

**ETHICS OPINION NUMBER 199  
OF THE MISSISSIPPI BAR  
RENDERED APRIL 11, 1992**

**LAWYER-CLIENT RELATIONSHIP** - A lawyer may participate in a for-profit prepaid legal service plan provided the plan complies with Mississippi Rules of Professional Conduct and the applicable laws.

The Ethics Committee of The Mississippi Bar has been requested to render an opinion on the following set of facts:

A Mississippi attorney wishes to know if it is ethically permissible to participate in a for-profit prepaid legal service plan where the attorney agrees with a legal service group to be paid a set amount per subscriber to the plan per year to provide the following services to a subscriber: a legal opinion letter, review of a contract, two and one half (2-1/2) hours of consultation, legal advice in a small claims action, and drafting of one (1) letter. The plan provides to subscribers the name of a participating attorney who can be contacted during normal business hours. The attorney agrees to notify the plan if a conflict of interest arises and agrees to handle other matters where conflicts may have arisen with other subscribing attorneys.

In response to numerous inquiries concerning ethical issues as to for-profit prepaid legal service plans, the American Bar Association, on December 14, 1987, issued Formal Opinion No. 87-355 which generally approves participation of a lawyer in such plans under the ABA Model Rules of Professional Conduct, provided the plan complied with guidelines of that Opinion, which must allow the attorney to exercise independent professional judgment on behalf of the client, to maintain client confidence, to avoid conflict of interest, and to practice competently. The operation of the plan must not involve improper advertising or solicitation or improper fee sharing and must comply with applicable laws. The ABA Opinion further made it incumbent upon the participating attorney to insure that the plan complied with the ethical rules.

It is noted at the outset that the plan in question appears similar to most for-profit prepaid legal service plans in that they are owned and operated by sponsors who have a small monthly charge, offer and subscribe certain "covered" legal services for no

additional costs. The services are provided by participating lawyers and this plan does not require participating attorneys to be in conflict with each other.

The Committee is of the opinion that nothing in the questioned for-profit prepaid legal service plan violates the Mississippi Rules of Professional Conduct. Nothing in the plan authorizes the sponsor to interfere with the lawyer's exercise of independent professional judgment or allows the sponsor to direct or regulate the lawyer's professional conduct. Rule 5.4. Next, nothing in the plan would require the participating attorney to reveal confidences of a client. Rule 1.6. Also, the plan in question specifically makes provision for alternative representation should conflict of interests arise. Rules 1.7, 1.8, 1.9 and 1.10. Under the proposed plan, an Attorney must, of course, be competent to handle referrals in the areas mentioned. Rule 1.1. Further, the questioned plan makes no mention of the attorney being involved in any advertising or solicitation which would give rise to problems concerning Rules 7.1, 7.2, 7.3, and 7.4. Finally, this Committee agrees with the ABA Opinion that there is no violation of Rule 5.4 concerning sharing of legal fees with a non-lawyer. None of the problems meant to be prohibited by not allowing fee sharing with non-lawyers are put in this for-profit prepaid legal service plan, since the participating attorney's independent judgment and freedom of action on behalf of the client are preserved. As the ABA Opinion observed:

It is likely that the total fee will not be unreasonable in light of the goal of prepaid legal service plans, to make legal services more widely available at a lower cost to persons of moderate means. Prepaid legal service plans are seen by many to be a way to deliver legal services in non-complex matters to a underrepresented client community.

In conclusion, the Committee finds that a lawyer may participate in a for-profit prepaid legal service plan such as that in this opinion, provided such plan comports with the Rules mentioned in Section 83-41-1 et. seq., Mississippi Code of 1972, as Amended, and the guidelines of this opinion.