

Kentucky Bar Association
Ethics Opinion KBA E-385
Issued: September 1995

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

Question 1: Is the Legal Aid Society, through its HIV/AIDS Legal Project, engaging in unethical solicitation of clients by receiving referrals from AIDS' service organizations?

Answer 1: No.

Question 2: What may the HIV/AIDS Legal Project of the Legal Aid Society say or do once a prospective client, during an intake interview, notifies them that they are represented by an attorney in a matter? That is, may the Legal Aid Society take the case at the request of the prospective client, resulting in a dismissal of the previous attorney?

Answer 2: See Opinion.

References: *In re Primus*, 436 U.S. 412 (1978); KBA E-325 (1987).

OPINION

The referral organizations involved in this request are 501(c)(3) tax exempt organizations, and there is no pecuniary gain involved in the referrals and representation. Accordingly, there is no prohibited solicitation. *In re Primus*, 436 U.S. 412 (1978).

In KBA E-325 (1987) the Committee made it clear that as a matter of professional courtesy a lawyer should avoid interfering in an on-going attorney-client relationship; but that a lawyer may provide a second opinion to someone who is already represented by counsel.

The client has the power to discharge a lawyer and hire another, and in the absence of a conflict, prohibited solicitation, or some kind of overreaching, there is no bar to the Legal Project taking a case from someone who is already represented. On the other hand, the prospective client should be advised of any risks or potential consequences of a change in counsel.

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.