§ 32.33 Improper expenditures of money.

Improper expenditures of money shall include, but not be limited to, the following:

(a) No provider of services issued an operating certificate pursuant to this article shall make any charitable contribution of state moneys, medical assistance payments or social security or supplemental security income or any interest or other income earned thereon, except as authorized by the commissioner. Provided, however, the provision of this section shall not apply to receipts or donations from private or non-governmental sources and any interest or other income earned thereon, or to monies advanced to employees in accordance with performance of their official duties as employees.

(b) Notwithstanding the not-for-profit corporation law, no loans, consisting in whole or in part of funding provided by the office, shall be made by a not-for-profit corporation issued an operating certificate as a provider of services pursuant to this article to any employee of such corporation, or to any other corporation, firm, association or other entity in which an employee is a director or officer or employee or holds a direct or indirect substantial financial interest. A loan made in violation of this section shall be a violation of the duty to the not-for-profit corporation of the directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby.

(c) 1. No contract or other transaction between a not-for-profit corporation issued an operating certificate as a provider of services pursuant to this article and one or more of its employees, or between a not-for-profit corporation and any other corporation, firm, association or other entity in which one or more of such persons are directors or officers of the board or corporation, or employee who receives an annual salary in excess of thirty thousand dollars, or have an indirect or direct substantial financial interest, shall be either void or voidable for this reason alone:

(i) If the material facts as to such person's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the board or committee, the board or committee authorizes such

contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested person; or

(ii) If the material facts as to such person's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the members entitled to vote thereon, if any, and such contract or transaction is authorized by vote of such members.

2. If such good faith disclosure of the material facts as to the person's interest in the contract or transaction and as to any such common directorship, officership or financial interest, is made to the directors or member, or known to the board or committee or members authorizing such contract or transaction, as provided in paragraph one of this subdivision, the contract or transaction may not be voided by the corporation for the reasons set forth in paragraph one of this subdivision. If there was no such disclosure of knowledge the corporation may void the contract or transaction unless the party or parties thereto shall establish affirmatively that the contract or transaction was fair and reasonable as to the corporation at the time it was authorized by the board, a committee or the members.