



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-8

Outside Business Interests of a Member of
the State Board of Chiropractic Examiners

Robert F. Stern, D.C., a member of the State Board of Chiropractic Examiners (SBCE), has asked the Ethics Commission whether certain of his outside business activities might conflict with his official duties.

Dr. Stern and his wife are principal stockholders of the American Association of Chiropractic Health Care Consultants, Inc. (the Corporation). Dr. Stern is also president of the Corporation. According to its literature, the Corporation was formed to develop a membership of doctors of chiropractic who are active in the fields of case management, utilization review and expert witness testimony. The Corporation lists its members in an annual directory which it provides to insurance carriers, trial lawyers and other users of chiropractic services. The Corporation hopes that users of such services will choose qualified accredited chiropractic consultants from its directory. The Corporation also engages in educational seminars to train its membership in professional skills required by chiropractic consultants. The Corporation's annual charter membership fee was \$1,000. Its current annual membership fee is \$250.

Specifically, the Commission has been asked:

1. If a member of the Corporation were to appear before the SBCE for a disciplinary hearing, would Dr. Stern be disqualified from participation as a Board member?
2. Does the purpose of the Corporation conflict with Dr. Stern's duties as a member of the SBCE?
3. Additionally, Dr. Stern has asked whether the following activities may conflict with his duties as a member of the SBCE:

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a. Dr. Stern serves as an independent medical examiner for various insurance companies. Under this arrangement Dr. Stern will have a patient referred to him by an insurance carrier for independent medical examination and a report concerning the need for chiropractic treatment. Payment is made by the insurance companies on a fee for services basis.

b. Dr. Stern also serves as a reviewing authority for licensed insurance carriers. In this capacity an insurance company will hire him to review the records of treatment of a patient who is a subscriber of the insurance company to determine whether or not the chiropractic treatment was appropriate. Dr. Stern renders a written report and is paid a fee for his services by the insurance company.

c. Dr. Stern from time to time serves as a reviewing authority on behalf of the State Department of Health Services. These reviews are provided at the request of the Department and are done on a no-fee basis. Dr. Stern normally reviews the written reports of treatment and renders a written report.

d. Finally, Dr. Stern from time to time may be asked to do a peer review for the Connecticut Chiropractic Association Peer Review Committee. These reviews are done on a blind basis, that is neither the name of the treating doctor nor the name of the patient is disclosed to the reviewing authority. Dr. Stern will review the records of the treatment and render a written report. No fee is paid for the services performed at the request of the Peer Review Committee.

The SBCE is authorized by Conn. Gen. Stat. §20-25, as amended by P.A. 88-248. Its membership is composed of four practicing chiropractors and three public members, all appointed by the Governor. Id. The SBCE regulates the chiropractic profession in Connecticut, and is authorized to "(1) hear and decide matters concerning suspension or revocation of licensure (2) adjudicate complaints against practitioners and (3) impose sanctions where appropriate". Id. The manner of their appointment and the powers that they exercise make SBCE members "Public officials" as that term is defined in Conn. Gen. Stat. §1-79(k). Therefore, they are subject to the requirements of the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I.

Responding to Dr. Stern's questions in turn:

1. and 2. Under the Code a public official may not "...use his public office or position...to obtain financial gain for

himself...or a business with which he is associated." Conn. Gen. Stat. §1-84(c).

The Commission does not question Dr. Stern's purpose or qualifications, either as a member of the SBCE or as president of the Corporation. Nevertheless, he is in a position where all those practicing chiropractic medicine in Connecticut are subject to his significant public regulatory authority; and, at the same time, are candidates to become members, for a significant annual fee, of his private Association. The chiropractic doctors of the State should not be placed in such a situation, no matter how admirable the motives of the individual involved. Under the circumstances, inadvertent use of public office for personal gain is inevitable. As a result, it is the Commission's opinion that if Dr. Stern wishes to continue to serve as a member of the SBCE, his Corporation must cease conducting business in Connecticut. Alternatively, he and his wife could divest themselves of their interests in the Corporation so that it is no longer a "Business with which he is associated" as that term is defined in Conn. Gen. Stat. §1-79(b).

3. Dr. Stern's outside professional activities described in question 3., supra, do not present an irreconcilable conflict with his duties on the SBCE. Dr. Stern has stated that he will not participate if a case comes before the SBCE concerning which he has previously received a fee from an insurance company. This abstention satisfies the requirements of Conn. Gen. Stat. §1-86(a); and will prevent violation of Conn. Gen. Stat. §1-84(b), which prohibits accepting outside employment which will impair independence of judgment as to official duties. If a case comes before the SBCE which Dr. Stern has previously reviewed for the Department of Health Services or the Connecticut Chiropractic Association Peer Review Committee no conflict exists under the Code of Ethics for Public Officials, since no fee has been paid for the reviews in question.

By order of the Commission,



William A. Elrick
Chairperson

Dated 3-6-89

