

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
July 12, 2018**

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 included James Clevenger, Chairperson; Corinne Finnerty; Sue Anne Gilroy; and Katherine Noel. Staff present included Jennifer Cooper, Ethics Director; Sam McGlone, Intern; Mark Mitchell, Special Agent; Lori Torres, Inspector General; Mike Lepper, Special Agent; Kelly Elliott, Staff Attorney; Tiffany Mulligan, Chief Legal Counsel; and Celeste Croft, Legal Assistant, Office of Inspector General.

Others present were Stephanie McFarland, President/Senior Issue-Management Consultant, McFarland PR and Public Affairs; Art Logsdon, former Assistant Commissioner, State Department of Health; Matthew Savage, Deputy General Counsel, Department of Workforce Development; Alison Grand, Chief Legal Counsel, Department of Transportation; Rachel Russell, Ethics Officer/Deputy General Counsel, Department of Child Services; Deana Smith, Attorney/Ethics Officer, State Department of Health; Beth Green, General Counsel, Department of Workforce Development; Jared Prentice, Compliance and Ethics Director, Department of Revenue; Chris Serak, Ethics Officer, Department of Transportation; Sarah Kamhi, Assistant General Counsel/Director of Agreements, Department of Revenue; Tammera Glickman, Assistant General Counsel, Department of Administration; Stephanie Semaan, Intern, Department of Workforce Development; Mattheus Mitchel, Compliance & Ethics Specialist, Department of Revenue; Lori Buttram, Human Services Consultant 2, Family & Social Services Administration; Stephan Summers, Project Manager, Department of Transportation; Latosha Higgins, Managing Attorney/Ethics Officer, Family & Social Services Administration; Kristina Box, State Health Commissioner, State Department of Health; Joan Blackwell, Chief of Staff, Office of Attorney General; Kyle Gaddis, Deputy General Counsel, Economic Development Corporation; Kendra Leatherman, Legislative Director, Auditor of State; and Grant Kitcoff, Intern, Economic Development Corporation.

II. Adoption of Amended Agenda and Approval of Minutes

Commissioner Gilroy moved to adopt the amended Agenda and Commissioner Noel seconded the motion which passed (4-0). Commissioner Finnerty moved to approve the Minutes of the June 14, 2018 Commission Meeting and Commissioner Noel seconded the motion which passed (4-0).

III. Inspector General’s Report

Inspector General, Lori Torres, started her report by providing the Commission with a recap of quarter two. She stated that the Office had completed 85 informal advisory opinions in quarter two, but 160, thus far, for the year, a decline from last year’s number. Inspector Torres also stated

that there were 78 requests to investigate received in quarter two, a number she found to be average, as the office usually receives about 80 per quarter. Inspector Torres further stated that the number of requests to investigate in quarter one was 100, and 178 year to date. Of the 78 requests to investigate, the office only opened nine cases, as compared to the 22 cases it opened during quarter one, as the other 69 requests received during quarter two were not opened due to jurisdictional incompatibility. Ms. Torres further stated that the office closed 16 investigations during quarter two, which she believed was a very good number for only five agents and because some cases took months or years to investigate, due to the fact that the office had to wait on people or entities outside of the office to take appropriate courses of action. Inspector Torres also stated that the office published 18 of 27 closed cases on its website under the reports tab, which is where she referred anyone to who wanted to know more about the types of cases that the agents investigate. Inspector Torres stated that in years past, very few reports had been published. Finally, Ms. Torres stated that the office currently had 29 open cases, 20 of which were in active investigation status or in write up.

Inspector Torres proudly stated that the special agents' side of the office was now fully staffed with five agents who were all full law enforcement officers and retired state troopers. While Ms. Torres congratulated all the troopers who had received a raise during this month and during 2017, she stated that those raises made it hard for the Office of Inspector General to find special agents to add to her staff.

The Inspector stated that the office has three key performance indicators that it reports to the Management and Performance Hub quarterly. The first of these was the number of requested informal advisory opinions, which was 101 for quarter two. The second was the average number of business days it took for the office to respond to an informal advisory opinion, which was 1.29 for quarter two. The final indicator was the number of recommendations the office made to reduce waste, inefficiency, and fraud, and improve integrity, which was 12 for quarter two, or 23 year to date.

Inspector Torres announced that the formal approval of the re-adoption of Title 42 of the Indiana Administrative Code in its entirety with no changes occurred, and that Title 40 would be sun setting at the end of 2019, but that the office would begin working on it later this year.

Ms. Torres also announced that the office was in the process of ethics officer audit, which consisted of three phases. She stated that during phase 1, it was discovered that 34 agencies did not current ethics officer designations on file, as their agency head and/or ethics officer was no longer in their position(s). Ms. Torres stated that all of the agency that were a part of phase 1 have already submitted new ethics officer designations to the Office of Inspector General. Inspector Torres explained that an ethics officer designation occurred when an agency head designated an ethics officer for that agency, which was a requirement. Ms. Torres stated that there were still four outstanding designations due to the need for assistance or leaves of absences, amongst other issues. Ms. Torres then explained phase 2, which occurred when the agency had the same agency head and same ethics officer, but used an old form, wherein if one of those two changed, the designation

itself was no longer effective, prompting the office to change the form. Ms. Torres further explained that there will be a phase 3, just to make sure every agency is using the updated form.

The Inspector then discussed the two half day conferences that her office holds, which are the Auditor & Investigator Conference and the Legal & Ethics Conference. She explained that these two conferences used to be one, but are now separate. She stated that the Legal & Ethics Conference was for lawyers and ethics officers while the Auditor & Investigator conference was geared toward auditors and investigators. Inspector Torres stated that the Auditor & Investigator Conference was held on June 5, 2018, and had 206 attendees and speakers from both the Indiana State Police and the State Board of Accounts. Ms. Torres finally announced that the 2019 Auditor & Investigator Conference would be held on June 4, 2019 and the Legal & Ethics Conference would be held on the afternoon of Tuesday, November 13, 2018.

Inspector Torres lastly discussed the budget for fiscal year 2019, stating that the office had reverted 5.1%, but that she believed this was due to the fact that there were three vacant positions throughout various parts of the year. She also stated that the budget for the office was the same as last year's and that the budget for fiscal year 2019 for the Commission's expenses, including mileage, lodging, and per diem, was \$12,000.00.

**IV. Consideration of Post-Employment Restrictions Waiver
For Lori Buttram, Human Services Consultant 2
Presented by Latosha Higgins, Managing Attorney/Ethics Officer
Jennifer Walthall, Secretary
Family & Social Services Administration**

Managing Attorney and Ethics Officer Latosha Higgins and Secretary Jennifer Walthall presented a post-employment waiver on Lori Buttram's behalf. Ms. Buttram currently serves as Human Services Consultant 2 for the Family & Social Services Administration. Ms. Buttram came before the Commission to obtain permission to waive the cooling off period of the post-employment rule as it related to her potential employment with Evansville Vanderburgh School Corporation. At Evansville Vanderburgh School Corporation, Ms. Buttram would serve as Lead Caregiver for one of the elementary schools within the Evansville Vanderburgh School Corporation, requiring her to adhere to childcare licensing regulations, plan learning activities, ensure child safety, keep developmental observations and assessments current, participate in continuing education and professional development training, and organize and maintain training records and other documents for annual licensing inspections. Ms. Buttram would be required to have contact with the Office of Early Childhood and Out of School Learning during annual inspections in order to provide required documentation, but would not be making licensing decisions and her supervisor would have the remaining interaction. The Commission believed that Ms. Buttram had complied with the requirements of the waiver and that she thoroughly understood the post-employment restrictions rule regarding the cooling off period and how it applied to this potential post-employment opportunity. Based on the aforementioned, Commissioner Noel moved to approve

the Post-Employment Restrictions Waiver and Commissioner Gilroy seconded the motion which passed (4-0).

**V. Consideration of Post-Employment Restrictions Waiver
For Arthur Logsdon, former Assistant Commissioner
Presented by Deana Smith, Attorney/Ethics Officer
Kristina Box, State Health Commissioner
Indiana State Department of Health**

Attorney and Ethics Officer, Deana Smith, and State Health Commissioner, Dr. Kristina Box, presented a post-employment waiver on behalf of Arthur Logsdon. Mr. Logsdon previously served as the Assistant Commissioner for the Department. Mr. Logsdon came before the Commission to obtain permission to waive the cooling off period of the post-employment rule as it related to his potential employment with Hirons & Company Communications. At Hirons & Company Communications, Mr. Logsdon would be writing and proofreading the website as well as other communication vehicles, which creates the potential for Mr. Logsdon to have contact with the Department. The Commission believed that Mr. Logsdon understood the related ethics rule regarding the cooling off period and how it applied to the relationships amongst the State, the Department, and Hirons & Company Communications. The Commission also believed that Mr. Logsdon had complied with the requirements of the waiver, and therefore, Commissioner Gilroy moved to approve the Post-Employment Restrictions Waiver and Commissioner Finnerty seconded the motion which passed (4-0).

**VI. Consideration of Post-Employment Restrictions Waiver
For Stephan Summers, Project Manager
Presented by Christopher Serak, Director of Prequalification/Ethics Officer
Alison Grand, Chief Legal Counsel
Indiana Department of Transportation**

Director of Prequalification and Ethics Officer, Christopher Serak, and Chief Legal Counsel, Alison Grant, presented a post-employment waiver on behalf of Stephan Summers. Mr. Summers currently serves as Project Manager for the Department. Mr. Summers came before the Commission to obtain permission to waive the cooling off period of the post-employment rule as it related to his potential employment with Troyer Group. Mr. Summers would be working to develop and manage Troyer Group's design projects, which he believes will result in contact with Department personnel in the natural execution of transportation design projects. The Commission believed that Mr. Logsdon could observe the particular matter restriction of the post-employment rule and refrain from being involved with any contract or other matter on behalf of Troyer Group in which he personally and substantially participated in as a Department employee. The Commission also believed that Mr. Summers had complied with the requirements of the post-employment waiver, and therefore, Commissioner Noel moved to approve the Post-Employment Restrictions Waiver and Commissioner Gilroy seconded the motion which passed (4-0).

VII. Director's Report

State Ethics Director, Jen Cooper, reported that 27 informal advisory opinions had been issued since the last Commission meeting, mostly dealing with conflicts of interest, post-employment restrictions, outside employment, use of state property, and ghost employment.

Next, Ms. Cooper announced that the annual Legal & Ethics Conference had been set for 1:00 p.m. until 4:30 p.m. on November 13, 2018.

Lastly, Ms. Cooper stated that Arvin Copeland's public hearing was previously scheduled to take place after today's meeting, but that it had been rescheduled for August 9, 2018, as Mr. Copeland recently hired an attorney who needed to return from out of town and get up to speed on this matter. Ms. Cooper further stated that the Office of Inspector General and Mr. Copeland's attorney were still working together to come up with deadline dates.

VIII. Adjournment

Commissioner Noel moved to adjourn the public meeting of the State Ethics Commission and Commissioner Gilroy seconded the motion, which passed (4-0).

The public meeting adjourned at 10:30 a.m.



Eric Holcomb, Governor
State of Indiana

Office of General Counsel
402 W. WASHINGTON STREET, ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

July 30, 2018

Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202
Via Email: info@ig.in.gov

RE: Request for Formal Advisory Opinion for Dr. Daniel Rusyniak

Dear Chairman Clevenger and members of the Ethics Commission:

The Indiana Family and Social Services Administration (“FSSA”), on behalf of Dr. Daniel Rusyniak, requests a Formal Advisory Opinion from the State Ethics Commission addressing whether it would be a conflict of interest for Dr. Rusyniak to continue his outside employment with Eskenazi Health, hold his appointment at the Indiana University School of Medicine while on temporary leave, and retain privileges at the Roudebush VA Medical Center while employed as the Chief Medical Officer for FSSA.

Dr. Rusyniak will join FSSA after serving as the Medical Director of the Indiana Poison Center, Division Chief Medical Toxicology, and holding numerous roles at Indiana University School of Medicine, including Faculty President. Dr. Rusyniak is scheduled to commence working at FSSA on August 6, 2018. He has agreed not to work any shifts at Eskenazi Health, after his start date at FSSA, until he receives a formal advisory opinion from the State Ethics Commission indicating that it would not be a conflict of interest for him to continue his outside employment activities.

The Chief Medical Officer position is a clinical executive position that reports to the Secretary of FSSA. The Chief Medical Officer’s primary role is to provide leadership to the medical directors in each FSSA Division and the Office of Social Determinants of Health. As the Chief Medical Officer, Dr. Rusyniak will provide medical oversight, expertise and leadership to projects and operations within the Agency, including policy advising and program planning. His duties will not include any contract administration or rulemaking.

Dr. Rusyniak would like to continue to work a few evenings a month in the emergency department at Eskenazi Health while employed as the Chief Medical Officer of FSSA. He does



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not anticipate working more than three evenings a month on average. Dr. Rusyniak believes that it is important for him to continue working in the emergency room to maintain his skills through patient contact because it will aid him in his performance as Chief Medical Officer. Eskenazi Health partners with the Indiana University School of Medicine and serves as the public hospital division of the Health & Hospital Corporation of Marion County. Eskenazi Health's programs have received national recognition. Eskenazi is as a safety-net hospital, meaning that it provides health care and other related services to the uninsured, Medicaid and other vulnerable populations regardless of ability to pay. It is also the home of the first adult level trauma center in Indiana, the region's only adult burn center, and Indiana's first community mental health center. As a physician in the Eskenazi Health emergency room he will see firsthand the barriers to receiving medical care faced by the indigent, geriatric and pediatric patients he encounters.

Dr. Rusyniak will pay for his own medical malpractice insurance, licensing fees and certifications. Furthermore, he will not serve in a supervisory or leadership role with the Eskenazi Health or Indiana University Health Physicians. Rather, he will serve as an independent contractor to Eskenazi Health through Indiana University Health Physicians. He will not charge patients nor will he bill insurance. He will be paid by Indiana University Health Physicians on an hourly basis.

Eskenazi Health and Indiana University Health Physicians are Indiana Medicaid Providers. Each has an Indiana Medicaid Provider Agreement with FSSA and both receive Medicaid Reimbursements.

Eskenazi Health does not have a direct contract with FSSA; however, its community mental health center is certified by FSSA's Division of Mental Health Addiction. Additionally, Indiana University Health Physicians is affiliated with Indiana University Health ("IU Health") and FSSA's various divisions have six active contracts with IU Health, Indiana University and related entities. The contracts are at the division level in FSSA. The division directors are the owners of the contracts. Dr. Rusyniak, as Chief Medical Officer, would not be in a position to negotiate or sign these contracts. Per Dr. Rusyniak, to avoid a potential conflict under IC 35-44.1-1-4, Indiana University Health Physicians will not use funds from these contracts with FSSA to pay him; however, his fees may be paid from general Medicaid funds. Given that Dr. Rusyniak has no leadership role with Indiana University Health Physicians or IU Health, that he is taking a leave of absence from the medical school, and that he would only be staffing the emergency room a few times a month, this should ensure that there is not even an appearance that he is deriving a profit from, or has a pecuniary interest in any of the IU Health contracts with the State.

Dr. Rusyniak would not be in a position to make decisions regarding Medicaid providers or community mental health centers and any direction he would provide regarding protocols, policies or procedures that might impact external stakeholders would apply to all clinical specialists, hospital administrators, and any other providers uniformly. Therefore, it is unlikely FSSA would make a decision that would have a unique impact on Eskenazi Health, Indiana University Health Physicians, IU Health, or their related entities. If the situation presented itself, FSSA would screen Dr. Rusyniak from participating in any such decision by having the Secretary delegate full authority to another employee to handle such matters independently.

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In addition to working as an independent contractor to Eskenazi Health, Dr. Rusyniak is in the process of applying for privileges to work in the emergency room at the Roudebush VA Medical Center and would like to retain said privileges if awarded. He does not believe at this time that he will seek work there; however, he wants to obtain privileges in case an opportunity would arise in the future.

Dr. Rusyniak would also like to continue with his appointment at the Indiana University School of Medicine while employed by FSSA. Dr. Rusyniak recently completed his term as Faculty President. He plans to take an approved temporary leave of absence from the medical school that will permit him to retain his title and the full rights of a faculty member. During his temporary leave of absence, Dr. Rusyniak will not receive any benefits or salary; however, he will be required to continue to abide by the professional standards of the medical school to remain a faculty member in good standing. He will also be required to renew his leave of absence annually.

Dr. Rusyniak understands and agrees that he may not use State time to work at Eskenazi Health, the medical school or Roudebush VA Medical Center. Additionally, he is confident that he will meet the 37.5 hour work-week requirement despite seeing patients a few evenings a month.

Based on the information presented, I do not believe that Dr. Rusyniak's outside employment activities would be incompatible with his duties as Chief Medical Officer. Rather, Dr. Rusyniak's outside employment activities will help maintain and build upon his professional skills such that he may better be able to meet the essential functions of his position as Chief Medical Officer, including identifying opportunities to collaborate and develop clinical integration initiatives with other stakeholders in the State to achieve effective and affordable outcomes and participating as a spokesperson to the public and health care professionals.

Sincerely,



Latosha N. Higgins
Managing Attorney and Ethics Officer

Croft, Celeste

From: Higgins, Latosha
Sent: Monday, July 30, 2018 2:07 PM
To: IG Info
Cc: Rusyniak, Daniel E.
Subject: Request for Formal Ethics Opinion - Dr. Daniel Rusyniak
Attachments: Dr. Daniel Rusyniak Formal Advisory Opinion Request Final.pdf

Dear Ethics Commission,

The Family and Social Services Administration submits the attached Request for a Formal Advisory Opinion on behalf of Dr. Daniel Rusyniak for the August 9, 2018 meeting of the Ethics Commission. Please do not hesitate to contact me with any questions.

Latosha N. Higgins
Managing Attorney and Ethics Officer
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Indiana Family and Social Services Administration
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