

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-142
Issued: March 1976

Question 1: May lawyers utilize the services of lay “legal assistants?”

Answer 1: Yes.

Question 2: May a law firm designate a “legal assistant” as such on its letterheads, cards, etc.?

Answer 2: No.

References: EC 3-5, 3-6; DR 2-102(A); Opinion KBA E-77 (1973), E-84 (1974); ABA Formal Opinion 54 (1931), 85 (1932), 316 (1967); ABA Informal Opinion 408 (1961), 619 (1962), 820 (1965), 845 (1965), 998 (1967), 1000 (1967)

OPINION

A few states have experimented with training, certification, and professional control of laymen called “legal assistants” or “paralegals.” Kentucky is not among them. However, a lawyer may employ laymen to perform duties which do not constitute practice of law if the lawyer remains responsible for and supervises their work, EC 3-5, 3-6; and they are not used, and do not conduct themselves, in such a way as to depersonalize the lawyer-client relationship, ABA Informal Opinion 998 (1967), or to enable the lawyer to circumvent some disciplinary rule, ABA Formal Opinion 54 (1931), 316 (1967). Some of the activities in which lawyers may thus use lay employees are investigation, interviewing clients, accounting, interviewing witnesses, legal research, collection of claims, and examining and abstracting records, ABA Formal Opinion 85 (1932), 316 (1967). There is no objection if a lawyer using a lay employee in such activities wishes to refer to him as a “legal assistant” or a “paralegal.”

A lawyer or law firm may not designate “legal assistants” or “paralegals” on the firm letterhead, card, or any other form of notice or listing permitted to lawyers by the Code of Professional Responsibility. The only purpose of such designations is puffery, ABA Informal Opinion 845 (1965). DR 2-102(A)(1) states the information which may appear on a lawyer’s card. DR 2-102(A)(4) states the information which may appear on his letterhead. No other information may appear, Opinion KBA 77 (1973), E-84 (1974). Employment of lay assistants and identification of lay assistants is not part of the permissible information. See ABA Informal Opinion 408 (1961) (a lawyer’s card and letterhead may not carry the name of any layman), ABA Informal Opinion 619 (1962) (a lawyer may not carry his secretary’s name on his letterhead), ABA Informal Opinion 820 (1965) (a lawyer in general practice may not carry the name of a lay patent agent on his letterhead), ABA Informal Opinion 1000 (1967) (a lawyer may not identify a “staff investigator” on his letterhead), and ABA Formal Opinion 54 (1931) (a lawyer may not announce his association with a layman who handles collections for the lawyer).

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.”