

March 16, 1999

Calvin E. Redick
Secretary/Treasurer
The American Legion Home Corporation
10 N. Main Street
Youngsville, PA 16371

RE: Appointment of Club Manager; Reporting Change in Bar Manager

Dear Mr. Redick:

ISSUE: This office is in receipt of your February 26, 1999 letter faxed to this office on the same date asking whether a recently vacated bar manager position must be filled immediately or whether the licensed club's board of directors may manage the club until such time as the board of directors feels comfortable turning over the responsibility to a new bar manager. You also inquire that if a new bar manager is required, whether the person must be involved only with the home corporation or whether the person could be a member of the board of directors who also has a job in addition to being bar manager. Finally, you ask when a change of bar manager needs to be reported to the Board.

OPINION: Section 5.16 of the Board's Regulations [40 Pa. Code §5.16] provides in part that: "[t]he operation of a licensed business requires the full time and attention of a manager." By definition, however, a club is not a business [47 P.S. §1-102] and, therefore, the manager need not devote full time and attention to the club. However, "the designated manager... may not be employed or engaged in another business unless prior written approval is obtained from the Board." Section 5.91(c) of the Board's Regulations [40 Pa. Code §5.91(c)] provides in part that a "change of club manager or steward shall be reported with the renewal of club license and at license validation on forms furnished by the Board upon request."

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Therefore, the American Legion Home Corporation must appoint a manager for the licensed establishment, and the board of directors may not collectively serve as interim manager. However, while a new manager must be appointed, said change of manager need not be reported in writing to the Board until the time of renewal of your club license. If the club wishes to appoint a member as a manager who is also employed elsewhere, the club should request permission of the Board prior to appointing this person as manager.

Please find enclosed a copy of a letter dated May 15, 1998 to all club licensees with respect to the aforementioned guidelines.

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

Enclosure

cc: Bureau of Liquor Control Enforcement,
 Pennsylvania State Police
 Robert P. Kaskiel

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

LCB Advisory Opinion No. 99-098