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ETHICS ADVISORY PANEL
OPINION # 96-21, - REQUEST # 660
Issued - September 12, 1996

FACTS:

The inquiring attorney has prepared a lecture series targeted specifically at senior citizens. The attorney plans to conduct seminars at various senior centers and residential assisted living communities. The seminars are not intended for the aged or infirmed residents of nursing homes. There will be no charge for the seminars. The attorney promotes the seminars through advertisement in local newspapers. In addition, the inquiring attorney proposes to promote the seminars by telephoning directors of such senior centers and assisted living communities to inquire about their interest in the seminars.

ISSUE PRESENTED:

The inquiring attorney asks whether telephone contact with the directors of senior centers and residential assisted living communities to inquire about their interest in a lecture series on senior issues is a direct solicitation of a prospective client which is prohibited by Rule 7.3 of the Rhode Island Supreme Court Rules of Professional Conduct.

OPINION:

The direct telephone contact under these circumstances does not violate Rule 7.3.

REASONING:

Rules 7.3(a) prohibits in-person solicitation, including live telephone contact, of prospective clients. It states:

A lawyer may not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone or telegraph or by other communication directed to a specific recipient and includes any written form of communication directed to a specific recipient and not meeting the requirements of paragraph (b) of this rule.

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The form of communication proposed by the inquiring attorney is not directed to a specific prospective client. The prospective clients and ultimate recipients of legal services which could result from the seminars are the attendees, that is, the individual senior members. The directors are not the prospective clients. The Rule does not prohibit an attorney from contacting a representative of an organization or group that may be interested in establishing a group or a prepaid legal plan for its members, insureds, beneficiaries, or other third parties to inform such entities of the availability and details of a plan or arrangement which the lawyer is willing to offer. Comment to Rule 7.3. See, Maryland State Bar Association, Committee of Ethics, Opinion 88-48(1988) (lawyer may personally contact representatives of organizations in their fiduciary capacities to solicit business but may not solicit individual members). The Panel concludes that the inquiring attorney may telephone directors of such senior centers and assisted living communities to inquire of their interest in the seminars.

The Panel further advises that any informational brochures or pamphlets that the inquiring attorney sends to the directors after the initial telephone contact, which brochures or pamphlets will be posted at the facilities to inform prospective senior attendees or which otherwise will be made available for review by prospective attendees, must comply with Rules 7.3(b), 7.4 and 7.1.