



**STATE OF VERMONT**  
**JUDICIAL ETHICS COMMITTEE**

Opinion No.: 38  
Date: April 9, 2026, 2026  
To: [name redacted in posted version pursuant to A.O. 35, ¶ 6]

The Committee has considered the matter you presented to it. The following is the opinion of the Committee and a response to your inquiry pursuant to Administrative Order No. 35.

**Question Presented**

Whether a probate judge (or candidate for probate judge) may serve on the board of a local hospital or health center?

**Short Answer**

Yes, the Committee believes that a Vermont probate judge (or candidate for probate judge) likely may serve on the board of a local hospital or community health center unless the organization would frequently be engaged in litigation before the judge.

**Relevant Provisions of Code of Judicial Conduct**

The relevant provisions of the Vermont Code of Judicial Conduct 2019 (“the Code” or “V.C.J.C.”) include the following rules and guidance:

- Canon 1, Rule 1.2: A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
- Canon 2, Rule 2.1: The duties of judicial office, as prescribed by law, shall take precedence over all of a judge’s personal and extrajudicial activities.
- Canon 3, Rule 3.1: A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall

not: (A) participate in activities that will interfere with the proper performance of the judge's judicial duties; (B) participate in activities that will lead to frequent disqualification of the judge; (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality....

- Canon 3, Rule 3.7: (A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities: . . . (6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity: (a) will be engaged in proceedings that would ordinarily come before the judge; or (b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

## **Analysis**

Under Rule 3.7, a judge may serve as a director or trustee of a charitable organization unless the organization is likely to be engaged in proceedings before the court. As long as the hospital and community health center operate as non-profit, charitable organizations and do not appear in proceedings before the judge, the judge may serve on their board.

A New York ethics opinion agrees. N.Y. State Jud'l Ethics Opinion 20-45 (March 19, 2020) (judge may serve on the board of a not-for-profit entity that runs community-based health care facilities, providing it is not likely to regularly appear in litigation). Some other state's ethics opinions have concluded that a judge may not serve on a health care entity's board, but primarily because the organization in question is frequently in litigation. See; e.g., Conn. Comm. On Judicial Ethics, Op. 2023-04 (July 20, 2023)(finding over 1300 superior court records involving entity in question and noting its role as advocacy organization).


The Committee would caution that the judge is still required to comply with Rule 1.2, which requires that the judge "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary." In addition, Rule 3.1 includes some limitations on extrajudicial activities, and the judge must ensure that nothing about the judge's service interferes with the judicial duties, leads to frequent disqualification, or appears to undermine independence, integrity, or impartiality.


Other portions of the Code may also limit the judge's participation in certain other activities often related to board roles, such as fundraising (permitted only from judge's family and certain other judges). Rule 3.7(A)(2). A prior opinion of this Committee addressed the question of whether an elected judge could serve on the board of a nonprofit


education and advocacy organization related to Vermont prisons. Opinion 2728-15 (Dec. 16, 2013). That opinion includes more extensive discussion of some of the cautions.


### Conclusion


It is the opinion of this Committee that a Vermont probate judge may serve on the board of a local hospital or health center that is not engaged in proceedings before that probate court. The judge must ensure that the judge's judicial duties take precedence and must act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary. Further, if the hospital or community health center were to appear before the probate court with any frequency, the judge would likely be required to resign from the board to ensure continued compliance with the Code of Judicial Conduct and to preserve public confidence in the judiciary.

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