

CONNECTICUT STATE ETHICS COMMISSION  
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ADVISORY OPINION NUMBER 79-21

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Status of a Health Systems Agency

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Engaged in Lobbying

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A State legislator has received a considerable volume of correspondence from the health systems agency for the health service area which includes the legislator's district. All of the letters are signed by the chairperson of the agency's legislative committee. Some of them urge the legislator to support one or more bills identified in the letter or to support legislation which would further one or more of the agency's goals set forth in the letter. Others merely state certain goals of the agency and advise that the agency supports specific bills or legislation which would help achieve the goals (but it would be difficult to argue that these were not likewise intended to influence legislative action). The letters also reveal that the agency holds briefing sessions for legislators from time to time. The General Assembly member has asked whether the agency's activities described above require the agency or the chairperson of its legislative committee to register as a lobbyist to comply with the Code of Ethics for Lobbyists, Chapter 10, Part II, General Statutes.

The legislator clearly is a "public official" in the legislative branch; it is also clear the agency is communicating for the purpose of influencing "legislative action", and therefore it is "lobbying" as those terms are defined in the Code of Ethics for Lobbyists. Subsections 1-91(p), 1-91(j), and 1-91(k), General Statutes. The agency thus becomes a "lobbyist" (subsection 1-91(l), General Statutes) if it expends \$300 or more in furtherance of lobbying during a calendar year and is not excluded from that status by one of the exceptions to the definition of "lobbyist" in the subsection. If the agency is a lobbyist, it must register as one with the State Ethics Commission and file periodic financial reports concerning its lobbying activities. Subsections 1-94(b) and 1-95(a), and section 1-96, General Statutes. Similarly, a person lobbying on behalf of the agency must register if he or she receives \$300 or more per year in compensation or reimbursement, or both, in furtherance of lobbying. Subsections 1-91(l), 1-94(a), and 1-95(a), id.

Health systems agencies were authorized by the National Health Planning and Resources Development Act of 1974, Public Law 93-641, for the purpose of improving the health of area residents, increasing accessibility to health services, restraining increases in the cost of health services, and preventing unnecessary duplication of health resources. 42 U.S.C.A. section 3001-2(a). Connecticut is divided into five health service areas, each with its own health systems agency providing health planning and resources development for the area. An entity is designated a health systems agency by the Secretary

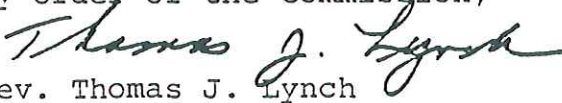
of Health, Education, and Welfare after consultation with State and local officials. 42 U.S.C.A. section 3001-4; section 19-3b, General Statutes.

A health systems agency may utilize one of the following three legal structures: nonprofit private corporation, public regional planning body, or single unit of general local government. 42 U.S.C.A. section 3001-1(b)(1). The agency in question is a nonprofit private corporation incorporated under the Nonstock Corporation Act, Chapter 600, General Statutes.

It receives the bulk of its funds from the Federal Government, supplemented by State and local contributions. The planning, reviewing, and plan implementation performed by a health systems agency (see 42 U.S.C.A. section 3001-2; subsection 19-73(a), sections 19-73dd, 19-73ii, General Statutes) are, like the agency's funding, essentially governmental in nature. However, a health planning agency, despite the manner of its designation and the main source of its funding, is not a Federal agency. Tex. Acorn v. Tex. Area 5 Health Systems Agency, 559 F. 2d. 1019 (5th Cir. 1977), rehearing denied 565 F. 2d 908 (1978); Mid-American Regional Council v. Mathews, 416 F. Supp. 896 (W.D. Mo. 1976). It is not a State agency. Apparently, it may not be. Cf. 42 C.F.R. section 122.101(b)(1978). Although recognized in State statutes, as noted above, the health systems agency is neither created nor authorized by the General Assembly, at least no more so than any other private nonprofit corporation. Only a few members of its governing body need be public officials of any level of government; most are private citizens who are either consumers or providers of health care. 42 U.S.C.A. section 3001-1(b)(3)(C). Therefore, the agency apparently is not a branch of State government. For the same reasons it does not appear to be a quasi-municipal corporation which could be considered a subdivision of State government for purposes of section 1-91(1)(1), General Statutes. Cf. Regional High School District No. 3 v. Newtown, 134 Conn. 613, 620-621 (1948); 1 McQuillin, Municipal Corporations sections 2.13, 2.23 - 2.30 (3d ed. rev. 1971).

The health systems agency here is engaged in lobbying. Since none of the exclusions from the definition of lobbyist in section 1-91(1), General Statutes, appears applicable the agency should register with the State Ethics Commission if it meets or exceeds the \$300 threshold, as should any of its representatives who attain the threshold.

By order of the Commission,

  
Rev. Thomas J. Lynch  
Chairman

Dated September 7, 1979