



## OHIO ETHICS COMMISSION

THE ATLAS BUILDING  
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Advisory Opinion Number 85-012  
December 2, 1985

Syllabus by the Commission:

- (1) The Ohio Ethics Law and related statutes do not, per se, prohibit an officer or board member of a state professional association from serving on the state licensing board that regulates the profession.
- (2) Division (D) of Section 102.03 of the Revised Code prohibits a member of a state licensing board from soliciting or receiving expenses or other things of value from a state professional association whose members are regulated by the board with which he serves.
- (3) Division (D) of Section 102.03 of the Revised Code prohibits a member of a state licensing board who is an officer or board member of a state professional association from participating in deliberations, voting, or otherwise using his official position in any matter before the state licensing board on which the association has taken a formal position.

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You asked whether the Ohio Ethics Law and related statutes prohibit an officer or board member of a state professional association from serving on a state licensing board that regulates the profession.

You stated, by way of history, that a state licensing board regulates the members of a particular profession. You stated further that a member of the state licensing board seeks to serve as an officer or board member of a state professional association whose members are regulated by the board. You indicated that the member of the state licensing board receives a per them and expenses for attending association board meetings. You also indicated that the state professional association may provide expenses for service as an officer or board member of the state professional association. You asked whether such an arrangement would be prohibited.

Division (D) of Section 102.03 of the Revised Code provides the following:

No public official shall use or attempt to use his official position to secure anything of value for himself that would not ordinarily accrue to him in the performance of his official duties, which thing is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

A member of a state licensing board is a "public official or employee" as defined in Division (B) of Section 102.01 of the Revised Code, since he is an appointed officer of the state. A per diem, fees, expenses, or other similar payments are within the definition of "anything of value" in Section 1.03 of the Revised Code. A per diem or expenses received from the state licensing board would ordinarily accrue to a member of a state licensing board in the performance of his official duties, but expenses or other things of value received from the state professional association would not. Thus, it must be determined whether the receipt of such expenses or other things of value from the state professional association would be of such character as to manifest a substantial and improper influence on a member of a state licensing board with respect to his duties.

In previous Ohio Ethics Commission Advisory Opinions, the Commission has held that Division (D) of Section 102.03 of the Revised Code prohibits a public official or employee from soliciting or receiving consulting fees, honoraria, conference registration fees, lodging, travel expenses, or other things of value from a party that is regulated by, doing or seeking to do business with, or interested in matters before the agency with which the public official or employee serves (See: Ohio Ethics Commission Advisory Opinions No. 79-002, 79-006, 80-004, and 84-010). For example, in Advisory Opinion No. 80-004, the Commission held that Division (D) of Section 102.03 of the Revised Code prohibits a member of a state licensing board from soliciting or accepting conference registration fees and lodging for his attendance at a conference sponsored by a professional association whose members are regulated by the board. In the instant case, the members of the state professional association are regulated by the state licensing board, and the association may be interested in matters before the board. Thus, Division (D) of Section 102.03 of the Revised Code would prohibit a member of a state licensing board from receiving expenses or other things of value from a state professional association whose members are regulated by the agency with which he serves.

In addition, the state professional association may be filing comments or taking formal positions concerning regulations or other matters before the state licensing board. An officer or board member of the state professional association would be in a policy-making position and would have a clear interest in a favorable decision from the state licensing board on matters in which the association is interested. If the member were to participate in discussions or vote on such matters before the state licensing board, he would be using his official position to secure something of value for himself as an officer or board member of the state professional association, which would be of such character as to have a substantial and improper influence on him with respect to his official duties. Therefore, Division (D) of Section 102.03 of the Revised Code prohibits a member of a state licensing board who is an officer or board member of a state professional association from participating in deliberations, voting or otherwise using his official position with regard to any matter before the board on which the state professional association has filed comments or taken a formal position.

Your attention also is directed to Division (A) of Section 102.03 of the Revised Code, which prohibits a present or former public official or employee from representing a private client or acting in a representative capacity before any public agency on any matter on which he personally participated as a public official or employee. The prohibition applies during government service and for one year thereafter. Therefore, a member of a state licensing board

would be prohibited from representing a state professional association with which he serves as an officer or board member before the state licensing board or any other public agency on any matter in which he has personally participated as a public official or employee. In addition, Division (A) of Section 102.04 of the Revised Code would prohibit a public official or employee from receiving compensation, other than from the agency with which he serves, for personal services rendered in a case, proceeding, application, or other matter before any agency of the same entity of government. Thus, a member of a state licensing board is prohibited from receiving compensation from a state professional association for personal services rendered in any case, proceeding, application, or other matter before the board or any agency of the state. Finally, it would create the appearance of impropriety for a member of a state licensing board to serve as an officer or board member of a state professional association whose members are regulated by the board.

This advisory opinion is based on the facts presented and is limited to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, (1) The Ohio Ethics Law and related statutes do not, per se, prohibit an officer or board member of a state professional association from serving on the state licensing board that regulates the profession; (2) Division (D) of Section 102.03 of the Revised Code prohibits a member of a state licensing board from soliciting or receiving expenses or other things of value from a state professional association whose members are regulated by the board with which he serves; and (3) Division (D) of Section 102.03 of the Revised Code prohibits a member of a state licensing board who is an officer or board member of a state professional association from participating in deliberations, voting, or otherwise using his official position in any matter before the state licensing board on which the association has taken a formal position.

  
OHIO ETHICS COMMISSION  
Robert Y. Farrington, Chairman