

State Health Plan Board Teleconference – June 15, 2020

3. Reading of SEI Statements into Minutes

In the following packet are Statement of Economic Interest (SEI) evaluation letters issued by the State Ethics Commission. These are being provided for Agency members' review and for recording in the meeting minutes pursuant to the requirements of the State Government Ethics Act N.C.G.S. § 138A-15(c). Members are encouraged to review the evaluations to inform and remind them of the identified actual or potential conflicts of interest.

The SEI Evaluations being provided are:

- Wilton Russell (Rusty) Duke, Jr. – New board member



## STATE ETHICS COMMISSION

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RALEIGH, NC 27611  
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### Via Email

June 9, 2020

The Honorable Phil Berger  
President Pro Tempore of the Senate  
16 West Jones Street, Room 2008  
Raleigh, North Carolina 27601

Re: **Evaluation of Statement of Economic Interest Filed**  
**by the Honorable Wilton Russell (Rusty) Duke, Jr.**

Dear Senator Berger:

Our office has received the Honorable **Wilton Russell (Rusty) Duke, Jr.**'s 2020 Statement of Economic Interest as an appointee to the **State Health Plan Board of Trustees (the "Board")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

**We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.**

The State Health Plan insures more than 663,000 state employees, teachers, retirees, current and former lawmakers, state university and community college personnel, state hospital staff and their dependents. The State Health Plan Board of Trustees ("the Board") is statutorily charged with approving the benefits programs, premium rates, co-pays, deductibles, coinsurance maximums, and large contracts for the Plan. The Board also oversees administrative reviews and appeals and is charged with developing and maintaining a strategic plan.

The Act establishes ethical standards for certain public servants, and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Duke is an attorney with the law firm of White & Allen, P.A. and owns financial interests in a number of companies, including CVS Health Corporation and Merck & Co. In addition, his spouse owns financial interests in a number of companies, including CVS Health Corporation and GlaxoSmith Kline PLC. Therefore, Mr. Duke has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should the business of White & Allen, P.A. or issues involving any entity in which Mr. Duke or his immediate family own a financial interest, should come before the Board for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Mary Roerden, SEI Unit  
State Ethics Commission

cc: Wilton Russell (Rusty) Duke, Jr.  
Laura Rowe, NC Dept. of State Treasurer, Compliance Officer and Ethics Liaison

Attachment: Ethics Education Guide