

## New ABA Ethics Opinion Highlights the Role of Nonlawyer Assistants in Client Intake Process



The American Bar Association (ABA) Standing Committee on Ethics and Professional Responsibility has recently released a significant ethics opinion, Formal Opinion 506, shedding light on the role of nonlawyer legal assistants in client intake matters. While acknowledging the valuable services provided by nonlawyer assistants, such as paralegals and legal assistants, the opinion emphasizes the importance of lawyers ensuring that their conduct aligns with professional obligations.

According to Model Rule 5.3(b) of the ABA's Model Rules of Professional Conduct, lawyers who directly supervise nonlawyer assistants have a responsibility to make reasonable efforts to ensure that the assistants' conduct remains compatible with the lawyer's ethical obligations. Furthermore, Model Rule 5.5 explicitly prohibits the unauthorized practice of law, which can come into play when lawyers delegate too much responsibility to nonlawyer assistants without appropriate oversight.

The opinion recognizes the benefits of utilizing nonlawyer assistants in various tasks, including initial client intake procedures. These tasks may involve gathering preliminary information about prospective cases, conducting conflicts checks, answering general fee-related inquiries, and obtaining the prospective client's signature. Nonlawyer assistants are often capable of addressing general questions from potential clients.

However, as the nature of the questions shifts towards more specific legal matters, it becomes crucial to involve the lawyer. Prospective clients should have the opportunity to consult directly with the lawyer when their inquiries delve into the realm of legal services. The opinion stresses that clients must always be offered the chance to discuss fee agreements and the scope of representation with the lawyer.

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The opinion highlights the necessity of careful management, proper policies, training, and supervision when delegating tasks to nonlawyer assistants. While they can contribute significantly to a lawyer's practice, inadequate guidance and oversight can lead to ethical violations and adverse consequences for clients and lawyers.

By maintaining effective policies and implementing comprehensive training programs, lawyers can empower nonlawyer assistants to handle initial client intake tasks while ensuring compliance with ethical rules. Appropriate supervision should complement these measures to guarantee that nonlawyer assistants operate within the bounds of the lawyer's professional obligations.

Lawyers are responsible for striking a delicate balance, leveraging the expertise and support of nonlawyer assistants while safeguarding clients' interests and upholding their ethical obligations. Through diligent supervision and ongoing communication, lawyers can effectively navigate the ethical considerations associated with delegating tasks to nonlawyer assistants.

Ultimately, the ethics opinion serves as a reminder that lawyers bear ultimate responsibility for their clients' welfare and must take necessary steps to protect their interests. By allowing clients to consult with the lawyer directly, lawyers can ensure that clients receive the appropriate level of legal advice and representation.

The recent ABA ethics opinion, Formal Opinion 506, sheds light on the role of nonlawyer legal assistants in client intake matters. While recognizing their value, the opinion underscores the importance of lawyers overseeing their conduct to ensure compliance with professional obligations. Through proper policies, training, and supervision, lawyers can harness the benefits of nonlawyer assistants while upholding ethical standards and safeguarding the interests of their clients.