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## COOK COUNTY BOARD OF ETHICS

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September 16, 1996



RE: 96 A 0020 Soliciting Nutritional Supplements for Patients.

Dear [REDACTED]:

This letter is in response to your request for an advisory opinion on the above referenced matter.

### FACTS

The Cook County Department of Public Health ("Public Health") operates a case management program for people with HIV and AIDS. Public Health receives a federal grant from the Ryan White Program for case management and primary medical care. In the past few years Public Health has been able to purchase nutritional supplements for indigent clients from Walgreens using the primary care grant funds. The nutritional supplements are used in the treatment of patients with HIV and AIDS. This year the federal funding was reduced for primary care and Public Health is unable to afford the supplements out of its budget.

The clients for whom the supplements are needed are medically indigent. They are not covered by Medicaid and all have incomes below 200% of the poverty level guidelines as set by the federal government. [REDACTED]

[REDACTED] the Department of Public Health requests permission to contact drug companies that make supplements and solicit donations of free supplements for these clients. The request for donations will not include a specific amount, therefore, the donations from the different companies are likely to vary in value. According to [REDACTED] solicitations of this kind are common practice in the industry for indigent clients.

**ISSUE**

Can the [REDACTED] Department of Public Health, solicit drug companies who may or may not do business with the County to provide nutritional supplements for the poor and medically indigent?

**APPLICABLE SECTIONS OF THE ETHICS ORDINANCE**

**DEFINITIONS**

Whenever used in this Ordinance, the following terms shall have the following meanings:

- ...  
(f) "Doing Business" means any one or any combination of sales, purchases, leases or contracts to, from or with the County or any County agency in excess of \$10,000 in any twelve consecutive months.
- (h) "Employee" means an individual employed by the County whether part-time or full-time. Employee shall not include (i) judges of election; or (ii) individuals employed by the County for a specific project having a duration of not more than seven (7) days.
- (i) "Financial Interest" means (i) any interest as a result of which the owner currently received or is entitled to receive in the future more than \$2,500 per year; (ii) any interest with a cost or present value of \$5,000 or more;
- (j) "Gift" means anything of value given without consideration or expectation of return.
- (l) "Official" means any elected Cook County official or any appointed non-employee member of any agency of Cook County.
- (m) "Person" means any individual, entity, corporation, partnership, firm, association, union, trust estate, as well as any parent or subsidiary of any of the foregoing, and whether or not operated for profit.

**Preamble**

Whereas, it is essential to the proper operation of representative government that public Officials and Employees be independent and impartial; that public office and employment not be used for personal gain, and that the public have full confidence in the integrity and fair and honest administration of government;

...

**2.4 Receiving and Soliciting Gifts and Favors.**

...

- (b) No Official or Employee or any of their Relatives shall knowingly solicit, accept, receive or agree to receive, either directly or indirectly, anything of value, including but not limited to an alleged Gift, favor or promise of future employment, based upon any mutual understanding, either explicit or implicit, that the votes, official actions, decisions or judgments of such Official or Employee concerning the business of the County would be influenced.

...

- (d) No gifts which have a value of greater than \$125.00 (or series of Gifts with an aggregate value of greater than \$125.00 during any twelve month period) may be received by officials, employees, or any relatives residing in their households from (1) persons with a financial interest in County business; (2) persons seeking to do business with the County; or (3) persons who are compensated lobbyist on County matters. This prohibition shall not apply if the value of the gift in excess of \$125.00 is directly donated to a neighborhood, community or civic organization. Nothing in this section shall prevent any official from adopting rules regulating the receipt of gifts which exceed the requirement set forth above.

...

## DISCUSSION

The Board of Ethics has determined that [REDACTED] may solicit donations from companies to provide nutritional supplements to distribute to medically indigent patients.

Under Section 2.4(b), Employees are prohibited from soliciting anything of value where there is a mutual understanding that the business of the County will be influenced. In this case, there is no evidence of a mutual understanding that County business will be influenced by the solicitation or acceptance of donations from drug companies. Also, it is the Board's understanding that the purchases for Public Health go out for competitive bids and contracts are awarded to the lowest bidder which helps to eliminate the possibility that any person will have the ability to influence any County purchasing decision. However, so that no drug company will mistakenly believe that its donation will result in its receiving favorable treatment from the County, [REDACTED] must expressly inform each company that she solicits, that the decision to donate is purely voluntary.

Under Section 2.4 (d), Employees are prohibited from accepting gifts which have a value of greater than \$125.00 during any twelve month period from persons with a financial interest in County business or persons seeking to do business with the County. In this case, Public Health is requesting donations that may exceed \$125.00 in value depending on the generosity of the donor, from some companies that may do business with the County. However, the donations are not being received by any individual Employee, but instead by the Department of Public Health on behalf of the patients. Therefore, the \$125.00 limit is not applicable.

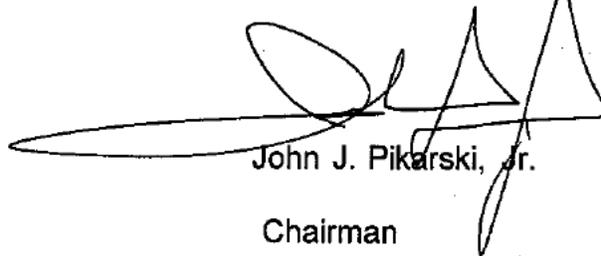
The Preamble of the Ethics Ordinance states Employees must be fair and impartial and not use their County employment or office for personal gain. In general, the restrictions on gifts in the Ethics Ordinance are intended to prohibit employees from deriving a *personal* economic benefit through their County service. It is apparent that [REDACTED] is soliciting the donations purely for the benefit of the patients and not for herself. The Ordinance is not intended to restrict the ability of County Employees to generate revenues or donations that will be used to benefit the public by saving the County money. Therefore, this provision does not prohibit [REDACTED] benevolent solicitation on behalf of the patients.

In addition, it should be noted that while the Department of Public Health may acknowledge each company for its donation, the Department cannot in any way promote any products of the drug company, given that any such promotion could be perceived by the public as an endorsement by the County.

We hope that this opinion addresses your concerns. The Board thanks you for your inquiry and commends you for your conscientiousness in seeking to uphold the guiding principles of the Ethics Ordinance. Under the Rules & Regulations of the Cook County Board of Ethics, all requests for reconsideration of an advisory opinion must be filed within fifteen (15) days of receipt of this opinion. Please do not hesitate to contact our office if you have additional questions or require additional information.

Sincerely,

COOK COUNTY BOARD OF ETHICS



John J. Pikarski, Jr.  
Chairman

cc:



jpm

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