FLORIDA RULES

APPENDIX "D"

The Florida Bar
www.floridabar.org

RULE 15-1.1 PURPOSE

15 REVIEW OF LAWYER ADVERTISEMENTS AND SOLICITATIONS
15-1 GENERALLY

RULE 15-1.1 PURPOSE

The Florida Bar, as an official arm of the Supreme Court of Florida, is charged with the duty of enforcing the rules governing lawyer advertising and solicitation and with assisting members of The Florida Bar to advertise their services in a manner beneficial to both the public and the legal profession. The board of governors, pursuant to the authority vested in it under rule 2-8.3, shall create a standing committee on advertising to advise members of The Florida Bar on permissible advertising and solicitation practices. It shall be the duty of the committee to administer the advertising evaluation program set forth in subchapter 4-7.

[Revised: 04/25/2002]

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RULE 15-2.1 MEMBERSHIP AND TERMS

15 REVIEW OF LAWYER ADVERTISEMENTS AND SOLICITATIONS
15-2 STANDING COMMITTEE ON ADVERTISING

RULE 15-2.1 MEMBERSHIP AND TERMS

The standing committee on advertising shall consist of 4 members of The Florida Bar and 3 nonlawyers representing the public. Members of the committee shall be appointed by the president-elect of The Florida Bar, as provided in rule 2-8.1. The president-elect shall designate the chair and vice-chair, with the advice and consent of the board of governors. Members of the committee shall serve staggered 3-year terms. No member may serve more than 2 consecutive terms. A quorum shall consist of a majority of the members.

[Revised: 01/01/1993]

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RULE 15-2.3 REIMBURSEMENT FOR PUBLIC MEMBERS

15 REVIEW OF LAWYER ADVERTISEMENTS AND SOLICITATIONS
15-2 STANDING COMMITTEE ON ADVERTISING

RULE 15-2.3 REIMBURSEMENT FOR PUBLIC MEMBERS

The nonlawyer public members of the standing committee shall be reimbursed for reasonable travel and related expenses associated with attendance at meetings of the committee.

[Revised: 01/01/1993]

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RULE 15-4.1 GENERALLY

15 REVIEW OF LAWYER ADVERTISEMENTS AND SOLICITATIONS
15-4 REPORT OF COMMITTEE

RULE 15-4.1 GENERALLY

Within 3 months after the conclusion of the first year of the review program, the committee shall submit to the board of governors a report detailing the year's activities of the committee. The report shall include such information as the board of governors may require.

[Revised: 01/01/1993]

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RULE 15-4.2 RECORDS

15 REVIEW OF LAWYER ADVERTISEMENTS AND SOLICITATIONS
15-4 REPORT OF COMMITTEE

RULE 15-4.2 RECORDS

(a) Maintenance of Records. The committee shall keep records of its activities for 3 years.

(b) Public Access to Records. All records of the committee shall be open for public inspection and copying with the following exceptions:

(1) proposed advertisements and proposed direct mail communications filed for advisory review when the submitting attorney advises the committee that the materials constitute protected trade secrets or proprietary information;

(2) the media, frequency, and duration of an advertisement when the submitting attorney advises the committee that the information constitutes protected trade secrets or proprietary information;

(3) the names and addresses of recipient of direct mail communications;

(4) information made confidential by rule of the Supreme Court of Florida;

(5) attorney-client communications between the bar, its committees and staff and those attorneys retained by the bar in anticipation of, or during, civil litigation; and

(6) work product prepared by an attorney retained by the bar in anticipation of, or during, civil litigation.

(c) Inspection of Copyrighted Material. Copyrighted work may be inspected but not reproduced.

[Revised: 10/29/1992]

Filing Requirement - Rule 4-7.7(a)

1. **Television and radio - Rule 4-7.7(a)(1)**

Television and radio ads are only exempt from filing if they are limited to the permissible content or "safe harbor" information listed in Rule 4-7.2(b). Each television and radio advertisement that is required to be filed must be filed at least 20 days before its planned broadcast. The bar must provide an opinion within 15 days from the date of receipt of a complete filing. The lawyer cannot broadcast the ad until the lawyer either receives an opinion on the advertisement or 20 days have elapsed from the lawyer's making a complete filing of the ad. A complete filing consists of the video or audio recording of the ad, a printed copy of a complete transcript of the ad which includes any on-screen text, and a $150 filing fee for timely filing ($250 filing fee if late).

2. **All other media (print, billboards and signs, direct mail, etc.) - Rule 4-7.7(a)(2)**

Any lawyer or law firm disseminating information about themselves or their services through any public medium or through unsolicited, written communications to prospective clients must file a copy of such advertisement or communication for review by staff of the SCA, unless the information is specifically exempted under Rule 4-7.8 or elsewhere in Subchapter 4-7. The advertisement or unsolicited direct mail must be filed either prior to or at the first time the advertisement is used.

3. **Reliance on Florida Bar opinions - Rule 4-7.2(a)(1)(F) and (a)(2)(F)**

Florida Bar opinions finding an advertisement in compliance with the lawyer advertising rules are binding on The Florida Bar in a grievance proceeding unless the advertisement contains a misrepresentation that is not apparent from the advertisement itself.

Exemptions from Filing Requirement - Rule 4-7.8

Certain types of advertisements are exempt from the filing requirement. An ad that is exempt need not be filed for review and is, therefore, not subject to a filing fee. The fact that an advertisement is exempt from the filing and review requirements of Rule 4-7.7 does not mean that it is exempt from the other provisions of Subchapter 4-7. Thus, all advertisements must include, at a minimum, the name of at least one lawyer responsible for the ad's content and the geographic location, by city or town, of at least one bona fide office location of the lawyer who will perform the advertised services. Rules 4-

7.2(a)(1) and (2). For additional regulations governing all forms of lawyer advertising, see Section II., E. of this Handbook.

Note: Unsolicited written communications to prospective clients are never exempt from the filing requirement.

The following are exempt from the filing requirement:

1. **"Tombstone Ads"**

[Note: the name of the lawyer responsible for the ad and a geographic disclosure are required]

Rules 4-7.8(a) and 4-7.2(b)(1). An advertisement in any public medium that contains no illustrations or information other than the following:

(a) the name of the lawyer or law firm, a listing of lawyers associated with the firm, office locations and parking arrangements, disability accommodations, telephone numbers, Web site addresses, e-mail addresses, office and telephone service hours, and a designation such as "attorney" or "law firm";

(b) date of admission to The Florida Bar and any other bars; current membership or positions held in The Florida Bar, its sections or committees; former membership or positions held in The Florida Bar, its sections or committees, together with dates of membership; former positions or employment held in the legal profession together with the dates the positions were held; years of experience practicing law, number of lawyers in the advertising firm, and a listing of federal courts and jurisdictions other than Florida where the lawyer is licensed to practice;

(c) technical and professional licenses granted by the state or other recognized licensing authorities and educational degrees received, including dates and institutions; military service, including branch and dates of service;

(d) foreign language ability;

(e) fields of law in which the lawyer practices, including official certification logos, subject to Rule 4-7.2(c)(6) (governing communication of specialized areas of practice);

(f) prepaid or group legal service plans in which the lawyer participates;

(g) acceptance of credit cards;

(h) fee for initial consultation and fee schedule, subject to Rule 4-7.2(c)(7) regarding cost disclosures and (c)(8) regarding honoring advertised fees;

(i) common salutary language such as "best wishes", "good luck", "happy holidays", or "pleased to announce";

(j) punctuation marks and common typographical marks;

(k) an illustration of the scales of justice not deceptively similar to official certification logos or The Florida Bar logo, a gavel, traditional renditions of Lady Justice, the Statute of Liberty, the American flag, the American eagle, the State of Florida flag, an unadorned set of law books, the inside or outside of a courthouse, column(s), diploma(s), or a photograph of the lawyer or lawyers who are members of or employed by the firm against a plain background consisting of a single solid color or a plain unadorned set of law books.

Note: The term "illustrations" as used in Rule 4-7.8(a) has been interpreted by the Standing Committee on Advertising to include photographs.

2. "Tombstone Ads" for Lawyer Referral Services

Rules 4-7.8(a) and 4-7.2(b)(2). A lawyer referral service advertisement that contains no information or illustrations other than its name, location, telephone number, the referral fee charged, its hours of operation, the process by which referrals are made, the areas of law in which referrals are offered, the geographic area in which the referral lawyers practice, and, if applicable, the service's nonprofit status, its status as a lawyer referral service approved by The Florida Bar, and the logo of its sponsoring bar association.

3. Announcements of Contribution or Sponsorship

[Note: the name of the lawyer responsible for the ad and a geographic disclosure are required]

Rules 4-7.8(b) and 4-7.2(b)(3). A brief announcement in any public medium that identifies a lawyer or law firm as a contributor to a specified charity or as a sponsor of a public service announcement or a specified charitable, community, or public interest program, activity, or event, provided that the announcement contains no information about the lawyer or law firm other than the permissible content of advertisements set forth in Rule 4-7.2(b)(1).

4. **Legal Listings**

Rule 4-7.8(c) A listing or entry in a law list or bar publication, e.g., Martindale-Hubbell, directed primarily to lawyers.

5. **Mailings to lawyers, current clients and former clients**

Rule 4-7.8 (d). Mailings that are sent only to other lawyers, current clients, and former clients.

6. **Professional Announcements**

Rule 4-7.8(e) Professional announcement cards (announcing changed associations or addresses) that are mailed only to relatives, close personal friends, existing clients, former clients, or other lawyers.

7. **Computer-Accessed Communications**

Rule 4-7.8(f) All Internet websites accessed via the Internet as described in Rule 4-7.6(b).

8. **Letterhead & Business Cards**

Letterhead and business cards, provided they are not used in an unsolicited, direct mail communication or duplicated for publication in an advertising medium. SCA Decision

9. **Solicitation of Birth Mothers**

Advertisements to solicit birth mothers when placed by an attorney on behalf of existing adoption clients. SCA Decision

10. **Witnesses**

Florida's lawyer advertising rules do not apply to notices to find witnesses if the lawyer has an existing client and the lawyer does not intend to accept prospective clients as a result of placing the notice seeking witnesses.

How to File - Rule 4-7.7

Television and Radio Advertisements

(a) Where to File

All required filings must be submitted to: Ethics and Advertising Department, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300.

(b) When to File

All required filings must be submitted to The Florida Bar for review at least 20 days before the first broadcast of the advertisement to allow for a 15-day evaluation period and 5 days mailing time.

(c) Contents of Filing

A filing with The Florida Bar shall consist of:

(1) a copy of the advertisement on DVD (television) or audiotape (radio) (***please submit one advertisement per DVD or audiotape***)

(2) a transcript of the audio portion of the tape;

(3) a printed copy of all text used in the advertisement, both audio and on-screen text;

(4) a statement listing all media in which the advertisement or communication will appear, the expected frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used;

(5) a fee paid to The Florida Bar, in an amount of $150 for submissions timely filed, or $250 for submissions not timely filed; and

(6) an accurate English translation if the advertisement appears in a language other than English.

Note: the advertisement must be capable of duplication by The Florida Bar.

Preferred file format is H.264 / MPEG-4 or AVC (advanced video coding) which is the most common used format for compression and distribution of high definition video. Resolution should not be larger than 720x480. VLC Media Player is the preferred software that will be used to view your advertisements. Windows Media (.wmv), Quicktime (.mov or.qt) and Real Player (.rm, .ram, .rmvb) files can also be viewed.

All Other Media (Print, Unsolicited Direct Mail, Unsolicited E-mail, and Computer-Accessed)

(a) Where to File

All required filings must be submitted to: Ethics and Advertising Department, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300.

(b) When to File

All required filings must be submitted to the SCA for review prior to, or simultaneously with, the first dissemination of the advertisement.

(c) Contents of Filing

A filing with The Florida Bar shall consist of:

(1) a copy of the advertisement or communication in the form or forms in which it is to be disseminated, e.g., copies of print advertisements, copies of direct mail letters or brochures (including all enclosures and a sample envelope if one will be used with the direct mail piece) and photographs of outdoor advertising;

Note: the advertisement must be capable of duplication by The Florida Bar.

(2) a printed copy of all text used in the advertisement;

(3) a statement listing all media in which the advertisement or communication will appear, the expected frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used;

(4) a fee paid to The Florida Bar, in an amount of $150 for submissions timely filed, or $250 for submissions not timely filed. This fee is used to offset the cost of evaluation and review of advertisements submitted under these rules and the cost of enforcing these rules; and

(5) an accurate English translation if the advertisement appears in a language other than English.

EXAMPLES OF COMPLYING AND NONCOMPLYING ADS

A. PRINT ADVERTISEMENTS

1. PRINT ADVERTISEMENT THAT *COMPLIES* WITH APPLICABLE BAR RULES

[THIS AD IS ***EXEMPT*** FROM THE FILING REQUIREMENT, UNDER RULE 4-7.8(a).]

PERSONAL INJURY and WRONGFUL DEATH

No Recovery, No Fees or Costs
Office Hours: 9 a.m. to 6 p.m. M-F
Weekend and evening appointments available.

John Smith, P.A.

Attorney at Law

Board Certified civil trial specialist by The Florida Bar.
Also licensed as M.D. in Florida.

(407) 555-7890

123 Main Street
Orlando

2. PRINT ADVERTISEMENT THAT ***COMPLIES*** WITH APPLICABLE BAR RULES
(***NOT EXEMPT FROM FILING***)

PERSONAL INJURY AND DEATH CASES

FREE
FIRST VISIT

LAW OFFICES OF

JONES & BROWN, P.A.

TRIAL ATTORNEYS
SINCE 1971

MR. JONES RECEIVED A DEGREE IN PHARMACY. THAT MEDICAL AND SCIENTIFIC KNOWLEDGE HELPS HIM UNDERSTAND MEDICAL AND SCIENTIFIC LITIGATION. MR. BROWN HAS 24 YEARS EXPERIENCE AS A PERSONAL INJURY TRIAL LAWYER.

- ☒ Auto & Truck Accidents
- ☒ Birth Related Injuries
- ☒ Defective Products
- ☒ Medical Negligence
- ☒ Workers Compensation
- ☒ Insurance Company Disputes
- ☒ Dog Bites

NO FEE IF NO RECOVERY*
***EXCLUDES COSTS**

555-7890
432 Main Street, Tampa

Jones & Brown, P.A. Office Building

3. PRINT ADVERTISEMENT THAT ***COMPLIES*** WITH APPLICABLE BAR RULES (***NOT EXEMPT FROM FILING***)

DIVORCE?

Caring Representation in Family Law Matters.
I Want to Help You Through this Difficult Time.

SUSAN JONES, P.A.

Serving St. Pete Residents Since 1975	111 Main Street St. Petersburg 555-1234	Payment Plans Available

Susan Jones is Board Certified in Marital and Family Law by The Florida Bar

4. PRINT ADVERTISEMENT THAT ***COMPLIES*** WITH APPLICABLE BAR RULES (***NOT EXEMPT FROM FILING***)

FAMILY LAW

An Attorney Who Cares For Your Rights!

BILL BROWN

Attorney-at-Law
Orlando

Se Habla Español **555-1234** **Free Consultation**

5. PRINT ADVERTISEMENT THAT DOES ***NOT*** *COMPLY*

INJURED?

Then you need an attorney. ❶

We Will Recover $ for You! ❷

❷

555-1234

SMITH, JONES & JONES, P.A.
Tampa & Orlando

❶ - Misleading in violation of Rule 4-7.2(c)(1)(B) because an attorney is not always required.

❷ - Statement and illustration promise results in violation of Rule 4-7.2(c)(1)(G).

6. PRINT ADVERTISEMENT THAT DOES ***NOT*** *COMPLY*

Is Your Money All Tied Up By Creditors?

Then You May Want to Consider the Benefits of

BANKRUPTCY:

*** Stop Creditor Calls ❶**
*** Stop Foreclosures ❶**
*** Discharge Debts ❶**

Best Bankruptcy Law Firm ❷

222 Main Street
Tallahassee
555-1234 ❸

Chapter 7 - $499❹

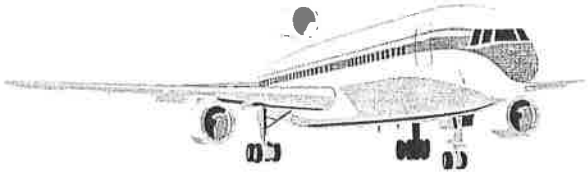
❶ -Promises Results in violation of Rule 4-7.2(c)(1)(G) because it promises relief that is sometimes available when bankruptcy is filed but fails to disclose that such results may be only temporary or that such results are not always obtainable.

❷ - Trade Name characterizes the quality of the lawyer's services in violation of Rule 4-7.2(c)(2).

❸ - Does not disclose the name of the attorney responsible for the ad. Rule 4-7.2(a)(1).

❹ - Does not include a disclosure whether the client will be responsible for costs. Rule 4-7.2(c)(7)

7. PRINT ADVERTISEMENT THAT DOES ***NOT*** *COMPLY*



oTOPFLIGHT ATTORNEYS

MAIN OFFICE:
Jacksonville Address
111 South 32nd Boulevard
Suite 1000
Jacksonville, Florida 32201

1-800-TOP-ATTY❷
or
1-800-539-5050

Top Flight Attorneys is a law firm of ❷ top-rated trial lawyers. The firm limits its practice to personal injury and wrongful death. We have helped hundreds of people who have suffered injury due to someone else's negligence. Top Flight Attorneys will ensure that you recover the full financial compensation you deserve. ❸

EXPERIENCE MAKES THE DIFFERENCE! ❹

❺

❶ Trade name that characterizes the quality of legal services violate Rule 4-7.2(c)(2).

❷ Use of the term "top-rated" & TOP-ATTY characterizes the quality of legal services and, therefore violates Rule 4-7.2(c)(2).

❸ This sentence promises results, in violation of Rule 4-7.2(c)(1)(G).

❹ Because experience of the attorneys may not effect the outcome of a particular case, this sentence violates Rule 4-7.2(c)(1)(B) which prohibits misleading communications.

❺ Fails to include the name of at least one attorney responsible for the ad's content, as required by Rule 4-7.2(a)(1).

B. DIRECT MAIL COMMUNICATIONS

(ALL DIRECT MAIL ADS MUST BE FILED FOR REVIEW)

1. DIRECT MAIL THAT *COMPLIES* WITH APPLICABLE BAR RULES

Law Offices of

Elizabeth Smith, P.A.

111 First Street
Anytown, Florida 98765
(904) 555-1234

April 30, 2002

Ms. Edwina Johnston
Post Office Box 111
Anytown, Florida 98765

Dear Ms. Johnston:

If you have already retained a lawyer for this matter, please disregard this letter.

I obtained your name from a list of investors who purchased a limited partnership in ABC Company from a nationally known brokerage firm. The list was provided to me by ABC. If you invested in ABC based upon representations made by the firm that the ABC limited partnership investment was "safe" and that it could be sold to provide you with income if needed, you may be entitled to recover money damages from the brokerage firm.

Choosing a law firm to represent you in this matter is an important decision. I limit my practice to representing people in securities matters and have done so for the past two years. Prior to opening my own firm, I was an associate at a Miami firm which handled similar cases. To date, I have personally tried 15 cases against brokerage firms and their agents. I graduated from the Florida State University College of Law in 1991 and became a member of The Florida Bar that same year. Before attending law school, I was a certified public accountant and, therefore, have some working knowledge of financial matters that may be useful to your case.

I look forward to hearing from you soon.

Sincerely,

Elizabeth Smith

ADVERTISEMENT (In red ink)

2. DIRECT MAIL THAT *COMPLIES* WITH APPLICABLE BAR RULES

Joseph Smith, P.A.
Attorney at Law
123 Main Street
Anytown, Florida 98765

April 30, 2002

Mr. Jerry Johnson
444 Vine Street
Anytown, FL 98765

Dear Mr. Johnson:

If you have already retained a lawyer for this matter, please disregard this letter.

My review of public records at the Orange County Court Clerk's Office indicates that a foreclosure suit was recently filed against you. My knowledge about the specifics of your case is limited to the information in the public court records. Because a foreclosure action could have serious ramifications, it may be in your best interest to consult with an attorney.

I was admitted to The Florida Bar in 1987 after graduating from Florida State University in 1986. I worked as an assistant county attorney in the Orange County Attorney's Office for two years, then opened my own law practice. I have worked exclusively on real property matters for the past five years and have handled over 100 foreclosures. I am also a member of the Orange County Bar Association. I invite you to compare my qualifications and experience to those of other attorneys you might be considering.

I offer a free initial consultation, and weekend and evening appointments are available for your convenience.

Sincerely,

Joseph Smith

ADVERTISEMENT
(In red ink)

3. DIRECT MAIL THAT *COMPLIES* WITH APPLICABLE BAR RULES

JOHN DAVIS, P.A.
1001 Tenth Avenue, Suite A
Anytown, Florida 98765
(305) 555-1234

ADVERTISEMENT
(In red ink)

April 30, 2002

Mr. Robert James
Rt. 1, Box 333
Anytown, Florida 98765

If you have already retained a lawyer for this matter, please disregard this letter. I read in the October 29th edition of the *Anytown Herald* that you were recently arrested.

It's a good idea to hire an experienced attorney when you are facing criminal charges. After you examine my qualifications, I think you will want to call me for help.

- I graduated from the University of Florida Law School, with high honors, in 1970.
- I have been a member of The Florida Bar since 1970.
- I have practiced criminal law for 30 years -- 5 years as a public defender and 25 years in private practice.
- I have handled hundreds of jury trials, ranging from misdemeanors to capital felonies.
- I am board certified in criminal trial law by The Florida Bar.
- I am also a member of the Federal Bar and admitted to practice in the U.S. District Court for the Southern District of Florida.

There is no charge for an initial consultation, and I offer payment plans to suit any budget. Please call my office for an appointment.

Sincerely,

John Davis

JD/dh

4. DIRECT MAIL THAT DOES *NOT COMPLY*

JOHN JONES & ASSOCIATES

23

(123) 555-7890
Main Street

Anytown, FL 98765

April 30, 2002

Ms. Jane Smith
111 First Street
Anytown, Florida 98765

Dear Ms. Smith:

Thank you for taking the time to review this letter.❶ It has come to our attention that you were recently injured in a car accident.❷ Because this firm specializes in personal injury matters, we would like the opportunity to consult with you about your accident.❸ It may interest you to know that our firm has had many past successes in handling cases similar to yours.❹

You probably have many questions that you would like answered by a qualified attorney.❺ I will be glad to discuss your case at no charge. If you choose to hire this firm, the fee will be based upon a percentage of the total recovery we may obtain. This means you will pay us no fees unless we recover money.❻

Please call our office at your convenience. I look forward to meeting with you in the near future.

Very truly yours,

John Jones, Esquire

JJ/dh

❼

❶ The first sentence of the communication involving a specific matter is not: "If you have already retained a lawyer for this matter, please disregard this letter." Rule 4-7.4(b)(2)(F).

❷ Communication prompted by a specific occurrence involving the recipient fails to disclose how the lawyer obtained the information prompting the communication. Rule 4-7.4(b)(2)(J).

❸ Uses the term "specializes" when the attorney is not board certified. Rule 4-7.2(c)(6). Also, "personal injury" is not an area of Florida Bar certification, and a law firm cannot be certified.

❹ Refers to past results in violation of Rule 4-7.2(c)(1)(F) and Comment.

❺ Communication fails to contain a statement of the lawyer's or law firm's qualifications and experience. Rule 4-7.4(b)(2)(D).

❻ Fails to disclose whether the client will be liable for costs in the absence of a recovery. Rule 4-7.2(c)(7).

❼ 1st page is not plainly marked "Advertisement" in red ink. Rule 4-7.4(b)(2)(B).

The Florida Bar
www.floridabar.org

Bona Fide Offices

The SCA has found that an advertisement is misleading if it lists law firm offices in several cities when, in fact, there are no bona fide firm offices in those cities. Rule 4-7.2(a)(2) defines "bona fide office" as "a physical location maintained by the law firm or lawyer where the firm or lawyer furnishes or reasonably expects to furnish legal services in a substantial way on a regular and continuing basis." The SCA has developed the following criteria for determining whether an advertised location is a bona fide office:

1. Does the office have the firm's name on an outside office sign or on the building's directory?
2. Is the advertised location staffed by law firm employees who answer phone calls at that location from prospective clients?
3. Is the advertised location staffed by receptionists, secretaries, clerks, or paralegals employed by the firm on a full-time basis?
4. Other than client interviews and conferences, do firm attorneys furnish legal services from the advertised location?
5. Is the advertised location staffed by at least one firm lawyer on a regular and continuing basis?

Even though a lawyer may not advertise an office location that is not a bona fide office, the lawyer may nevertheless advertise that he or she is "available for consultation" or "available by appointment" at a specified location. Such designations are appropriate when the space is a "virtual office" that is owned or under the control of another, is shared with multiple lawyers or other professionals, or is a conference room or other space rented by the hour. A lawyer may identify other office locations as "limited service" or "satellite" offices only if the advertised office location is controlled exclusively by the lawyer's law firm.

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4 RULES OF PROFESSIONAL CONDUCT
4-7 INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.1 GENERAL

(a) Permissible Forms of Advertising. Subject to all the requirements set forth in this subchapter 4-7, including the filing requirements of rule 4-7.7, a lawyer may advertise services through public media, including but not limited to: print media, such as a telephone directory, legal directory, newspaper or other periodical; outdoor advertising, such as billboards and other signs; radio, television, and computer-accessed communications; recorded messages the public may access by dialing a telephone number; and written communication in accordance with rule 4-7.4.

(b) Advertisements Disseminated in Florida. Subchapter 4-7 shall apply to lawyers admitted to practice law in Florida who solicit or advertise for legal employment in Florida or who target solicitations or advertisements for legal employment at Florida residents.

(c) Advertisements by Out-of-State Lawyers. Subchapter 4-7 shall apply to lawyers admitted to practice law in jurisdictions other than Florida:

(1) who have established a regular and/or permanent presence in Florida for the practice of law as authorized by other law; and

(2) who solicit or advertise for legal employment in Florida or who target solicitations or advertisements for legal employment at Florida residents.

(d) Advertisements Not Disseminated in Florida. Subchapter 4-7 shall not apply to any advertisement broadcast or disseminated in another jurisdiction in which the advertising lawyer is admitted if such advertisement complies with the rules governing lawyer advertising in that jurisdiction and is not intended for broadcast or dissemination within the state of Florida.

(e) Communications Between Lawyers. Subchapter 4-7 shall not apply to communications between lawyers.

(f) Communications With Family Members. Subchapter 4-7 shall not apply to communications between a lawyer and that lawyer's own family members.

(g) Communications With Current and Former Clients. Subchapter 4-7 shall not apply to communications between a lawyer and that lawyer's own current and former clients. However, a lawyer shall not provide advertising materials to the lawyer's own current or former clients that the lawyer received from other attorneys—a lawyer shall not serve as a conduit for other attorneys' advertising. Further, as used in this rule, the term "former clients" does not include the clients or former clients of a public entity.

(h) Communications at a Prospective Client's Request. Subchapter 4-7 shall not apply to communications between a lawyer and a prospective client if made at the request of that prospective client.

(i) Application of General Misconduct Rule. The general rule prohibiting a lawyer from engaging in conduct involving dishonesty, deceit, or misrepresentation applies to all communications by a lawyer, whether or not subchapter 4-7 applies to that communication.

Comment

To assist the public in obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. The public's need to know about legal services can be fulfilled in part through advertising that provides the public with useful, factual information about legal rights and needs and the availability and terms of legal services from a particular lawyer or law firm. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. Nevertheless, certain types of advertising by lawyers create the risk of practices that are misleading or overreaching and can create unwarranted expectations by persons untrained in the law. Such advertising can also

adversely affect the public's confidence and trust in our judicial system.

In order to balance the public's need for useful information, the state's need to ensure a system by which justice will be administered fairly and properly, as well as the state's need to regulate and monitor the advertising practices of lawyers, and a lawyer's right to advertise the availability of the lawyer's services to the public, these rules permit public dissemination of information concerning a lawyer's name or firm name, address, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other factual information that might invite the attention of those seeking legal assistance.

Regardless of medium, a lawyer's advertisement should provide only useful, factual information presented in a nonsensational manner. Advertisements utilizing slogans or jingles, oversized electrical and neon signs, or sound trucks fail to meet these standards and diminish public confidence in the legal system.

These rules do not prohibit communications authorized by law, such as notice to members of a class in class action litigation.

These rules apply to advertisements and written communications directed at prospective clients and concerning a lawyer's or law firm's availability to provide legal services. These rules do not apply to communications between lawyers, communications between lawyers and their own family members, communications between lawyers and their own current and former clients, or communications with a prospective client at that prospective client's request. A lawyer shall not serve as a conduit for other attorneys' advertising. Also, even if certain lawyer communications are exempt from the advertising rules, lawyers shall remain subject to the Rules Regulating the Florida Bar.

[Revised: 10/01/2010]

4 RULES OF PROFESSIONAL CONDUCT
4-7 INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.2 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

The following shall apply to any communication conveying information about a lawyer's or a law firm's services except as provided in subdivisions (e) and (f) of rule 4-7.1:

(a) Required Content of Advertisements and Unsolicited Written Communications.

(1) *Name of Lawyer or Lawyer Referral Service.* All advertisements and written communications pursuant to these rules shall include the name of at least 1 lawyer or the lawyer referral service responsible for their content.

(2) *Location of Practice.* All advertisements and written communications provided for under these rules shall disclose, by city or town, 1 or more bona fide office locations of the lawyer or lawyers who will actually perform the services advertised. If the office location is outside a city or town, the county in which the office is located must be disclosed. A lawyer referral service shall disclose the geographic area in which the lawyer practices when a referral is made. For the purposes of this rule, a bona fide office is defined as a physical location maintained by the lawyer or law firm where the lawyer or law firm reasonably expects to furnish legal services in a substantial way on a regular and continuing basis.

(b) Permissible Content of Advertisements and Unsolicited Written Communications. If the content of an advertisement in any public media or unsolicited written communication is limited to the following information, the advertisement or unsolicited written communication, if true and not

prohibited by law, shall be presumed to be permissible and not to be misleading or deceptive under these rules.

(1) *Lawyers and Law Firms.* A lawyer or law firm may include the following information in advertisements and unsolicited written communications:

(A) the name of the lawyer or law firm subject to the requirements of this rule and rule 4-7.9, a listing of lawyers associated with the firm, office locations and parking arrangements, disability accommodations, telephone numbers, website addresses, and electronic mail addresses, office and telephone service hours, and a designation such as "attorney" or "law firm";

(B) date of admission to The Florida Bar and any other bars, current membership or positions held in The Florida Bar or its sections or committees, former membership or positions held in The Florida Bar or its sections or committees with dates of membership, former positions of employment held in the legal profession with dates the positions were held, years of experience practicing law, number of lawyers in the advertising law firm, and a listing of federal courts and jurisdictions other than Florida where the lawyer is licensed to practice;

(C) technical and professional licenses granted by the state or other recognized licensing authorities and educational degrees received, including dates and institutions;

(D) military service, including branch and dates of service;

(E) foreign language ability;

(F) fields of law in which the lawyer practices, including official certification logos, subject to the requirements of subdivision (c) (6) of this rule regarding use of terms such as certified, specialist, and expert;

(G) prepaid or group legal service plans in which the lawyer

participates;

(H) acceptance of credit cards;

(I) fee for initial consultation and fee schedule, subject to the requirements of subdivisions (c)(7) and (c)(8) of this rule regarding cost disclosures and honoring advertised fees;

(J) common salutary language such as "best wishes," "good luck," "happy holidays," or "pleased to announce";

(K) punctuation marks and common typographical marks;

(L) an illustration of the scales of justice not deceptively similar to official certification logos or The Florida Bar logo, a gavel, traditional renditions of Lady Justice, the Statue of Liberty, the American flag, the American eagle, the State of Florida flag, an unadorned set of law books, the inside or outside of a courthouse, column(s), diploma(s), or a photograph of the lawyer or lawyers who are members of or employed by the firm against a plain background consisting of a single solid color or a plain unadorned set of law books.

(2) *Lawyer Referral Services.* A lawyer referral service may advertise its name, location, telephone number, the referral fee charged, its hours of operation, the process by which referrals are made, the areas of law in which referrals are offered, the geographic area in which the lawyers practice to whom those responding to the advertisement will be referred, and, if applicable, its nonprofit status, its status as a lawyer referral service approved by The Florida Bar, and the logo of its sponsoring bar association.

(3) *Public Service Announcements.* A lawyer or law firm may be listed as a sponsor of a public service announcement or charitable, civic, or community program or event as long as the information about the lawyer or law firm is limited to the permissible content set forth in subdivision (b)(1) of this rule.

(c) Prohibitions and General Regulations Governing Content of Advertisements and Unsolicited Written Communications.

(1) *Statements About Legal Services.* A lawyer shall not make or permit to be made a false, misleading, or deceptive communication about the lawyer or the lawyer's services. A communication violates this rule if it:

(A) contains a material misrepresentation of fact or law;

(B) is false or misleading;

(C) fails to disclose material information necessary to prevent the information supplied from being false or misleading;

(D) is unsubstantiated in fact;

(E) is deceptive;

(F) contains any reference to past successes or results obtained;

(G) promises results;

(H) states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law;

(I) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or

(J) contains a testimonial.

(2) *Descriptive Statements.* A lawyer shall not make statements describing or characterizing the quality of the lawyer's services in advertisements and unsolicited written communications.

(3) *Prohibited Visual and Verbal Portrayals and Illustrations.* A lawyer shall not include in any advertisement or unsolicited written communication any visual or verbal descriptions, depictions, illustrations, or portrayals of persons, things, or events that are

deceptive, misleading, manipulative, or likely to confuse the viewer.

(4) *Advertising Areas of Practice.* A lawyer or law firm shall not advertise for legal employment in an area of practice in which the advertising lawyer or law firm does not currently practice law.

(5) *Stating or Implying Florida Bar Approval.* A lawyer or law firm shall not make any statement that directly or impliedly indicates that the communication has received any kind of approval from The Florida Bar.

(6) *Communication of Fields of Practice.* A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is "certified," "board certified," a "specialist," or an "expert" except as follows:

(A) Florida Bar Certified Lawyers. A lawyer who complies with the Florida certification plan as set forth in chapter 6, Rules Regulating The Florida Bar, may inform the public and other lawyers of the lawyer's certified areas of legal practice. Such communications should identify The Florida Bar as the certifying organization and may state that the lawyer is "certified," "board certified," a "specialist in (area of certification)," or an "expert in (area of certification)."

(B) Lawyers Certified by Organizations Other Than The Florida Bar or Another State Bar. A lawyer certified by an organization other than The Florida Bar or another state bar may inform the public and other lawyers of the lawyer's certified area(s) of legal practice by stating that the lawyer is "certified," "board certified," a "specialist in (area of certification)," or an "expert in (area of certification)" if:

(i) the organization's program has been accredited by The Florida Bar as provided elsewhere in these Rules Regulating The Florida Bar; and,

(ii) the member includes the full name of the organization in all communications pertaining to such certification.

(C) Certification by Other State Bars. A lawyer certified by another state bar may inform the public and other lawyers of the lawyer's certified area(s) of legal practice and may state in communications to the public that the lawyer is "certified," "board certified," a "specialist in (area of certification)," or an "expert in (area of certification)" if:

(i) the state bar program grants certification on the basis of standards reasonably comparable to the standards of the Florida certification plan as set forth in chapter 6, Rules Regulating The Florida Bar, as determined by The Florida Bar; and,

(ii) the member includes the name of the state bar in all communications pertaining to such certification.

(7) *Disclosure of Liability For Expenses Other Than Fees.* Every advertisement and unsolicited written communication that contains information about the lawyer's fee, including those that indicate no fee will be charged in the absence of a recovery, shall disclose whether the client will be liable for any expenses in addition to the fee.

(8) *Period for Which Advertised Fee Must Be Honored.* A lawyer who advertises a specific fee or range of fees for a particular service shall honor the advertised fee or range of fees for at least 90 days unless the advertisement specifies a shorter period; provided that, for advertisements in the yellow pages of telephone directories or other media not published more frequently than annually, the advertised fee or range of fees shall be honored for no less than 1 year following publication.

(9) *Firm Name.* A lawyer shall not advertise services under a name that violates the provisions of rule 4-7.9.

(10) *Language of Required Statements.* Any words or statements

required by this subchapter to appear in an advertisement or direct mail communication must appear in the same language in which the advertisement appears. If more than 1 language is used in an advertisement or direct mail communication, any words or statements required by this subchapter must appear in each language used in the advertisement or direct mail communication.

(11) *Appearance of Required Statements.* Any words or statements required by this subchapter to appear in an advertisement or direct mail communication must be clearly legible if written or intelligible if spoken aloud.

(12) *Payment by Nonadvertising Lawyer.* No lawyer shall, directly or indirectly, pay all or a part of the cost of an advertisement by a lawyer not in the same firm. Rule 4-1.5(f)(4)(D) (regarding the division of contingency fees) is not affected by this provision even though the lawyer covered by rule 4-1.5(f)(4)(D)(ii) advertises.

(13) *Referrals to Another Lawyer.* If the case or matter will be referred to another lawyer or law firm, the communication shall include a statement so advising the prospective client.

(14) *Payment for Recommendations; Lawyer Referral Service Fees.* A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising or written or recorded communication permitted by these rules, may pay the usual charges of a lawyer referral service or other legal service organization, and may purchase a law practice in accordance with rule 4-1.17.

(15) *Use of Celebrity Prohibited.* A lawyer shall not include in any advertisement or unsolicited written communication any celebrity whose voice or image is recognizable to the public.

(16) *Prohibited Sounds.* A lawyer shall not include in any advertisement or unsolicited written communication any sound that is

deceptive, misleading, manipulative, or that is likely to confuse the listener.

Comment

This rule governs all communications about a lawyer's services, including advertising permitted by this subchapter. Whatever means are used to make known a lawyer's services, statements about them must be truthful. This precludes any material misrepresentation or misleading omission, such as where a lawyer states or implies certification or recognition as a specialist other than in accordance with this rule, where a lawyer implies that any court, tribunal, or other public body or official can be improperly influenced, or where a lawyer advertises a particular fee or a contingency fee without disclosing whether the client will also be liable for costs. Another example of a misleading omission is an advertisement for a law firm that states that all the firm's lawyers are juris doctors but does not disclose that a juris doctorate is a law degree rather than a medical degree of some sort and that virtually any law firm in the United States can make the same claim. Although this rule permits lawyers to list the jurisdictions and courts to which they are admitted, it also would be misleading for a lawyer who does not list other jurisdictions or courts to state that the lawyer is a member of The Florida Bar. Standing by itself, that otherwise truthful statement implies falsely that the lawyer possesses a qualification not common to virtually all lawyers practicing in Florida.

Prohibited information

The prohibition in subdivision (c)(1)(F) precludes advertisements about results obtained on behalf of a client, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts. Such information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances.

The prohibition in subdivision (c)(1)(I) of comparisons that cannot be factually substantiated would preclude a lawyer from representing that the lawyer or the lawyer's law firm is "the best," "one of the best," or "one of the most experienced" in a field of law.

The prohibition in subdivision (c)(1)(J) precludes endorsements or testimonials, whether from clients or anyone else, because they are inherently misleading to a person untrained in the law. Potential clients are likely to infer from the testimonial that the lawyer will reach similar results in future cases. Because the lawyer cannot directly make this assertion, the lawyer is not permitted to indirectly make that assertion through the use of testimonials.

Subdivision (c)(3) prohibits visual or verbal descriptions, depictions, portrayals, or illustrations in any advertisement which create suspense, or contain exaggerations or appeals to the emotions, call for legal services, or create consumer problems through characterization and dialogue ending with the lawyer solving the problem. Illustrations permitted under *Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio,* 471 U.S. 626 (1985), are informational and not misleading, and are therefore permissible. As an example, a drawing of a fist, to suggest the lawyer's ability to achieve results, would be barred. Examples of permissible illustrations would include a graphic rendering of the scales of justice to indicate that the advertising attorney practices law, a picture of the lawyer, or a map of the office location.

Communication of fields of practice

This rule permits a lawyer or law firm to indicate areas of practice in communications about the lawyer's or law firm's services, such as in a telephone directory or other advertising, provided the advertising lawyer or law firm actually practices in those areas of law at the time the advertisement is disseminated. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, no lawyer who is not certified by The Florida Bar, by another state bar with comparable standards, or an organization accredited by The Florida Bar may be described to the public as a "specialist" or as "specializing," "certified," "board certified," being an "expert" or having "expertise in," or any variation of similar import. A lawyer may indicate that the lawyer concentrates in, focuses on, or limits the lawyer's practice to particular areas of practice as long as the statements are true.

Paying others to recommend a lawyer

A lawyer is allowed to pay for advertising permitted by this rule and for the purchase of a law practice in accordance with the provisions of rule 4-1.17, but otherwise is not permitted to pay or provide other tangible benefits to another person for procuring professional work. However, a legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in lawyer referral programs and pay the usual fees charged by such programs, subject, however, to the limitations imposed by rule 4-7.10. This rule does not prohibit paying regular compensation to an assistant, such as a secretary or advertising consultant, to prepare communications permitted by this rule.

Required disclosures

Required disclosures would be ineffective if they appeared in an advertisement so briefly or minutely as to be overlooked or ignored. Thus, required information must be legible if written or intelligible if spoken aloud to ensure that the recipient receives the information.

Use of sounds

The prohibition against deceptive, misleading, or manipulative sounds precludes, for example, the sound of sirens or car crashes.

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RULE 4-7.3 ADVERTISEMENTS IN THE PUBLIC PRINT MEDIA

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RULE 4-7.3 ADVERTISEMENTS IN THE PUBLIC PRINT MEDIA

Advertisements disseminated in the public print media are subject to the requirements of rule 4-7.2.

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4 RULES OF PROFESSIONAL CONDUCT
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RULE 4-7.4 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

(a) Solicitation. Except as provided in subdivision (b) of this rule, a lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. A lawyer shall not permit employees or agents of the lawyer to solicit on the lawyer's behalf. A lawyer shall not enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule. The term "solicit" includes contact in person, by telephone, telegraph, or facsimile, or by other communication directed to a specific recipient and includes (i) any written form of communication directed to a specific recipient and not meeting the requirements of subdivision (b) of this rule, and (ii) any electronic mail communication directed to a specific recipient and not meeting the requirements of subdivision (c) of rule 4-7.6.

(b) Written Communication Sent on an Unsolicited Basis.

(1) A lawyer shall not send, or knowingly permit to be sent, on the lawyer's behalf or on behalf of the lawyer's firm or partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, an unsolicited written communication directly or indirectly to a prospective client for the purpose of obtaining professional employment if:

(A) the written communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is

addressed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the mailing of the communication;

(B) the written communication concerns a specific matter and the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;

(C) it has been made known to the lawyer that the person does not want to receive such communications from the lawyer;

(D) the communication involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence;

(E) the communication contains a false, fraudulent, misleading, or deceptive statement or claim or is improper under subdivision (c) (1) of rule 4-7.2;

(F) the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer; or

(G) the communication concerns a request for an injunction for protection against any form of physical violence and is addressed to the respondent in the injunction petition, if the lawyer knows or reasonably should know that the respondent named in the injunction petition has not yet been served with notice of process in the matter.

(2) Written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements:

(A) Written communications to a prospective client are subject to the requirements of rule 4-7.2.

(B) The first page of such written communications shall be plainly marked "advertisement" in red ink, and the lower left corner of the face of the envelope containing a written communication likewise shall carry a prominent, red "advertisement" mark. If the written communication is in the form of a self-mailing brochure or pamphlet, the "advertisement" mark in red ink shall appear on the address panel of the brochure or pamphlet and on the inside of the brochure or pamphlet. Brochures solicited by clients or prospective clients need not contain the "advertisement" mark.

(C) Written communications mailed to prospective clients shall be sent only by regular U.S. mail, not by registered mail or other forms of restricted delivery.

(D) Every written communication shall be accompanied by a written statement detailing the background, training and experience of the lawyer or law firm. This statement must include information about the specific experience of the advertising lawyer or law firm in the area or areas of law for which professional employment is sought. Every written communication disseminated by a lawyer referral service shall be accompanied by a written statement detailing the background, training, and experience of each lawyer to whom the recipient may be referred.

(E) If a contract for representation is mailed with the written communication, the top of each page of the contract shall be marked "SAMPLE" in red ink in a type size 1 size larger than the largest type used in the contract and the words "DO NOT SIGN" shall appear on the client signature line.

(F) The first sentence of any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member shall be: "If you have already retained a lawyer for this matter, please disregard this letter."

(G) Written communications shall not be made to resemble legal

pleadings or other legal documents. This provision does not preclude the mailing of brochures and pamphlets.

(H) If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, any written communication concerning a specific matter shall include a statement so advising the client.

(I) Any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member shall disclose how the lawyer obtained the information prompting the communication. The disclosure required by this rule shall be specific enough to help the recipient understand the extent of the lawyer's knowledge regarding the recipient's particular situation.

(J) A written communication seeking employment by a specific prospective client in a specific matter shall not reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the client's legal problem.

Comment

There is a potential for abuse inherent in direct solicitation by a lawyer of prospective clients known to need legal services. It subjects the person to the private importuning of a trained advocate, in a direct interpersonal encounter. A prospective client often feels overwhelmed by the situation giving rise to the need for legal services and may have an impaired capacity for reason, judgment, and protective self-interest. Furthermore, the lawyer seeking the retainer is faced with a conflict stemming from the lawyer's own interest, which may color the advice and representation offered the vulnerable prospect.

The situation is therefore fraught with the possibility of undue influence, intimidation, and overreaching. This potential for abuse inherent in direct solicitation of prospective clients justifies the 30-day restriction, particularly since lawyer advertising permitted under these rules offers an alternative

means of communicating necessary information to those who may be in need of legal services.

Advertising makes it possible for a prospective client to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the prospective client to direct personal persuasion that may overwhelm the client's judgment.

The use of general advertising to transmit information from lawyer to prospective client, rather than direct private contact, will help to assure that the information flows cleanly as well as freely. Advertising is out in public view, thus subject to scrutiny by those who know the lawyer. This informal review is itself likely to help guard against statements and claims that might constitute false or misleading communications. Direct private communications from a lawyer to a prospective client are not subject to such third-party scrutiny and consequently are much more likely to approach (and perhaps cross) the dividing line between accurate representations and those that are false and misleading.

Direct written communications seeking employment by specific prospective clients generally present less potential for abuse or overreaching than in-person solicitation and are therefore not prohibited for most types of legal matters, but are subject to reasonable restrictions, as set forth in this rule, designed to minimize or preclude abuse and overreaching and to ensure lawyer accountability if such should occur. This rule allows targeted mail solicitation of potential plaintiffs or claimants in personal injury and wrongful death causes of action or other causes of action that relate to an accident, disaster, death, or injury, but only if mailed at least 30 days after the incident. This restriction is reasonably required by the sensitized state of the potential clients, who may be either injured or grieving over the loss of a family member, and the abuses that experience has shown exist in this type of solicitation.

Letters of solicitation and their envelopes must be clearly marked "advertisement." This will avoid the recipient's perceiving that there is a need to open the envelope because it is from a lawyer or law firm, only to find the recipient is being solicited for legal services. With the envelope and

letter marked "advertisement," the recipient can choose to read the solicitation, or not to read it, without fear of legal repercussions.

In addition, the lawyer or law firm should reveal the source of information used to determine that the recipient has a potential legal problem. Disclosure of the information source will help the recipient to understand the extent of knowledge the lawyer or law firm has regarding the recipient's particular situation and will avoid misleading the recipient into believing that the lawyer has particularized knowledge about the recipient's matter if the lawyer does not. The lawyer or law firm must disclose sufficient information or explanation to allow the recipient to locate for himself or herself the information that prompted the communication from the lawyer.

This rule would not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for its members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement that the lawyer or the lawyer's law firm is willing to offer. This form of communication is not directed to a specific prospective client known to need legal services related to a particular matter. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity that the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under other rules in this subchapter.

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RULE 4-7.5 ADVERTISEMENTS IN THE ELECTRONIC MEDIA OTHER THAN COMPUTER-ACCESSED COMMUNICATIONS

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RULE 4-7.5 ADVERTISEMENTS IN THE ELECTRONIC MEDIA OTHER THAN COMPUTER-ACCESSED COMMUNICATIONS

(a) Generally. With the exception of computer-based advertisements (which are subject to the special requirements set forth in rule 4-7.6), all advertisements in the electronic media, including but not limited to television and radio, are subject to the requirements of rule 4-7.2.

(b) Appearance on Television or Radio. Advertisements on the electronic media such as television and radio shall conform to the requirements of this rule.

(1) *Prohibited Content.* Television and radio advertisements shall not contain:

(A) any feature that is deceptive, misleading, manipulative, or that is likely to confuse the viewer;

(B) any spokesperson's voice or image that is recognizable to the public; or

(C) any background sound other than instrumental music.

(2) *Permissible Content.* Television and radio advertisements may contain:

(A) images that otherwise conform to the requirements of these rules; or

(B) a non-attorney spokesperson speaking on behalf of the lawyer or law firm, as long as the spokesperson is not a celebrity recognizable to the public. If a spokesperson is used, the spokesperson shall provide a spoken disclosure identifying the spokesperson as a spokesperson and disclosing that the spokesperson is not a lawyer.

Comment

Television is now one of the most powerful media for conveying information to the public; a blanket prohibition against television advertising, therefore, would impede the flow of information about legal services to many sectors of the public. However, the unique characteristics of electronic media, including the pervasiveness of television and radio, the ease with which these media are abused, and the passiveness of the viewer or listener, make the electronic media especially subject to regulation in the public interest. Therefore, greater restrictions on the manner of television and radio advertising are justified than might be appropriate for advertisements in the other media. To prevent abuses, including potential interferences with the fair and proper administration of justice and the creation of incorrect public perceptions or assumptions about the manner in which our legal system works, and to promote the public's confidence in the legal profession and this country's system of justice while not interfering with the free flow of useful information to prospective users of legal services, it is necessary also to restrict the techniques used in television and radio advertising.

This rule is designed to ensure that the advertising is not misleading and does not create unreasonable or unrealistic expectations about the results the lawyer may be able to obtain in any particular case, and to encourage the provision of useful information to the public about the availability and terms of legal services. Thus, the rule allows lawyer advertisements in which a lawyer who is a member of the advertising firm personally appears to speak regarding the legal services the lawyer or law firm is available to perform, the fees to be charged for such services, and the background and experience of the lawyer or law firm. The prohibition against false, misleading, or manipulative advertising is intended to preclude, among other things, the use of scenes creating suspense, scenes containing exaggerations, or situations calling for legal services, scenes creating consumer problems through characterization and dialogue ending with the lawyer solving the problem, and the audio or video portrayal of an event or situation. Although dialogue is not necessarily prohibited under this rule,

advertisements using dialogue are more likely to be misleading or manipulative than those advertisements using a single lawyer to articulate factual information about the lawyer or law firm's services.

The prohibition against any background sound other than instrumental music precludes, for example, the sound of sirens or car crashes and the use of jingles.

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RULE 4-7.6 COMPUTER-ACCESSED COMMUNICATIONS

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RULE 4-7.6 COMPUTER-ACCESSED COMMUNICATIONS

(a) Definition. For purposes of this subchapter, "computer-accessed communications" are defined as information regarding a lawyer's or law firm's services that is read, viewed, or heard directly through the use of a computer. Computer-accessed communications include, but are not limited to, Internet presences such as home pages or World Wide Web sites, unsolicited electronic mail communications, and information concerning a lawyer's or law firm's services that appears on World Wide Web search engine screens and elsewhere.

(b) Internet Presence. All World Wide Web sites and home pages accessed via the Internet that are controlled or sponsored by a lawyer or law firm and that contain information concerning the lawyer's or law firm's services:

(1) shall disclose all jurisdictions in which the lawyer or members of the law firm are licensed to practice law;

(2) shall disclose 1 or more bona fide office locations of the lawyer or law firm, in accordance with subdivision (a)(2) of rule 4-7.2; and

(3) are considered to be information provided upon request.

(c) Electronic Mail Communications. A lawyer shall not send, or knowingly permit to be sent, on the lawyer's behalf or on behalf of the lawyer's firm or partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, an unsolicited electronic mail communication directly or indirectly to a prospective client for the purpose of obtaining professional employment unless:

(1) the requirements of subdivisions (b)(1), (b)(2)(A), (b)(2)(E), (b)(2)(F),

(b)(2)(G), (b)(2)(I), and (b)(2)(J) of rule 4-7.4 are met;

(2) the communication discloses 1 or more bona fide office locations of the lawyer or lawyers who will actually perform the services advertised, in accordance with subdivision (a)(2) of rule 4-7.2; and

(3) the subject line of the communication states "legal advertisement."

(d) Advertisements. All computer-accessed communications concerning a lawyer's or law firm's services, other than those subject to subdivisions (b) and (c) of this rule, are subject to the requirements of rule 4-7.2.

Comment

Advances in telecommunications and computer technology allow lawyers to communicate with other lawyers, clients, prospective clients, and others in increasingly quicker and more efficient ways. Regardless of the particular technology used, however, a lawyer's communications with prospective clients for the purpose of obtaining professional employment must meet standards designed to protect the public from false, deceptive, misleading, or confusing messages about lawyers or the legal system and to encourage the free flow of useful legal-related information to the public.

The specific regulations that govern computer-accessed communications differ according to the particular variety of communication employed. For example, a lawyer's Internet web site is accessed by the viewer upon the viewer's initiative and, accordingly, the standards governing such communications correspond to the rules applicable to information provided to a prospective client at the prospective client's request.

In contrast, unsolicited electronic mail messages from lawyers to prospective clients are functionally comparable to direct mail communications and thus are governed by similar rules. Additionally, communications advertising or promoting a lawyer's services that are posted on search engine screens or elsewhere by the lawyer, or at the lawyer's behest, with the hope that they will be seen by prospective clients are simply a form of lawyer advertising and are treated as such by the rules.

This rule is not triggered merely because someone other than the lawyer gratuitously links to, or comments on, a lawyer's Internet web site.

[Revised: 02/01/2008]

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4 RULES OF PROFESSIONAL CONDUCT
4-7 INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.7 EVALUATION OF ADVERTISEMENTS

(a) Filing and Advisory Opinion. Subject to the exemptions stated in rule 4 -7.8, any lawyer who advertises services through any public media or through written communications sent on an unsolicited basis to prospective clients shall file a copy of each such advertisement with The Florida Bar at its headquarters address in Tallahassee for evaluation of compliance with these rules.

(1) *Television and Radio Advertisements.* The following shall apply to television and radio advertisements:

(A) Prior Review of Television and Radio Advertisements. All television and radio advertisements required to be filed for review must be filed at least 20 days prior to the lawyer's first dissemination of the advertisement so as to provide a 15-day evaluation period plus 5 days' mailing time.

(B) Voluntary Prior Filing. A lawyer may obtain an advisory opinion concerning the compliance of a contemplated television or radio advertisement prior to production of the advertisement by submitting to The Florida Bar a script, a printed copy of any on-screen text, a description of any visual images to be used in a television advertisement, and the fee specified in this rule. The voluntary prior submission shall not satisfy the filing and evaluation requirements of these rules, but The Florida Bar shall charge no additional fee for evaluation of the completed advertisement for which a complete voluntary prior filing has been made.

(C) Evaluation of Advertisements. The Florida Bar shall evaluate all advertisements filed with it pursuant to this rule for compliance

with the applicable rules set forth in this subchapter 4-7. The Florida Bar shall complete its evaluation and shall notify the lawyer whether the advertisement is in compliance with subchapter 4-7 within 15 days of receipt of a complete filing plus 5 days' mailing time. If The Florida Bar does not send any communication to the filer within 15 days of receipt of a complete filing, the advertisement will be deemed approved.

(D) Substantiating Information. Evaluation of television and radio advertisements conducted under this subdivision is limited to determination of compliance with subchapter 4-7 and does not extend to substantiation of factual claims or statements contained in the advertisements. Notice of compliance with subchapter 4-7 does not alter the lawyer's responsibility for the accuracy of factual claims or statements.

(E) Notice of Evaluation; Effect of Use of Advertisement. A lawyer may disseminate a television or radio advertisement upon receipt of notification by The Florida Bar that the advertisement complies with subchapter 4-7. A lawyer who disseminates an advertisement not in compliance with subchapter 4-7, whether the advertisement was filed or not, is subject to discipline and sanctions as provided in these Rules Regulating The Florida Bar.

(F) Reliance on Notice of Compliance. A finding of compliance by The Florida Bar in television and radio advertisements shall be binding on The Florida Bar in a grievance proceeding unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement.

(2) *Other Advertisements*. The following shall apply to advertisements other than television and radio:

(A) Filing and Review. All other advertisements required to be filed for review must be filed either prior to or concurrently with the lawyer's first dissemination of the advertisement or written communication.

(B) Voluntary Prior Filing. A lawyer may obtain an advisory opinion concerning the compliance of a contemplated advertisement or written communication that is not required to be filed prior to its first use in advance of disseminating the advertisement or communication by submitting the material and fee specified in subdivision (b) of this rule to The Florida Bar at least 15 days prior to such dissemination. If The Florida Bar finds that the advertisement complies with these rules, the lawyer's voluntary submission shall be deemed to satisfy the filing requirement set forth in this rule.

(C) Evaluation of Advertisements. The Florida Bar shall evaluate all advertisements and written communications filed with it pursuant to this subdivision for compliance with the applicable rules set forth in this subchapter 4-7. The Florida Bar shall complete its evaluation within 15 days of receipt of a complete filing unless The Florida Bar determines that there is reasonable doubt that the advertisement or written communication is in compliance with the rules and that further examination is warranted but cannot be completed within the 15-day period, and so advises the filer within the 15-day period. In the latter event, The Florida Bar shall complete its review as promptly as the circumstances reasonably allow. If The Florida Bar does not send any communication to the filer within 15 days of receipt of a complete filing, the advertisement will be deemed approved. The 15-day evaluation period shall not apply to advertisements that are exempt from the filing requirement as set forth in rule 4-7.8, but The Florida Bar shall complete its review as promptly as the circumstances reasonably allow. A lawyer may not obtain an advisory opinion concerning communications that are not subject to subchapter 4-7 as listed in rule 4-7.1(d) through (f).

(D) Substantiating Information. If requested to do so by The Florida Bar, the filing lawyer shall submit information to substantiate representations made or implied in that lawyer's advertisement or written communication.

(E) Notice of Noncompliance. When The Florida Bar determines that an advertisement or written communication is not in compliance with the applicable rules, The Florida Bar shall advise the lawyer that dissemination or continued dissemination of the advertisement or written communication may result in professional discipline.

(F) Reliance on Notice of Compliance. A finding of compliance by The Florida Bar shall be binding on The Florida Bar in a grievance proceeding, unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement.

(b) Contents of Filing. A filing with The Florida Bar as required or permitted by subdivision (a) shall consist of:

(1) a copy of the advertisement or communication in the form or forms in which it is to be disseminated and is readily capable of duplication by The Florida Bar (e.g., videotapes, audiotapes, print media, photographs of outdoor advertising);

(2) a transcript, if the advertisement or communication is on videotape or audiotape;

(3) a printed copy of all text used in the advertisement, including both spoken language and on-screen text;

(4) an accurate English translation, if the advertisement appears in a language other than English;

(5) a sample envelope in which the written communication will be enclosed, if the communication is to be mailed;

(6) a statement listing all media in which the advertisement or communication will appear, the anticipated frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used; and

(7) a fee paid to The Florida Bar, in an amount of $150 for submissions timely filed as provided in subdivision (a), or $250 for submissions not timely filed. This fee shall be used to offset the cost of evaluation and review of advertisements submitted under these rules and the cost of enforcing these rules.

(c) Change of Circumstances; Refiling Requirement. If a change of circumstances occurring subsequent to The Florida Bar's evaluation of an advertisement or written communication raises a substantial possibility that the advertisement or communication has become false or misleading as a result of the change in circumstances, the lawyer shall promptly refile the advertisement or a modified advertisement with The Florida Bar at its headquarters address in Tallahassee along with an explanation of the change in circumstances and an additional fee set by the board of governors but not exceeding $100.

(d) Maintaining Copies of Advertisements. A copy or recording of an advertisement or written or recorded communication shall be submitted to The Florida Bar in accordance with the requirements of rule 4-7.7, and the lawyer shall retain a copy or recording for 3 years after its last dissemination along with a record of when and where it was used. If identical written communications are sent to 2 or more prospective clients, the lawyer may comply with this requirement by filing 1 of the identical written communications and retaining for 3 years a single copy together with a list of the names and addresses of persons to whom the written communication was sent.

Comment

This rule has a dual purpose: to enhance the court's and the bar's ability to monitor advertising practices for the protection of the public and to assist members of the bar to conform their advertisements to the requirements of these rules.

Television and radio advertisements are a special form of media requiring special regulation. The unique characteristics of electronic media, including

the pervasiveness of television and radio, the numbers of viewers reached by the electronic media, the ease with which these media are abused, the passiveness of the viewer or listener, the short span of usage of individual television and radio advertisements, and the inability of the bar to patrol the airwaves, make the electronic media especially subject to regulation in the public interest. Advertisements in television and radio have short lifespans, sometimes running their course within weeks. Television and radio advertisements can reach thousands of viewers even with one showing. Therefore, review of electronic media prior to its use is justified in electronic media, but may not be appropriate for advertisements in the other media. Upon receiving a complete filing, prior to a television or radio advertisement's first use, The Florida Bar will advise the filing lawyer in writing whether the advertisement complies with subchapter 4-7. The opinion will be binding on The Florida Bar in a grievance proceeding, unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement.

For all other advertisements required to be filed for review, the rule gives lawyers the option of submitting their advertisements to The Florida Bar for review prior to first use or submitting their advertisements at the time of first use. In either event, The Florida Bar will advise the filing lawyer in writing whether the advertisement appears to comply with the rules. The Florida Bar's opinion will be binding on The Florida Bar in a grievance proceeding. A lawyer who wishes to obtain a safe harbor from discipline can, therefore, submit the lawyer's advertisement and obtain The Florida Bar's opinion prior to disseminating the advertisement. A lawyer who voluntarily files an advertisement and obtains a notice of compliance is therefore immune from grievance liability unless the advertisement contains a misrepresentation that is not apparent from the face of the advertisement. A lawyer who wishes to be able to rely on The Florida Bar's opinion as demonstrating the lawyer's good faith effort to comply with these rules has the responsibility of supplying The Florida Bar with all information material to a determination of whether an advertisement is false or misleading.

[Revised: 02/01/2010]

4 RULES OF PROFESSIONAL CONDUCT
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RULE 4-7.8 EXEMPTIONS FROM THE FILING AND REVIEW REQUIREMENT

The following are exempt from the filing requirements of rule 4-7.7:

(a) any advertisement in any of the public media, including the yellow pages of telephone directories, that contains neither illustrations nor information other than permissible content of advertisements listed in rule 4-7.2(b).

(b) a brief announcement in any of the public media that identifies a lawyer or law firm as a contributor to a specified charity or as a sponsor of a public service announcement or a specified charitable, community, or public interest program, activity, or event, provided that the announcement contains no information about the lawyer or law firm other than permissible content of advertisements listed in rule 4-7.2(b) and the fact of the sponsorship or contribution. In determining whether an announcement is a public service announcement for purposes of this rule and the rule setting forth permissible content of advertisements, the following are criteria that may be considered:

(1) whether the content of the announcement appears to serve the particular interests of the lawyer or law firm as much as or more than the interests of the public;
(2) whether the announcement contains information concerning the lawyer's or law firm's area of practice, legal background, or experience;
(3) whether the announcement contains the address or telephone number of the lawyer or law firm;
(4) whether the announcement concerns a legal subject;
(5) whether the announcement contains legal advice; and

(6) whether the lawyer or law firm paid to have the announcement published.

(c) a listing or entry in a law list or bar publication.

(d) a communication mailed only to existing clients, former clients, or other lawyers.

(e) professional announcement cards stating new or changed associations, new offices, and similar changes relating to a lawyer or law firm, and that are mailed only to other lawyers, relatives, close personal friends, and existing or former clients.

(f) computer-accessed communications as described in subdivision (b) of rule 4-7.6.

Comment

In *The Florida Bar v. Doe*, 634 So. 2d 160 (Fla. 1994), the court recognized the need for specific guidelines to aid lawyers and the bar in determining whether a particular announcement in the public media is a public service announcement as contemplated in this rule and rule 4-7.2. Subdivisions (b)(1)-(6) of this rule respond to the court's concern by setting forth criteria that, while not intended to be exclusive, provide the needed guidance. With the exception of subdivision (b)(3), these criteria are based on factors considered by the court in *Doe*.

[Revised: 02/01/2008]

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RULE 4-7.9 FIRM NAMES AND LETTERHEAD

4 RULES OF PROFESSIONAL CONDUCT
4-7 INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.9 FIRM NAMES AND LETTERHEAD

(a) False, Misleading, or Deceptive. A lawyer shall not use a firm name, letterhead, or other professional designation that is false, misleading, or deceptive as set forth in subdivision (c)(1) of rule 4-7.2.

(b) Trade Names. A lawyer may practice under a trade name if the name is not deceptive and does not imply a connection with a government agency or with a public or charitable legal services organization, does not imply that the firm is something other than a private law firm, and is not false, misleading, or deceptive as set forth in subdivision (c)(1) of rule 4-7.2. A lawyer in private practice may use the term "legal clinic" or "legal services" in conjunction with the lawyer's own name if the lawyer's practice is devoted to providing routine legal services for fees that are lower than the prevailing rate in the community for those services.

(c) Advertising Under Trade Name. A lawyer shall not advertise under a trade or fictitious name, except that a lawyer who actually practices under a trade name as authorized by subdivision (b) may use that name in advertisements. A lawyer who advertises under a trade or fictitious name shall be in violation of this rule unless the same name is the law firm name that appears on the lawyer's letterhead, business cards, office sign, and fee contracts, and appears with the lawyer's signature on pleadings and other legal documents.

(d) Law Firm with Offices in More Than 1 Jurisdiction. A law firm with offices in more than 1 jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(e) Name of Public Officer in Firm Name. The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(f) Partnerships and Authorized Business Entities. Lawyers may state or imply that they practice in a partnership or authorized business entity only when that is the fact.

(g) Insurance Staff Attorneys. Where otherwise consistent with these rules, lawyers who practice law as employees within a separate unit of a liability insurer representing others pursuant to policies of liability insurance may practice under a name that does not constitute a material misrepresentation. In order for the use of a name other than the name of the insurer not to constitute a material misrepresentation, all lawyers in the unit must comply with all of the following:

(1) the firm name must include the name of a lawyer who has supervisory responsibility for all lawyers in the unit;

(2) the office entry signs, letterhead, business cards, websites, announcements, advertising, and listings or entries in a law list or bar publication bearing the name must disclose that the lawyers in the unit are employees of the insurer;

(3) the name of the insurer and the employment relationship must be disclosed to all insured clients and prospective clients of the lawyers, and must be disclosed in the official file at the lawyers' first appearance in the tribunal in which the lawyers appear under such name;

(4) the offices, personnel, and records of the unit must be functionally and physically separate from other operations of the insurer to the extent that would be required by these rules if the lawyers were private practitioners sharing space with the insurer; and

(5) additional disclosure should occur whenever the lawyer knows or reasonably should know that the lawyer's role is misunderstood by the insured client or prospective clients.

Comment

A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity, or by a trade name such as "Family Legal Clinic." Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm.

Subdivision (a) precludes use in a law firm name of terms that imply that the firm is something other than a private law firm. Two examples of such terms are "academy" and "institute." Subdivision (b) precludes use of a trade or fictitious name suggesting that the firm is named for a person when in fact such a person does not exist or is not associated with the firm. An example of such an improper name is "A. Aaron Able." Although not prohibited per se, the terms "legal clinic" and "legal services" would be misleading if used by a law firm that did not devote its practice to providing routine legal services at prices below those prevailing in the community for like services.

Subdivision (c) of this rule precludes a lawyer from advertising under a nonsense name designed to obtain an advantageous position for the lawyer in alphabetical directory listings unless the lawyer actually practices under that nonsense name. Advertising under a law firm name that differs from the firm name under which the lawyer actually practices violates both this rule and the prohibition against false, misleading, or deceptive communications as set forth in subdivision (c) (1) of rule 4-7.2.

With regard to subdivision (f), lawyers sharing office facilities, but who

are not in fact partners, may not denominate themselves as, for example, "Smith and Jones," for that title suggests partnership in the practice of law.

All lawyers who practice under trade or firm names are required to observe and comply with the requirements of the Rules Regulating The Florida Bar, including but not limited to, rules regarding conflicts of interest, imputation of conflicts, firm names and letterhead, and candor toward tribunals and third parties.

Some liability insurers employ lawyers on a full-time basis to represent their insured clients in defense of claims covered by the contract of insurance. Use of a name to identify these attorneys is permissible if there is such physical and functional separation as to constitute a separate law firm. In the absence of such separation, it would be a misrepresentation to use a name implying that a firm exists. Practicing under the name of an attorney inherently represents that the identified person has supervisory responsibility. Practicing under a name prohibited by subsection (f) is not permitted. Candor requires disclosure of the employment relationship on letterhead, business cards, and in certain other communications that are not presented to a jury. The legislature of the State of Florida has enacted, as public policy, laws prohibiting the joinder of a liability insurer in most such litigation, and Florida courts have recognized the public policy of not disclosing the existence of insurance coverage to juries. Requiring lawyers who are so employed to disclose to juries the employment relationship would negate Florida public policy. For this reason, the rule does not require the disclosure of the employment relationship on all pleadings and papers filed in court proceedings. The general duty of candor of all lawyers may be implicated in other circumstances, but does not require disclosure on all pleadings.

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4 RULES OF PROFESSIONAL CONDUCT
4-7 INFORMATION ABOUT LEGAL SERVICES

RULE 4-7.10 LAWYER REFERRAL SERVICES

(a) When Lawyers May Accept Referrals. A lawyer shall not accept referrals from a lawyer referral service, and it shall be a violation of these Rules Regulating The Florida Bar to do so, unless the service:

(1) engages in no communication with the public and in no direct contact with prospective clients in a manner that would violate the Rules of Professional Conduct if the communication or contact were made by the lawyer;

(2) receives no fee or charge that constitutes a division or sharing of fees, unless the service is a not-for-profit service approved by The Florida Bar pursuant to chapter 8 of these rules;

(3) refers clients only to persons lawfully permitted to practice law in Florida when the services to be rendered constitute the practice of law in Florida;

(4) carries or requires each lawyer participating in the service to carry professional liability insurance in an amount not less than $100,000 per claim or occurrence;

(5) furnishes The Florida Bar, on a quarterly basis, the names and Florida bar membership numbers of all lawyers participating in the service;

(6) furnishes The Florida Bar, on a quarterly basis, the names of all persons authorized to act on behalf of the service;

(7) responds in writing, within 15 days, to any official inquiry by bar counsel when bar counsel is seeking information described in this

subdivision or conducting an investigation into the conduct of the service or an attorney who accepts referrals from the service;

(8) neither represents nor implies to the public that the service is endorsed or approved by The Florida Bar, unless the service is subject to chapter 8 of these rules;

(9) uses its actual legal name or a registered fictitious name in all communications with the public; and

(10) affirmatively states in all advertisements that it is a lawyer referral service.

(b) Responsibility of Lawyer. A lawyer who accepts referrals from a lawyer referral service is responsible for ensuring that any advertisements or written communications used by the service comply with the requirements of the Rules Regulating The Florida Bar, and that the service is in compliance with the provisions of this subchapter. It shall be a violation of these Rules Regulating The Florida Bar and a failure of such responsibility if the lawyer knows or should have known that the service is not in compliance with applicable rules or if the lawyer failed to seek information necessary to determine compliance.

(c) Definition of Lawyer Referral Service. A "lawyer referral service" is:

(1) any person, group of persons, association, organization, or entity that receives any consideration, monetary or otherwise, given in exchange for referring or causing the direct or indirect referral of a potential client to a lawyer selected from a specific group or panel of lawyers; or

(2) any group or pooled advertising program operated by any person, group of persons, association, organization, or entity wherein the legal services advertisements utilize a common telephone number and potential clients are then referred only to lawyers or law firms participating in the group or pooled advertising program.

A pro bono referral program, in which the participating lawyers do not pay a fee or charge of any kind to receive referrals or to belong to the referral panel, and are undertaking the referred matters without expectation of remuneration, is not a lawyer referral service within the definition of this rule.

Comment

Every citizen of the state should have ready access to the legal system. A person's access to the legal system is enhanced by the assistance of a lawyer qualified to handle that person's legal needs. Many of the citizens of the state who are potential consumers of legal services encounter difficulty in identifying and locating lawyers who are willing and qualified to consult with them about their legal needs. Lawyer referral services can facilitate the identification and intelligent selection of lawyers qualified to render assistance. However, because a potential for abuse exists, the participation of lawyers in referral services must be regulated to ensure protection of the public.

It is in the public interest that a person seeking the assistance of counsel receive accurate information to select or be matched with counsel qualified to render the needed services. Therefore, a lawyer should not participate in a lawyer referral service that communicates misleading information to the public or that directly contacts prospective clients about available legal services in a manner that constitutes impermissible solicitation.

One who avails oneself of legal services is well served only if those services are rendered by a lawyer who exercises independent legal judgment. The division or sharing of a fee risks the creation of an obligation that impairs a lawyer's ability to exercise independent legal judgment. Therefore, the public interest usually compels the ethical prohibition against the division or sharing of fees and that ethical prohibition should likewise apply to the division or sharing of fees with a lawyer referral service. The prohibition does not extend to the lawyer's paying a pre-arranged, fixed-sum participation fee. Furthermore, the prohibition does not apply when the referring agency is a not-for-profit service operated by a bona fide state or local bar association under the supervision of and approved by The Florida

Bar in order to ensure that such service fulfills the public-interest purposes of a lawyer referral service and to ensure that the risk of impairment of the lawyer's ability to exercise independent legal judgment is in that circumstance minimal.

It is in the public interest that a person receive legal services only from someone who is qualified to render them. Lawyers should strive to prevent harm resulting from the rendering of legal services by persons not legally qualified to do so. Therefore, a lawyer should not participate in a lawyer referral service that refers clients to persons not lawfully permitted to practice law in Florida when the services to be rendered constitute the practice of law in Florida.

The quasi-institutionalization of legal services by a lawyer referral service implies that the service has screened the qualifications and financial responsibility of its participating lawyers. That implication may be misleading and does not exist when a prospective client directly selects a lawyer at arm's length. Therefore, it is in the public interest that only lawyers who have established a certain amount of financial responsibility for professional liability participate in a lawyer referral service. Accordingly, a lawyer should participate in a lawyer referral service only if the service requires proof of that financial responsibility.

To enable The Florida Bar to fulfill its obligation to protect the public from unethical or other improper conduct by those who practice law in Florida, The Florida Bar must have available to it the identity of all lawyers participating in a lawyer referral service. Therefore, a lawyer should participate in a lawyer referral service only if the service furnishes The Florida Bar with the names of its participating lawyers and complies with all other applicable rules.

[Revised: 02/01/2010]

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Advertising Rules

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NOTICES

The Standing Committee on Advertising will consider adopting Proposed Advisory Opinion A-12-1 on the issue of lawyers' use of metatags and hidden text on websites to optimize position in search engine results as a topic of interest among a significant number of Florida Bar members at the request of The Florida Bar Board of Governors. The committee will consider this issue at a meeting to be held in conjunction with The Florida Bar Midyear Meeting, from 2:00 until 4:30 p.m. on Thursday, September 20, 2012. **There is no draft opinion available at this time.** Pursuant to Procedures 4(c) and (d) of The Florida Bar Procedures for Issuing Advisory Opinions Relating to Lawyer Advertising or Solicitation, comments from Florida Bar members are solicited on the issues presented. All comments must contain the draft proposed advisory opinion number and clearly state the issues for the committee to consider and may contain citations to relevant authorities. Comments should be submitted to Elizabeth Clark Tarbert, Ethics Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee 32399-2300, and must be postmarked no later than **September 14, 2012**.

Notice: The Florida Bar filed a petition with the Supreme Court of Florida on July 5, 2011 to amend the lawyer advertising rules.

- Petition - In re Amendments to RRTFB - Subchapter 4-7 Lawyer Ad Rules
- Table of Appendices
- Appendix A - Full Text 7-5-11
- Appendix B - 2 columns 7-5-11
- Appendix C - Notice 7-5-11
- Appendix D - Final Report Comments & Misc. 7-5-11
- Appendix E - Initial Proposed Rules & Comments 7-5-11
- Appendix F - Comments Received After News Notice 7-5-11

- The Florida Bar's Motion to Amend Pending Proposed Amendments
- The Florida Bar's Motion Attachment 1
- The Florida Bar's Motion Attachment 2
- Revised Appendix A
- Revised Appendix B
- The Supreme Court of Florida's Order Granting the bar's motion

Notice: The Supreme Court of Florida has issued a revised opinion amending the rules regulating lawyer advertisements over the Internet. Websites will be subject to the general advertising regulations set forth in Rule 4-7.2. Websites will remain exempt from the filing requirement under Rule 4-7.8. The jurisdictional disclosure requirement will no longer be required on the homepage, but will be required to appear on the website. Requirements for direct e-mail will be reinstated: a statement of qualifications will be required and a disclosure if a lawyer other than the one whose name appears in the advertisement will handle the matter will be required. Direct e-mail also will be required to **begin** the subject line with the statement "legal advertisement." The changes will be effective 90 days from the Court's order in SC10-1014, which has not yet been decided. In Re: Amendments to Rules Regulating The Florida Bar - Rule 4-7.6, Computer Accessed Communications, 34 Fla. L. Weekly S627 (Fla. Nov. 19, 2009), Case No. SC08-1181.

Notice: At the direction of the Supreme Court of Florida, the Florida Bar filed a petition on June 1, 2010 to adopt amendments to Rule 4-7.6 on Computer Accessed Communications. The amendments in case number SC10-1014 , if adopted, would provide a method by which a portion of the website would be considered information at the request of a prospective client and therefore not subject to subchapter 4-7 (the lawyer advertising rules) if specific requirements are met. This petition has not yet been decided by the Court and is still pending. The Florida Bar also filed an emergency motion to request a further stay of the effective date of the amendments to Rule 4-7.6 in SC08-1181. The Court issued an order, granting the bar's motion to stay the effective date, which will be 90 days from the Court's order in SC10-1014, which has not yet been decided.

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HANDBOOK ON LAWYER ADVERTISING AND SOLICITATION

The Handbook on Lawyer Advertising & Solicitation is an annual publication by the Standing Committee on Advertising. This handy reference gives general information on lawyer advertising, how to file advertisements with The Florida Bar, current rules regarding advertising and sample ads for reference. The handbook has been updated to include the most recent amendments to the lawyer advertising rules. The quick reference checklists have been updated to include these amendments as well. To obtain the full handbook, please download

both the The Handbook on Lawyer Advertising and Solicitation and the examples of complying and noncomplying ads.

Link to attorney advertising rule Chapter 4-7 Rules Regulating The Florida Bar.

Attorney advertising filing requirements

How to file attorney advertisements

Examples of complying and noncomplying ads

Bona Fide Offices

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COVER SHEETS

To assist Florida Bar members in filing their advertisements for review, staff of the Ethics and Advertising Department created cover sheets for your use that address many of the common omissions and questions in filing advertisements. You are not required to file the cover sheet with your advertisement. If you choose to use the cover sheet, we hope it will help expedite the review process. For information on which advertisements are required to be filed for review, please see Attorney Advertising Filing Requirements above. For your convenience, these forms are available in 2 formats: one you can print and fill out, the other you can fill in and save the completed form in your own system.

Coversheet For TV & Radio Advertisements (Word / PDF)

Coversheet For Print Advertisements (Word / PDF)

Coversheet For Direct Mail & Email Advertisements (Word / PDF)

Coversheet For Internet Advertisements (Word / PDF)

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Florida Bar Procedures for Issuing Advisory Opinions Relating to Lawyer Advertising or Solicitation

(Revised and adopted by the Board of Governors on May 24, 2002)

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4. Procedure For Issuance Of SCA Opinions
5. Procedure For Review Of SCA Action
6. Procedure For Issuance Of Board Of Governors Opinions
7. Time For Appeals

1. APPLICATION; SCOPE; AND USAGE

Staff opinions, standing committee on advertising opinions, and opinions of the board of governors are advisory only and shall not be the basis for action by grievance committees, referees, or the board of governors except upon application of the respondent in disciplinary proceedings. If a respondent's defense includes reliance on the receipt of a staff opinion, ethics counsel may release to the bar counsel, grievance committee, referee, or board of governors information concerning the opinion or the request therefor that would otherwise be confidential under these rules. Information concerning requests for staff opinions shall be confidential, except as otherwise provided in bylaw 2-9.4, Rule 15-4.2, and these procedures. If public statements are made by the inquirer about any advisory opinion or opinion request, confidentiality of the request and the opinion is waived and ethics counsel may disclose the opinion and information relating to the request.

The proposed advisory advertising opinion process should not be used to circumvent procedures to adopt or amend Rules Regulating The Florida Bar.

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2. AUTHORITY TO ISSUE ADVERTISING OPINIONS

Ethics counsel and assistant ethics counsel, the standing committee on advertising, and the board of governors shall have the authority to evaluate attorney advertisements in accordance with rule 4-7.7 and to issue advisory advertising opinions in the type and manner as set forth in these procedures.

(a) Ethics Counsel and Assistant Ethics Counsel. Ethics counsel and assistant ethics counsel may render oral and written opinions that shall be

identified as "staff opinions." Staff opinions shall be issued only to the members of The Florida Bar in good standing inquiring as to their own contemplated conduct.

(1) Staff opinions shall not be issued if it is known to staff that the inquiry:
(A) is made by a person who is not a member of The Florida Bar in good standing;
(B) concerns past conduct of the inquirer;
(C) involves the conduct of an attorney other than the inquirer;
(D) asks a question of law;
(E) asks a question of rule or court procedure; or
(F) is the subject of a proceeding brought under the Rules Regulating The Florida Bar.

(2) Staff may decline to issue an opinion if the inquiry:
(A) is the subject of current litigation; or
(B) asks a question for which there is no previous precedent or underlying bar policy on which to base an opinion.

(b) Standing Committee on Advertising. The standing committee on advertising (hereinafter referred to as SCA) may render written opinions, amend existing opinions, or withdraw existing opinions:

(1) upon appeal of a written staff opinion by the inquiring attorney;

(2) upon request of the board of governors regarding application of the attorney advertising rules to a particular set of facts;

(3) upon review of staff opinions by the SCA; or

(4) upon review of existing advisory advertising opinions by the SCA.

Opinions of the SCA shall be identified as advisory advertising opinions.

(c) Board of Governors. The board of governors may render written opinions, amend existing opinions, or withdraw existing opinions:

(1) upon appeal of SCA action; and

(2) upon its own initiative when the board of governors determines that the application of the attorney advertising rules to a particular set of facts is likely to be of widespread interest or unusual importance to a significant number of Florida Bar members.
Opinions of the board of governors shall be identified as advisory advertising opinions.

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3. PROCEDURES FOR ISSUANCE OF AND DECLINING TO ISSUE STAFF OPINIONS

(a) Request for Staff Opinion.

(1) *Oral Staff Opinions*. Members in good standing may request an oral staff opinion, other than an advertising filing required by rule 4-7.7, by calling ethics counsel in Tallahassee, at (800) 235-8619 or (850) 561-5780. Oral opinions may be confirmed in writing only in accord with the procedures for issuance of written staff opinions. All information relating to the request for an oral staff opinion shall be confidential as provided elsewhere in these procedures.

(2) *Written Staff Opinions*. Members in good standing may request a written staff opinion, other than an advertising filing required by rule 4-7.7, by writing Ethics Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300 or by electronic mail to eto@flabar.org. All requests for written staff opinions shall set forth all operative facts upon which the request is based and contain an affirmative statement that the criteria of procedure 2(a) are met. Except for advertising filings required by rule 4-7.7, all material and information relating to the request for a written staff opinion shall be confidential as provided elsewhere in these procedures.

(b) Declining to Issue Staff Opinions. Ethics counsel shall decline to issue a staff opinion if any criteria of procedure 2(a)(1) apply. Ethics counsel may decline to issue a staff opinion if any criteria of procedure 2(a)(2) apply.

(c) Appeal to SCA. Members filing advertisements for evaluation under rule 4-7.7 or requesting a written staff opinion may appeal the opinion or the decision not to issue the opinion to the SCA as provided elsewhere in these procedures. Appeals to the SCA shall be public information. Oral staff opinions and decisions not to issue an oral opinion may not be appealed.

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4. PROCEDURE FOR ISSUANCE OF SCA OPINIONS

(a) Scheduling SCA Review. Timely appeals, requests of the board of governors, SCA review of staff opinions, and SCA review of existing advisory advertising opinions shall be scheduled for SCA consideration at the next available meeting of the SCA if any official notice requirements are met.

(b) Authority of SCA Chair. The chair of the SCA shall have the discretion to determine the order of the agenda, time allocated to each matter, and whether personal appearances may be allowed. In addition, the chair may appoint a

subcommittee to conduct the review.

(c) Notice of SCA Review. In the event that the SCA decides to consider rendering a written opinion for publication at the request of the board of governors, upon SCA review of staff opinions, or upon SCA review of existing formal opinions, the SCA shall publish in The Florida Bar *News* an official notice of its intent to consider rendering a written opinion. The notice shall state the time and place at which the SCA's deliberations will occur and shall invite written comments from interested bar members. Initial publication shall fully identify the subject matter of the issue and any proposed text, if then available, and invite written comment. If an opinion is issued, the SCA shall publish an official notice of the adoption of the advisory advertising opinion in The Florida Bar *News*, including the full text of the opinion. Any subsequent notice shall contain the full text of any revised advisory advertising opinion.

(d) Comments. Any member in good standing may file written comment with ethics counsel within 30 days of the date of publication of official notice of the SCA's intent to consider rendering an advisory advertising opinions, official notice of the SCA's adoption of a proposed advisory advertising opinion, or official notice that the SCA has revised a proposed advisory advertising opinion. All comments filed under this subdivision shall be in the form of written statements with relevant facts, arguments in support, and citations to relevant authority, if any.

(e) Record on Review. Ethics counsel shall prepare and distribute to the SCA a file on each matter for review. Any person may request and receive a copy of the file. Ethics counsel may charge a reasonable fee for providing copies in accord with established, general bar policies.

(1) *Appeals of Written Staff Opinions*. The file shall include the original request for the opinion, the written staff opinion, and the written request for SCA review.

(2) *Requests of Board of Governors*. The file shall include the request, relevant material and authorities, any proposed text for consideration, and any timely comments.

(3) *Review of Staff Opinions*. The file shall include the original request for the opinion, the written staff opinion, and the written request for SCA review.

(4) *Review of Existing Advisory Advertising Opinions*. Th file shall include the existing advisory advertising opinion, relevant material and authorities, and the written request for SCA review.

(f) SCA Action. By majority vote of those present, the SCA may:

(1) *Appeals of Written Staff Opinions.*
(A) affirm the opinion, in whole or in part;
(B) reverse the opinion, in whole or in part;
(C) return the opinion to ethics counsel with instructions as to redrafting; or
(D) determine to issue, amend, or withdraw an advisory advertising opinion.

(2) *Requests of Board of Governors.*
(A) decline to issue an advisory advertising opinion;
(B) agree to issue, amend, or withdraw an advisory advertising opinion; or
(C) provide informal information or comments to the inquirer.

(3) *Review of Staff Opinions.*
(A) affirm the opinion, in whole or in part;
(B) reverse the opinion, in whole or in part;
(C) return the opinion to ethics counsel with instructions as to redrafting; or
(D) determine to issue, amend, or withdraw an advisory advertising opinion.

(4) *Review of Existing Advisory Advertising Opinions.*
(A) affirm the advisory advertising opinion, in whole or in part;
(B) reverse the advisory advertising opinion, in whole or in part;
(C) determine to issue, amend, or withdraw an advisory advertising opinion.

(g) Notice of SCA Action. Notice of SCA action regarding formal opinions of the SCA shall be published in The Florida Bar *News*. Notice of the SCA's actions shall be provided by ethics counsel to:

(1) *Appeals of Written Staff Opinions*. The inquiring member who requested review of a written staff opinion or an advertisement filed in accordance with rule 4-7.7;

(2) *Requests of Board of Governors*. The inquirer, all members who timely commented on a referral from the board of governors, any member who requests review within 30 days of the publication of the notice of SCA action, and the bar's executive director;

(3) *Review of Staff Opinions*. All members who timely commented on notice of the SCA's review of staff opinions.

(4) *Review of Existing Advisory Advertising Opinions*. All members who timely commented on notice of the SCA's review of existing advisory advertising opinions.

(h) Appeal of SCA Action. Any member who timely commented to the SCA

and any member who timely appealed a written staff opinion may appeal action of the SCA to the board of governors as provided elsewhere in these procedures.

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5. PROCEDURE FOR REVIEW OF SCA ACTION

(a) Referral to Board Review Committee on Professional Ethics. Timely appeals from SCA action shall be referred to the Board Review Committee on Professional Ethics (hereinafter BRC).

(b) Scheduling BRC Review. Timely appeals shall be scheduled for BRC consideration at the next meeting of the BRC if the appeal or request is made more than 30 days in advance of such meeting.

(c) Authority of BRC Chair. The chair of the BRC shall have the discretion to determine the order of the agenda, time allocated to each matter, and whether personal appearances may be allowed. In addition, the chair may appoint a subcommittee to conduct the review.

(d) Record on Review. Ethics counsel shall prepare and distribute to the BRC a file on each matter for review. Any person may request and receive a copy of the same. Ethics counsel may charge a reasonable fee for providing copies in accord with established, general bar policies. The file shall include the record before the SCA and the request for BRC review.

(e) BRC Action. By majority vote of those present, the BRC may:

(1) affirm the SCA action, in whole or in part;

(2) reverse the SCA action, in whole or in part; or

(3) return the matter to the SCA with instructions as to redrafting.

(f) Review of BRC Action. The BRC shall report its actions to the board and the action will be placed on the agenda of the board for review and approval as a consent item if affirming SCA action. Any member of the board may request that any BRC action be taken up for discussion by the full board. By majority vote of those present, the board may:

(1) affirm the SCA action, in whole or in part;

(2) reverse the SCA action, in whole or in part; or

(3) return the matter to the SCA with instructions as to redrafting.

(g) Notice of Board of Governors Action. Notice of board of governors action regarding formal advisory advertising opinions shall be published in The Florida Bar *News*. Notice of the board's actions shall be provided by ethics counsel to the members who timely requested board of governors review.

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6. PROCEDURE FOR ISSUANCE OF BOARD OF GOVERNORS OPINIONS

(a) Referral to BRC. Board of governors decisions to render an advisory advertising opinion shall be referred to the BRC to develop a specific set of facts upon which the opinion will be based, comply with notice provisions in this procedure, and adopt a written advisory opinion applying the attorney advertising rules to the set of facts.

(b) Scheduling BRC Review. Advisory advertising opinions shall be scheduled for BRC consideration if the decision to consider rendering an opinion is made more than 30 days in advance of such meeting and any official notice requirements are met.

(c) Authority of BRC Chair. The chair of the BRC shall have the discretion to determine the order of the agenda, time allocated to each matter, and whether personal appearances may be allowed. In addition, the chair may appoint a subcommittee to conduct the review.

(d) Notice of BRC Opinion. In the event that the board of governors refers an issue to the BRC to render a written opinion for publication, the BRC shall publish in The Florida Bar *News* an official notice of its intent to consider rendering a written opinion. The notice shall state the time and place at which the BRC's deliberations will occur and shall invite written comments from interested bar members. Initial publication shall identify the subject matter of the issue and any proposed text, if then available, and invite written comment. If an opinion is issued, the BRC shall publish an official notice of the adoption of the advisory advertising opinion in The Florida Bar *News*, including the full text of the opinion. Any subsequent notice shall contain the full text of any revised advisory advertising opinion.

(e) Comments. Any member in good standing may file written comment with ethics counsel within 30 days of the date of publication of official notice of the BRC's intent to consider rendering a proposed advisory opinion, official notice of the BRC's adoption of an advisory opinion, or official notice that the BRC has revised a proposed advisory opinion.

All comments filed under this subdivision shall be in the form of written statements with relevant facts, arguments in support, and citations to relevant authority, if any.

(f) Record on Review. Ethics counsel shall prepare and distribute to the BRC a

file on each matter for review. Any person may request and receive a copy of the file. Ethics counsel may charge a reasonable fee for providing copies in accord with established, general bar policies. The file shall contain the statement of facts upon which the proposed advisory opinion will be made, relevant material and authorities, and the text of the proposed advisory opinion, if then available.

(g) BRC Action. By majority vote of those present, the BRC may:

(1) determine to issue an opinion; or

(2) determine not to issue an opinion.

(h) Review of BRC Action. The BRC shall report its actions to the board. By majority vote of those present, the board may:

(1) affirm the BRC action, in whole or in part;

(2) reverse the BRC action, in whole or in part; or

(3) return the matter to the BRC with instructions as to redrafting.

(i) Notice of Board of Governors Action. Notice of board of governors action regarding formal advisory opinions shall be published in The Florida Bar *News*. Notice of the board's actions shall be provided by ethics counsel to the members who timely filed comments.

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7. TIME FOR APPEALS

All appeals allowed under these procedures shall be commenced by mailing the required items to Ethics Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, within 30 days of notice of the action that is the subject of the appeal. Failure to timely commence an appeal shall bar same.

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[Revised: 06-06-2011]

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The Florida Bar
www.floridabar.org

Guidelines for Lawyer and Law Firm Websites

Approved by The Standing Committee on Advertising (January 1, 2010)
Effective July 1, 2010, lawyer and law firm websites must comply with the general lawyer advertising requirements set forth in Rule 4-7.2, Rules Regulating The Florida Bar. Although websites must comply with these requirements, they are not required to be filed with The Florida Bar for review. Rule 4-7.8(f), Rules Regulating The Florida Bar. The Florida Bar Board of Governors has adopted a policy that The Florida Bar will not accept voluntary filings of the entire contents of a lawyer or law firm website, although staff of the Ethics and Advertising Department will respond to specific questions involving a specific phrase or image to be included on a website. To make such an inquiry, please call the Ethics and Advertising Department at (800) 235-8619.

Many law firm websites may contain information that is prohibited by the lawyer advertising rules, such as testimonials or endorsements from clients and others, past results of the law firm, and statements characterizing the quality of legal services (for example, the firm offers high quality legal services, or excellent legal services).

The Standing Committee on Advertising has determined that a lawyer or law firm can create a portion of the website which contains information that can be provided only at the request of a prospective client, and is therefore not subject to the lawyer advertising rules under Rule 4-7.1(f). Testimonials and endorsements, past results, and statements characterizing the quality of legal services may be included in such a section if the information provided is truthful and not misleading, either by itself or in the context in which it is given. If testimonials or past results are provided, sufficient information about the matter also must be provided to allow the consumer to evaluate the testimonials or results. Testimonials and past results may be included only with the informed consent of the client to which the matter relates (see Rule 4-1.6(a), Rules Regulating The Florida Bar). In order to be considered information that is given at the request of a prospective client, the information must be accessible **only** after viewing a disclaimer page and making an affirmative acceptance that the viewer has received the disclaimers provided below.

The disclaimer page must clearly and prominently indicate the following:

- the type of information that will be viewed;
- that the information is not reviewed or approved by The Florida Bar;
- if past results are provided:
- that a prospective client's facts and circumstances may differ from the matter in which results have been given;
- whether all results are provided;

- that the results are not necessarily representative of results obtained by the lawyer; and
- that every case is different, and each client's case must be evaluated and handled on its own merits;
- if testimonials are provided:
- that a prospective client's individual facts and circumstances may differ from the matter(s) in which the testimonials are provided;
- whether testimonials of all clients are provided; and
- that the testimonials are not necessarily representative of all clients' experience with the lawyer.

On the disclaimer page, the viewer must acknowledge receipt of the information before being given access to pages with information including past results, testimonials, or statements characterizing the quality of legal services. The lawyer should not require that viewers provide information about themselves in order to access the information.

Lawyers may use a disclaimer page, a pop-up, or any other technological mechanism as long as the above guidelines are followed, and the above information cannot be accessed without viewing the disclaimer page and making an affirmative acknowledgement of receipt of the disclaimer. For example, the website must be set up in such a way that the above information cannot be viewed as a result of a general search engine or site search without displaying the disclaimer page each time.

Alternatively, lawyers may provide a section of the website in which a viewer, at the viewer's option, may provide contact information and make a specific acknowledgement that the viewer would like to receive specific information about the lawyer or law firm. After receipt of the contact information and acknowledgment, the lawyer or law firm may send the viewer information by either e-mail or regular U.S. Mail, as long as the information is truthful and not misleading, either by itself or in the context in which it is given. The lawyer or law firm must provide the same disclaimers to the recipient and follow the same guidelines noted above.

SAMPLE DISCLAIMER PAGE

If you are interested in viewing information about the lawyer/firm's past results and testimonials about the lawyer/firm, please read and acknowledge the information below. The information in this section contains information about the lawyer/firm's past results, testimonials about the lawyer/firm, and statements regarding the lawyer/firm's quality **[Note to Lawyers: you must also list the category of any other information provided that is not otherwise in compliance with Rule 4-7.2 here]**. The information has not been reviewed or approved by The Florida Bar.

You should know that:

The facts and circumstances of your case may differ from the matters in which results and testimonials have been provided.
All results of cases handled by the lawyer/firm are not provided and not all clients have given testimonials.

The results and testimonials provided are not necessarily representative of results obtained by the lawyer/firm or of the experience of all clients or others with the lawyer/firm. Every case is different, and each client's case must be evaluated and handled on its own merits.

I acknowledge that I have read and understand the above information and would like to view the information. [hypertext link to the additional information]

I do not want to view the information. [hypertext link to home page of website]

[Note to Lawyers: the viewer must check each box in order to reach the additional information on the website.]

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The facts and circumstances of your case may differ from the matters in which results and testimonials have been provided.
All results of cases handled by the lawyer/firm are not provided and not all clients have given testimonials.

The results and testimonials provided are not necessarily representative of results obtained by the lawyer/firm or of the experience of all clients or others with the lawyer/firm. Every case is different, and each client's case must be evaluated and handled on its own merits.

I acknowledge that I have read and understand the above information and would like to view the information. [hypertext link to the additional information]

I do not want to view the information. [hypertext link to home page of website]

[Note to Lawyers: the viewer must check each box in order to reach the additional information on the website.]

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Bar Rules for Attorney Advertising

View Our Unique Portfolio

Read our suggestions for complying with Bar Rules. Choose your state:

Select Your State

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Personalized Website Design

Our website designs are 100% custom and suited to your specific needs.

Learn More

Search Engine Optimization

Our SEO techniques will bring incredible results and achieve your goals.

Learn More

Legal Industry Copywriting

Genuine and unique legal content. Written by attorneys for attorneys.

Florida

Florida Bar Rules for Attorney Advertising

In Florida, attorney websites are considered advert
that are subject to regulation by the Florida Bar. It is important
attorney to read the rules carefully. Before launching a website
attorney should read all of the content on their website to mak
complies with the appliable bar rules. Because Internet LAVA fc
exclsively on designing websites and internet marketing strateg
attorneys we are familiar with the rules and strive to help the a
stay in compliance.

Florida Bar Rules Resources

The Florida Bar - This link provides information to The Florida B
which The Florida Bar is located at:

The Florida Bar
651 East Jefferson Street

Tallahassee, FL 32399-2300
Phone: (850) 561-5600

Social Media Marketing

Capture your audience with an extensive social media presence.

Learn More

Local Search Marketing

We'll put your firm on the map. Be found in local search results.

Learn More

Content Management

Control your website. Add or edit content quickly with a CMS.

Learn More

Video Marketing

Captivate your Audience. Video marketing will convert clients.

Learn More

Rules Regulating the Florida Bar and Requirements for Lawyers link is to the Rules Regulating the Florida Bar, which includes th of Professional Conduct and other rules that govern the practic in Florida.

Florida Rules of Professional Conduct - This link provides acces Florida's Rules of Professional Conduct, which provides the rule regulate attorney website advertisement and marketing.

The Florida Bar Advertising Regulation - This link is to The Flori advertising rules, including rules regarding lawyer and law firm computer accessed communications, such as websites.

Amended Advertising Rules - This link contains the Florida Sup Court's opinion in 2010 that amended the state's bars regulatin attorney advertisements. Florida Supreme Court - This link is t Florida Supreme Court website, which is the highest court in Fl oversees the entire state court system in Florida. The Florida S Court is located at:

Florida Supreme Court
500 South Duval Street
Tallahassee, Florida 32399

Florida Website Advertising Regulation History - This link contai general history of lawyer and law firm regulation in Florida.

Florida Ethics Opinions - This link provides ethics opinions, artic ethics issues, The Florida Bar Ethics Hotline, frequently asked e questions, and miscellaneous other information on legal ethics Florida.

Florida Bar Rules Information Center

- Florida Bar Rules Guidelines
- Prohibited Statements on Florida Legal Websites
- Information Upon Request Zones on Florida Law Firm We
- Florida Bar Rules Information Upon Request Zone Examp
- Attorney Directories and Social Media Profiles in Florida

Ba

Florida Bar Rules Guidelines

The Supreme Court of Florida issued an opinion in 2010 that ar the state's bar rules regulating attorney advertisements over th

internet, including websites. Lawyer and law firm websites are subject to the advertising regulations in Rule 4-7.2, but they ar exempt from the filing requirements in Rule 4-7.8.

Under Rule 4-7.6 of the Rules of Professional Conduct, all Floric attorney internet websites must contain a jurisdictional disclosu where the attorney is licensed to practice law, in addition to all of the law firm, although this disclosure is not required to be lo the homepage.

The Florida Rules of Professional Conduct also state in Rule 4-7 Florida lawyer and law firm websites are required to contain the following:

- The name of at least one attorney responsible for the co the site; and
- The physical office location where the lawyer will actually perform services, although the geographical description required to appear on the homepage.

For purposes of search engine optimization (SEO), every page attorney's website should discuss the geographical areas the at wants to target. Even for a multi-jurisdictional website, each pa the website should be targeted to certain geographical areas. W people look for information online about a legal topic, they typi include some type of geographical term such as the name of th state, county or city. The structure of a lawyer's or law firm's w should also take advantage of geographical terms in order to ra higher on search engines.

Ba

Prohibited Statements on Florida Legal Websites

Advertising regulations in Florida under the Florida Rules of Pro Conduct state:

- A lawyer is not permitted to make statements describing characterizing the quality of their services in advertisem according to Rule 4-7.2(c)(2);
- A lawyer is not permitted to make advertising communic that contain any reference to past successes or results t obtained, according to Rule 4-7.2(c)(1)(F); and
- A lawyer is not permitted to use testimonials in any advertisement, according to Rule 4-7.2(c)(1)(J).

Therefore, lawyers in Florida are prohibited from having the fol information on their website, unless the information is specifica requested by the client and accessed only after viewing a discla

- Any self-laudatory statements that compare the lawyer's with those of other lawyer;
- Any reference to a past case results; and
- Any reference to a testimonial from a prior client.

Ba

Information Upon Request Zones on Florida Law Firm We

Rule 7.2 only applies to advertisements and does not apply to a communications an attorney has with a potential client. For exa the potential client calls and asks for more information, the law generally discuss past case results with the prospective client o them additional information.

Therefore, under Rule 4-7.6 of the Florida Rules of Professional Conduct, an attorney or law firm may set up a section of their w to be an "information upon request" zone in which certain infor such as past case results, testimonials or laudatory statements assessed only after the viewer has taken some affirmative step request the additional information.

The Florida Bar Committee on Advertising set up guidelines to a framework where an attorney could set up an "information upo request" section of their website. This section of the website ha hidden from the viewer until the viewer was shown a disclaimer made an affirmative acknowledgment that they wished to recei additional information.

Recently, the Florida Bar filed a petition to amend changes mad Rule 4-7.6 on Computer Accessed Communications, which has been decided by the court. In the meantime, the Florida Bar file emergency motion to request a delay of the enforcement of the changes to Rule 4-7.6 in the Supreme Court's 2010 opinion tha amended attorney advertising rules. The Court issued an order motion, which can be found here. The order granted the motior means the effective date of the amendments to Rule 4-7.6 in tl opinion are indefinitely stayed.

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Florida Bar Rules Information Upon Request Zone Examp

Disclaimer: The Florida Bar does not review or approve case results for any lawyer's websites. If you would like t read more about the results we have obtained in the pas and statements regarding the quality of our work, you

must read and acknowledge the information below befor clicking on the "I agree" button:

- The facts and circumstances of your case may diff from the facts and circumstances of the cases we discuss here.
- Not all results are provided.
- The results discussed are not necessarily representative of the results obtained in all cases.
- Each case is different and must be evaluated and handled on its own merit.

I Agree

I do not agree. I would like to return to the homepage.

Ba

Attorney Directories and Social Media Profiles in Florida

Social media profiles are a critical aspect of any internet marke effort, and are included in the definition of a website in the Flor rules. Specifically, an attorney's website includes not just webs attorney created, but all websites are controlled or sponsored b attorney within the requirements of advertising rules.

In many directories like AVVO, the listing itself is not created b attorney. Instead the attorney can claim the listing and add co Other aspects of the listing are not controlled by the attorney, endorsements by other attorneys or client reviews, which often about a particular result the attorney obtained for the client.

The comments section of Rule 4-7.6 specifically provides that t does not apply simply because someone other than the lawyer or comments on a lawyer's or law firm's website. Since the test on AVVO are not controlled by the attorney, and since anyone, including a past client or another lawyer, can make a positive o negative comment on the attorney's profile, such a listing woul to be allowed as another person's comment even though it ma technically contain a testimonial or laudatory statement about attorney.

Ba

Internet LAVA, LLC | Florida Bar Rules for Attorney Webs

For more information on how state bar rules impact your law fi internet marketing and advertising strategy, contact Internet L

-800-292-LAVA. Internet LAVA provides cost effective website
and internet marketing strategies that gives the attorney a sub
return on their investment. Internet LAVA offers internet marke
particular practice areas, including personal injury, medical mal
family law, securities law, DUI / DWI, criminal defense and imm
law.

Last updated on March

Foll

Our Services

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Social Media Marketing
Professional Blogs
Directory Advertising
Video Marketing
Web Copywriting

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