

STATE OF COLORADO
Department of State

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Donetta Davidson
Secretary of State

William C. (Billy) Compton
Director, Elections Division

August 13, 2004

Robert N. Spencer, Esq.
Montgomery Little & McGrew
The Quadrant
5445 DTC Parkway, Suite 800
Greenwood Village, CO 80111

Re: Request for Advisory Opinion Regarding Related Political Committees

Dear Mr. Spencer:

I am writing in response to your request dated May 13, 2004 for an advisory opinion regarding whether a registered political committee of the Colorado Medical Society (CMS) and a political committee established by a component medical society would be considered a single political committee for the purpose of the state contribution limits under the State's campaign and political finance laws. We apologize for the delay in responding to your inquiry. Please be advised that this opinion is advisory only, and that it is limited to the facts presented.

Question Presented:

Would COMPAC (the political committee established by the Colorado Medical Society) and a political committee established by a component medical society be considered a single political committee for the purpose of the state contribution limits?

Answer:

For the reasons that follow, it is my opinion that the answer is "No."

Discussion

Article XXVIII, Section 2(12) of the Colorado Constitution defines "political committee", and subparagraph (c)(IV) thereof provides that different political committees may be treated as a single political committee, as follows:

(c) For the purposes of this article, the following are treated as a single political committee:

(IV) All political committees established, financed, maintained, or controlled by substantially the same group of persons.

Also, Article XXVIII, Section 2(11) of the Colorado Constitution defines "person" as follows:

(11) “Person means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons.

Your letter indicates that the Colorado Medical Society is a nonprofit corporation and a statewide professional membership organization. Your letter goes on to state that the Colorado Medical Society also charters component medical societies that have jurisdiction over one or more Colorado counties, or parts thereof. Component societies are autonomous and operate under their own constitution and bylaws, subject to the caveat that the component’s constitution and bylaws may not be in conflict with the CMS’ constitution and bylaws. Every member of the Colorado Medical Society must also be a member of a component society, although component societies may have members who are not members of the Colorado Medical Society. Your letter also states that the Colorado Medical Society and its component societies have separate governing structures, although each component society has representation on the CMS governing body, also known as the House of Delegates. Component societies elect delegates to the House of Delegates in proportion to their active membership.

Although each component society has representation on the CMS House of Delegates, each society is autonomous and operates under its own constitution and bylaws. There is no provision in Article XXVIII or Title 1, Article 45 of the Colorado Revised Statutes (the “Fair Campaign Practices Act”) that would prohibit component organizations of a parent organization from forming separate political committees so long as the political committees are not “established, financed, maintained, or controlled by substantially the same group of persons.” Therefore, in the absence of such a requirement, and pursuant to the facts outlined in your letter, each autonomous component medical society operates as a single entity for purposes of forming separate political committees and contribution limits so long as the limitations found in Article XXVIII, Section 2(12)(c)(IV), as enumerated above, are followed.

Conclusion

Under the facts presented, it is my opinion that the political committee of the Colorado Medical Society and a political committee that may be formed by a component local medical society would not be considered a single political committee for the purpose of contribution limits under the State’s campaign and political finance laws since it appears that they are not “established, financed, maintained, or controlled by substantially the same group of persons,” as outlined in Article XXVIII, Section 2(12)(c)(IV) of the Colorado Constitution.

I hope that you will find this response helpful. If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,

Donetta Davidson
Secretary of State