



STATE OF NEVADA

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Request for Opinion  
Concerning the Conduct of **SOON KIM, M.D.**,  
Trustee, Humboldt General Hospital District,  
Humboldt County,  
State of Nevada.

**Request for  
Opinion No. 10-92C**

**Subject.**

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**PANEL DETERMINATION**

NRS 281A.440(5); NAC 281A.440

Facts and Jurisdiction

The Nevada Commission on Ethics received an Ethics Complaint regarding the conduct of **SOON KIM, M.D.**, Trustee, Humboldt General Hospital District, Humboldt County, State of Nevada, alleging certain violations of the Ethics in Government Law set forth in NRS 281A.

At the time of the alleged conduct, Dr. Kim was, and still is, a member of the Humboldt General Hospital District Board of Trustees, a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

Commission staff presented the Investigatory Panel with the allegations in the Complaint that Subject violated:

1. **NRS 281A.420 (1)** - by failing to disclose her pecuniary interest in her employment contract when the matter was to be considered at the August 31, 2010 Board Meeting.

While the amount of compensation or the fact of the contract was not at issue in the vote, imposing a deadline on the signing of the agreement that, if not met, would negate the offer of employment, certainly might affect Dr. Kim's pecuniary interest.

Dr. Kim's counsel's response relied on the argument that everybody in the room knew that the vote involved a procedural matter involving Dr. Kim, therefore an oral disclosure was unnecessary. In addition, Dr. Kim's response argued that counsel to the Board of Trustees failed to interrupt the meeting to suggest that Dr. Kim disclose the conflict, and that she relied on his silence in her decision to refrain from making a disclosure on the issue.

2. **NRS 281A.420 (3)** - by failing to undertake the abstention analysis prescribed in statute on the record and make a determination whether abstention would be necessary before voting regarding whether to impose a deadline on her own proposed contract.

Dr. Kim did not analyze whether the independence of judgment of a reasonable person whose employment contract is being considered to have a deadline for response placed on it would be materially affected by the conflict.

Again, Dr. Kim's counsel pointed to the failure of Board Counsel's silence as a basis to relieve Dr. Kim from her duties as a public officer to undertake the abstention analysis.

#### Panel Proceeding

On January 31, 2011, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners Magdalena Groover and Gregory Gale reviewed the following: 1) the Request for Opinion; 2) Dr. Kim's response; and 3) the Executive Director's Report and Recommendation.

At the July Board meeting, the board voted to offer to extend Dr. Kim's contract with the hospital for a two-year period, beginning January 1, 2011. Dr. Kim was provided the contract, but one month after the vote, had not signed and returned the agreement to the hospital. Hoping to firm up its plans, the Trustees considered placing a deadline on Kim's response so that, if she declined the offer, the Trustees could secure a replacement General Surgeon before Kim's current contract expired.

At the August 31, 2010 Board meeting, the body considered a motion to require Dr. Kim to respond with a signed agreement by the next day, September 1, 2010, or the offer would be withdrawn. That vote failed due to a tie. Dr. Kim participated in that vote. Then the Board considered providing a longer period for her response to the contract, and at that time, Board Counsel advised Dr. Kim, and another board member, that they should disclose their conflict of interest and abstain from voting, which they did.

Minutes of the relevant meeting provide evidence that Dr. Kim did not make any disclosure and that Dr. Kim did vote regarding the deadline issue without placing the abstention analysis on the record. The central question for the Commission is whether NRS 281A.420 required her to disclose her conflict of interest and undertake the abstention analysis based on the matter before the Trustees.

The following is the Panel's unanimous findings and conclusions as to the allegations:

Just and sufficient cause exists for the Commission to render an opinion whether Dr. Kim violated NRS 281A.420(1) and (3) at the August meeting of the Humboldt General Hospital Board of Trustees meeting by failing to disclose a conflict of interest and failing to undertake the abstention analysis related to that conflict on the record at the time the matter was being considered.

Therefore, the Investigatory Panel refers these two allegations to the Commission for a hearing and the rendering of an opinion.

Dated: 2/4/11

Caren Jenkins  
Caren Jenkins, Esq.  
Executive Director

**CERTIFICATE OF MAILING**

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I placed a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-92C**, in an envelope and caused same to be mailed via certified mail, return receipt requested, through the State of Nevada Mailroom to Dr. Soon Kim's counsel, Bob Dolan, Esq., and a true and correct copy of the **PANEL DETERMINATION in Request for Opinion No. 10-92C** to Dr. Kim, and the Requester, Richard Robie, via regular mail through the State of Nevada Mailroom addressed as follows:

Bob Dolan, Esq.  
Dolan Law, LLC  
311 South Bridge Street  
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**Cert. No. 7010 0780 0001 0973 8052**

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First Class Mail

DATED: 2/7/2011



An employee, Nevada Commission on Ethics