

ADVISORY ETHICS OPINION 2000-08

SYNOPSIS:

An attorney who works as a human resources consultant, and who will not be providing legal services or practicing law in this capacity may properly identify himself as holding a “J.D.” degree, and refer to his prior legal experience as a practicing attorney in conjunction with his consulting business, providing that he informs the clients with whom he has dealings that he is not acting as an attorney, and that no attorney-client relationship exists.

FACTS:

An attorney who works as a consultant in the human resources field with other consultants who are non-attorneys, proposes to form a new business entity to provide such services. He will not be providing legal services or practicing law in his new capacity, and intends to place his license to practice on inactive status while so engaged. Because the services he will be providing will involve him in issues relating to statutes regarding employment practices, even though he will not be acting as an attorney in dealing with such issues, he is concerned about the scope of any restrictions to which he may be subject in presenting himself to the public and to clients of the enterprise. Specifically, the requesting party routinely proposes to inform all individuals with whom he has dealings that he is not acting as an attorney, and that no attorney-client relationship exists. This disclaimer will be incorporated in all contracts and engagement letters with clients, including specific language cautioning clients that protections and restrictions attributable to the Rules of Professional Responsibility, such as the attorney-client privilege, are inapplicable.

The requester asks:

- 1) Whether it is permissible to put J.D. on his business cards following his name where the title “Consultant” or a similar designation appears.
- 2) Whether he may refer to his prior legal experience in a biography which explains that he currently provides consulting services in the human resources field.

DISCUSSION:

The Rules of Professional Conduct are intended to govern persons engaged in the “practice of law.” The term “practice of law” is not defined by the Rules, and the definition of the term varies from jurisdiction to jurisdiction.¹ In the context of the request at hand, given the requester’s assurance that he will not be practicing law, the simple question posed is whether he is ethically prohibited from advertising the existence of his law degree in conjunction with his new enterprise.

The mere existence of a college or graduate school degree does not necessarily imply that the holder of the degree is admitted to practice in any area of licensed or regulated specialty to which the degree might be a prerequisite. In short, the mere holder of a J.D. degree is not, without more, entitled to hold himself out as an attorney. It would follow that there should be no impediment to the use of the “J.D.” designation in conjunction with other designations of an individual’s business calling. In a similar vein, since the Rules of Professional Conduct are intended to govern the practice of law, in the context of the question as presented there can be no prohibition against the requester describing his prior history of engagement as an attorney once his practice in such a role has ceased.

CONCLUSION:

Where, as here, reasonable measures are undertaken to insure that those engaging the services of the requesting party are not misled, we are of the view that no impediment exists to the use of the “J.D.” designation in conjunction with identification as a “consultant” or similar position. Providing also that the wording of a biography or resume summarizing the requester’s background and experience is not misleading as to his new role, no prohibition exists to the inclusion of information regarding prior experience as a practicing attorney.

¹ See Annotated Model Rules of Professional Conduct, 4th Ed., A.B.A. 1999, p. 454.