

October 26, 1998

Mr. Samuel DeWald  
561 Shelbourne Road  
Reading, PA 19606

Dear Mr. DeWald:

ISSUE: This is in response to your letter of September 29, 1998 to the Board, which was referred to our office for response. As First Vice-President of the Evergreen Country Club, holder of catering club license No. CC-3391, you request clarification of Board Regulations 5.81 and 5.82. Your club uses a concessionaire to operate the club's kitchen. You anticipate that the daughter and son of the concessionaire, who currently work in the kitchen for their parent, will be seeking nomination and election to your board. They have offered to serve with no pay and ask if this is lawful.

OPINION: Section 5.82(a) of the Board's Regulations [40 Pa. Code Section 5.82(a)] states that if a club does not sell food, it may permit a food concession to be operated by a person who is not an officer or employee of the club. Further, the concessionaire may not hire a person who is an officer or employee of the club or who is a licensee or an employee of another licensee. Assuming that the son and daughter are 'employed' by their parent in the kitchen, the Board interprets this regulation to prevent either of them from serving as an officer or employee of the club, whether paid or not.

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

c.c. Pennsylvania State Police

Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454  
FAX: (717) 787-8820

LCB Advisory Opinion No. 98-347