

**COOK COUNTY BOARD OF ETHICS**  
69 West Washington, Suite 3040  
Chicago, Illinois 60602

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IN THE MATTER OF	)	
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Cook County Health and Hospitals System on	)	Case No. 2011 I 0006
behalf of Dr. Jane/John Doe	)	
	)	

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**NOTICE OF DETERMINATION**

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On October 17, 2011, the Cook County Board of Ethics (“Board”) received a complaint alleging that several, unnamed physicians were working full-time secondary jobs despite also being full-time employees of Cook County Health and Hospitals System (“CCHHS”). The Cook County Ethics Ordinance (“Ethics Ordinance”) prohibits an employee from “accept[ing] other employment which will impair his or her ability to perform County duties and responsibilities.” Cook County Code of Ordinances (“County Code”), § 2-573(b). In an effort to identify individual respondents who may have violated the Ethics Ordinance through impermissible dual employment, the Board and Office of the Independent Inspector General (“OIIG”) undertook an examination of dual employment disclosures made by employee-physicians to CCHHS.

Although this joint investigation did not identify any specific physicians who were working non-CCHHS jobs during his or her CCHHS working hours,<sup>1</sup> several process weaknesses were identified that contributed to the appearance that part-time CCHHS physicians, with permissible dual employment, undertook outside employment that impaired their ability to perform their CCHHS duties and responsibilities. These weaknesses include the longstanding practice of adding part-time physicians to the CCHHS payroll system as full-time physicians and sporadic recordkeeping regarding dual employment disclosures and CCHHS shift start and stop times for part-time physicians. CCHHS management has already undertaken important steps to correct some of these deficiencies, and so the Board now closes this investigation with the determination that no violation of Section 2-573 of the Ethics Ordinance occurred.

**INVESTIGATION SUMMARY**

An investigation directed by the Board found evidence supporting the following:

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<sup>1</sup> The Board and OIIG have since received complaints as part of separate proceedings for specifically-identified individual physicians with allegedly impermissible dual employment. Those complaints have been and will continue to be determined as part of separate proceedings.

Pursuant to various CCHHS and County rules, CCHHS employees with outside employment must complete a dual employment form, disclosing the existence of any non-CCHHS job and specifying how many hours the employee expects to work at the non-CCHHS job on a given day. Yet, due to recordkeeping and/or record transmittal issues,<sup>2</sup> CCHHS was unable to produce a comprehensive set of dual employment disclosures for its physicians at the request of Board and OIG investigators.

In 2014, CCHHS replaced the *ad hoc* system of collecting paper dual employment disclosures from its employees with a centralized, electronic dual employment form that could be completed online. In addition to making individual-level and macro-level data about dual employment readily accessible to investigators, this new platform allows CCHHS administration to better track the completion of dual employment disclosures, facilitating near universal compliance. The exact percentage of CCHHS employees that completed the paper dual employment disclosures is unknown, but it is presumed to be low. In contrast, at the end of 2014, the year in which the electronic platform debuted, more than 99.8 percent of CCHHS's approximately 6,000 workers completed a dual employment disclosure.

During the course of this investigation, the Board learned of a longstanding practice by which CCHHS would retain a part-time physician at an agreed annual salary but enter the physician into the Financial Management Information System ("FMIS"), the payroll system used by CCHHS, as if he or she were a full-time physician. For example, CCHHS might retain a highly-specialized physician for \$300,000 per year to work at Stroger Hospital for 10 hours per week, but enter the physician into FMIS as a full-time employee, working 40 hours per week. This practice spread the annual salary paid to a part-time physician over more hours to decrease the apparent hourly wage rate paid to each part-time physician (in the example, the hourly rate falls from approximately \$576.92 to \$144.23).<sup>3</sup> This practice also creates the false appearance that a part-time physician permissibly working a secondary job during off-shift hours is a full-time physician impermissibly working a secondary job during on-shift hours.

Current CCHHS management recognized the serious problems this longstanding practice creates – both for dual employment investigations and for broader transparency and accountability – and, through a yearlong review process that began in January 2014, CCHHS completed a comprehensive review of its part-time physicians to ensure that each is entered into the payroll system with the correct number of maximum hours per pay period and the correct

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<sup>2</sup> On or about November 9, 2011, the Board and OIG requested copies of dual employment disclosures completed by CCHHS physicians and filed with the Human Resources Department of CCHHS. Deborah Tate, then-CCHHS Chief Human Resources Officer, represented that she had messengered the requested documents to MaryNic Foster, then-Director of the Board, on December 6, 2011. Neither FedEx nor the Board, however, had any record of receiving these documents for shipment or delivery. Nikki Sanders, then-Assistant to the CCHHS Chief Human Resources Officer, subsequently represented that the documents were re-gathered and messengered to the Board on or about December 23, 2011. Once again, the Board had no record of receiving the documents, and although a FedEx receipt was located, Fed Ex could not track the package.

<sup>3</sup> It also resulted in part-time physicians occasionally receiving full-time benefits.

hourly rate. As of November 2014, an internal audit confirmed that nearly all of the appropriate adjustments had already been made.

Finally, investigators learned that on-shift time and attendance at CCHHS for most physicians is managed through a one-swipe system. CCHHS requires that every physician swipes his or her ID into a timecard reader at the beginning of his or her shift. Then, each physician, whether full-time or part-time, is automatically credited as having worked 8 hours. Physicians do not swipe in at the start of their shift and swipe out at the end of their shift.

Although, this system works well for physicians who maintain their full- or part-time status by working 8-hour shifts, investigators learned that a number of part-time physicians work shifts that are shorter than 8 hours (*e.g.*, 10 hours per week in two 5-hour shifts) and a number of full-time physicians work shifts that are longer than 8 hours (*e.g.*, 40 hours per week in four 10-hour shifts). Department and division managers are responsible for knowing the various hours that various physicians they supervise work and must direct timekeepers to manually alter the credit physicians receive through the one-swipe system to reflect the actual length of a physician's shift. Managers, however, admitted to investigators that it is difficult to supervise time and attendance in a hospital workplace that operates around the clock, 365 days a year. Further, traditionally the agreements by which a part-time physician received an annual salary for committing to work some specific number of hours per week less than 40 (or per shift less than 8) were not reduced to writing for easy reference by managers and timekeepers.

To address this issue, CCHHS management is in the process of designing and testing a computer-based application that will enable part-time physicians to attest to their hours worked, and for managers to review the attested hours prior to payroll processing. CCHHS management is also in the process of enabling part-time physicians to perform ID swipes on multiple campuses and provide the payroll worked hours report to the appropriate manager. These location-based time card reports and the attestation application will help managers to monitor the hours worked by part-time physicians to ensure that they are consistent with the number of hours part-time physicians committed to working for CCHHS. CCHHS is targeting a release in early 2015 of these new time and attendance controls.

## DISCUSSION

Dual employment is not, in and of itself, unethical. To the contrary, the ability of County employees to obtain non-County employment may be a necessary tool for staffing an accredited, full service, public hospital, especially one that seeks to meet the needs of indigent and low-income patients with a limited budget. For example, Stroger Hospital is licensed as a Pediatric Center and must keep a pediatric surgeon on staff to maintain this license. Pediatric surgeons, however, are a rare specialty and highly compensated by private institutions.<sup>4</sup> By having dual

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<sup>4</sup> One witness estimated that in 2012 there were 1,200 pediatric surgeons nationwide and 200 vacancies for these specialists at centers around the country. This witness estimated that the market-rate salaries for these surgeons began in the range of \$500,000 and rose into the multimillions.

employment opportunities for physicians, CCHHS can share a pediatric surgeon with Northwestern Memorial Hospital, Rush, UIC, University of Chicago Hospital System and others. Through the availability of dual employment and part-time work, the public hospital (and its patients) gets access to and the benefits of a highly-specialized physician, without undertaking the full market-rate cost of the specialist.

Nonetheless, the Ethics Ordinance prohibits dual employment that will impair an employee's ability to perform his or her duties and responsibilities for the County. County Code, § 2-573(b). The clearest way in which secondary employment can interfere with County employment is when a County employee performs his or her secondary employment while on the clock for, or while using resources from, his or her primary County employment. There is no question that a CCHHS physician found to be working a non-CCHHS job during hours that he or she was supposed to be working for CCHHS would certainly have violated the Ethics Ordinance and would be subject to the appropriate penalties. No CCHHS physician, however, was identified as being engaged in this conduct as part of this investigation.

The complaint that initiated this investigation is standard for alleged dual employment violations, and Board's method for investigating such complaints is also relatively straightforward. The complainant observes a County employee engaged in a non-County job during hours that the complainant assumes to be the employee's County working hours. Upon receiving such a complaint, the Board directs its staff to obtain the target employee's dual employment disclosure because the target's failure to disclose the existence of dual employment is itself often a violation of the applicable Personnel Rules (even if the target's secondary employment did not actually interfere with his or her County job). Once the Board staff knows whether or not the target has disclosed dual employment, the Board staff obtains the target's timekeeping records for his or her County job. So long as the timekeeping records show the target's starting and stopping times at his or her County job, it is a very simple investigation to compare whether there is any overlap between the specific times when the target was observed engaging in secondary employment and the specific times when the employee represented that he or she was working his or her County job.

Three system-level weaknesses make this fairly simple type of investigation more difficult to conduct at CCHHS. These weaknesses include: (1) a practice by which part-time physicians were routinely coded as full-time in CCHHS's payroll system, creating the appearance that a part-time physician permissibly performing a secondary job off shift was a full-time physician impermissibly performing a secondary job while on shift at CCHHS; (2) poor recordkeeping by which physicians' dual employment disclosures could not be produced in a timely manner, making it difficult to determine which physicians had or had not properly disclosed secondary employment; and (3) sporadic recordkeeping with respect to the specific times that physicians began and ended shifts on a given work day, making it difficult to compare the specific time that a given physician may be observed engaging in secondary employment and the specific times during that day that this physician was purportedly working for CCHHS.

Of the three process weaknesses identified by investigators, CCHHS has already taken significant steps to correct the first two, and the Board commends CCHHS administration for its efforts. With respect to the third process weakness, there may be relatively small administrative changes that could be included in planned 2015 time and attendance upgrades that could facilitate future dual employment investigations and reduce CCHHS's vulnerability to exploitation.

#### Part-Time Physicians Incorrectly Coded as Full-Time in FMIS

Although this investigation did not identify a specific physician who was violating the dual employment provision of the Ethics Ordinance, investigators did identify a longstanding practice at CCHHS that created the appearance that a part-time physician with permissible secondary employment on off-shift hours was a full-time physician impermissibly working on non-CCHHS matters during on-shift hours. This practice, as outlined above, was for a number of part-time physicians to be entered into the payroll system as full-time, rather than part-time, CCHHS employees. This practice appears to have been an intentional attempt to obfuscate the true hourly rate of highly-compensated specialist physicians. In addition to the lack of transparency as to the cost of these physicians, this practice had the additional ill effect of creating the illusion that part-time physicians were really full-time physicians, leading to questions about how they could maintain permissible outside employment without working a non-CCHHS job during on-shift CCHHS hours.

CCHHS has already corrected this serious process weakness. In 2014, a team led by the Executive Medical Director revised entries in FMIS so that if a physician is part time, FMIS reflects the correct number of hours that physician should work at his or her true hourly rate. In addition to increasing transparency and eliminating the error by which part-time physicians received full-time benefits, this correction will facilitate future dual employment investigations by creating a clear record of whether a physician is a full-time or part-time employee of CCHHS.

#### Poor Recordkeeping Regarding Dual Employment Disclosures

Second, the investigation found that it was difficult for CCHHS Human Resources to produce dual employment disclosures for audit and review. CCHHS proactively solved this problem by rolling out an online, electronic dual employment disclosure process.

On this disclosure, CCHHS employees can disclose the number of hours they work for CCHHS on a given day, the name of any outside employer and the number of hours they work for this employer on any given day. Each employee's manager must approve the disclosure and all of the disclosures are maintained in a central electronic repository. In 2014, its first year of deployment, nearly every CCHHS employee completed an electronic disclosure. CCHHS was able to track completion electronically and follow up with employees who did not complete the disclosure with notices to their homes and to their managers.

This initiative will greatly facilitate future investigations by providing investigators with accurate and timely information as to whether a specific investigative target has disclosed dual employment to CCHHS. This record, however, may be of limited investigative value beyond this because CCHHS's new electronic disclosures do not include the particular start and stop times for secondary employment. That is to say, that while the disclosure may help an investigator to understand that a target physician spends four hours on a given day on non-CCHHS work, the investigator would not know from the disclosure itself whether those four hours were from 8A-12P, 4P-8P or 12A-4A.

### Unreliable Recordkeeping Regarding Start and Stop Times for CCHHS Physicians

Third, CCHHS timekeeping records for physicians make it difficult to determine the specific hours of a day when a physician is working for CCHHS. CCHHS physicians do not swipe in at the start of their shift and out at the end of their shift (*i.e.* creating an accurate and auditable record of the actual hours of the day that a physician represented he or she was performing his or her CCHHS job). Instead, CCHHS physicians swipe in once during their shift. When they do, FMIS automatically credits the physician with 8 hours. This is not problematic for a full-time physician who works five 8-hour shifts in a week, but it creates a false record for full-time physicians who maintain their full-time status by working fewer and longer shifts (*e.g.* four 10-hour shifts) or part-time employees who work shifts that are shorter than 8 hours.

CCHHS personnel described an *ad hoc* system by which managers who were aware that physicians they were supervising were working non-traditional shifts would advise department timekeepers to manually modify the physicians' time in the payroll system to reflect the correct number of hours worked per shift/swipe. As managers at CCHHS explained to investigators, this system is vulnerable to exploitation to the extent that it is nearly impossible for them to provide time and attendance supervision to every employee at every location operating on a 24-hour basis, 365 days a year. CCHHS's current practice places a significant burden on managers to be able to tell the difference between a part-time physician who swipes in twice a week for two 8-hour shifts and a part-time physician who swipes in twice a week for two 4-hour shifts and ensure that payroll accurately reflects these differences.

The Department of Surgery has taken an innovative approach towards solving this management problem, which is to have all physicians sign a physical log book attesting to the specific times that they worked. This log book provides a second set of records for managers in that department to check against the number of hours recorded for each physician in the payroll system each pay period. CCHHS management is in the process of designing and testing a computer-based application that would provide a similar attestation function for all part-time physicians. As currently envisioned, attestation would be based on hours worked rather than particular shift start and stop times, but the inclusion of start and stop times would greatly facilitate future dual employment investigations by allowing an investigator to determine not just that a particular physician worked an 8-hour shift for CCHHS at some point on a given day, but

to be able to tell the difference between a physician who worked that shift from 8A-4P and a physician who worked that shift from 4P-12A.

**CONCLUSION**

For the forgoing reasons, with respect to the above-captioned matter, the Board of Ethics finds NO VIOLATION of Section 2-573 of the Ethics Ordinance. Any request for reconsideration of this determination must be made within thirty (30) days of receipt of this notice.

January 28, 2015

So ordered  
COOK COUNTY BOARD OF ETHICS

A handwritten signature in cursive script, appearing to read "Roseann Oliver", is written over a horizontal line.

Roseann Oliver  
Chairperson