medical Director of Transitions of Care with Eskenazi and would like to accept the offer and begin employment on August 1, 2023, or sooner if possible. In his proposed role at Eskenazi, The Director would occasionally treat patients in the Emergency Department, which could include the treatment of Medicaid patients. Eskenazi contracts with IU Health for professional physician services, which would provide the source of his compensation for patient care in the Emergency Department; however, ninety percent of his proposed role will be administrative in nature, including acting as a physician advisor on the Eskenazi Utilization Review Committee.

Based on information provided to the Commission, IU Health Physicians pays the Director on an hourly basis for his work at Eskenazi, rather than the Director billing patients or insurance. As the Director will be providing patient care in the Emergency Department, this could potentially include providing care to Medicaid patients similar to any other physician providing medical services for IU Health Physicians. His compensation would not be tied to the charges and collections that he generates or the payer mix of the patients for which he cares; however, his fees may be paid from general Medicaid funds.

The Director remains on faculty with the IU School of Medicine. The Director took an unpaid leave of absence while maintaining his faculty appointment during his tenure at FSSA. The Director would like to return to full time employment with the IU School of Medicine where he would teach medical and physician assistant students at their Department of Emergency Medicine.

Eskenazi and IU Health Physicians are Indiana Medicaid enrolled providers maintaining agreements with FSSA and which receive Medicaid reimbursement. Eskenazi has five active contracts with FSSA's Division of Mental Health and Addictions (DMHA). DMHA also certifies Eskenazi's community health center. IU Health Physicians is affiliated with IU Health and maintains five contracts with FSSA, none of which are administered by OMPP. In his role at FSSA, the Director is not the owner or administrator of any contracts with FSSA and does not believe he has made any discretionary decisions affecting the outcome of the negotiation or nature of the administration of any contract with Eskenazi Health or IU Health.

In the Director's role at FSSA, he does not provide regulatory or license oversight on behalf of FSSA for Eskenazi Health, IU Health or the IU School of Medicine. The Director's proposed post-employment opportunities with Eskenazi and IU Health would not include any lobbying activities. He also understands that he is prohibited from representing Eskenazi, IU Health or the IU School of Medicine with any particular matter in which he personally and substantially participated during his employment at FSSA.

The Director also understands his obligation to protect confidential information learned through his work at FSSA and is aware that he is prevented from divulging any confidential information or allowing anyone, including Eskenazi and IU Health Physicians, to benefit from it.

The Director is also an appointed member of the Indiana Medical Licensing Board (MLB) and plans to continue to serve in that role after leaving his position at FSSA. The MLB consists of seven (7) members and grants licenses to physicians, osteopathic physicians, telehealth providers, postgraduate trainees, teaching permits and non-ECFMG training permits. The MLB oversees waiver of certain licensing requirements and monitors compliance with the provisional licenses the MLB issues as a result. Those seeking licensing bring individual licensing requirement matters directly to the MLB.

The MLB also oversees allegations of unprofessional conduct that are brought as complaints by the Indiana Attorney General's Office. Those allegations can range from general unprofessional conduct, alcohol or substance abuse and pending criminal charges or convictions. The MLB is charged with the responsibility of disciplining licensees who have violated practice standards, acted dishonestly or acted unethically. As a result, MLB board members are asked to vote to terminate, suspend or restrict licenses of individual practitioners. The standard of those votes is whether, by a preponderance of the evidence, the individual presents a danger to the public by his/her continued practice of medicine and, therefore, whether MLB should terminate, suspend or restrict the individual's license.

As a member of the MLB, the Director does not believe his decisions or votes financially benefit any of his proposed employers directly, as the MLB's decisions affect individual physicians and other practitioners' licenses, and the MLB ensures those in the profession maintain professional standards while practicing in an honest and ethical manner.

The Ethics Officer is seeking the Commission's formal advisory opinion regarding the application of any of the rules in the Code to the Director's proposed post-employment with Eskenazi and IU School of Medicine, as well as any implications under the Code for his continued service with the MLB.

### **ISSUES**

- 1) What ethics issues, if any, arise for the Director in his post-employment positions with Eskenazi and the IU School of Medicine?
  
- 2) What ethics issues, if any, arise for the Director in his role as a Board Member for the MLB given his post-employment positions with Eskenazi and the IU School of Medicine?

### **RELEVANT LAW**

#### **IC 4-2-6-9 (42 IAC 1-5-6)**

#### **Conflict of economic interests; commission advisory opinions; disclosure statement; written determinations**

Sec. 9. (a) A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or

special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) The state officer, employee, or special state appointee.
- (2) A member of the immediate family of the state officer, employee, or special state appointee.
- (3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a member, a trustee, a partner, or an employee.
- (4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and ethics officer in writing and do either of the following:

- (1) Seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:
  - (A) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or
  - (B) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.
- (2) File a written disclosure statement with the commission that:
  - (A) details the conflict of interest;
  - (B) describes and affirms the implementation of a screen established by the ethics officer;
  - (C) is signed by both:
    - (i) the state officer, employee, or special state appointee who identifies the potential conflict of interest; and
    - (ii) the agency ethics officer;
  - (D) includes a copy of the disclosure provided to the appointing authority; and
  - (E) is filed not later than seven (7) days after the conduct that gives rise to the conflict.

A written disclosure filed under this subdivision shall be posted on the inspector general's Internet web site.

(c) A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(1)(B) shall be filed with the appointing authority.

#### **IC 4-2-6-10.5 (42 IAC 1-5-7)**

#### **Prohibition against financial interest in contract; exceptions; disclosure statement; penalty for failure to file statement**

Sec. 10.5. (a) Subject to subsection (b), a state officer, an employee, or a special state appointee may not knowingly have a financial interest in a contract made by an agency.

- (b) The prohibition in subsection (a) does not apply to a state officer, an employee, or a special state appointee who:
- (1) does not participate in or have contracting responsibility for the contracting agency; and
  - (2) files a written statement with the inspector general before the state officer, employee, or special state appointee executes the contract with the state agency.
- (c) A statement filed under subsection (b)(2) must include the following for each contract:
- (1) An affirmation that the state officer, employee, or special state appointee does not participate in or have contracting responsibility for the contracting agency.
  - (2) An affirmation that the contract: (A) was made after public notice and, if applicable, through competitive bidding; or (B) was not subject to notice and bidding requirements and the basis for that conclusion.
  - (3) A statement making full disclosure of all related financial interests in the contract.
  - (4) A statement indicating that the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee.
  - (5) In the case of a contract for professional services, an affirmation by the appointing authority of the contracting agency that no other state officer, employee, or special state appointee of that agency is available to perform those services as part of the regular duties of the state officer, employee, or special state appointee. A state officer, employee, or special state appointee may file an amended statement upon discovery of additional information required to be reported.
- (d) A state officer, employee, or special state appointee who:
- (1) fails to file a statement required by rule or this section; or
  - (2) files a deficient statement; before the contract start date is, upon a majority vote of the commission, subject to a civil penalty of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

**IC 4-2-6-11 One year restriction on certain employment or representation; advisory opinion; exceptions; waivers; disclosure statements; restrictions on inspector general seeking state office**

Sec. 11. (a) As used in this section, "particular matter" means any of the following:

- (1) An application.
- (2) A business transaction.
- (3) A claim.
- (4) A contract.
- (5) A determination.
- (6) An enforcement proceeding.
- (7) An investigation.
- (8) A judicial proceeding.
- (9) A lawsuit.
- (10) A license.
- (11) An economic development project.
- (12) A public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(b) A former state officer, employee, or special state appointee may not accept employment or receive compensation:

- (1) as a lobbyist;
- (2) from an employer if the former state officer, employee, or special state appointee was:
  - (A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and
  - (B) in a position to make a discretionary decision affecting the:
    - (i) outcome of the negotiation; or
    - (ii) nature of the administration; or
- (3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer; before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

- (1) employment; or
- (2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of the individual's duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the commission certifying that:

- (1) employment of;
- (2) consultation by;
- (3) representation by; or
- (4) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

(f) Subsection (b) does not apply to the following:

- (1) A special state appointee who serves only as a member of an advisory body.
- (2) A former state officer, employee, or special state appointee who has:
  - (A) not negotiated or administered any contracts with that employer in the two (2) years before the beginning of employment or consulting negotiations with that employer; and
  - (B) any contract that:

- (i) the former state officer, employee, or special state appointee may have negotiated or administered before the two (2) years preceding the beginning of employment or consulting negotiations; and
- (ii) is no longer active.

(g) An employee's or a special state appointee's state officer or appointing authority may waive application of subsection (b) or (c) in individual cases when consistent with the public interest. A waiver must satisfy all of the following:

- (1) The waiver must be signed by an employee's or a special state appointee's:
  - (A) state officer or appointing authority authorizing the waiver; and
  - (B) agency ethics officer attesting to form.
- (2) The waiver must include the following information:
  - (A) Whether the employee's prior job duties involved substantial decision making authority over policies, rules, or contracts.
  - (B) The nature of the duties to be performed by the employee for the prospective employer.
  - (C) Whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee.
  - (D) Whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest.
  - (E) The extent of economic hardship to the employee if the request for a waiver is denied.
- (3) The waiver must be filed with and presented to the commission by the state officer or appointing authority authorizing the waiver.
- (4) The waiver must be limited to an employee or a special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation of subsection (b) or (c).

The commission may conduct an administrative review of a waiver and approve a waiver only if the commission is satisfied that the information provided under subdivision (2) is specifically and satisfactorily articulated. The inspector general may adopt rules under IC 4-22-2 to establish criteria for post employment waivers.

(h) Subsection (b) applies, subject to waiver under subsection (g), to a former state officer, employee, or special state appointee who:

- (1) made decisions as an administrative law judge; or
- (2) presided over information gathering or order drafting proceedings; that directly applied to the employer or to a parent or subsidiary of the employer in a material manner.

(i) A former state officer, employee, or special state appointee who forms a sole proprietorship or a professional practice and engages in a business relationship with an entity that would otherwise violate this section must file a disclosure statement with the commission not later than one hundred eighty (180) days after separation from state service. The disclosure must:

- (1) be signed by the former state officer, employee, or special state appointee;
- (2) certify that the former state officer, employee, or special state appointee is not an employee of the entity; and

- (3) state in detail the treatment of taxes, insurance, and any other benefits between the entity and the former state officer, employee, or state appointee.
- (j) The inspector general may not seek a state elected office before the elapse of at least three hundred sixty-five (365) days after leaving the inspector general position.

#### **42 IAC 1-5-10**

##### **Benefiting from confidential information**

Sec. 10. A state officer, employee, or special state appointee shall not benefit from, or permit any other person to benefit from, information of a confidential nature except as permitted or required by law.

#### **42 IAC 1-5-11**

##### **Divulging confidential information**

Sec. 11. A state officer, employee, or special state appointee shall not divulge information of a confidential nature except as permitted by law.

#### **IC 4-2-6-6**

##### **Present or former state officers, employees, and special state appointees; compensation resulting from confidential information**

Sec. 6. No state officer or employee, former state officer or employee, special state appointee, or former special state appointee shall accept any compensation from any employment, transaction, or investment which was entered into or made as a result of material information of a confidential nature.

#### **IC 4-2-6-17**

##### **Use of state property for other than official business; exceptions; Violations**

Sec. 17. (a) Subject to IC 4-2-7-5, a state officer, an employee, or a special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the commission. The commission may withhold approval of a policy or rule that violates the intent of Indiana law or the code of ethics, even if Indiana law or the code of ethics does not explicitly prohibit that policy or rule.

(b) An individual who violates this section is subject to action under section 12 of this chapter.

### **ANALYSIS**

The Ethics Officer's request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to Post-employment, Conflicts of Interests, Use of State Property and Benefiting from and Divulging Confidential Information. The application of each provision to the Director is analyzed below.

#### *A. Post-employment*

IC 4-2-6-11 consists of two separate limitations: a “cooling off” period and a “particular matter” restriction. The first prohibition, commonly referred to as the cooling off or revolving door period, prevents the Director from accepting employment from an employer for 365 days from the date that he leaves state employment under various circumstances.

First, as the Director plans to leave state government and will be a former employee for the purposes of this rule, he is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. A lobbyist is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration.

Based on the information provided, the Director would not be engaging in any lobbying activities in his positions at Eskenazi or the IU School of Medicine. To the extent that the Director does not engage in executive branch lobbying for one year after leaving state employment, his post-employment opportunity at Eskenazi and his return to teaching at the IU School of Medicine would not violate this provision of the post-employment rule.

Second, the Director is prohibited from accepting employment for 365 days from the last day of his state employment from an employer with whom 1) he engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract.

Eskenazi and IU Health Physicians are Indiana Medicaid enrolled providers maintaining agreements with FSSA and which receive Medicaid reimbursement. Eskenazi has five active contracts with FSSA’s Division of Mental Health and Addictions (DMHA). IU Health Physicians is affiliated with IU Health and maintains five contracts with FSSA, none of which are administered by OMPP. In his role at FSSA, the Director is not the owner or administrator of any contracts with FSSA and does not believe he has made any discretionary decisions affecting the outcome of the negotiation or nature of the administration of any contract with Eskenazi Health or IU Health.

The Director has worked at least peripherally on some contracts while at FSSA. He provided that one of the medical directors who reported to him at FSSA is a contractor for FSSA under a contract between OMPP and University Medical Diagnostic Associates, which is affiliated with IU Health. The Director’s involvement is limited to validating hours worked and authorizing payment. The Director also identified a pilot project funded by OMPP with Indiana University regarding complex case management. This contract predated his tenure at FSSA and his involvement with that project is limited to validating services provided and authorizing reimbursement.

Based on the information provided, the Director’s involvement in the contracts between OMPP and University Medical Diagnostic Associates and between OMPP and Indiana University do not constitute the negotiation or administration of a contract where he was in a position to affect the outcome of the negotiation or the nature of the administration of such contracts.

Third, the Director is prohibited from accepting employment for 365 days from the last day of his state employment from an employer for whom he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary. The Ethics Officer provides that the Director has not made any regulatory or licensing decisions in his position with FSSA that directly applied to Eskenazi, IU Health or the IU School of Medicine.

The Director has not made any regulatory or licensing decisions in his position at FSSA that directly applied to Eskenazi, IU Health, the IU School of Medicine, or any of these entities' parents or subsidiaries.

Fourth, the Director is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence him in his official capacity as a state employee.

The information presented to the Commission does not suggest that Eskenazi has extended an offer for his prospective new role in an attempt to influence the Director in his capacity as a state employee.

**Accordingly, the Commission finds that the cooling off period of the post-employment rule would not prohibit his intended employment opportunity with Eskenazi nor his resuming teaching activities at the IU School of Medicine immediately upon leaving state government.**

Finally, the Director is subject to the post-employment rule's "particular matter" prohibition in his prospective post-employment. This restriction prevents him from representing or assisting a person on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract, 5) a determination, 6) an enforcement proceeding, 7) an investigation, 8) a judicial proceeding, 9) a lawsuit, 10) a license, 11) an economic development project, or 12) a public works project. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

In this instance, the Director would be prohibited from representing or assisting Eskenazi, the IU School of Medicine, or any other person, in a particular matter in which he personally and substantially participated as a state employee.

**The Director has not identified any particular matters that he worked on in his role at FSSA that he will be required to work on in his role at Eskenazi or the IU School of Medicine.**

*B. Conflict of interests - decisions and votes*

IC 4-2-6-9 (a)(1) prohibits the Director from participating in any decision or vote, or matter relating to that decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(3) prohibits the Director from participating in any decision or vote,

or matter relating to that decision or vote, if a business organization with whom he is negotiation or has an arrangement concerning prospective employment or in which he serves as an employee has a financial interest in the matter.

IC 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify his or her Ethics Officer and Appointing Authority in writing and either seek an advisory opinion from the Commission or file a written disclosure statement.

The Director maintains an active screen at FSSA, which was part of his disclosure statement filed under this rule on April 28, 2022. The screen prohibits the Director from participating in any decisions or votes, or matters related to decisions or votes, at FSSA in which Eskenazi, IU Health Physicians or IU Health have a financial interest. As such, he has complied with the requirements in IC 4-2-6-9 for any potential conflict of interests that exists between his FSSA employment and his arrangement concerning prospective employment with Eskenazi, IU Health Physicians or IU Health.

In his continued role at the MLB, the Director may potentially be in a position to participate in a decision or vote, or matter related to a decision or vote, in which Eskenazi, IU Health Physicians, IU Health or IU School of Medicine would have a unique financial interest.

**The Commission advised the Director to work with the Professional Licensing Agency's ethics officer to identify any potential conflicts of interests in his role at MLB, and to implement a screen and file a new disclosure with the Commission relevant to his role at the MLB should the MLB or the Director identify a potential conflict of interests.**

### *C. Conflict of interests – contracts*

Pursuant to IC 4-2-6-10.5, a special state appointee may not knowingly have a financial interest in a contract made by an agency. This prohibition however does not apply to a special state appointee that does not participate in or have contracting responsibility for any of the activities of the contracting agency, provided certain statutory criteria are met.

The Ethics Officer provides that Eskenazi has five active contracts with FSSA's DMHA, and FSSA's divisions have five active contracts with IU Health. Although the Director plans to leave employment at FSSA, he will continue to be subject to the Code's requirements due to his retained position as a special state appointee on the MLB.

The Ethics Officer and the Director provided that IU Health Physicians pays the Director hourly for his Emergency Department work, and the Director does not bill his patients or insurance directly. The Director's Emergency Department work would potentially include Medicaid patients similar to any other physician providing medical services for IU Health Physicians. His services may result in payment to his employer paid from general Medicaid funds; however, under these circumstances such funds are not considered to be derived from a state contract.

**Based on the information provided, the Director does not have a financial interest in a state contract that would create a conflict of interests under this rule or under the Indiana criminal code, nor has he identified any potential conflict of interests in his proposed post-employment with Eskenazi and IU School of Medicine.**

*D. Confidential information*

The Director is prohibited under 42 IAC 1-5-10 and 42 IAC 1-5-11 from benefitting from, permitting any other person to benefit from or divulging information of a confidential nature except as permitted or required by law. Similarly, IC 4-2-6-6 prohibits the Director from accepting any compensation from any employment, transaction or investment that is entered into or made as a result of material information of a confidential nature. The term “person” is defined in IC 4-2-6-1(a)(13) to encompass both an individual and a corporation, such as IU Health. In addition, the definition of “information of a confidential nature” is set forth in IC 4-2-6-1(a)(12).

To the extent the Director has acquired or maintains access to such confidential information obtained in his role at FSSA or the MLB, he would be prohibited not only from divulging that information but from ever using it to benefit any person, including any of his outside employers, in any manner.

*E. Use of state property*

42 IAC 1-5-12 prohibits the Director from using state property for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental or institutional policy or regulation that has been approved by the Commission.

The Director cannot use state property, such as his state email, state phone or state computer for activities related to his outside employment with Eskenazi and the IU School of Medicine in order to comply with the use of state property rule (IC 4-2-6-17).

To the extent that the Director observes these provisions regarding his post-employment activities, his outside positions would not violate these ethics laws.

**CONCLUSION**

Subject to the foregoing analysis, the Commission finds that the Director may immediately begin work at his proposed post-employment positions with Eskenazi and the IU School of Medicine following his separation from state employment. The Commission further finds that as a MLB member, the Director continues to be subject to the Code’s rules regarding conflicts of interests and other provisions applying to special state appointees. The Commission finds that no such conflicts have been identified based on the information provided; however, the Commission advises the Director to work with the Professional Licensing Agency’s ethics officer to identify any potential conflicts of interests in his role at MLB, and to implement a screen and file a new disclosure with the Commission relevant to his role at the MLB should the MLB or the Director identify a potential conflict of interests.

Respectfully Submitted,

A handwritten signature in black ink that reads "Sean M. Gorman". The signature is written in a cursive style with a prominent initial "S" and a long, sweeping underline.

Sean Gorman  
State Ethics Director