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### ETHICS ADVISORY OPINION NO. 25-009-E

May 2, 2025

**Question Presented:** May a member of a school board who is also a pharmacist be selected and compensated by the University of Mississippi School of Pharmacy for conducting drug overdose training to employees of schools within the same school district?

**Brief Answer:** Yes. The school board has not authorized the work. The school board member has not used his position on the board to get the work, and he will not be a contractor, subcontractor or vendor to the school district. Therefore, no violation of Section 109, Miss. Const. of 1890, or Section 25-4-105, Miss. Code of 1972, will result.

The Mississippi Ethics Commission issued this opinion on the date shown above in accordance with Section 25-4-17(i), Mississippi Code of 1972, as reflected upon its minutes of even date. The Commission is empowered to interpret and opine only upon Article IV, Section 109, Mississippi Constitution of 1890, and Article 3, Chapter 4, Title 25, Mississippi Code of 1972. This opinion does not interpret or offer protection from liability for any other laws, rules or regulations. The Commission based this opinion solely on the facts and circumstances provided by the requestor as restated herein. The protection from liability provided under Section 25-4-17(i) is limited to the individual who requested this opinion and to the accuracy and completeness of these facts.

#### I. LAW

The pertinent Ethics in Government Laws to be considered here are as follows:

Section 109, Miss. Const. of 1890.

No public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city, or town thereof, authorized by any law passed or order made by any board of which he may

be or may have been a member, during the term for which he shall have been chosen, or within one year after the expiration of such term.

Section 25-4-103, Miss. Code of 1972.

(c) “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint stock company, receivership, trust or other legal entity or undertaking organized for economic gain, a nonprofit corporation or other such entity, association or organization receiving public funds.

(d) “Business with which he is associated” means any business of which a public servant or his relative is an officer, director, owner, partner, employee or is a holder of more than ten percent (10%) of the fair market value or from which he or his relative derives more than Two Thousand Five Hundred Dollars (\$2,500.00) in annual income or over which such public servant or his relative exercises control.

(f) “Contract” means:

(i) Any agreement to which the government is a party; or

(ii) Any agreement on behalf of the government which involves the payment of public funds.

(g) “Government” means the state and all political entities thereof, both collectively and separately, including but not limited to:

(i) Counties;

(ii) Municipalities;

(iii) All school districts;

(iv) All courts; and

(v) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or executive order including all units that expend public funds.

(h) “Governmental entity” means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.

(i) “Income” means money or thing of value received, or to be received, from any source derived, including but not limited to, any salary, wage, advance, payment,

dividend, interest, rent, forgiveness of debt, fee, royalty, commission or any combination thereof.

(k) “Material financial interest” means a personal and pecuniary interest, direct or indirect, accruing to a public servant or spouse, either individually or in combination with each other. Notwithstanding the foregoing, the following shall not be deemed to be a material financial interest with respect to a business with which a public servant may be associated:

(i) Ownership of any interest of less than ten percent (10%) in a business where the aggregate annual net income to the public servant therefrom is less than One Thousand Dollars (\$1,000.00);

(ii) Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$5,000.00);

(iii) The income as an employee of a relative if neither the public servant or relative is an officer, director or partner in the business and any ownership interest would not be deemed material pursuant to subparagraph (i) or (ii) herein; or

(iv) The income of the spouse of a public servant when such spouse is a contractor, subcontractor or vendor with the governmental entity that employs the public servant and the public servant exercises no control, direct or indirect, over the contract between the spouse and such governmental entity.

(l) “Pecuniary benefit” means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants shall not be deemed a pecuniary benefit.

(p) “Public servant” means:

(i) Any elected or appointed official of the government;

(ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or

(iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

Section 25-4-105, Miss. Code of 1972.

(1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.

(3) No public servant shall:

(a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.

## II. FACTS

Facts provided by the requestor are set forth below, with identifying information redacted, and are considered a part of this opinion.

I am the attorney for [a] School District. One of the elected Trustees on the Board for [the School District] is a Pharmacist [...]. The University of Mississippi School of Pharmacy received a grant to train teachers and administrators about overdoses and the use of Narcan to prevent deaths. The Pharmacist/School Board Trustee and a technician under his employment at the request of the School of Pharmacy conducted several of these training sessions at multiple schools within [the School District].

There was no action taken by the Board of Trustees for [the School District] to accept or implement the training program by the School of Pharmacy within [the School District]. The University of Mississippi School of Pharmacy has provided the Pharmacist/School Board Trustee with a form in order to be paid for his and his technician's work to conduct the Narcan training sessions. The payment to the Pharmacist/School Board Trustee from the School of Pharmacy would not flow through the ... School District.

Is it an ethical conflict for the Pharmacist/School Board Trustee and his technician to accept payment from the University of Mississippi School of Pharmacy for conducting Narcan training sessions at schools within [the School District]?

### III. ANALYSIS

Pursuant to Section 109, Miss. Const. of 1890, and Section 25-4-105(2), Miss. Code of 1972, a member of a public board is prohibited from having a direct or indirect interest in a contract authorized by the board during his or her term of office or for one year thereafter. The work performed was not authorized by the school board, and no violation of Section 109 or Section 25-4-105(2) will occur if the School of Pharmacy compensates the school board member and the technician.

The school board member may not use his position in government to obtain or attempt to obtain any monetary benefit for himself or his business, as proscribed in Section 25-4-105(1). The school board member has not used his position on the school board to obtain payment from the University's School of Pharmacy, and no violation of Section 25-4-105(1) will result from the proposed payments.

Finally, a school board member is also prohibited from being a contractor, subcontractor or vendor and from having a "material financial interest" in a business which is a contractor, subcontractor or vendor to the school district, as outlined in Section 25-4-105(3)(a). See also Section 25-4-103(k). Here the school board member and the pharmacy tech are performing work for the University's School of Pharmacy, and neither the board member nor his business are performing any services for the school district. Therefore, no violation of Section 25-4-105(3)(a) will result.

MISSISSIPPI ETHICS COMMISSION

BY: \_\_\_\_\_

Tom Hood, Executive Director and  
Chief Counsel