



WHAT QUORA PROVES ABOUT ABA ETHICS RULES

<http://hellermanbaretz.com/soundbites/what-quora-proves-about-aba-ethics-rules>

January 26, 2011

If you're familiar with social media, you've heard about [Quora](#) by now. Like [Yahoo! Answers](#), it's a large collection of questions (e.g., "[What's the fastest land animal?](#)") asked and answered by its users.

Kevin O'Keefe of [LexBlog](#) [sees](#) Quora as a marketing opportunity for lawyers. In a recent post, he says that Quora "will be very attractive to lawyers looking to enhance their reputations and connect with their target audience."

The idea is that by providing quality answers to Quora's [legal questions](#), a lawyer can raise her profile and, in turn, generate business. At HBC, we're not yet telling our clients to stay up nights on Quora; there are plenty of other social sites (e.g., LinkedIn, Twitter and yes, even Facebook) that we think are more important to master at this point in time. But we don't write to debate the utility of Quora. Instead, we want to highlight the way in which the site underscores some points we've made on a larger topic: ABA regulation of social media activity. And, if we do say so, the case of Quora proves us right.

The ABA [is considering](#) developing special ethics rules around lawyers' use of blogs and social networks. As we [told the ABA](#), we think this would be a mistake. Our reasoning is simple: the Model Rules of Professional Conduct regulate the **substance** of communications made by attorneys, not the **method** by which those communications are made. The rules, therefore, already cover what lawyers say on blogs and other online venues. Rule 7.1, to give one example, prohibits "false or misleading communications" without regard to whether the communication is made in print, by phone, by fax, CB radio, singing telegram, or, yes, social media.

Our second point was that designing special rules for social media also would be impractical. We [noted that](#) "it is a virtual certainty that the features of today's robust networking platforms will change and proliferate over time. Attempting to address the universe of Internet platforms with specific Model Rules (or addendums to existing rules) will sentence the ABA to a futile, time consuming, and never-ending mission to amend the rules' language to keep pace with the networks' ever-changing natures."

Quora proves both points. First, existing law already covers the ethical concerns raised by Quora. Though not addressed in the [LexBlog post](#), there are indeed some obvious ethical questions around Quora that will leap out at any lawyer: By answering a question on Quora, am I providing legal advice? Have I formed a lawyer-client relationship, even inadvertently, with the questioner? These are hugely important questions

that bear on malpractice exposure and duties of confidentiality, among other issues. And yet, creating a special rule for Quora would not make sense.

The ABA and state bar associations have built up a large body of opinions on the practice of answering legal questions on call-in radio shows, television shows, and newspaper columns, all of which are [highly analogous](#) to what a lawyer would be doing on Quora. There is no need to reinvent the wheel with a special rule just for that site.

If the ABA did create such a rule, it would have to be amended on an almost weekly basis. What about [LawPivot](#), for example? It's another recently launched Q&A site, but one that is specifically designed for the provision of legal advice to start ups, and has features that keep its conversations confidential-factors that would weigh in favor of the formation of valid lawyer-client relationships.

Rather than updating the Quora rule constantly, it would be much better to rely on the ABA and state bar associations' already-established general principles, and apply them to new situations as they arise.

The case of Quora: another argument against heavy-handed regulation of lawyer activity on social media.