

Committee Opinion
April 28, 1983

LEGAL ETHICS OPINION 516

DIVORCE MEDIATION/DOMESTIC
RELATIONS/FAMILY LAW.

An attorney accepting compensation from a professional counselor service which refers clients to an attorney for legal advice would not be a per se ethical violation of the Virginia Code of Professional Responsibility. However, an attorney, by entering into such an employment agreement, might be violating in many situations the provisions of Canon 5 which require an attorney to exercise independent professional judgment on behalf of a client and the provisions of DR:5-107 requiring that an attorney avoid the influence by others than the client.

Also, the provisions of Canon 9 state that an attorney should avoid even the appearance of professional impropriety, and as such an attorney's acceptance of compensation from a professional counselor service which refers clients to an attorney for legal advice might be deemed to violate Canon 9, even if the provisions of Canon 5 are not violated.

A disclosure by an attorney to a professional counselor service of the purpose and length of time spent with a client on a particular problem without the express informed consent of the client would violate the provisions of DR:4-101.

In many cases, it would be improper for an attorney to attempt to provide legal advice simultaneously to two potentially adverse parties in divorce mediation, since often it would be virtually impossible to give such advice in a completely non-partisan way.

However, where an attorney has undertaken to provide "legal information" only, as opposed to "legal advice," the parties understand the distinction between "legal information" and "legal advice" and have given their informed consent for an attorney so to act, it may be appropriate in certain circumstances for an attorney to provide legal information to both parties, particularly, in uncomplicated and straightforward situations where the parties are contemplating getting a non-contested divorce and the marriage has been of short duration with little assets and no children involved. Regardless of the situation, however, attorneys should be advised to use great caution before agreeing to provide legal information or advice to both parties, and should attorneys agree to do so, they should be extremely careful to be as non-partisan as possible. [DR:5-105, EC:5-1, EC:5-21, EC:5-22 and EC:5-23, DR:4-101, DR:9-101 Virginia Code of Professional Responsibility]

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