

Committee Opinion
October 3, 1989

LEGAL ETHICS OPINION 1276

ATTORNEY-CLIENT RELATIONSHIP –
LEGAL SERVICES – ZEALOUS
REPRESENTATION: SCOPE OF
REPRESENTATION BY LEGAL
SERVICES ATTORNEY.

Where an attorney is employed at a publicly-supported university's Student Legal Services to provide legal advice or representation and referral services to students of the university, you have inquired whether the Student Legal Services Board, which is comprised in part of non-lawyers, may control which matters are accepted for representation or the number of cases that will be litigated in court. You have indicated that prior to your submitting a request for an advisory opinion, the Student Legal Services Board agreed to permit the attorney, alone, to use his/her discretion in the decision making of the aforementioned issue and you have asked that the Committee review the guidelines for court representation.

The Committee believes the appropriate and controlling rule relative to your inquiry is DR:5-106(B) which provides that a lawyer shall not permit a person who recommends, employs, or pays him to render legal services for another to direct or regulate his professional judgment in rendering such services.

The Committee previously opined in LE Op. 609 that, where an intermediary or third party has hired an attorney to provide legal services for another who is the attorney's client, the attorney has the obligation to provide zealous representation, exercise independent professional judgment, and preserve the confidences and secrets of that client. (See DR:4-101(B)(1), (2), (3), DR:5-106(B) and EC:5-23) In addition, if any legal fees are paid directly to the attorney, the attorney must be mindful of the proscription against sharing his attorney's fees paid by the client with a nonlawyer intermediary or third party. (See DR:3-102)

Furthermore, where the attorney will place limitations on the scope of the legal services, the Committee is of the view that an employment agreement limiting representation is improper unless the limitations have been clearly delineated and the attorney will take the appropriate steps to protect the clients' interests. Disciplinary Rule 7-101(A)(2) [DR:7-101] requires that an attorney must not intentionally fail to carry out a contract of employment except under the appropriate withdrawal procedure; hence the attorney would be expected to attend to all matters incident to representation in question, unless the client consents to the limitations on the representation after full and adequate disclosure under the circumstances. (See LE Op. 1193)

Therefore, the Committee is of the opinion that the determination of the level of legal services to be provided to clients by the university's Student Legal Services must be made by the attorney in his/her independent professional judgment. Furthermore, any guidelines regarding limitations on the provision of legal services, established by the Board on which some nonlawyers serve, must be provided to the potential clients prior to the beginning of any representation.

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