

Nebraska Ethics Advisory Opinion for Lawyers  
No. 86-2

AN ATTORNEY MAY PARTICIPATE IN A PLAN FOR FURNISHING PREPAID LEGAL SERVICES. PARTICIPATION IN SUCH A PLAN HOWEVER DOES NOT RELIEVE THE ATTORNEY FROM COMPLIANCE WITH APPLICABLE PROVISIONS OF THE CODE OF PROFESSIONAL RESPONSIBILITY. THE PARTICIPATING ATTORNEY SHOULD USE CAUTION TO INSURE THAT THE PLAN DOES NOT:

- (1) PERMIT THE UNAUTHORIZED PRACTICE OF LAW.
- (2) VIOLATE CLIENT CONFIDENCES
- (3) IMPAIR THE PROFESSIONAL JUDGMENT OF THE ATTORNEY
- (4) ENGAGE IN IMPROPER SOLICITATION OF CLIENTS
- (5) PERMIT THE SHARING OF LEGAL FEES WITH A NON-ATTORNEY

OPINIONS [76-12](#) and [80-6](#) ARE HEREBY RESCINDED.

#### FACTS

The Committee has received a number of inquiries as to whether an attorney may participate in plans which furnish prepaid legal services. The Committee has previously issued Opinions 76-12 and 80-6 pertaining to this issue.

#### DISCUSSION

At one time the Code of Professional Responsibility specifically addressed the concept of prepaid legal services. These provisions have now been eliminated.

DR 2-103(A) of the Code of Professional Responsibility

as adopted by the Nebraska Supreme Court presently provides as follows:

A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising or written communication permitted by these rules and may pay the usual charges of a not-for-profit lawyer referral service or other legal service organization.

The above-cited provision was adopted from Rule 7.2(C) of the ABA Model Rules of Professional Conduct. This Rule and the applicable Comment section appear to permit the concept of prepaid legal service plans.

Attorneys participating in prepaid legal service plans must comply with applicable provisions of the Code of Professional Responsibility. Participating attorneys should use caution to insure that the plan does not:

- (1) permit the unauthorized practice of law
- (2) violate client confidences
- (3) impair the professional judgment of the attorney
- (4) engage in improper solicitation of clients
- (5) permit the sharing of legal fees with a non-attorney

The Committee has addressed only the ethical implications of prepaid legal service plans. No attempt has been made to determine if specific plans meet the requirements set forth in R.R.S. Neb. 44-3301 et seq.

#### CONCLUSION

An attorney may participate in a plan for furnishing

prepaid legal services. Participating attorneys however must comply with all provisions of the Code of Professional Responsibility.

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