

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

for which I have been treated or injuries in connection therewith.

I fully understand that I am directly and fully responsible to said doctor for all medical bills submitted by him for services rendered me and this agreement is made solely for said doctor's additional protection and in consideration of his waiting for payment. I further understand that such payment is not contingent on any settlement, judgment or verdict by which I may eventually recover said fee, _____.

Dated: _____ Patient's Signature: _____

The undersigned being attorney of record for the above patient does hereby agree to observe all the terms of the above and agrees to withhold such sums from any settlement or verdict as may be necessary to adequately protect said doctor above named and I further agree and assume payment of said lien in the event of a substitution of attorneys.

Dated: _____ Attorney's Signature _____ "

OPINION

In the opinion of the Committee there is nothing unethical or improper about an attorney signing the quoted form or any lien form in substantially the same terms, assuming the client is made to understand that the attorney is in no way representing the doctor. This opinion is not intended to recommend the use of this or any form of lien assignment or the advisability of signing it by any attorney.

Opinion #122 - 10/30/69 (21-69)

Topic: Advertising by association of attorneys
Digest: An association of defense attorneys may use billboards and other information media to improve the public image of attorneys representing persons accused of crime, and to influence legislation.
Canons: Former Canons 27, 28, 40. Code of Professional Responsibility (effective 1/1/70) Canons 2 & 8

QUESTION

A group of attorneys who regularly defend persons accused of crimes has organized a "defenders association". It wishes to improve the public image of Public Defenders, Administrators, Legal Aid Societies and all other attorneys representing such defendants. It is opposed to the enactment of certain proposed legislation affecting criminal procedure. As part of its program may the association:

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1. Rent billboard space to display their motto "Not All Are Guilty", a facsimile of the scales of justice or a picture of hands in handcuffs, and the name of the association?

2. Use writings and other news media to support or oppose proposed legislation enactments.

OPINION

Canon 27 forbids the solicitation of business, directly or indirectly. Canon 28 condemns stirring up strife and litigation. Canon 40 permits writings and publications which are in the public interest and give general information on the law. Canon 2 of the new A.B.A. Code encourages attorneys to educate laymen to recognize legal problems and make legal counsel available, while avoiding personal publicity or solicitation. Canon 8 of the same Code admonishes attorneys to give active support to legislation and programs which improve the legal system.

Bar association and institutional advertising of programs for the general benefit of the public have been approved by ethics committees as well as the courts, even though some indirect financial benefits may inure to members of the bar, so long as individuals are not extolled and no semblance of personal solicitation is involved. ABA 121, 179, 205, 227 and 307; ABA Inf. 768; Drinker, Legal Ethics, pp 254-257; Jacksonville Bar Assn. v. Wilson, 102 S. 2d 292 (Fla. 1958).

The formation of constitutional defense committees by associations of lawyers to defend civil rights does not violate professional ethics (ABA 148 & Inf. 786). A local bar association may form a special committee to conduct a campaign to educate the public as to the desirability of repeal of a local law it considers inequitable (ABA Inf. 969).

Canon 27 is aimed at commercialization of the profession and personal solicitation of business. Canon 28 condemns stirring up litigation which would not otherwise arise. Neither canon prohibits an association of attorneys from conducting an impersonal public education program, or influencing legislation in an effort to improve the administration of justice.

It is the opinion of this committee that the proposed activities of the defenders association would not be unethical, so long as they are conducted without personal solicitation or advertisement, and in a manner in keeping with the dignity of the profession.

Opinion #123 - 12/5/69 (31-69)

Topic: House Counsel as attorney
of record on behalf of
employer

Digest: House Counsel may appear as
attorney of record on behalf
of employer

Code*: Canon 2, DR 2-104(A) (4)