**ARE THERE ANY DOCTORS OR ASSOCIATES IN THE HOUSE?**

By Peter H. Geraghty  
Director, ETHICSearch  
ABA Center for Professional Responsibility

You have a solo practice in civil rights litigation under the name John Smith, Attorney at Law. You also teach part time at a local community college where you offer a course on the introduction to constitutional law. Can you refer to yourself as Dr. John Smith?

In your law practice, you employ a paralegal and a secretary, and you would like to change the firm name to help convey the fact that you have the support within your practice to handle a large volume of cases. Can you refer to your firm as “John Smith and Associates”?

**Discussion**

**Are there any Doctors in the House?**

State bar opinions are split over whether a lawyer may refer to himself as “Dr.” or “Doctor”. See Maher, Lawyers Are Doctors, Too 92 ABAJ 24 (2006). The analysis usually turns on whether the issuing ethics committee determines that the use of the term would be false or misleading under their state version of Rule 7.1 Communications Concerning a Lawyer’s Services of the ABA Model Rules of Professional Conduct. Rule 7.1 states:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the
The Ethics Committee of the Texas Supreme Court issued opinion 550 (2004) on this topic in which it withdrew an earlier opinion that had prohibited lawyers from referring to themselves as “Doctor” or “Dr.” and concluded:

The Committee is of the opinion that under the Rules the use of the title "Dr.," "Doctor," "J.D." or "Doctor of Jurisprudence" is not, in itself, prohibited as constituting a false or misleading communication. The Committee recognizes that other professions, such as educators, economists and social scientists, traditionally use title "Dr." in their professional names to denote a level of advanced education and not to imply formal medical training. There is no reason in these circumstances to prohibit lawyers with a Juris Doctor or Doctor of Jurisprudence degree from indicating the advanced level of their education.

However, while use of the title alone is generally permitted, the context in which the title is used may cause use of the title to be a false or misleading communication. For example, a lawyer otherwise qualified to use the title of "Dr." who advertises as "Dr. John Doe" in a public advertisement for legal services in connection with medical malpractice or other areas involving specialized medical issues may be making a misleading statement as to the lawyer’s qualifications and may be creating an unjustified expectation about results the lawyer can achieve. Unless accompanied by an appropriate, prominent statement of qualifications and disclaimers, such use of the title "Dr." could readily mislead prospective clients and thus violate the Rules. Compare Comment 2 to Rule 7.02.

Other older state bar opinions on this topic are mixed. Citations to these opinions, along with excerpts from digests of them as they appear in the ABA/BNA Lawyers’ Manual on Professional Conduct follow.

Opinions that permit the use of the term include Florida Opinion 88-2 (1988) (A lawyer may use the term “Juris Doctor” on letterhead and business cards but use of the term in advertisements must be evaluated on a case-by-case basis to determine if it is misleading in each context.), New Jersey Op. 461 (1980) (The holder of a J.D. degree who is admitted to the bar of the State of...
New Jersey, may use that degree and the title “Doctor” since the degree indicates his training in the law.), New York State—Suffolk County Opinion 87-6 (A lawyer who has earned a juris doctor degree may use the title “doctor” professionally and/or socially), South Carolina Opinion 76-02 (1976) (An attorney may use “J.D.” or “J uris Doctor” on professional stationery and cards. He may also use and permit others to use the title “Doctor” in reference to himself.)

State Bar opinions that do not approve of the use of the term include Maine Board of Overseers of the Bar Opinion 5 (1979) (Licensed attorney who holds a J.D. degree practices both domestic relations as a lawyer and mental health counselor. May not style himself “doctor” on the basis of a J.D. degree. “Regular use of the title “doctor” is almost exclusively confined to certain health professionals” and “to some extent, academics with a Ph.D. degree and clergymen.” The lay person hearing an attorney referred to as doctor would assume the attorney were also qualified in one of these professions), Michigan Opinion CI-1176 (1988) (A lawyer who has received a “Juris Doctor” degree may use the title of “Doctor” as long as it is not misleading, fraudulent, or deceptive to the public or clients.), North Carolina Opinion 5 (January 16, 1986) (A lawyer with a juris doctor degree may not hold himself out to the public as having a doctorate or use the title “doctor.” The use of such terms without explanation could be misleading.)

**ABA Opinions**

There are older ABA ethics opinions on this topic. ABA Formal Opinion 321 (1969) prohibited lawyers from using the term, stating that to do so would violate the rule against “self laudation” as delineated in Canon 27 of the 1908 ABA Canons of Professional Ethics. Opinion 321 did however permit a lawyer to refer to himself as “doctor” in academic circles. The Committee subsequently reversed its general position against the use of the term in later informal opinions. See, ABA Informal Opinions 1151 and 1152 (1970). Informal Opinion 1152 stated:

You have inquired of the Committee whether under the Code of Professional Responsibility an individual possessing LL.B and LL.M. degrees is entitled to the use of the term ‘Doctor.’ DR 2-102(F) permits the use by a lawyer of ‘an earned degree or title derived therefrom indicating his training in the law.’ This clearly permits the use of the term ‘Doctor’ by the holder of a J.D. degree, and as a LL.M. degree indicates a more advanced stage of training in the law than does a J.D. degree,
it is the opinion of the Committee that under this language
the holder of such a degree would be entitled to use and
permit the use of the term "Doctor" in connection with his
name. – ABA Informal Opinion 1152.

Are there any Associates (or “Law Groups”) in the House?

There are several state bar opinions that address a lawyer’s use of terms in a
firm name that carry with them the implication that there is more than one
lawyer in the firm. Examples of such terms include “X and associates” or
“The X law group”. Citations to these opinions, along with digests of them as

All State bar opinions are in agreement that a lawyer may not use the term,
“and Associates” if there are in fact no associates in the firm. See, South
Carolina Opinion 05-19 (2005) (A lawyer seeking to open a governmental
affairs and lobbying firm consisting of the lawyer and two nonlawyer
employees may not name the firm "John Doe and Associates, P.A." The name
violates Rules 7.1 and 7.5(a) because it misleadingly implies that the firm has
more than one lawyer.). Ohio Opinion 95-1 (1995) (A lawyer who is in solo
practice may not use the phrase "and Associates" in the firm name to indicate
that the lawyer shares space with other lawyers, acts as co-counsel with other
lawyers, or has non-lawyer employees. A lawyer who is the sole shareholder
in a professional corporation may not use the phrase "and Associates" in the
firm name when the lawyer in fact has no employees.)

There is some disagreement, however as to whether a lawyer can use the term
if there is only one associate in the firm. Arizona Opinion 90-1 (1990) A law
firm may use a name such as "X and Associates" provided that at least one
associate lawyer actually assists the named lawyer in his practice. Such a firm
name is not a trade name and is not inherently misleading; however, a sole
practitioner who plans to hire an associate but has not yet done so may not
use the designation because it would mislead the public about the nature of
the sole proprietorship.) and Alabama State Bar opinion 1993-11 (1993) that
stated:

The Disciplinary Commission is of the opinion that the firm
name, "John Doe & Associates" would lead the public to
believe that John Doe has at least one other attorney
associated with him in the practice of law. However, if the
attorney has only one associate, the Disciplinary Commission
is of the opinion that it is not necessary to restrict the name
YourABA: Are there any doctors or associates in the house?

to the singular in order to avoid misleading the public. — Alabama State Bar Opinion 1993-11.

But Compare District of Columbia District of Columbia Opinion 189 (2/16/88) (A lawyer may not use a firm name such as "J ohn Doe and Associates, P.C." unless he normally employs two or more associate attorneys, because the word "associate" normally refers to a lawyer. The danger of misleading the public is not remedied by adding a phrase such as "J ohn Doe associates with independent attorneys and counselors at law" because the firm name still suggests that there are associates in the firm. Whether a lawyer who does not presently employ other lawyers can claim that he normally employs two or more associates depends upon how long the firm has been without two or more associate attorneys and the firm's efforts to engage more associates.)

Opinion 2006-2 2 (2006) of the Ohio Supreme Court Bd. of Commissioners on Grievances and Discipline addressed the question of whether a lawyer who employed two associates could refer to his practice as the “X law group”. The Board stated that the lawyer could do so but also stated that if the practice consisted of only one lawyer and paralegals or other nonlawyer personnel, the term “Law Group would not be appropriate. The opinion went on to summarize two other state bar opinions that had also addressed the use of the term, “law group” in a firm name:

Use of the word “group” in a firm name has been addressed in two states. The Missouri Bar offered, without explanation, this advice: “It would be permissible for a law firm consisting of a principal and associate or two principals to be known as the X Law Group, L.C. It would not be permissible to use the word ‘group’, if the firm consists of only one attorney.” Missouri Bar, Informal Op. 20000142 (undated).

The New York State Bar answered affirmatively when asked this question: “Under DR 2-102(B), may an attorney use his or her surname together with the word “group” as a law firm name where the attorney’s firm has a number of associates?” New York State Bar Assn, Op. 732 (9/28/2000). Like Ohio, New York's DR 2-102(B) prohibits trade names and misleading names. The New York committee stated: “We do not believe that the name ‘The X Group’ would deceive the public about the identity, responsibility or status of those who use the name. A group is simply ‘a number of individuals bound together by a
community of interest, purpose or function.’ Webster's Third New World Dictionary (7th ed. 1993). The name ‘The X Group’ signifies nothing more than the attorney X practices law together with a group of other individuals, which is in fact the case."

Alabama Opinion 93-11 (1993) considered whether a sole practitioner could refer to his practice as a “law firm”. (the names "John Doe Law Firm" and "John Doe Law Office" may be used by a sole practitioner without misleading the public as to the size of the firm or the number of attorneys employed.)

As these opinions illustrate, when undertaking to resolve a question of professional ethics, it is crucial to check the local rules of professional conduct, ethics opinions and court decisions.

ETHICSearch is intended to stimulate awareness of ethical problems and illustrate the varying approaches of different jurisdictions. It is not intended as legal advice. The ABA Model Rules of Professional Conduct and the opinions discussed are advisory only; the ethics rules, laws and court decisions of your jurisdiction may dictate a different result.

Back to top

Back to home

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