



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Ms. **Exhibit A/1**

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October 4, 2017

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

**Re: Evaluation of Statement of Economic Interest Filed By Ms. Karen Moriarty Penry
Prospective Appointee – North Carolina Medical Care Commission**

Dear Governor Cooper:

Our office is in receipt of Ms. **Karen Moriarty Penry's** 2017 Statement of Economic Interest as a prospective appointee to the **North Carolina Medical Care Commission ("Commission")**. 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.

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 North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Ms. Penry will fill the role of an At-Large member on the Commission. She is the Chief Operating Officer of Carillon Assisted Living which is subject to regulation by the Commission. As such, she has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should Carillon Assisted Living come before the Commission for official action or otherwise seek to conduct business with the Commission.

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

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

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

Sincerely,



Lisa Johnson, Paralegal
NC Board of Elections & Ethics Enforcement

cc: Ms. Karen Moriarty Penry

Attachment: Ethics Education Flyer