

**KENTUCKY BAR ASSOCIATION**  
**Ethics Opinion KBA E-7**  
Issued: November 1962

**Question:** May one or more attorneys organize a Professional Service Corporation under state statutes and adopt a profit-sharing or other retirement plan for attorneys and other employees?

**Answer:** Yes.

**References:** KRS Chapter 274

**OPINION**

Some questions have arisen with relation to the Chapter adopted by the 1962 General Assembly providing for Professional Service Corporations. They are:

1. Is it proper for one or more attorneys to organize a Professional Service Corporation in accordance with that Chapter of the Statutes?
2. Is it proper for such corporation, the stockholders being lawyers, to adopt a profit-sharing or other retirement plan for the benefit of themselves and other employees?

The American Bar Association has not as yet adopted an opinion relating to the propriety of a corporation, such as this, for lawyers. The principal purpose of Professional Service Corporations is to permit professional men to receive the same tax treatment of their retirement plans as is accorded by the Internal Revenue Service to retirement plans adopted by other corporations for their officers and employees. Under these circumstances, we hold that it is not improper to organize and operate a Professional Service Corporation for lawyers, so long as the provisions of the Act are carefully observed.

The question relating to a retirement plan adopted by such a corporation arises because there are those who contend that the lawyers in question would, in effect, be splitting their fees with their employees. We consider that the retirement plan would merely be a means for providing deferred compensation for the employees covered by the plan. We do not conceive that this would constitute splitting fees, any more than if the attorneys were to give the employees an increase in pay. It is purely a means of providing additional compensation, and we deem it proper.

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***Note to Reader***

*This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act on his part performed in compliance with an opinion furnished to him on his petition, provided his petition clearly, fairly, accurately and completely states his contemplated professional act."*