

ADVISORY OPINION 97-25

December 16, 1998

RE: May Executive Secretary serve as legislative contact?

DECISION: No.

This opinion is in response to your October 6, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 1997, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed as the Executive Secretary of the Board of Physical Therapy (the "Board") and also are a member of the Kentucky Physical Therapy Association (the "KPTA"). The KPTA has requested you to serve as their legislative contact with Senator David Karem during the upcoming legislative session. You ask whether it would present a conflict of interest for you to be the legislative contact on behalf of the KPTA.

KRS 11A.005(1)(a) and (d) provide:

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

(a) A public servant be independent and impartial'

...

(d) The public has confidence in the integrity of its government and public servants.

KRS 11A.020(1)(b) provides:

(1) No public servant, by himself or through others, shall knowingly:

...

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

In Advisory Opinion 93-39, the Commission concluded that an employee should not serve also as a lobbyist employed to influence an agency decision or legislation which affects private interests. A private servant registered as a lobbyist creates a conflict of interest in appearance if not in fact. Therefore, you are prohibited from serving as the KPTA's legislative contact if your contacts with the legislature on behalf of the KPTA would require you to register as a lobbyist.

Although you are not prohibited from lobbying on behalf of the Board, you are prohibited from lobbying on behalf of a private association such as the KPTA.