

FORMAL OPINION NO 2005-76

Lawyer's Duty to Disclose Certain Adoption Information to Client, Lawyer as Agent

Facts:

While representing husband and wife in the adoption of a child, Lawyer learned the identity and whereabouts of the birth mother. Some years later, the adoptive parents ask Lawyer to disclose this information.

Question:

May Lawyer provide the requested information?

Conclusion:

Yes, qualified.

Discussion:

Under Oregon law, court records of adoption must generally be sealed. ORS 432.223; ORS 432.250.¹ If, however, Lawyer has the pertinent information in Lawyer's file, and if the information was not obtained in violation of law and the disclosure does not violate the law, Lawyer's fiduciary obligation to the clients appears to require the disclosure on request. *Cf.* Oregon RPC 1.2(a) ("a lawyer shall abide by a client's decisions concerning the objectives of representation and . . . may take such action on behalf of the client as is impliedly authorized to carry out the representation"); Oregon RPC 1.4(a) ("A lawyer shall keep a client reasonably informed about the status of matter and promptly

¹ Note, however, that ORS 432.228 allows the disclosure of the original birth certificate to an adopted person over the age of 21.

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comply with reasonable requests for information.”); OSB Formal Ethics Op No 2005-26.

Approved by Board of Governors, August 2005.

COMMENT: For additional information on this general topic and other related subjects, see *The Ethical Oregon Lawyer* § 7.4 (client communication), § 7.5-1 (abiding by client’s decision) (OSB Legal Pubs 2015); *Restatement (Third) of the Law Governing Lawyers* §§ 16, 20–21, 23, 50, 105 (2000) (supplemented periodically); ABA Model RPC 1.2(a); and ABA Model RPC 1.3–1.4.