



OHIO ETHICS COMMISSION

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May 13, 1996

Informal Opinion 1996-INF-0513-2

Tom Sico, Attorney
Law Section
Bureau of Workers' Compensation

Dear Mr. Sico:

I am writing in response to your letter, received at the Ethics Commission on April 9, 1996, in which you requested our assistance in determining whether the members of the Workers' Compensation Oversight Commission (WCOC) are required to file annual financial disclosure statements. In accordance with R.C. 102.02(B) and OAC 102-5-02, the Ohio Ethics Commission requests that the WCOC members file annual financial disclosure statements on or before August 7, 1996.

Pursuant to the OAC 102-5-02, the Ethics Commission may find that the members of various statutorily created state boards, commissions, agencies, institutions, bureaus, councils and other instrumentalities of the State, hold positions which involve:

"... a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws, rules, and regulations of State, or the execution of other public trusts..."

and may therefore require such members to file annual financial disclosure statements.

In making the determination about any board's exercise of administrative discretion, the Ethics Commission analyzes the statutory and regulatory authority of each board on a case-by-case basis. In analyzing WCOC, it is necessary to include an examination of the legislative history of WCOC. This history includes another board, known as the Workers' Compensation Board.

In 1985, the Ethics Commission found that the members and chief administrative officer of the Workers' Compensation Board exercised a sufficient amount of administrative discretion, and required them to file annual financial disclosure statements. On September 1, 1995, the Workers' Compensation Board was abolished and WCOC was created by Amended Substitute

House Bill 7 (121st General Assembly). Am. Sub. H.B. 7 also transferred the majority of the Workers' Compensation Board's powers and duties to WCOC.

R.C. 4121.12(F) mandates that WCOC shall:

1. Review the progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;
2. Issue an annual report on the cost and quality objectives of the bureau to the president of the senate, the speaker of the house of representatives, and the governor;
3. Review all independent financial audits of the bureau...;
4. Study issues as requested by the administrator or the governor;
5. Contract with an independent actuarial firm to assist the commission in making recommendations to the administrator regarding premium rates;
6. Establish an investment policy for the administrator to implement, and monitor the administrator's progress in implementing that policy on a quarterly basis. The commission shall design the investment policy to offset, in the aggregate, liabilities incurred by the bureau, and shall establish and maintain such an investment policy to achieve the bureau's investment objectives. The commission shall prohibit, on a prospective basis, specific investment activity it finds to be contrary to its investment policy.
7. Advise and consent on all of the following:
 - a. Administrative rules...;
 - b. The overall policy of the bureau of workers' compensation as set by the administrator;
 - c. The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;
 - d. Rules the administrator adopts for the health partnership program and the qualified health plan system...;

8. Perform all duties required under section 4121.125 of the Revised Code;
9. After August 31, 1998, appoint an administrator... .

Additionally, R.C. 4121.125 states in part:

- A. The workers' compensation oversight commission may contract with one or more outside actuarial firms and other professional persons, as the oversight commission determines necessary, to assist the oversight commission in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems....
- B. The oversight commission may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.
- C. The oversight commission shall include any actuarial, managerial, or financial report completed under its authority pursuant to division (A) or (B) of this section in the next regularly published report of the oversight commission.
- D. The oversight commission shall publish monthly reports... .

Based upon WCOC's authority to: Contract with an independent actuarial firm; Establish an investment policy and monitor the administrator's progress in implementing that policy; Appoint an administrator; Contract to assist in measuring the performance of Ohio's workers' compensation system and compare Ohio's system to other state and private workers' compensation systems; Contract to conduct management and financial audits of the workers' compensation system; and Establish objective quality management principles and methods to review the performance of the workers' compensation system, the Ohio Ethics Commission finds that the members of WCOC hold positions that meet the requirements of OAC 102-5-02.

As such, the WCOC members are requested to file annual financial disclosure statements with the Ohio Ethics Commission. As compensated members of a state board or commission, the WCOC members' filings will be public. Where WCOC members serve in other public filing

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capacities, such as members of the General Assembly, they need only file one annual financial disclosure statement with the appropriate ethics commission.

Based upon the review and approval of this request by the Ohio Ethics Commission at its May 9, 1996 meeting, the WCOC members will be requested to file their financial disclosure statements for calendar year 1995 within 90 days of the Commission's decision, which is on or before August 7, 1996. In addition, the Ethics Commission will proceed to amend the list of agencies required to file annual financial disclosure statements under OAC 102-5-02.

If you have any questions regarding the proper way to complete a financial disclosure statement, please contact Cathey Baisden, Financial Disclosure Analyst, for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon A. Mull". The signature is written in a cursive style with a large, sweeping initial "S".

Sharon A. Mull
Staff Attorney