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**3/73      Lawyer publishing do-it-yourself divorce  
kit in uncontested divorces**

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You have asked for an opinion on the following question:

“Would an attorney be in violation of Canon 3(A) of the Code of Professional Responsibility, Disciplinary Rules, if he were to publish a book of forms and explanations so that a married couple with no minor children, who agreed on any property settlement (if property is involved), could seek their own uncontested divorce, without the assistance of an attorney, on the grounds that they voluntarily lived entirely separated for one year next preceding the commencement of the proposed divorce?” (Wis. Stat. § 247.07(6) (1969))

Based strictly upon the specific language of the question, it is the opinion of the Ethics Committee that the publication would not be in violation of DR-3-101(A) for the reason that Wisconsin law permits a party to represent himself in legal matters. (See also EC 3-7.)

However, the committee is also of the opinion that implementation of the publication under facts which are not apparent from the question could result in unethical conduct. For instance:

(a) If in the “publication” he publicizes himself as a lawyer other than in a dignified manner for purposes of identifying authorship—such as “member of the Bar of Wisconsin”—he could well be in violation of DR 2-101(A) and (B)(5). (See also EC 2-2.)

(b) If the “explanations” are of a nature which constitute “advice on legal problems,” then such advice is not only gratuitous but is voluntary as well and when coupled with the publicity of authorship would create a situation where any employment of the attorney by anyone who saw or heard of the book might well be suspect and unethical. (See EC 2-3.) While it is commendable for a lawyer to properly assist in helping the public to appreciate the existence of legal problems and the necessity for adequate representation (EC 2-1), be that by licensed lawyer or in proper person, nevertheless:

“A lawyer who writes or speaks for the purpose of educating members of the public to recognize their legal problems would carefully refrain from giving

or appearing to give a general solution applicable to all apparently similar individual problems, since slight changes in fact situations may require a material variance in the applicable advice; otherwise, the public may be misled and misadvised. Talks and writing by lawyers for laymen should caution them not to attempt to solve individual problems upon the basis of the information contained therein.” (EC 2-5.)

The committee wishes to place on record an additional observation: Granted that every lawyer has a duty to help members of the public to recognize legal problems which may threaten them and to appreciate the importance of seeking assistance, but is he ethically discharging his responsibility as a lawyer if he indiscriminately places in their hands the weapons (forms) of legal combat without the indispensable advice relating to the consequences of their use? The state has an interest as a matter of public policy in both the marriage and the divorce. It sounds good to refer to a situation where “both parties have agreed,” etc. However, the committee is of the opinion that most lawyers who have even a minimum of experience in family law would have to admit that the parties to a divorce action, be it contested or defaulted, are not always in equal positions of strength. This may be because of factual circumstances, actual or apparent, or merely because of different personalities and considerations related to religion, education, social status and sense of ethical and moral values. In default situations, therefore, one of the parties inevitably is under some disadvantage which is compounded for both when neither is properly advised of the consequences of their uncounseled use of the weapons.