

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 2 - 2020

RE: Propriety of a part-time municipal judge serving on the board of directors for a local not-for-profit hospital.

Propriety of a part-time municipal judge serving on the board of directors for a local charitable organization that feeds indigent hungry individuals.

FACTS

A municipal judge presents two questions. The first is whether a part-time municipal judge may serve on the board of directors for a local not-for-profit hospital. Board members approve by-laws, review reports on staff competence, coordinate professional services of the hospital with community needs, provide adequate financing, and much more. There are monthly board meetings and board members are also expected to sit on at least two committees with either monthly or quarterly meetings.

The judge also inquires in to the propriety of serving on the board of directors for a local charitable organization that feeds indigent hungry individuals. That organization also provides “meals on wheels” to elderly that have difficulty leaving home.

CONCLUSION

A part-time municipal judge may serve on the board of a non-profit hospital.

A part-time municipal judge may serve on the board of directors for a local charitable organization that feeds indigent hungry individuals, provided the judge does not participate in fundraising efforts.

OPINION

This Committee has addressed, on multiple occasions, the propriety of a judge serving on the board of directors for a hospital. See, Opinions 5-1995, 9-1995, 13-1997, 2-1998, and 14-2010. We have generally concluded that such service is not permissible, primarily because of Canon 4C(3)(A)(i), which states that a “judge should not serve [as an officer, director, etc.] if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be engaged in adversary proceedings in any court.” We concluded that in today’s litigious society, hospitals are likely to appear as parties in court proceedings. We particularly noted that hospitals may engage in collection proceedings in magistrate’s court that would preclude magistrates from serving on hospital boards. See, Op. 5-1995, 9-1995, 2-1998. However, in Opinion 17-1998, we found that a part-time municipal judge could serve as a director for a local non-profit hospital, noting that legal proceedings involving a hospital were not likely to come before the limited jurisdiction of a municipal court.¹ Thus, Canon 4C(3)(A)(i) would not be implicated. Therefore, we again find that a part-time municipal judge can serve on the board of non-profit hospital, provided his or her title is not used in identifying the judge as a board member as it could be seen as lending the prestige of office to the hospital.²

¹ S.C. Code § 14-25-45 states: “Each municipal court shall have jurisdiction to try all cases arising under the ordinances of the municipality for which established. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed on municipal courts. **The court shall have no jurisdiction in civil matters.**” (emphasis added).

² This decision does not affect the previous opinions regarding magistrates, or 14-2010 which involved a full-time Circuit Court judge. Opinion 13-1997 did not specify which type of judge made the inquiry but should still be applicable to that specific inquiry.

With regard to the second question presented, the Code of Judicial Conduct permits a judge to serve as an officer, director, trustee, or non-legal advisor of a charitable organization. Canon 4C(3). Thus, a part-time judge may serve on the board of a charitable organization that provides meals for the indigent or infirm. However, in so serving, a judge must observe the prohibitions on fund-raising. The judge is cautioned that in publications identifying the members of the charity's board of directors, the judge's title should not be used as it could be seen as lending the prestige of office to the charitable organization.

s/ Letitia H. Verdin
LETITIA H. VERDIN, CHAIR

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES

s/ Keith M. Babcock
KEITH M. BABCOCK

January 9, 2020