



STATE ETHICS COMMISSION

POST OFFICE BOX 27685

RALEIGH, NC 27611

PHONE: 919-814-3600

Via Email

June 21, 2021

The Honorable Mandy K. Cohen
North Carolina Department of Health and Human Services
2001 Mail Service Center
Raleigh, North Carolina 27699-2001

**Re: Evaluation of Statement of Economic Interest filed by Mr. David J. Richard
Director of the Division of Health Benefits for the NC DHHS**

Dear Secretary Cohen:

Our office has received a 2021 Statement of Economic Interest from **Mr. David J. Richard** for the position of **Director of the Division of Health Benefits** for the **North Carolina Department of Health and Human Services (NC DHHS)**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Richard serves as a board member of the North Carolina Health Quality Alliance. In addition, his spouse is the Director of Program Development for The Arc of NC, an organization that contracts with divisions of the NC DHHS. Therefore, Mr. Richard has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving the North Carolina Health Quality Alliance or The Arc of NC come before him for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

A handwritten signature in cursive script that reads "Mary Roerden".

Mary Roerden, SEI Unit
State Ethics Commission

cc: David J. Richard
Julie Cronin, Ethics Liaison
Debbie Kennedy, HR Executive Assistant

Attachment: Ethics Education Guide