In response to a recent article addressing the issue of nepotism and employment antidiscrimination laws ("DLT accused of biased hiring practices", 2/4/16), I write on behalf of the state Commission for Human Rights to clarify what may be a misperception on the part of some members of the public.

While nepotism (the practice of giving jobs or other favors to relatives) in the employment context may not, in and of itself, constitute employment discrimination, the practice can violate state and federal antidiscrimination laws under certain conditions. The U.S. Equal Employment Opportunity Commission (EEOC) has observed that Title VII of the Civil Rights Act of 1964 (the federal employment antidiscrimination law) "forbids not only recruitment practices that purposefully discriminate on the basis of race but also practices that disproportionately limit employment opportunities based on race and are not related to job requirements or business needs. ... While word-of-mouth recruiting in a racially diverse workforce can be an effective way to promote diversity, the same method of recruiting in a non-diverse workforce is a barrier to equal employment opportunity if it does not create applicant pools that reflect the diversity in the qualified labor market." ***EEOC Directives Transmittal 915.003, Section 15: Race and Color Discrimination*** (pp. 15-22 through 15-23) (http://www.eeoc.gov/policy/docs/race-color.html). See also, ***Questions and Answers About Race and Color Discrimination in Employment*** (http://www.eeoc.gov/policy/docs/qanda_race_color.html) ("Word-of-mouth recruitment is the practice of using current employees to spread information concerning job vacancies to their family, friends, and acquaintances. Unless the workforce is racially and ethnically diverse, exclusive reliance on word-of-mouth should be avoided because it is likely to create a barrier to equal employment opportunity for racial or ethnic groups that are not already represented in the employer's workforce").

Courts have consistently found that the practice of nepotism in the employment context can result in discrimination prohibited by state and federal law. See, for example, Thomas v. Washington County School Board, 915 F.2d 922, 925 (4th Cir. 1990) ("Nepotism is not per se violative of Title VII. ... However, when the workforce is predominantly white, nepotism and similar practices which operate to exclude outsiders may discriminate against minorities as effectively as any intentionally discriminatory policy"); EEOC v. Steamship Clerks Union, Local 1066, 48 F.3d 594, 606 (1st Cir. 1995) (finding "competent evidence" of impermissible nepotism where, over an extended period of time, every new member of an all-white union was a relative of an existing member; Brown v. Gaston County Dyeing Machine Co., 457 F.2d 1377, 1383 (4th Cir. 1972) (Nepotism and word-of-mouth hiring constitute badges of discrimination in the context of a predominantly white workforce).

In short, nepotism can, but does not always, violate state and federal employment antidiscrimination laws. Whether a particular allegation of nepotism can support a claim of employment discrimination will depend on an analysis of all of the facts/evidence available in the particular case.