

**ETHICS OPINION NUMBER 39
OF THE MISSISSIPPI BAR
RENDERED JUNE 2, 1977
AMENDED APRIL 6, 2013**

ADVERTISING - SOLICITATION - Attorney who drafted will may inform testator of changes in estate tax or other testamentary laws and regulations when such changes may defeat testator's original intentions; however, notice should not direct that the will should be reviewed by any particular attorney.

The Ethics Committee of The Mississippi Bar has been requested to render an opinion regarding the ethical propriety of an attorney who has written a will, to inform the testator of any changes in estate tax or testamentary laws and regulations, where such changes may alter the legality or taxable nature of the estate and in effect defeat the testator's original intentions when the will was drafted..

A will is drafted for the purpose of carrying out the intentions of the testator in light of existing testamentary laws, and in many cases, estate tax laws. If these laws and/or regulations are changed, the result may be that the testator's intentions may be defeated.

Rule 1.1 of the Mississippi Rules of Professional Conduct (MRPC) provides that a lawyer should represent a client competently. Rule 1.2, MRPC, provides that a lawyer should abide by the client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued. The drafting of a will is a single act of representation and this opinion places no obligation on an attorney to examine copies of existing wills which may remain in his office, and notify the testator of any change in laws or regulations. However, the committee is of the opinion that an attorney can with propriety choose to notify the testator of any changes in testamentary and estate tax laws and regulations. The notification should only state that the laws and/or regulations involved have been changed, stating the changes if desired, and recommending that the existing will be reviewed by an attorney. The notification should not direct the testator to any particular attorney.