

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: PATRICIA E. McDORMAN) No. 13-EEC-001
))
) Appeal of OEIG
) Revolving Door
) Determination

DECISION

This cause is before the Executive Ethics Commission (“Commission”) on appeal by the Office of the Attorney General from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor.

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of the Attorney General’s July 9, 2012 Brief in Support of Appeal, the Office of the Executive Inspector General for Agencies of the Illinois Governor’s July 13, 2012 Comments to the Illinois Attorney General’s Appeal of Revolving Door Determination, Patricia E. Dorman’s July 13, 2012 letter to Assistant Attorney General Barbara Delano, the Illinois Attorney General’s July 17, 2012 Reply to Comments of the Office of Executive Inspector General, and the Office of the Executive Inspector General’s Supplemental Comments to Appeal.

Based upon this record, the Commission makes the following findings of fact:

1. On June 29, 2012, the Office of the Executive Inspector General for Agencies of the Illinois Governor (OEIG) issued a revolving door determination pursuant to 5 ILCS 430/5-45(f) with respect to Patricia E. McDorman’s (McDorman) proposed employment with Peterson Health Care—Roseville Rehabilitation and Health Care (Roseville).
2. The determination concluded that “**you are not restricted** from accepting the employment opportunity described in your materials by the Revolving Door prohibitions of the State Officials and Employees Ethics Act.” (emphasis in original).
3. On July 9, 2012, the Office of the Illinois Attorney General filed a brief in support of its appeal.
4. McDorman was employed with the Illinois Department of Public Health as Health Facility Surveillance Nurse in the Long Term Care Field Operations Department. She served in this capacity between August 2, 1982 and May 31, 2012.

5. As a Health Facility Surveillance Nurse, she was responsible for surveying nursing homes in Region 2 for compliance with State and federal regulations for long-term care facilities.
6. On June 8, 2012, McDorman was offered a position as R.N. Supervisor for Roseville.
7. Peterson Health Care—Roseville, LLC is an Illinois limited liability company that does business as Roseville Rehabilitation and Health Care.
8. In the year prior to McDorman's termination of State employment, she had no involvement in licensing or regulatory decisions involving Roseville.
9. Peterson Health Care, Inc. is an Illinois corporation that does business as Kewanee Home Care (Kewanee). Peterson Health Operations, LLC is an Illinois limited liability company that does business as Timbercreek Rehab and Health Care (Timbercreek). Midwest Health Operations, LLC is an Illinois limited liability company that does business as Aledo Rehabilitation and Health Care Center (Aledo).
10. In the year prior to McDorman's termination of State employment, she had certain involvement in licensing or regulatory decisions involving Kewanee Home Care when she performed annual licensure/certification surveys on April 19, 2012. She did the same for Timbercreek Rehab and Health Care on October 6, 2011. She did the same for Aledo Rehabilitation and Health Care Center on June 29, 2011.
11. These surveys involved McDorman's own observations, records reviews and interviews of staff to determine compliance with State and federal law.
12. Peterson Health Care, Inc., is a corporation separate from the three limited liability companies in question. There are indicia, however, that Peterson Health Care, Inc. operates and controls the three limited liability companies as one large entity:
 - a. The registered agent for each entity is the same.
 - b. The principal office address for each limited liability company is the same.
 - c. Peterson Health Care and Mark Peterson are identified on Form RD-103 as owners or part of the corporate structure of Roseville.
 - d. Peterson Health Care's web site indicates that it (not the affiliated LLCs) employs over 6000 people. Job openings, including those at Roseville, are advertised on the Peterson Health Care web site.
 - e. Upon purchase of the Roseville facility in 2010, Peterson Health Care stated that Roseville "becomes part of Peterson Health Care, which owns and operates long-term facilities, as well as Independent, Assisted and Supportive Living facilities throughout the Midwest."
13. Ms. McDorman reports that she intends to work only part time for Roseville.

14. The Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

CONCLUSIONS OF LAW

1. An Executive Inspector General's determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The present appeal of the June 29, 2012 revolving door determination made by the OEIG pursuant to 5 ILCS 430/5-45(f) with respect to Patricia E. McDorman's proposed employment is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (b) of the revolving door section of the State Officials and Employees Ethics Act currently provides:

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

5 ILCS 430/5-45(b)

4. The Ethics Act does not define "parent" or "subsidiary."
5. Patricia McDorman intends to work for Roseville and had no involvement in licensing or regulatory decisions that directly applied to Roseville or its purported parent, Peterson Health Care, Inc.
6. The Office of the Attorney General attempts to demonstrate through newspaper articles, web site pages, and statements by nursing home staff members, that Peterson Health Care, Inc. owns Roseville and that Roseville does not operate independently of Peterson Health Care, Inc.
7. While formal corporate structure does not necessarily determine employment status for purpose of the revolving door, and the Office of the Attorney General is correct to look behind the formal structure to determine the reality of relationships between the corporate entities, (effectively "piercing the corporate veil"), the Commission lacks sufficient

information in this case to determine that these entities are owned and controlled by Peterson Health Care, Inc. for purposes of the revolving door prohibition.

WHEREFORE, for the foregoing reasons, the Commission denies the Attorney General's appeal and affirms the Office of the Executive Inspector General's June 29, 2012 determination. Patricia E. McDorman's proposed employment would not violate the State Officials and Employees Ethics Act's revolving door prohibition.

ENTERED: July 19, 2012

SO ORDERED.

The Executive Ethics Commission

By: 
Chad D. Fornoff
Executive Director