

## Utah Ethics Opinions

1972.

### 5. USB EAOB Opinion No. 5

Ethics Advisory Opinion No. 5

Approved January 13, 1972

**Summary:** A practicing attorney who sells life insurance faces solicitation and conflict of interest problems and is held to the ethical standards of an attorney in both professions.

**Facts:** You have inquired as to the propriety of a licensed attorney, actively practicing as an attorney, holding a license to sell and actively selling life insurance directly or indirectly.

**Opinion:** Two problems seem to exist in such a relationship. First, it may well amount to a solicitation. The sale of life insurance often involves legal problems. This is pointed out in Informal Opinion C-424, of the American Bar Association, Standing Committee of Professional Ethics, where the Committee analyzing this situation said:

"Selling life insurance is not in itself the practice of law, but a sale of life insurance often involves legal problems, such as estate and inheritance tax questions, the taxation of annuity income, the establishment of trusts, and matters involved generally in estate planning. The fact that a layman might lawfully render some such service does not mean that it would not be professional service when rendered by a lawyer. . . . We do not see how, as a practical matter, a life insurance agent, properly performing his duties to his customers, under modern conditions, could avoid dealing with such legal problems. Under such circumstances it also readily lends itself as a means of procuring professional employment for the agent-lawyer."

This problem of solicitation would still exist even if the practice were limited to merely referring law clients to an insurance broker and in return receiving a portion of the insurance commission for the referral, since the lawyer's client would undoubtedly ask his advice in such an insurance situation. We assume this to be the reference to indirect insurance selling in your letter.

Second, a conflict of interest may develop in such a circumstance where the lawyer would profit directly from the lawyer-client relationship and also from the insurance agent relationship, depending upon the nature of the legal advice given.

**References:** ABA Formal Opinion 328; ABA Informal Opinion 1248.