

Mr. Brad C. Deutsch
Assistant General Council
Federal Election Commission
999 E Street, NW
Washington, DC 20463
paydeduct@fec.gov

Re: FEC Notice 2004-18: Payroll Deductions by Member Corporations for Contributions to a Trade Association's Separate Segregated Fund

Dear Mr. Deutsch:

The American Physical Therapy Association (APTA) writes to express its support for the changes to 11 CFR § 114.2 and § 114.8 set forth in the Commission's notice of proposed rulemaking published in the Federal Register of December 22, 2004, 69 FR 76628-76632. The APTA is a nonprofit corporation organized under Illinois law that is an organization within § 501(c)(6) of the Internal Revenue Code. The APTA serves as the principal professional association for more than 66,000 physical therapists, physical therapist assistants, and students of physical therapy. The APTA is a membership organization all of whose members are individuals (i.e., natural persons). The APTA has a connected separate segregated fund called PT-PAC (Physical Therapy Political Action Committee). Under 11 CFR § 114.7(a), the PT-PAC may solicit contributions from members of APTA and from executive or administrative personnel of APTA.

For the reasons stated in the notice under Summary of Comments on the Petition for Rulemaking, APTA supports the proposal to amend § 114.8 (e)(3) of the Commission's regulations to allow a trade association to use payroll deduction vehicles to facilitate voluntary contributions from its corporate members' restricted classes to its separate segregated fund. Those reasons include the inconsistency between the first sentence of 11 CFR § 114.8(e)(3), which permits a trade association to use any method to solicit and facilitate voluntary contributions from restricted class employees of consenting member corporations, and the second sentence of 11 CFR § 114.8(e)(3), which contains the prohibition on member corporations' use of payroll deduction and check-off systems. The current federal regulations lack a policy rationale for this prohibition, and the proposed changes to 11 CFT § 114.8(e) would allow greater participation in the political process by restricted class employees through a payroll deduction or check-off system as an incidental service by the corporation.

In addition, the APTA strongly believes that the Commission should include membership organizations as part of this change to allow restricted class members to contribute through a payroll deduction system. According to 11 CFR § 114.7(f), there "is no

limitation under this section on the method of solicitation or the method of facilitating the making of voluntary contributions which may be used." Currently 11 CFR § 114.7 contains no prohibition against use of a payroll deduction arrangement comparable to the existing prohibition in the second sentence of 11 CFR § 114.8(e)(3).

Many of the APTA's members are physical therapists in private practice who operate their practice through corporations. Such businesses often employ physical therapists who themselves are APTA members. No policy reason exists to treat such corporations differently from the corporations authorized to utilize payroll deduction arrangements under proposed 11 CFR § 114.8(e)(4). Therefore, the APTA believes that the Commission's final rule should include amendments to 11 CFR § 114.7(f) that would make it read as follows:

Section 114.7 Membership organizations, cooperatives, or corporations without capitol stock.

* * *

(f) (1) There is no limitation on the method of soliciting voluntary contributions or the method of facilitating the making of voluntary contributions which may be used.

(f) (2) A corporation controlled by one or more members of a membership organization may provide incidental services, to collect and forward contributions from its employees who are members of the membership organization to the separate segregated fund of the membership organization, including a payroll deduction or check-off system, upon written request of the membership organization. For this purpose a corporation shall be deemed controlled by one or more members of a membership organization only if one or more such members own all of the stock of the corporation. Any corporation that provides such services shall make those services available to a labor organization representing any members working for the corporation, upon written request of the labor organization and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby.

The foregoing rule would create parity between the separate segregated funds of associations whose members are individuals and those whose members include corporations.

Many APTA members have expressed interest in voluntarily contributing to the PT-PAC through their businesses. Payroll deduction systems would provide an important option for our members to easily become involved in the political process and increase political participation while providing an ongoing mechanism to comply with Commission recordkeeping and reporting requirements.

The APTA strongly urges the Commission to adopt the rule set forth in the notice of proposed rulemaking and the substantially identical provision outlined above. Thank you for your consideration of our comments.

Sincerely,

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