

**ETHICS OPINION NUMBER 190
OF THE MISSISSIPPI BAR
RENDERED SEPTEMBER 20, 1991**

FEES AND UNAUTHORIZED PRACTICE OF LAW: An attorney may recommend that a client contract with a lay organization who is to be paid on a contingent fee basis.

The Ethics Committee of The Mississippi Bar has been asked to render an informal advisory opinion on the following facts:

An attorney wishes to know whether he may recommend that a client in a medical malpractice case contract with Health Care Auditors, Inc., a company which holds itself out as "consultive experts to the medical-legal community". In essence, this organization offers to provide free initial medical review and to front the cost paid to a doctor for medical testimony in return for a contingency fee contract made directly with the plaintiff. The fee is paid to the doctor, who would be the one to testify, which fee is guaranteed and not contingent. The fee to Health Care Auditors, Inc. is a contingency fee of 15% with the client. Health Care Auditors, Inc. do not split fees with the attorney, do not practice law and control the case.

The Committee is of the opinion that Ethics Opinion No. 91 of The Mississippi Bar rendered March 23, 1984, would be applicable to this request. It should be reiterated that American Bar Association Informal Opinion No. 1375 dated August 10, 1976 would still be applicable under The Mississippi Rules of Professional Conduct, since nothing therein prohibits a lay person on a contingent fee basis as long as the lay person does not engage in the unauthorized practice of law or share legal fees with the attorney and the contingent fee is not payable for the testimony of the lay person. The Committee also notes that the Bar Associations of Maine, Missouri, Alabama, Georgia, Indiana, Michigan, and the District of Columbia have all approved this type arrangement. This Committee concludes that the use of Health Care Auditors, Inc. under the circumstances described, does not violate the Mississippi Rules of Professional Conduct.