

SEP 14 2017



STATE OF INDIANA

ERIC J. HOLCOMB, GOVERNOR

FILED

Indiana Department of Insurance

Stephen W. Robertson, Commissioner
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IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of the Indiana Department of Insurance ("Department"), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Tina Korty in her post-employment with Indiana University Health ("IU Health").

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

(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):

- 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):*

Based on discussions with Tina's potential employer, there are currently no particular matters that she would be dealing with in her new position. Tina and her potential employer have indicated that they would request a particular matter waiver if such an issue arises.

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

ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AGENCY SERVICES 317-232-2413	COMPANY COMPLIANCE 317-232-3495	CONSUMER SERVICES 317-232-2395/1-800-622-4461	FINANCIAL SERVICES 317-232-2390	MEDICAL MALPRACTICE 317-232-2402	COMPANY RECORDS 317-232-5692	STATE HEALTH INSURANCE PROGRAM 1-800-452-4800
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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:

The former Department employee, Tina Korty, most recently served as General Counsel for the agency, as such, she was a participant in decision making regarding policies and rules impacting IU Health and its subsidiaries. Tina participated in most meetings the Commissioner held with companies such as IU Health. As General Counsel, she gathered information and made recommendations to the Commissioner, who was the ultimate decision maker. For example, as General Counsel, Tina supervised individuals who may have reviewed and made a recommendation to the Commissioner in regards to IU Health Plan NFP's application to become a licensed Health Maintenance Organization ("HMO").

She also oversaw the health care team, who made decisions affecting all health insurers -- including IU Health's subsidiary IU Health Plans and IU Health Plans, NFP -- such as deadlines for annual filings. In particular, Tina helped make a recommendation in August 2016 regarding IU Health no longer offering plans on the Federal Marketplace and if that was a market withdrawal or a product discontinuance -- a decision which impacted whether IU Health was subject to a five year ban in the individual market. Tina, as supervisor of the Chief Actuary, was generally aware of rate requests but she did not substantially participate in health insurance rate requests, which were reviewed by the actuarial team and then discussed by the Chief Actuary and the Commissioner.

Prior to becoming General Counsel, Tina was a staff attorney and then Deputy Commissioner. During this time, she made decisions regarding health care providers who participated in the Indiana Patient's Compensation Fund ("PCF"), an excess medical malpractice fund administered by the Commissioner. From 2002-2012, Tina defended cases against the PCF after health care providers had settled for their underlying portion of the liability. Cases settled by IU Health entities and employees were among the cases Tina handled. In addition, Tina participated in rule promulgation that would affect IU Health, albeit to the same extent as all other health care providers.

The Department does not think there is an issue related to contracts, but out of wanting to provide full information, there is only one contract with IU Health Risk Retention Group ("IUHRRG"), a subsidiary of IU Health. Tina was involved in reviewing responses to the RFP in 2012, which ultimately resulted in awarding IUHRRG the contract with the Department to administer the Indiana Residual Malpractice Insurance Authority ("IRMIA"). That contract has expired. In 2016, a second and separate contract was executed, which currently exists with IUHRRG to administer IRMIA; however, Doug Webber, Chief of Staff, oversaw the execution of the 2016 contract and Tina was not involved in that process. IUHRRG is a subsidiary of IU Health and Tina will not be involved with that subsidiary entity.

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

Tina, as an Associate General Counsel, would work for IU Health's legal team working on health insurance matters and primarily serving their health insurance plans. She would provide legal services.

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:

Tina would likely be in frequent contact with the Department. IU Health's health plans only serve the state of Indiana; therefore, most of its regulatory contacts involve the Department. However, Tina has not been involved in health insurance decision-making since February, when an ethical screen was placed prior to Tina's May departure from the Department. Given the rapidly-changing nature of the health insurance marketplace, it is unlikely that any future contracts would involve decisions based on her previous work product as a Department employee. Based on discussions with IU Health and Tina, all parties are aware of Tina's former duties at the IDOI. These former duties may concern issues at a granular level with respect to individual health care insurance issues, but are within the scope of the general application of matters and policy affecting all regulated health care entities.

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 Department, State, and public benefit by having a former employee with great knowledge of the rules and regulations impacting insurance and a strong sense of ethics working for a regulated entity. This former employee worked at the Department for fifteen years as a regulator and can bring even greater compliance to IU Health, and the industry as a whole, which benefits Indiana consumers purchasing insurance.

Furthermore, the State will not be able to attract and retain talented employees if long-term employees are not allowed to take the knowledge they built in service to the State and apply it elsewhere.

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

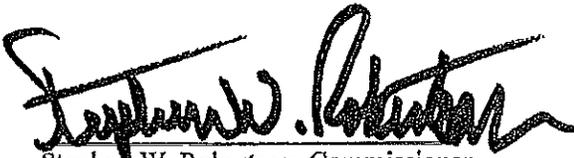
Tina has a conditional employment offer from IU Health. Inability to accept the offer would deny her family of substantial income. Furthermore, given the broad scope of the

Department and Tina's roles within it, it would be difficult for her to find suitable employment within her area of expertise that would not necessitate a waiver request.

C. Signatures

1. Appointing authority/state officer of agency

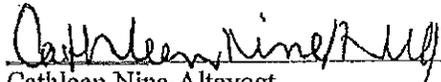
By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to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


Stephen W. Robertson, Commissioner

Sept. 7, 2017
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).


Cathleen Nine-Altevogt

9-7-17
Date

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY	
Approved by State Ethics Commission	
 James Clevenger, Chair, State Ethics Commission	<u>9/19/17</u> Date