



**JUDICIAL INVESTIGATION COMMISSION**

West Virginia Judicial Tower - Suite 700 A  
4700 MacCorkle Avenue, SE  
Charleston, West Virginia 25304  
(304)558-0169

December 6, 2022

Re: JIC Advisory Opinion 2022-31

Dear \_\_\_\_\_ :

Your request for an advisory opinion to Counsel was recently reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You are presently a Mental Hygiene Commissioner in one County. You have accepted a position to serve as an Assistant Prosecutor in another county. You want to know if you can concurrently serve as an Assistant Prosecutor and a Mental Hygiene Commissioner since the positions are in different counties and different judicial circuits.

To address the question which you have raised, the Commission reviewed the Constitution of West Virginia, Article VIII, § 7, which provides in pertinent part:

No justice, judge or magistrate shall hold any other office, or accept any other appointment for public trust, under this or any other government; . . .

Application I(A) of the Code of Judicial Conduct defines the term "judge" to include Mental Hygiene Commissioners.

Based upon the foregoing, it is the position of the Judicial Investigation Commission that you cannot concurrently serve as an Assistant Prosecutor in one county and a Mental Hygiene Commissioner in another county outside the same judicial circuit because it would violate the Constitution of West Virginia, Article VIII, § 7. The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Alan D. Moats".

Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/tat