

Final

ETHICS ADVISORY PANEL
OPINION # 95-35 - REQUEST # 602
ISSUED - SEPTEMBER 14, 1995

The inquiring attorney is the president of an attorneys' organization that is considering the creation of an expert witness/deposition bank for its members. The members would submit deposition and expert testimony transcripts to the organization to be compiled into an index. The index would then be updated and published for the organization's membership. The inquiring attorney seeks Panel advice regarding this procedure.

Rule 1.6 has bearing on the issue raised by this inquiry and provides as follows:

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) A lawyer may, but is not obligated to, reveal such information to the extent the lawyer reasonably believes necessary;

(1) to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm; or

(2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

In this case, the furnishing of clients' depositions and expert testimony would be divulging confidential information pursuant to Rule 1.6 and that Rule's exceptions do not apply in this matter.

The inquiring attorney must obtain the clients' consent after consultation before he/she can publish the depositions and expert testimony transcripts.