



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 84-5

Department of Mental Retardation Staff Member  
as Licensee of Home for Mentally Retarded

The Acting Director, Residential Living Alternatives, Division of Habilitative Services, Department of Mental Retardation has asked whether there would be any conflicts under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, if she were to operate a community training home.

As discussed in some detail in Ethics Commission Advisory Opinion No. 80-17 (42 Conn. L.J. No. 20, p. 30 (November 11, 1980)), community training homes are residential facilities for up to four mentally retarded persons. Standards for the facilities and their operators are established by the Commissioner of Mental Retardation. Sections 19-569h-2 and 19-569h-3, Regulations of Connecticut State Agencies. Licensing, license renewal, and supervision of homes are accomplished at the regional center/training school level (sections 19-569h-4, 19-569h-6, 19-569h-8, *id.*) as is placement of residents (section 19a-451, General Statutes).

The Acting Director has worked in the Department of Mental Retardation for five years. Her position immediately prior to her present one was at a regional center, where she developed, implemented, and supervised its Supervised Apartment Program. As Acting Director, Residential Living Alternatives she is statewide coordinator of the Supervised Apartment Program, statewide coordinator of the Community Training Home Program, and she monitors Boarding Out Fund requests. In her coordinator positions she is the departmental liaison with those persons at the regional centers and training schools who have immediate responsibility for supervising the regional Supervised Apartment and Community Training Home Programs. The Boarding Out Fund provides interim financing of alternative living programs, including the Community Training Home Program, until more permanent funding--Supplementary Security Income, for example--becomes available, or may supplement other funding sources. When she reviews a request she evaluates the appropriateness of the placement, the program, and the rate requested.

She expects a Director, Residential Living Alternatives to replace her in a few weeks or months. Thereafter, she will continue as statewide coordinator of the Supervised Apartment Program and, perhaps, monitor of Boarding Out Fund requests.

Should she be licensed as a community training home

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operator her intent is to have only one resident initially, a person now in a training school. The person wants to move into a supervised apartment but first needs about eight to ten months of training and preparation. The prospective resident does not need any Boarding Out Fund assistance to enter a community training home, and is expected to continue to support herself through her employment. After the Acting Director and her family have had that experience, they will decide whether they wish to continue operating a community training home. In her opinion, her years of working with the mentally retarded and evaluating numerous placement situations make her unusually qualified to serve as a community training home licensee.

Employees of the Department of Mental Retardation are likely to have the skills and experience necessary to work effectively with the mentally retarded, and the empathy to make their association worthwhile. Whether they have these qualities in fact can be checked more readily than in the case of anyone else, for they are constantly under the scrutiny of Department personnel. Unfortunately, they also are the ones who are most likely to have conflicts of interest under the Code of Ethics for Public Officials if they operate an alternative living facility for the mentally retarded.

In the case at hand, as statewide coordinator of the Community Training Home Program the Acting Director is liaison between departmental staff and those who, on a regional basis, actually operate the Program. She coordinates the efforts of the Directors of Social Services and the community home social workers in the regional centers. Were she herself operating a community training home, they are the ones who would decide whether she should be licensed and then whether her license should be renewed or suspended or revoked. They would probably make the placements to her home. As coordinator she might be in a position to take official action which would have direct financial effect on her as an operator of a community training home, in violation of subsection 1-84(a) and section 1-85, General Statutes. She certainly would be in position to use her State position for her personal financial benefit as a residence operator, in violation of subsection 1-84(c), General Statutes, and might be able to use confidential information gained in her State position for her private financial benefit, in violation of the same subsection. Since she would be coordinating, as the person responsible at the departmental level, the activities of those at the regional centers and training homes who have supervisory power over her as a residence operator, as an operator she would probably have taken employment impairing her independence of judgment as a statewide coordinator. Subsection 1-84(b), General Statutes.



Once she is no longer Acting Director, however, these obvious conflicts of interest disappear. The Code would not prevent her from obtaining a license as a community home operator if she is otherwise qualified and the provisions of subsection 1-84(i), General Statutes, concerning contracts with the State can be met. Her position of statewide coordinator of the Supervised Apartment Program, in which she works with people at the regional level who are not involved with the Community Training Home Program, seems to create no problems under the Code.

If she continues to monitor Boarding Out Fund requests, however, she could conceivably rule on a request involving a resident in her home. Obviously, she should take action pursuant to section 1-86, General Statutes to disqualify herself from acting on such a request. In fact, to prevent any suspicion that her decisions on Boarding Out Fund requests are influenced by the effect they have on the number of residents in her community training home, she should disqualify herself, using section 1-86 procedures, in the case of Fund requests involving any alternative living arrangements in the Department of Mental Retardation region in which is her community training home. Granted she intends to have only one resident, already identified, at first, and may not continue as a community training home operator when that resident leaves. Once licensed she would, nevertheless, be eligible to take in up to four residents. Her position on the Department's staff would enable her to act officially with regard to various Fund requests in a way which could increase the possibilities of placement being made to her home rather than another community training home or other licensed facility.

In summary, so long as she remains Acting Director, Residential Living Alternatives, she should not seek a license to operate a community training home. As statewide coordinator of the Supervised Apartment Program there seem to be no impediments under the Code to her operating a community training home. Her position on the Department staff has no relationship with those, at the regional level, who license and supervise community training homes. Cf. Ethics Commission Advisory Opinion No. 83-7, 45 Conn. L.J. No. 1, p. 7B (July 5, 1983). If she continues to monitor Boarding Out Fund requests she should have her replacement as Director assign to another those requests involving mentally retarded persons seeking to live in the same region as is her community training home. Otherwise, her actions on those requests might be influenced by the effect they could have on the financial success of her private venture as a community training home operator. The

Ethics Commission, as it noted in Advisory Opinion Number 80-17, above, continues to assume that the Commissioner of Mental Retardation will be particularly vigilant in carrying out his supervisory duties in the case of a community training home operated by a member of his staff.

By order of the Commission,

*Lucille E. Brown*

Lucille E. Brown  
Chairperson

Date 7 February 1984