

Ethics Opinion 61: Legal Assistants, 10/23/82; Addendum Issued 1995

**The following Formal Opinion was written by
the Ethics Committee of the Colorado Bar Association**

[Formal Ethics Opinions are issued for advisory purposes only and are not in any way binding on the Colorado Supreme Court, the Presiding Disciplinary Judge, the Attorney Regulation Committee, or the Office of Attorney Regulation Counsel and do not provide protection against disciplinary actions.]

61 LEGAL ASSISTANTS Adopted October 23, 1982. Addendum issued 1995.

Syllabus

The proper use of assistants who are not licensed lawyers significantly increases the ability of lawyers to provide quality professional services to the public at reasonable cost. A lawyer cannot, however, delegate his ethical proscriptions by claiming that the violation was that of an employee. Thus, in order to assure compliance with the Code of Professional Responsibility, the following ethical guidelines are applicable to the lawyer's use of non-licensed assistants:

1. A lawyer shall ascertain the assistant's abilities, limitations and training, and must limit the assistant's duties and responsibilities to those that can be competently performed in view of those abilities, limitations and training.
2. A lawyer shall educate and train assistants with respect to the

ethical standards which apply to the lawyer.

3. A lawyer is responsible for monitoring and supervising the conduct of assistants to prevent the violation of the ethical standards which apply to the lawyer, and the lawyer is responsible for assuring that assistants do not do anything which the lawyer could not do.
4. A lawyer shall continually monitor and supervise the work of assistants in order to assure that the services rendered by the assistant are performed competently and in a professional manner.
5. A lawyer is responsible for assuring that the assistant does not engage in the unauthorized practice of law.
6. A lawyer shall assume responsibility for the improper conduct of assistants and must take appropriate action to prevent recurrence of improper behavior or activities.
7. Assistants who deal directly with lawyer's clients must be identified to those clients as non-lawyers, and the lawyer is responsible for obtaining the understanding of the clients with respect to the role of and the limitations which apply to those assistants.

1995 Addendum

The Colorado Rules of Professional Conduct became effective on January 1, 1993, replacing the Code of Professional Responsibility. While the language of the Rules is somewhat different from the Code, the Ethics Committee considers this Opinion to continue to provide guidance to attorneys in this area. Attorneys are cautioned to review Tables A & B: Related Sections in the Colorado Rules of Professional Conduct and The Colorado Code of Professional Responsibility (found

in the *Colorado Ethics Handbook*), to update the research contained in this Opinion and to conduct any independent research necessary.

Relevant provisions of the Colorado Rules of Professional Conduct, which should be examined together with this Opinion, are Rule 5.3 (regarding the use of non-lawyer assistants); Rule 1.6(d) (requiring confidentiality by lawyer, lawyer's employees and associates unless disclosure permitted by client or otherwise permitted by the Rules); and Rule 5.5(b) (prohibiting the assistance of non-lawyers engaged in the unauthorized practice of law).

The Ethics Committee directs attorneys to Opinions [79](#) and [84](#) and the relevant provisions of the Colorado Rules of Professional Conduct contained in those opinions. This opinion is supplemented by Opinions [79](#) and [84](#) which should be reviewed in conjunction with the Rules.