

CONNECTICUT STATE ETHICS COMMISSION  
30 TRINITY STREET  
HARTFORD, CONNECTICUT 06115



Rev. Thomas J. Lynch, *Chairman*  
George S. Writer, Jr., *Vice-Chairman*

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Sheila M. Hennessey  
John M. Lupton  
Robert W. MacGregor

ADVISORY OPINION NUMBER 79-25

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Rev. Samuel L. White  
Lucille E. Brown

Application of Subsection 1-84(d), General Statutes, to Members of the Dental Commission

An attorney, recently appointed to be a member of the State Dental Commission, is associated with a law firm which is neither a partnership nor a professional corporation. The law firm is conducted as a sole proprietorship. Each attorney is separately employed by the firm as an independent contractor. Each receives a weekly salary plus a certain percentage of the fees charged clients brought into the firm by that attorney. All personnel of the law firm, attorneys and clerical staff, participate in a limited form of profit-sharing--a year end bonus. The attorney has asked whether her new status as a public official prevents the other attorneys employed by her firm from representing other persons for compensation before the State agencies listed in subsection 1-84(d), General Statutes.

The letterhead of the stationery on which the request was typed states that it is from the "Law Offices of 'A' and 'B'". The stationery has five names printed on it, presumably those of the attorneys practicing in the law firm. The attorney who posed the question has name "A" of "'A' and 'B'".

Members of the Dental Commission are appointed by the Governor. Section 20-103a, *id.* Among the powers granted the Commission by Chapter 379, General Statutes, are power to issue, suspend, and revoke the license essential to engaging in the practice of dentistry in Connecticut. Pursuant to section 4-40a, General Statutes, Commission members are compensated by a flat-rate per diem, plus actual and necessary expenses, for Commission meetings.

Exercising significant powers of the State and appointed by the Governor, Dental Commission members clearly are public officials for purposes of the Code of Ethics for Public Officials, Chapter 10, Part II, General Statutes, of which subsection 1-84(d) is a part. Subsection 1-79(j), *id.*

The unusual relationship which the attorney-commissioner bears to her law firm arguably falls within the description "member or employee of a partnership, association, or a professional corporation" used in subsection 1-84(d), above, as amended by section 5 of Public Act No. 79-493. Even if the particular organizational arrangement were not included in the statutory language, attorneys employed

by the law firm would have to be treated as such members or employees, or that is the impression which the letterhead will create in the public and in the members and staff of the State agencies listed in section 1-84(d), above.

Since the effective date of Public Act No. 79-493 there has been an exception to subsection 1-84(d), above, for boards and commissions whose members are unlikely to be capable of exercising the undue influence which the subsection seeks to prevent. Public officials who receive no compensation other than a flat per diem rate, reimbursement for actual and necessary expenses, or both are exempt from the proscription of the subsection. Subsection 1-84(d), General Statutes, as amended by section 5, Public Act No. 79-493; Ethics Commission Advisory Opinion No. 79-22, 41 Conn. L.J. No. 12, p. 25. Since members of the Dental Commission receive only a flat per diem rate plus actual and necessary expenses, none is subject to the restriction of subsection 1-84(d) by virtue of his status as a member. A Commission member not being subject to the subsection, no other person in the member's law firm is, either. This is a consequence of the exception which has been added to subsection 1-84(d) by Public Act No. 79-493, not of the technique the law firm in question has utilized in employing its attorneys.

By order of the Commission,



Rev. Thomas J. Lynch  
Chairman

Dated October 5, 1979