



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 201

March 25, 1994

*Whether it would be a violation of any of the laws interpreted by the Texas Ethics Commission for a member of the legislature to be a stockholder/owner of a home-health care agency that seeks Medicare, but not Medicaid, reimbursement. (AOR-226)*

A member of the legislature has asked whether it would be a violation of any of the laws interpreted by the Texas Ethics Commission for him to be a stockholder/owner of a home health care agency that seeks Medicare, but not Medicaid, reimbursement.

The statutes subject to interpretation by the Ethics Commission do not prohibit a legislator from owning any particular kind of business. A legislator who has an interest in a business should be aware, however, of section 572.053 of the Government Code, which provides that "[a] member of the legislature may not vote on a measure or a bill, other than a measure that will affect an entire class of business entities, that will directly benefit a specific business transaction of a business entity in which the member has a controlling interest." Gov't Code § 572.053(a). "Controlling interest" includes "an ownership interest or participating interest by virtue of shares, stock, or otherwise that exceeds 10 percent." *Id.* § 572.053(b)(1). A legislator's interest in a home health care agency might require the legislator to abstain from voting on a particular measure. The legislator would not have to recuse himself, however, from voting on legislation that involved all home health care agencies or all home health care agencies receiving Medicare reimbursement.

Also, although the Ethics Commission does not have authority to interpret the Texas Constitution, we note that article III, section 18, bars a legislator from contracting with the state if the legislator was a member of the legislature when the appropriation providing funds for the contract was enacted. See Attorney General Opinion JM-782 (1987).

### SUMMARY

The statutes within the Ethics Commission's jurisdiction do not prohibit a legislator from owning any particular kind of business. There could be a situation in which a legislator's interest in a home health care agency would require the legislator to abstain from voting on a measure.