

**THE PROFESSIONAL ETHICS COMMITTEE
FOR THE STATE BAR OF TEXAS
Opinion No. 647**

November 2014

QUESTION PRESENTED

Under the Texas Disciplinary Rules of Professional Conduct, may a Texas lawyer provide pro bono legal services through a law firm organized by the lawyer as a non-profit corporation under a name that describes the type of legal services that will be provided and includes the name of a person who has never been a lawyer in the law firm?

STATEMENT OF FACTS

A Texas lawyer wishes to provide pro bono legal services to children with autism. The lawyer, who is motivated by his own experience with an autistic granddaughter, desires to assist children with autism and their families in navigating the public school system. All of the lawyer's services will be provided free of charge through a law firm organized as a non-profit corporation. The lawyer proposes to name the law firm "Jane's Law Firm, A Free Legal Resource for Children with Autism." "Jane" is the name of the lawyer's granddaughter but is not the name of a lawyer who has ever been in the firm.

DISCUSSION

Rule 7.01(a) of the Texas Disciplinary Rules of Professional Conduct states, in relevant part:

"A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that . . . if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. . . ."

Rule 7.01(a) provides other exceptions that are not relevant here.

The Disciplinary Rules do not define the term "trade name." In *Commission for Lawyer Discipline v. C.R.*, 54 S.W.3d 506, 515 (Tex. App. —Fort Worth 2001, pet. denied), the court, in construing Rule 7.01, observed: "A trade name is a designation that is adopted and used by a person either to designate a good he markets, a service he renders, or a business he conducts."

In this case, the lawyer proposes to practice under a name that would violate Rule 7.01(a) in three respects. First, the proposed name constitutes a trade name. Second, the proposed name is misleading as to the identity of the lawyer practicing under the name because “Jane” is the name of the lawyer’s granddaughter, not the lawyer. Finally, the proposed name contains the name of someone who has never been a lawyer in the firm.

Rule 7.01(a) does not permit a lawyer to provide legal services through a law firm organized by the lawyer as a non-profit corporation under a name that describes the type of legal services to be provided and that includes the name of a relative of the lawyer who has a condition that is the focus of the non-profit corporation but who has never been a lawyer in the firm. Consequently, in the circumstances considered, the lawyer would not be permitted to provide legal services through a non-profit corporation formed by him under the name “Jane’s Law Firm, A Free Legal Resource for Children with Autism.”

CONCLUSION

Under the Texas Disciplinary Rules of Professional Conduct, a Texas lawyer in private practice may not provide pro bono legal services through a law firm organized by the lawyer as a non-profit corporation under a name that describes the type of legal services that will be provided and includes the name of a person who has never been a lawyer in the law firm.