



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

December 11, 1990

The Honorable John Hays
Arizona State Senator
State Capitol - Senate Wing
Phoenix, Arizona 85007

Mrs. Peggy C. LaVoy
Executive Director
Board of Psychologist Examiners
1645 West Jefferson, Room 410
Phoenix, Arizona 85007

Re: I90-101 (R90-092)

Dear Senator Hays and Mrs. LaVoy:

You have asked whether the State Board of Psychologist Examiners (Board) may appear before a legislative committee to express its opinion on legislation affecting matters within the Board's jurisdiction. We conclude that it may appear before a legislative committee for such a purpose. You also asked whether the Board may vote to take a position on a bill pending before the legislature. We conclude that the Board may vote its opinion on pending legislation and may communicate its vote to the Legislature.

The Arizona Constitution and statutes give the Board authority to express its opinion on legislation. The Arizona Constitution vests the governor and state agencies^{1/}

1/ "Agency" is defined as a

board, commission, department, officer or other administrative unit of this state, including the agency head or agency employees or other persons

(Footnote 1 continued on next page)

with the executive powers of the state, and requires the governor to communicate with the legislature at every session about the condition of the state and make recommendations to the Legislature. Ariz. Const. art. V, §§ 1, 4. The constitution also provides that the governor shall transact all executive business with the officers^{2/} of the government and may require information from the officers in the Executive Department upon any subject relating to the duties of their offices. *Id.* These constitutional provisions authorize the governor to contact state boards and request legislative input. Consequently, these provisions give the Board, as a body, the authority and obligation to express an opinion on proposed legislation pertaining to matters within the Board's jurisdiction.

The Board also has statutory authority to express its opinion on pertinent legislation. A.R.S. § 41-101(A)(1) directs the governor to supervise the official conduct of all executive and ministerial officers. This implies that the governor may delegate her power to officers in the Executive Department. In most matters, executive power may be delegated to agencies, and the acts of the officers of the agencies must be regarded as acts of the executive department. Runkle v. United States, 122 U.S. 543 (1887). Because executive power may be delegated to agencies or boards, a state board may appear before the legislature on behalf of the governor. Such a delegation is also consonant with the governor's constitutional mandate to communicate with the legislature and to make recommendations concerning legislation. Ariz. Const. art. V, § 4.

Finally, we note that the Legislature has granted the Board powers to regulate the practice of psychology in this State. A.R.S. § 32-2063. The Legislature's grant of power to regulate the profession of psychology necessarily implies the authority to communicate with the Legislature on matters relating to those powers.

(Footnote 1, continued)

directly or indirectly purporting to act on behalf of or under the authority of the agency head, whether created under the constitution of Arizona or by enactment of the legislature. Agency does not include the legislature, the courts or the governor.

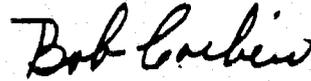
A.R.S. § 41-1001(1).

^{2/} "Officer" means a member of any board or commission.
A.R.S. § 38-101(3).

The Honorable John Hays
Mrs. Peggy C. Lavoy
Page 3

Therefore, we conclude that the Board may express its opinion as a body on the desirability of legislation within its jurisdiction.

Sincerely,



BOB CORBIN
Attorney General

BC:RMH:map