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January 13, 1999

**ADVISORY OPINION NO. 99-06**

Teresa K. Simons  
120 Shady Hills Circle  
Calera, Alabama 35040

Revolving Door/Former Nurse With The  
Department Of Public Health Accepting  
Employment With General Property And  
Casualty Insurance Agency As A  
Consultant/Nurse In The Risk Management  
Division.

A former nurse with the Department of  
Public Health may accept employment with  
a General Property and Casualty Insurance  
Agency as a consultant/nurse in the  
company's Healthcare Risk Management  
Division, as she did not regulate the agency  
while employed by the Department of Public  
Health, nor would she have any interaction  
with the Department of Public Health in the  
private employment.

Dear Ms. Simons:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of  
this Commission, and this opinion is issued pursuant to that request.

### **QUESTION PRESENTED**

May a former nurse with the Department of Public Health accept a position with a General Property and Casualty Insurance Agency in its Risk Management Division without violating the "Revolving Door Provision" of the Alabama Ethics Law?

### **FACTS AND ANALYSIS**

Teresa K. Simons was formerly employed as a nurse with the Department of Public Health and as an employee of the Department, inspected long-term healthcare facilities to determine if those facilities were in compliance with state laws and regulations regarding the operation of such facilities.

Robinson-Adams is a General Property and Casualty Insurance Agency licensed by the State of Alabama and located in Birmingham. Robinson-Adams has offered her a position as a consultant/nurse in its Healthcare Risk Management Division. As such, she will be consulting with and providing seminars for Robinson-Adams Healthcare Risk Management customers regarding their operation of long-term healthcare facilities.

Ms. Simons states that the Department of Public Health has no responsibility for the regulation, audit or investigation of Robinson-Adams and, in fact, there is no interaction between the Department of Public Health and Robinson-Adams.

Ms. Simons states that, in her position with Robinson-Adams, she will not be representing any clients in any manner before any agency or board of the state.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-13 states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity."

"(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or

department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

“(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.”

“(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.”

“(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment.”

“(f) Nothing in this chapter shall be deemed to limit the right of a public official or public employee to publicly or privately express his or her support for or to encourage others to support and contribute to any candidate, political committee as defined in Section 17-22A-2, referendum, ballot question, issue, or constitutional amendment.”

Based on the facts as provided and the above law, a former nurse with the Department of Public Health may accept employment with a General Property and Casualty Insurance Agency without violating the "Revolving Door Provisions" of the Alabama Ethics Law, as she had no regulatory authority over the insurance agency, nor, in fact, was there any interaction between the Department of Public Health and the insurance agency.

#### CONCLUSION

A former nurse with the Department of Public Health may accept employment with a General Property and Casualty Insurance Agency as a consultant/nurse in the company's Healthcare Risk Management Division, as she did not regulate the agency while employed by the Department of Public Health, nor would she have any interaction with the Department of Public Health in the private employment.

#### AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on January 13, 1999.



Camille S. Butrus

Chair

Alabama Ethics Commission