

ADVISORY OPINION NO. #91-32

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON MAY 2, 1991

GOVERNMENTAL BODY SEEKING OPINION

A City Attorney on behalf of a City

OPINION SOUGHT

Whether it is a violation of the Ethics Act for City employees to accept a 20% discount on the purchase of all prescription drugs from a privately owned pharmacy?

FACTS RELIED UPON BY THE COMMISSION

A privately owned pharmacy has offered to give all City employees who are covered by the City's insurance plan, a 20% discount on the purchase of prescription drugs. The City contracts with a private insurance company to provide insurance for its employees. The coverage provides that after meeting the \$100 annual deductible the insurance plan pays 80% of the prescriptions' costs and the employee pays the additional 20%. Under the pharmacy's plan the individual will not be charged the 20% for such purchases. In effect, all eligible persons will receive a 20% discount on the purchase of prescription drugs. The individual would not incur any out-of-pocket expense for the purchase of prescription drugs.

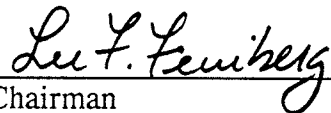
PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states in pertinent part that...a public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

ADVISORY OPINION

Pursuant to subsection 6B-2-5(b)(1) of the Ethics Act a public official or a public employee may not knowingly and intentionally use his or her office for private gain. However, the requestor has stated that the discount plan is available to all individuals who participate in the City's insurance program, regardless of their specific public employment position, whether he is the City's mayor or a maintenance employee. The Commission does not consider this a knowing and intentional use of public office for private gain.

Therefore, it would not be a violation of subsection 6B-2-5(b)(1) of the Ethics Act for City employees to accept a 20% discount on the purchase of all prescription drugs from a privately owned pharmacy.


Chairman