



Confidentiality Waived as to Opinion Only

**STATE OF NEVADA**  
**BEFORE THE NEVADA COMMISSION ON ETHICS**

In re **Christopher Hooper**, Member,  
Winchester Township Advisory Board,  
Clark County,  
State of Nevada,

Advisory Opinion No. 24-101A  
**CONFIDENTIAL**

\_\_\_\_\_  
Subject: /

**OPINION**

**EXECUTIVE SUMMARY<sup>1</sup>**

TOPIC: DISCLOSURE AND ABSTENTION

Christopher Hooper (“Hooper”) requested this confidential advisory opinion from the Nevada Commission on Ethics (“Commission”) pursuant to NRS 281A.675, regarding the propriety of his anticipated future conduct as it relates to the Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A. Hooper is currently a member of the Winchester Township Advisory Board (“WTAB”) and is also employed by the Cannabis Compliance Board (“CCB”) as an Auditor II. Hooper seeks guidance from the Commission regarding any potential conflicts he might have and his obligations under the Ethics Law when CCB regulated entities come before WTAB.

After fully considering Hooper’s request and analyzing the facts and circumstances as presented by him, the Commission issues this written confidential Opinion (“Opinion”) advising that although Hooper is a public employee as defined in NRS 281A.150 in his position as an employee of CCB, he is not a public officer in his role with WTAB pursuant to NRS 281A.160(3)(b) due to WTAB’s advisory nature. The Ethics Law is therefore not implicated when CCB regulated entities appear before WTAB for matters unrelated to CCB regulated issues. However, the Commission recommends Hooper provide a disclosure when CCB regulated entities appear before WTAB out of an abundance of transparency and to avoid any perceived conflicts of interests related to his employer.

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<sup>1</sup> This executive summary constitutes no part of the opinion of the Commission. It has been prepared by Commission staff for the convenience of the reader.

## I. FINDINGS OF FACT

- A. Hooper is a member of WTAB which is established by Clark County Code.
- B. Town Advisory Boards (“TAB”s) were created to assist the Clark County Commission in an advisory capacity with the decision-making process in supplying public services to the unincorporated areas of Clark County. Each TAB consists of area residents and serve as formal direct channels to the Commission allowing for greater input into the future of their towns.
- C. TAB members serve without compensation for two-year terms and have the responsibility of assisting the Commission, in an advisory capacity, in the governance of the unincorporated town by acting as a conduit between the residents and the Commission.
- D. TABs hold regular, public meetings throughout the year. At these meetings, members of TABs are informed of matters pertaining to their respective town or area, provide input regarding various matters, forward the concerns or problems to the Commission, assist in long-term planning, and disseminate information to the residents of the town or area.
- E. WTAB does not have any final decision-making authority and forwards all recommendations to the Commission for a final decision. WTAB has no staff of its own. As a member of WTAB, Hooper does not have access to any confidential information.
- F. WTAB’s Bylaw’s provide:

The purpose of this advisory board, pursuant to NRS 269.576 and County Code, Chapter 3.30, is to assist the Board of County Commissioners in governing the unincorporated town of Winchester by acting as a liaison between the residents of the town and the Board of County Commissioners and to advise the Board of County Commissioners on matters of importance to the unincorporated town and its residents.

- G. Hooper is also an Auditor II with the Cannabis Compliance Board (“CCB”). As an auditor, his duties include:
  - Conducting audits on cannabis establishments for compliance with statutes and regulations.
  - Identifying violations, conducting investigations, and documenting results and preparing reports of findings.
  - Auditing areas including cannabis inventory compliance, security, adherence to restrictions regarding controlled access to restricted areas, storage of cannabis products, chain of custody of cannabis and disposal of cannabis.

- Reviewing facility policies and procedures and quality assurance programs.
- H. As an Auditor II for the CCB, Hooper has access to confidential information about cannabis companies that are regulated by the CCB. Hooper indicates, however, that this confidential information would not impact any WTAB vote nor would a WTAB recommendation affect a company's compliance with CCB regulations.
- I. One of WTAB's duties is hearing building permit proposals. CCB regulations do not include any requirements for building or structural requirements that require building permits.
- J. In the past, Planet 13, a business regulated by the CCB, has had matters come before WTAB for recommended approval or denial to the Commission. For example, In May 2024, Planet 13 came before WTAB requesting an extension of time for a design review and waiver for an additional parking lot.
- K. Hooper requests guidance from the Commission regarding his obligations under the Ethics Law and any potential conflicts that may arise if Planet 13 or other CCB regulated entities come before WTAB in the future.

## II. RELEVANT STATUTES

### A. NRS 281A.020(1)—Duty to Avoid Conflicts of interest

1. It is hereby declared to be the public policy of this State that:
  - (a) A public office is a public trust and shall be held for the sole benefit of the people.
  - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

### B. NRS 281A.065—Commitment in a Private Capacity

“Commitment in a private capacity,” with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

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### **C. NRS 281A.150—Public Employee Defined**

“Public employee” means any person who:

1. Performs public duties under the direction and control of a public officer for compensation paid by the State or any county, city or other political subdivision; or
2. Is designated as a public employee for the purposes of this chapter pursuant to NRS 281A.182.

### **D. NRS 281A.160—Public Officer Defined**

1. “Public officer” means a person who is:
  - (a) Elected or appointed to a position which:
    - (1) Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and
    - (2) Involves the exercise of a public power, trust or duty; or
  - (b) Designated as a public officer for the purposes of this chapter pursuant to NRS 281A.182.
2. As used in this section, “the exercise of a public power, trust or duty” means:
  - (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;
  - (b) The expenditure of public money; and
  - (c) The administration of laws and rules of the State or any county, city or other political subdivision.
3. “Public officer” does not include:
  - (a) Any justice, judge or other officer of the court system;
  - (b) Any member of a board, commission or other body whose function is advisory;
  - (c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or
  - (d) A county health officer appointed pursuant to NRS 439.290.
4. “Public office” does not include an office held by:
  - (a) Any justice, judge or other officer of the court system;
  - (b) Any member of a board, commission or other body whose function is advisory;
  - (c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or
  - (d) A county health officer appointed pursuant to NRS 439.290.

## **III. CONCLUSIONS OF LAW**

- A. In his capacity as an Auditor II for the CCB, Hooper is a public employee as defined by NRS 281A.150.
- B. Pursuant to NRS 281A.675, the Commission has jurisdiction to render an advisory opinion in this matter.
- C. Hooper must comply with the Ethics Law in any actions he takes as a CCB Auditor.

- D. Under NRS 281A.160(3)(b), Hooper is not a public officer in his capacity as a member of WTAB due to its advisory nature.
- E. As he is not a public officer in his role with WTAB, the Ethics Law is not implicated when Hooper considers advisory actions related to CCB regulated entities on issues unrelated to CCB regulated issues.
- F. The Commission considered the request for an advisory opinion, a list of proposed facts that were affirmed as true by Hooper and publicly available information.
- G. For the purposes of the conclusions offered in this Opinion, the Commission's findings of fact are accepted as true. Facts and circumstances that differ from those presented to and relied upon by the Commission may result in different findings and conclusions than those expressed in this opinion.<sup>2</sup>
- H. If in the future additional facts are obtained that relate to the application of the Ethics Law to his circumstances, Hooper may return to the Commission for education and guidance on the application of the Ethics Law by filing a new advisory request.
- I. An advisory opinion does not protect a public officer or employee from an investigation or adjudication based on an ethics complaint submitted pursuant to NRS 281A.710(b)(2) regarding past conduct addressed in the advisory opinion.
- J. Pursuant to NAC 281A.352, a quorum of the Commission considered this matter by submission, without holding an advisory opinion hearing.<sup>3</sup>

Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law hereafter construed to constitute a Finding of Fact, is hereby adopted, and incorporated as such to the same extent as if originally so designated.

#### **IV. COMMISSION DECISION**

##### **A. HOOPER IS NOT A PUBLIC OFFICER IN HIS ROLE ON WTAB DUE TO ITS ADVISORY NATURE**

NRS 281A.160(3)(b) excludes those officers who serve on bodies whose functions are advisory in nature from the definition of a public officer. To be entitled to the exclusion, the body's function must be solely advisory. A body is not purely advisory if it possesses legislative or fiscal authority. See *Hantges v. City of Henderson*, 121 Nev. 319, 325, 113 P.3d 848, 851 (2005); *In re Public Officer*, Comm'n Op. No. 11-54A (2012).

The determining factor as to whether members of an advisory board meet the definition of public officer under the Ethics Law is that "the body's function must be solely advisory for the exclusion to apply." *In re Public Officer*, Comm'n Op. No. 11-54A (2012),

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<sup>2</sup> The Commission reserves its statutory authority should an ethics complaint be filed presenting contrary circumstances. See *In re Howard*, Comm'n Op. No. 01-36 (2002) (notwithstanding this advisory opinion, a member of the public is not precluded from bringing an ethics complaint); *In re Rock*, Comm'n Op. No. 94-53 (1995) (Commission reservation of right to review until time issue is raised).

<sup>3</sup> The following Commissioners participated in this opinion: Chair Scherer, Vice Chair Wallin and Commissioners Langton, Lowry, Olsen, Reynolds and Yen.

at p. 2 citing *Hantges*, 121 Nev. at 325, 113 P.3d at 851, *In re Public Officer*, Comm'n Op No. 11-18A (2012) and Attorney General Opinion No. 1986-6. Clark County Code Section 3.30.070 provides that the duties of TABs, including WTAB, "shall be to assist, in an advisory capacity, the board of county commissioners in the government of their respective towns, and such other duties as may be assigned to them from time to time by the board of county commissioners." See also Clark County Code Section 3.30.20 (identifying WTAB as an advisory board subject to Clark County Code Chapter 3.30).

The Commission previously determined that TABs are advisory boards in *In re Halderman*, Comm'n Op. No 00-46A (2001), at p. 1, finding:

The Clark County Board of Commissioners established advisory boards in various geographical areas within Clark County as a body to receive community comments on local issues (such as those involving zoning matters) and forward the community's comments and opinions to the Board of Commissioners in the form of nonbinding advisory recommendations. Advisory board recommendations, together with recommendations of Clark County staff and all supporting documentation, are placed into the public record of the Clark County Board of Commissioners in open meeting.

WTAB is therefore purely advisory in nature and its members, including Hooper, do not meet the definition of "public officer" pursuant to NRS 281A.160.

As Hooper is not a public officer in his role on WTAB, the Ethics Law does not apply to Hooper in his role with WTAB and is not implicated when he considers advisory actions related to CCB regulated entities on issues unrelated to CCB regulated issues. Although the Ethics Law does not mandate that Hooper provide a disclosure for these types of matters while sitting as a member of the WTAB, the Ethics Law does not prevent him from doing so if he believes doing so is in the interests of transparency and a disclosure could be helpful.

## **B. DUTY TO AVOID CONFLICTS OF INTEREST AS A PUBLIC EMPLOYEE**

As an employee of CCB, Hooper is a public employee as defined by NRS 281A.150. As a public employee, Hooper must commit himself to avoid conflicts between his private interests and the interests of the general public whom he serves. NRS 281A.020. The public trust must be protected when a person has a pecuniary interest or commitment in a private capacity to the interests of others under NRS 281A.065, which statute details a number of relationships deemed to be private commitments, including an employer. NRS 281A.065(4).

Hooper has a private commitment to his employer, CCB, and a pecuniary interest in his employment and salary with CCB. See NRS 281A.139; NRS 281A.065(4); *In re Brown*, Comm'n Op. No. 13-28A (2014), at p. 9 ("The Ethics Law recognizes various conflicts or perceived conflicts between public duties and a person with whom public officers and employees have employment commitments."). For purposes of the application of the Ethics Law, the interests of persons to whom there are private commitments are imputed to be the interests of the public officer or employee for application of the Ethics Law because these types of relationships constitute relationships that would reasonably and materially affect public decisions. See *In re Romero*, Comm'n Op. No. 19-059A (2019); *In re Alworth*, Comm'n Op. No. 19-049A (2019).

Although the Ethics Law does not apply to Hooper in his role on WTAB, the Commission recommends that, out of an abundance of transparency and for the purposes



of avoiding any perceived conflict, he disclose his commitment in a private capacity to CCB and his pecuniary interest in his employment when CCB regulated entities appear before WTAB. See *In re Public Employee*, Comm'n Op. No. 21-074A (2021), at pp. 5-6; *In re Romero*, Comm'n Op. No. 19-059A (2019), at pp. 7-8.

Hooper is reminded that the Ethics Law does not recognize a continuing disclosure or a disclosure by reference. The purpose of disclosure is to provide sufficient information to inform the public of the nature and extent of the perceived conflict and the potential effect of the action before WTAB on Hooper's private interests and commitments to CCB. Silence based upon a prior disclosure fails to inform the public about the nature and extent of the conflict. See *In re Buck*, Comm'n Op. No. 11-63C (2011) (holding that incorporation by reference of Public Employee's prior disclosure, even though based upon the advice of counsel, did not satisfy the disclosure requirements of NRS 281A.420(1)). At a minimum, a disclosure should identify Hooper's pecuniary interest in his employment with CCB and his private commitment to CCB as his employer and explain the potential effect these interests have on the matter before WTAB, if any.

Dated this 10th day of September, 2024

NEVADA COMMISSION ON ETHICS

By: /s/ Scott Scherer  
Scott Scherer, Esq.  
Chair

By: /s/ Absent  
John T. Moran, III, Esq.  
Commissioner

By: /s/ Kim Wallin  
Kim Wallin, CPA, CMA, CFM  
Chair

By: /s/ Stan Olsen  
Stan Olsen  
Commissioner

By: /s/ Michael Langton  
Michael Langton, Esq.  
Commissioner

By: /s/ Terry J. Reynolds  
Terry J. Reynolds  
Commissioner

By: /s/ Teresa Lowry  
Teresa Lowry, Esq.  
Commissioner

By: /s/ Amanda Yen  
Amanda Yen, Esq.  
Commissioner