



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 243

January 13, 1995

Whether members of the Psychological Associate Advisory Committee are "state officers" for purposes of chapter 572 of the Government Code. (AOR-274)

The Texas Ethics Commission has been asked whether members of the Psychological Associate Advisory Committee are "state officers" for purposes of chapter 572 of the Government Code. Chapter 572 defines a "state officer" as "an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency." Gov't Code § 572.002(12). A member of the Psychological Associate Advisory Committee is neither an elected officer, an appointed officer of a major state agency, nor the executive head of a state agency. *See* Gov't Code §§ 572.003 (defining "appointed officer of a major state agency"), 572.002(4), (5) (defining "elected officer" and "executive head of a state agency"). The remaining question is whether a member of the Psychological Associate Advisory Committee is an "appointed officer" or a "salaried appointed officer." V.T.C.S. art. 4512c, § 19A(a) (members of the Psychological Associate Advisory Committee are appointed by the governor).

The definition of an "appointed officer" includes an officer of *a state agency* who is appointed for a term of office specified by the Texas Constitution or a statute of this state." Gov't Code § 572.002(1) (emphasis added).¹ A "state agency" under chapter 572 of the Government Code is a department, commission, board, office, or other agency in the executive branch of state government that was constitutionally or statutorily created and that "has authority that is not limited to a geographical portion of the state." *Id.* § 572.002(10). If an executive branch entity functions in an advisory capacity only and is not authorized to exercise actual governmental authority, it is not a state agency for purposes of chapter 572. [Ethics Advisory Opinions Nos. 138 n.2, 124 \(1993\), 28, 26 \(1992\).](#)

The Psychological Associate Advisory Committee was created "as an advisory committee" to develop and recommend rules to the Texas State Board of Examiners of Psychologists to establish standards for licensing, supervision, continuing education, billing practices, and disciplinary sanctions of sub-doctoral level psychological personnel. *See* V.T.C.S. art. 4512c, § 19A(a), (l). Upon receiving the recommendations of the committee, the board must either approve or reject the proposed rules. *Id.* § 19A(m). If rejected, the rules are returned to the committee for further development. *Id.* The committee has no independent authority to adopt rules or otherwise regulate psychological associates. Because the committee functions in an advisory capacity only, it is not "a state agency" and its members are not state officers for purposes of Government Code chapter 572. Therefore, members of the Psychological Associate Advisory Committee are not required to file annual financial disclosure statements.

SUMMARY

Members of the Psychological Associate Advisory Committee are not required to file annual financial disclosure statements under chapter 572 of the Government Code.

¹ The term "appointed officer" also includes the secretary of state, a member of the governing board of a state-supported institution of higher education, and a board member who is not appointed. Gov't Code § 572.002(1). A member of the Psychological Associate Advisory

Committee does not fit into any of those categories.