

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93-62

November 22, 1993

RE: Comprehensive Care Center asks if employees are lobbyists

This opinion is in response to your October 8, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 22, 1993, meeting of the Commission, and the following opinion is issued.

You provide the relevant facts as follows. You are employed by a comprehensive care center which you state is a statutorily designated regional planning and service delivery authority for mental health, mental retardation, and chemical dependency services. Annually, the Cabinet for Human Resources contracts with the comprehensive care center to provide mental health and mental retardation services for your region. For 1993, the contract awarded was \$12 million.

Your managers frequently have contacts with members of the executive branch to discuss financial resources choices or advocate on behalf of your clients. You are unsure whether these managers are considered executive agency lobbyists.

Pursuant to KRS 210.380-400, when a nonprofit corporation is the administrator of a community mental health-mental retardation program, it shall be governed by a private, nonprofit community mental health-mental retardation board. The Cabinet for Human Resources is authorized, in KRS 210.410, to provide funding for the operation of the mental health-mental retardation programs. According to Attorney General Opinion OAG 73-203, mental health-mental retardation boards are considered political subdivisions of the Commonwealth.

KRS 11A.201(8)(b) states:

"Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his fiduciary capacity as a representative of his agency, college, university, or political subdivision;

The Commission believes the managers of the comprehensive care center are acting as representatives of the mental health-mental retardation board. Based on the Attorney General's interpretation noted above, the board is a political subdivision of the state. The representatives of the board acting in their fiduciary capacity are not considered executive agency lobbyists.