

June 1, 1998

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Dear Mr. Junkin:

This letter is in response to your correspondence dated May 18, 1998 concerning the Group Personal Insurance Program for county employees.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION
NO. 98S-018**

STATED FACTS: A partnership of the National Association of Counties (NACo) and Sedgwick, Inc., offers county employees a Group Personal Insurance Program. The program would provide, on a voluntary basis, county employees the opportunity to have a broad array of personal insurance products at a group discount. The program was initiated by NACo as an effort to use the collective buying power of county employees across the country, to create and deliver, among other things, personal lines of insurance.

The personal line of insurance products provided by the program include auto, homeowners (and renters), personal umbrella, watercraft and other miscellaneous coverage. The program would provide coverage to all employees regardless of any individual risk profile. The program would also offer employees the convenience of payroll deduction.

The program is a benefit to county employees not unlike deferred compensation and certain retirement programs counties may make available to their employees on an individual basis, with the advantage of a group discount for those employees who elect to use any of the insurance lines offered. As such, the program may be considered as a component of the employees compensation package.

In addition, although the program was developed for counties, group personal insurance programs are generally available to employees both in government and the private sector.

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Any savings the employee may derive from the program is not the result of any contribution of the employer, but rather results from the efficiencies inherent in a group program distribution. The program, although tailored for county employees, does not provide special insurance rates for county employees different from insurance rates provided to nongovernment employees enrolled in similar group personal insurance line programs. Examples of private companies providing their employees with group personal insurance line opportunities include, BMW of North America, Inc., Ralston Purina, Ocean Spray, Texaco, Toys R Us, Frito-Lay, Americold Corporation, Alcoa, Raytheon, Black & Decker and Pitney Bowes. Approximately 16-17% of Fortune's top 1000 companies offer their employees a group personal insurance line program.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

ORS 244.040: Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120.

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

QUESTION #1: Does the fact that 16-17% of Fortune's top 1000 companies offer group personal insurance line opportunities mean that county employees in Oregon can avail themselves of the program?

OPINION: No. 16-17% of Fortune's top 1000 companies is too small a percentage of the private sector/non-public businesses offering such a program to their employees. If public officials receive financial advantages and those same benefits are not available

to a substantial portion of the population who are not public officials, the public officials would

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be receiving personal financial gain because of their official position in violation of ORS 244.040(1)(a).

An example of a group discount that public officials may avail themselves of is a warehouse outlet such as Costco Wholesale. In addition to government employees, Costco offers membership to members of credit unions, employees of public utilities and individuals who are self employed. The opportunity for membership is not limited to public officials.

QUESTION #2: Could county employees avail themselves of this program if it was a part of their official compensation package?

OPINION: Yes, but only if it is formally adopted as such by the governing body of the public body they serve. ORS 244.040(1)(a) specifically excludes official salary as a use of office for personal financial gain. The Oregon Government Standards and Practices Commission has generally interpreted official salary to include all forms of official compensation and benefits for purposes of this statute.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

This opinion will be submitted to the Oregon Government Standards and Practices Commission for formal adoption as an advisory opinion pursuant to ORS 244.280(2) at its meeting on July 9, 1998.

Please do not hesitate to call or write again if you have additional questions or desire additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

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