# Nebraska Ethics Advisory Opinion for Lawyers
# No. 76-12

IT IS NOT IMPROPER FOR AN ATTORNEY TO CONTRACT WITH A FEDERAL CREDIT UNION TO FURNISH LEGAL SERVICES TO ITS MEMBERS UNDER THE FOLLOWING TYPE OF ARRANGEMENT:

THE CREDIT UNION WILL ANNOUNCE TO ITS MEMBERS THAT ANY OF THEM MAY CALL THE CREDIT UNION TO OBTAIN THE ATTORNEY'S NAME AND TELEPHONE NUMBER IN ORDER TO THEN CALL HIM TO ARRANGE A PRIVATE APPOINTMENT WITH HIM TO DISCUSS A LEGAL MATTER. THE ATTORNEY WILL CHARGE $7.50 FOR A 15-MINUTE CONSULTATION AND $15.00 FOR A 30 MINUTE CONSULTATION. ADDITIONALLY, FOR A FEE OF $25.00 THE ATTORNEY WILL AGREE TO GIVE A "GENERAL LEGAL CHECK-UP" ON SUCH SUBJECTS REQUESTED BY THE MEMBER AS A REVIEW OF HIS PRESENT WILL OR A DISCUSSION CONCERNING THE NEED FOR ONE; THE ADVISABILITY OF SELECTING A GUARDIAN FOR MINOR CHILDREN WHOSE PARENTS ARE DECEASED; REVIEW AND ADVICE AS TO EXISTING DOMESTIC RELATIONS SUPPORT ORDERS; REVIEW OF THE PRESENT METHOD OF HOLDING TITLE TO REAL AND PERSONAL PROPERTY; REVIEW OF PRESENT LIFE INSURANCE PROGRAMS.

IF, AS THE RESULT OF THE ABOVE, THE MEMBER FEELS THE NEED FOR ADDITIONAL LEGAL SERVICES TO BE PERFORMED IN A PARTICULAR AREA, HE HAS THE OPTION TO SEEK ANY OTHER LAWYER HE WISHES OR TO ARRANGE WITH THE ATTORNEY TO PERFORM THE SERVICES ON A FEE BASIS TO BE AGREED UPON IN ADVANCE.

## FACTS

The facts submitted by the inquiring attorney are set forth in the synopsis above.

## DISCUSSION

A brief historical discussion on the question of group legal services may be helpful. Prior to adoption of the Code of Professional Responsibility, old Canon 35 appeared to prohibit such arrangements as it disapproved of attorneys making contracts with groups such as a credit union to render legal services to its members in respect to their individual affairs. When the Code of Professional Responsibility was adopted by the American Bar Association in or about 1969, it changed this rule to permit such an arrangement in DR 2-1030)(5), provided certain conditions were met.

When the Code of Professional Responsibility was first presented to the Nebraska Supreme Court in 1970, the Court adopted the Code as of May 1, 1970, in its entirety except that it specifically excluded DR 2-103(D)(5), thus making that section inapplicable in this state. On May 3, 1973, however, the Court entered a further order adopting this particular section.

In 1974, Section DR 2-103(D) was amended by the American Bar Association so that it presently reads as hereinafter set forth, and as of September 1, 1975, the Nebraska Supreme Court by order re-adopted the Code as in effect March 1, 1975, so that we are now governed by it:

> "DR 2-103(D) . . . However, this does not prohibit a lawyer or his partner or associate or any other lawyer affiliated with him or his firm from being recommended, employed or paid by, or cooperating with, one of the following offices or organizations that promote the use of his services or those of his partner or associate or any other lawyer affiliated with him or his firm if there is no interference with the exercise of independent professional judgment in behalf of his client:
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> . . . .

(4) Any bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:

(a) Such organization, including any affiliate, is so organized and operated that no profit is derived by it from the rendition of legal services by lawyers, and that, if the organization is organized for profit, the legal services are not rendered by lawyers employed, directed, supervised or selected by it except in connection with matters where such organization bears ultimate liability of its member 6r beneficiary.

(b) Neither the lawyer, nor his partner, nor associate, nor any other lawyer affiliated with him or his firm, nor any non-lawyer, shall have initiated or promoted such organization for the primary purpose of providing a financial or other benefit to such lawyer, partner, associate or affiliated lawyer.

(c) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.

(d) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

(e) Any member or beneficiary who is entitled to have legal services furnished or paid for by the organization may, if such member or beneficiary, so desires, select counsel other than that furnished, selected or approved by the organization for the particular matter involved; and the legal

service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved would be unethical, improper or inadequate under the circumstances of the matter involved and the plan provides an appropriate procedure for seeking such relief.

(f) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court and other legal requirements that govern its legal service operations.

(g) Such organization has filed with the appropriate disciplinary authority at least annually a report with respect to its legal service plan, if any, showing its terms, its schedule of benefits, its subscription charges, agreements with counsel, and financial results of its legal service activities or, if it has failed to do so, the lawyer does not know or have cause to know of such failure."

The Committee on Ethics and Professional Responsibility of the ABA has had occasion to pass on the propriety of a plan such as is being discussed herein. In Inf. Opinion 1313 rendered January 27, 1975, it concluded that, "The proposal above outlined would not seem to contravene any of the Ethical Considerations or Disciplinary Rules set forth in the American Bar Association's Code of Professional Responsibility. However, no one should advertise the existence of the program, with the exception of an appropriate and dignified notice of the details to the members of the Credit Union. . . ."

## CONCLUSION

This Committee has reached a similar conclusion. We hold that based upon the facts as heretofore outlined,

DR 2-103(D)(4) permits you to enter into such an arrangement with the Federal Credit Union. The plan in all of its details must meet the qualifications set forth in this section and the admonition as to publicity of the program as mentioned in Opinion 1313 must be heeded. The responsibility will be yours of insuring that in performing under the program your conduct complies in every respect with the high standards required by the Code of a lawyer in his practice.