

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2026-10

Approved: April 14, 2026

**Re: Tracy Lapointe-Webber**

### **QUESTION PRESENTED:**

The Petitioner, a probation and parole officer with the Rhode Island Department of Corrections, a state employee position, requests an advisory opinion regarding whether the Code of Ethics prohibits her from establishing and operating an independent clinical therapy practice while continuing her state employment.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a probation and parole officer with the Rhode Island Department of Corrections, a state employee position, is not prohibited by the Code of Ethics from establishing and operating an independent clinical therapy practice while continuing her state employment, provided that she follows the guidelines outlined below relative to the proper management of any conflicts of interest that might arise as result of her secondary employment.

The Petitioner has been employed by the Rhode Island Department of Corrections (DOC) since 2013 as a probation and parole officer.<sup>1</sup> The Petitioner represents that on November 30, 2025, she was promoted to the position of Probation and Parole Officer III and that, in that capacity, she serves as a training coordinator for Community Services under the management of the DOC Training Academy. She explains that her duties include, but are not limited to, participating in career fairs and recruitment efforts; coordinating, researching, and promoting training for staff, including creating lesson plans; organizing and facilitating new employee orientation for probation and parole officers; and processing intern and volunteer applications. The Petitioner states that she is no longer assigned a caseload, nor does she supervise anyone with a caseload of probationers and/or parolees. She identifies her work hours as 8:30 a.m. to 4:00 p.m., Monday through Friday.

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<sup>1</sup> She explains that, since 2013, she has served in various capacities at the DOC, including holding a specialized position supervising a sex offender-specific caseload within the Parole Unit between 2018 and December 2025.

The Petitioner represents that she recently joined the DOC's Peer Support Team, which "endeavors to maintain an effective stress management program for all Department employees."<sup>2</sup> The Peer Support Team, which is comprised of volunteer personnel who are available 24 hours a day, 7 days per week on an on-call basis, provides support in several areas: departmental referrals; voluntary treatment; post-traumatic stress; education and training; and critical incident debriefing to employees and their families.<sup>3</sup> The Petitioner explains that the Peer Support Team would ordinarily reach out to employees and/or their families affected by a major personal or work-related traumatic event such as, among other things, riots or suicide, to determine whether and what kind of support they may need. The Petitioner states that, at times, the support an individual may need is a referral to therapy. The Petitioner states that, if required, when performing her duties as a Peer Support Team member and a referral to therapy is needed, she could ask the peer support coordinator to facilitate such referral without the Petitioner's participation.

In her private capacity, the Petitioner would like to establish an independent clinical therapy practice, alongside three other independently licensed therapists. She clarifies that her clinical therapy work and that of the other therapists would not be organized as a corporation or other similar entity, but that she and the other therapists would merely share office space and operational expenses. The Petitioner plans to provide general counseling services to the public, including first responders and juveniles, and a sex offender-specific individual and/or group therapy in accordance with the National Association of Social Workers Code of Ethics.

The Petitioner explains that sex offender treatment for sex offenders is mandated by law and treatment is not optional. She states that when treating sex offenders, through either individual or group therapy, she would be required to send a monthly progress report to the DOC probation and parole officer supervising her clients (the offenders). The Petitioner describes the reports as including the name and date of birth of the offender; his or her therapy attendance record; a brief description of the topic areas discussed during therapy sessions; a description of the offender's behavior during therapy sessions, including the offender's participation or lack thereof during therapy; general treatment themes; and anything else of note. The Petitioner adds that the reports may also include recommendations for additional services, such as a higher level of care, substance abuse counseling, or individual therapy. The Petitioner states that these recommendations for additional services are ordinarily based on the therapist's observation during the sessions and are intended to help the offender to successfully complete the required sex offender treatment. The Petitioner notes that any recommendations made are discussed first with the offender, prior to sending them to the DOC probation or parole officer supervising the offender. The Petitioner represents that the probation and parole officers are responsible for enforcing compliance by offenders with court-ordered conditions. The Petitioner adds that upon receipt of the monthly report, the

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<sup>2</sup> <https://doc.ri.gov/more-resources/career-opportunities> (last visited March 12, 2026).

<sup>3</sup> Id.

officer reviews it and, if no concerns are noted, the officer then includes the report in the offender's file. However, if concerns are indicated by the therapist, the officer would ordinarily address those concerns with the offender. The Petitioner represents that when an offender fails to comply with counseling requirements, the supervising officer may initiate a technical violation against the offender. The Petitioner notes that there is no set standard required for a technical violation to be initiated, nor is a technical violation ever automatically triggered. She explains that the filing of a technical violation is based on the totality of the circumstances surrounding the offender. The Petitioner explains that offenders are fully informed, at sentencing, at the time of their referral to treatment, and again during their intake session for treatment of their obligations during treatment and the limits of confidentiality and scope of information sharing relative to their treatment.

Finally, the Petitioner represents that she will complete her private work outside of her normal working hours for the DOC, at nights and on weekends, and without the use of public resources. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits her from establishing and operating an independent private clinical therapy practice while continuing her employment with the DOC.

The Code of Ethics provides that a public employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity which is in substantial conflict with the proper discharge of her duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A public employee has an interest which is in substantial conflict with the proper discharge of her duties in the public interest if she has reason to believe or expect that she, any person within her family, her business associate, or any business by which she is employed or which she represents will derive a direct monetary gain or suffer a direct monetary loss by reason of her official activity. R.I. Gen. Laws § 36-14-7(a). Additionally, the Code of Ethics provides that a public employee shall not accept other employment which will either impair her independence of judgment as to her official duties or employment, or require or induce her to disclose confidential information acquired by her in the course of, and by reason of, her official duties or employment. § 36-14-5(b). The Code of Ethics also provides that a public employee shall not use her public office or confidential information received through her holding public office to obtain financial gain for herself, any person within her family, her business associate, or any business by which she is employed or which she represents. § 36-14-5(d).

The Code of Ethics further prohibits a public employee from representing herself or any other person, or acting as an expert witness, before a state agency by which she is employed. § 36-14-5(e)(1)-(3). A person "represents" herself or another person before a state agency if she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in her favor or in favor of another person. R.I. Gen. Laws § 36-14-2(12) & (13); 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016). These prohibitions extend for a period of one year after the public employee has officially severed her position with the subject state agency. § 36-14-5(e)(4). A business

associate is defined as “a person joined together with another person to achieve a common financial objective.” § 36-14-2(3). A person is defined as “an individual or a business entity.” § 36-14-2(7). Here, under the Code of Ethics, the Petitioner will be a business associate not only of her therapy clients, but also of the other three therapists with whom she will be sharing office space and operational expenses. See A.O. 2008-43 (opining that a member of the Westerly Town Council was a business associate with a co-tenant of a commercial property with whom he shared common utilities and maintenance expenses).

The Ethics Commission has consistently opined that public officials and employees are not inherently prohibited from holding employment that is secondary to their primary public positions, provided that the private employment would neither impair their independence of judgment nor create an interest in substantial conflict with their public duties, and subject to certain other restrictions. The Ethics Commission examines several factors when considering potential conflicts regarding secondary employment. These factors include, but are not limited to, the nexus between the official’s public duties and private employment; whether the employee completes such work outside of her normal working hours and without the use of public resources; whether the employee is to appear before her own agency; whether such work is to be conducted outside of the areas over which the person has decision-making jurisdiction; and whether the employee uses her position to solicit business or customers. See General Commission Advisory No. 2009-4.

Provided that the above-cited provisions of the Code of Ethics relative to conflicts of interest, use of office and confidential information, and maintaining independence of judgment are satisfied, the Code of Ethics does not preclude a public employee from engaging in outside employment. The Ethics Commission has issued a number of advisory opinions in which it has given approval for DOC employees to accept outside employment.

For example, in Advisory Opinion 2016-7, the Ethics Commission opined that a probation and parole training officer and intern/volunteer coordinator at the DOC could continue working at the Rhode Island Batterer’s Intervention Program (RIBIP) as a facilitator of a twenty-week, court-mandated batterer intervention program. The Ethics Commission based its decision on the fact that the petitioner’s public duties at the DOC did not involve the supervision of probation/parole officers or any offenders, or the referral of anyone to RIBIP classes, and that her private employment occurred on her own time and without the use of any DOC resources or equipment. See also A.O. 2020-1 (opining that a probation and parole officer at the DOC was not prohibited from working in her private capacity as an independent contractor for a private agency providing supervised visitation services between non-custodial parents and their children in Rhode Island, provided that the petitioner would not be assigned any families who had a parent currently on probation). Contra A.O. 2018-32 (opining that a DOC probation and parole officer was prohibited by the Code of Ethics from working in her private capacity as a facilitator at the Rhode Island Batterer’s Intervention Program because her caseload specifically included domestic violence offenders requiring referrals to batterer intervention programs).

Here, the Petitioner represents that her DOC duties no longer include supervision of a caseload of offenders, nor do they include supervision of any DOC employee with such a caseload. However, as a volunteer member of the DOC Peer Support Team, the Petitioner may at times have to recommend counseling to a DOC peer or his or her family member. In those circumstances, in the event that the Petitioner does establish and operate an independent clinical therapy practice, the Petitioner will be required to recuse from making such referrals because it is reasonably foreseeable that participating in referrals would have a direct financial impact, either positive or negative, on the Petitioner and her business associates (the three therapists she anticipates working with), given that they will all provide private counseling. Further, the Petitioner should not provide private counseling services to peers whom she actively supports as a member of the DOC Peer Support Team. See, e.g., A.O. 2020-1, supra; A.O. 2013-22 (opining that a DOC probation officer was not prohibited by the Code of Ethics from providing counseling services in his private capacity at Bridgemark Addiction Recovery Services, provided that he did not participate in any activities that involved individuals on his DOC caseload, and that all such work was performed on his own time and without the use of public resources or equipment, or confidential information obtained as part of his public employment).

The revolving door provisions contained in § 36-14-5(e) of the Code of Ethics prohibit the Petitioner from representing herself or another person before the DOC. These prohibitions are designed to minimize any undue influence that a current or a former employee may have over his or her current or former agency or colleagues by reason of his or her employment there while employed by the agency and for a period of one year thereafter. However, the prohibitions do not extend to the performance of ministerial acts, duties, or functions that are not substantive in nature, and do not involve agency decision-making. Examples of such ministerial interactions include, but are not limited to, hand-delivering documents, and requesting or reviewing public records. See A.O. 2013-28 (opining that a former principal policy associate for the Rhode Island Office of the Health Insurance Commissioner (OHIC) could accept private employment, provided that he did not represent his private employer before OHIC during that year and any contacts that he had with OHIC were purely ministerial in nature, such as hand-delivering documents, reviewing public records, and requesting public information). See also A.O. 2023-28 (opining that an engineering technician at the Rhode Island Department of Transportation (RIDOT) could accept private employment with a subcontractor to a contractor engaged in a RIDOT construction project and could prepare daily reports containing data and documentation relative to the project, notwithstanding that those reports would ultimately be submitted to RIDOT because the reports did not constitute his participation in the presentation of evidence or arguments before RIDOT for the purpose of influencing RIDOT's judgment in favor of either himself or his private employer, given that RIDOT concurrently collected its own field data and produced its own daily reports relating to the project, and did not rely on the petitioner's reports but only compared them to merely verify the anticipated consistency between them); A.O. 2010-23 (opining that the former chief administrative officer of the Rhode Island Board of Medical Licensure and

Discipline for the Department of Health (DOH), who was then employed as the chief medical officer for Landmark Medical Center, was not prohibited from making information inquiries to the DOH and from reporting information to it, including information mandated by state statute or regulation to be reported, such as information about illness or communicable diseases, or the treatment of impaired physicians, since he would not be “representing” himself or another before his former agency).

On the other hand, when interpreting § 36-14-5(e)’s prohibitions as to acts which are other than ministerial, the Ethics Commission has previously advised public officials and employees that activities that would constitute representation generally include the presentation of information or arguments for the purpose of influencing the judgment of the agency on matters concerning themselves or their business associates. Such prohibited activities include, but are not limited to, personal involvement in matters and substantive presentation or appearance before their public agencies on behalf of themselves or their employer or business associate, attending and participating in meetings between their private and public employers, acting as expert witnesses on behalf of a private client, submitting applications signed by them on behalf of themselves or clients. In Advisory Opinion 2024-13, for example, the Ethics Commission opined that a social caseworker with the Rhode Island Department of Children, Youth, and Families (DCYF) was not prohibited from accepting private employment as a clinician with The Inner You Counseling Center where she was to provide therapeutic services to adolescents. She was prohibited, however, among other things, from appearing before DCYF as a clinician for Inner You, which included, but was not limited to, reporting to DCYF on an Inner You client who became open to DCYF services following the start of therapy with the petitioner; acting as an expert witness on behalf of an Inner You client or Inner You; or submitting to DCYF documentation from Inner You that contained the petitioner’s name, or which was identifiable as the petitioner’s work product. See also A.O. 2020-32 (opining that a former senior projects review coordinator for the Rhode Island Historical Preservation & Heritage Commission (RIHPHC) was prohibited from, among other things, submitting on behalf of his new private employer a grant application, on which the petitioner’s name appeared, to the RIHPHC and from attending and participating in meetings between RIHPHC and his new employer); A.O. 2018-54 (opining that the chief of electrical and construction projects with the Rhode Island Department of Transportation (RIDOT), who also served as an independent contractor for the East Providence Police Department performing traffic detail work, was prohibited from providing traffic detail for RIDOT construction projects occurring within the East Providence on state-owned roadways because the petitioner’s daily interactions with RIDOT were not purely ministerial in nature, given that they included, among other things, the RIDOT’s review and approval of the petitioner’s detail slip confirming the number of hours worked by the petitioner); A.O. 2012-12 (opining that a former senior environmental scientist at the Rhode Island Department of Environmental Management (DEM) was not prohibited from working for the Rhode Island Natural Resources Conservation Service upon his retirement, provided that he did not have any personal involvement with a matter before his former agency for a period of one year following his official date of severance, and he did not disclose confidential

information he may have obtained during the course of his state employment); A.O. 2008-62 (opining that a former social caseworker in the Long Term Care Unit within the Department of Human Services (DHS), was not prohibited from working as an independent contractor assisting a private attorney with the preparation of medical assistance applications on behalf of his clients, given that the attorney was the one filing the applications with DHS, and provided that the petitioner did not have any direct contact with or appear to represent the clients, the attorney, or anyone else, before DHS or any of its members or staff, for a period of one year after the date of her official severance from her position).

Here, the monthly progress report that the Petitioner would be required to submit to the DOC is part of the mandated sex offender treatment, and the offenders are fully informed, at sentencing, at the time of their referral to treatment, and again during their intake session for treatment of their obligations during treatment and the limits of confidentiality and scope of information sharing relative to their treatment. The information included in the report includes the therapist's observations of the offender's behavior during treatment and could include recommendations for additional services based on the needs of the offender and the need for the successful completion of the therapy. Additionally, the monthly progress report is reviewed by the DOC officer supervising the offender to determine whether the offender is complying with the mandatory therapy, or whether there is cause to file a violation based on the report and the totality of the circumstances. Therefore, based on the Petitioner's representations, and the review of the relevant provisions of the Code of Ethics and prior advisory opinions issued, it is the opinion of the Ethics Commission that the submission by the Petitioner of the monthly therapy progress reports to the DOC is not purely ministerial and would constitute representation of the Petitioner's client (the offender) before the Petitioner's public agency, which is an activity prohibited by § 36-14-5(e). Accordingly, the Petitioner may not provide sex offender therapy, either in an individual or group setting, so long as such therapy requires her to submit monthly therapy progress reports to the DOC.

Based on the facts as represented by the Petitioner, there is no evidence to suggest that her anticipated private counseling work would impair her independence of judgment or create an interest that is in substantial conflict with her public duties at the DOC, provided that she complies with the restrictions described above, and provided that all of the work is performed on her own time and without the use of public resources or confidential information obtained as part of her state employment. Further provided that the Petitioner may not use her public employment to advertise or promote her private work or to recruit or obtain potential clients for her private counseling work. Finally, this advisory opinion cannot anticipate every possible situation in which a conflict of interest might arise for the Petitioner and, thus, provides only general guidance as to the application of the Code of Ethics based upon the facts represented herein. The Petitioner is encouraged to seek additional advice from the Ethics Commission in the future as more specific questions regarding potential conflicts of interest might arise.

**This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of judicial or professional ethics may have on this situation.**

Code Citations:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(d)

§ 36-14-5(e)

§ 36-14-7(a)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

Related Advisory Opinions:

A.O. 2024-13

A.O. 2023-28

A.O. 2020-32

A.O. 2020-1

A.O. 2018-54

A.O. 2018-32

A.O. 2016-7

A.O. 2013-28

A.O. 2013-22

A.O. 2012-12

A.O. 2010-23

A.O. 2008-62

A.O. 2008-43

G.C.A. 2009-4

Keywords:

Representing Oneself or Others

Secondary Employment