



## Committee on Professional Ethics

Opinion #281 - 1/25/73 (2-73)

Topic: Payment to Retired Partner  
or Estate of Deceased  
Partner.

Digest: Not improper if not pro-  
hibited by statute to  
pay to retired partner or  
estate of deceased partner,  
an amount measured by  
earnings accrued after re-  
tirement or death.

Code: DR 3-102(A) (1): EC 3-8

### QUESTION

May a law firm pay to a retired partner or to the estate or beneficiary of a deceased partner an amount measured by earnings accrued after the retirement or death of the partner?

### OPINION

As a general rule, it is improper to share legal fees with a layman. EC 3-8. There were conflicting opinions and comments under former Canon 34. N.Y. State 48 (1967); ABA 266 (1945); ABA 308 (1963); ABA Inf. 509 (1962); N.Y. City 591 (1941); N.Y. County 161 (1918); Drinker, Legal Ethics, 189 (1953). The Code, however, as an exception to the general rule, permits a law firm to pay to a retired partner or to the estate or beneficiary of a deceased partner an amount measured by earnings accrued after the retirement or death of the partner. DR 3-102(A) (1); EC 3-8; ABA 327 (1971).

DR 3-102(A) (1) provides that a lawyer or law firm shall not share legal fees with a non-lawyer, except that:

"An agreement by a lawyer with his firm, partner, or associate may provide for the payment of money, over a reasonable period of time after his death, to his estate or to one or more specified persons."

Accordingly, the practice would not be improper.

-----