

## Maryland Judicial Ethics Committee

**Opinion Request Number:** 2008-25

**Date of Issue:** December 30, 2008

■ Published Opinion    □ Unpublished Opinion    □ Unpublished Letter of Advice

Judge May Sit on the Board of Directors of The Good Shepherd Center

**Issue:** May a judge sit on the Board of Directors of The Good Shepherd Center, a residential treatment facility for adolescent girls serving the State of Maryland?

**Answer:** Yes.

**Facts:** The Good Shepherd Center (the “Center”) is a non-profit 501(c)(3) organization that provides treatment, residential and educational services for adolescent girls and their families. The Center serves Maryland and the District of Columbia. It accepts referrals from the Maryland Department of Juvenile Services, the Maryland Department of Social Services, Maryland’s local Boards of Education and the Maryland Department of Health and Mental Hygiene. The Center’s residential treatment facility can accommodate 105 girls between the ages of 13 and 18, and is licensed and accredited through the Maryland Department of Health and Mental Hygiene. The day school operated by the Center is licensed by the Maryland State Department of Education and provides classroom instruction for grades 8 through 12. There is no indication that the Center accepts court ordered referrals.

In light of this Committee’s recent ruling in [Opinion Request No. 2008-12], issued on July 22, 2008, (a presiding Juvenile Drug Court judge may not serve on a Board of Directors of a non-profit drug treatment organization that receives referrals from the Juvenile Drug Court), the requesting judge has asked whether service on the Board of Directors of The Good Shepherd Center would violate the Maryland Code of Judicial Conduct. The requesting judge recognizes that the Maryland Code of Judicial Conduct prohibits fund-raising by judges.

**Discussion:** Canon 4C(4)(a) of the Maryland Code of Judicial Conduct (Md. Rule 16-813) states that, subject to limitations provided in the Code, “a judge may be a director, member, non legal adviser, officer, or trustee of a charitable, civic, educational, fraternal or sororal, law related, or religious organization.” Limitations on such service require that the judge’s participation not put at issue the judge’s impartiality, demean the judge’s office or interfere with the proper performance of judicial duties. Canon 4A. A judge wishing to serve on a Board of Directors is further constrained by Canon 4C(4)(b) and 4C(4)(c). Canon 4C(4)(b) prohibits a judge from serving as a director, adviser, officer, or trustee of an organization that is conducted for the economic or political advantage of its members. Canon 4C(4)(c) prohibits a judge from serving as a director, adviser, officer, or trustee of an organization if it is likely that the organization will be engaged regularly

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in adversary proceedings in any court or any court refers individuals to the subject organization.

As a non-profit 501(c)(3) organization, The Good Shepherd Center is not operated for the economic or political advantage of its members. Likewise, there is no indication that the Center is likely to regularly engage in adversary proceedings before the Maryland courts. Referrals to The Good Shepard Center are made from the Department of Juvenile Services and the Department of Social Services, and not directly from any court.<sup>1</sup> In this respect, Judicial Ethics Opinion No. 2008-12 is distinguishable. In Opinion No. 2008-12, the judge was seeking to join a non-profit organization that received referrals directly from the court upon which that judge sat. There appears to be no such issue with The Good Shepherd Center's referral policy.

The judge recognizes that he or she would be largely prohibited from securing outside resources for the organization. Canon 4C(4)(d)(i)(A) prohibits a judge, with certain exceptions, from participating in the solicitation of funds or other fund-raising activities. Canon 4C(4)(d)(i)(B)(iii), in turn, prohibits a judge from lending or using the prestige of judicial office for fund-raising.

The requesting judge is reminded that should the judge be presented with a case brought against, or involving a patient of, The Good Shepard Center, recusal would be warranted under Canon 3D.

**Application:** The Judicial Ethics Committee cautions that this opinion is applicable only prospectively and only to the conduct of the requestor described in this opinion, to the extent of the requestor's compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this opinion.

Additionally, this opinion should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If you engage in a continuing course of conduct, you should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.

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<sup>1</sup> In sentencing a child offender, the Juvenile Court may commit a child to the custody of the Department of Juvenile Services. The court may designate the type of facility where the child can be accommodated, but it may not designate the specific facility, as such designation is the prerogative of the Department of Juvenile Services. See *In re Demetrius J.*, 321 Md. 468, 474 (1991).