



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-23

Application of the Code of Ethics to Members of Regional Emergency Medical Service Councils

The Director of the State's Office of Emergency Medical Services (OEMS) has asked the Ethics Commission whether it is proper under the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part I, for members of Regional Emergency Medical Service Councils, which consult with the OEMS on ambulance service issues, to vote on matters in which they have a pecuniary interest.

Regional Emergency Medical Services Councils are authorized by Conn. Gen. Stat. §19a-183. "Opportunity for membership shall be available to all appropriate representatives of emergency medical services including, but not limited to, one representative of each of the following: (a) local governments, (b) fire and law enforcement officials, (c) medical and nursing professions... (d) providers of ambulance services, at least one of which shall be a member of a volunteer ambulance association, (e) institutions of higher education, (f) federal agencies involved in the delivery of health services, and (g) consumers." Id. All regional councils must submit to the Commissioner of Health Services information concerning organizational structure and council bylaws for his or her approval. Id. The specific appointment procedures for membership on the regional councils are set forth in each council's bylaws, and may vary from region to region.

Each regional council is required by statute to forward to the Commissioner of Health Services an emergency medical services plan for its region. Conn. Gen. Stat. §19a-184. Additionally, each council must review and within sixty days forward to the Commissioner, along with the council's recommendations, all grant and contract applications for

federal and state funding of emergency medical services in the region. Id. Lastly, each council is authorized to appoint a regional emergency medical services coordinator to function as a paid staff person to the council in facilitating and implementing its work. Conn. Gen. Stat. §19a-185.

Specifically, the Ethics Commission has been asked: 1. whether an ambulance company owner serving on a regional council may vote on a council recommendation regarding his or her company's application; 2. whether competing company owners sitting on the council may vote on a competitor's application; and 3. whether a council member who is an employee of an ambulance service, but who has no ownership interest in the company, may vote on council matters affecting his or her employer's business.

In responding to requests for advice regarding application of the Code of Ethics it is, of course, necessary to first determine whether the individual(s) in question are subject to the Code. Members of Regional Emergency Medical Service Councils do not fit within the Code's definition of "state employee." Conn. Gen. Stat. §1-79(m). Therefore, if the Code of Ethics is to apply to their official actions, council members must fall with the Code's definition of "public official."

In pertinent part, the Code defines "public official" as "...any person appointed to any office of the legislative, judicial or executive branch of state government by the governor...or...any person appointed or elected by the general assembly or by any member of either house thereof...but shall not include a member of an advisory board...." Conn. Gen. Stat. §1-79(k). It is not necessary in this instance to determine if regional council members are exempted from the Code of Ethics as advisory board members. The manner of their appointment clearly does not fit within the parameters of the definition of "public official." Therefore, the members of the State's Regional Emergency Medical Services Councils are not subject to the requirements of the Code of Ethics for Public Officials.

The Director of the OEMS has understandably expressed concern over the inherent conflict of interest when a regional council member acts on a matter directly affecting his or her business. If requested, the Ethics Commission would be willing to assist the Department of Health Services and the regional councils in developing appropriate conflict of interest rules and regulations.

The Ethics Commission has become increasingly concerned over the fact that the Code's applicability can be decided not by one's authority to exercise the power of the State or expend state funds but by the manner of one's appointment to public office. (See, e.g., Ethics Commission Advisory Opinion No. 86-3, 47 Conn. L.J. No. 36, p. 4C (March 4, 1986) members of the State's Codes and Standards Committee not subject to the Code of Ethics because appointments made by the Commissioner of Public Safety.) Consequently, the Commission intends to recommend to the General Assembly that legislation be enacted to ameliorate this situation.

By order of the Commission,



William A. Elrick
Chairperson

Dated 8-7-89

