Opinion #488 - 7/17/78   (35-78)   Topic: Academic degrees; advertis-
ing and publicity; puffery.

Digest: Lawyer may display and
publicize LL.B. or J.D.,
but not both degrees.

Code: DR 2-101(A), (B) and (C)(1).

QUESTION

May a lawyer who has been awarded a J.D. in replacement of a
previously earned LL.B. display or otherwise simultaneously
publicize both degrees?

OPINION

During the past several years, it has become commonplace for
law schools to substitute J.D.'s for previously earned LL.B. degrees.
The substitution is generally made retroactive to the date of the
original degree and a new diploma is issued. Some law schools have
offered to replace all LL.B.'s without further qualification, while
others maintain the technical distinction between the two degrees
by offering to award substitute J.D.'s only to those former students
who had completed at least three years of college at the time of
their graduation from law school. No matter how the various law
schools differ in their use of these degrees, however, all of them
consider their graduates to have earned only one degree. Hence,
no graduate can properly claim to have earned two degrees.

The provisions of DR 2-101(C)(1), as recently amended, permit
a lawyer to publicize his "education, degrees and other scholastic
distinctions." Although the term "degrees" is unqualified, it is
clear that the amended Code intends to perpetuate the concept of
an "earned degree" contained in former subdivision (F) of DR 2-102 1/,
which subdivision was repealed in this State along with the general
revision of the Canon 2 Disciplinary Rules relating to lawyer adver-
tising discussed in N.Y. State 487 (1978). In this connection, it
should be noted that while, for the limited purpose of applying
DR 2-101(F), we held that a J.D. issued in replacement of an LL.B.
could be deemed an "earned degree", it was never intended to sanction

OVER---

1/   Former DR 2-102(F) provided:

"Nothing contained herein shall prohibit a lawyer from using
or permitting the use of, in connection with his name, an earned
degree or title derived therefrom indicating his training in the
law."

the simultaneous use of both degrees. N.Y. State 105(a) (1969). Our position then was thus fully consistent with the view later expressed in N.Y. City 876 (1971) where it was said that:

> "[L]awyers who have been awarded a J.D. degree for courses of study no different than those traditionally required for an LL.B. degree should scrupulously avoid giving the impression that the J.D. degree or the title 'Doctor' represents any course of study, qualification, or expertise not associated with the traditional LL.B. degree."

Certainly, this rule applies with equal if not greater force to a substituted degree given retroactive effect.

There can be no legitimate reason to refer to both degrees, unless it is to explain the substitution of one for the other; and, even then, the lawyer must be especially careful not to create the impression that the substitution was effected for some reason suggesting greater merit than that which originally obtained. Cf., N.Y. State 105(a), supra ("care must be taken that any such listing or use be accurate") with Okla. Op. 277 (1974), Fla. Op. 68-28 (1968) (when listing J.D. degree, lawyer must indicate date of substitution) and Fla. Op. 68-9 (1968) (lawyer may not display both diplomas in his office), respectively indexed at 9744, 6548 and 6533 in O. Maru, Digest of Bar Association Ethics Opinions (1970; 1975 Supp.).

Within the context of the question posed, the recent amendments to the Canon 2 Disciplinary Rules do not detract in any way from the foregoing principles and authorities. Indeed, to the extent that the new rules expressly condemn the dissemination of "misleading" statements or claims containing "puffery", they clearly support these prior authorities. DR 2-101(A) and (B).

For the reasons stated, and subject to the qualifications hereinabove set forth, the question posed is answered in the negative.