

April 2, 2009

TO: Ky. Healthcare Infrastructure Authority

**FROM: Julia F. Costich, JD, PhD
College of Public Health
Univ. of Kentucky**

RE: Kentucky e-Health Network Board Conflict of Interest Policy

Following the January meeting of the Kentucky e-Health Network (KEHN) Board, I offered to look into options for strengthening the board's conflict of interest policy. Article V of the KEHN Board's bylaws addresses ethics policy, including conflict of interest. The relevant language follows; the complete Article is attached to this document.

Section 3. Disclosure of Conflicts of Interest

A member of the Kentucky e-Health Network Board shall disclose to the other members of the Kentucky e-Health Network Board any direct or indirect interest in any undertaking that puts his personal interest in conflict with that of the Kentucky e-Health Network Board. This disclosure shall be made in writing or shall be recorded in the minutes of a formal meeting. A member who is required to publicly disclose a direct or indirect interest shall abstain from all decisions concerning his interest, if the decision would affect him as a member of a business, profession, occupation, or group in a manner different from other members of the business, profession, occupation, or group.

Section 4. Contracts/Agreements

No member of the Kentucky e-Health Network Board shall himself or through a business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the board, commission, authority, council, or committee of which he is a member. This prohibition shall not apply to purchases that are available on the same terms to the general public or which are made at public auction.

The KEHN Board does not fall within the authority of the Executive Branch Ethics Commission (EBEC), as set forth in Ky. Revised Statutes Chapter 11A. However, the language of Article V, Section 1 holds the KEHN Board to the same standards as entities regulated by the EBEC by stating explicitly:

The principles of ethical behavior for public servants of the Commonwealth are provided in KRS 11A.005(1). Although not "public servants" as defined in KRS Chapter 11A, as members of the Kentucky e-Health Network Board, we believe that our public service is for the benefit of the people of the Commonwealth.

In response to the KEHN Board's motion for a stronger conflict of interest and ethics policy, one option could be adoption of the disclosure form used by the EBEC. However, this step would place additional, unsupported administrative burdens on staff members and could be viewed as unnecessarily intrusive given the volunteer status of the KEHN board.

Rather than impose additional reporting requirements, the KEHN board may wish to consider an annual presentation of Article V that would reinforce the need for public confidence in the ethical integrity of board decisions.

Article V. Code of Ethics

Section 1. Ethical Principles

The principles of ethical behavior for public servants of the Commonwealth are provided in KRS 11A.005(1). Although not “public servants” as defined in KRS Chapter 11A, as members of the Kentucky e-Health Network Board, we believe that our public service is for the benefit of the people of the Commonwealth. We also recognize that such public service is a public trust and that we have a duty to:

- A. Be independent and impartial;
- B. Make policy and decisions through established processes of government;
- C. Not use our positions to obtain private benefits; and,
- D. Uphold the public trust in the integrity of the Kentucky e-Health Network Board.

Thus, the members of the Kentucky e-Health Network Board shall comply with the following minimum standards of ethical conduct

Section 2. Acceptance of Gifts

A member of the Kentucky e-Health Network Board, his spouse, or dependent child knowingly shall not accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the Kentucky e-Health Network Board, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this paragraph shall prohibit the Kentucky e-Health Network Board from authorizing exceptions to this paragraph where such exemption would not create an appearance of impropriety.

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