

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

40 IAC 2-1-8

40 IAC 2-1-9

SEC rendered the opinion that it was neither a conflict of interest nor a violation of the moonlighting rule for an employee who was a licensed psychologist and a nurse employed at a state hospital to work on contract for another state agency as a psychologist or nurse during time when she was not on-duty at the hospital.

**90-I-31: Conflict of Interest, Moonlighting
Indiana State Ethics Commission
Official Advisory Opinion
(Decision December 6, 1990)**

FACT SITUATION

A licensed Ph.D. psychologist who was also a licensed R.N. employed at Central State Hospital as a psychologist wanted to work part-time as a nurse or a psychologist for another state agency. The psychologist supervised interns and behavioral clinicians and served a dual diagnosis ward which means a ward with clinical abused mentally-ill individuals. She did individual counseling, group counseling, and different types of psychological assessments. Her work schedule was ten hours a day, four days a week. The hours were flexible as long as cleared with the director of the department. The part-time work she desired to apply for would be as a nurse or a psychologist for other state agencies on contract, for example, the Department of Corrections. The kinds of things the psychologist might be doing in the contract work would be the same type of activities with she did for the state, with different populations. Contract work was to be done on Fridays when the psychologist was not working at Central State Hospital. The psychologist said that it would not be possible to be working with the same person at two different agencies and that there was no way to steer clients from work at Central State Hospital to gain benefits from servicing them in another place. The contract work would not affect her judgment on work done at Central State Hospital or require her to give confidential information gained as an employee of Central State.

QUESTION

Is it permissible for a psychologist at Central State Hospital to work part-time as a nurse or a psychologist for another state agency?

OPINION

The State Ethics Commission rendered the opinion that it was not a conflict of interest nor a violation of the moonlighting rule for an employee who is a licensed psychologist and a nurse employed at Central State Hospital to work on contract for another state agency as a psychologist or nurse during time when she is not on-duty at Central State Hospital. The Commission did not answer the question in regard to matters that were outside the State Ethics Commission's jurisdiction. There may still be reasons why the employee may not engage in this employment on contract for another state agency.

The relevant rules are as follows:

40 IAC 2-1-9(A) provides, "If in the course of the discharge of his official duties as a state officer or state employee he shall find himself in a position where his, or his spouse's or his unemancipated children's economic interest shall be substantial and material and in conflict with the interest of the people of this State, then such state officer or state employee shall be expected to resolve such conflict as provided for in Section 10 (40 IAC 2-1-10)."

40 IAC 2-1-8 provides, "A state employee must not engage in outside employment or other outside activity not compatible with the full and proper discharge of his public duties and responsibilities. This outside employment or other outside activity must not impair his independence of judgment as to his official responsibilities, pose a likelihood of conflict of interest or require him or persuade him to disclose confidential information acquired by him as a result of his official duties."