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ADVISORY OPINION NUMBER 79-26

Additional State Employment of One Already  
a State Employee

The School of Pharmacy of the University of Connecticut has been awarded a State grant to educate the elderly in the proper use of both prescription and over-the-counter drugs. Instructors for the program are to be pharmacists. An instructor, after attending a two-day training session, will deliver some four lectures to the elderly in the instructor's geographic area. A stipend will be paid each instructor to cover time and expenses. Invitations to act as instructors have been sent by the School of Pharmacy to the "Clinical Associates" of the School, who intermittently teach without pay at the School. A Clinical Associate who is a Consumer Protection Drug Control Agent is interested in the program. He has asked whether his participation as an instructor would create a conflict of interest with his duties as a State employee.

The Department of Consumer Protection is responsible for the administration of a number of statutes concerning drugs. Chapters 341 through 343, 359, and 359a, General Statutes contain the bulk of these provisions. Within the Department of Consumer Protection, Drug Control Agents monitor all drug distribution systems for conformance with the statutes relating to drugs. Incident to their monitoring of the activities of legal distributors of drugs, and their efforts to identify illegal distributors, they could have some contact with those, such as the elderly whom the program will educate, who use drugs. The Agents are registered pharmacists. As a consequence of their training and experience as pharmacists and Agents they are familiar with the composition and effects of both legal and illegal drugs and with commercial and non-commercial drug distribution systems, legal and illegal. Consumer Protection Drug Control Agents are State employees as defined in subsection 1-79(k), General Statutes. They appear to be uniquely qualified to participate in a program to educate the elderly in proper drug usage.

If an Agent were to instruct in the program there would appear to be no conflict of interest, as defined by subsection 1-84(a) and section 1-85, General Statutes, with his duties as an Agent. His independence of judgment as an Agent should not be impaired by his instructor duties. Subsection 1-84(b), General Statutes. There appears to be no risk of his using his office or confidential information gained in the course of his official duties. See sub-

sections 1-84(b) and 1-84(c), id.

The only possible problem would appear to be subsection 1-84(i), General Statutes, which forbids, subject to certain conditions and exceptions, a State employee to enter into a contract, valued at one hundred dollars or more, with the State. This subsection is intended to prevent the obvious conflict which would be generated if a public servant, who should be protecting the interests of the State, were to be on the other side of a transaction where he would be expected to foster his own interests. Further, there can be at least the appearance of favoritism or the use of inside knowledge if a State contract is awarded to someone already in State service.

In this case even if the agreement for an Agent to serve as an instructor of the elderly regarding the use of drugs results in a contract, and the contract provides for the payment of one hundred dollars or more to the instructor, it does not appear that the contract would violate subsection 1-84(i), General Statutes or result in any other conflict of interest. It is not clear that a contract with the School of Pharmacy would be a contract with the "State". If it is not, subsection 1-84(i), above, is not applicable. If it is a contract with the "State", it appears to be permitted by subsection 1-84(i), General Statutes. The solicitation of applications from the Clinical Associates, most of whom are not State employees and only a few of whom can be selected, was a public one. It will be a matter of public knowledge which are selected to be instructors in the educational program. Provided all the applications are a matter of public record (and there is no indication they are not), the process of arriving at a contract is the open and public one described in subsection 1-84(i), above.

Thus, a Consumer Protection Drug Control Agent may enter into a contract with the School of Pharmacy, University of Connecticut to instruct part time without violating either the Code of Ethics for Public Officials and State employees or any other conflict of interest principles.

By order of the Commission,



Rev. Thomas J. Lynch  
Chairman

Dated November 8, 1979