

December 17, 2013

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Alesandria Hughes
Young Men's Democratic Club

RE: Club Members in Waiting

Dear Ms. Hughes:

ISSUE: This is in response to your e-mail sent November 18, 2013, in which you state that, in accordance with your club's bylaws, when a person submits an application for membership and pays dues, they are considered to be "members in waiting." That is, you explain that you permit such individuals to purchase non-alcoholic beverages and food, and you permit them to play your small games of chance. You do not consider these individuals to be "guests" of members since they are only waiting for your club meeting to occur so membership can be voted upon, as required. You ask whether a regular club member may lawfully purchase drink chips for such individuals, allowing the individual whose membership application is pending to stay on the premises and to use the drink chips to purchase alcoholic beverages.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that the Young Men's Democratic Club of Lycoming County, Inc. holds Catering Club Liquor License No. CC-1058 (LID 39285) for use by it at premises located at 230 East Street, Williamsport, Pennsylvania.

OPINION: Section 406 of the Liquor Code provides that no club liquor licensee, nor its officers, servants, agents or employees, other than one holding a catering club liquor license, shall sell any liquor or malt or brewed beverages to any person except a member of that club. [47 P.S. § 4-406(a)]. As such, one must be a member of the club in order to purchase alcoholic beverages on its licensed premises.

The Board does not recognize "members in waiting." Section 102 of the Liquor Code requires that members be admitted only after submission of an application, an investigation of the application, a vote on the application, and dues are charged and collected. [47 P.S. § 1-102]. There is no distinction in the Liquor Code between social members, pending members, and other categories of individuals that a club might have. Therefore, a person is not considered to be a member until

all the above-noted conditions have been met, including most relevantly to your question, a vote on the person's membership application.

A club member may bring a guest or guests to the club, and the club may sell/serve the guests food and non-alcoholic beverages. However, if the guests wish to purchase alcoholic beverages, the beverages must be purchased by and paid for by the club member, since non-members cannot purchase alcoholic beverages.

The club may use chips or tokens to purchase alcoholic beverages. Such tokens must be purchased by the member for use by the non-member. When that member departs the club, the guest may not continue to use the tokens to be served alcoholic beverages; such tokens could, however, be redeemed for the service of non-alcoholic beverages.

Please also note that patrons of a catering club may purchase alcoholic beverages from the club even if they are non-members, as long as they are present on the licensed premises as part of a catered event. A catered event is one involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises or brought onto the premises already prepared, for accommodation of groups of non-members who are using the facilities of the club by prior arrangement, made at least twenty-four (24) hours in advance of the time of the function, and which is paid for by the non-members. [40 Pa. Code § 5.83(a)]. Records must be kept showing the date and time catering arrangements were made, the name of the person or the organization making the arrangements, and the approximate number of persons to be accommodated. [40 Pa. Code § 5.83(b)]. The catering club cannot self-sponsor a catered event.

Lastly, please note also that a club licensee is required to adhere to its constitution and bylaws. [40 Pa. Code § 5.81]. Therefore, if the club constitution or bylaws contain rules regarding the use of drink chips or tokens, those rules must be followed so long as those rules do not conflict with the rules outlined above. You may wish to review your bylaws to ensure that there is no conflict with the rules.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS

BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Pennsylvania State Police,
Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

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