Dear Messrs. MacKenzie and Bates:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

**FACTS**

The facts as have been presented to this Commission are as follows:

Two members of the Alabama Assisted Living Association (AALA) recently joined the Alabama Board of Examiners of Assisted Living Administrators (BOEALA). Members of the BOEALA are appointed to their position by the Governor. The AALA is a non-profit organization whose board members serve as an advisory council to the BOEALA. The AALA does not have the authority to oversee the day-to-day operations of the BOEALA. The Attorney General’s Office has previously considered whether Alabama law prohibits someone from serving on both the
The Attorney General’s Office determined that service on both Boards was not prohibited by Alabama law. However, the Attorney General’s Office did not comment on whether the Ethics Act would prevent service on both Boards. This Commission has not previously addressed whether a member of the BOEALA may also serve on the AALA.

**QUESTION PRESENTED**

May a person who serves on the BOEALA also serve as a Board member of the ALAA?

**ANALYSIS**

Members of the BOEALA are public officials by virtue of their appointment to the position by the Governor. The AALA is a non-profit 501(c)4 and their members are elected from the providers who are members of the AALA. Therefore, the members of the AALA Board are not public officials and are not governed by the Ethics Act. The Ethics Act prohibits public officials from using their official position to obtain personal gain for themselves, their families, or any business with which they are associated. The members of the BOEALA may not use their position to vote on or influence official action to obtain personal gain or use any official resources, including personnel, for the private or business benefit of any person. The AALA Board serves only as an advisory council to the BOEALA and the BOEALA has no authority.
over the AALA. For that reason, there is no provision in the Ethics Act that would prohibit a person who serves on the BOEALA from also serving as a Board member of the ALAA. As a BOEALA Board member, however, that person could not use his or her position to benefit themselves, their family or any business with which they are associated.

CONCLUSION

A member of the Alabama Board of Examiners of Assisted Living Administrators may also serve as a Board member of the Alabama Assisted Living Association without violating the Ethics Act.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on February 3, 2021.

Beverlye Brady
Chair
Alabama Ethics Commission