



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA DEPARTMENT OF HEALTH (IDOH)
TITLE: IDOH EMPLOYEE ETHICS VIOLATION
CASE ID: 2022-06-0168
DATE: October 18, 2022

Indiana Inspector General David Cook, after an investigation by Inspector General Special Agent Jan Kruse, report as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics (Code) violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

I. BACKGROUND

On June 8, 2022, the OIG received a complaint alleging that former Indiana Department of Health (IDOH) employee Courtney Creasey violated the Code's Post Employment rule by going to work for the Vermillion Convalescent Center (Center) less than three hundred and sixty-five (365) days after leaving state employment. According to the complaint, Creasey is a former IDOH Public Health Nurse Surveyor, who left state employment on October 11, 2021. The complaint alleged that Creasey was employed in IDOH's Long-Term Care Division, which regulated the

Center. The complaint further alleged that Creasey was on the survey team that normally surveyed the Center and last surveyed the Center on May 28, 2021.

The complaint implicated the following Code rules: the Post Employment Rule's Cooling Off restriction, found in Ind. Code §4-2-6-11(b); the Conflict of Interests Related to Decisions and Votes rule, found in Ind. Code § 4-2-6-9; and the Compensation Resulting From Confidential Information rule, found in Ind. Code §4-2-6-6.

II. OIG INVESTIGATION

On June 8, 2022, OIG Special Agent Jan Kruse was assigned to investigate the allegations set out above. Special Agent Kruse conducted several interviews, including interviews with Creasey's former supervisor at IDOH, the Director of the Center, a Center corporate office regulatory consultant, several former IDOH co-workers of Creasey and Creasey. Special Agent Kruse also obtained and reviewed pertinent documents relating to the case.

Through review of work records from IDOH, Special Agent Kruse discovered that Creasey began working for IDOH in November of 2016 and was assigned as a Public Health Nurse Surveyor in Area 6. Area 6 covered Terre Haute and the surrounding counties including Vermillion County. Prior to her employment at IDOH, Creasey was a floor nurse at the Center.

As a Public Health Nurse Surveyor, Creasey inspected long term convalescent facilities and assisted living homes. This included both annual and complaint on-site surveys within her assigned area. The survey teams would evaluate the quality of care, quality of life, environment and services provided to the residents by the facility. The inspections also determined compliance with federal and state regulations.

Creasey acted as both a surveyor team member and a team leader. As a team member she would participate with other team members in the facility inspection and write citations as she

found deficiencies. She would then submit any deficiencies and citations to the team leader. As a team leader, she would receive reports of citations and deficiencies written on a facility by a team member for failure to meet proper guidelines. She would then submit those reports to the area supervisor who would ensure the reports were properly documented. Once the area supervisor approved the reports, they would be uploaded into IDOH's Processing Department, which would generate a final report to be sent to the surveyed facility. The facility then would institute a corrective action plan addressing deficiencies and citations noted in the report.

During Creasey's employment at IDOH as a Public Nurse Surveyor, she conducted several recertification surveys and infectious control surveys and investigated complaints at the Center. According to the present IDOH Area 6 Public Health Surveyor Supervisor, Creasey had conducted recertification surveys at the Center in 2018 and 2020 and at least two infection control surveys because of COVID at the Center. She conducted her last recertification survey at the Center in May of 2021.

In October 2021, Creasey terminated her state employment and accepted a nursing position with the Hamilton Center in Terre Haute. The Hamilton Center is a short-term mental health and drug rehabilitation facility. She said she took the position at the Hamilton Center for higher pay and a more flexible work schedule, which provided her more time as a single mother to care for her daughter. She did not believe her position at the Hamilton Center was in conflict with her state employment and did not seek an informal or formal advisory opinion from the OIG or State Ethics Commission (Commission).

On March 28, 2022, she left the nursing position at the Hamilton Center because she was not receiving set hours as anticipated, which prevented her from attending her daughter's school activities. She accepted a position with the Center as a floor nurse. She was advised by the Director

of the Center that the Director had contacted their corporate office and was told that Creasey would not be in violation of any ethics rules if she accepted the nursing position. Creasey did not seek any further advisory opinions.

Special Agent Kruse interviewed the Director of the Center. The Director verified that she communicated with her corporate office and spoke with an independent regulatory consultant (Consultant) working for the Center. She said the Consultant told her that hiring Creasey would not be in violation of ethics rules and Creasey would not have a conflict of interests by serving in the floor nurse position. Based on that information, the Director hired Creasey as a floor nurse.

Special Agent Kruse then interviewed the Consultant. She advised that she had contacted the IDOH Department Director and asked general questions about hiring former IDOH employees. She said she was told that if anything, it might be a minor infraction that was rarely enforced. Special Agent Kruse then followed up with an interview with the IDOH Department Director who did not recall the conversation with the Consultant on this issue and said, if asked, she would never give her opinion and would have referred any questions of this nature to her ethics officer.

Special Agent Kruse also interviewed Creasey's supervisor when she worked for IDOH, who confirmed that Creasey had been trained on possible post employment issues. She said those topics were clearly covered in the employee handbook and were periodically discussed at staff meetings that Creasey attended. Creasey's training records certified attendance at the OIG ethics seminars on November 2, 2020, and February 19, 2021, where post employment restrictions were discussed. The IDOH Employee Handbook, which mirrors the State Employee Handbook, discusses post employment issues. In all interviews with Creasey's co-workers and supervisors at IDOH, Creasey was commended for her caring and compassionate attitude and her yearly performance evaluations always met or exceeded expectations.

Finally Special Agent Kruse interviewed Creasey. Creasey said that she worked for IDOH from September of 2016 to October of 2021. Her job was to conduct surveys of long-term health care facilities to determine if they were compliant with state and federal guidelines. She also investigated complaints filed against the facilities in her area. She left state employment in October of 2021, and went to work at the Hamilton Center, which is a short-term mental health care facility and drug rehabilitation center. Because it was a short-term facility and drug rehabilitation center and not a long-term health care facility, she did not believe there was a conflict with her prior state employment. She worked at the Hamilton Center for six months but decided to leave because the work schedule and travel to and from work was incompatible with her daughter's school activities. She contacted the Center because she knew they needed a floor nurse. She believed that the Center Director had cleared her employment with their corporate division.

Creasey acknowledged some understanding of the post employment restrictions but understood them to restrict only her employment as a consultant and thought that her employment as a floor nurse providing direct care to patients would not be a post employment concern. Creasey was contrite and apologetic for any mistakes or misunderstanding she had of the post-employment cooling off restriction, and she said she did not mean to violate any rules. She said she was trying to make her work schedule fit with her parenting obligations.

III. CONCLUSION AND RECOMMENDATIONS

The investigation found no evidence that Creasey violated the Conflict of Interests Related to Decisions or Votes rule, which is found in Ind. Code § 4-2-6-9. The investigation found that Creasey did not begin employment negotiations with the Center until she had been gone from state employment for six months; therefore, Creasey did not participate in any decisions or votes, or matters related to decisions or votes, in which the Center had a financial interest during a time in

which she was engaged in employment negotiations with the Center.

Likewise, the investigation found no evidence that Creasey violated Ind. Code § 4-2-6-6, the Compensation Resulting from Confidential Information rule. Again, Creasey did not begin discussions relating to employment with the Center until six months after she left state employment; therefore, the OIG found no evidence that her employment with the Center was a result of material information of a confidential nature gained through her state employment.

The OIG's investigation found evidence to substantiate allegations that Creasey violated the Post Employment Rule's Cooling Off period restriction found in Ind. Code § 4-2-6-11. The investigation found that as an IDOH Public Health Nurse Surveyor, Creasey made regulatory decisions that directly applied to the Center and that she went to work for the Center less than three hundred and sixty-five (365) days from leaving state employment.

On September 8, 2022, the OIG sought probable cause from the Commission that Creasey violated Ind. Code § 4-2-6-11 (b)(2), the Post Employment Rule's Cooling Off restriction. The Commission found probable cause for an ethics complaint, and the OIG filed an ethics complaint with the Commission on September 8, 2022. Subsequently, Creasey and the OIG entered into an Agreed Settlement in which Creasey admitted to the violation of the Post Employment Rule's Cooling Off provision and agreed to pay a two hundred and fifty dollar (\$250) fine within sixty days of the Commission's approval of the Agreed Settlement. Further, the parties agreed that an official letter of reprimand would become a part of her permanent personal file. The OIG presented the Agreed Settlement to the Commission on October 13, 2022, and the Commission approved the Agreed Settlement. Accordingly, this investigation is closed.

Further, in that post employment issues are common and, as demonstrated by the instant case, the restrictions in the Post Employment rule are often misunderstood or misinterpreted, the

OIG recommends that IDOH regularly educate and emphasize to their employees the Code's Post Employment rule and how it applies to IDOH employees. The OIG also recommends that if current or former IDOH employees have questions related to the Post Employment rule or other Code provisions, they should seek an informal advisory opinion from the OIG or a formal advisory opinion from the Commission.

Dated: October 18, 2022

APPROVED BY:



David Cook, Inspector General