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Department of Justice

THOMAS J. MILLER
ATTORNEY GENERAL

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July 22, 2010

Charlie Smithson
Executive Director & Legal Counsel
Iowa Ethics and Campaign Disclosure Board
510 E. 12th Street, Suite 1A
Des Moines, IA 50319

Dear Mr. Smithson:

In accordance with Iowa Code section 68B.4, the Iowa State Health Facilities Council (Council) recently granted consent for members of the Council to sell or lease goods and services as follows:

1. Members of the Council may sell or lease goods or services to any individual, association, or corporation regulated by any division within the Department of Public Health, other than the Council on which that official serves. This consent is granted because such sale or lease of goods or services does not affect the Council member's duties or functions on the Council.

2. Members of the Council may sell or lease goods or services to any individual, association, or corporation regulated by the Council if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale or lease of such goods or services does not affect the Council member's duties or functions on the Council. In the event a complaint is filed with the Council concerning the services or goods provided by the Council member to any member of the public, the Council member is prohibited from participating in a decision by the Council in that case. See, for example, Code of Administrative Judicial Conduct, 11 IAC 10.29(3)(b).

CONSENT TO SALES AND LEASES OF GOODS AND SERVICES

The Iowa State Health Facilities Council (Council) is established in Iowa Code chapter 135 as the governmental body which reviews applications for new or changed institutional health services and determines whether to grant such applicants a certificate of need (CON). The Council is established within the Iowa Department of Public Health (Department) for administrative and budgetary purposes. The Council is comprised of five members appointed by the Governor. Pursuant to Iowa Code section 68B.4, Council members shall not sell or lease, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the Department except as authorized by Iowa Code section 68B.4 and the administrative rules adopted by the Iowa Ethics and Campaign Disclosure Board at 351 Iowa Administrative Code (IAC) 6.11.

On the 21st day of July, 2010, the Council granted consent for members of the Council to sell or lease goods and services as follows:

1. Members of the Council may sell or lease goods or services to any individual, association, or corporation regulated by any division within the Department, other than the Council on which that official serves. This consent is granted because such sale or lease of goods or services does not affect the Council member's duties or functions on the Council.

2. Members of the Council may sell or lease goods or services to any individual, association, or corporation regulated by the Council if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale or lease of such goods or services does not affect the Council member's duties or functions on the Council. In the event a complaint is filed with the Council concerning the services or goods provided by the Council member to any member of the public, the Council member is prohibited from participating in a decision by the Council in that case. See, for example, Code of Administrative Judicial Conduct, 11 IAC 10.29(3)(b).

3. Individual application and approval are not required for the sales or leases authorized by this Consent unless there are unique facts surrounding a particular sale or lease which would cause the sale or lease to affect the sellor's or lessor's duties or functions on the Council, would give the buyer or lessee an advantage in dealing with the Council, or would otherwise present a conflict of interest as defined in Iowa Code section 68B.2A or the common law.

4. Individual application and approval, when required, shall conform to the procedures and guidelines outlined in 351 IAC 6.11, and shall only be granted by a majority of a quorum of the Council.

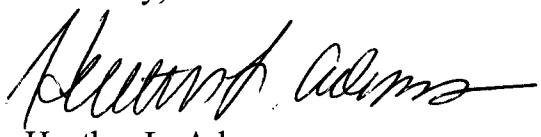
3. Individual application and approval are not required for the sales or leases authorized by the Consent unless there are unique facts surrounding a particular sale or lease which would cause the sale or lease to affect the sellor's or lessor's duties or functions on the Council, would give the buyer or lessee an advantage in dealing with the Council, or would otherwise present a conflict of interest as defined in Iowa Code section 68B.2A or the common law.

4. Individual application and approval, when required, shall conform to the procedures and guidelines outlined in 351 IAC 6.11, and shall only be granted by a majority of a quorum of the Council.

I have attached the "Consent to Sales and Leases of Goods and Services" signed by the Council Chairperson.

If you should have any questions regarding the Council's action please contact me at the number below. Best regards.

Sincerely,



Heather L. Adams
Assistant Attorney General
(515) 281-3441

Cc: Barb Nervig, Iowa Department of Public Health

The Iowa State Health Facilities Council

Karen Hope

By: Karen Hope, Chairperson, State Health Facilities Council