



## BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

### Waiver No. 10-12-020

Absent a waiver, an employee cannot participate in any matter that affects, in a manner distinct from its effect on the public generally, any business in which the public employee has an economic interest. A County psychiatrist asks whether he can refer to his own private practice a patient he has been seeing in the County clinic where he works. The Commission will grant the requested waiver because we believe it meets the applicable waiver standards and is in the best interest of the patient.

Dr. David Zwerdling works as a psychiatrist in a County clinic. In that capacity, he has treated an abused and neglected patient for the past two years. He has prescribed a somewhat complicated regimen of medications for this patient and is providing supportive psychotherapy. He has also worked with the patient's father and foster mother. The patient has been discharged from the County clinic and Dr. Zwerdling's care.

Consistency in treatment is critical to this patient's continued care. Siblings have been relocated to another state, making it very unlikely that the patient will be able to continue much, if any, relationship with them for a long time to come. It is both the father's and foster mother's desire that treatment with Dr. Zwerdling be continued. He concludes his waiver request as follows: "To have to begin with yet another provider at this point would, in [the patient's] and foster mother's judgment, be very detrimental to the ongoing, albeit gradual, progress the patient has been making. I concur with their judgment." The department director supports Dr. Zwerdling's request.

Section 19A-11(a) provides that, absent a waiver, an employee cannot participate in any matter that affects, in a manner distinct from its effect on the public generally, any business in which the public employee has an economic interest. But the Commission may waive the prohibitions of § 19A-11 if it finds that:

- (1) the best interests of the County would be served by granting the waiver;
- (2) the importance to the County of a public employee or class of employees performing official duties outweighs the actual or potential harm of any conflict of interest; and

(3) granting the waiver will not give a public employee or class of employees an unfair economic advantage over other public employees or members of the public.

The Commission finds that the waiver standard is met in this case. It is in the County's best interest if Dr. Zwerdling is permitted to continue his work with this patient. The importance to the County of Dr. Zwerdling's performing his duties outweighs any actual or potential harm of any conflict of interest. Finally, we do not believe that this waiver will give Dr. Zwerdling an unfair economic advantage over other public employees or members of the public.

In reaching this decision, the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:

December 14, 2010  
Date

  
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Nina Weisbroth, Chair