



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

Commission Meeting 10/16/2020
Agenda Item #2

To: Commission
From: Michael Dunn, Esq., Political Committee and Lobbyist Registrar
Date: October 6, 2020
Re: Request for Waiver of Late-Filing Penalties by Kerri Bickford, Lobbyist

Once registered, lobbyists are required to file monthly reports of their lobbying activities using the Commission's electronic filing system. A lobbyist must file a monthly report for each client on the 15th day of the month that discloses their lobbying activities during the preceding month. Ms. Kerri Bickford, the lobbyist for Pathways, was required to file a monthly lobbyist report for her client on September 15, 2020, covering the month of August. Ms. Bickford believed that she did not have to file for August because on June 11, 2020, she had tried to file a Request for a Non-Session Waiver, which would have exempted her from filing monthly reports for the rest of the lobbying year. The Commission's e-filing system confirms that Ms. Bickford logged into the system on June 11, 2020, and that she filed the lobbying reports due in June and July but does not have a record that she filed the Non-Session Waiver Request at that time.

On September 16, 2020, Commission staff spoke with Ms. Bickford to inform her that we had not received her monthly report for August. She responded that she had not lobbied in August, and she filed a no-activity report. ETH – 3. The Commission staff filed the Non-Session Waiver for Ms. Bickford on the same day. On September 16, 2020, Commission staff sent Ms. Bickford correspondence advising her of the \$50 late-filing penalty. ETH – 2. On September 17, 2020, Ms. Bickford requested a waiver of the preliminary penalty. ETH – 1.

LEGAL REQUIREMENTS

All registered lobbyists are required to file monthly reports for each calendar month they are registered. Reports are due 11:59 p.m. on the 15th day of the following month (*i.e.*, the June lobbying report is due July 15th). 3 M.R.S. § 317. For late reports filed less than

24 hours past the deadline, the preliminary penalty is \$50. 3 M.R.S. § 319(1). ETH – 8.
A lobbyist may request a waiver of the monthly reporting requirement when the Legislature is not in session, which removes their obligation to file monthly reports unless they engage in lobbying. 3 M.R.S. § 317(4). ETH – 6.

The Commission may waive the penalty in whole or in part based on several statutory factors, including if the Commission finds that a lobbyist made a bona fide effort to file the report in accordance with this chapter. 3 M.R.S. § 319(1). ETH – 8.

DISCUSSION AND STAFF RECOMMENDATIONS

Ms. Bickford registered as a lobbyist for Pathways on January 31, 2020. She filed each monthly report on time through the year until the August Lobbyist Report, which was due on September 15, 2020. Ms. Bickford explains that she attempted to file a non-session waiver¹, but the system has no record of that submission. ETH – 1.

Before each monthly filing deadline, the Commission’s e-filing system sends automated reminder emails to lobbyists at their email address on file in the system. In addition, Commission staff sends reminder emails on the day a report is due to all lobbyists who have not yet filed their reports. ETH – 4. On September 15, 2020, the Commission staff sent an email to Ms. Bickford at kerrilbickford@gmail.com reminding her that the report was due by 11:59 p.m. ETH – 4.

The Commission’s e-filing system shows that Ms. Bickford logged into her account on June 11, 2020 and filed the June and July Lobbyist Reports. The system has no record of Ms. Bickford’s non-session waiver submission. At this point in the lobbying year, about 80 lobbyist accounts² have submitted non-session waiver requests. The Commission staff is not aware of a problem with its e-filing system accepting waiver requests. Staff accepts that Ms. Bickford attempted to file non-session waiver requests on June 11, 2020

¹ The process for filing a non-session waiver is detailed on ETH – 9-10.

² Out of about 350 active accounts. An account is based on the joint registration of the lobbyist and employer. A single lobbyist may have multiple accounts.

but, due to an unknown reason, the system did not record that she successfully filed the requests.³

The harm to the public from the late filing of the no-activity reports was minimal. The Legislature was not in session. Ms. Bickford had performed no lobbying activity during August for her client. The report was only about 10 hours late.

Ms. Bickford also requests a waiver due to financial hardship resulting from Covid-19. She explains that she is a sole proprietor of her lobbying firm and that her spouse has also had a reduction in income. Commission staff accepts her representations on her finances.

The Commission staff views the preliminary penalty of \$50 as adequately balancing the unintended harm to the public with the need to impress upon lobbyists the importance of ensuring their reports have been filed on time. This penalty also does not appear to be disproportionate to the harm suffered by the public or the experience of the lobbyist. For these reasons, the Commission staff recommends not waiving the \$50.00 penalty.

Thank you for your attention to this matter.

³ Once a lobbyist has successfully filed a non-session waiver request, (s)he sees a pop-up screen confirming that the waiver request has been filed. Also, the e-filing system sends a confirmation email to the lobbyist.

STATE OF MAINE COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

Dear Members of the Commission,

My name is Kerri (Prescott) Bickford, I am a former legislator (2006-2012) and have been a registered Maine lobbyist since 2015 with my firm White Birch Advocacy. I am a sole proprietor, and represent a single client for 2020, Pathways of Maine. I have filed my reports on time, as my history will show.

I am asking for a waiver for the \$50 charge which was assessed hours after the deadline of September 15. I was under the impression that I had submitted a non-session waiver, and soon realized that this had not gone through in the system. I called ethics immediately (September 16, 2020) to voice my concern and was told to request a waiver. I respectfully request that you waive the \$50 fee due to the following circumstances:

- I have been out of work since March and my contract was suspended due to Covid-19 and the Maine State Legislature adjourning Sine Die on March 17, 2020.
- My husband who is also self-employed has had his salary cut by 50%.
- I am not actively representing my client as the past reports will show, which means that there is no harm to the public by my late submission.
- Covid-19 has affected many businesses, and I am hoping that the Commission will understand the impact of a \$50 fine on a small proprietor.

I am hopeful that you will accept my appeal of the \$50 late fee.

Thank you for your time and consideration. Stay safe.

Best,

A handwritten signature in black ink, appearing to read "Kerri Bickford". The signature is fluid and cursive, with a large loop at the end.

Kerri Bickford
3 Goldeneye Drive
Topsham, Maine 04086
207.841.1181



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

September 16, 2020

Kerri Bickford
3 Goldeneye Dr.
Topsham, ME 04086

Re: Late Filing - September 15, 2020 Lobbyist Report

Dear Ms. Bickford:

The Commission staff has made a preliminary determination that a penalty of \$50 applies for the late filing of the September 15, 2020 lobbyist disclosure report for your client, Pathways. See, 3 MRSA § 319. The report was due on 09/15/2020 but was not filed until 09/16/2020.

If you disagree with the preliminary penalty, you may request a waiver by submitting a statement, in writing, to the Commission stating the reason the report was filed late and requesting that the preliminary penalty be waived. All requests for waiver will be included on the agenda for the next Commission meeting.

If you do not intend to seek a waiver of the preliminary penalty, please mail a check, payable to "Treasurer, State of Maine," for the above amount to the Ethics Commission at 135 State House Station, Augusta, Maine 04333. You may also pay with a Visa or MasterCard online at www.maine.gov/ethics by selecting the "penalty payment" option.

Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. Please call me at (207) 287-4709 or send me an email at michael.dunn@maine.gov if you have questions.

Sincerely,

Michael J. Dunn

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar

If paying by check, please return this portion with your payment. Thank you.

From: Pathways
Re: Penalty for late filing of September 2020 Lobbyist Disclosure Report (\$50).

Enclosed: \$ _____ Check/M.O. No.# _____

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

LOBBYIST DISCLOSURE REPORT FOR AUGUST 2020

LOBBYIST INFORMATION	
KERRI L BICKFORD 3 GOLDENEYE DRIVE TOPSHAM, ME 04086	Telephone: (207) 841-1181 Fax: (207) 841-1181 KERRILBICKFORD@GMAIL.COM ID: 11828
CLIENT INFORMATION	
PATHWAYS Principal Contact: Kerri L Bickford 62 PEGASUS STREET BRUNSWICK, ME 04011	Telephone: (207) 841-1181 kerrilbickford@gmail.com WWW.PATHWAYSHEALTH.COM
CERTIFICATION	
<p>I, KERRI L BICKFORD, affirm that, during the month of the report, the lobbyist named above did not lobby on behalf of the named client and did not make any expenditures in support of lobbying or to or on behalf of any covered official or a family member of a covered official; and that the client received no contributions or payments from another during the month of the report for the purposes of lobbying; and that no information is knowingly withheld to the best of my knowledge.</p> <p>Report Filed by: KERRI L BICKFORD Report Filed on: September 16, 2020</p> <p>If this report is filed by an authorized agent of the Principal Lobbyist, the Principal Lobbyist and the agent are liable for any violations of the Lobbyist Disclosure Law (3 M.R.S.A Chapter 15) that may result from the filing of a false or inaccurate report</p> <p>Unsworn falsification is a Class D crime (17-A M.R.S.A. § 453).</p>	

From: [Dunn, Michael](#)
To: ["kerrilbickford@gmail.com"](mailto:kerrilbickford@gmail.com)
Subject: Sept. Lobbyist Report Reminder
Date: Tuesday, September 15, 2020 12:14:20 PM

Re: Kerri Bickford for PATHWAYS

To Whom It May Concern:

Please note that the deadline for filing your monthly Lobbyist Report is 11:59 PM tonight. Failure to file may result in late penalties being assessed. I am available until 5:00 PM tonight if you require any assistance in filing your report.

Sincerely,

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

Confidentiality Notice | This e-mail message, including any attachments, has been sent from the Commission on Governmental Ethics and is for the sole use of the intended recipient(s). If you are not the intended recipient, you are asked not to distribute this message. If you are not the intended recipient, please delete it and contact the sender by reply e-mail. Thank you.

Title 3 M.R.S.

Current with the Second Regular Session of the 129th Maine Legislature.

§ 317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D.

The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subsection 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures for the purposes of indirect lobbying exceed \$ 15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative

actions that are the subject of the indirect lobbying and a general description of the intended recipients;

F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$ 25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure;

G-1. The date and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$ 250 or more;

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$ 1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

2. Repealed. Laws 2011, c. 179, § 5.

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

Title 3 M.R.S.

Current with the Second Regular Session of the 129th Maine Legislature.

§ 319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$ 100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$ 50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, “mitigating circumstances” means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the fine or penalty in whole or in part;
- B. An error by the commission; or
- C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service.

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.


2. Repealed. Laws 1979, c. 632, § 3.

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

MEC LOBBYIST NON-SESSION WAIVER REQUEST

1) Select Non-Session Waiver option in the upcoming reports section

Reports Due


Submit Non-Session Waiver 

Report	Period Begin	Period End	Due Date	Status	Action
SEPTEMBER LOBBYIST REPORT	9/1/2020	9/30/2020	10/15/2020	Not Filed	File Long Form File Short Form Check-In
OCTOBER LOBBYIST REPORT	10/1/2020	10/31/2020	11/16/2020	Not Filed	
NOVEMBER LOBBYIST REPORT	11/1/2020	11/30/2020	12/15/2020	Not Filed	


2) Enter the effective date of the Non-Session Waiver and submit the waiver



Please note: If the lobbyist has engaged in any lobbying activities during the month in which this non-session waiver is filed, the lobbyist must file a monthly report.

By clicking **Submit Waiver** I,  hereby swear or affirm that I do not expect to be engaged in lobbying after the adjournment of the Second Regular Session of the 129th Legislature, and before December 1, 2020. I therefore request a waiver, effective on the date entered below, of the monthly non-session reporting requirement as provided by 3 M.R.S.A. Section 317(4). I understand that if I resume lobbying activities after the date of adjournment and before December 1, 2020, I must file report(s) as required by 3 M.R.S.A. Section 317(4)(B).

Effective Date of Non-Session Waiver:

Submit Waiver [Cancel](#) 

3) The system will provide a confirmation page with an option to view the filing

Your filing has been successfully submitted.
To view click the link below.

[Click Here to View Report](#)

Finished

In order to view the reporting forms, you will need to have Adobe Acrobat Reader loaded on your computer.

You can download it for free by clicking on the Get Acrobat Reader image below.

4) The waiver will show-up in the filing history and the status of subsequent reports will change to Waiver Filed.

Reports Due

[Submit Non-Session Waiver](#)

Report	Period Begin	Period End	Due Date	Status	Action
SEPTEMBER LOBBYIST REPORT	9/1/2020	9/30/2020	10/15/2020	Waiver Filed	File Long Form File Short Form Check-In
OCTOBER LOBBYIST REPORT	10/1/2020	10/31/2020	11/16/2020	Waiver Filed	
NOVEMBER LOBBYIST REPORT	11/1/2020	11/30/2020	12/15/2020	Waiver Filed	

Filing History

Report	Period Begin	Period End	Due Date	Filed	Amended	View	Amend Report	Correct	Audit
AUGUST LOBBYIST REPORT	8/1/2020	8/31/2020	9/15/2020	9/12/2020	No	View	Amend		Process
Lobbyist Non-Session Waiver effective as of 07/31/2020	7/31/2020	11/30/2020		8/18/2020	No	View			