

ADVISORY OPINION NO. 89-99

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON DECEMBER 22, 1989

GOVERNMENTAL BODY SEEKING OPINION

An Executive Director on behalf of a County Senior Service Board

OPINION SOUGHT

Whether it would be a violation of the Ethics Act for the County Senior Services Board to continue to purchase items from a business that is owned by one of its Board members.

OTHER FACTS RELIED UPON BY THE COMMISSION

The County Senior Citizen Service is a private non-profit organization which provides a broad range of social services to senior citizens in the County. Some examples of services are: transportation, outreach, homemakers, adult day care, education and assessments. Funding for these services comes from federal, state, county and city resources.

The Board of Directors is composed of 25 volunteer, non-paid members who are elected annually by the membership for staggered three terms. The By-laws state that the Board of Directors must be composed of one member from each of the magisterial districts of the County; no more than eight representatives of governmental entities; and at least 51% of the Board Directors must be age 60 or older.

The Board member who has requested the opinion owns a business which supplies medical equipment, oxygen systems, rehabilitation products and supplies. The business the County senior service has conducted with the Board member's business has been for the purchase of blood pressure kits for outreach and staff for a total cost of \$149.89.

STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(a) states 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-2-5(d)(1) states in pertinent part that no appointed public official or...business with which he...is associated may be a party to or have an interest in the profits or benefits of a contract with the governmental body over which he...has direct authority or with which he...is employed.

ADVISORY OPINION

An analysis of the facts presented and pertinent statutory provisions follows:

The Board Member is not a public official, nor a public employee within the meaning of the Act (subsection 6B-2-5(a)) since he is not appointed to his position by a public official, but is elected by the membership of a non-profit organization.

Therefore, it is not a violation of the Act for the Board member to contract with the County Senior Service Board.



Chairman