

You have asked the Committee to consider the propriety of a law firm retaining the names of the two partners who formed the partnership for the purpose of the practice of law when, eight months after the formation of the firm, the partners marry and the wife partner wishes to change her name to that of her husband/partner. For professional reasons and the increasing recognition of the firm's name in the community, both partners wish to keep the existing law firm name.

The appropriate and controlling disciplinary rules relative to your inquiry are DR:2-101(A) and DR:2-102(A). The rules regarding public communications and professional notices, letterheads, offices and law lists provide that a lawyer shall not, on behalf of himself or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. (See DR:2-101(A)) Disciplinary Rule 2-102(A) specifically prohibits the use of professional card, announcement card, office sign, letterheads, telephone directory listing, law list, legal directory listing or similar notice or device if it contains such a false, fraudulent, misleading or deceptive statement or claim.

In addition, the Virginia Code of Professional Responsibility provides as follows:

The use of a name which could mislead laypersons concerning the identity, responsibility, and status of those practicing thereunder is not proper. For many years some law firms have used a firm name retaining one or more names of deceased or retired partners and such practice is not improper if the firm is a bona fide successor of a firm in which the deceased or retired person was a member, if the use of the name is authorized by law or by contract, and if the public is not misled thereby. However, the name of a partner who withdraws from a firm but continues to practice law should be omitted from the firm name in order to avoid misleading the public. (See specifically EC:2-13 and LE Op. 277)

In the instant matter, the partner is not deceased; neither has she retired or withdrawn from the firm. However, the taking of her husband's name for personal reasons should not jeopardize the desires of the partners to continue to practice under the existing name of the firm since the firm's name has been established in the community and is not a *per se* misrepresentation of the identity, responsibility and status of those practicing attorneys of the firm. Therefore, the Committee opines that as long as the use of the firm's name is not intended to mislead the general public, and assuming such name is authorized by law or by contract, it is ethically permissible to maintain the existing name of the law firm.

Committee Opinion
October 19, 1989