

Executive Branch Ethics Commission

ADVISORY OPINION 09-21

July 24, 2009

- RE:**
1. May a member of the Kentucky Board of Speech-Language Pathology and Audiology serve as the Licensure Board Liaison, a position on the Executive Council for the Kentucky Speech Language Hearing Association?
 2. May a member of the Kentucky Board of Speech-Language Pathology and Audiology serve as the Pediatric Program Conference Chair for the Kentucky Speech Language Hearing Association ?

- DECISION:**
1. Yes, but the Board member would be precluded from participating in practically all matters that come before the Board.
 2. Yes, with limitations.

This opinion is issued in response to your July 15, 2009 request for an advisory opinion from the Executive Branch Ethics Commission (“Commission”). The matter was reviewed at the July 24, 2009 meeting of the Commission and the following opinion is issued.

You seek advice from the Commission regarding your positions as a member of the Kentucky Board of Speech-Language Pathology and Audiology (“Board”) and the Kentucky Speech Language Hearing Association (“Association”). You provide that the Association is a state association for Speech-Language Pathologists and Audiologists founded approximately 50 years ago with the purpose of empowering its members to provide the best quality services for their clients. Decisions for the Association are made by its Executive Council. You state that your primary role as Licensure Board Liaison for the Association is to facilitate communication between the Board and the Association. The position is not elected, but is a voting position on the Executive Council. You also serve as Pediatric Program Conference Chair for the Association, a volunteer position not considered part of the Association’s Executive Council.

The purpose of the Board, according to KRS 334A.010, “...is to safeguard the public health, safety, and welfare, and to protect the public from being misled by incompetent,

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unscrupulous, and unauthorized persons, and to protect the public from unprofessional conduct by qualified speech-language pathologists and audiologists.” The Board regulates speech-language pathologists, speech-language pathology assistants, and audiologists through licensing requirements, training requirements, and the enforcement of a code of conduct. 201 KAR 17:090 Section 2 requires each person licensed by the Board to complete mandatory training.

KRS Chapter 11A applies to public servants and members of the Board are not public servants as that term is defined in KRS 11A.010(9). However, members of the Board are subject to Executive Order 2008-454. Paragraph seven (7) of Executive Order 2008-454 provides:

(7) A state policy-making or regulatory board or commission member shall disclose to the other members of the board, commission, authority, council or committee of which he or she is a member, any direct or indirect interest in any undertaking that puts the member’s personal interest in conflict with that of the agency. This disclosure shall be made in writing or shall be recorded in the minutes of a formal meeting. A member who is required to publicly disclose a direct or indirect interest shall abstain from all decisions concerning his or her interest if the decision should affect him or her as a member of a business, profession, occupation, or group in a manner different from other members of the business, profession, occupation, or group.

The Commission previously advised in Advisory Opinion 08-16 that a member of a regulatory Board who also serves in a leadership role in a professional association consisting of individuals regulated by the Board would have a conflict of interest requiring abstention every time the Board considers a matter affecting the professional organization or the regulation of its members. In Advisory Opinion 09-12, the Commission determined that an individual serving on the Kentucky Board of Speech-Language Pathology and Audiology who also holds a leadership role in a related professional association has a conflict of interest precluding him or her from participating in discussions and decisions regarding the contribution of funds to that professional association. The Commission further determined in Advisory Opinion 09-12 that other members of the Board who are not serving in a leadership role within the professional association seeking financial assistance may participate in such discussions and decisions.

Based on the guidance provided in Advisory Opinions 08-16 and 09-12, in the event that you continue to serve as Licensure Board Liaison for the Association, you should abstain every time the Board considers a matter affecting the Association or the regulation of its members. However, your service to the Association as Pediatric Program Conference Chair should not present a conflict of interest, since it is not a position serving on the Executive Council of the Association. Although it is unlikely that a matter regarding the conference will come before the Board, you should abstain from participating in any discussion or vote by the Board on any issue that may come before the Board regarding the conference.

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Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: Gwen R. Pinson

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