

**INFORMAL OPINION IO-1994-001
ISSUED JUNE 20, 1994**

This letter is in response to your question of whether, as a provider of mental health services whose insurance comes from the Oklahoma State and Education Employees Group Insurance benefits package ["OSEEGI"], you, as a Legislator, have a conflict of interest under 257:20-1-10 (b) of the Constitutional Ethics Rules [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Ch. 62, App.].

The new rule reads:

(b) No state officer or state employee, acting in his or her official capacity, shall enter into any contract in which the state officer or state employee knows or should know that a person who is then or has been a legislator within the previous two years, or a member of such person's immediate family, has a substantial financial interest.

257:20-1-10 (b)

Its purpose is to prevent conflicts between public duties and private interests.

Upon further investigation of insurance coverage available through the Oklahoma State and Education Employees Group Insurance, I discovered the following facts:

1. OSEEGI is a state governmental entity and an indemnification insurer.
2. Providers must contract with OSEEGI in order to provide services covered by OSEEGI policies. [This information corrected my former misapprehension that other insurers, e.g. PacifiCare contracted with providers rather than OSEEGI.]
3. No monetary consideration is paid for the contract with OSEEGI. The benefit to be gained by the provider is subject to third parties [state employees who are policy holders] contracting for the services of the provider. Then, and only then, is payment made by the governmental entity to the provider as the insurer. Rates of payment are set by a pre-publicized schedule that pays maximum amounts [usually below average rates] for services.

OSEEGI is a governmental entity, therefore, a contract between it and a legislator/provider would be covered by the rule. However, since there is no consideration paid by OSEEGI to the Legislator/provider, the Legislator/provider has no substantial financial interest in the contract. Hence, it would not be prohibited by the rule. In addition, nothing would prevent you from becoming a provider under other insurers approved by OSEEGI including PacifiCare, PruCare, or BlueLincs.

CONCLUSION

As a Legislator, you are not prohibited from contracting with OSEEGI as a provider under its insurance policies since you have no substantial financial interest in the

contract. The only benefit from such a contract comes from third parties contracting with you for services for which OSEEGI is contractually obligated to pay.

Please be aware that informal opinions are not official pronouncements of the Commission. Hence, this letter carries no greater weight than the views of any other citizen. The Commission is available to issue interpretations on matters arising from the Ethics Commission Act and the Constitutional Ethics Rules. These are known as Ethics Interpretations. They are official and bind the future action of the Commission.