

Response to your request

Dear Representative Gage,

During Al Gobeille's testimony to the House Health Care Committee on January 28, 2015, you posed a hypothetical involving board members colluding with regulated entities in a way that would benefit the board members personally. You asked whether the Governor's proposal contained checks and balances against such activity.

The Governor's proposal does not address that issue. However, the issue is already addressed in two ways in existing law:

(1) The statute defining the membership qualifications and authority of GMCB members, 18 V.S.A. § 9374, directly addresses Board member conflicts of interest. More specifically, the conduct described in your hypothetical would violate § 9374(c)(2), which prohibits a Board member from participating in any Board action in which the Board member (or a close family member) "has an economic interest" or "has any more than a de minimus interest that could be substantially affected by the proceeding." 18 V.S.A. § 9374(c)(2).

(2) All members of public bodies, including the GMCB, are bound by the Executive Code of Ethics. The conduct you described would violate several sections of the Code:

- Section II(A) prohibits: actions that would undermine the Board member's impartiality or independence, actions based on "unfair considerations," preferential treatment to private interests, using the office to advance one's personal interest or secure special privileges, or detracting from public confidence in state government.
- Section II(B) requires Board members to "be true and faithful to the State of Vermont" and to "do equal right and justice" to all.
- Section III(A) sets out a series of "ethical rules while in state employ," including avoiding personal interests in regulated entities (subsection (1)), conflicts of interest (subsection (2)), and seeking or receiving payments, gifts, or favors from regulated entities (subsections (5)-(6)).

Please let me know if you need any additional information.

Thanks,
Mike

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