

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-346
Issued: March 1991

The Rules of Professional Conduct and other Supreme Court Rules affecting lawyers are amended periodically. Lawyers should consult the current version SCR 3.47 and SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: Under what conditions may a Kentucky lawyer participate in a For-profit, Pre-paid Legal Service Plan?

Answer: A lawyer may participate in such a plan so long as the plan is operated in compliance with SCR 3.475 (Furnishing Legal Services Pursuant to Pre-paid Legal Services Plan), Rules of Professional Conduct 5.4, 5.5, 8.3 and SCR 3.135 (now Rules 7.01-7.60) (Advertisement of Legal Services).

References: SCRs 3.475 and 3.135; Rules of Professional Conduct, 5.4, 5.5, 8.3, and 8.4; ABA Op. 87-355 (1987).

OPINION

Numerous advertisements for prepaid legal services plans have appeared in Kentucky, and the Committee has received a variety of inquiries. The Committee does not review and approve plans, and those who choose to participate in such plans bear the responsibility for insuring that the operation of such plans conform to the above rules. Detailed guidance is provided in ABA Op. 87-355 (1987).

Regarding advertising and solicitation, we agree with the ABA position “that it would constitute improper solicitation for a lawyer to participate in a plan in which the plan sponsor engages a sales force that would solicit members by telephone or in person.” Furthermore, “the plans advertising must not be false or misleading.” Questions or complaints about specific advertising should be directed to Bar Counsel or the Advertising Commission.

The Committee will decline to act on (1) requests from plan sponsors and participants for “approval” and other legal advice regarding compliance and (2) complaints or other demands for “enforcement.” The Committee cannot serve as legal counsel and cannot take on regulatory and disciplinary functions in this area.

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). The Rule provides that formal opinions are advisory only.