



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

ISBA Advisory Opinions on Professional Conduct are prepared as an educational service to members of the ISBA. While the Opinions express the ISBA interpretation of the Illinois Rules of Professional Conduct and other relevant materials in response to a specific hypothesized fact situation, they do not have the weight of law and should not be relied upon as a substitute for individual legal advice.

This Opinion was AFFIRMED by the Board of Governors in January 2010. Please see the 2010 Illinois Rules of Professional Conduct 5.3, and 5.5(a). This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion No. 744
August 25, 1981**

**Topic: Paralegals - Non-resident
Attorney Maintaining Illinois Office**

Digest: A non-resident attorney licensed to practice in Illinois may maintain Illinois office staffed by a paralegal providing proper supervision and responsibility is maintained.

Ref.: Rule 3-101; Rule 3-102;
Canon 3; ISBA Code of Professional Responsibility;
ISBA Opinion No. 505

QUESTION

The Committee is asked whether or not a non-resident attorney licensed in Illinois who maintains an office in another state may open an office in the State of Illinois and hire a paralegal to "run" the office. The attorney advises that he would spend a "certain number of days here each week".

OPINION

It is the opinion of the Committee that the proposed practice of opening an office in the state of Illinois by a non-resident attorney who will spend time in the office and who will staff the office

with a paralegal is not unethical per se.

The Committee wishes to point out that strict adherence to the Code of Professional Responsibility adopted effective July 1, 1980, is required. In particular the Committee notes that Rule 3-101 reads as follows:

"AIDING UNAUTHORIZED PRACTICE OF LAW"

- (a) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.
- (b) A lawyer may delegate work to a non-lawyer employed by him if the lawyer in fact supervises the non-lawyer and assumes complete responsibility for the work of the non-lawyer."

Furthermore the Committee reminds the attorney asking the question that Rule 3-102 concerning the division of fees with a non-lawyer states:

- (a) A lawyer or law firm shall not share legal fees with a non-lawyer,..."

The Rules under Canon 3 of the Illinois Code of Professional Responsibility heretofore adopted by the Board of Governors of the Illinois State Bar Association has been supplanted by Rules under Canon 3 of the Code of Professional Responsibility adopted by the Supreme Court of the State of Illinois. It is the opinion of the Committee that the new Rules under Canon 3 are substantially the same as the old Rules under Canon 3 and that our prior Opinion, ISBA Opinion 505, heretofore promulgated by this Committee is still effective. The attorney is referred to that Opinion which held that a lay administrative assistant may be used for clerical matters delegated by an attorney provided that the attorney supervises the delegated work and provided the attorney assumes responsibility therefor.

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