



California Fair Political Practices Commission

January 8, 1986

Eric P. Gold
Commissioner
California Medical Assistance Commission
1121 L Street, Suite 300
Sacramento, California 95814

Re: Your Request for Advice,
Our File No. A-86-016

Dear Mr. Gold:

This is in response to your letter dated December 27, 1985 requesting confirmation of the advice rendered to you during our telephone conversation of December 13, 1985.

FACTS

You are a member of the California Medical Assistance Commission and practice law as a private attorney. You have been asked to represent a corporation which is owned by several (7 or 9) different hospitals. No one hospital has a controlling interest in the corporation. The corporation has no involvement with the California Medical Assistance Commission or the Medi-Cal program. However, some of the hospitals owning an interest in the corporation do have Medi-Cal contracts.

QUESTION

You wish to know whether a conflict of interest under the Political Reform Act would exist if you represent a corporation owned by hospitals when some of those hospitals participate in the Medi-Cal contracting program.

CONCLUSION

As long as none of the shareholder hospitals who have Medi-Cal contracts are in a parent-subsidiary relationship with the corporation, you will not be in a potential conflict of interest situation.

ANALYSIS

The Political Reform Act ("the Act")^{1/} prohibits a public official from making, participating in making or in any way attempting to use his or her official position to influence a governmental decision in which he or she has a financial interest. Section 87100.

An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made....

Section 87103

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise specified.

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If you were to represent the corporation and receive \$250 or more in income from the corporation, then the corporation would be a source of income to you under Section 87103(c). Consequently, you would be required to disqualify yourself from participating in any decision which could have a reasonably foreseeable material financial effect on the corporation.


However, the more important issue is whether any one of the shareholder hospitals should be considered as a source of income to you and thereby require disqualification concerning certain decisions affecting that hospital.

By regulation (2 Cal. Adm. Code Section 18706), the Commission has adopted the policy that an official has a financial interest in a decision having a material financial effect on a parent of a business entity in which the official has an economic interest. A parent-subsidary relationship exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation. 2 Cal. Adm. Code Section 18236. (See also Advice Letter A-80-069, copy enclosed).

Accordingly, if at any time one of the shareholder hospitals obtains a controlling interest in the corporation, that shareholder hospital would be deemed a source of income to you. Whether or not you would be required to disqualify yourself from participating in a decision affecting that hospital would depend on the specific facts surrounding the governmental decision.

I hope this advice has been helpful and that you will not hesitate to contact the Commission again should you require additional advice.

Sincerely,



Robert E. Leidigh
Counsel
Legal Division

REL:JG:nwm
Enclosure

CALIFORNIA MEDICAL ASSISTANCE COMMISSION

1121 L STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814
(916) 324-2726



DEC 31 8 25 AM '85

December 27, 1985

Mr. Robert E. Leidigh
Legal Division
Calif. Fair Pol. Practices Comm.
P.O. Box 807
Sacramento, CA

Dear Mr. Leidigh:

By this letter I wish to confirm our telephone conversation of December 13, 1985.

I informed you that I practice law as a private attorney and have been asked to provide legal representation to a California corporation. This corporation is owned by a number of different hospitals (7 or 9) but no one hospital has a controlling interest. The corporation I would represent has, itself, no involvement with the California Medical Assistance Commission, the Medi-Cal program, or to my knowledge, any federal or state program. Some of the hospitals owning an interest in the corporation do have Medi-Cal contracts.

I asked if a conflict of interest would exist because some of the hospitals owning this corporation participated in the Medi-Cal contracting program. You informed me that based on the facts presented, you did not perceive a conflict of interest or the need for me to disqualify myself from CMAC decisions.

If the above is not correct, please call me as soon as possible at (415) 451-4114. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eric P. Gold".

ERIC P. GOLD
Commissioner