

ADVISORY OPINION NO. 89-118

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JANUARY 4, 1990

GOVERNMENTAL BODY SEEKING OPINION

Executive Director of an Academy

OPINION SOUGHT

Whether it is a violation of the Ethics Act for volunteer physicians to provide free emergency medical care to the public, while attending legislative sessions as resource persons?

OTHER FACTS RELIED UPON BY THE COMMISSION

The Academy will provide volunteer physicians to attend the Legislative session from January 10 through March 10, 1990. The physicians will not receive payment as lobbyists but will attend at their own expense. Forty-six physicians will participate and be available as resource persons for issues that affect or are of interest to the medical community.

The physicians would be available to provide free emergency medical care to the general public, state workers and others in need. They would be housed in the nurses' aid station.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(a) states in pertinent part that... the provisions of this section apply to all elected and appointed public officials and public employees, whether full or part time, in state, county, municipal governments and their respective boards, agencies, departments, and commissions and in any other regional or local governmental agency, including county school boards.

West Virginia Code 6B-3-1(7)(A) states in pertinent part that... "lobbyist" means a person who, through communication with a government officer or employee, promotes, advocates or opposes or otherwise attempts to influence:

(i) The passage or defeat or the executive approval or veto of any legislation which may be considered by the Legislature of this state; or

(ii) The adoption or rejection of any rule, regulation, legislative rule, standard, rate, fee, or other delegated legislative or quasi-legislative action to be taken or withheld by any executive department.

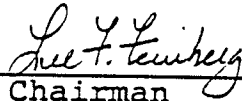
West Virginia Code 6B-3-1(7)(B)(iii) states in pertinent part that...the term "lobbyist" shall not include the following persons, who shall be exempt from the registration and reporting requirements set forth in this article, unless such persons engage in activities which would otherwise subject them to the registration and reporting requirements:

Persons who lobby without compensation or other consideration for acting as lobbyists, when such persons make no expenditure for or behalf of any government officer or employee in connection with such lobbying, are exempt.

ADVISORY OPINION

Since the physicians are not public employees nor public officials and are not considered "lobbyists" within the meaning of the Act, the Ethics Act does not regulate their conduct.

Therefore, it is not a violation of the Act for such private individuals to provide free emergency medical care to the public, while attending the Legislative session.


Chairman