

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

lawyer officers and employees may properly have their degrees similarly listed.

4. Lawyers serving as faculty members of an educational institution may permit their academic degrees to be listed in the institution's catalogue in conformity with customary academic practice. A lawyer faculty member, however, who teaches at a law school or who engages in any form of law practice, should not refer to himself as "Doctor", although he is under no duty to ask students and faculty members not to address him by this title. Cf. ABA 321.

5. There is no objection to a lawyer holding a doctors degree using the title "Doctor" when travelling abroad in countries where law graduates customarily use the title, or when dealing with foreign lawyers with whom such usage is customary and proper.

Opinion #105(a)-10/30/69 (24-68)

Withdraws #105

Topic: Use of academic degrees
Digest: Under new Code lawyers may show earned law degrees on letterheads and other listings; and may use title "Doctor" provided their earned law degree is a J.D. or other legal doctorate.
Code of Professional Responsibility (Effective Jan. 1, 1970) EC 2-9 and 2-10; DR 2-102 and 2-102(F)

QUESTION

Has the adoption of the Code of Professional Responsibility, operated to overrule our Opinion No. 105, insofar as that opinion disapproved of professional use by lawyers holding a J.D. or other earned doctor's degree of the title "doctor" or the publicizing of their degree ?

OPINION

On September 27, 1969, the Executive Committee of the New York State Bar Association adopted the American Bar Association's Code of Professional Responsibility (hereafter referred to as "the Code") as the Canons of Ethics of the New York State Bar Association, effective January 1, 1970.

Disciplinary Rule 2-102 of the Code mandates certain professional standards relating to professional notices, letterheads, offices and law lists. Subsection (F) of this Disciplinary Rule provides:

(F) Nothing contained herein shall prohibit a lawyer from using or permitting the use of, in connection with his name, of [sic] an earned degree or title derived therefrom indicating his training in the law.

In the opinion of our Committee the above quoted provision was intended to modify the traditional professional restraints on lawyers showing their law degrees on letterheads, signs and other notices, or using the title "Doctor". Thus our Opinion No. 105 is withdrawn.

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With the effective date of the new Code, a lawyer may, if he wishes, list any earned law degrees (LL.B.; J.D.; LL.M.; S.J.D. or J.S.D.) following his name on professional cards, announcements, letterheads, office signs, and in telephone or other directory listings. A lawyer who has earned a doctor's degree in Law (J.D., S.J.D. or J.S.D.) may also use the title "Doctor", both professionally and socially. Where a J.D. has been awarded retroactively, in place of an earned LL.B. degree, it may be treated as an earned degree.

Although it is no longer improper for a lawyer to list his earned law degrees or to use the title "Doctor" if his degree is a J.D. or one of the other legal doctorates, care must be taken that any such listing or use be accurate and dignified. See Code EC 2-9 and 2-10.

Opinion #106 - 6/10/69 (28-68)

Topic: Telephone Directory Listing
Digest: Listing of a duly qualified attorney in a classified telephone directory as both a patent and general attorney.

Modifies #81

Canon: Former Canon 27

QUESTION

May a patent attorney properly list himself in a classified telephone directory under a heading of "Patent attorneys and agents" and also under a heading of "Attorneys" or "Lawyers"?

OPINION

Persons permitted to practice before the U.S. Patent Office are classified as either patent agents or patent attorneys. Non-lawyers admitted to practice by the Patent Office are patent agents. Lawyers admitted to practice in a state and also by the Patent Office are patent attorneys. The requirements to practice before the Patent Office are the same for both, but separate registers are kept for each.

ABA Canon 27 provides in part:

"Advertising, Direct or Indirect.
....."

"It is not improper for a lawyer who is admitted to practice as a proctor in admiralty to use that designation on his letterhead or shingle or for a lawyer who has complied with the statutory requirements of admission to practice before the patent office, to so use the designation 'patent attorney' or 'patent lawyer' or 'trademark attorney' or 'trademark lawyer' or any combination of those terms."

New York State Canon 27 does not have such provision, but numerous opinions of the Committee have been given as if it were included. (N.Y.State 21, 24, 49, 85.)

Practice before the Patent Office is a right given by federal law. General legal practice in a state is a right given by state law. Each jurisdiction should avoid interfering with the other, or restricting the rights granted thereby. An attorney licensed by both should not be forbidden to list himself in a telephone directory.