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STANDING COMMITTEE ON JUDICIAL ETHICS BY

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ADVISORY OPINION: JE13-005

PROPRIETY OF A NEVADA JUDGE SERVING AS A MEMBER OF THE BOARD OF DIRECTORS OF A NON-PROFIT ORGANIZATION THAT PROMOTES IMPROVEMENTS IN THE QUALITY OF HEALTHCARE IN NEVADA

ISSUE

May a Nevada judge accept an appointment to serve on the board of directors of a non-profit organization that works to improve the quality of healthcare in Nevada?

ANSWER

Yes, unless it is likely that the non-profit organization will be engaged in proceedings that would ordinarily come before the judge, or frequently be engaged in adversary proceedings in the court of which the judge is a member.

FACTS

A senior judge asks whether a Nevada judicial officer may serve on the board of directors of a non-profit organization that seeks to improve the quality of healthcare in Nevada. While the non-profit organization is affiliated with an entity that engages in lobbying, the non-profit entity itself does not engage in any lobbying and is focused instead on finding ways to improve care at healthcare facilities in the state.

The senior judge has indicated that he would not participate in any deliberations, and would abstain from voting, should the non-profit consider an item seeking legislative action.

DISCUSSION

The Committee is authorized to render advisory opinions evaluating the scope and applicability of the NCJC. *Rule 5 of the Rules Governing the Standing Committee on Judicial Ethics*. Accordingly, this opinion is limited by the authority granted by Rule 5.

Canon 3 of the NCJC states “[a] judge shall conduct the judge’s personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.” Subject to certain restrictions, however, the NCJC expressly provides that a judge may participate in activities that are sponsored by or conducted on behalf of charitable or civic organizations that are not conducted for profit. Such participation includes, but is not limited to, serving as a director of such an organization unless it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge, or frequently be engaged in adversary proceedings in the court of which the judge is a member. Rule 3.1; Rule 3.7(A)(6).

Based on the information provided by the senior judge, the committee does not believe there is a significant likelihood that the non-profit organization at issue is of the type that would ordinarily be engaged in such proceedings. As such, the committee



concludes that the judge's participation as a board member of an organization that promotes improvements in the quality of healthcare in Nevada is allowable. The Committee cautions, however, that this opinion is based on the information provided about the role of the non-profit entity and the judge's representation that it does not engage in lobbying or other political activity or, alternatively, that he would abstain from getting involved in such activities.

For additional guidance on judicial officers serving as board members of non-profit entities see: JE00-007 (concluding that a family court judge may serve on the board of directors of a non-profit whose purpose is to assist at-risk youth by providing programs related to independent living skills, mentoring, education, and job placement); JE09-005 (concluding that a judge could accept an appointment as an honorary member of the board of directors of a non-profit entity focusing public attention on modern slavery and human trafficking); JE12-006 (concluding that a judge could serve as a member of the board of a non-profit organization that provides services and assistance related to children's issues including, literacy, parenting skills, and foster care); JE09-002 (concluding that a judge could not serve on the board of a non-profit organization providing support services to victims of domestic violence without first determining that the organization would not be engaged in proceedings that would ordinarily come before the judge, or frequently be engaged in adversary proceedings in the court of which the judge is a member); JE11-009 (concluding that a Nevada judicial officer could not accept an appointment as a volunteer court appointed special advocate or serve on the Board of Directors of a court advocacy program because such an organization would engage in proceedings

ordinarily coming before the courts or would frequently engage in adversary proceedings in the district in which the judge sits).


CONCLUSION

A Nevada judge may serve as a member of a board of directors of a non-profit organization that works to improve the quality of healthcare in Nevada subject to the limitations set forth in Rules 3.1 and 3.7(A)(6), and discussed in the Committee's previous opinions referenced herein.

REFERENCES

Rule 5 Governing the Standing Committee on Judicial Ethics; Nev. Code Jud. Conduct, Canon 3, Rules 3.1 and 3.7; JE00-007; JE09-002; JE09-005; JE11-009; JE12-006.

This opinion is issued by the Standing Committee on Judicial Ethics. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.



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