
E-94-4 Seminars and client development

Question

May an attorney agree to represent a person who decides to retain the attorney as a result of attending the attorney's presentation at a seminar or other educational or client-development program?

Opinion

In Formal Opinion E-89-1 the committee took the position that an attorney who participates in a seminar may not thereafter provide representation that is requested as a result of the attorney's participation. That opinion was based on then-SCR 20:7.3(e), which subsequently has been repealed by the Wisconsin Supreme Court. The committee therefore withdraws that portion of Formal Opinion E-89-1 which responds to question 2 presented in the opinion.

As noted in E-94-3, the constitutional protections afforded commercial speech have been elaborated in numerous ways touching on the appropriate limits that may be placed on attorneys' efforts to attract a clientele. In some circumstances and subject to constitutional limitations, an attorney may be prohibited by SCR 20:7.3(c) from initiating personal contact with a prospective client for the purpose of obtaining professional employment. While attorneys may participate in a seminar without any hope or expectation of attracting clients, client development usually will form at least part of the motivation. Thus, the committee assumes, for purposes of this opinion, that an attorney's participation in a seminar offered to nonclients is motivated, at least in part, by a desire to obtain professional employment from those in attendance.

The question remains whether an attorney's participation in a seminar, when motivated in part by a desire to attract clients, constitutes initiating personal contact with a prospective client for the purpose of obtaining professional employment, in violation of SCR 20:7.3(c). The Rules of Professional Conduct must be interpreted in light of constitutional principles to ensure that their requirements and prohibitions are permissible.

A person's decision to attend a seminar at which attorneys make presentations is the triggering event that initiates the personal contact between that person

and participating attorneys. Thus, under the terms of SCR 20:7.3(c), any personal contact that ensues from the seminar would be at the prospective client's initiation and election.

Therefore, the answer to the question is yes. Attorneys may accept as clients persons who choose to consult the attorney as a result of attending the attorney's presentation at a seminar or other educational or client development program. This conclusion applies to seminars sponsored by law firms or others. This in no way diminishes the attorney's responsibility under SCR 20:7.1 to make only accurate and nonmisleading statements about the attorney's services.