

Nebraska Ethics Advisory Opinion for Lawyers  
No. 80-4

A LAWYER SHOULD IDENTIFY HIS LOCATION OF PRACTICE UNDER HIS OWN NAME OR THE NAMES OF THE PARTNERS OR SOME OF THEM IF THERE IS A PARTNERSHIP. HE SHOULD IDENTIFY HIMSELF AS A LAWYER BY THE USE OF THE WORDS, "LAW OFFICE OF", PRECEDING HIS NAME OR THE USE OF THE WORDS, "LAWYER" OR THE WORDS, "ATTORNEY AT LAW" FOLLOWING HIS NAME, EXCEPT THAT WHERE HE PRACTICES LAW AS A "PROFESSIONAL CORPORATION", THESE WORDS OR THE INITIALS "P.C." SHOULD BE ADDED. ANY FURTHER USE OF THE WORDS SUCH AS "LEGAL CLINIC", "LAW BUILDING" OR "LAW CENTER" IS SURPLUSAGE, POSSIBLY MISLEADING AND DECEPTIVE AND IS THEREFORE PROHIBITED.

INQUIRY AND FACTS

The Counsel for Discipline has asked the Advisory Committee to review and update [Opinion No. 75-9](#) in view of recent court decisions and relaxed rules regarding advertising.

[Opinion No. 75-9](#) was issued in response to one of two lawyers who asked whether it would be proper for them to use the words "Legal Clinic" as part of the name of their practice instead of the more common phrase, "Law Office".

The essence of the committee's answer in [Opinion No. 75-9](#) was that the words, "Legal Clinic" would be surplusage, additional advertising, and therefore improper.

OPINION

Bates v. State Bar of Arizona, 433 U.S. 350, 97 S.Ct 2691, 53 LEd2d 810 (1977), and Virginia Pharmacy Board v. Virginia Consumer Council, 425 U.S. 748, 916 S.Ct. 1817 48 LEd2d 346 (1976), established that free

flow of commercial information is protected speech under the first amendment. Thus professional boards cannot prohibit all advertising nor, in the case of pharmacies, can they prohibit price advertising. These cases and their progeny opened new doors to advertising which had not previously been available in the legal profession and other recognized professions. However, neither *Bates* nor *Virginia Pharmacy Board* stand for the proposition that any and all advertising must now be permitted, especially if it tends to be misleading or deceptive.

*Friedman v. Rogers*, 440 U.S. 1, 99 S.Ct. 887, 59 L. Ed. 2d 100 (1979), held that a Texas law against optometry practice under a trade name did not violate free speech nor equal protection. The underlying rationale of *Friedman* is that the use of the trade name "Texas State Optical" for an optometrist's practice is deceptive:

"The possibilities for deception are numerous. The trade name of an optometrical practice can remain unchanged despite changes in the staff of optometrists upon whose skill and care the public depends when it patronizes the practice. Thus, the public may be attracted by a trade name that reflects the reputation of an optometrist no longer associated with the practice. A trade name frees an optometrist from dependence on his personal reputation to attract clients, and even allows him to assume a new trade name if negligence or misconduct casts a shadow over the old one. By using different trade names at shops under his common ownership, an optometrist can give the public the false impression of competition among the shops." 440 U.S. 13.

The committee believes that use of the term "Legal Clinic" for a law office offers the same possibility for deception and, therefore should not be used. This is even more true where a lawyer attempts to call his office building "Legal Clinic", "Law Building" or "Law

Center" or use an office building having such a name.

The Maryland Court of Appeals reached the same result in *A Matter of Oldtowne Legal Clinic*, 400 A.2d 1111 (1979). The court prohibited the use of the name "Oldtowne Legal Clinic" for a law office or law practice based in part on the same rationale as Friedman, namely that prohibition of such a name is a permissible restriction on potentially deceptive and misleading commercial speech violating neither the first amendment nor that state's constitution. Cf. *Calig and Waterman v. Supreme Court of Ohio*, No. 79-394, Ohio Sup. Ct. (1979) (Billboard advertising prohibited).

The committee has reviewed recent opinions and digest of opinions on the subject of legal advertising. The committee has found nothing which indicates that its conclusions reached in [Opinion No. 75-9](#) should be changed. Therefore, it is the committee's current position that the use of terms such as "Legal Clinic", "Law Building", "Law Center" or other trade names is misleading and, therefore, are not permitted as part of the name of a law office on a sign, letterhead or other designation or listing of a law office or as the name of the building in which the lawyer houses his office.