

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
October 13, 2022**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:00 a.m. Commission members present were Katherine Noel, Chair; Corinne Finnerty, John Krauss, and Sue Anne Gilroy (via telephone). Office of Inspector General staff present included Sean Gorman, State Ethics Director; Mark Mader, Staff Attorney; Mike Lepper, Special Agent; Cindy Scruggs, Director of Administration; Sam Stearly, Special Agent; and Nathan Baker, Legal Assistant.

Others present were Jessica Keyes, Ethics Officer, Family and Social Services Administration; Matheus Mitchell, Compliance and Ethics Specialist, Indiana Department of Revenue; Shane Hatchett, Chief of Staff, Indiana Department of Health; Erin Elam, Ethics Officer, Indiana Department of Health; Lynette Grafton, Paralegal, Indiana Department of Revenue; Beth Green, General Counsel and Ethics Officer, Indiana Department of Workforce Development; Tammera Glickman, Deputy General Counsel, Indiana Department of Administration; and Whitney Donald, Indiana Capital Chronicle.

II. Adoption of Agenda and Approval of Minutes

Commissioner Krauss moved to adopt the agenda, and Commissioner Finnerty seconded the motion, and the Commission passed the agenda via roll call vote (4-0).

Commissioner Gilroy moved to approve the Minutes of the September 8, 2022, Commission Meeting, and Commissioner Krauss seconded the motion, which passed via roll call vote (4-0).

III. Consideration of Agency Limited Charitable Use of State Property Policy Presented by Erin Elam, Ethics Officer, Indiana Department of Health

Erin Elam, Ethics Officer for the Indiana Department of Health presented a Limited Charitable Use of State Property Policy to supplement the agency’s current Limited Use of State Property Policy to the Commission for approval.

After discussion, Commissioner Gilroy moved to approve the Limited Charitable Use of State Property Policy and Commissioner Krauss seconded the motion which passed via roll call vote (4-0).

IV. Ethics Director’s Report

State Ethics Director Sean Gorman reported that OIG Personnel have issued 26 Informal Advisory Opinions since the October SEC meeting, along with three (3) responses indicating the OIG/SEC

has no jurisdiction regarding the request. Opinions focused mostly on Conflicts of Interests, Post-Employment, Outside Employment, Political Activity, and Gifts.

Second, the bi-annual Ethics Training is being finalized and SPD will roll-out the training to State Employees on November 1, 2022. All State Employees and Special State Appointees are required to take the training.

Finally, Director Gorman noted that the OIG's annual Legal and Ethics Conference will take place on November 15, 2022. The Conference will be held in the Auditorium of the Indiana Government Center – South. CLE credit will be available. Topics for this year's conference include a session on Ethics and Social Media, an update from the Indiana Supreme Court Disciplinary Commission regarding the Disciplinary Commission and the Indiana Professional Rules of Conduct, and a panel featuring Office of Inspector General attorneys discussing frequently asked questions regarding the Code of Ethics. Former Indiana Governor and current President of Purdue University Mitch Daniels will also offer remarks reflecting on the importance of ethics in State government. Registration for the conference is available online at the OIG website.

V. Adjournment

Commissioner Krauss moved to adjourn the public meeting of the State Ethics Commission. Commissioner Finnerty seconded the motion, which passed via roll call vote (4-0).

The public meeting adjourned at 10:22 a.m.

Professional Licensing Agency
402 West Washington Street
Room W072
Indianapolis, IN 46204



Eric J. Holcomb
Governor of Indiana
Deborah J. Frye
PLA Executive Director

September 11, 2022

Indiana State Ethics Commission
315 W. Ohio Street, Room 104
Indianapolis, IN 46202

RE: Request for Formal Advisory Opinion- Indiana Board of Pharmacy

Indiana State Ethics Commission:

The Indiana Board of Pharmacy ("IBP"), through the Indiana Professional Licensing Agency ("PLA"), requests a formal advisory opinion regarding a potential conflict of interest. An IBP member has a financial interest in a pharmacy, which requires approval by the IBP. The IBP has instituted screening procedures, and requests that the Commission issue a formal opinion as to their adequacy.

BACKGROUND

Matt Balla is a long-standing member of the IBP. Balla is currently employed by CarDon & Associates, Inc., ("CarDon"). CarDon is a family-owned company that owns, operates, or manages senior living communities throughout central and southern Indiana. In his role as CarDon's Vice President of Pharmacy, Balla oversees the acquisition, integration, and operation of CarDon's newly acquired pharmacies.

CarDon currently has partial ownership of a long-term care pharmacy in Indiana, Skilled Care of Indiana ("SCI"). CarDon is in the process of acquiring full ownership of SCI through a wholly owned subsidiary. Balla is responsible for this change-of-ownership process. As part of this process, Balla will apply for permits

and registrations on CarDon's behalf. In particular, Balla will apply for all pharmacy permits, pharmacy controlled substance registrations, remote dispensing facility permits, and remote dispensing facility controlled substance registrations related to the changed ownership.

Under Indiana Code § 25-26-13-4, the IBP is required to approve applications for pharmacy permits, pharmacy controlled substance registrations, remote dispensing facility permits, and remote dispensing facility controlled substance registrations. The majority of these applications are handled by PLA staff. The applications only go before the board if there is an issue, such as a failed inspection. If one of CarDon's applications goes before the Board, Balla would be in a position to vote on approval of the application.

LAW

Under Indiana Code § 4-2-6-9(a) "A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or special state appointee has . . . a financial interest in the outcome of the matter[.]" If a state officer, employee, or special state appointee recognizes a potential conflict of interests, they must notify his agency's appointing authority and ethics officer in writing and either (1) seek a formal advisory opinion from the Commission or (2) file a written disclosure form with the Office of Inspector General. *Id.* at (b). "A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter." *Id.* at (c). Further, the appointing authority must instate screening procedures to insure the vote or decision is not impacted by the conflict of interest. *Id.* At (b); 2019-FAO-016 at 3.


ANALYSIS

Balla and IBP acknowledge that Balla has a financial interest in any IBP vote on CarDon's applications. Balla and IBP further acknowledge that Balla's vote on CarDon's applications would create a conflict of interest. Upon recognizing the potential conflict of interest, Balla contacted PLA's Deputy Director and Ethics Officer to make a written disclosure.

In consultation with PLA, Balla and the IBP determined to apply the following screening procedures in any CarDon matter before the board:

1. PLA's Ethics Officer shall monitor Balla's involvement in any matter relating to CarDon or SCI to ensure that the screening procedures are followed;
2. If any matter related to CarDon or SCI is presented to IBP for a discussion or vote, Balla will recuse himself from the discussion and vote, as well as submit an "Ethics Disclosure Statement" to the OIG;
3. Balla will not be permitted access to any confidential information concerning CarDon or SCI without the written approval of PLA's Ethics Officer;
4. PLA staff will screen the board member from any and all involvement in matters involving CarDon or SCI, including refraining from any discussion in Balla's presence that might be related to such matters;
5. PLA's Ethics Officer will provide written notice to the OIG anytime the screening procedures are implemented

These screening procedures mirror those previously approved by the Commission. *See* 2019-FAO-016. Accordingly, PLA and IBP believe these screening procedures to be appropriate, and request that the Commission enter a formal advisory opinion approving the screening procedures.



Matt Balla
Indiana Board of Pharmacy



Evan Bartel
Indiana Professional Licensing Agency

PROPOSED COMMISSION MEETING DATES

2023

January 12

July 13

February 9

August 10

March 9

September 14

April 13

October 12

May 11

November 9

June 8

December 14