

SUBJECT: PSYCHOLOGIST SERVING AS CHAIRMAN OF ALCOHOL AND DRUG ABUSE COMMISSION

SUMMARY:

A psychologist would not be prohibited from serving on the County Alcohol and Drug Abuse Commission but is required to follow the disclosure and disqualification procedures of Section 8-13-700(B) on matters which will affect her economic interests.

QUESTION:

The Sumter County Attorney has requested an opinion concerning a psychologist who, as one of her specialties, treats patients for alcohol and drug abuse and also serves as Chairman of the County Commission of Alcohol and Drug Abuse. He states:

"I am advised that the facts concerning this matter are as follows:

1. That the Commission has the primary responsibility for the hiring and firing of the executive director or that agency and the making of policy for that agency which provides considerable services to persons with alcohol and drug abuse problems;
2. That the psychologist/commission chairman receives no referrals from the commission, its executive director or employees nor does the psychologist/chairman receive any direct pecuniary benefit from serving on this commission;
3. That this psychologist/commission chairman from time to time makes referrals of her patients to the Commission, but is not compensated for doing so; and

DISCUSSION:

4. The Commission does not regulate the psychologist.

This opinion is rendered in response to a letter dated October 24, 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.

The State Ethics Commission knows of no provision of the State Ethics Act which would prohibit the psychologist's involvement on the County Commission on Alcohol and Drug Abuse. The Commission advised, however, that Section 8-13-700(B) provides:

(B) No public official, public member, or public employee may make, participate in

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making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

(5) if he is a public member, he shall furnish a copy to the presiding officer of any agency, commission, board, or of any county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

Thus, on any matter requiring action by the County Commission which would affect the economic interest of the psychologist, she would be required to follow the above section. Economic interest is defined in Section 8-13-100(11) as:

(11)(a) Economic interest" means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's, public member's , or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.