



**State of Louisiana**  
Department of Health and Hospitals  
Bureau of Legal Services

**HAND DELIVERED**

January 25, 2016

Ms. Kathleen Allen  
Board of Ethics  
617 N. 3<sup>rd</sup> Street - #10  
Baton Rouge, Louisiana 70802

**VIA HAND DELIVERY**

Re: Request for Emergency Ethics Opinion  
Donations for Louisiana Medicaid Administration Costs

Dear Kathy:

The purpose of this letter is to request an emergency ethics opinion regarding donations that the Louisiana Department of Health and Hospitals (DHH) may be receiving from the Baton Rouge Area Foundation (BRAAF). These donations will be expressly limited to DHH, and DHH will utilize them to cover administrative costs and operating expenses within its Medicaid program.

Pursuant to federal law at 42 CFR 433.64, DHH may accept bona fide provider-related donations. This area is highly regulated by the federal government, and any donations must be specifically tailored to meet with federal approval. Due to the State's current budget shortfall and DHH's need for increased administrative services, providers and contractors have expressed an interest in providing such donations if approved by the federal Centers for Medicare and Medicaid Services (CMS). CMS is currently reviewing DHH's request for approval of these donations and is expected to approve our plans if we follow their specific guidance. At the current time, the plan is to have BRAAF set up a specific fund that will allow interested parties, be it providers, contractors, or ordinary citizens, to anonymously donate funds for this purpose. DHH will not be a party to any agreements between BRAAF and any donors, and BRAAF will not communicate any information about the identity of donors or amounts of donations to DHH. There will not be a minimum or maximum amount that can be donated. At specified intervals, BRAAF will transmit a donation to DHH out of this fund.

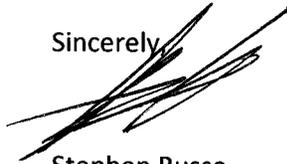
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Some potential donors have requested guidance to determine if there are any possible ethics concerns as some have contracts or provider agreements with DHH. Depending on the donor, they may also have a license that is issued by DHH. A provider agreement is an agreement that is between DHH and a health care provider that allows them to bill for providing Medicaid services to qualified recipients. While DHH believes that Ethics Opinion 2004-185 specifically allows for this situation, DHH is seeking an opinion as to whether the above arrangement would violate the Code of Governmental Ethics. Further, DHH seeks an opinion as to whether making the public aware of such a fund would violate any portion of the Code.

This is one of the highest priorities within DHH at the present time. DHH will be seeking to have all donations in hand by January 29, 2016. Thus, DHH appreciates your prompt attention and guidance in this matter. We have also attached some additional information that we hope helps in your decision making.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Russo", written over the word "Sincerely,".

Stephen Russo  
Executive Counsel

Attachment  
SR/mm

## MEDICAID ADMINISTRATION INITIATIVE

- In order to comply with federal regulations, the Louisiana Department of Health and Hospitals' Medicaid Program will gladly accept a donation from the Baton Rouge Area Foundation (BRAAF). The act of donation will expressly state that it is to be used only for Medicaid Administration Expenditures and is given under the condition that it flows directly to DHH.
- The department will not be provided with the names of any specific contribution sources to BRAAF that may have been a part of this donation nor will DHH be provided with a specified breakout of amounts related to any specific sources.
- DHH will work to ensure that BRAAF communicates that any donations for this particular purpose are purely voluntary without any expectation of any specific DHH initiatives resulting therefrom. Any BRAAF donation will be under the full administrative control of DHH and be used for Medicaid administration. BRAAF will also communicate that there is not a minimum or maximum amount of any donation for this particular purpose.
- The preferred method that DHH would like to use is to have the money flow directly from BRAAF to DHH wherein DHH would then use the money for Medicaid Administration match. However, an alternative would be to explore the possibility of having the donation flow to the Louisiana Division of Administration then having the Louisiana legislature appropriate the funds to DHH.