OPINION NO. 231

A state employee was responsible for the licensing and monitoring of private facilities providing services to a certain age group. Prior to his employment with the state agency, he was employed, and continued to work, as a consultant to a private hospital. In this private capacity he provided services to the same age group, though the services were of a different nature. He wished to know if his private position created a conflict of interest with his state responsibilities.

We said that HRS §84-14 was relevant to the facts of this matter. Before discussing the application of this section, we initially pointed out that, in general, the ethics law does not prohibit one from accepting a position in state government even though there might be a potential conflict of interest with one's private employment. In such a situation, the law requires that the employee disqualify himself when his official responsibilities directly affect a business in which he has a substantial financial interest.

HRS §84-14(a) provides that:

> No employee shall take any official action directly affecting:
> (1) A business or other undertaking in which he has a substantial financial interest.

HRS §84-3(6) defines a financial interest as an interest held by an individual which is an employment. This individual's employment with the hospital constituted a financial interest. His contract with the hospital provided for payment of $8.00 per hour for four to six hours of work per week. We held that this rate of compensation was sufficiently substantial to make him subject to the restriction set forth in HRS §84- 14(a)(1).

The employee indicated to the Commission staff that the hospital did not provide the kind of services that he supervised in his state capacity, nor did he foresee that the hospital would become involved in such services in the near future. On the basis of the facts presented to us, we felt that it was unlikely that matters concerning the hospital would come before him in his official capacity. We therefore held that no conflict of interest existed between his employment with the state agency and his consultant position with the hospital. We advised him that if, in the future, the hospital should become involved in services that might bring it before him for official action, he would then be required to disqualify himself from the consideration of matters affecting the hospital. Should such a situation arise, we recommended that he seek another advisory opinion from the Commission.

We expressed our appreciation and commended his concern for the ethics of public employees.

Dated: Honolulu, Hawaii, October 3, 1975.

STATE ETHICS COMMISSION
Gwendolyn B. Bailey, Vice Chairman
Audrey P. Bliss, Commissioner
Paul C.T. Loo, Commissioner
I.B. Peterson, Commissioner

Note: Chairman Vernon F.L. Char was excused from the meeting at which this opinion was considered.