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## State Ethics Commission of Georgia

### ADVISORY OPINION NO. 2008-02 June 22, 2008

#### REAL OR HYPOTHETICAL SET OF CIRCUMSTANCES

Whether a natural person is required to file lobbyist registration and disclosure reports if hired to influence members of the Fulton-DeKalb Hospital Authority Board or the Grady Memorial Hospital Corporation.

#### ADVISORY OPINION

The request for an advisory opinion asks whether the Ethics in Government Act (Act), O.C.G.A. § 21-5-1 et seq., requires a natural person to register and file Lobbyist Disclosure Reports with the State Ethics Commission if such person makes expenditures or otherwise undertakes to influence members of the Fulton-DeKalb Hospital Authority Board (the Board). Although the request for an advisory opinion only presents the scenario of a natural person being hired to influence the Board, the Commission feels it should also address the issue of whether a natural person's compensated attempt to influence the newly established Grady Memorial Hospital Corporation (Corporation) would also subject a natural person to the registration and lobbyist disclosure requirements of the Act.

The Act divides its definition of "lobbyist" into eight different categories. Four of these categories involve natural persons who receive compensation to promote or oppose certain government actions. These four categories apply to natural persons who promote or oppose legislation by the General Assembly, promote or oppose the adoption of any ordinance or resolution by an elected county or municipal official, are hired specifically to influence a public officer or state agency in the selection of a vendor, or are hired specifically to promote or oppose the adoption of any rule or regulation by a state agency. See O.C.G.A. § 21-5-70(5). In order for a natural person to be required to register and report as a lobbyist, their compensated activities must consist of undertaking to influence a public officer or government entity described in at least one of these four categories pertaining to people who are compensated. Therefore, the question posed to the Commission is answerable by determining whether the Board or the Corporation should be described as one of the entities listed the four categories defined above.

First, compensated attempts to influence the Board or Board members do not fall into the category concerning General Assembly legislation. See O.C.G.A. § 21-5-70(5)(A) . Second, the definition of “lobbyist” under O.C.G.A. § 21-5-70(5)(D) does not apply to a natural person who undertakes to influence Hospital Authority Board members because said members are not county or municipal “public officers” as defined by O.C.G.A. § 21-5-3(22)(F) or (G).

Third, the Hospital Authorities Law authorizes the establishment of Hospital Authority Boards not as State agencies but as county agencies, municipal agencies, joint county/county agencies, or as hybrid county/municipal agencies. Therefore, attempts to influence Hospital Authority Board members or staff concerning the adoption of a rule or regulation or the awarding of a vendor contract cannot subject a natural person to the Act’s definition of “lobbyist” under O.C.G.A. § 21-5-70(5)(G) or (H) because Hospital Authority Boards are not State agencies.

Finally, there remains the issue of whether a compensated attempt to influence the newly established Grady Memorial Hospital Corporation would also subject a natural person to the registration and lobbyist disclosure requirements of the Act. In 2008, the Board contracted with the Corporation to manage its day-to-day activities. The Hospital Authorities Law authorizes Hospital Authority Boards to contract their day-to-day operations to nonprofit corporations. See O.C.G.A § 31-7-1 through 96. Such nonprofit corporations are not considered government agencies regardless of any contractual relationship with a Hospital Authority Board. See Ga. Atty. Gen. Op. 93-10. Therefore, attempts to influence governing members or staff of the Corporation do not subject a natural person to the registration and disclosure requirements of the Act because the Corporation is not a State agency.

In conclusion, a natural person is not required by the Act to register or file Lobbyist Disclosure Reports as a result of undertaking to influence members or staff of the Fulton-DeKalb Hospital Authority Board (or other Hospital Authority Boards) or the Grady Memorial Hospital Corporation. A natural person is not subject to the requirements of the Act because attempts to influence these entities do not make one subject to being defined as a lobbyist under O.C.G.A. § 21-5-70(5).

Prepared by Tom Plank