



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 91-20

Former Chairperson Of The Commission On Hospitals And
Health Care (CHHC) Accepting Employment With An Entity
Which Has Clients Subject To CHHC Regulation

The former Chairperson of the Commission on Hospitals and Health Care (CHHC), Mr. Gardner E. Wright, Jr., would like to accept employment with a lobbying organization (Organization). Mr. Wright has asked whether, under the post-state employment rules of the Code of Ethics, he may perform legislative lobbying for a client of the Organization, if the client is an entity subject to regulation by the CHHC.

The provision of the Code of Ethics for Public Officials applicable to Mr. Wright's question is Connecticut General Statutes §1-84b(c). That provision restricts the post-state employment of certain former members of the executive branch who held positions which involved the exercise of significant state authority and which have been designated as such by the Ethics Commission. CHHC is one of the agencies enumerated in §1-84b(c), and the public members, including the Chairperson, are among the approximately seventy-five positions which have been designated as being subject to the section. Regulations of Conn. State Agencies, §1-92-40a. Specifically, §1-84b(c)(2) states that, "No former public official or state employee who held such a position in the executive branch shall, within one year after leaving an agency, accept employment with a business subject to regulation by that agency." For purposes of this provision, "employment" is defined to mean "professional services or other services rendered as an employee or as an independent contractor." *Id* at (c).

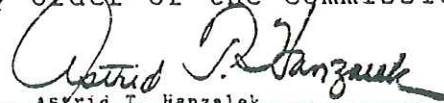
In this case, Mr. Wright, if functioning as an employee of or consultant for the Organization, would not be directly accepting "employment" with any entity subject to regulation by the CHHC. Consequently, such an employment arrangement would not contravene §1-84b(c)(2). As the Commission has previously ruled, the post-state employment restrictions of the Code are personal to the former public official and do not extend to his or her employer. Ethics Commission Advisory Opinion No. 89-13, 50 Conn. L.J. No. 46, p. 1C (May 16, 1989) (Former Insurance Commissioner accepted employment with law firm; other members of the firm could represent clients subject to Insurance Department

regulation or appear before the Insurance Department.) Furthermore, the Commission does not find it necessary, or fair, to apply the restrictions of §1-84b(c) to the former state servant's ability to accept work assignments from his or her current employer based on which client will be served. To rule otherwise would place too onerous a limitation on one's ability to find employment utilizing legitimate expertise, and would go beyond the legislative intent of the statute. See, The Code of Ethics Study Committee Report to the General Assembly of 1983, at 24 (1983). Therefore, Mr. Wright may accept employment with an organization which has clients subject to CHHC regulation and is free to be assigned to do work for those clients, including legislative lobbying. (He may not, of course, do administrative lobbying at, or perform any other representation before, CHHC for one year after leaving state service without breaching Conn. Gen. Stat. §1-84b(b)).

The Commission wishes to emphasize that the foregoing analysis is based on an employment relationship whereby Mr. Wright acts strictly as an employee of or consultant for the lobbying organization. Mr. Wright must not, however, acquire any ownership interest in the Organization for the one year time period. Otherwise, by virtue of such interest, he will have directly accepted employment with the CHHC regulated entity. Furthermore, if Mr. Wright's employment arrangement were to evidence any indication that it was established to evade the law, i. e., that the Organization was functioning as a mere conduit for work he could not directly accept, the Commission would consider Mr. Wright to have accepted employment in violation of §1-84b(c).

In essence, while the Ethics Commission seeks, whenever possible, to allow former state servants to utilize their expertise, it will not condone a relationship which evades the Code by allowing one to benefit indirectly, when he or she could not benefit directly from the same activity.

By order of the Commission,



Astrid T. Hanzalek
Astrid T. Hanzalek
Chairperson

Dated 8-5-91