

Maryland Judicial Ethics Committee

Opinion Request Number: 1983-03

Date of Issue: June 27, 1983

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Judge Not to Lecture at Nearby Private Rehabilitation Facilities; Not to Speak at Fundraisers;
May Otherwise Engage in Educational Activities and Tape Lectures for Sale

A judge has asked six related questions as to the propriety of lecturing, speaking or teaching for a fee in various settings on the subject of alcoholism, a field in which the judge's expertise is recognized locally, nationally and internationally.

The judge asks if he may lecture for a fee at one or more of the five private alcohol rehabilitation facilities in the State of Maryland, first to lecture in a facility on a rotation basis so that each patient will hear the talk at least once, and secondly, to lecture to the patients and their families on a non-rotation basis.

Canon XXIII of the Canons of Judicial Ethics provides:

“A judge should not accept inconsistent duties; or incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions.”

[Opinion Request Nos. 1971-05 and 1979-07] of this Committee prohibit a judge from having any official connection with, or actively participating in, an agency which appears before the Court or whose clientele appears before the Court. Participation as a lecturer in any alcohol rehabilitation clinics which are closely related geographically to the courts in which the judge sits might prevent him from acting with complete objectivity, or appear to do so, in regard to patients who might later appear before him as probation violators.

Accordingly, the Committee concludes that the judge should decline to lecture at such alcohol rehabilitation facilities in the county to which he is assigned and in those other counties in Maryland where there is a reasonable likelihood that he will find patients who are under his probation.

Next, the judge inquires whether he may, for remuneration, from time to time take part in educational seminars in the State of Maryland as a speaker or panel member.

Canon XXX provides that a judge may lecture or instruct in law or write upon the subject and accept compensation therefore [sic], if such a course does not interfere with the due performance of his judicial duties.

While lecturing on alcoholism does not constitute instruction in law, it pursues a goal common to the court and to the organizations which treat alcoholism, to wit, elimination of the problems which alcoholism presents to society. Courts must deal with abuse of alcohol through sentencing and the clinician through treatment.

This Committee, in describing a book concerning the prevention and treatment of alcoholism, and passing upon the propriety of a judge writing an introduction to it, stated that “while this book is not a legal publication in the strict sense of that definition, it has a similar purpose.” See [Opinion Request No. 1980-07].

In recognition of that communion of purpose, the Committee is of the opinion that it would

Maryland Judicial Ethics Committee

Opinion Request Number: 1983-03

Date of Issue: June 27, 1983

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Page 2 of 2

be proper for the judge to participate in educational seminars, either as a speaker or panel member and accept an appropriate fee. The Committee does not find in these seminar lectures the dangers inherent in lecturing in alcoholism rehabilitation clinics.

The judge further inquires if he may teach a basic, broad outline course, "Introduction to Alcoholism" and possibly another course in a community college during another semester for the usual instruction fee. Under the facts presented in this case, the Committee finds no critical, ethical difference between lecturing at educational seminars and teaching a course at a community college. Therefore, adopting the reasoning set forth in two preceding paragraphs, the Committee is of the opinion that it would be proper for the judge to teach said courses. However, the Committee cautions the judge that he must so limit his labors as to not interfere with the expeditious handling of his official functions as a judge. (Canon XXIII).

Further, the judge asks if it would be ethical for him to be a keynote speaker at some of the annual fund raising dinners at the National Council on Alcoholism and the American Council on Alcoholism, non-profit organizations devoted to fighting alcoholism. The judge notes that the affairs are highly advertised and promoted and that the identity of the speaker contributes greatly to the success or failure of the effort.

Rule 9 of the Canons and Rules of Judicial Ethics provides, among other things, that a judge may not personally solicit funds for any purpose, charitable or otherwise. To participate in a national fund raising affair as a keynote speaker would clearly violate that prohibition. The Committee, therefore, concludes it would be improper for the judge to accept that task for the reasons set forth in [Opinion Request No. 1979-06].

Finally, the judge asks if he may do a series of films and/or video tapes of his lectures, as has been suggested by an independent production company, under an arrangement whereby he would be paid a fee for each lecture and a residual on the sales. He states that the films and tapes would be sold to anyone desiring a particular lecture for use in education or in the treatment area.

As previously noted, Canon XXX permits a judge to write commercially on the law; and this includes writing on the subject of alcoholism and alcohol treatment. See [Opinion Request Nos. 1976-08 and 1980-07]. Since the judge would be permitted to reduce his lectures to writing and have them sold for remuneration by a publisher, we believe it is equally permissible for the judge to have his lectures video-taped and sold for remuneration by an independent production company. That the distribution is in taped rather than written form is not material.

We concluded earlier in this opinion that the judge would not lecture at alcohol rehabilitation clinics which are closely related geographically to the courts in which the judge sits. For the same reasons, those clinics should not be solicited for the purchase of the tapes of any of the judge's lectures. With this one proviso, we are of the opinion that it is permissible for the tapes of the judge's lectures to be sold to the same extent that a judge's writings could be sold.