

District Lawyers Reject Code on Ethical Conduct

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The District Bar Association has rejected proposed disciplinary rules that would require lawyers to reveal fraudulent conduct by their clients, compel them to report unethical activities by other lawyers and forbid out-of-court statements about pending civil cases.

In a mail referendum adopting overwhelmingly most of the code of professional responsibility recommended by the American Bar Association, the city bar voted by wide margins to scrap five ABA disciplinary rules dealing with some of the most sensitive problems that confront practicing lawyers in their work.

One of the rejected rules would have seriously restricted the right of a lawyer representing a group such as a tenants' union that has banded together to finance group legal services, to argue for law reform or constitutional change. But the rule would not have curbed the lawyer's range of action if his client were an individual or a corporation.

Another rejected proposal was a broadly worded rule—too broadly worded, according to its critics—prohibiting conduct by a lawyer that "adversely reflects on his fitness to practice law."

The ABA's code, adopted by the national body last year to replace ethical canons dating back to 1908, has been approved without major amendment in 14 states, with varying degrees of official legal status.

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Some legislatures have enacted the code into law, some courts have adopted it in the form of rules with the force of law and many bar associations have issued endorsements giving it high but unofficial standing.

See ETHICS, A10, Col. 3

ETHICS, From A1

The D.C. bar's ethics committee met privately yesterday to discuss whether to ask the District Court here to adopt the amended code as its own rules governing proceedings to discipline, suspend or disbar attorneys accused of unethical conduct. The old canons were the court's guidelines for generations but were not formally adopted by the judges.

The vote was expected to rekindle debates over lawyers' behavior in the nation's capital, which has the largest per capita population of lawyers in the United States. The turnout of 1,162 ballots in the 5,000-member association was considered light but the margins of the five disapproval votes far exceeded 2 to 1.

Slowing Influence Seen

Some Washington lawyers said the vote could slow down

the approval process in states where the entire code might have been accepted without thorough study. They said the vote might also prompt re-examination of some controversial provisions in the 1969 code, which was amended in three sections only last February.

The vote to approve the bulk of the code was 982 to 94. The vote was 843 to 299 against the ABA rule on informing on a client.

That proposal would require a lawyer who discovers that his client is perverting a fraud on the court, or on his opponent, to disclose the fraud unless the lawyer can persuade his client to disclose it himself.

An example given was the case of a lawyer whose client, a husband in a divorce case, swears that his tax return is complete and accurate. The

lawyer discovers through confidential communications that his client has additional unreported income. Under the ABA rule the lawyer could be disbarred for failing to tell the court, the Treasury Department and the wife and her attorney.

See Confidence Imperiled

Critics said this rule would destroy clients' confidence in their lawyers and "would turn the lawyer into his client's judge and prosecutor instead of his advocate." Supporters said the lawyer "is first and foremost an officer of the court" whose "devotion to duty precludes participation in a client's dirty work."

Opponents of the ABA rule on reporting their colleagues unethical conduct said it was "contrary to basic American traditions" for every lawyer "to become an informer on every other lawyer." The

rule's backers said it was needed because otherwise "the public may feel that lawyers are trying to cover up for each other."

The Washington lawyers were unwilling, without further study, to extend to civil cases and administrative agency disputes the ABA's "fair trial, free press" rule against extra-judicial statements. Opponents said the rule would forbid working on a press release for a client answering a fraud charge by the Federal Trade Commission or the Securities Exchange Commission or an unfair labor practice charge by the National Labor Relations Board.

Supporters of the rule said the agencies, no less than the criminal courts, should be free from "extraneous" comments to news media that could put pressure on government regulators.