

June 10, 2002

Maureen Bock
Board Chair
Workers' Compensation Board
2601 25th Street SE, Suite 150
Salem, Oregon 97302-1282

Dear Ms. Bock:

This letter is in response to your correspondence dated May 30, 2002 concerning Workers' Compensation Board Members receiving a waiver of registration fees to various conferences when attending in an unofficial capacity.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 02S-016**

STATED FACTS: The Workers' Compensation Board is composed of five members. Two of the board members are selected from individuals with backgrounds and understanding as to the concerns of employees. Two of the members are selected from individuals with backgrounds and understanding as to the concerns of employers. The fifth member is the board chair who represents the interests of the public. The board's primary function is as an appellate body for workers' compensation cases in which there has been an "Opinion and Order" issued by one of the board's administrative law judges.

Considering the members' backgrounds, it is not uncommon for a member to have been associated with a particular organization prior to becoming a board member. In light of such circumstances these organizations occasionally extend invitations to board members for their attendance at annual conferences that include the waiver of registration fees.

In most cases, the members are not requested to make any presentation or participate in any panel discussion while at the conference. The members are also usually not attending the conferences on behalf of the board in any official capacity; rather, they are simply attending the conference as an individual and participating in the conference's social functions.

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

244.020(8) "'Gift' means something of economic value given to a public official or the public official's relative without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives of public officials on the same terms and conditions; and something of economic value given to a public official or the public official's relative for valuable consideration less than that required from others who are not public officials. However, 'gift' does not mean:"

244.020(11) "'Legislative or administrative interest' means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official."

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."

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:"

244.040(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."

244.040(2) "No public official or candidate for office or a relative of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority."

QUESTION: Would it be a violation of Oregon Government Standards and Practices laws for a board member to accept free registration to a private association's annual conference when attending in an unofficial capacity and not as a board member?

OPINION: ORS 244.040(1)(a) prohibits a public official from using, or attempting to use, their official position or office to obtain a financial gain or the avoidance of a 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, the reimbursement of expenses or an unsolicited award for professional achievement for the public official.

If the organizations sponsoring the conferences were to extend the same offer of a waiver of registration fees to non-public officials that they extend to public officials it appears that no violation of Oregon Government Standards and Practices laws would occur. However, if they extend the waiver to the public officials simply because of their public position it appears that the public officials would be in violation of ORS 244.040(1)(a).

QUESTION #2: Would this analysis change if the board member is requested to make a presentation or otherwise participate in the program?

OPINION: There is insufficient information in the stated facts to indicate whether or not the associations sponsoring the conferences have a legislative or administrative interest in the position held by the board members. It is assumed that, while individual association members may have a legislative or administrative interest in the board member's position, the association does not. If the associations sponsoring the conferences were found to have a legislative or administrative interest in the position held by the board members, the board members would be permitted to receive a gift of up to \$100 during any calendar year pursuant to ORS 244.040(2). Accordingly, if the legislative or administrative interest existed and the registration fees were under \$100, the board member would be permitted to receive the waiver of registration fees.

If the board member is asked to make a presentation or otherwise participate in the conference program in the board member's official capacity, the waiver of registration fees appear to be reimbursement of expenses, as stated in ORS 244.040(1)(a), and no violation would occur.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION

Maureen Bock
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DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Please contact this office again if you would like this opinion submitted to the Oregon Government Standards and Practices Commission (GSPC) for adoption as a formal advisory opinion pursuant to ORS 244.280.

Sincerely,

L. Patrick Hearn
Executive Director

02S-016-JP