



**American Hospital  
Association**

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November 10, 2011

*Submitted Electronically*

Richard M. Thomas  
Associate General Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

**Re: RIN 3209-AA04; Standards of Ethical Conduct for Employees of the Executive Branch; Proposed Amendments Limiting Gifts From Registered Lobbyists and Lobbying Organizations, 76 Fed. Reg. 56330 (September 13, 2011).**

Dear Mr. Thomas:

The American Hospital Association (AHA) appreciates the opportunity to comment on the U.S. Office of Government Ethics' (OGE) proposed rule published in the September 13 *Federal Register* that would limit gifts from registered lobbyists and lobbying organizations to executive branch employees. The AHA counts more than 200 federal healthcare facilities among its more than 5,000 member hospitals, health systems and other health care organizations. The AHA's personal membership groups and its American Organization of Nurse Executives (AONE) subsidiary consist of approximately 1,800 individual members who are employees of the executive branch, including members of the military. The AHA is a registered lobbying organization under the *Lobbying Disclosure Act of 1995* (LDA). Our affiliated personal membership groups are not separate and distinct legal entities from the AHA. AONE, while a separately incorporated legal entity, is itself also an LDA-registered entity. Accordingly, we have an interest in the proposed rule and its impact on our ability to fully and appropriately serve the needs of our members.

The AHA fully supports OGE's mission to promote high ethical standards for executive branch employees. We generally endorse OGE's efforts in the proposed rule to limit some of the exceptions that may have been used on occasion to permit executive branch employees to accept certain gifts, such as invitations to holiday parties or other social events, where the nexus to the government's interest is attenuated. However, we are concerned that the proposed rule attempt to eliminate use of the "widely-attended gatherings" exception to the general ban on an executive branch employee's acceptance of a gift from an organization that employs registered lobbyists. This policy relies on an inaccurate understanding of trade association activities that ignores the



important role that trade associations like the AHA play in education and professional development for their respective memberships.

In the proposed rule, OGE explicitly acknowledges that certain widely-attended gatherings can serve important government purposes. OGE appropriately states that federal employees, including political appointees, should be able to accept offers of free attendance to “substantive events that would provide a legitimate educational or professional development benefit that furthers the interests of an agency.” OGE’s proposed rule would allow government employees under the gift ban exception for “widely-attended gatherings” to accept free or discounted registrations to attend educational and professional development activities held by Section 501(c)(3) organizations, institutions of higher education, nonprofit professional associations, scientific organizations and learned societies, without regard to the LDA registration status of these organizations or entities. However, the proposal then inexplicably – based solely on a definition obtained from *Encyclopedia Britannica* – carves out trade associations from that limited exception. The effect of the proposed rule would be to eliminate or significantly deter the unique and significant contributions AHA’s government and military members make to their professions and professional communities through their participation in the broad array of activities and events of the AHA and its related organizations.

In explaining the proposed rule change, OGE contends that trade associations “may sponsor educational activities for their members and even the public, but the primary concern of such associations generally is not the education and development of members of a profession or discipline, which is the focus of the proposed exclusion.” This is not so; even a cursory examination of the activities of trade associations like the AHA belies this statement.

Offering only a single example from only one of the AHA’s professional societies, the American Society for Healthcare Engineering (ASHE), establishes the centrally important role for our trade association of education and development of members of a profession or discipline that is, as OGE concedes in the proposed rule, the “focus of the proposed exclusion.” ASHE is the advocate and resource for continuous improvement in health care engineering and facilities management. Part of its central purpose is professional development through annual conferences, timely seminars on specific areas of interest, leadership programs, webinars, online education and professional networking. These events foster information sharing with professional colleagues throughout the field and across the country.

One prominent upcoming opportunity for such professional development is ASHE’s 2012 Health Facility Planning, Design & Construction™ (PDC) Summit. This program offers senior leaders from hospitals and other health care facilities an opportunity to discuss ways to advance the health care physical environment and learn about the future of health care facility planning,

design and construction. A single afternoon of only one day of the program's agenda includes peer-reviewed sessions that provide continuing education credits like:

- **Ergonomics and Health Care Technology** presented by Alan Hedge, director, Human Factors and Ergonomics Laboratory, Cornell University. Professor Hedge will explore solutions to the unique ergonomic challenges of incorporating technology into the provision of patient care, including intensive work in digital imaging, use of computers and workstations on wheels, and accessing medical records at nursing stations. This session will enable participants to:
  - Identify driving factors to be considered when planning and designing technology-intensive patient care settings.
  - Implement ideas from the examples given to successfully integrate technology into the patient care setting.
  - Discuss the ergonomic impact on caregiver health and well-being from increased use of information technology in patient care.
  - Apply various evaluation techniques, based on a review of lessons learned, to assess solutions to caregiver comfort.
- **The Next Generation of Patient Room** with presentations by Sheila Cahnman, group vice president/Regional Leader Healthcare; Eileen M. Dwyer, director, office of transformation, Rush University Medical Center; and David Printz, vice president, chief information officer, Central DuPage Hospital. This session will discuss how future trends may change how acute care inpatient rooms are designed. In addition, research results and best practices in patient room design will be presented. The session will enable attendees to:
  - Discuss research results regarding issues such as Lean operation efficiencies, patient safety, infection prevention, and patient room design.
  - Assess potential future changes in technology and systems that will affect the patient room.
  - Examine effective inpatient room configuration and size for different acuity levels bridging 23-hour or less stays to the most critical of care.
  - Discuss how Accountable Care Organizations, and a decline in inpatient reimbursement, will change the inpatient setting.

This program would seem to be precisely the kind of “substantive event that would provide legitimate educational or professional development benefit that furthers the interest of [an executive branch] agency” that the “widely-attended gatherings” exception to the gift ban for executive branch employees is designed to accommodate. The AHA believes that the rule should permit executive branch employees to use the exception to accept complementary or reduced registrations and other incentives to attend such programs and events. Attendance of government and military organizations at our programs provides an essential mix of professional

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experiences and health care settings that contributes significantly to growth and development of health care professionals.

We urge OGE to revise the rule consistent with the broader and more realistic view of the role of trade associations we have presented in this letter. Just as nonprofit professional associations, scientific organizations and learned societies do, the AHA and other trade associations serve members through tools, services and educational opportunities focused on professional growth and development that enrich individuals' professional skills and capabilities. If you have questions about our recommendations, please contact Lawrence Hughes, assistant general counsel, at [lhughes@aha.org](mailto:lhughes@aha.org) or (202) 626-2346.

Sincerely,

/s/

Rick Pollack

Executive Vice President

American Hospital Association