



Michael R. Pence
Governor
Jerome M. Adams, MD, MPH
State Health Commissioner

INDIANA
STATE ETHICS COMMISSION

JUN 9 2016

FILED

IC 4-2-6-11 Post-employment waiver

As the Appointing Authority of the Indiana State Department of Health (ISDH), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Midia Fulano in her post-employment with the Marion County Public Health Department (MCPHD).

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of:

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. (*Please provide a brief description of the specific particular matter(s) to which this waiver applies below:*)



B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Ms. Fulano is the liaison to the MCPHD TB Program. She is the regional nurse consultant for the region; in this capacity, she supports and monitors Marion County's activities and performance to ensure appropriate TB treatment and case management is being provided in compliance with ISDH and CDC guidelines. She is also the liaison for the TB Outreach Grant and she managed MCPHD as a sub-recipient under the grant. MCPHD sent her monthly reports for review to document its work under the grant agreement. Ms. Fulano also worked with MCPHD on the budget for the grant agreement that will start on July 1, 2017. She is also currently the interim program director until June 3, 2016, when a new permanent program director will start employment. However, the former program director, Sarah Burkholder, determined the budget in November 2015 and managed the TB Outreach Grant prior to her departure from state employment. Ms. Fulano had no role in the decision-making process for the grant or the budget.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Ms. Fulano would be a TB Nurse Case Manager but would not be working specifically on the TB Outreach Grant for MCPHD. In that position, she will provide technical aid to health care professionals for the treatment of TB. Her position is not funded from the TB Outreach Grant.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Ms. Fulano is still likely to have contact with the ISDH, as she will be working at a local health department. However, she will not be working specifically on the TB Outreach Grant in her capacity at the MCPHD.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The waiver of the post-employment restriction is consistent with the public interest in that Ms. Fulano's new work as a Nurse Case Manager for the MCPHD will be in a field with which she is already familiar and she would continue to promote and provide essential public health services, consistent with the mission of the ISDH. Moreover, she will not be directly involved with the grant that she managed while at the ISDH.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

She has been offered employment in a field in which she is well qualified, for another public health entity. If the waiver is denied, she could not accept employment with the MCPHD, which would create an economic hardship because she would then not be employed.

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.

Jerome Adams
Jerome M. Adams, MD, MPH

5-23-16
DATE

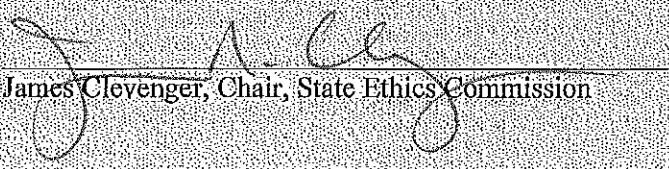
2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

Rachel D. Russell
Rachel D. Russell, JD

5-23-16
DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY	
Approved by State Ethics Commission	
	
James Clevenger, Chair, State Ethics Commission	Date <u>6/9/16</u>

<p><u>Mail to:</u> Office of Inspector General 315 West Ohio Street, Room 104 Indianapolis, IN 46202 OR <u>Email scanned copy to:</u> info@ig.in.gov</p> <p><i>Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.</i></p>



Michael R. Pence
Governor
Jerome M. Adams, MD, MPH
State Health Commissioner

May 23, 2016

Mr. James Clevenger
Chairman
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, IN 46202

Subject: Waiver of post-employment restrictions for Midia Fulano

Dear Mr. Clevenger:

As State Health Commissioner, I write to you to express my support and approval of the Indiana State Department of Health's (ISDH) waiver of post-employment restrictions for Midia Fulano's proposed employment with the Marion County Public Health Department (MCPHD).

I regret that I am unable to appear in person to present the waiver. I am in Washington, D.C., today in my capacity as the Indiana State Health Commissioner, speaking at the National Academies of Sciences, Engineering and Medicine (formerly the Institute of Medicine) Study Committee on "A National Strategy for the Elimination of Hepatitis B and C," which was scheduled prior to the May and June Commission meetings. Once I became aware of the scheduling conflict, I asked the ISDH Chief of Staff, Eric Miller, to attend the Commission meeting on my behalf. I understand that Indiana Code 4-2-6-11(g) requires the state officer or appointing authority authorizing the waiver to present it to the Commission, and I greatly appreciate your granting the ISDH's request of this alternative arrangement in advance of the June 9th meeting.

I fully support and approve this waiver and Ms. Fulano's transition to employment at the MCPHD. As I mentioned in a letter to you dated May 2, 2016, Ms. Fulano's employment with the MCPHD is consistent with the mission of the ISDH by continuing to promote and provide essential public health services. Ms. Fulano's employment at the MCPHD will also allow the ISDH to continue to foster a positive working relationship with the MCPHD, one that is integral to providing public health services to a significant number of Central Indiana residents.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Jerome Adams".

Jerome M. Adams, MD, MPH
State Health Commissioner

cc: Indiana Office of Inspector General
Rachel Russell; ISDH Ethics Officer



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To promote and provide
essential public health services.