

# ARKANSAS ETHICS COMMISSION

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## **ADVISORY OPINION NO. 2001-EC-008** **Issued December 14, 2001**

On November 29, 2001, the Ethics Commission received a letter from Jan Blancett requesting an advisory opinion. Ms. Blancett was recently appointed to serve on the Arkansas State Board of Dental Examiners (the "ASBDE"), a governmental body which is authorized by statute to license dentists and dental hygienists, to register dental corporations, and to issue certain permits to dentists, dental hygienists, and dental assistants. The ASBDE may discipline its licensees and permit holders for violations of the Dental Practice Act, the Dental Corporations Act, or the ASBDE's Rules and Regulations.

Ms. Blancett is also a member of the Arkansas State Dental Hygienists' Association, a private, professional association which represents and promotes the interests of dental hygienists. In her advisory opinion request, Ms. Blancett asks whether it would be permissible for a person who is an officer of a private, professional association to serve on a state board which licenses and regulates members of that profession and, if so, whether it would be permissible for such a person to testify before a legislative committee as a representative of the private, professional association.

A review of the statutes under the Commission's jurisdiction shows that there is no general prohibition against a person being both an officer of a private, professional association and a member of a state board which regulates individuals engaged in that profession. Likewise, there is no proscription against such a person testifying before a legislative committee as a representative of the private, professional association. However, persons who serve on state boards should be aware of Ark. Code Ann. §§ 21-8-1001 and 21-8-1002 which set forth certain restrictions applicable to members of state boards.

One such restriction is set forth in Ark. Code Ann. § 21-8-1001(a)(1) which provides that a member of a state board or commission or a member of a board which receives state funds shall not "participate in, vote on, influence, or attempt to influence an official decision if the member has a pecuniary interest in the matter under consideration by the board, commission, or entity." An exception to that prohibition is contained in Ark. Code Ann. § 21-8-1001(a)(2) which provides as follows:

A member of a state board or commission or board member of an entity receiving state funds may participate in, vote on, influence, or attempt to influence an official decision if the only pecuniary interest that may accrue to the member is incidental to his or her position or accrues to him or her as a member of a profession, occupation, or large class to no greater extent than the pecuniary interest could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

Another restriction is contained in Ark. Code Ann. § 21-8-1001(b) which prohibits a member of a state board, a state commission, or an entity receiving state funds from taking part “in any discussion or vote on a rule or regulation that exclusively benefits the member.”

Additionally, Ark. Code Ann. § 21-8-1002 disallows a member of a state board, state commission, or entity receiving state funds from using or attempting to use “his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.”

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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