



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

July 3, 2013

Gerald Shefren, M.D.
Sequoia Healthcare District

REDACTED

Re: Warning Letter
FPPC No. 12/518: Gerald "Jerry" Shefren

Dear Mr. Shefren:

The Fair Political Practices Commission (the "Commission") enforces the provisions of the Political Reform Act (the "Act")¹ found in California Government Code Section 81000 and following. This case was opened by the Commission proactively based upon a news article which alleged that you voted in April 2011 to approve a \$60,000 grant to Pathways Home Health Hospice, a nonprofit where your wife worked part time as a nurse manager.

Under the Act, no public official at any level of state or local government may make, participate in making, or in any way use or attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a disqualifying conflict of interest. (Section 87100.) To determine whether an individual has a disqualifying conflict of interest, the Commission generally employs the following sequenced analysis: (1) is the individual a public official; (2) did the official make, participate in making, or use or attempt to use the official position to influence a governmental decision; (3) what are the official's economic interests, (4) are the official's economic interests directly or indirectly involved in the governmental decision; (5) what is the applicable materiality standard for each economic interest involved; and (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest. (See Regulation 18700.)

The FPPC has completed its investigation of the facts in this case. Specifically, the Commission found that on or about April 6, 2011: 1) you were a member of the Board of Directors for the Sequoia Healthcare District (SHCD); 2) you made a governmental decision when you seconded the motion and voted to approve 27 SHCD grants, including a \$60,000 grant

¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

to Pathways; 3) you received \$500 or more from Pathways in the form of your community property interest in your wife's salary; 4) Pathways was directly involved in the decision; 5) the financial effect of the decision on Pathways was material; and 6) the material financial effect was reasonably foreseeable. Thus, you had a disqualifying conflict of interest under the Act and should have refrained from seconding the motion and voting in this matter.

However, upon review of the evidence available, it appears there are mitigating factors. When the Pathways application came before the GAC, you announced that you had a conflict, and abstained from the discussion and vote of the Pathways grant application, after which the grant application was discussed in detail. Additionally, it appears to have been an oversight on your part to fail to request that the Pathways grant be segregated from the remaining grants at the SHCD Board meeting. Lastly, you disclosed your interest in Pathways in your applicable statements of economic interests. Thus, the totality of the circumstances shows that your conduct was inadvertent, and there was minimal public harm in this regard.

This letter serves as a written warning. You are advised that your failure to comply with the provisions of the Political Reform Act in the future could result in an enforcement action. Additionally, the information in this case will be retained, and may be used against you should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that your failure to comply with the provisions of the Act in the future may result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon your notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

REDACTED

Angela Y. Brereton
Senior Commission Counsel
Enforcement Division