

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

WAIVER REQUEST # W-10-01

SUBJECT: CODE OF ETHICS § 3-1 RESTRICTIONS ON PARTICIPATION OF EMPLOYEES

By request dated January 8, 2010, an employee of the Washington Suburban Sanitary Commission (WSSC) has requested that the Board of Ethics (Board) grant a waiver of § 3-1 (a)(2) of the Code of Ethics (Code), which prohibits a WSSC employee from participating in any WSSC matter if a party to that matter is a business entity that employs a qualifying relative of the WSSC employee.

The Requestor works as a Senior Industrial Investigator in the Industrial Discharge Control Unit of the Regulatory Services Group. Requestor's duties include making decisions regarding the enforcement of WSSC regulations as to hospitals and other industrial users located within the Washington Suburban Sanitary District (WSSD). In addition, pursuant to a delegation agreement that WSSC has with the Maryland Department of the Environment (MDE), Requestor is also involved with enforcing Federal, State and Local discharge limitations as to industrial users (including hospitals) within the WSSD. Requestor's spouse is employed at both Holy Cross Hospital in Montgomery County and Doctor's Community Hospital in Prince George's County as a Patient Registrar.

In that the Requestor's duties include exercising regulatory authority over hospitals within the WSSD, the plain language of § 3-1(a)(2) of the Code prohibits Requestor from participating in regulatory matters concerning the two hospitals that employ his spouse unless the Board grants a waiver. Section 3-1(a)(2) states:

- (a) An employee may not participate in any WSSC matter, except to exercise a purely administrative or ministerial duty which does not affect the disposition or decision concerning that matter, if the employee or a qualifying relative has an interest in the matter, or the employee creates the appearance that he or she has an interest in the matter, or if any of the following is a party thereto:

...

- (2) A business entity with which either the employee or a qualifying relative (if known to the employee) is an officer, director, trustee, or employee...

The definition of "qualifying relative" includes a spouse.

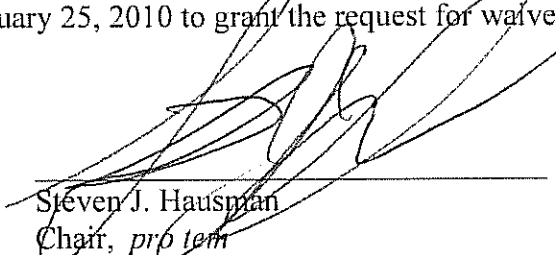
The standard that the Board must follow for considering a request for waiver of this type is set forth in § 2-3 (a) of the Code, which states:

- (a) After receiving a written request, and to the extent allowed under these regulations, the Board may grant a waiver of the prohibitions of this Code if it finds that:
- (1) the best interests of the WSSC or the public would be served by granting the waiver;
 - (2) the importance to the WSSC of a Commissioner or employee or class of employees performing official duties outweighs the actual or potential harm of any conflict of interest; and
 - (3) granting the waiver will not give a Commissioner or employee or class of employees an unfair economic advantage over other Commissioners or employees or members of the public.

Having considered the factors as set forth above, as well as the specific circumstances involved in this matter, the Board grants the request for waiver. As a Patient Registrar, Requestor's spouse has no involvement in matters related to hospital facilities, including the sewer system that serves the hospital. Therefore, the chance of either a conflict of interest or the appearance of a conflict of interest is indeed remote. Moreover, any remote potential for a conflict of interest is clearly outweighed by the interest that WSSC has in having Requestor continue to perform these important regulatory duties for WSSC.

The Board emphasizes that the decision to grant the request for waiver is based on the Requestor's specific WSSC job duties, as well as the nature of the employment held by Requestor's spouse. Should these circumstances change, Requestor is advised to seek additional guidance from the Board.

On Motion by George Pruden, II, seconded by Robert Moore, the Board agreed at its meeting held on February 25, 2010 to grant the request for waiver.



Steven J. Hausman
Chair, *pro tem*

2/25/2010

Date