



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in July 2010. Please see the 2010 Illinois Rules of Professional Conduct 5.3, 5.4(c), 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. 86-8
December 2, 1986**

Topic: Unauthorized practice, firm letterhead

Digest: It is not improper for a lawyer who is retained by a hospital to collect past-due accounts to distribute his blank letterhead to the client-hospital or to a business corporation, retained by the hospital to assist in managing patient accounts receivables, for the purpose of typing a collection letter which the lawyer writes, reviews for accuracy and personally signs.

Ref.: Rules 3-101 and 5-107
ISBA Opinion No. 85-7

FACTS

A business corporation (hereinafter "the corporation"), engaged in the business of assisting hospitals in managing patient accounts receivable, devised the following collection procedures. The corporation "assists the hospitals in sending a series of notices" in the hospital's name to patients who have not paid their bills. These notices (number unknown) become increasingly "forceful" until the last one says that the account will be turned over to an attorney.

The attorney then drafts a demand letter with information provided by either the hospital or the

corporation. All of the information is routine, such as patient name and account number, except that the time period within which to respond is provided, the amount due is provided, and the hospital's telephone number is listed for questions. The attorney is asked "to add any additional provisions required by law."

The draft letter is then typed on the attorney's letterhead by the hospital, the corporation, a typing service (not necessarily retained by the attorney) or by the attorney. After the letter is typed somewhere other than the attorney's office, the letter is delivered to the attorney. The inquiry states:

...The typed letters are delivered to the attorney where they are reviewed by the attorney, checked against hospital records to insure that the content of the letter is accurate and no payment has yet been received on the account or other disposition of the account has occurred, manually signed by the attorney and then mailed under the joint supervision of the hospital and the attorney to insure timely mailing of the letters and accurate recording of the recipients thereof, the unpaid balance due and the date mailed.

QUESTION

The attorney asks whether this arrangement is proper.

OPINION

Since the attorney writes the letter, reviews the letter for accuracy and personally signs it, the facts here differ from those in Opinion 85-7 which states "a law firm may not provide a client its firm letterhead signed in blank for use by the client." On this basis and on these facts, the Committee does not find per se impropriety in the contemplated relationship, provided the lawyer exercises independent professional judgment on behalf of the client hospital under Code of Professional Responsibility Rule 5-107.

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