



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 91-21

Commission On Hospitals And Health Care Deemed Separate
Agency From The Department Of Health Services For
Purposes Of The Post-State Employment Rules

The post-state employment rules of the Code of Ethics for Public Officials prohibit a state employee, for one year after leaving state service, from representing anyone, other than the State, for compensation before the department, agency, board, commission, council or office in which he served at the time of his termination of service, concerning any matter in which the State has a substantial interest. See, Conn. Gen. Stat. §1-84b(b). An employee of the Department of Health Services (DHS), Ms. Audrey Wasik, has been laid off and has asked whether the Commission on Hospitals and Health Care (CHHC) is part of DHS for purposes of this rule. She has also asked how the rule would apply if she had been transferred to another agency for a short period of time prior to leaving state service.

Conn. Gen. Stat. §19a-146 establishes an independent commission on hospitals and health care. It is a full-time, five member commission and staff. Conn. Gen. Stat. §19a-147. The staff of CHHC is part of DHS. Conn. Gen. Stat. §19a-148.

Subsection §1-84b(b) was enacted to prevent a former state employee or public official from exerting undue influence over his former agency. See, The Code of Ethics Study Committee Report to the General Assembly of 1983, at 21 (1983). Although all administrative matters are handled through DHS, CHHC essentially operates independently since there is no interaction between the two entities on any substantive issues. For example, CHHC drafts its own regulations and its hearings are entirely within the purview of CHHC. It follows, therefore, that a DHS employee will not have had the requisite contacts to be able to exert any undue influence with CHHC personnel. Consequently, the one year cooling period to prevent preferential treatment, as between personnel from the two related but distinct entities, is not necessary.

Another subsection of the the post-state employment rules, subsection 1-84b(c), denominates CHHC as an "agency". (That subsection restricts designated former members of certain

enumerated executive branch agencies from accepting employment, for one year, with entities which were subject to their agency's regulation.) In order to maintain consistency and in keeping with the legislative rationale for the post-state employment provisions, the Commission holds that for purposes of the "revolving door" rules, i.e. Conn. Gen. Stat. §1-84b, CHHC shall be deemed a separate "agency". Therefore, Ms. Wasik is restricted from appearing before DHS, with the exception of CHHC, for the one year time period.

Although it may frustrate the legislative intent of the statute, the language of subsection 1-84b(b) clearly and unambiguously states that the former employee may not appear before the agency "in which he served at the time of his termination of service" (emphasis added). Therefore, the proscription applies only to the agency which last employed the individual. The Ethics Commission, however, recognizes that certain transfers could be made as an attempt to evade the law. If an individual were to arrange a transfer to another agency in order to avoid the Code's post-state employment restrictions, the Commission will disregard the sham transfer and apply the restrictions to the individual's last legitimate state agency employer.

By order of the Commission,


Astrid T. Hanzalek

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Chairperson

Dated 8-5-91