



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 81-10

Part-time Private Counselling by Employees of the Department of Human Resources

Two employees of the Department of Human Resources, providing services to the elderly, propose to form a firm through which, on a part-time basis outside their normal working hours for the State, they would furnish short-term counselling to adult children of the elderly. They have asked the Ethics Commission to agree that the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, permits persons with their State duties to engage in such a venture.

One petitioner is supervisor of the Adult Services Unit in one of the Department's district offices. The Unit provides supportive services to elderly, disabled, and blind persons to ensure that they receive adequate social, economic, and medical care in order to function as independently as possible. Primary concerns of the Unit are the prevention of institutionalization, deinstitutionalization, and the development of alternative care arrangements. The supervisor trains the social workers in her unit, assigns cases to them, and evaluates their performance. She reviews for possible approval Unit workers' plans for service delivery to clients. When a client needs home care service but is unable to pay for it and is not already on some form of public assistance, the supervisor reviews and approves or disapproves the report of the social worker's investigation into the need of the client and eligibility for public assistance. A supervisor may handle difficult cases personally, or cover cases in the absence of the worker assigned them. Another responsibility is explaining departmental programs, policies, and procedures, and their legal basis, to clients and the public, as well as to workers in the Unit in the course of training them. Prior to her current assignment, the supervisor had been in charge of the district office unit which provided protective services to the elderly.

The other petitioner is one of two social workers in the Protective Services for the Elderly Unit in the same district office. "Protective services" are services provided to prevent abuse, neglect, exploitation, or abandonment of the elderly. Subdivision 46a-14(4), General Statutes. The protective services for the elderly program is run by the Department in cooperation with the Department on Aging. Regional ombudsmen and others notify the Department of elderly persons who are unable to perform or obtain services necessary to maintain physical and mental health;

Phone: (203) 566-4472

30 Trinity Street • Hartford, Connecticut 06115

An Equal Opportunity Employer

the Department arranges services to ensure their health and well-being. See Chapter 814, General Statutes. The social worker evaluates the needs of the elderly person referred for services. The worker then arranges for services required or refers the person to public or private service agencies. Services provided or arranged for include medical treatment, evaluation of mental competence, home care, legal assistance, housing, transportation, Meals-On-Wheels, placement, etc. Appointment of a conservator might be sought.

The counselling service the two State employees wish to establish has as potential clients not the elderly but their adult, often middle-aged, children. In their counselling the two petitioners would try to assist their clients to cope with the complex feelings and relationships of the adult child toward the aged parent. To assist the client to make decisions the petitioners would provide information concerning, and referral services to, the services and resources--voluntary, proprietary, and public--which they have learned about and utilize in their State employment. They acknowledge the same information is available from public sources. While the client would be the adult child, rather than the elderly person as in their public service, in providing services to the client they would often seek for the elderly the same goal as they do for many of their public clients--a network of protective services extending an elderly person's ability to remain independent, in the community, with an acceptable degree of safety. In the announcement of their counselling service, the petitioners include that their expertise has been gained in part in the area of Protective Services for the Elderly.

The Department's view is that the private counselling service would create unacceptable conflicts of interest with the petitioners' public employment. The petitioners foresee no problems which cannot readily be overcome because their private firm will be servicing a different clientele, both in age and in economic situation, than the petitioners serve as employees of the Department.

In a somewhat analogous situation, the Ethics Commission decided that a counselor in the State Division of Vocational Rehabilitation (DVR) could not form a firm to provide private vocational rehabilitation counselling. Advisory Opinion No. 80-16, 42 Conn. L.J. NO. 15, p. 6. That case had several distinguishing features, however. Clients served in the public and private sector might be in the same circumstances. DVR counselors had been assigned officially an outreach responsibility. Disabled individuals eligible for DVR services could receive them at public expense regardless of the individual's financial circumstances. These and other factors appeared to create unacceptable conflicts of interest between the counselor's public service and the proposed private work.

In the case at hand the situation is quite different. The clientele will not be the same in the public and the private sphere. For that reason, the petitioners' objectives will be different. In

one case it is the well-being of the adult child with an aged parent, in the other, the well-being of the aged person.

Because assistance to the elderly may achieve petitioners' purposes in both instances, however, there are possibilities for violation of the Code of Ethics for Public Officials. Should an application for public assistance be made on behalf of the parent of a private client of the firm who needs home care service, the supervisor should "prepare a written statement signed under penalty of false statement describing the matter requiring action and the nature of the potential conflict and deliver a copy of the statement to [her] immediate superior, ... who shall assign the matter to another employee...." Subsection 1-86(c), General Statutes. In the case of either petitioner, if the Department of Human Resources, or other State department with which either of the petitioners works closely in her public role, starts to provide services to the parent of a private client, the petitioner must cease counselling the private client to avoid the possibility of her private employment impairing her independence of judgment as to her official duties or the opportunity for improper use of office for private financial gain for herself or the firm. Subsections 1-84(b) and 1-84(c), *id.* The petitioners cannot advertise their positions in the Department of Human Resources to attract private clients. The petitioners also will have to provide certain information before a counselor-private client relationship is established, to avoid potential conflicts of interest. See section 1-86, *id.* First, the prospective client must be informed that information on services and resources, and some family counselling, can be obtained from public sources. Only clients who perceive advantage from private counselling when some of the same service can be obtained at public expense should be accepted. Prospective clients must be advised of the necessity of severing the counselor-client relationship if an involved parent receives social services from the Department of Human Resources or related Department. Finally, a petitioner must inform a prospective client of her inescapable statutory responsibility to report suspected cases of abuse, neglect, exploitation, or abandonment of an elderly person. See subsection 46a-15(a), *id.*

Operating within the parameters established above, petitioners should be able to conduct their private counselling business without violating the Code of Ethics for Public Officials. This is not to say that the Department of Human Resources, for personnel or other policy reasons, may not decide that the private employment proposed by the petitioners is unacceptable.

By order of the Commission,

Thomas J. Lynch
Rev. Thomas J. Lynch
Chairman

Dated June 26, 1981

