



The North Carolina State Bar

ALICE NEECE MINE
Assistant Executive Director
208 Fayetteville Street Mall
PO Box 25908
Raleigh, North Carolina 27611-5908
Telephone: 919/828-4620
Fax: 919/821-9168

January 29, 2008

Ms. Katherine B. Wilkerson
Attorney at Law
Lynch & Eatman, L.L.P.
5400 Glenwood Ave., Suite 201
Raleigh, NC 27612

EA 2406 – Participating in Ask-a-Lawyer Hotline

Dear Ms. Wilkerson:

Thank you for your email of January 16, 2008, in which you requested an ethics advisory opinion. I am pleased to offer the following opinion in response to your inquiry.

Inquiry #1:

A non-profit professional organization for lawyers is sponsoring a day-long event in which members of the general public will have the opportunity to call in and ask a volunteer lawyer legal questions without charge. The format of the event will be similar to other “ask-a-lawyer” legal hotlines. The volunteer lawyers do not want to form client-lawyer relationships with callers; therefore, the caller and lawyer will remain anonymous during the phone call. If it appears that a caller needs legal representation, the lawyer will recommend, as appropriate, that the caller contact a private lawyer, Legal Aid of North Carolina, or a non-profit lawyer referral network for further assistance.

May a lawyer participate in this type of event and answer general legal questions of callers without creating client-lawyer relationships with callers and engendering the duties to clients attendant to such relationships? Is there is any specific disclaimer or initial statement that should be given callers?

Opinion #1:

A lawyer may participate in a legal hotline and answer the general legal questions of callers. The Rules of Professional Conduct encourage volunteer service of this nature and allow a lawyer to provide limited legal services to a client under the auspices of a program sponsored by

a non-profit organization. *See* Rule 0.1, Preamble, and Rule 6.5. However, whether a client-lawyer relationship is formed between a caller and a volunteer lawyer will depend upon the conduct of the caller and of the lawyer. As noted in the Scope section of the Rules of Professional Conduct, “[m]ost of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to so.” Rule 0.2, cmt.[4].

Although generally a client-lawyer relationship is only created when both the client and the lawyer agree to enter into the relationship, some of the duties that flow from the client-lawyer relationship may arise if a lawyer offers or provides legal advice in a manner or in a setting that could reasonably lead the recipient to believe that the lawyer is offering his or her services to the recipient or will protect the recipient’s interests in some manner. *See, e.g.*, Rule 1.18 (duty of confidentiality owed to prospective client even though no client-lawyer relationship ensues).

To avoid misleading a caller as to the limited nature of the service being provided, advertising and promotional material for the hotline must specify that the volunteer lawyers will provide general information about the law and legal resources and cannot provide specific legal advice or representation to a caller. The promotional materials must explain that, because no client-lawyer relationship will be formed, a caller should not assume that personal information will be subject to the duty of confidentiality. It would be wise to repeat the disclaimer of the client-lawyer relationship and the warning about the disclosure of confidential information at the beginning of each call.

When taking calls, the volunteer lawyers must avoid giving individualized legal advice to a caller based upon the caller’s personal disclosures. The lawyers must limit their comments to general legal information, explanation of the legal system, and referral to other resources.

Inquiry #2:

To generate interest, the non-profit organization plans to post billboard signs promoting the call-in program. Drivers passing a billboard have little time to read; therefore, the text on a billboard sign must be limited. This prohibits the disclosures described in opinion #1. The organization proposes using billboard signs that include the following: “NC Attorneys answer your legal questions. For Free”; the date of the call-in program; an 800 telephone number; a website address; and the name of the organization. No other information about the call-in program will be provided on the signs. Anyone who calls the 800 number will hear a recorded message that includes the required disclosures. Similarly, anyone who goes to the website will see the disclosures in writing. May the organization use the billboard signs to promote the call-in program?

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Opinion #2:

Yes. If a potential participant in the program will receive the disclosures prior to speaking with a lawyer, the billboard signs may be used.

You may rely upon the advice contained in this letter pending its review by the ethics committee at its April quarterly meeting. Should the committee then decide that my advice should be altered in any material way, you will be notified promptly.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Alice Neece Mine", written in a cursive style.

Alice Neece Mine
Assistance Executive Director

jl

cc Michelle Frazier