

1 **Rule 7.3. Solicitation of clients.**

2 (a) A licensed paralegal practitioner shall not by in-person, live telephone or real-time
3 electronic contact solicit professional employment from a prospective client when a
4 significant motive for the licensed paralegal practitioner's doing so is the licensed paralegal
5 practitioner's pecuniary gain, unless the person contacted:

6 (a)(1) is a lawyer or other licensed paralegal practitioner;

7 (a)(2) has a family, close personal, or prior professional relationship with the licensed
8 paralegal practitioner, or

9 (a)(3) is unable to make personal contact with a lawyer or licensed paralegal
10 practitioner and the licensed paralegal practitioner's contact with the prospective client
11 has been initiated by a third party on behalf of the prospective client.

12 (b) A licensed paralegal practitioner shall not solicit professional employment by
13 written, recorded or electronic communication or by in-person, live telephone or real-time
14 electronic contact even when not otherwise prohibited by paragraph (a), if:

15 (b)(1) the target of the solicitation has made known to the licensed paralegal
16 practitioner a desire not to be solicited by the licensed paralegal practitioner; or

17 (b)(2) the solicitation involves coercion, duress or harassment.

18 (c) Every written, recorded or electronic communication from a licensed paralegal
19 practitioner soliciting professional employment from anyone known to be in need of legal
20 services in a particular matter shall include the words "Advertising Material" on the outside
21 envelope, if any, and at the beginning of any recorded or electronic communication, unless
22 the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). For
23 the purposes of this subsection, "written communication" does not include advertisement
24 through public media, including but not limited to a telephone directory, legal directory,
25 newspaper or other periodical, outdoor advertising, radio, television or webpage.

26 (d) Notwithstanding the prohibitions in paragraph (a), a licensed paralegal practitioner
27 may participate with a prepaid or group legal service plan operated by an organization not
28 owned or directed by the licensed paralegal practitioner that uses in-person or other real-
29 time communication to solicit memberships or subscriptions for the plan from persons
30 who are not known to need legal services in a particular matter covered by the plan.

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32 Comment

33 [1] A solicitation is a targeted communication initiated by the licensed paralegal
34 practitioner that is directed to a specific person and that offers to provide, or can

35 reasonably be understood as offering to provide, legal services. In contrast, a licensed
36 paralegal practitioner's communication typically does not constitute a solicitation if it is
37 directed to the general public, such as through a billboard, an Internet banner
38 advertisement, a website or a television commercial, or if it is in response to a request for
39 information or is automatically generated in response to Internet searches.

40 [2] There is a potential for abuse when a solicitation involves direct in-person, live
41 telephone or real-time electronic contact by a licensed paralegal practitioner with someone
42 known to need legal services. These forms of contact subject a person to the private
43 importuning of the trained advocate in a direct interpersonal encounter. The person, who
44 may already feel overwhelmed by the circumstances giving rise to the need for legal
45 services, may find it difficult fully to evaluate all available alternatives with reasoned
46 judgment and appropriate self-interest in the face of the licensed paralegal practitioner's
47 presence and insistence upon being retained immediately. The situation is fraught with the
48 possibility of undue influence, intimidation, and over-reaching.

49 [3] This potential for abuse inherent in direct in-person, live telephone or real-time
50 electronic solicitation justifies its prohibition, particularly since licensed paralegal
51 practitioners have alternative means of conveying necessary information to those who may
52 be in need of legal services. In particular, communications can be mailed or transmitted by
53 email or other electronic means that do not involve real-time contact and do not violate
54 other laws governing solicitations. These forms of communications and solicitations make
55 it possible for the public to be informed about the need for legal services, and about the
56 qualifications of available licensed paralegal practitioners and law firms, without
57 subjecting the public to direct in-person, live telephone or real-time electronic persuasion
58 that may overwhelm a person's judgment.

59 [4] The use of general advertising and written, recorded or electronic communications
60 to transmit information from licensed paralegal practitioner to the public, rather than
61 direct in-person or other real-time communications, will help to ensure that the
62 information flows cleanly as well as freely. The contents of advertisements and
63 communications permitted under Rule 7.2 of the Licensed Paralegal Practitioner Rules of
64 Professional Conduct can be permanently recorded so that they cannot be disputed and
65 may be shared with others who know the licensed paralegal practitioner. This potential for
66 informal review is itself likely to help guard against statements and claims that might
67 constitute false and misleading communications in violation of Rule 7.1 of the Licensed
68 Paralegal Practitioner Rules of Professional Conduct. The contents of direct in-person, live
69 telephone or real-time electronic contact can be disputed and may not be subject to third-

70 party scrutiny. Consequently, they are much more likely to approach (and occasionally
71 cross) the dividing line between accurate representations and those that are false and
72 misleading.

73 [5] There is far less likelihood that a licensed paralegal practitioner would engage in
74 abusive practices against a former client, or a person with whom the licensed paralegal
75 practitioner has a close personal or family relationship, or where the licensed paralegal
76 practitioner has been asked by a third party to contact a prospective client who is unable to
77 contact a licensed paralegal practitioner, for example when the prospective client is unable
78 to place a call, or is mentally incapacitated and unable to appreciate the need for legal
79 counsel. Nor is there a serious potential for abuse in situations where the licensed paralegal
80 practitioner is motivated by considerations other than the licensed paralegal practitioner's
81 pecuniary gain, or when the person contacted is also a lawyer or a licensed paralegal
82 practitioner. This rule is not intended to prohibit a licensed paralegal practitioner from
83 applying for employment with ~~a firm, an entity, for example, as in-house licensed paralegal~~
84 ~~practitioner~~. Consequently, the general prohibition in Rule 7.3(a) and the requirements of
85 Rule 7.3(c) of the Licensed Paralegal Professional Rules of Professional Conduct are not
86 applicable in those situations. Also, paragraph (a) is not intended to prohibit a licensed
87 paralegal practitioner from participating in constitutionally protected activities of public or
88 charitable legal-service organizations or *bona fide* political, social, civic, fraternal, employee
89 or trade organizations whose purposes include providing or recommending legal services
90 to their members or beneficiaries.

91 [5a] Rule 7.3(a) authorizes in-person or other real-time contact by a licensed paralegal
92 practitioner with a prospective client when that prospective client is unable to make
93 personal contact with a licensed paralegal practitioner, but a third party initiates contact
94 with a licensed paralegal practitioner on behalf of the prospective client and the licensed
95 paralegal practitioner then contacts the prospective client.

96 [6] But even permitted forms of solicitation can be abused. Thus, any solicitation which
97 contains information that is false or misleading within the meaning of Rule 7.1 of the
98 Licensed Paralegal Practitioner Rules of Professional Conduct, that involves coercion,
99 duress or harassment within the meaning of Rule 7.3(b)(2) of the Licensed Paralegal
100 Practitioner Rules of Professional Conduct, or that involves contact with someone who has
101 made known to the licensed paralegal practitioner a desire not to be solicited by the
102 licensed paralegal practitioner within the meaning of Rule 7.3(b)(1) is prohibited.
103 Moreover, if after sending a letter or other communication as permitted by Rule 7.2 of the

104 Licensed Paralegal Practitioner Rules of Professional Conduct the licensed paralegal
105 practitioner receives no response, any further effort to communicate with the recipient of
106 the communication may violate the provisions of Rule 7.3(b).

107 [7] This Rule is not intended to prohibit a licensed paralegal practitioner from
108 contacting representatives of organizations or groups that may be interested in
109 establishing a group or prepaid legal plan for their members, insureds, beneficiaries or
110 other third parties for the purpose of informing such entities of the availability of and the
111 details concerning the plan or arrangement which the licensed paralegal practitioner or
112 licensed paralegal practitioner's firm is willing to offer. This form of communication is not
113 directed to people who are seeking legal services for themselves. Rather, it is usually
114 addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services
115 for others who may, if they choose, become prospective clients of the licensed paralegal
116 practitioner. Under these circumstances, the activity which the licensed paralegal
117 practitioner undertakes in communicating with such representatives and the type of
118 information transmitted to the individual are functionally similar to and serve the same
119 purpose as advertising permitted under Rule 7.2 of the Licensed Paralegal Practitioner
120 Rules of Professional Conduct.

121 [8] The requirement in Rule 7.3(c) that certain communications be marked "Advertising
122 Material" does not apply to communications sent in response to requests of potential
123 clients or their spokespersons or sponsors. General announcements by licensed paralegal
124 practitioners, including changes in personnel or office location, do not constitute
125 communications soliciting professional employment from a client known to be in need of
126 legal services within the meaning of this Rule.

127 [9] Paragraph (d) of this Rule permits a licensed paralegal practitioner to participate
128 with an organization that uses personal contact to solicit members for its group or prepaid
129 legal service plan, provided that the personal contact is not undertaken by any licensed
130 paralegal practitioner who would be a provider of legal services through the plan. The
131 organization must not be owned by or directed (whether as manager or otherwise) by any
132 lawyer or law firm that participates in the plan. For example, paragraph (d) would not
133 permit a licensed paralegal practitioner to create an organization controlled directly or
134 indirectly by the licensed paralegal practitioner and use the organization for the in-person
135 or telephone, live person-to-person contacts or other real-time electronic solicitation of
136 legal employment of the licensed paralegal practitioner through memberships in the plan
137 or otherwise. The communication permitted by these organizations also must not be

138 directed to a person known to need legal services in a particular matter, but is to be
139 designed to inform potential plan members generally of another means of affordable legal
140 services. licensed paralegal practitioners who participate in a legal service plan must
141 reasonably assure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3(b).
142 See Rule 8.4(a) of the Licensed Paralegal Practitioner Rules of Professional Conduct.

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