

FORMAL OPINION NO. 97\*

Query No. 1:

Is it a violation of professional ethics for an attorney to publish a newspaper column whose content serves to educate the public, and which uses the pedagogic technique of questions and answers when:

- (a) The attorney makes up all the questions himself, or
- (b) The attorney requests questions from the public, and uses them unchanged, or
- (c) The attorney requests questions from the public and modifies them himself?

Query No. 2:

Will the possible problems of advertising or soliciting business be cured by:

- (a) A prominent disclaimer stating that questions may be sent in for educational purposes only, and that under no circumstances will the attorney represent anyone who sends in a question, or
- (b) The attorney using a pseudonym byline in his column to totally conceal his identity, or
- (c) The attorney giving up his private practice, or
- (d) The attorney refusing to take on new cases from the date of first appearance of his column, or
- (e) Other alternatives proposed by the Ethics Committee?

Answer:

The contemplated newspaper column should be authored anonymously, or at least, under a pseudonum.

Whether the attorney invents the "question" or uses submissions from the public in an edited or unedited version poses substantial problems. A specific, identifiable problem, if answered by the attorney/author, could create a "de facto" attorney-client relationship. Since few legal matters can be reduced to a single question with only one correct answer, the attorney could be put into the position of having to reveal his identity in order to fulfill his obligations, e.g., under Canon 6 or 7 of the Code of Professional Responsibility. There is also the definite possibility that members of the public may be misled, to their legal detriment, by incomplete advice which responds to an incomplete question.

On balance, the invented "question" would probably be the safest approach and the one least likely to mislead or disappoint. Too, the attorney/author would then be free to devise questions of broad appeal and general interest.

The attorney should take some pains to conceal his identity, both directly and indirectly. DR 2-101 and DR 2-104 should be specially considered in instructing the newspaper publisher not to reveal the true name of the attorney. The appearance of impropriety should thus be avoided.

Since it is recommended that the column be published anonymously or under a pseudonym, the additional questions are moot.

DATED this 9th day of May, 1977.

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\*This opinion is obsolete insofar as it requires publication of a newspaper column anonymously or under a pseudonym. See, ABA Informal Opinion 1464 (November 10, 1980).