
E-84-16 District attorney serving on community board of directors

Question

May a county assistant district attorney serve as a member of a Chapter 51 (State Mental Health Act) community board of directors while simultaneously regularly representing the interests of the public in Mental Health Act commitment proceedings as directed by Wis. Stat. sec. 51.20(4) (1981-82)?

Opinion

Under the State Mental Health Act, a community board's duties center on providing for program needs of persons suffering from mental disabilities, including mental illness, mental retardation, alcoholism and drug abuse. Wis. Stat. sec. 51.42(5) (1981-82). A county district attorney under the Act has the duty to represent the interest of the public in the conduct of all mental health proceedings, including the drafting of all necessary papers related to such actions. Wis. Stat. sec. 51.20(4) (1981-82).

It does not appear that the dual roles of board member and district attorney are necessarily incompatible. However, Wisconsin Supreme Court Rule 20.23(1) states that a lawyer should exercise independent professional judgment solely for the benefit of the client and free of compromising influences and loyalties. *See also* SCR 20.23(4)(a). Under the State Mental Health Act, the district attorney's client is the public interest. Accordingly, so long as a county assistant district attorney can exercise his or her independent professional judgment solely for the benefit of the public interest and free of compromising influences as a result of his or her position on the community board of directors, it would be permissible for him or her to serve in both capacities.