**Section 101.80 Conflict of interest**

a) The Department of Human Services has various statutory responsibilities regarding persons placed in nursing homes and sheltered-care homes which are subject to State licensure. The Department's statutory duties include monitoring of the levels of care given by the homes and input into the licensing process on such matters as staffing and program. It is, therefore, mandatory that no employee of the Department shall have any connection whatsoever with nursing homes or sheltered care homes which may be considered a conflict of interest or which may give rise to an inference that this connection may in any way influence the Department in carrying out its statutory duties in the selection and monitoring of homes for placement purposes. It is, therefore, Department policy that:

1) No employee of the Department whose job classification is at the professional level (salary grade 12 and above) shall serve in any capacity or have any connection as a full-time or part-time employee of any nursing home or sheltered-care home whether or not the Department is presently using that home for placement.

2) No employee shall act as a consultant, either paid or unpaid, for any nursing home or sheltered-care home if such consultation enables the home to meet its licensing requirements or to secure Department approval for program or staffing.

3) No employee who has any connection whatsoever with placement, follow-up care or program monitoring in nursing homes or sheltered-care homes, shall accept any employment or act as a consultant, either paid or unpaid, in any such facilities.

b) As the Department has an extensive grant and purchase care program which funds community-based agencies, it is Department policy that:

1) No employee shall serve on the board of directors or professional advisory committee paid or unpaid of any agency or facility which receives funds from the Department by any mechanism, including grants, purchase of care arrangements or contracts. If the regional administrator believes that in an individual case, it would be to the advantage of the Department or in the public interest to have an employee serve in an unpaid position on a board of directors or professional advisory committee, he or she shall document the facts and submit them to the Secretary who may make an exception.

2) No employee shall hold an economic interest of any character, nature or amount in any nursing home, sheltered-care home or community agency or facility which receives State funds, whether by grant, purchase of care, contract or any other mechanism. Employees presently holding any such economic interest in such agencies shall promptly divest themselves of their interest. Economic interest for the purpose of this Section does not include a contract for teaching services at a public or private college, community college or university.

3) No employee, the employee's spouse or any minor child of an employee, may own stock, bonds, debentures, shares or any other ownership or debt interest in any nursing home, sheltered-care home or community facility that receives State funds, whether by grant, purchase of care, contract or other mechanism.

4) No employee's spouse or minor child may hold a position with a nursing home or intermediate care facility or sheltered-care home which receives service recipients placed by the Department if the employee is involved in placement or monitoring.

c) The Illinois Procurement Code [30 ILCS 505] provides that no State employee may have any contract for personal services with any entity which may be satisfied in whole or in part by State funds. The Governor may grant exemptions for employees whose service to the State is important enough to outweigh the public policy expressed in the law. Any employee planning to work for any agency or facility which receives State funds must apply for and receive an exemption from the Illinois Procurement Code prior to accepting employment. The Office of Legal Services shall be contacted if an exemption is desired. The Illinois Purchasing Act does not apply to contracts between an employee and any State-aided school district, community college district, State university or any institution under the Board of Higher Education. The Illinois Procurement Code also includes monies received on behalf of public aid recipients in the definition of "State funds". Strict compliance with these provisions is mandatory.

d) The Department is required by Section 6 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/6] to have information on every executive level employee (pay grade 20 step 7 and above) who has any outside employment of any nature whatever and to share this information with the Department of Central Management Services. Questionnaires will be distributed once each year to collect this information. Full and complete disclosure of this information is mandatory.

e) Required disclosure and compliance

1) Section 4A-101 of the Illinois Governmental Ethics Act [5 ILCS 420/4A-101] identifies those State employees who are required to disclose certain economic interests. Strict compliance with this law is mandatory.

2) The Department may require any employee who is in violation of the foregoing policies to report to the Department in such reasonable detail as the Department may provide as to the fact of such violation and the action taken by the employee to comply with this Section.

3) Violation of these policies shall be cause for suspension or dismissal of employees.

f) Department's statutory, clinical and legal responsibilities

1) The Department has extensive statutory, clinical and legal responsibilities toward those persons it serves as recipients of those services. The provision of these services require that staff make, on a daily basis, decisions about the care, treatment and well-being of those recipients. One of the decisions staff may be called upon to make is the proper placement of a recipient in a foster home.

2) The Department also has various monitoring responsibilities regarding persons placed in foster homes, including the level of care and input into the continuation of the foster placement. At various times, Department staff may be called upon to appear and testify in court as to the appropriateness of the foster placement.

3) In view of these responsibilities, it is mandatory that no Department employee become a foster parent of a present or former recipient served in any facility wherein the employee is employed. To do so would place the employee in the position of making clinical decisions as an employee which directly affect the employee's position as a foster parent. Moreover, the recipient may be subject to unequal treatment as an inpatient by the employee due to his or her status as the employee's foster child. This situation creates both a conflict of interest as to the provision of services by the employee and the receipt of services by the recipient.

4) This provision shall have prospective application from the date of its promulgation. Exceptions to the foregoing provision may be granted, upon proper application, by the Secretary, if sufficient clinical bases exist to support such action.

(Source: Amended at 23 Ill. Reg. 11118, effective August 24, 1999)