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July 23, 2013

Anthony J. Annucci
Acting Commissioner
New York State Department of Corrections and Community Supervision
State Campus, Building 2
Albany, New York 12226-2050

Re: NYS IG 0325-316-2011

Dear Acting Commissioner Annucci:

My office received a complaint alleging that [REDACTED] a doctor employed by the Department of Corrections and Community Supervision (DOCCS) at Lakeview Shock Incarceration Correctional Facility, engages in private medical practice on state time utilizing state resources. The investigation revealed that although [REDACTED] maintains a private medical practice in Westfield, no evidence was found to substantiate that [REDACTED] conducts his practice with state resources or on state time.

Nonetheless, the investigation found [REDACTED] did not report his outside employment to DOCCS nor did he obtain permission from DOCCS for this employment. This circumstance, however, does not appear to violate DOCCS policy, which does not require employees who are self-employed outside of the agency to report or obtain permission for such activities. In fact, the policy expressly exempts them from such a requirement. Policy Directive 2218 (dated July 2, 2010) states, in pertinent part:

Except for employees in military reserves, or self-employed individuals, or those in family businesses who do not receive a salary, no Department employee may engage in outside employment without written approval from the Commissioner or the Commissioner's designee.

While [REDACTED] is not in violation of DOCCS policy as written, outside self-employment may create actual or apparent conflicts of interest as easily as other outside employment activities.

Self-employment activities similarly raise concerns regarding state employees conducting these activities during state work hours.

I have developed and recently disseminated to all agencies under my jurisdiction uniform guidelines relating to outside activity by state employees. The guidelines include the following provisions:

Every agency must have a policy on outside activity, which is defined as an activity, secondary employment, etc., outside of regular employment.

The policy must be distributed annually and require acknowledgement by employees.

Employees must annually file a request to engage in outside activity.

Management approval/denial of the request is to be documented.

Supervisors are to be trained on the policy.

Supervisors should monitor/check outside activity to ensure there is no interference with state employment.

DOCCS should review its policy relative to outside employment/activity and implement revisions necessary to ensure conformity with the guidelines described above.

Within 45 days of the date of this letter, please provide information concerning DOCCS' review and actions, including copies of any revised policies. If you have any questions regarding implementation of these recommendations or DOCCS' response to this letter, please feel free to contact me or Deputy Inspector General Audrey Maiello Cunningham at (518) 474-1010.

Sincerely,

A large black rectangular redaction box covering the signature area.

Catherine Leahy Scott
Inspector General