

February 23, 2016

JoEllen Rooney, Conference Service Manager
Muhlenberg College

VIA E-MAIL

RE: Conference Center Use

Dear Ms. Rooney:

ISSUE: This office is in receipt of your e-mail correspondence of January 27, 2016, wherein you state that, in your capacity as the conference manager at Muhlenberg College, you are renting space to a local non-profit, the Allentown Rescue Mission, to hold its 150th Anniversary Gala. Allentown Rescue Mission will purchase wine and beer and turn it over to Muhlenberg Dining Services (Sodexo). Sodexo will provide the bar service as well as the on-site catering; its bartenders are certified and trained. Guests will pay money to attend and will be provided with two drink tickets. You inquire if the provision of drink tickets is an acceptable practice.

Board records indicate that Muhlenberg College is the holder of Wholesale Tax-Exempt Alcohol Permit No. AE-175 (LID 96) for use at 2400 Chew Street in Allentown, Pennsylvania. However, the impact of holding that particular kind of license on your question is minimal.

OPINION: The sale of alcohol is illegal in Pennsylvania unless the entity selling the alcohol has a license or permit from the Board. [47 P. S. § 4-491(1), 4-492(2),(3)]. The Liquor Code defines a “sale” as any transfer of liquor, alcohol, or malt or brewed beverages for consideration. [47 P.S. § 1-102]. Therefore, it would be unlawful for a non-licensed individual or organization to sell liquor. If

the price of the ticket to the event includes access to the alcohol, this would constitute the sale of alcohol by an unlicensed entity which is unlawful. [47 P.S. § 4-491(1)]. Similarly, a ticket price that includes coupons to access alcohol, as you have described it, would be an unlawful sale of alcohol.

An option that may permit the proposed practice by Allentown Rescue Mission is to conduct the event via a Special Occasion Permit (“SOP”), if it qualifies as an eligible entity. Certain eligible entities, as defined in section 102 of the Liquor Code [47 P.S. § 1-102], may apply for and acquire an SOP, pursuant to section 408.4 of the Liquor Code. [47 P.S. § 4-408.4]. The purpose of an SOP is to provide the eligible entity with a means of raising funds for itself. Eligible entities that qualify for an SOP are authorized to sell liquor (including wine) and/or malt or brewed beverages (beer) to persons twenty-one years of age or older who are not visibly intoxicated. [47 P.S. § 4-408.4, 4-493(1)].

Only the named holder of the SOP is authorized to sell alcoholic beverages pursuant thereto, and all proceeds from the sale of alcohol pursuant to an SOP must be collected by the holder of the SOP. An SOP may be used in conjunction with activities and events involving other entities; however, no one other than the holder of the SOP may acquire a pecuniary interest therein. [47 P.S. § 4-408.4(m)]. Accordingly, the sale of alcohol at an SOP event is permissible via tickets or cash bar.

Please note that there is no prohibition in the Liquor Code against an unlicensed entity giving free or complimentary alcoholic beverages to guests at an event, provided that there is no charge to access the alcohol. Accordingly, the provision of the wine/beer cannot be predicated upon the purchase of an admission ticket, donation, or payment of any other fee, etc.; the cost of the tickets for the event must not include a charge for alcohol, and the alcohol provided must truly be free. Anyone who is twenty-one years of age or older and who is not visibly intoxicated must be able to request and receive complimentary alcohol. To ensure compliance, the non-profit may want to add language to advertising/ticket content which clearly indicates that neither a ticket purchase nor a donation of any kind is required to access the alcohol. Access to the alcohol may be limited to two drinks per person.

JoEllen Rooney
February 23, 2016
Page 3

Should you have any further questions or concerns regarding the Liquor Code or the Board's Regulations, please do not hesitate to again contact this office.

Very truly yours,

RODRIGO J. DIAZ
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

LCB Advisory Opinion No. 16-040