

## OPINIONS NOS. 161 & 162

Two technical specialists in a clinical program of the State requested advisory opinions from the State Ethics Commission concerning the following:

1. One employee's primary responsibility was to test and evaluate individuals evidencing problems with which the clinical program dealt. He would make recommendations concerning treatment or programs for the correction of deficiencies noted. His recommendation, along with the recommendation of other professional members of a team would result in a "team recommendation," which in some cases might include referral to private facilities.

2. The second employee worked on a part-time basis in the same program; he provided therapy to patients at different locations.

3. Both employees contemplated engaging in part-time private employment in which each would test patients with disorders similar to those with which the state program was concerned. Both planned to engage in this work during periods of time other than their state hours. The private employers of both acquired patients from time to time through referral by the facility at which the first employee worked.

The Commission advised each employee that his private employment did not give rise to a violation of chapter 84. The Commission stated that the mere fact that one's outside employment duties resemble one's state employment is not cause for concern. Difficulties arise only when one's outside employment and state employment conflict with each other or become involved with each other. The Commission did not believe that this was true in either case.

The recommendation as to disposition made by the first employee concerned a proper mode of correction, not a specified purveyor of that mode. In addition, his recommendation had to have the scrutiny of the other professional members of the team. The second employee did not make referrals or recommendations other than within his treatment of patients.

However, we advised both employees that should they attempt to acquire patients for their private employers through the use of their position in the state program, each would be in violation of §84-13. As examples of the conduct to be avoided, the Commission cited the recommendation of private employers to the patients and the disclosure of private employment to patients with the intent to influence their choice of private help. Lastly, the Commission advised each employee that he should confine his private work to other than state working hours. To do otherwise would likewise violate §84-13.

The Commission commended each for recognizing the existence of ethical considerations under the state ethics law. We thanked each employee for the concern which he demonstrated in the ethics of state employees.

Dated: Honolulu, Hawaii, June 21, 1973.

STATE ETHICS COMMISSION  
Vernon F.L. Char, Chairman  
Audrey P. Bliss, Commissioner  
Walters K. Eli, Commissioner

Note: Commissioner Gwendolyn B. Bailey was excused from the meeting in which these opinions were considered. There was one vacancy on the Commission.