

Nebraska Ethics Advisory Opinion for Lawyers
No. 83-3

A LAWYER ETHICALLY MAY PRACTICE LAW AND A SECOND PROFESSION, NOT LAW RELATED, FROM THE SAME OFFICE, OR DIFFERENT OFFICES, IF THE DISTINCTION BETWEEN SERVICES AS A LAWYER AND SERVICES IN THE OTHER PROFESSION IS MADE CLEAR, AND THE LAWYER OTHERWISE COMPLIES WITH THE CODE WITH RESPECT TO PROVIDING LEGAL SERVICES; AND THE LAWYER MAY INDICATE THE DUAL PRACTICE OF THE TWO PROFESSIONS ON HIS LAW OFFICE LETTERHEAD, LAW OFFICE SIGN, LEGAL PROFESSIONAL CARD AND A PUBLICATION IN CONNECTION WITH THE OTHER PROFESSION.

QUESTION PRESENTED

A lawyer who is also a clinical psychologist requests an advisory opinion as to the ethical considerations involved in his dual practice of law and psychology, under the Code of professional Responsibility, as adopted and amended by the Supreme Court of Nebraska (Code); and whether he may indicate that dual practice on his law office letterhead.

DISCUSSION

A lawyer may ethically practice law and a second occupation, not law related, if he or she complies with the Code. Therefore, you may ethically practice psychology and law from the same office, or different offices, and may, subject to the other limitations of the Code, serve the same patient/client as both psychologist and lawyer, if the distinction between service as a psychologist and service as a lawyer is made clear, and you otherwise comply with the Code with respect to providing services as a lawyer and the furnishing of legal advice.

The Committee, however, calls your attention to the necessity to maintain legal files and records separate

from psychological files and records, and to maintain the confidentiality of the legal files and records; the necessity of making it clear to a patient or client the capacity in which you are serving the client or patient; the rules of the Code which would prohibit you, when dealing with patients who are not clients, from soliciting employment as a lawyer, or accepting employment as a result of unsolicited advice to patients to obtain legal counsel or take legal action; and the Code prohibition against accepting employment in contemplated or pending litigation, if you know, or it is obvious that you ought to be called as a witness (subject to only limited exceptions), which is a situation likely to arise where psychological service has a bearing on a legal matter.

Lastly, before recent amendments to the Code by the Supreme Court of Nebraska with reference to lawyer advertising, DR 102(E) prohibited indicating the dual practice of two professions on the lawyer's letterhead, law office sign, legal professional card and any publication in connection with the other profession. At the time of these amendments, however, DR 102(E) was deleted. Therefore, in the opinion of the Committee the former restrictions of DR 102(E) no longer are applicable.