

January 5, 1999

Mr. Michael Oller

President

CHAMBERSBURG CLUB, INC.

225 Lincoln Way East

Chambersburg, PA 17201

Dear Mr. Oller:

ISSUE: This is in response to your letter of December 8, 1998 to this office in which you seek our opinion regarding two questions that concern your licensed club. Your club's bylaws call for 1,000 members and your main purpose is to foster relationships through social activities for those members. You ask if the club can change the number of members in its bylaws and the breakdown between life and annual membership categories. You also ask if it can change its rules to allow members to sponsor guests in the club dining room on more than one occasion; these guests would only be allowed in the restaurant area to dine and would not be able to purchase alcoholic beverages or participate in small games of chance.

OPINION: Section 102 of the Liquor Code [47 P.S. Section 1-102] requires that a licensed club must admit members by written application, investigation and ballot, and charge and collect dues from elected members. This section applies to both primary and associate members; it is impermissible to grant membership status to an individual who has not gone through this process. Other than the requirements set forth in section 102, the Board does not mandate specific membership requirements for licensed clubs. Section 5.81 of the Board's Regulations [40 Pa. Code Section 5.81], however, requires that a club licensee adhere to the provisions of its constitution and bylaws. Therefore, your club must adhere to any membership requirements set forth in its constitution and bylaws. As long as a change in types of memberships, the sponsorship of guests, and where and how often guests may dine is provided for or permissible under your constitution and bylaws, and the changes do not conflict with the requirements of section 102 of the Liquor Code, new classifications of or rules concerning members or guests would be permissible.

It should be noted that club licensees are required to maintain a complete membership record showing the date of application of the proposed member, the date of admission after election, the date initiation fees and dues are paid and the amounts. This record must also reflect the sponsor's name for the member, the name and address of the member and the serial number of the membership card issued to the member. Dues collected from members must be posted to income records maintained by the club. Finally, the club must maintain a minute book containing the names and dates of applicants for membership and the date the members were admitted and whether ballots were taken. [40 Pa. Code Sections 5.72-5.74].

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. 99-005