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October 2, 1992

The Honorable Santo DiPietro  
Maine House of Representatives  
State House Station 3  
Augusta, Maine 04333

The Honorable Jeffrey Butland  
Maine House of Representatives  
State House Station 3  
Augusta, Maine 04333

Dear Representatives DiPietro and Butland:

This will respond to your letter to Attorney General Michael E. Carpenter dated October 2, 1992 requesting this Office to provide "written guidance outlining the obligations of . . . lawyer-legislators under the Governmental Ethics Law," with specific reference to proposed legislation and any related amendments thereto which would implement the recommendations of the Blue Ribbon Commission on Workers' Compensation. Specifically, you have indicated that you have called "for lawyers who are members of the Legislature who practice, or whose firms practice, workers' compensation insurance law, to voluntarily disclose their interest prior to voting on any reform measures."

Your inquiry raises two distinct issues. First, whether a lawyer-legislator who practices, or whose firm practices, workers' compensation law has any conflict of interest with respect to voting on any reform measure dealing with workers' compensation. Second, whether, regardless of any conflict of

interest, lawyer-legislators are required to disclose the sources of their income from the practice of law, and in particular, from the practice of workers' compensation law.

The Legislature has provided specific guidance to its members on the issue of what constitutes a conflict of interest. See 1 M.R.S.A. § 1014. The "Statement of Purpose" underlying the statutes governing legislative ethics recognizes that being a legislator in Maine "is not a full-time occupation . . ." in that "[m]ost legislators must look to income from private sources, not their public salaries for their sustenance and support for their families . . ." 1 M.R.S.A. § 1011. The Legislature intentionally adopted "broader standards of ethics for legislators" because, as a practical matter, "the resolution of ethical problems must indeed rest largely in the individual conscience." Id. Nevertheless, for the purpose of "providing helpful advice and guidance" the Legislature recognized the need to statutorily "define ethical standards, . . . to chart the area of real or apparent impropriety." Id.

With this general background in mind, it is possible to briefly address the specific provisions of the legislative ethics law. In our view, the one provision which is most closely relevant to your inquiry is 1 M.R.S.A. § 1014(1)(F) which provides that a conflict of interest situation exists

Where a Legislator or a member of his immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of his immediate family is engaged, where the benefit derived by the Legislator or a member of his immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

We have previously indicated that this provision requires that the benefit derived by the legislator be "unique and distinct" from the benefit that may be derived by persons engaged in similar professions. In this particular situation, a legislator who happens to be a lawyer engaged in workers' compensation law or whose firm engages in workers' compensation law, would not be receiving any benefit which is unique and distinct from what other persons engaged in that line of work

would receive. Attached please find two prior opinions from this Office on this point.<sup>1/</sup>

On the issue of disclosure of a lawyer-legislator's financial interest, we would point out that there is also legislation requiring legislators to file a statement of specific sources of income. See 1 M.R.S.A. § 1016-A (a copy of which is attached). Subsection 1(D) deals specifically with the legislator who is also an attorney and provides:

The legislator filing the statement shall name and give the address of each specific source of income received as follows:

D. With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm, in such manner as the commission may require.

In view of the forgoing, lawyer-legislators are already required to provide certain information concerning their sources of income, including the major areas of their law practice and the major areas of the practice of their firms. Whether a particular lawyer-legislator wishes to provide

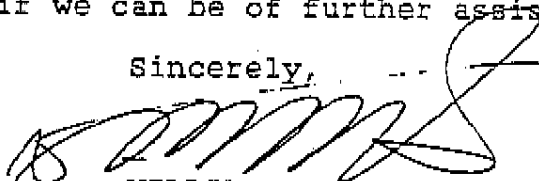
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<sup>1/</sup>The only other provision of the legislative ethics law which even arguably relevant to your inquiry is 1 M.R.S.A. § 1014(1)(E) which provides in part that a conflict of interest situation exists "where a legislator or a member of his immediate family . . . engages in employment which could impair the Legislator's judgment . . . ." In the past, we have interpreted this provision to reach those situations where certain types of employment, by their very nature, might cause an impairment of the legislator's judgment in a particular matter. In our view, there is no reason why a lawyer-legislator who happens to practice workers' compensation law cannot exercise his or her best judgment as a legislator with respect to this proposed legislation. In other words, there is nothing about being a lawyer engaged in the practice of workers' compensation law that, by its very nature, would impair that legislator's judgment.

additional information on a voluntary basis is purely up to that individual legislator.

We hope this information is helpful to you and please do not hesitate to contact us if we can be of further assistance.

Sincerely,



WILLIAM R. STOKES  
Assistant Attorney General

WRS/dls

enclosures

cc: The Honorable John L. Martin, Speaker of the House  
The Honorable Charles Pray, President, Maine State Senate