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Opinion No. 89-E-19

May 11, 1989

The Honorable David R. Matthews
State Representative
P.O.Box 38
Lowell, AR 72745

Dear Representative Matthews:

You have requested an opinion under the authority granted in Initiated Act 1 of 1988 which is cited as "The Disclosure Act for Lobbyists and State Officials".

You have asked the following question:

My law firm is retained by Arkansas Blue Cross Blue Shield to represent them in litigation in Washington and Benton County Circuit Courts. I handle a portion of the work and of course, derive a percentage of the profits of my law firm. Do the terms of Initiated Act 1 of 1988 dealing with conflict of interests require me to abstain from voting on any measure directly affecting Blue Cross and Blue Shield?

Section 21-8-803 of Initiated Act 1 of 1988 provides "a member of the General Assembly who is required to take an action in the discharge of his official duties that may affect his financial interest or cause financial benefit or detriment to him, or a business in which he or she is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, partner or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the company shall:

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- (1) prepare a written statement describing the matter requiring action and stating the potential conflicts;
- (2) deliver a copy of the statement to the Secretary of State to be filed with the statement of financial interest. The copy of the statement may be delivered in person by the public official, by mail, or by a person authorized by the public official to deliver the copy.
- (3) The obligation to report a potential conflict of interest under this section arises as soon as the member of the General Assembly is aware of the conflict. If the statement of financial interest filed by the member of the General Assembly makes the conflict readily apparent, then no report need be filed.

In my opinion, the specific answer to your question is that you would not be required to abstain from voting on any measure directly affecting Arkansas Blue Cross and Blue Shield. If an enacted measure by the House of Representatives impacted upon Arkansas Blue Cross and Blue Shield in such a manner that would cause either financial benefit or detriment to you, the correct procedure would be to file a written statement describing the matter requiring action and stating the potential conflict with the office of the Secretary of State as outlined above in § 21-8-803 of Initiated Act 1 of 1988. You will note that the filing of this statement is not necessary if the conflict is made apparent by your filing of the required statement of financial interest.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Bill McLean.

Sincerely,



STEVE CLARK
Attorney General

SC:gks