



JUDICIAL INVESTIGATION COMMISSION

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August 25, 1999

Re: JIC Advisory Opinion 1999-09

Dear

In a recent letter to Counsel to the Judicial Investigation Commission you stated that you have appointed two individuals as Co-Mental Hygiene Commissioners and that one of the Commissioners has just been appointed as a Family Law Master to take office on October 1, 1999. You asked for an advisory opinion regarding whether that person could continue to serve as a Mental Hygiene Commissioner after assuming office as a Family Law Master. You stated that it is difficult to find well-qualified people for these positions which are not terribly desirable. The Commission has reviewed your request for an advisory opinion.

Both the position of Mental Hygiene Commissioner and Family Law Master are offices within the definition set forth in the relevant statutory provisions. The Constitution of West Virginia Article 8 §7 states in pertinent part:

No justice, judge, or magistrate shall hold any other officer, or accept any appointment for public trust, under this or any other government; nor shall he become a candidate for any elective office or nomination thereto except a judicial office; . . .

While the language does not specifically address Family Law Masters or Mental Hygiene Commissioners, the intent that no judicial officer serves in another office or accepts any appointment for public trust is made clear.

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The Commission feels that in view of the constitutional language specifically prohibiting justices, judges, or magistrates from holding any other office or accepting appointment for public trust the intent of the language should be read to include Mental Hygiene Commissioners and Family Law Masters. The Commission therefore, feels that it would not be appropriate for a Family Law Master to serve as a Mental Hygiene Commissioner while serving in the position of Family Law Master.

There may also be apparent in some cases, issues which would create a conflict of interest if one individual were to remain in both positions. It is hoped that this opinion addresses all the questions in your correspondence. If there are any other questions regarding this matter do not hesitate to contact the Commission.

Very truly yours,



John W. Bennett, Chairman

JWB:nb