

SUBJECT: COSMETOLOGY BOARD MEMBER TEACHING CONTINUING EDUCATION COURSE

SUMMARY:

A Cosmetology Board Member is advised against teaching a continuing education program for compensation when the program requires accreditation by the Board, requires agency monitoring, and is subject to complaint actions. A Board Member may teach a continuing education class without compensation except for reimbursement by the Cosmetology Board of actual expenses.

QUESTION:

The Executive Director of the State Board of Cosmetology has requested an opinion concerning a member of the Board as follows:

"By law, the Cosmetology Board approves all continuing education programs and instructors in October for presentation the following year to cosmetologists, manicurists, and estheticians, attendance at which is required for renewal of their license. Additionally, the Board monitors these programs and hears any complaints pertaining to continuing education programs. We would like an opinion on whether or not there would be a conflict of interest for a current Board member to be a presenter at a continuing education class for compensation.

DISCUSSION:

This opinion is rendered in response to a letter dated September 20, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In Advisory Opinion 80-046, the State Ethics Commission advised members of the Auctioneers Commission against teaching at an auctioneers school. That opinion was based upon the involvement of the Auctioneers Commission in approving the school, approving the courses, the course material, as well as licensing and hearing complaints.

In Advisory Opinion SEC87-020, the State Ethics Commission advised that a Real Estate Commissioner could teach a pre-licensing course at a TEC college since that agency has no authority concerning the accreditation of the school, courses, materials, etc.

Section 8-13-700(A) provides in part as follows:

(A) No public official, public member, or public employee may knowingly use his

official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

Further, Section 8-13-720 provides:

No person may offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

It appears that the Cosmetology Board has regulatory authority concerning continuing education courses. Since it does not appear that a Board Member is required by law to be involved in teaching such continuing education courses, the State Ethics Commission advises that the Board Member should not become involved in teaching the course, except on a professional basis, without compensation, except for reimbursement by the Cosmetology Board of actual expenses.