Differences between State Advertising and Solicitation Rules and the ABA Model Rules of Professional Conduct (March 5, 2012)*

***Note**: This document reflects the Florida Advertising Rules following the ruling in case number SC08-1181, pending the Court's ruling on additional amendments to rule 4-7.6(b) in case number SC10-1014. This document also reflects the ruling of the U.S. Ct. of Appeals for the Second Circuit in Hayes v. State of New York, 10-1587-cv (March 5, 2012) in regard to Rule 7.4(c).

For links to all state ethics rules (including advertising rules), go to
http://www.americanbar.org/groups/professional_responsibility/resources/links_of_interest.html

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(Alabama, Arizona, Arkansas, California, Connecticut, Florida, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, South Carolina, South Dakota, Tennessee, Texas, Virginia)

Prohibits Revealing Legal Problem on Outside of Envelope

(Alabama, Colorado, Connecticut, Florida, Hawaii, Louisiana, Missouri, South Carolina, Texas)

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(Alabama, Arkansas, Colorado, Connecticut, Florida, Hawaii, Louisiana, Missouri, New York, Tennessee, Texas, South Carolina, Wisconsin)

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If Contract of Representation is Included Then it Must Be Marked "Sample" and "Do Not Sign"

(Alabama, Arizona, Connecticut, Florida, Hawaii, Nevada, New York)

Communication Prompted By a Specific Occurrence Must Disclose How Attorney Obtained the Information

(Alabama, Arizona, Arkansas, Florida, Hawaii, Louisiana, Missouri, New York, Ohio, Texas)

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ABA MODEL RULE 7.1

Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_7_1_communication_concerning_a_lawyer_s_services.html

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DIFFERENCES IN STATE ADVERTISING RULES

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Prohibition on Using False, Misleading or Nonverifiable Communications about Lawyer's Services (Ohio)

Ohio Rule 7.1: A lawyer shall not make or use a false, misleading or nonverifiable communication about the lawyer or the lawyer's services.

Notifying Client of Third Parties False or Misleading Communication about Lawyer or Lawyer's Firm (Oregon)

Oregon Rule 7.2(b): A lawyer shall not request or knowingly permit a person or organization to promote, recommend or secure employment by a client through any means that involves false or misleading communications about the lawyer or the lawyer's firm. If a lawyer learns that employment by a client has resulted from false or misleading communications about the lawyer's firm, the lawyer shall so inform the client.

Prohibition on Advertisements for Specific Types of Cases for Which Lawyer Has Neither Experience Nor Competence (Missouri, Montana)

Missouri Rule 4-7.1(f): A communication is misleading if it advertises a specific type of case concerning with the lawyer has neither experience nor competence.

Montana Rule 4.1(f): A misleading communication includes, but is not limited to those that: advertises a specific type of case concerning with the lawyer has neither experience nor competence.

Prohibition on Testimonials or Endorsements (Arkansas, Florida, Indiana, Nevada, Pennsylvania, South Carolina, Wyoming)

Arkansas Rule 7.1 (d): A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it contains a testimonial or endorsement.

Florida Rule 4-7.2(c)(1)(J): 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 contains a testimonial.

Indiana Rule 7.1 Comment [2]: Truthful statements that are misleading are also prohibited by this Rule. In the absence of special circumstances that serve to protect the probable targets of a communication from being misled or deceived, a communication will violate Rule 7.1 if it: contains a representation, testimonial, or endorsement of a lawyer or other statement that, in light of all the circumstances, is intended or is likely to create an unjustified expectation about a lawyer or law firm or a person's legal rights.

Nevada Rule 7.1(d): A communication is false and misleading if it contains a testimonial or endorsement which violates any portion of this Rule.

Pennsylvania Rule 7.2(d): No advertisement or public communication shall contain an endorsement by a celebrity or public figure.

South Carolina Rule 7.1(d): A communication violates this rule if it contains a testimonial.

Wyoming Rule 7.1(d): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: contains a dramatization prohibited by Rule 7.2(h), a testimonial or endorsement.

Wyoming Rule 7.2(h): There shall be no testimonials, endorsements, or dramatizations in any advertisement in any medium.

Restrictions on Testimonials or Endorsements
(California, Louisiana, Missouri, Montana, New York, Oregon, Rhode Island, South Dakota, Virginia, Wisconsin)

California Rule 1-400(E)(2): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in rule 1-400(A) which are presumed to be in violation of rule 1-400: (2) A "communication" which contains testimonials about or endorsements of a member unless such communication also contains an express disclaimer such as "this testimonial or endorsement does not constitute a guarantee, warranty, or prediction regarding the outcome of your legal matter."

Louisiana Rule 7.2(c)(1)(H): (a) A lawyer shall not make or permit to be made a false, misleading or deceptive communication about the lawyer, the lawyer's services or the law firm's services. A communication violates this Rule if it contains a paid testimonial or endorsement, unless the fact of payment is disclosed.

Missouri Rule 4-7.1(h): A communication is misleading if it contains any paid testimonial about or endorsement of the lawyer, without conspicuous identification of the fact that payment has been made for the testimonial or endorsement.

Montana Rule 7.1(h): A misleading communication includes, but is not limited to those that: contains any paid testimonial about or endorsement of the lawyer, without conspicuous identification of the fact that payment has been made for the testimonial or endorsement.

New York Rule 7.1(c): An advertisement shall not:
(1) include a paid endorsement of, or testimonial about, a lawyer or law firm without disclosing that the person is being compensated therefor;

New York Rule 7.1(d) & (e):
(d) An advertisement that complies with paragraph (e) may contain the following: . . .
(3) testimonials or endorsements of clients, and of former clients;
(e) It is permissible to provide the information set forth in paragraph (d) provided:
(1) its dissemination does not violate paragraph (a);
(2) it can be factually supported by the lawyer or law firm as of the date on which the advertisement is published or disseminated;
(3) it is accompanied by the following disclaimer: "Prior results do not guarantee a similar outcome"; and
(4) in the case of a testimonial or endorsement from a client with respect to a matter still pending, the client gives informed consent confirmed in writing.

Oregon Rule 7.1(a)(6): A communication violates this rule if it: contains any endorsement or testimonial, unless the communication clearly and conspicuously states that any result that the endorsed lawyer or law firm may achieve on behalf of one client in one matter does not necessarily indicate that similar results can be obtained for other clients;

Rhode Island Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains any testimonial about, or endorsement of, the lawyer without identifying the fact that it is a testimonial or endorsement, and if payment for the testimonial or endorsement has been made, that fact must also be disclosed. If the testimonial or endorsement is not made by an actual client that fact must also be identified. If the testimonial or endorsement appears in a televised advertisement, the foregoing disclosures and identification must appear continuously throughout the advertisement.

South Dakota Rule 7.1(c)(12), (13) & (14): A communication is false and misleading if it:

(12) contains a testimonial about or endorsement of the lawyer, unless the lawyer can factually substantiate the claims made in the testimonial or endorsement and unless such communication also contains an express disclaimer substantively similar to the following: "This testimonial or endorsement does not constitute a guaranty, warranty, or prediction regarding the outcome of your legal matter";

(13) contains a testimonial or endorsement about the lawyer for which the lawyer has directly or indirectly given or exchanged anything of value to or with the person making the testimonial or giving the endorsement, unless the communication conspicuously discloses that the lawyer has given or exchanged something of value to or with the person making the testimonial or giving the endorsement;

(14) contains a testimonial or endorsement which is not made by an actual client of the lawyer, unless that fact is conspicuously disclosed in the communication;

Virginia Rule 7.2(a)(1): Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded, or electronic communications, including public media. In the determination of whether an advertisement violates this Rule, the advertisement shall be

considered in its entirety, including any qualifying statements or disclaimers contained therein. Notwithstanding the requirements of Rule 7.1, an advertisement violates this Rule if it:

(1) contains an endorsement by a celebrity or public figure who is not a client of the firm without disclosure (i) of the fact that the speaker is not a client of the lawyer or the firm, and (ii) whether the speaker is being paid for the appearance or endorsement; or

Wisconsin Rule 20:7.1(a)(4): A communication is false or misleading if it contains any paid testimonial about, or paid endorsement of, the lawyer without identifying the fact that payment has been made or, if the testimonial or endorsement is not made by an actual client, without identifying that fact.

Prohibition on Statements that Cannot be Substantiated or Verified (District of Columbia, Florida, Ohio, Oregon)

District of Columbia Rule 7.1(a)(2): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: (2) Contains an assertion about the lawyer or the lawyer's services that cannot be substantiated.

Florida Rule 4-7.2(c)(1)(D): 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 is unsubstantiated in fact.

Ohio Rule 7.1: A lawyer shall not make or use a false, misleading, or nonverifiable communication about the lawyer or the lawyer's services.

Oregon Rule 7.1(a)(9): A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication state or implies that one or more current or former clients of the lawyer or the lawyer's firm, unless the making of such statements can be factually substantiated.

Restrictions on Statements Regarding Past Success
(Florida, Indiana, Louisiana, Missouri, Montana, New Mexico, New York, South Dakota, Texas, Virginia)

Florida Rule 4-7.2(c)(1)(F): 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 contains any reference to past successes or results obtained.

Indiana Rule 7.1 Comment [2]: In the absence of special circumstances that serve to protect the probable targets of a communication from being misled or deceived, a communication will violate Rule 7.1 if it: (2) contains statistical data or other information based on past performance . . . (6) contains any reference to results obtained that may reasonably create an expectation of similar results in future matters.

Louisiana Rule 7.2(c)(1)(D): 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 contains a reference or testimonial to past successes or results obtained, except as allowed in the Rule regulating information about a lawyer's services provided upon request.

Missouri Rule 4-7.1(c): A communication is misleading if it proclaims results obtained on behalf of clients, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts or settlements, without stating that past results afford no guarantee of future results and that every case is different and must be judged on its own merits.

Montana Rule 7.1(c): A misleading communication includes, but is not limited to those that: proclaims results obtained on behalf of clients, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts or settlements, without stating that past results afford no guarantee of future results and that every case is different and must be judged on its own merits.

New Mexico Rule 16-701(A)(4:) A false or misleading communication includes, but is not limited to that which contains information based on past successes without a disclaimer that past successes cannot be an assurance of future success because each case must be decided on its own merits.

New York Rule 7.1(d): An advertisement that complies with paragraph (e) may contain the following:

(1) statements that are reasonably likely to create an expectation about results the lawyer can achieve;
(2) statements that compare the lawyer's services with the services of other lawyers;
(3) testimonials or endorsements of clients, and of former clients; or
(4) statements describing or characterizing the quality of the lawyer's or law firm's services.

New York Rule 7.1(e): It is permissible to provide the information set forth in paragraph (d) provided:
(1) its dissemination does not violate paragraph (a);
(2) it can be factually supported by the lawyer or law firm as of the date on which the advertisement is published or disseminated; and
(3) it is accompanied by the following disclaimer: "Prior results do not guarantee a similar outcome."

South Dakota Rule 7.1(c)(4): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: contains information based on the lawyer's past success without a disclaimer that past success cannot be an assurance of future success because each case must be decided on its own merits.

Texas Rule 7.02(a)(2): A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it: contains any reference in a public media advertisement to past successes or results obtained unless

(i) the communicating lawyer or member of the law firm served as lead counsel in the matter giving rise to the recovery, or was primarily responsible for the settlement or verdict,
(ii) the amount involved was actually received by the client,
(iii) the reference is accompanied by adequate information regarding the nature of the case or matter and the damages or injuries sustained by the client, and
(iv) if the gross amount received is stated, the attorney's fees and litigation expenses withheld from the amount are stated as well;

Virginia Rule 7.2(a)(3): Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded, or electronic communications, including public media. In the determination of whether an advertisement violates this Rule, the advertisement shall be considered in its entirety, including any qualifying statements or disclaimers contained therein. Notwithstanding the requirements of Rule 7.1, an advertisement violates this Rule if it: advertises specific or cumulative case results, without a disclaimer that (i) puts the case results in a context that is not misleading; (ii) states that case results depend upon a variety of factors unique to each case; and (iii) further states that case results do not guarantee or predict a similar result in any future case undertaken by the lawyer. The disclaimer shall precede the communication of the case results. When the communication is in writing, the disclaimer shall be in bold type face and uppercase letters in a font size that is at least as large as the largest text used to advertise the specific or cumulative case results and in the same color and against the same colored background as the text used to advertise the specific or cumulative case results.

Prohibition on Statements that Promise Results (Florida, Louisiana)

Florida Rule 4-7.2(c)(1)(G): 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 promises results.

Indiana Rule 7.1 Comment [2]: In the absence of special circumstances that serve to protect the probable targets of a communication from being misled or deceived, a communication will violate Rule 7.1 if it: (2) contains . . . an express or implied prediction of future success.

Louisiana Rule 7.2(c)(1)(E): 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 promises results.

Disclaimers and Disclosures Regarding Contingent Fees
(California, Colorado, Connecticut, Florida, Georgia, Kentucky, Louisiana, Missouri, Montana, Nevada, New Mexico, New York, Pennsylvania, Rhode Island, Texas)

California Rule 1-400 (Standards) (14): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in rule 1-400(A) which are presumed to be in violation of rule 1-400:
(14) A "communication" which states or implies "no fee without recovery" unless such communication also expressly discloses whether or not the client will be liable for costs.

Colorado Rule 7.1(d): Any communication that states or implies the client does not have to pay a fee if there is no recovery shall also disclose that the client may be liable for costs. This provision does not apply to communications that only state that contingent or percentage fee arrangements are available, or that only state the initial consultation is free.

Connecticut Rule 7.2(f): Every advertisement and written communication that contains information about the lawyer's fee, including those indicating that the charging of a fee is contingent on outcome, or that no fee will be charged in the absence of recovery, or that the fee will be a percentage of recovery, shall disclose whether and to what extent the client will be responsible for any court costs and expenses of litigation. The disclosure concerning court costs and expenses of litigation shall be in the same print size and type as the information regarding the

lawyer's fee and, if broadcast, shall appear for the same duration as the information regarding the lawyer's fee. If the information regarding the fee is spoken, the disclosure concerning court costs and expenses of litigation shall also be spoken.

Florida Rule 4-7.2(c)(7): 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.

Georgia Rule 7.1(a): By way of illustration, but not limitation, a communication is false, fraudulent, deceptive or misleading if it:
(5) contains any information regarding contingent fees, and fails to conspicuously present the following disclaimer: "Contingent attorneys' fees refers only to those fees charged by attorneys for their legal services. Such fees are not permitted in all types of cases. Court costs and other additional expenses of legal action usually must be paid by the client."
6) By way of illustration, but not limitation, a communication is false, fraudulent, deceptive or misleading if it contains the language "no fee unless you win or collect" or any similar phrase and fails to conspicuously present the following disclaimer:

"No fee unless you win or collect" (or insert the similar language used in the communication) refers only to fees charged by the attorney. Court costs and other additional expenses of legal action usually must be paid by the client. Contingent fees are not permitted in all types of cases.

Kentucky SCR 3.130(7.05)(1)(a)(22): A lawyer may employ the following in an advertisement:
(22) Contingent fee rates provided that the statement discloses whether percentages are computed before or after deduction of court costs and case expenses.

Louisiana Rule 7.2(c)(6): Every advertisement and unsolicited written communication that contains information about the lawyer's fee, including those that indicate that no fee will be charged in the absence of a recovery, shall disclose whether the client will be liable for any costs and/or expenses in addition to the fee.

Missouri Rule 4-7.1(k): A communication is misleading if it states that legal services are available on a contingent or no-recover-no-fee basis without stating that the client may be responsible for costs or expenses, if that is the case.

Montana Rule 7.1(k): A misleading communication includes, but is not limited to those that: states that legal services are available on a contingent or no-recover-no-fee basis without stating that the client may be responsible for costs or expenses, if that is the case.

Nevada Rule 7.2(e): Every advertisement and written communication indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall contain the following disclaimer: "You may have to pay the opposing party's attorney's fees and costs in the event of a loss."

New York Rule 7.1(p): All advertisements that contain information about the fees charged by the lawyer or law firm, including those indicating that in the absence of a recovery no fee will be charged, shall comply with the provisions of Judiciary Law §488(3).

[**New York Judiciary Law § 488(3)**: A lawyer that offers services as described in paragraphs b, c and d of subdivision two of this section shall not, either directly or through any media used to

Pennsylvania Rule 7.2(g): Every advertisement that contains information about the lawyer's fee shall disclose whether the client will be liable for any expenses in addition to the fee and, if the fee will be a percentage of the recovery, whether the percentage will be computed before deducting the expenses.

Rhode Island Rule 7.2(e): Lawyer advertising or written communications which indicate that no fee will be charged if no recovery, shall also state conspicuously if the client will be responsible for costs or expenses regardless of outcome.

Texas Rule 7.04(h): If an advertisement in the public media by a lawyer or firm discloses the willingness or potential willingness of the lawyer or firm to render services on a contingent fee basis, the advertisement must state whether the client will be obligated to pay all or any portion of the court costs and, if a client may be liable for other expenses, this fact must be disclosed. If specific percentage fees or fee ranges of contingent fee work are disclosed in such advertisement, it must also disclose whether the percentage is computed before or after expenses are deducted from the recovery.

Advertising a Fee for "Routine Services" (Kentucky)

Kentucky SCR 3.130(7.04)(1): A lawyer who advertises a fee for routine services and accepts the employment must perform such services for the amount advertised. In addition, a detailed description of what services are included in the "routine services" must be supplied to the Commission with each advertisement and to each prospective client who requests such a description.

Prohibition on Description of Fees as "Cut-rate," "Below Cost," "Discount," etc. (Ohio)

Ohio Rule 7.1, Comment[4]: Characterization of rates or fees chargeable by the lawyer or law firm such as "cut-rate," "lowest," "giveaway," "below cost," "discount," and "special is misleading.

Prohibition on Communications that Create False Expectations or Imply that Lawyer Can Achieve Results by Means that Violate Rules of Professional Conduct or Other Law (Alabama, Alaska, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oregon, South Carolina, Texas, Virginia, West Virginia, Wisconsin, Wyoming)

Alabama Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it is likely to create an unjustified exception about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Alaska Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services or any prospective client's need for legal services. A communication is false or misleading if it is likely to create a reasonable but unjustified

expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Arkansas Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it is likely to create an unjustified exception about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

California Rule 1-400(Standards)(1): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in rule 1-400(A) which are presumed to be in violation of rule 1-400: (1) A "communication" which contains guarantees, warranties, or predictions regarding the result of the representation.

Colorado Rule 7.1(a)(3): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve.

Florida Rule 4-7.2(c)(1)(H): 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 states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Georgia Rule 7.1(a)(2): A lawyer may advertise through all forms of public media and through written communication not involving personal contact so long as the communication is not false, fraudulent, deceptive or misleading. By way of illustration, but not limitation, a communication is false, fraudulent, deceptive or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Georgia Rules of Professional Conduct or other law.

Hawaii Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

Idaho Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

Kansas Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

Kentucky SCR 3.130 (7.15)(b): A lawyer shall not make a false, deceptive or misleading communication about the lawyer or the lawyer's service. A communication is false, deceptive or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

Louisiana Rule 7.2(c)(1)(F): 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 states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Mississippi Rule 7.1(b): A lawyer shall not make or permit to be made a false, misleading, deceptive or unfair communication about the lawyer or lawyer's services. A communication violates this rule if it creates an unjustified, false or misleading expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law.

Missouri Rule 4-7.1(b) & (d): A communication is misleading if it **(b)** is likely to create an unjustified expectation about results the lawyer can achieve; **(d)** states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Montana Rule 7.1 (b) & (d): A misleading communication includes, but is not limited to those that **(b)** is likely to create an unjustified expectation about results the lawyer can achieve; **(d)** states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Nevada Rule 7.1(b): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

New Hampshire Rule 7.1(b): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. Without limiting the generality of the foregoing, a communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law.

New Jersey Rule 7.1(a)(2): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

New York Rule 7.1(d)(1) & (e)
(d)(1): An advertisement that complies with paragraph (e) may contain the following: (1) statements that are reasonably likely to create an expectation about results the lawyer can achieve.
(e)**:** It is permissible to provide the information set forth in paragraph (d) provided:
(1) its dissemination does not violate paragraph (a);
(2) it can be factually supported by the lawyer or law firm as of the date on which the advertisement is published or disseminated; and
(3) it is accompanied by the following disclaimer: "Prior results do not guarantee a similar outcome."

North Carolina Rule 7.1(a)(2): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

North Dakota Rule 7.1 (b): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law; or

Oregon Rule 7.1(a)(2): A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication is intended or is reasonably likely to create a false or misleading expectation about results the lawyer or the lawyer's firm can achieve.

South Carolina Rule 7.1(b): A communication violates this rule if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Texas Rule 7.02(a)(3): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law;

Virginia Rule 7.1(a)(4): A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

West Virginia Rule 7.1(b): A communication is false or misleading if is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Wisconsin Rule 20:7.1(b): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Wyoming Rule 7.1(b): A communication is false or misleading if it is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

Prohibition on Communications that Imply Improper Influence Mississippi, Oregon, Texas)

Mississippi Rule 7.1(c): A lawyer shall not make or permit to be made a false, misleading, deceptive or unfair communication about the lawyer or lawyer's services. A communication violates this rule if it states or implies that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

Oregon Rule 7.1(a)(5): A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication states or implies that the lawyer or the lawyer's firm is in a position to improperly influence any court or other public body or office.

Texas Rule 7.02(a)(5): A communication is false or misleading if it states or implies that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

<u>Prohibition or Restrictions on Use of Dramatizations, Simulations, etc.</u> (Arkansas, California, Indiana Louisiana, Missouri, Montana, Nevada, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Virginia, Wyoming)

Arkansas Rule 7.2(e): Advertisements may include photographs, voices or images of the lawyers who are members of the firm who will actually perform the services. If advertisements utilize actors or other individuals, those persons shall be clearly and conspicuously identified by name and relationship to the advertising lawyer or law firm and shall not mislead or create an unreasonable expectation about the results the lawyer may be able to obtain. Clients or former clients shall not be used in any manner whatsoever in advertisements. Dramatization in any advertisement is prohibited.

California Rule 1-400(Standards)(13): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in Rule 1-400(A) which are presumed to be in violation of Rule 1-400: A "communication" which contains a dramatization unless such communication contains a disclaimer which states "this is a dramatization" or words of similar import.

Indiana Rule 7.1 Comment [2]: In the absence of special circumstances that serve to protect the probable targets of a communication from being misled or deceived, a communication will violate Rule 7.1 if it: contains a dramatization or re-creation of events unless the advertising clearly and conspicuously discloses that a dramatization or re-creation is being presented.

Louisiana Rule 7.2(c)(1)(I): A lawyer shall not make or permit to be made a false, misleading or deceptive communication about the lawyer, the lawyer's services or the law firm's services. A communication violates this rule if it: includes (i) a portrayal of a client by a non-client without disclaimer of such, as required by Rule 7.2(c)(10); (ii) the depiction of any events or scenes, other than still pictures, photographs or other static images, that are not actual or authentic without disclaimer of such, as required by Rule 7.2(c)(10); or (iii) a still picture, photograph or other static image hat, due to alteration or the context of its use, is false, misleading or deceptive.

Louisiana Rule 7.2(c)(1)(J): A lawyer shall not make or permit to be made a false, misleading or deceptive communication about the lawyer, the lawyer's services or the law firm's services. A communication violates this rule if it includes the portrayal of a judge or a jury, the portrayal of a lawyer by a non-lawyer, the portrayal of a law firm as a fictionalized entity, the use of a fictitious name to refer to lawyers not associated together in a law firm, or otherwise implies that lawyers are associated in a law firm if that is not the case.

Missouri Rule 4-7.1(i): A communication is misleading if it contains any simulated portrayal of a lawyer, client, victim, scene, or event without conspicuous identification of the fact that it is a simulation.

Montana Rule 7.1(i): A misleading communication includes, but is not limited to those that: contains any simulated portrayal of a lawyer, client, victim, scene, or event without conspicuous identification of the fact that it is a simulation.

Nevada Rule 7.2(b): Advertisements on the electronic media such as the Internet, television and radio may contain the same factual information and illustrations as permitted in advertisements in the print media. If a person appears as a lawyer in an advertisement for legal services, or under such circumstances as may give the impression that the person is a lawyer, such person must be a member of the State Bar of Nevada, admitted to practice and in good standing before the

Supreme Court of Nevada, and must be the lawyer who will actually perform the service advertised or a lawyer associated with the law firm that is advertising. If a person appears in an advertisement as an employee of a lawyer or law firm, such person must be an actual employee of the lawyer or law firm whose services are advertised unless the advertisement discloses that such person is an actor. If an actor appears in any other role not prohibited by these Rules, the advertisement must disclose that such person is an actor.

New York Rule 7.1(c): An advertisement shall not:
(2) include the portrayal of a fictitious law firm, the use of a fictitious name to refer to lawyers not associated together in a law firm, or otherwise imply that lawyers are associated in a law firm if that is not the case;
(3) use actors to portray a judge, the lawyer, members of the law firm, or clients, or utilize depictions of fictionalized events or scenes, without disclosure of same; or
(4) be made to resemble legal documents.

North Carolina Rule 7.1(b): A communication by a lawyer that contains a dramatization depicting a fictional situation is misleading unless it complies with paragraph (a) above and contains a conspicuous written or oral statement, at the beginning and the end of the communication, explaining that the communication contains a dramatization and does not depict actual events or real persons.

Oregon Rule 7.1(a): A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication

(7) states or implies that one or more persons depicted in the communication are lawyers who practice with the lawyer or the lawyer's firm if they are not;

(8) state or implies that one or more persons depicted in the communication are current clients or former clients of the lawyer or the lawyer's firm if they are not, unless the communication clearly and conspicuously discloses that the persons are actors or actresses;

(10) contains any dramatization or recreation of events, such as an automobile accident, a courtroom speech or a negotiation session, unless the communication clearly and conspicuously discloses that a dramatization or recreation is being presented;

Pennsylvania Rule 7.2(f): A non-lawyer shall not portray a lawyer or imply that he or she is a lawyer in any advertisement or public communication; nor shall an advertisement or public communication portray a fictitious entity as a law firm, use a fictitious name to refer to lawyers not associated together in a law firm, or otherwise imply that lawyers are associated together in a law firm if that is not the case.
(g) An advertisement or public communication shall not contain a portrayal of a client by a nonclient; the re-enactment of any events or scenes; or, pictures or persons, which are not actual or authentic, without a disclosure that such depiction is a dramatization.

Rhode Island Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a dramatization or simulated description of the lawyer, partners or associates, offices or facilities, or services without identifying the fact that the description is a simulation or dramatization. If the dramatization or simulated description appears in a televised advertisement, the fact that it is a dramatization or simulated description must appear continuously throughout the advertisement.

South Dakota Rule 7.1(c)(15): A communication is false or misleading if it contains any impersonation, dramatization, or simulation which is not predominantly informational and

without conspicuously disclosing in the communication the fact that it is an impersonation, dramatization, or simulation;

Texas Rule 7.02(a)(7): A communication is false or misleading if it uses an actor or model to portray a client of the lawyer or law firm.

Texas Rule 7.04(g): In advertisements in the public media, any person who portrays a lawyer whose services or whose firm's services are being advertised, or who narrates an advertisement as if he or she were such a lawyer, shall be one or more of the lawyers whose services are being advertised.

Virginia Rule 7.2(a)(2): Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded, or electronic communications, including public media. In the determination of whether an advertisement violates this Rule, the advertisement shall be considered in its entirety, including any qualifying statements or disclaimers contained therein. Notwithstanding the requirements of Rule 7.1, an advertisement violates this Rule if it: contains a portrayal of a client by a non-client without disclosure that the depiction is a dramatization;

Wyoming Rule 7.1(d): A communication is false or misleading if it: contains a dramatization precluded by Rule 7.2(h), a testimonial or endorsement.

Wyoming Rule 7.2(f): Advertisements on electronic media such as television, radio and the Internet may contain the same factual information and illustrations as permitted in advertisements in the print media. If a person appears or speaks as a lawyer in an advertisement for legal services, or under such circumstance as may give the impression that the person is a lawyer, such person must be a member of the Wyoming State Bar, admitted to practice and in good standing before the Wyoming Supreme Court and must be the lawyer who will actually perform the service advertised or a lawyer associated with the law firm which is advertising. If a person appears in an advertisement as an employee of a lawyer or law firm, such person must be an actual employee of the lawyer or law firm whose services are advertised. If an actor appears in any other role not prohibited by these rules, the advertisement must disclose such person is an actor.

Wyoming Rule 7.2(h): There shall be no testimonials, endorsements, or dramatizations in any advertisement in any medium.

<u>Prohibition or Restriction on Comparing Quality of Lawyer's Services or Describing Quality of Services</u> (Alabama, Alaska, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oregon, South Carolina, Texas, Virginia, West Virginia, Wisconsin, Wyoming)

Alabama Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it compares the quality of the lawyer's services with the quality of other lawyers' services, except as provided in Rule 7.4.

Alaska Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services or any prospective client's need for legal services. A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Arkansas Rule 7.1 (c): A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it compares the quality of the lawyer's services with the quality of other lawyers' services, unless the comparison can be factually substantiated.

Colorado Rule 7.1(a)(2): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Florida Rule 4-7.2(c)(1)(I): 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 compares the lawyer's services with other lawyers' services unless the comparison can be factually substantiated.

Florida Rule 4-7.2(c)(2): A lawyer shall not make statements describing or characterizing the quality of the lawyer's services in advertisements and unsolicited written communications.

Georgia Rule 7.1(a)(3): A lawyer may advertise through all forms of public media and through written communication not involving personal contact so long as the communication is not false, fraudulent, deceptive or misleading. By way of illustration, but not limitation, a communication is false, fraudulent, deceptive or misleading if it compares the lawyer's services with other lawyers' services unless the comparison can be factually substantiated.

Hawaii Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Idaho Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Indiana Rule 7.1 Comment [2]: In the absence of special circumstances that serve to protect the probable targets of a communication from being misled or deceived, a communication will violate Rule 7.1 if it: (5) compares the services provided by the lawyer or a law firm with other lawyers' services, unless the comparison can be factually substantiated.

Kansas Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it compares the lawyer's services with other lawyer's services, unless the comparison can be factually substantiated.

Kentucky SCR 3.130 (7.15)(c): A lawyer shall not make a false, deceptive or misleading communication about the lawyer or the lawyer's service. A communication is false, deceptive or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Louisiana Rule 7.1(c)(1)(G): A lawyer shall not make or permit to be made a false, misleading or deceptive communication about the lawyer, the lawyer's services or the law firm's services. A

communication violates this rule if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Mississippi Rule 7.1(d) A lawyer shall not make or permit to be made a false, misleading, deceptive or unfair communication about the lawyer or lawyer's services. A communication violates this rule if it compares the lawyer's services with other lawyers' services unless the comparison can be factually substantiated.

Missouri Rule 4-7.1(e): A communication is false or misleading if it compares the quality of a lawyer's or a law firm's services with other lawyers' services, unless the comparison can be factually substantiated.

Montana Rule 7.1(e): A misleading communication includes, but is not limited to those that: compares the quality of a lawyer's or a law firm's services with other lawyers' services, unless the comparison can be factually substantiated.

Nevada Rule 7.1(c) A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

New Hampshire Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. Without limiting the generality of the foregoing, a communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

New Jersey Rule 7.1(a)(3) A communication is false or misleading if it compares the lawyer's services with other lawyers' services.

New York Rule 7.1(d)(2), (d)(4) & (e)(1)-(3):
(d): An advertisement that complies with paragraph (e) may contain the following:
(2) statements that compare the lawyer's services with the services of other lawyers; . . . or
(4) statements describing or characterizing the quality of the lawyer's or law firm's services.

(e): It is permissible to provide the information set forth in paragraph (d) provided:
(1) its dissemination does not violate paragraph (a);
(2) it can be factually supported by the lawyer or law firm as of the date on which the advertisement is published or disseminated;
(3) it is accompanied by the following disclaimer: "Prior results do not guarantee a similar outcome";

North Carolina Rule 7.1(a)(3) A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

North Dakota Rule 7.1(c) A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Oregon Rule 7.1(a)(3) A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication except upon request of a client or potential client, compares the

quality of the lawyer's or the lawyer's firm's services with the quality of the services of other lawyers or law firms.

South Carolina Rule 7.1(c) A communication violates this rule if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

Texas Rule 7.02(a)(4): A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be substantiated by reference to verifiable, objective data.

Virginia Rule 7.1(a)(3): A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

West Virginia Rule 7.1(c): A communication is false or misleading if compares the lawyer's services with other lawyer's services, unless the comparison can be factually substantiated.

Wisconsin Rule 20:7.1(c): A communication is false or misleading if it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Wyoming Rule 7.1(c): A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it compares the lawyer's services with other specific lawyers' services, unless the comparison can be factually substantiated.

<u>Prohibited Sounds</u> (Florida)

Florida Rule 4-7.2(c)(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.

<u>Use of Celebrity</u> (Florida)

Florida Rule 4-7.2(c)(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.

<u>Paid Communications/Advertisements Must be Identified as Such</u> (Georgia, Missouri)

Georgia Rule 7.1(b): A public communication for which a lawyer has given value must be identified as such unless it is apparent from the context that it is such a communication.

Missouri Rule 4-7.2(d): [I]n any communications such as television, radio, or other electronic programs purporting to give the public legal advice or information, for which programs the broadcaster receives any remuneration or other consideration, directly or indirectly, from the lawyer who appears on those programs, the lawyer shall conspicuously disclose to the public the fact that the broadcaster has been paid or receives consideration form the lawyer for appearing on the program.

Lawyer Retains Responsibility for All Communications (Georgia)

Georgia Rule 7.1(c): A lawyer retains ultimate responsibility to insure that all communications concerning the lawyer or the lawyer's services comply with the Georgia Rules of Professional Conduct.

Prohibition on Statement That Outcome of Legal Matter Not Related to Facts or Merits (Virginia)

Virginia Rule 7.1(a)(2): A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it states or implies that the outcome of a particular legal matter was not or will not be related to its facts or merits.

Prohibition on Compensation for Professional Publicity in News Item (Iowa, New York)

Iowa Rule 32:7.2(l): A lawyer shall not compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item or voluntarily give any information to such representatives which, if published in a news item, would be in violation of rule 32:7.1.

New York Rule 7.1(o): A lawyer shall not compensate or give any thing of value to representatives of the press, radio, television or other communication medium in anticipation of or in return for professional publicity in a news item.

Advertising Rules Not Applicable in Another Jurisdiction (Florida, Louisiana, Nevada)

Florida Rule 4-7.1(d): 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.

Louisiana Rule 7.1(b): These rules 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 Louisiana.

Nevada Rule 7.2(a): These Rules 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 the advertisement is not intended primarily for broadcast or dissemination within the State of Nevada.

Application to Out-of-State Lawyers (Florida, New York)

Florida Rule 4-7.1(c) 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.

New York Rule 7.3(i): The provisions of this Rule shall apply to a lawyer or members of a law firm not admitted to practice in this State who shall solicit retention by residents of this State.

Rules Not Applicable to Communications Made at Prospective Client's Request (Florida)

Florida Rule 4-7.1(h): Subchapter 4-7 shall not apply to communications between a lawyer and a prospective client if made at the request of that prospective client.

Restrictions on Visual and Verbal Portrayals and Illustrations (Florida, Louisiana)

Florida Rule 4-7.2(c)(3): 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.

Louisiana Rule 7.2(c)(2): A lawyer shall not include in any advertisement or unsolicited written communication any visual or verbal descriptions, depictions, illustrations (including photographs) or portrayals of persons, things, or events that are false, misleading or deceptive.

Language of Required Statements (Florida, Louisiana, Texas)

Florida Rule 4-7.2(c)(10): 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.

Louisiana Rule 7.2(c)(9): Any words or statements required by these Rules to appear in an advertisement or unsolicited written communication must appear in the same language in which the advertisement or unsolicited written communication appears. If more than one language is used in an advertisement or unsolicited written communication, any words or statements required by these Rules must appear in each language used in the advertisement or unsolicited written communication.

Texas Rule 7.02(d): Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or solicitation communication with respect to which such required statement or disclaimer relates; provided however, the mere statement that a particular language is spoken or understood shall not alone result in the need for a statement or disclaimer in that language.

Advertisements Must be Legible and Intelligible (Florida, Louisiana, New York)

Florida Rule 4-7.2(c)(11): 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.

Louisiana Rule 7.2(c)(10): Any words or statements required by these Rules to appear in an advertisement or unsolicited written communication must be clearly legible if written or intelligible if spoken aloud.

New York Rule 7.1(i): Any words or statements required by this Rule to appear in an advertisement must be clearly legible and capable of being read by the average person, if written, and intelligible if spoken aloud.

Restrictions on Meta Tags (New York)

New York Rule 7.1(g)(2): A lawyer or law firm shall not utilize meta tags or other hidden computer codes that, if displayed, would violate these Rules.

Permissible Content (Connecticut, Florida, Iowa, Kentucky, Louisiana, Nevada, New York, Wyoming)

Connecticut Rule 7.2(i) The following information in advertisements and written communications shall be presumed not to violate the provisions of Rule 7.1:
(1) Subject to the requirements of Rule 7.3, the name of the lawyer or law firm, a listing of lawyers associated with the firm, office addresses and telephone numbers, office and telephone service hours, fax numbers, website and e-mail addresses and domain names, and a designation such as ''attorney'' or ''law firm.''
(2) Date of admission to the Connecticut bar and any other bars and a listing of federal courts and jurisdictions where the lawyer is licensed to practice.
(3) Technical and professional licenses granted by the state or other recognized licensing authorities.
(4) Foreign language ability.
(5) Fields of law in which the lawyer practices or is designated, subject to the requirements of Rule 7.4, or is certified pursuant to Rule 7.4A.
(6) Prepaid or group legal service plans in which the lawyer participates.
(7) Acceptance of credit cards.
(8) Fee for initial consultation and fee schedule.
(9) A listing of the name and geographic location of a lawyer or law firm as a sponsor of a public service announcement or charitable, civic or community program or event.
(10) Nothing in this Rule prohibits a lawyer or law firm from permitting the inclusion in the law directories intended primarily for the use of the legal profession of such information as has traditionally been included in these publications.

Florida Rule 4.7.2(b): 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 is exempt from the filing and review requirements and, if true, shall be presumed not to be misleading or deceptive.
(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.

Iowa Rule 32:7.2(g) The following information may be communicated to the public in the manner permitted by this rule, provided it is presented in a dignified style:

(1) name, including name of law firm, names of professional associates, addresses, telephone numbers, Internet addresses and URLs, and the designation "lawyer," "attorney," "J.D.," "law firm," or the like;

(2) the following descriptions of practice:

(i) "general practice";

(ii) "general practice including but not limited to" followed by one or more fields of practice descriptions set forth in rule 32:7-4(a)-(c);

(iii) fields of practice, limitation of practice, or specialization, but only to the extent permitted by rule 32:7.4; and

(iv) limited representation as authorized by rule 32:1.2(c);

(3) date and place of birth;

(4) date and place of admission to the bar of state and federal court;

(5) schools attended, with dates of graduation, degrees, and other scholastic distinctions;

(6) public or quasi-public offices;

(7) military service;

(8) legal authorships;
(9) legal teaching positions;
(10) memberships, offices, and committee and section assignment in bar associations;
(11) memberships and offices in legal fraternities and legal societies;
(12) technical and professional licenses;
(13) memberships in scientific, technical, and professional associations and societies; and
(14) foreign language ability.

Iowa Rule 32:7.2(h): Fee information may be communicated to the public in the manner permitted by this rule, provided it is presented in a dignified style.

(1) The following information may be communicated:
(i) the fee for an initial consultation;
(ii) the availability upon request of either a written schedule of fees, or an estimate of the fee to be charged for specific services, or both;
(iii) contingent fee rates, subject to rule 32:1.5(c) and (d), provided that the statement discloses whether percentages are computed before or after deduction of costs and advises the public that, in the event of an adverse verdict or decision, the contingent fee litigant could be liable for court costs, expenses of investigation, expenses of medical examinations, and costs of obtaining and presenting evidence;
(iv) fixed fees or range of fees for specific legal services;
(v) hourly fee rates; and
(vi) whether credit cards are accepted.

Kentucky SCR 3.130 (7.05)(1)(a): A lawyer may employ the following in an advertisement:
1. Name, including name of law firm and names of professional associates, addresses, telephone numbers, fax numbers and e-mail addresses;
2. One or more fields of law in which the lawyer or law firm practices, or a statement that practice is limited to one or more fields of law, to the extent authorized under Rule 7.40;
3. Date and place of birth;
4. Date and place of admission to the bar of state and federal courts;
5. Schools attended, with dates of graduation, degrees and other scholastic distinctions;
6. Public or quasi-public offices;
7. Military services;
8. Authorships;
9. Teaching positions;
10. Memberships, offices and committee assignments, in bar associations;
11. Membership and offices in legal fraternities and legal societies;
12. Technical and professional licenses;
13. Memberships in scientific, technical and professional associations and societies;
14. Foreign language ability;
15. Names and addresses of bank references;
16. With their written consent, names of clients regularly represented;
17. Prepaid or group legal services programs in which the lawyer participates;
18. Whether credit cards or other credit arrangements are accepted;
19. Office and telephone answering service hours;
20. Fee for an initial consultation;
21. Availability upon request of a written schedule of fees and/or an estimate of the fee to be charged for specific services;
22. Contingent fee rates provided that the statement discloses whether percentages are computed before or after deduction of court costs and case expenses;

23. Range of fees for services, provided that the statement discloses that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged, in print size equivalent to the largest print used in setting forth the fee information;
24. Hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client and the client is entitled to without obligation an estimate of the fee likely to be charged, in print size at least equivalent to the largest print used in setting forth the fee information;
25. Fixed fees for specific legal services to the extent authorized under these Rules; or
26. Any other information specified in any regulation adopted by the Commission. Any lawyer may petition the Commission for the adoption of such a regulation in which case the petition shall be published as provided in these Rules.

Louisiana Rule 7.2(a)(3): The following items may be used without including the content required by subdivisions (a)(1) and (a)(2) of this Rule 7.2:
(A) Sponsorships. A brief announcement in any 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 the law firm other than permissible content of advertisements listed in Rule 7.2(b) and the fact of the sponsorship or contribution, in keeping with Rule 7.8(b);
(B) Gift/Promotional Items. Items, such as coffee mugs, pens, pencils, apparel, and the like, that identify a lawyer or law firm and are used/disseminated by a lawyer or law firm not in violation of these Rules, including but not limited to Rule 7.2(c)(13) and Rule 7.4; and
(C) Office Sign(s) for Bona Fide Office Location(s). A sign, placard, lettering, mural, engraving, carving or other alphanumeric display conveying information about a lawyer, a lawyer's services or a law firm's services that is permanently affixed, hanging, erected or otherwise attached to the physical structure of the building containing a bona fide office location for a lawyer or law firm, or to the property on which that bona fide office location sits.

Louisiana Rule 7.2(b): 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 is exempt from the filing and review requirements and, if true, shall be presumed not to be misleading or deceptive.
(1) Lawyers and Law Firms. A lawyer or law firm may include the following information in advertisements and unsolicited written communications:

(A) subject to the requirements of this Rule and Rule 7.10, 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, and electronic mail addresses, office and telephone service hours, and a designation such as "attorney", "lawyer" or "law firm";

(B) date of admission to the Louisiana State Bar Association and any other bars, current membership or positions held in the Louisiana State Bar Association, its sections or committees, former membership or positions held in the Louisiana State Bar Association, its sections or committees, together with dates of membership, former positions of employment held in the legal profession, together 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 Louisiana 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)(5) of this Rule;

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

(H) fee for initial consultation and fee schedule, subject to the requirements of subdivisions (c)(6) and (c)(7) of this Rule;

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

(J) punctuation marks and common typographical marks; and

(K) a photograph or image of the lawyer or lawyers who are members of or employed by the firm against a plain background.

(2) 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.

Nevada Rule 7.2(h): The following information in advertisements and written communications shall be presumed not to violate the provisions of Rule 7.1:

(1) Subject to the requirements of this Rule and Rule 7.5, the name of the lawyer or law firm, a listing of lawyers associated with the firm, office addresses and telephone numbers, office and telephone service hours, and a designation such as "attorney" or "law firm."

(2) Date of admission to the State Bar of Nevada and any other bars and a listing of federal courts and jurisdictions other than Nevada where the lawyer is licensed to practice.

(3) Technical and professional licenses granted by the state or other recognized licensing authorities.

(4) Foreign language ability.

(5) Fields of law in which the lawyer is certified or designated, subject to the requirements of Rule 7.4.

(6) Prepaid or group legal service plans in which the lawyer participates.

(7) Acceptance of credit cards.

(8) Fee for initial consultation and fee schedule, subject to the requirements of paragraphs (e) and (f) of this Rule.

(9) A listing of the name and geographic location of a lawyer or law firm as a sponsor of a public service announcement or charitable, civic or community program or event.

New York Rule 7.1(b): Subject to the provisions of paragraph (a), an advertisement may include information as to:

(1) legal and nonlegal education, degrees and other scholastic distinctions, dates of admissions to any bar; areas of the law in which the lawyer or law firm practices, as authorized by these Rules; public offices and teaching positions held; publications of law related matters authored by the lawyer; memberships in bar associations or other professional societies or organizations, including offices and committee assignments therein; foreign language fluency; and bona fide professional ratings;

(2) names of clients regularly represented, provided that the client has given prior written consent;

(3) bank references; credit arrangements accepted; prepaid or group legal services programs in which the lawyer or law firm participates; nonlegal services provided by the lawyer or law firm or by an entity owned and controlled by the lawyer or law firm; the existence of contractual relationships between the lawyer or law firm and a nonlegal professional or nonlegal professional

service firm, to the extent permitted by Rule 5.8 and the nature and extent of the services available through those contractual relationships; and
(4) legal fees for initial consultation; contingent fees in civil matters when accompanied by a statement disclosing information required by paragraph (p); range of fees for legal and nonlegal services, provided that there be available free of charge a written statement clearly describing the scope of each advertised service; hourly rates; and fixed fees for specified legal and nonlegal services.

Wyoming Rule 7.2(c): Any of the following information in advertisements and written electronic communication shall be presumed to be in compliance with the provisions of Rule 7.1, and the disclaimer required by Rule 7.2(g) need not be included.

(1) Subject to the requirements of Rule 7.1 and Rule 7.2, the name of the lawyer or law firm, a listing of lawyers associated with the firm, office addresses and telephone numbers, and facsimile number. E-mail addresses, office and telephone service hours, and a designation such as "attorney" or "law firm."
(2) Date of admission to the Wyoming State Bar and other bars and a listing of federal courts and jurisdictions other than Wyoming where the lawyer is licensed to practice.
(3) Technical and professional licenses granted by the state or other recognized licensing authorities.
(4) Foreign language ability.
(5) Prepaid or group legal service plans in which the lawyer participates.
(6) Acceptance of credit cards.
(7) Fee for initial consultation and fee schedule.
(8) A listing of the name and geographic location of a lawyer or law firm as a sponsor of a public service announcement or charitable, civic or community program or event.

Advertisement with Fixed Fee for Specific Legal Services Requires Written Statement of Scope of Each Advertised Service (New York)

New York Rule 7.1(j): A lawyer or law firm advertising any fixed fee for specified legal services shall, at the time of fee publication, have available to the public a written statement clearly describing the scope of each advertised service, which statement shall be available to the client at the time of retainer for any such service. Such legal services shall include all those services which are recognized as reasonable and necessary under local custom in the area of practice in the community where the services are performed.

Restrictions When Advertising Range of Fees (New York)

New York Rule 7.1(l): If a lawyer or law firm advertises a range of fees or an hourly rate for services, the lawyer or law firm shall not charge more than the fee advertised for such services. If a lawyer or law firm advertises a fixed fee for specified legal services, or performs services described in a fee schedule, the lawyer or law firm shall not charge more than the fixed fee for such stated legal service as set forth in the advertisement or fee schedule, unless the client agrees in writing that the services performed or to be performed were not legal services referred to or implied in the advertisement or in the fee schedule and, further, that a different fee arrangement shall apply to the transaction.

<u>Identifying Jurisdictions in Which the Lawyer is Licensed to Practice</u> (**Missouri)**

Missouri Rule 7.1(l): A misleading communication includes, but is not limited to those that: advertises for legal services without identifying the jurisdictions in which the lawyer is licensed to practice.

ABA MODEL RULE 7.2

Advertising

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.
(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;
(2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority;
(3) pay for a law practice in accordance with Rule 1.17; and
(4) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and
(ii) the client is informed of the existence and nature of the agreement.

(c) Any communication made pursuant to this rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_7_2_advertising.html

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DIFFERENCES IN STATE ADVERTISING RULES

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Omits ABA Model Rule 7.2 (District of Columbia)

Retaining Copy of Ads and/or Publication/Distribution List (Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Mississippi, Missouri, Nevada, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wyoming)

Alabama Rule 7.3(b)(2)(i): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: a sample copy of each written communication and a sample of the envelope to be used in conjunction with the communication, along with a list of the names and addresses of the recipients, shall be filed with the office of general counsel of the Alabama State Bar before or concurrently with the first dissemination of the communication to the prospective client or clients. A copy of the written communication must be retained by the lawyer for six (6) years.

Arkansas Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for five years after its last dissemination along with a record of when and where it was used.

California Rule 1-400(F): A member shall retain for two years a true and correct copy or recording of any communication made by written or electronic media. Upon written request, the

member shall make any such copy or recording available to the State Bar, and, if requested, shall provide to the State Bar evidence to support any factual or objective claim contained in the communication.

Colorado Rule 7.3(d): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services shall: (1) include the words "Advertising Material" on the outside of the envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2);
(2) shall not reveal on the envelope or on the outside of a self-mailing brochure or pamphlet the nature of the prospective client's legal problem.

A copy or recording of each such communication and a sample of the envelopes, if any, shall be kept for a period of four years from the date of dissemination of the communication

Connecticut Rule 7.2(b)(1): A copy or recording of an advertisement or communication shall be kept for three years after its last dissemination along with a record of when and where it was used. An electronic advertisement or communication shall be copied once every three months on a computer disk or similar technology and kept for three years after its last dissemination.

Florida Rule 4-7.7(d): 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 the 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.

Georgia Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

Hawaii Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

Idaho Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

Indiana Rule 7.2(c): The lawyer or law firm responsible for the content of any communication subject to this rule shall keep a copy or recording of each such communication for six years after its dissemination.

Indiana Rule 7.3(c): The lawyer shall retain a list containing the names and addresses, including email addresses, of all persons or entities to whom each communication has been mailed or distributed for a period of not less than one (1) year following the last date of mailing or distribution. Communications filed pursuant to this subdivision shall be open to public inspection.

Iowa Rule 32:7.2(f): Whether or not the advertisement contains fee information, a lawyer shall preserve for at least three years a copy of each advertisement placed in a newspaper, in the classified section of the telephone or city directory, or in a periodical, a tape of any radio, television, or other electronic or telephonic media commercial, or recording, and a copy of all information placed on the World Wide Web, and a record of the date or dates and name of the

Iowa Rule 32:7.3(b): A lawyer must retain a copy of written solicitation for at least three years.

Kansas Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

Louisiana Rule 7.7(j): A copy or recording of an advertisement or written or recorded communication shall be submitted to the Committee in accordance with the requirements of Rule 7.7, and the lawyer shall retain a copy or recording for five years after its last dissemination along with a record of when and where it was used.

Massachusetts Rule 7.3(c): Except as provided in paragraph (e), a lawyer shall not solicit professional employment for a fee from a prospective client known to be in need of legal services in a particular matter by written communication, including audio or video cassette or other electronic communication, unless the lawyer retains a copy of such communication for two years.

Mississippi Rule 7.2(h): A copy or recording of an advertisement or written or recorded communication shall be submitted to the Office of General Counsel of the Mississippi Bar (hereinafter referred to as "OGCMB") in accordance with the provisions of Rule 7.5. The OGCMB shall retain a copy of such advertisement or communication for three (3) years from the date of submission. The lawyer shall retain a copy or recording for three (3) years after its last dissemination along with a record of when and where it was used.

Missouri Rule 4-7.2(b): A copy or recording of an advertisement or written communication shall be kept for two years after its last dissemination along with a record of when and where it was used. The record shall include the name of at least one lawyer responsible for its content unless the advertisement or written communication itself contains the name of at least one lawyer responsible for its content.

Missouri Rule 4-7.3(b)(2): A lawyer may initiate written solicitations to an existing or former client, lawyer, friend, or relative without complying with the requirements of this Rule 4-7.3(b). Written solicitations to others are subject to the following requirements: (2) the lawyer shall retain a copy of each such written solicitation for two years. If written identical solicitations are sent to two or more prospective clients, the lawyer may comply with this requirement by retaining a single copy together with a list of the names and addresses of persons to whom the written solicitation was sent.

Nevada Rule 7.2(j): A copy or recording of an advertisement or written or recorded communication shall be submitted to the State Bar in accordance with Rule 7.2A and shall be retained by the lawyer or law firm which advertises for 4 years after its last dissemination along with a record of when and where it was used.

New York Rule 7.1(k): All advertisements shall be pre-approved by the lawyer or law firm and a copy shall be retained for a period of not less than three years following its initial dissemination. Any advertisement contained in a computer-accessed communication shall be retained for a period of not less than one year. A copy of the contents of any web site covered by this Rule shall be preserved upon the initial publication of the web site, any major web site redesign, or a meaningful and extensive content change, but in no event less frequently than once every 90 days.

New York Rule 7.3(c)(3), (4) & (5)

(c) A solicitation directed to a recipient in this State, shall be subject to the following provisions:

(3) if a solicitation is directed to a predetermined recipient, a list containing the names and addresses of all recipients shall be retained by the lawyer or law firm for a period of not less than three years following the last date of its dissemination.

(4) solicitations filed pursuant to this subdivision shall be open to public inspection.

(5) the provisions of this paragraph shall not apply to:

(i) a solicitation directed or disseminated to a close friend, relative, or former or existing client;

(ii) a web site maintained by the lawyer or law firm, unless the web site is designed for and directed to or targeted at a prospective client affected by an identifiable actual event or occurrence or by an identifiable prospective defendant; or

(iii) professional cards or other announcements the distribution of which is authorized by Rule 7.5(a).

North Dakota Rule 7.2(b): A copy or recording of an advertisement or communication must be kept for two years after its last dissemination along with a record of when and where it was used. For written correspondence and e-mail, a lawyer shall retain for two years from the date of sending a list of addressees. When a lawyer uses recorded voice communications and transmits a communication by telephone call, the lawyer shall retain for two years from the date of the call a record of any telephone number called.

Pennsylvania Rule 7.2(b): A copy or recording of an advertisement or written communication shall be kept for two years after its last dissemination along with a record of when and where it was used. This record shall include the name of at least one lawyer responsible for its content.

Rhode Island Rule 7.2(b): A copy of each print advertisement (other than yellow page advertisements), a recording of each radio advertisement, and a videotape of each television advertisement shall be sent to the Supreme Court Disciplinary counsel prior to or within 48 hours of the first dissemination of such advertisement and another copy of each print advertisement (including yellow page advertisements), recording of each radio advertisement and videotape of each television advertisement shall be retained by the lawyer for three years after its last dissemination along with a record of when and where it was used.

South Carolina Rule 7.2(b): A lawyer is responsible for the content of any advertisement or solicitation placed or disseminated by the lawyer and has a duty to review the advertisement or solicitation prior to its dissemination to reasonably ensure its compliance with the Rules of Professional Conduct. A copy of every advertisement or communication subject to this Rule, except for those which contain only directory information and are not disseminated through the public media, shall be filed with the Commission on Lawyer Conduct within ten (10) days after the advertisement or communication is first published, broadcast, transmitted, or otherwise disseminated to the public, together with a fee of $50.00. A copy or recording of every advertisement or communication shall be kept for two (2) years after its last dissemination along with a record of when and where it was disseminated.

South Dakota Rule 7.2(c): Record of Advertising. A copy or recording of an advertisement shall be kept by the advertising lawyer for two years after its last dissemination along with a record of when and where it was used.

Tennessee Rule 7.2(b): A copy or recording of each advertisement shall be retained by the lawyer for two years after its last dissemination along with a record of when and where the advertisement appeared.

Tennessee Rule 7.3(c)(7): A copy of each written, audio, video, or electronically transmitted communication sent to a specific recipient under this Rule shall be retained by the lawyer for two years after its last dissemination along with a record of when, and to whom, it was sent.

Texas Rule 7.04(f): A copy or recording of each advertisement in the public media and relevant approval referred to in paragraph (e), and a record of when and where the advertisement was used, shall be kept by the lawyer or firm for four years after its last dissemination.

Texas Rule 7.05(e): A copy of each written, audio, audio-visual, digital media, recorded telephone message, or other electronic solicitation communication, the relevant approval thereof, and a record of the date of each such communication; the name, address, telephone number, or electronic address to which each such communication was sent; and the means by which each such communication was sent shall be kept by the lawyer or firm for four years after its dissemination.

Virginia Rule 7.2(b): A recording of the actual electronic media advertisement shall be approved by the lawyer prior to its broadcast and retained by the lawyer for a period of one year following the last broadcast date, along with a record of when and where it was used, which recording and date shall be provided to the Standing Committee on Lawyer Advertising and Solicitation upon its request.

West Virginia Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

Wyoming Rule 7.2(b): A copy or recording of an advertisement or communication shall be kept for four years after it s last dissemination along with a record of when and where it was used.

Web site Hyperlinks Exempt from Advertising Rules (Iowa)

Iowa Rule 32:7.2(a)(3): The following communications shall not be considered advertising and accordingly are not subject to rules 32:7.2, 32:7.3, and 32:7.4:
(3) communications by a lawyer that are in reply to a request for information by a member of the public that was not prompted by unauthorized advertising by the lawyer; information available through a hyperlink on a lawyer's Web site shall constitute this type of communication.

Prior Filing or Approval (Connecticut, Florida, Kentucky, Louisiana, Mississippi, Nevada, South Dakota)

Connecticut Rule 7.2: A lawyer shall comply with the mandatory filing requirement of Practice Book Section 2-28A.

Connecticut Practice Book, Sec. 2-28(A). Attorney Advertising; Mandatory Filing.
a) Any attorney who advertises services to the public through any media, electronic or otherwise, or through written or recorded communication pursuant to Rule 7.2 of the Rules of Professional Conduct shall file a copy of each such advertisement or communication with the statewide grievance committee either prior to or concurrently with the attorney's first dissemination of the advertisement or written or recorded communication, except as otherwise provided in subsection

(b) herein. The materials shall be filed in a format prescribed by the statewide grievance committee, which may require them to be filed electronically. Any such submission in a foreign language must include an accurate English language translation. The filing shall consist of the following:

1) A copy of the advertisement or communication in the form or forms in which it is to be disseminate (e.g., videotapes, DVDs, audiotapes, compact disks, print media, photographs of outdoor advertising);

(2) A transcript, if the advertisement or communication is in video or audio format;

(3) A list of domain names used by the attorney, which shall be updated quarterly;

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

(5) 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.

(b) The filing requirements of subsection (a) do not extend to any of the following materials:

1) An advertisement in the public media that contains only the information, in whole or in part, contained in Rule 7.2 (i) of the Rules of Professional Conduct, provided the information is not false or misleading;

(2) An advertisement in a telephone directory;

(3) A listing or entry in a regularly published counsel law list;

(4) An announcement card stating new or changed associations, new offices, or similar changes relating to an attorney or firm, or a tombstone professional card;

(5) A communication sent only to:

i) Existing or former clients;

(ii) Other attorneys or professionals; business organizations including trade groups; not-for-profit organizations; governmental bodies and/or

iii) Members of a not-for-profit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by an attorney; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the attorney who is recommended, furnished, or paid for by the organization.

(6) Communication that is requested by a prospective client.

(7) The contents of an attorney's internet website that appears under any of the domain names submitted pursuant to subparagraph (3) of subsection (a).

(c) If requested by the statewide grievance committee, an attorney shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media and/or written or recorded communications.

(d) The statewide bar counsel shall review advertisements and communications filed pursuant to this section that have been selected for such review on a random basis. If after such review the statewide bar counsel determines that an advertisement or communication does not comply with the Rules of Professional Conduct, the statewide bar counsel shall in writing advise the attorney responsible for the advertisement or communication of the noncompliance and shall attempt to resolve the matter with such attorney. If the matter is not resolved to the satisfaction of the statewide bar counsel, he or she shall forward the advertisement or communication and a statement describing the attempt to resolve the matter to the statewide grievance committee for review. If, after reviewing the advertisement or communication, the statewide grievance committee determines that it violates the Rules of Professional Conduct, it shall forward a copy of

its file to the disciplinary counsel and direct the disciplinary counsel to file a presentment against the attorney in the superior court.
(e) The procedure set forth in subsection (d) shall apply only to advertisements and communications that are reviewed as part of the random review process. If an advertisement or communication comes to the attention of the statewide bar other than through that process, it shall be handled pursuant to the grievance procedure set forth in Sections 2-29 et seq.
(f) The materials required to be filed by this section shall be retained by the statewide grievance committee for a period of one year from the date of their filing, unless, at the expiration of the one year period, there is pending before the statewide grievance committee, a reviewing committee, or the court a proceeding concerning such materials, in which case the materials that are the subject of the proceeding shall be retained until the expiration of the proceeding or for such other period as may be prescribed by the statewide grievance committee.
(g) Except for records filed in court in connection with a presentment brought pursuant to subsection (d), records maintained by the statewide bar counsel, the statewide grievance committee and/or the disciplinary counsel's office pursuant to this section shall not be public. Nothing in this rule shall prohibit the use or consideration of such records in any subsequent disciplinary or client security fund proceeding and such records shall be available in such proceedings to a judge of the superior court or to the standing committee on recommendations for admission to the bar, to disciplinary counsel, to the statewide bar counsel or assistant bar counsel, or, with the consent of the respondent, to any other person, unless otherwise ordered by the court.
(h) Violation of subsections (a) or (c) shall constitute misconduct.

Connecticut Practice Book, Sec. 2-28B. —Advisory Opinions
(a) An attorney who desires to secure an advance advisory opinion concerning compliance with the Rules of Professional Conduct of a contemplated advertisement or communication may submit to the statewide grievance committee, not less than 30 days prior to the date of first dissemination, the material specified in Section 2-28A (a) accompanied by a fee established by the Chief Court Administrator. It shall not be necessary to submit a videotape or DVD if the videotape or DVD has not then been prepared and the production script submitted reflects in detail and accurately the actions, events, scenes, and background sounds that will be depicted or contained on such videotapes or DVDs, when prepared, as well as the narrative transcript of the verbal and printed portions of such advertisement.
(b) An advisory opinion shall be issued, without a hearing, by the statewide grievance committee or by a reviewing committee assigned by the statewide grievance committee. Such reviewing committee shall consist of at least three members of the statewide grievance committee, at least one-third of whom are not attorneys.
(c) An advisory opinion issued by the statewide grievance committee or a reviewing committee finding noncompliance with the Rules of Professional Conduct is not binding in a disciplinary proceeding, but a finding of compliance is binding in favor of the submitting attorney in a disciplinary proceeding if the representations, statements, materials, facts and written assurances received in connection therewith are not false or misleading. The finding constitutes admissible evidence if offered by a party. If a request for an advisory opinion is made within 60 days of the effective date of this section, the statewide grievance committee or reviewing committee shall issue its advisory opinion within 45 days of the filing of the request. Thereafter, the statewide grievance committee or reviewing committee shall issue its advisory opinion within 30 days of the filing of the request. For purposes of this section, an advisory opinion is issued on the date notice of the opinion is transmitted to the attorney who requested it pursuant to subsection (a) herein.
(d) If requested by the statewide grievance committee or a reviewing committee, the attorney seeking an advisory opinion shall promptly submit information to substantiate statements or representations made or implied in such attorney's advertisement. The time period set forth in

subsection (c) herein shall be tolled from the date of the committee's request to the date the requested information is filed with the committee.
(e) If an advisory opinion is not issued by the statewide grievance committee or a reviewing committee within the time prescribed in this section, the advertisement or communication for which the opinion was sought shall be deemed to be in compliance with the Rules of Professional Conduct.
(f) If, after receiving an advisory opinion finding that an advertisement or communication violates the Rules of Professional Conduct, the attorney disseminates such advertisement or communication, the statewide grievance committee, upon receiving notice of such dissemination, shall forward a copy of its file concerning the matter to the disciplinary counsel and direct the disciplinary counsel to file a presentment against the attorney in the superior court.
(g) Except for advisory opinions, all records maintained by the statewide grievance committee pursuant to this section shall not be public. Advisory opinions issued pursuant to this section shall not be public for a period of 30 days from the date of their issuance. During that 30 day period the advisory opinion shall be available only to the attorney who requested it pursuant to subsection (a), to the statewide grievance committee or its counsel, to reviewing committees, to grievance panels, to disciplinary counsel, to a judge of the superior court, and, with the consent of the attorney who requested the opinion, to any other person. Nothing in this rule shall prohibit the use or consideration of such records in any subsequent disciplinary or client security fund proceeding and such records shall be available in such proceedings to a judge of the superior court or to the standing committee on recommendations for admission to the bar, to disciplinary counsel, to the statewide bar counsel or assistant bar counsel, or, with the consent of the respondent, to any other person, unless otherwise ordered by the court.

Florida Rule 4-7.7(a), (b), (c):
(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.

Florida 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.

Kentucky SCR 3.130 (7.05-7.07)
SCR 3.130 (7.05) Filing of advertisements
(1)(b) If the advertisement contains only those items listed in SCR 3.130(7.05)(1)(a), the lawyer shall mail or deliver to the Commission, c/o the Director of the Kentucky Bar Association, three (3) copies of the advertisement. If the advertisement is to be published by broadcast media, including radio or television, a fair and accurate representation of the advertisement plus three (3) copies of a typed transcript of the words spoken shall be submitted. Any such advertisement is publication of the advertisement.
(2) If the advertisement does not qualify under SCR 3.130(7.05)(1) for submission without a fee, the lawyer shall mail or deliver to the Commission, c/o the Director of the Kentucky Bar Association, three (3) copies of the advertisement. If the advertisement is to be published by broadcast media, including radio or television, a fair and accurate representation of the advertisement plus three (3) copies of a typed transcript of the words spoken shall be submitted. A filing fee of $50.00 for each advertisement filed under this subsection shall accompany each submission. Submission under this subsection shall occur no later than the publication of the advertisement. If an advisory opinion has been sought under SCR 3.130(7.06)(1) no additional fee is required.
(3) The fair and accurate representation of a broadcast media advertisement required in SCR 3.130(7.05)(1) and (2) shall include three (3) copies of a video cassette (VHS), digital video disc (DVD), or audio cassette plus three (3) copies of a typed transcript of the advertisement.

SCR 3.130 (7.06) Advisory opinions
(1) For any advertisement submitted as required by SCR 3.130(7.05)(2), a lawyer may request an advisory opinion by the Commission before the advertisement is published. Such request shall be in writing made at least 30 days before the advertisement is published. The request shall be accompanied by an administrative fee of $50, which is in lieu of the fee required by SCR 3.130(7.05)(2). Within 30 days after such request is received, the Commission shall issue its advisory opinion as to the compliance of the advertisement with the Advertising Rules and Advertising Regulations.
(2) If a lawyer has received an advisory opinion that an advertisement complies with the Advertising Rules and Advertising Regulations, that lawyer shall not be disciplined for any use of that advertisement, except as otherwise provided in SCR 3.130(7.06)(6).
(3) If a lawyer has requested an advisory opinion and the Commission finds that the advertisement does not comply with the requirements of the Advertising Rules or the Advertising Regulations, the Commission, or its designee, shall issue an advisory letter setting forth the factual and legal basis for the opinion. The lawyer may submit a corrected advertisement under SCR 3.130(7.05)(2) that conforms to the advice in the advisory letter with no additional fee required.
(4) If the Commission determines that the Advertising Rules or Advertising Regulations have been violated by a lawyer, it shall determine whether the violation can be dealt with administratively, or can be presumed to be intentional. The Commission may address administrative violations. Intentional violations include but are not limited to: (1) publishing the advertisement after receiving notice that the advertisement is in violation of the Advertising Rules or the Advertising Regulations; (2) a manifest indifference to the Advertising Rules or

Advertising Regulations; or (3) a pattern of repeated disregard for these Advertising Rules or Advertising Regulations. Intentional violations may be referred to the Inquiry Commission.
(5) If the Commission has notified the lawyer that the advertisement violated the Advertising Rules or Advertising Regulations, and has further determined that the publication of the advertisement may be contrary to the public interest, the Commission or its designee shall notify the lawyer whose advertisement is under consideration and the Director of the Association. The Director may upon receiving such notification bring an action in compliance with this Rule.
(6) If an advertisement is discovered to be false, misleading or deceptive, or information provided to the Commission in connection with the submission is discovered to be false, misleading or deceptive after the Commission has issued its advisory opinion, it, or its designee, may notify the Advertising lawyer that all prior advisory opinions concerning such advertisement are withdrawn and the advisory opinion shall not constitute a defense to the subsequent use of the advertisement.

SCR 3.130 (7.07) Review of filings
For any advertisement on which an advisory opinion has not been sought, the Commission, or its designee, shall review such filings for compliance with the Advertising Rules and Advertising Regulations. If the Commission, or its designee, determines a violation of the Advertising Rules or Advertising Regulations has occurred, it may notify the advertising attorney that a violation has occurred, or refer the matter to the Inquiry Commission.

Louisiana Rule 7.7 (c) Regular Filing. Subject to the exemptions stated in Rule 7.8, any lawyer who advertises services through any public media or through unsolicited written communications sent in compliance with Rule 7.4 or 7.6(c) shall file a copy of each such advertisement or unsolicited written communication with the Committee for evaluation of
compliance with these Rules. The copy shall be filed either prior to or concurrently with the lawyer's first dissemination of the advertisement or unsolicited written communication and shall be accompanied by the information and fee specified in subdivision (d) of this Rule. If the lawyer has opted to submit an advertisement or unsolicited written communication in advance of dissemination, in compliance with subdivision (b) of this Rule, and the advertisement or unsolicited written communication is then found to be in compliance with the Rules, that voluntary advance submission shall be deemed to satisfy the regular filing requirement set forth above.
(d) Contents of Filing. A filing with the Committee as permitted by subdivision (b) or as required by subdivision (c) 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 Committee (e.g., videotapes, audiotapes, print media, photographs of outdoor advertising, etc.);

(2) a typewritten transcript of the advertisement or communication, if any portion of the advertisement or communication is on videotape, audiotape, electronic/digital media or otherwise not embodied in written/printed form;

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

(4) an accurate English translation, if the advertisement appears or is audible 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) fees paid to the Louisiana State Bar Association, in an amount set by the Supreme Court of Louisiana:

(A) for submissions filed prior to or concurrently with the lawyer's first dissemination of the advertisement or unsolicited written communication, as provided in subdivisions (b) and (c); or

(B) for submissions not filed until after the lawyer's first dissemination of the advertisement or unsolicited written communication.

Louisiana Rule 7.8 Exemptions from the Filing and Review Requirement

The following are exempt from the filing and review requirements of Rule 7.7:

(a) any advertisement or unsolicited written communication that contains only content that is permissible under Rule 7.2(b).

(b) a brief announcement in any 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 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(s) 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) Any written communications requested by a prospective client.

(f) 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.

(g) Computer-accessed communications as described in subdivision (b) of Rule 7.6.

(h) Gift/Promotional Items. Items, such as coffee mugs, pens, pencils, apparel, and the like, that identify a lawyer or law firm and are used/disseminated by a lawyer or law firm not in violation of these Rules, including but not limited to Rule 7.2(c)(13) and Rule 7.4; and

(i) Office Sign(s) for Bona Fide Office Location(s). A sign, placard, lettering, mural, engraving, carving or other alphanumeric display conveying information about a lawyer, a lawyer's services or a law firm's services that is permanently affixed, hanging, erected or otherwise attached to the physical structure of the building containing a bona fide office location for a lawyer or law firm, or to the property on which that bona fide office location sits.

Mississippi Rule 7.5(a) Mandatory Submission. A copy or recording of any advertisement to be published shall be submitted to the Office of the General Counsel of the Mississippi Bar (OGCMB) as set forth in paragraph(c) below prior to its first dissemination.

(b) Exemptions. The following are exempt from this submission requirement:

(1) Any advertisement that contains no illustrations and no information other than that set forth in Rules 7.2 and 7.4;

(2) Any telephone directory advertisement;

(3) Notices or announcements that do not solicit clients, but rather state new or changed associations or membership of firms, changed location of offices, the opening of new offices, and similar changes relating to a lawyer or law firm;
(4) Professional business cards or letterhead;
(5) On premises office signage;
(6) Notices and paid listings in law directories addressed primarily to other members of the legal profession;
(7) Advertisements in professional, trade, academic, resource or specialty publications circulated to specific subscribing audiences rather than the general public at large that announce the availability of a lawyer or law firm to practice a particular type of law in many jurisdictions and that are not for the purpose of soliciting clients to commence or join in specific litigation to be performed in Mississippi;
(8) Internet Web pages viewed via a Web browser, in a search initiated by a person without solicitation.
(9) Informative or scholarly writings in professional, trade or academic publications;
(10) A communication mailed only to existing clients, former clients or other lawyers;
(11) Any written communications requested by a prospective client;
(12) Any notices or publications required by law; and
(13) Such other exemptions as may be authorized by the OGCMB.
(c) Items to be submitted. A submission to the OGCMB pursuant to paragraph (a) 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., videotapes, audiotapes, print media, photographs or other accurate replicas of outdoor advertising);
(2) A transcript, if the advertisement or communication is on videotape or audiotape;
(3) A statement of when and where the advertisement has been, is, or will be used; and
(4) A fee of twenty-five dollars ($25) per submission of advertisement or communication timely filed as provided in paragraph (a), or a fee of one hundred and fifty dollars ($150) for submissions not timely filed, made payable to The Mississippi Bar. This fee shall be used only for administration and enforcement of these Rules. A "submission of advertisement" is defined as each advertisement unless the same advertisement is to be republished in print or electronic media utilizing the same script. An advertisement does not need to be resubmitted upon each dissemination so long as no changes to form or content are made following the previous submission.
(d) Optional Advisory Opinion. A lawyer may request an advisory opinion concerning the compliance of a contemplated advertisement or communication with these Rules in advance of disseminating the advertisement or communication by submitting the advertisement or communication and fee specified in paragraph (1) below to the OGCMB at least forty-five days prior to such dissemination. The OGCMB shall, upon receipt of such request, evaluate all advertisements and communications submitted to it pursuant to this Rule for compliance with the applicable requirements set forth in this Rule. If an evaluation is requested, the OGCMB shall render its advisory opinion within forty-five days of receipt of a request unless the OGCMB determines that there is reasonable doubt that the advertisement or communication is in compliance with the Rules and that further examination is warranted but such evaluation cannot be completed within the forty-five day time period, and so advise the filing lawyer within the forty-five day time period. In the latter event, the OGCMB shall complete its review as promptly as the circumstances reasonably allow. If the OGCMB does not send any correspondence or notice to the lawyer within forty-five days, the advertisement or communication will be deemed approved.

(1) Items to be submitted to obtain Advisory Opinion. A submission to OGCMB to obtain an advisory opinion pursuant to paragraph (d) shall consist of the same items as

(c)(1)(2)(3) above, and an additional fee of fifty dollars ($50) per submission of advertisement or communication made payable to The Mississippi Bar. This fee shall be used only for the purposes of evaluation and/or review of advertisements and preparing the Advisory Opinion. A "submission of advertisement" is defined as each advertisement unless the same advertisement is to be republished in print or electronic media utilizing the same script.

(2) Use of finding. A finding by the OGCMB of either compliance or noncompliance shall not be binding in disciplinary proceedings, but may be offered as evidence.

(3) Change of circumstances. If a change of circumstances occurring subsequent to the OGCMB's evaluation of an advertisement or 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 resubmit the advertisement or a modified advertisement with the OGCMB along with an explanation of the change in circumstances and a fee of twenty dollars ($20) per "submission of advertisement or communication."

(e) Substantiation. If requested to do so by the OGCMB, the requesting lawyer shall submit information to substantiate representations made or implied in that lawyer's advertisement or communication.

(f) Non-compliance. When the OGCMB determines that an advertisement or communication is not in compliance with the applicable Rules, the OGCMB shall advise the lawyer by certified mail that dissemination or continued dissemination of the advertisement or communication may result in professional discipline.

(g) Policies and procedures. The Mississippi Bar shall formulate the necessary policies and procedures to implement and enforce the provisions of this Rule and submit same to the Supreme Court for approval pursuant to Rule 3 of the Mississippi Rules of Discipline.

Nevada Rule 7.2B(b) & (c):

(b) Review of filings; advisory opinions to bar counsel. The committee may issue advisory opinions on any advertisement filed with the state bar. If the committee finds that an advertisement does not comply with these rules, it may issue an advisory opinion to bar counsel within 30 days of its review. The opinion must include the basis for the Committee's finding of noncompliance and a recommendation that bar counsel issue a notice to the lawyer or law firm requesting a correction or withdrawal of the advertisement. If bar counsel accepts the committee's recommendation and issues the notice, the advertising lawyer or law firm has 30 days to respond to bar counsel's notice. Bar counsel may initiate appropriate disciplinary action if the lawyer or law firm fails to file a timely response.

(c) Pre-dissemination review. A lawyer or law firm may file a written request with the state bar seeking an advance opinion on whether a proposed advertisement complies with these Rules. The request shall be made in the form and manner designated by the state bar. Upon receipt of such request, the state bar shall submit it to the appropriate Standing Lawyer Advertising Advisory Committee for its review.

(1) Advance Opinion. Within 30 days of submission, the committee shall issue an advance opinion to the lawyer or law firm submitting the request for pre-dissemination review. The opinion shall include a finding of whether the proposed advertisement is in compliance with these Rules. If the Committee finds that the advertisement is not in compliance, then the opinion shall also include the basis for the finding and instructions on how the proposed advertisement can be corrected. Such an adverse opinion must also notify the lawyer or law firm of an opportunity for a hearing on the committee's finding of noncompliance and the procedure for requesting such a hearing.

(2) Appeal. An adverse advance opinion of one committee may be appealed by the requestor in writing to the other committee, which decision shall be controlling.

South Dakota Rule 7.3(c): A copy of every written or recorded communication from a lawyer soliciting professional employment from a prospective client shall be deposited no less that thirty days prior to its dissemination or publication with the Secretary-Treasurer of the South Dakota State Bar by mailing the same to the Office of the State Bar of South Dakota in Pierre, postage prepaid, return receipt requested.

Filing Copy with State Disciplinary Board or State Bar (Alabama, Arizona, California, Florida, Hawaii, Indiana, Iowa, Nevada, New York, Rhode Island, South Carolina, Texas, Wisconsin)

Alabama Rule 7.2(b): A lawyer who advertises concerning legal services shall comply with the following: A true copy or recording of any such advertisement shall be delivered or mailed to the office of the general counsel of the Alabama State Bar at its then current headquarters within three (3) days after the date on which any such advertisement is first disseminated; the contemplated duration thereof and the identity of the publisher or broadcaster of such advertisement, either within the advertisement or by separate communication accompanying said advertisement, shall be stated. Also, a copy or recording of any such advertisement shall be kept by the lawyer responsible for its content, as provided hereinafter by Rule 7.2(d), for six (6) years after its last dissemination.

Arizona Rule 7.3(c)(1): at the time of dissemination of such written communication, a written copy shall be forwarded to the Clerk of the Arizona Supreme Court and the State Bar of Arizona at its Phoenix office.

California Rule 1-400(F): Upon written request, the member shall make any such copy or recording available to the State Bar, and, if requested, shall provide to the State Bar evidence to support any factual or objective claim contained in the communication.

Florida Rule 4-7.7(d): 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.

Hawaii Rule 7.3(c)(2): A sample copy of any written or recorded communication directed by a lawyer to one or more prospective clients for purposes of seeking or recommending employment shall be simultaneously forwarded by the lawyer to the Office of Disciplinary Counsel.

Indiana Rule 7.3(c): A copy of each such communication shall be filed with the Indiana Supreme Court Disciplinary Commission at or prior to its dissemination to the prospective client. A filing fee in the amount of fifty dollars ($50.00) payable to the "Supreme Court Disciplinary Commission Fund" shall accompany each such filing. In the event a written, recorded or electronic communication is distributed to multiple prospective clients, a single copy of the mailing less information specific to the intended recipients, such as name, address (including email address) and date of mailing, may be filed with the Commission. Each time any such communication is changed or altered, a copy of the new or modified communication shall be filed with the Disciplinary Commission at or prior to the time of its mailing or distribution.

Iowa Rule 32:7.3(b): Simultaneously with the mailing of the solicitation, the lawyer must file a copy of it with the Iowa Supreme Court Attorney Disciplinary Board along with a signed affidavit in which the lawyer attests to: (1) the truthfulness of all facts contained in the communication; (2) how the identity and specific legal need of the intended recipients were discovered; and (3) how the identity and specific need of the intended recipients were verified by the soliciting lawyer.

Nevada Rule 7.2A. Advertising Filing Requirements
(a) **Filing Requirement.** A copy or recording of an advertisement or written or recorded communication published after September 1, 2007, shall be submitted to the state bar in both hard copy and electronic format within 15 days of first dissemination along with a form supplied by the state bar. If a published item that was first disseminated prior to September 1, 2007, will continue to be published after this date, then it must be submitted to the state bar on or before September 17, 2007, along with a form supplied by the state bar. The form shall include a provision for members to request a waiver of the electronic filing requirement for good cause.
(b) **Failure to file.** A lawyer or law firm's failure to file an advertisement in accordance with paragraph (a) is grounds for disciplinary action. In addition, for purposes of disciplinary review pursuant to Supreme Court Rule 106 (privilege and limitation), when a lawyer or law firm fails to file, the 4-year limitation period begins on the date the advertisement was actually known to bar counsel.

New York Rule 7.3(c)(1), (2), (4) & (5): A solicitation directed to a recipient in this State, shall be subject to the following provisions:
(1) a copy of the solicitation shall at the time of its dissemination be filed with the attorney disciplinary committee of the judicial district or judicial department wherein the lawyer or law firm maintains its principle office. Where no such office is maintained, the filing shall be made in the judicial department where the solicitation is targeted. A filing shall consist of:
(i) a copy of the solicitation;
(ii) a transcript of the audio portion of any radio or television solicitation; and
(iii) if the solicitation is in a language other than English, an accurate English language translation
(2) such solicitation shall contain no reference to the fact of filing.
(4) solicitations filed pursuant to this subdivision shall be open to public inspection.
(5) the provisions of this paragraph shall not apply to:
(i) a solicitation directed or disseminated to a close friend, relative, or former or existing client;
(ii) a web site maintained by the lawyer or law firm, unless the web site is designed for and directed to or targeted at a prospective client affected by an identifiable actual event or occurrence or by an identifiable prospective defendant; or
(iii) professional cards or other announcements the distribution of which is authorized by Rule 7.5(a).

Rhode Island Rule 7.2(b): A copy of each print advertisement (other than yellow page advertisements), a recording of each radio advertisement, and a videotape of each television advertisement shall be sent to the Supreme Court Disciplinary counsel prior to or within 48 hours of the first dissemination of such advertisement and another copy of each print advertisement (including yellow page advertisements), recording of each radio advertisement and videotape of each television advertisement shall be retained by the lawyer for three years after its last dissemination along with a record of when and where it was used.

Rhode Island Rule 7.3(d): A copy of each [written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of

legal services in a particular matter] shall be sent to the Supreme Court Disciplinary Counsel and another copy shall be retained by the lawyer for three (3) years. If communications identical in content are sent to two (2) or more prospective clients, the lawyer may comply with this requirement by sending a single copy together with a list of the names and addresses of persons to whom the communication was sent to the Supreme Court Disciplinary Counsel as well as retaining the same information.

South Carolina Rule 7.2(b): A lawyer is responsible for the content of any advertisement or solicitation placed or disseminated by the lawyer and has a duty to review the advertisement or solicitation prior to its dissemination to reasonably ensure its compliance with the Rules of Professional Conduct. A copy of every advertisement or communication subject to this Rule, except for those which contain only directory information and are not disseminated through the public media, shall be filed with the Commission on Lawyer Conduct within ten (10) days after the advertisement or communication is first published, broadcast, transmitted, or otherwise disseminated to the public, together with a fee of $50.00. A copy or recording of every advertisement or communication shall be kept for two (2) years after its last dissemination along with a record of when and where it was disseminated.

Texas Rule 7.07(a): Except as provided in paragraphs (c) and (e) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, no later than the mailing or sending by any means, including electronic, of a written, audio, audio-visual, digital or other electronic solicitation communication:
(1) a copy of the written, audio, audio-visual, digital, or other electronic solicitation communication being sent or to be sent to one or more prospective clients for the purpose of obtaining professional employment, together with a representative sample of the envelopes or other packaging in which the communications are enclosed;
(2) a completed lawyer advertising and solicitation communication application; and
(3) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such solicitations.

Wisconsin Rule 20:7.3(c): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client shall include the words "Advertising Material" on the outside of the envelope, if any, and at the beginning and ending of the printed, recorded or electronic communication, unless the recipient of the communication is a person specified in pars. (a)(1) or (a)(2), and a copy of it shall be filed with the office of lawyer regulation within five days of its dissemination.

<u>Restrictions on Advertising Area of Practice</u> (Florida, Louisiana)

Florida Rule 4-7.2(c)(4): 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.

Louisiana Rule 7.2(c)(3): A lawyer or law firm shall not state or imply in advertisements or unsolicited written communications that the lawyer or law firm currently practices in an area of practice when that is not the case.

<u>Prohibits Statement, Reference, or Implication That Communication is Approved by State Supreme Court, State Bar, or Board of Professional Responsibility</u> (Alabama, Florida, Louisiana, Tennessee)

Alabama Rule 7.3(b)(2)(iii): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: (iii) no reference shall be made either on the envelope or in the written communication that the communication is approved by the Alabama State Bar.

Florida Rule 4-7.2(c)(5): 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.

Louisiana Rule 7.2(c)(4): 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 Louisiana State Bar Association.

Tennessee Rule 7.3(c)(2): A lawyer shall not state or imply that a communication otherwise permitted by these rules has been approved by the Tennessee Supreme Court or the Board of Professional Responsibility.

Must Disclose Location of Practice (Florida, Louisiana, Mississippi, Pennsylvania, South Carolina, South Dakota, Texas)

Florida Rule 4-7.2(a)(2): 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.

Louisiana Rule 7.2(a)(2): All advertisements and written communications provided for under these Rules shall disclose, by city or town, one or more bona fide office location(s) of the lawyer or lawyers who will actually perform the services advertised. If the office location is outside a city or town, the parish where the office is located must be disclosed. 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, and which physical location shall have at least one lawyer who is regularly and routinely present in that physical location. In the absence of a bona fide office, the lawyer shall disclose the city or town of the primary registration statement address as it appears on the lawyer's annual registration statement. If an advertisement or unsolicited written communication lists a telephone number in connection with a specified geographic area other than an area continuing a bona fide office or the lawyer's primary registration statement address, appropriate qualifying language must appear in the advertisement.

Mississippi Rule 7.2(c): All advertisements and written communications provided for under these rules shall disclose the geographic location by city and state of one or more offices of the lawyer or lawyers whose services are advertised or shall state that additional information about the lawyer or firm can be obtained by contacting the Mississippi Bar at a number designated by the Bar and included in the advertisement.

Pennsylvania Rule 7.2(h)(2)(i): All advertisements and written communications shall disclose the geographic location, by city or town, of the office in which the lawyer or lawyers who will

actually perform the services advertised principally practice law. If the office location is outside the city or town, the county in which the office is located must be disclosed.

South Carolina Rule 7.2(i): All advertisements shall disclose the geographic location, by city or town, of the office in which the lawyer or lawyers who will actually perform the services advertised principally practice law. 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.

South Dakota Rule 7.1(c)(11): A communication is false or misleading if it fails to contain the name and address by city or town of the lawyer whose services are described in the communication.

Texas Rule 7.04(j): A lawyer or firm who advertises in the public media must disclose the geographic location, by city or town, of the lawyer's or firm's principal office. A lawyer or firm shall not advertise the existence of any office other than the principal office unless:

(1) that other office is staffed by a lawyer at least three days a week; or
(2) the advertisement states:
    (i) the days and times during which a lawyer will be present at that office, or
    (ii) that meetings with lawyers will be by appointment only.

<u>All Ads Must be Approved by Lawyer or Firm</u> (New York, Texas)

New York Rule 7.1(k): All advertisements shall be pre-approved by the lawyer or law firm . . .

Texas Rule 7.04(e): All advertisements in the public media for a lawyer or firm must be reviewed and approved in writing by the lawyer or a lawyer in the firm.

Texas Rule 7.05(d): All written, audio, audio-visual, digital media, recorded telephone message, or other electronic communications made to a prospective client for the purpose of obtaining professional employment of a lawyer or law firm must be reviewed and either signed by or approved in writing by the lawyer or a lawyer in the firm.

<u>General Disclaimers as to Quality of Legal Services</u> (Alabama, Nevada, Pennsylvania)

Alabama Rule 7.2(e): No communication concerning a lawyer's services shall be published or broadcast, unless it contains the following language, which shall be clearly legible or audible, as the case may be: "No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."

Nevada Rule 7.2(g): A lawyer may make statements describing or characterizing the quality of the lawyer's services in advertisements and written communications. However, such statements are subject to proof of verification, to be provided at the request of the state bar or a client or prospective client.

Pennsylvania Rule 7.2(f): A lawyer shall not make statements in advertisements or written communications which are merely self laudatory or which describe or characterize the quality of the lawyer's services; provided that this provision shall not apply to information furnished to a prospective client at that person's request or to information supplied to existing clients.

<u>Period During Which Lawyer Must Honor Fee Advertised</u> (Alabama, Arizona, California, Connecticut, Florida, Iowa, Louisiana, Mississippi, Nevada, New York, Pennsylvania, South Dakota, Texas)

Alabama Rule 7.2(f): If fees are stated in the advertisement, the lawyer or law firm advertising must perform the advertised services at the advertised fee, and the failure of the lawyer and/or law firm advertising to perform an advertised service at the advertised fee shall be prima facie evidence of misleading advertising and deceptive practices. The lawyer or law firm advertising shall be bound to perform the advertised services for the advertised fee and expenses for a period of not less than sixty (60) days following the date of the last publication or broadcast.

Arizona Rule 7.2(d)(4): Every advertisement (including advertisement by written solicitation) that contains information about the lawyer's fees shall be subject to the following requirements:

(4) a lawyer who advertises a specific fee, range of fees or hourly rate for a particular service shall honor the advertised fee, or range of fees, for at least ninety (90) days unless the advertisement specifies a shorter period; provided, 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 one year following publication.

California Rule 7.2(Standards)(16): An unsolicited "communication" transmitted to the general public or any substantial portion thereof primarily directed to seeking professional employment primarily for pecuniary gain which sets forth a specific fee or range of fees for a particular service where, in fact, the member charges a greater fee than advertised in such communication within a period of 90 days following dissemination of such communication, unless such communication expressly specifies a shorter period of time regarding the advertised fee. Where the communication is published in the classified or "yellow pages" section of telephone, business or legal directories or in other media not published more frequently than once a year, the member shall conform to the advertised fee for a period of one year from initial publication, unless such communication expressly specifies a shorter period of time regarding the advertised fee.

Connecticut Rule 7.2(g): A lawyer who advertises a specific range of fees for a particular service shall honor the advertised fee or range of fees for at least 90 days unless the advertisements 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 one year following publication.

Florida Rule 4-7.2(c)(8): 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 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.

Iowa Rule 32:7.2(h)(4): Unless otherwise specified in the public communication concerning fees, the lawyer shall be bound, in the case of fee advertising in the classified section of the telephone or city directory, for a period of at least the time between printings of the directory in which the fee advertisement appears and in the case of all other fee advertising for a period of at least ninety days thereafter, to render the stated legal service for the fee stated in the communication unless the client's matters do not fall within the described services. In that event

Louisiana Rule 7.2(c)(7): 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 ninety days from the date last advertised 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 one year following publication.

Mississippi Rule 7.2(b): 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 longer 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 one year following publication.

Nevada Rule 7.2(f): A lawyer who advertises a specific fee or range of fees shall include all possible terms and fees, and the duration said fees are in effect. Such disclosure shall be presented with equal prominence. 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 one year following publication.

New York Rule 7.1(m) & (n):
(m) Unless otherwise specified in the advertisement, if a lawyer publishes any fee information authorized under this Rule in a publication that is published more frequently than once per month, the lawyer shall be bound by any representation made therein for a period of not less than 30 days after such publication. If a lawyer publishes any fee information authorized under this Rule in a publication that is published once per month or less frequently, the lawyer shall be bound by any representation made therein until the publication of the succeeding issue. If a lawyer publishes any fee information authorized under this Rule in a publication that has no fixed date for publication of a succeeding issue, the lawyer shall be bound by any representation made therein for a reasonable period of time after publication, but in no event less than 90 days.
(n) Unless otherwise specified, if a lawyer broadcasts any fee information authorized under this Rule, the lawyer shall be bound by any representation made therein for a period of not less than 30 days after such broadcast.

Pennsylvania Rule 7.2(h): A lawyer who advertises a specific fee or range of fees for a particular service shall honor the advertised fee or fee range for at least ninety (90) days following dissemination of the advertisement, unless the advertisement specifies a shorter period; provided that a fee advertised in a publication which is issued not more than annually, shall be honored for one (1) year following publication.

South Dakota Rule 7.2(g)(2): A lawyer who advertises a specific fee, range of fees or hourly rate for a particular service shall honor the advertised fee or rate for at least ninety (90) days unless the advertisement conspicuously specifies a shorter period; provided, 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 one year following publication.

Texas Rule 7.04(i): A lawyer who advertises in the public media a specific fee or range of fees for a particular service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period; but in no instance is the lawyer bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication.

Disclosure of Liability For Expenses Other Than Fees (Louisiana)

Louisiana Rule 7.2(c)(6): 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 costs and/or expenses in addition to the fee.

Prohibition or Restriction on Paying for Ads of Another Lawyer (Colorado, Connecticut, Florida, Louisiana, Missouri, Pennsylvania, South Carolina, South Dakota, Texas)

Colorado Rule 7.1(b): No lawyer shall, directly or indirectly, pay all or a part of the cost of communications concerning a lawyer's services by a lawyer not in the same firm unless the communication discloses the name and address of the non-advertising lawyer, the relationship between the advertising lawyer and the non-advertising lawyer, and whether the advertising lawyer may refer any case received through the advertisement to the non-advertising lawyer.

Connecticut Rule 7.2(h): No lawyers shall, directly or indirectly pay all or part of the cost of an advertisement by a lawyer not in the same firm unless the advertisement discloses the name and address of the nonadvertising lawyer, and whether the advertising lawyer may refer any case received through the advertisement to the nonadvertising lawyer.

Florida Rule 4-7.2(c)(12): 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

Louisiana Rule 7.2(c)(11): 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.

Missouri Rule 7.2(d): A lawyer may not, directly or indirectly, pay all or a part of the cost of an advertisement in the public media unless such advertisement discloses the name and address of the financing lawyer, the relationship between the advertising lawyer and the financing lawyer, and whether the advertising lawyer is likely to refer cases received through the advertisement to the financing lawyer.

Pennsylvania Rule 7.2(j): A lawyer shall not, directly or indirectly (whether through an advertising cooperative or otherwise), pay all or any part of the costs of an advertisement by a lawyer not in the same firm or by any for-profit entity other than the lawyer's firm, unless the advertisement discloses the name and principal office address of each lawyer or law firm involved in paying for the advertisement and, if any lawyer or law firm will receive referrals from the advertisement, the circumstances under which referrals will be made and the basis and criteria on which the referral system operates.

South Carolina Rule 7.2(e): 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 unless the advertisement discloses the name and address of the nonadvertising lawyer, the relationship between the advertising lawyer and the nonadvertising lawyer, and whether the advertising lawyer may refer any case received through the advertisement to the nonadvertising lawyer.

South Dakota Rule 7.2(e): Prohibited Cost Sharing.

No lawyer shall, directly or indirectly, pay all or part of the cost of an advertisement by another lawyer with whom the nonadvertising lawyer is not associated in a partnership, professional corporation or limited liability company for the practice of law, unless the advertisement conspicuously discloses the name and address of the nonadvertising lawyer, and conspicuously discloses whether the advertising lawyer contemplates referring all or any part of the representation of a client obtained through the advertisement to the nonadvertising lawyer.

Texas Rule 7.04(k): A lawyer may not, directly or indirectly, pay all or a part of the cost of an advertisement in the public media for a lawyer not in the same firm unless such advertisement discloses the name and address of the financing lawyer, the relationship between the advertising lawyer and the financing lawyer, and whether the advertising lawyer is likely to refer cases received through the advertisement to the financing lawyer.

Prohibition or Restriction on Advertising or Soliciting Employment Where Lawyer Intends to Refer Matter (Louisiana, Missouri, Montana, New York, Ohio)

Louisiana Rule 7.2(c)(12): Referrals to Another Lawyer. If the case or matter will be, or is likely to be, referred to another lawyer or law firm, the communication shall include a statement so advising the prospective client.

Louisiana Rule 7.4(b)(2)(D): If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, any unsolicited written communication concerning a specific matter shall include a statement so advising the client.

Missouri Rule 4-7.1(g): A communication is false or misleading if it indicates an area of practice where the lawyer routinely refers matters to other lawyers, without conspicuous identification of such fact.

Montana Rule 7.1(g): A misleading communication includes, but is not limited to those that: indicates an area of practice where the lawyer routinely refers matters to other lawyers, without conspicuous identification of such fact.

New York Rule 7.3(a)(2)(v): A lawyer shall not engage in solicitation by any form of communication if the lawyer intends or expects, but does not disclose, that the legal services necessary to handle the matter competently will be performed primarily by another lawyer who is not affiliated with the soliciting lawyer as a partner, associate or of counsel.

Ohio Rule 7.2(d): A lawyer shall not seek employment in connection with a matter in which the lawyer or law firm does not intend to participate actively in the representation, but that the lawyer or law firm intends to refer to other counsel. This provision shall not apply to organizations listed in Rules 7.2(b)(2) or (3) or if the advertisement is in furtherance of a transaction permitted by Rule 1.17.

Payment for Recommendations: Lawyer Referral Service Fees (Louisiana)

Louisiana Rule 7.2(c)(13)(A): (A) A lawyer may pay the usual, reasonable and customary charges of a lawyer referral service operated by the Louisiana State Bar Association, any local bar association, or any other not-for-profit organization, provided the lawyer referral service:

(i) refers all persons who request legal services to a participating lawyer;

(ii) prohibits lawyers from increasing their fee to a client to compensate for the referral service charges; and

(iii) fairly and equitably distributes referral cases among the participating lawyers, within their area of practice, by random allotment or by rotation.

Restrictions on Advertising Cooperative or Venture (Texas)

Texas Rule 7.04(o): A lawyer may not advertise in the public media as part of an advertising cooperative or venture of two or more lawyers not in the same firm unless each such advertisement:
(1) states that the advertisement is paid for by the cooperating lawyers;
(2) names each of the cooperating lawyers;
(3) sets forth conspicuously the special competency requirements required by Rule 7.04(b) of lawyers who advertise in the public media;
(4) does not state or imply that the lawyers participating in the advertising cooperative or venture possess professional superiority, are able to perform
services in a superior manner, or possess special competence in any area of law advertised, except that the advertisement may contain the information permitted by Rule 7.04(b)(2); and
(5) does not otherwise violate the Texas Disciplinary Rules of Professional Conduct.

(p) Each lawyer who advertises in the public media as part of an advertising cooperative or venture shall be individually responsible for:
(1) ensuring that each advertisement does not violate this Rule; and
(2) complying with the filing requirements of Rule 7.07.

Omits "Qualified Lawyer Referral Service" from Rule 7.2(b)(2) (Washington)

Washington Rule 7.2(b)(2): A lawyer shall not five anything of value to a person for recommending the lawyer's services except that a lawyer may pay the usual charges of a legal service plan or a not-for-profit lawyer referral service.

Omits ABA Model Rule 7.2(b)(4) Regarding Reciprocal Referral Agreements
(Alabama, Arizona, California, Connecticut, Georgia, Hawaii, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wyoming)

ABA Model Rule 7.2(b)(4): A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:

(4) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and

(ii) the client is informed of the existence and nature of the agreement.

Omits Portion of Rule 7.2(b)(4) that Allows Lawyers to Enter into Reciprocal Referral Agreements with Nonlawyer Professionals (Washington)

<u>Requirements for Lawyers in Telephone and City Directories</u> (Iowa)

Iowa Rule 32:7.2(c): Subject to the limitations contained in these rules, a lawyer licensed to practice law in Iowa may permit the inclusion of the lawyer's name, address, telephone number, and designation as a lawyer, in a telephone or city directory, subject to the following requirements:

(1) Only a lawyer's name, address, telephone number, and designation as a lawyer may be alphabetically listed in the residential, business, and classified sections of the telephone or city directory.

(2) Listings in the classified section shall be under the general heading "Lawyers" or "Attorneys," except that a lawyer who has complied with rule 32:7.4(e) may be listed in classifications or headings identifying those fields or areas of practice as listed in rule 32:7.4(a). By further exception, a lawyer qualified under rule 32:7.4 to practice in the field of taxation law also may be listed under the general heading "Tax Preparation" or "Tax Return Preparation" either in lieu of or in addition to the general heading "Lawyers" or "Attorneys."

(3) All other telephone or city directory advertising permitted by these rules, including display or box advertisements, shall include the disclosures required by paragraph (h) when applicable.

Iowa Rule 32:7.2(d): Subject to the limitations contained in these rules, a law firm may permit the inclusion of the firm name, address, and telephone number in a telephone or city directory, subject to the following requirements:

(1) The firm name, a list of its members, address, and telephone number may be listed alphabetically in the residential, business, and classified sections of the telephone or city directory.

(2) Listings in the classified section shall be under the general heading "Lawyers" or "Attorneys," except that a law firm may be listed in each of the classifications or heading identifying those fields or areas of practice as listed in rule 32:7.4(a) in which one or more members of the firm are qualified by virtue of compliance with rule 32:7.4(e).

(3) All other telephone or city directory advertising permitted by these rules, including display or box advertising, may contain the firm name, address, and telephone number, and the names of the individual lawyer members of the firm. All display or box advertisements shall include within the advertisement the disclosures required by paragraph (h) when applicable.

<u>Restrictions for Radio and Television Ads</u> (Florida, Iowa, Louisiana)

Florida Rule 4-7.5(b): 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.

Iowa Rule 32:7.2(e): Information permitted by these rules, articulated only by a single nondramatic voice, not that of the lawyer, and with no other background sound, may be communicated by radio or television, or other electronic or telephonic media. In the case of television, no visual display shall be allowed except that allowed in print as articulated by the announcer. All such communications shall contain the disclosures required by paragraph (h) when applicable.

Louisiana Rule 7.5(b): 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, including, but not limited to, background sounds, that is false, misleading or deceptive; or

(B) lawyers who are not members of the advertising law firm speaking on behalf of the advertising lawyer or law firm.

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

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

(B) a lawyer who is a member of the advertising firm personally appearing 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;

<u>Television Advertisements—Requirements for Name and Contact Information of Lawyer</u> (Connecticut)

Connecticut Rule 7.2(d): In the case of television advertisements, the name, address and telephone number of the lawyer admitted in Connecticut shall be displayed in bold print for fifteen seconds or the duration of the commercial, whichever is less, and shall be prominent enough to be readable.

<u>Requirements for Electronic Media and Computer-Accessed Communications</u> (Arizona, Florida, Louisiana)

Arizona Rule 7.2(e): Advertisements on the electronic media may contain the same information as permitted in advertisements in the print media. If a law firm advertises on electronic media and a person appears purporting to be a lawyer, such person shall in fact be a lawyer employed full-time at the advertising law firm. If a law firm advertises a particular legal service on electronic media, and a lawyer appears as the person purporting to render the service, the lawyer appearing shall be the lawyer who will actually perform the service advertised unless the advertisement discloses that the service may be performed by other lawyers in the firm.

Florida 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 websites, unsolicited electronic mail communications, and information concerning a lawyer's or law firm's services that appears on Internet search engine screens and elsewhere.

(b) Internet Presence. All websites 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 subject to the requirements of rule 4-7.2.
(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 rule 4-7.2 and subdivisions (b)(1), (b)(2)(A), (b)(2)(D), (b)(2)(E), (b)(2)(F), (b)(2)(G), (b)(2)(H), and (b)(2)(I) 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 begins with "LEGAL ADVERTISEMENT."
(d) Advertisements. All unsolicited computer-accessed communications concerning a lawyer's or law firm's services not addressed by other provisions of this rule are subject to the requirements of rule 4-7.2.

Louisiana Rule 7.6: (a) Definition. For purposes of these Rules, "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, sponsored, or authorized 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 one or more bona fide office location(s) of the lawyer or law firm or, in the absence of a bona fide office, the city or town of the lawyer's primary registration statement address, in accordance with subdivision (a)(2) of Rule 7.2; and

(3) are considered to be information provided upon request and, therefore, are otherwise governed by the requirements of Rule 7.9.
(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)(B)(i), (b)(2)(C), (b)(2)(D), (b)(2)(E) and (b)(2)(F) of Rule 7.4 are met;

(2) the communication discloses one or more bona fide office location(s) of the lawyer or lawyers who will actually perform the services advertised or, in the absence of a bona fide office, the city or town of the lawyer's primary registration statement address, in accordance with subdivision (a)(2) of Rule 7.2; and

(3) the subject line of the communication states "LEGAL ADVERTISEMENT." This is not required for electronic mail communications sent only to other lawyers.
(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 7.2 when a significant motive for the lawyer's doing so is the lawyer's

Requirements for Font Size, etc. for Fees Stated (Iowa, Kentucky)

Iowa Rule 32:7.2(h)(2): If fixed fees or a range of fees for specific legal services are communicated, the lawyer must disclose, in print size at least equivalent to the largest print used in setting forth the fee information, the following information:

(i) that the stated fixed fees or range of fees will be available only to clients whose matters are encompassed within the described services; and
(ii) if the client's matters are not encompassed within the described services, or if an hourly fee rate is stated, the client is entitled, without obligation, to a specific written estimate of the fees likely to be charged.

Kentucky SCR 3.130(7.05)(1)(a)(23): Range of fees for services, provided that the statement discloses that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged, in print size equivalent to the largest print used in setting forth the fee information.

(24) Hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client and the client is entitled to without obligation an estimate of the fee likely to be charged, in print size at least equivalent to the largest print used in setting forth the fee information.

Limitations on Term "Specific Legal Services" (Iowa)

Iowa Rule 32:7.2(h)(3): For purposes of these rules, the term "specific legal services" shall be limited to the following services:

(i) abstract examinations and title opinions not including services in clearing title;
(ii) uncontested dissolutions of marriage involving no disagreement concerning custody of children, alimony, child support, or property settlement. *See* rule 32:1.7(c);
(iii) wills leaving all property outright to one beneficiary and contingently to one beneficiary or one class of beneficiaries;
(iv) income tax returns for wage earners;
(v) uncontested personal bankruptcies;
(vi) changes of name;
(vii) simple residential deeds;
(viii) residential purchase and sale agreements;
(ix) residential leases;
(x) residential mortgages and notes;
(xi) powers of attorney;
(xii) bills of sale; and
(xiii) limited representation as authorized by rule 32:1.2(c).

"Clear and Conspicuous" Requirement (Arizona, Louisiana)

Arizona Rule 7.2(f): Communications required by paragraphs (c) and (d) shall be clear and conspicuous. To be "clear and conspicuous" a communication must be of such size, color,

Louisiana Rule 7.2(c)(10): All disclosures and disclaimers required by these Rules shall be clear and conspicuous. Written disclosures and disclaimers shall use a print size at least as large as the largest print size used in the advertisement or unsolicited written communication, and, if televised or displayed electronically, shall be displayed for a sufficient time to enable the viewer to easily see and read the disclosure or disclaimer. Spoken disclosures and disclaimers shall be plainly audible and spoken at the same or slower rate of speed as the other spoken content of the advertisement. All disclosures and disclaimers used in advertisements that are televised or displayed electronically shall be both spoken aloud and written legibly.

Restrictions on Advertising Existence of Office Other than Principal Office (Missouri, Montana, Texas)

Missouri Rule 4-7.1(j): A communication is misleading if it provides an office address for an office staffed only part-time or by appointment only, without conspicuous identification of such fact.

Montana Rule 7.1(j): A misleading communication includes, but is not limited to those that: provides an office address for an office staffed only part-time or by appointment only, without conspicuous identification of such fact.

Missouri Rule 4-7.2(e): A lawyer or law firm shall not advertise the existence of any office other than the principal office unless:

(1) that other office is staffed by a lawyer at least three days a week, or
(2) the advertisement states:
  (A) the days and times during which a lawyer will be present at that office, or
  (B) That meeting with lawyers will be by appointment only.

Missouri Rule 4-7.2(g): The disclosures required by Rule 4-7.2(e) and (f) need not be made if the information communicated is limited to the following:

(1) the name of the law firm and names of the lawyers in the firm;
(2) one or more fields of law in which the lawyer or law firm practices;
(3) the date and place of admission to the bar of state and federal court; and
(4) the address, including e-mail and web site address, telephone number, and office hours.

Texas Rule 7.04(j): A lawyer or firm who advertises in the public media must disclose the geographic location, by city or town, of the lawyer's or firm's principal office. A lawyer or firm shall not advertise the existence of any office other than the principal office unless:

(1) that other office is staffed by a lawyer at least three days a week; or
(2) the advertisement states:
  (i) the days and times during which a lawyer will be present at that office, or
  (ii) that meetings with lawyers will be by appointment only.

Required Disclosure Regarding Importance of Selecting a Lawyer (Missouri)

Missouri Rule 4-7.2(f): Any advertisement or communication mad pursuant to this Rule 4-7.2, other than written solicitations governed by the disclosure rules of Rule 4-7.3(b), shall contain the

following conspicuous disclosure: "The choice of a lawyer is an important decision and should not be based solely upon advertisement.

Missouri Rule 4-7.2(g): The disclosures required by Rule 4-7.2(e) and (f) need not be made if the information communicated is limited to the following:

(1) the name of the law firm and names of the lawyers in the firm;
(2) one or more fields of law in which the lawyer or law firm practices;
(3) the date and place of admission to the bar of state and federal court; and
(4) the address, including e-mail and web site address, telephone number, and office hours.

<u>Exception for Non-Profit Organizations</u> (Louisiana, Wyoming)

Louisiana Rule 7.1(c): Publications, educational materials, websites and other communications by lawyers on behalf of non-profit organizations that are not motivated by pecuniary gain are not advertisements or unsolicited written communications within the meaning of these Rules.

Wyoming Rule 7.2(k): This rule shall not apply to public service advertisements disseminated by the Wyoming State Bar, Wyoming Trial Lawyers or other non-profit associations.

<u>Aspirational Goals</u> (Maine)

Maine Rule 7.2-A: These aspirational goals are intended to provide suggested objectives that all lawyers who engage in advertising their services should be encouraged to achieve in order that lawyer advertising may be more effective and reflect the professionalism of the legal community.

(a) A lawyer should ensure that any advertising that the lawyer communicates or causes to be communicated by publication, broadcast, or other media is informative to potential clients, is presented in an understandable and dignified fashion, and accurately portrays the serious purpose of legal services and our judicial system. When advertising, though not false or misleading, degenerates into undignified and unprofessional presentations, the public is not served, the reputation of the lawyer who advertises may suffer, and the public's confidence in the legal profession and the judicial system may be harmed. Lawyers who advertise should recognize their obligation to advance the public's confidence in the legal profession and our system of justice. In furtherance of these goals, lawyers who advertise should:

(1) avoid statements, claims, or comparisons that cannot be objectively substantiated;

(2) avoid representations that demean opposing parties, opposing lawyers, the judiciary, or others involved in the legal process;

(3) avoid crass representations or dramatizations, hawkish spokespersons, slapstick routines, outlandish settings, unduly dramatic music, sensational sound effects, and unseemly slogans that undermine the serious purpose of legal services and the judicial system;

(4) avoid representations to potential clients that suggest promises of results or will create unjustified expectations such as "guaranteed results" or "we get top dollar awards";

(5) clearly identify the use of professional actors or other spokespersons who may not be providing the legal services advertised unless it is readily apparent from the context of the advertisement that the actor or spokesperson does not provide the advertised legal services (e.g., a radio advertisement in which the speaker does not purport to be the lawyer or a member of the firm);

(6) avoid the use of simulated scenes, actors who portray lawyers, clients or participants in the judicial system, and dramatizations unless they are clearly identified as such;

(7) avoid representations that suggest that the ingenuity or prior record of a lawyer, rather than the merits of the claim, are the principal factors likely to determine the outcome of the representation; and

(8) avoid representations designed to appeal to greed, exploit the fears of potential clients, or promote a suggestion of violence.

(b) The responsibilities set forth in this Rule are aspirational and not to be enforced through disciplinary process.

ABA MODEL RULE 7.3

Direct Contact with Prospective Clients

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

(1) is a lawyer; or

(2) has a family, close personal, or prior professional relationship with the lawyer.

(b) A lawyer shall not solicit professional employment from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if:

(1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; or

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

(c) Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2).

(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_7_3_direct_contact_with_prospective_clients.html

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DIFFERENCES IN STATE ADVERTISING RULES

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Prohibits Contact With Prospective Client Through a Third Person (Florida, Louisiana, Washington)

Florida Rule 4-7.4(a): Solicitation. Except as provided in subdivision (b) of this rule, ... A lawyer shall not permit employees or agents of the lawyer to solicit on the lawyer's behalf.

Louisiana Rule 7.4(a): 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 lawyer-client relationship, in person, by person to person verbal telephone contact, through others acting at the lawyer's request or on the lawyer's behalf 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.

Washington Rule 7.3(a): A lawyer shall not, directly or a third person, by in-person or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain.

Restrictions on Direct Solicitation of Client Whom Lawyer "Reasonably Believes" Needs Legal Services (Ohio)

Ohio Rule 7.3(c): Unless the recipient of the communication is a person specified in division (1)(1) or (2) of this rule, every written, recorded, or electronic communication from a lawyer soliciting professional employment from a prospective client whom the lawyer reasonably believes to be in need of legal services in a particular matter shall comply with all of the following: (1) Disclose accurately and fully the manner in which the lawyer or law firm became aware of the identity and specific legal need of the addressee; (2) Disclaim or refrain from expressing any predetermined evaluation of the merits of the addressee's case.

Prohibition on Paying Someone Outside of Firm to Solicit Clients through In-Person Contact (District of Columbia)

District of Columbia Rule 7.1(b)(2): A lawyer shall not give anything of value to a person (other than the lawyer's partner or employee) for recommending the lawyer's services through in-person contact.

Physical, Emotional or Mental State of Person Being Solicited or Person is a Minor (Alabama, California, Connecticut, District of Columbia, Florida, Hawaii, Indiana, Louisiana, Massachusetts, Montana, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Wisconsin)

Alabama Rule 7.3(b)(1)(vi): A lawyer shall not send, or knowingly permit to be sent, on a lawyer's behalf or on behalf of the lawyer's firm or on behalf of a partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication to a prospective client for the purpose of obtaining professional employment if the lawyer knows or reasonably should know that the person to whom the communication is addressed is a minor or is incompetent, or that the person's physical, emotional, or mental state makes it unlikely that the person would exercise reasonable judgment in employing a lawyer.

California Rule 1-400(Standards)(3): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in Rule 1-400(A) which are presumed to be in violation of Rule 1-400: A "communication" which is delivered to a potential client who the member knows or should reasonable know is in such a physical, emotional, or mental state that he or she would not be expected to exercise reasonable judgment as to the retention of counsel.

Connecticut Rule 7.3(b)(1): A lawyer shall not contact, or send, a written or electronic communication to, a prospective client, for the purpose of obtaining professional employment if: (1) 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.

District of Columbia Rule 7.1(b)(1)(C): A lawyer shall not seek in-person contact, employment (or employment of a partner or associate) by a nonlawyer who has not sought the lawyer's advice regarding employment of a lawyer, if: (C) The potential client is apparently in a physical or mental condition which would make it unlikely that the potential client could exercise reasonable, considered judgment as to the selection of a lawyer.

Florida Rule 4-7.4(b)(1)(F): 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 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.

Hawaii Rule 7.3(e)(2): A lawyer shall not solicit professional employment from a prospective client on the lawyer's behalf or on behalf of anyone associated with the lawyer if: (2) the lawyer knows or 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.

Indiana Rule 7.3(b)(5): A lawyer shall not solicit professional employment from a prospective client by in-person or by written, recorded, audio, video, or electronic communication, including the Internet, if: 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.

Louisiana Rule 7.4(b)(1)(e): 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 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.

Massachusetts Rule 7.3(b)(1): A lawyer shall not solicit professional employment if: (1) the lawyer knows or reasonably should know that the physical, mental, or emotional state of the prospective client is such that there is a substantial potential that the person cannot exercise reasonable judgment in employing a lawyer, provided, however, that this prohibition shall not apply to solicitation not for a fee.

Montana Rule 7.3(b)(3): A lawyer shall not solicit professional employment from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if the lawyer knows or reasonably should know that the physical, emotional or mental state of the person is such that the person cannot exercise reasonable judgment in employing a lawyer.

New Hampshire Rule 7.3(b)(3): A lawyer shall not communicate or knowingly permit any communication to a prospective client for the purpose of obtaining professional employment if the lawyer knows or reasonably should know that the physical, mental, or emotional state of the prospective client is such that there is a substantial potential that the person cannot exercise reasonable judgment in employing a lawyer.

New Jersey Rule 7.3(b)(1): A lawyer shall not contact, or send a written communication to, a prospective client for the purpose of obtaining professional employment if: the lawyer knows or reasonably should know that the physical, emotional or mental state of the person is such that the person could not exercise reasonable judgment in employing a lawyer.

New York Rule 7.3(a)(2)(iv): A lawyer shall not engage in solicitation: (2) by any form of communication if: (iv) the lawyer knows or reasonably should know that the age or the physical, emotional or mental state of the recipient makes it unlikely that the recipient will be able to exercise reasonable judgment in retaining a lawyer.

Oregon Rule 7.3(b)(1): A lawyer shall not solicit professional employment from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if the lawyer knows or reasonably should know that the physical, emotional or mental state of the prospective client is such that the person could not exercise reasonable judgment in employing a lawyer.

Pennsylvania Rule 7.3(b)(1): A lawyer may contact, or send a written communication to, a prospective client for the purpose of obtaining professional employment unless the lawyer knows or reasonably should know that the physical, emotional or mental state of the person is such that the person could not exercise reasonable judgment in employing a lawyer.

Rhode Island Rule 7.3(b)(4): A lawyer shall not solicit professional employment from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if 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.

South Carolina Rule 7.3(b)(5): A lawyer shall not solicit professional employment from a prospective client by direct written, recorded or electronic communication or by in-person, telephone, telegraph, facsimile or realtime electronic contact even when not otherwise prohibited by paragraph (a), if 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.

Virginia Rule 7.3(a)(2): A lawyer shall not, by in-person communication, solicit employment as a private practitioner for the lawyer, a part n e r, or associate or any other lawyer affiliated with the lawyer or the firm from a non-lawyer who has not sought advice regarding employment of a lawyer if such communication has a substantial potential for or involves the use of coercion, duress, compulsion, intimidation, threats, unwarranted promises of benefits, over persuasion, overreaching, or vexatious or harassing conduct, taking into account the sophistication regarding legal matters, the physical, emotional or mental state of the person to whom the communication is directed and the circumstances in which the communication is made.

Wisconsin Rule 20:7.3(b)(1): A lawyer shall not by in-person or live telephone or real-time electronic contact even when not otherwise prohibited by par. (a) if 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.

Number of Days After Event and Before Solicitation (e.g. Disaster, Personal Injury, Wrongful Death) (Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Indiana, Kentucky, Louisiana, Michigan, Missouri, Nevada, New Jersey, New York, South Carolina, Tennessee, Wyoming)

Alabama Rule 7.3(b)(1)(i): A lawyer shall not send, or knowingly permit to be sent, on a lawyer's behalf or on behalf of the lawyer's firm or on behalf of a partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication to a

prospective client for the purpose of obtaining professional employment if: the written communication concerns an action for personal injury or wrongful death arising out of, or otherwise related 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 giving rise to the cause of action occurred more than thirty (30) days before to the mailing of the communication.

Arizona Rule E.R. 7.3(b)(3): A lawyer shall not solicit professional employment or knowingly permit solicitation on the lawyer's behalf from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if: the solicitation relates to a personal injury or wrongful death and is made within thirty (30) days of such occurrence.

Arkansas Rule 7.3(c): In death claims, the written communication permitted by paragraph (b) shall not be sent until 30 days after the accident.

Colorado Rule 7.3(c): A lawyer shall not solicit professional employment from a prospective client believed to be in need of legal services which arise out of the personal injury or death of any person by written, recorded, or electronic communication. This provision shall not apply if the lawyer has a family or prior professional relationship with the prospective client, or if the communication is issued more than 30 days after the occurrence of the event for which the legal representation is being solicited.

Connecticut Rule 7.3(b)(5): A lawyer shall not contact, or send, a written or electronic communication to, a prospective client, for the purpose of obtaining professional employment if: (5) The written or electronic communication concerns an action for personal injury or wrongful death or otherwise related 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 forty days prior to the mailing of the communication.

Florida Rule 4-7.4(b)(1)(A): 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 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.

Georgia Rule 7.3(a)(3): A lawyer shall not send, or knowingly permit to be sent, on behalf of the lawyer, the lawyer's firm, lawyer's partner, associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication to a prospective client for the purpose of obtaining professional employment if: 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

Hawaii Rule 7.3(e)(1): A lawyer shall not solicit professional employment from a prospective client on the lawyer's behalf or on behalf of anyone associated with the lawyer if: (1) the communication concerns an action for personal injury or wrongful death involving the person to whom the communication is addressed or a relative of that person, unless the personal

injury or wrongful death occurred more than thirty (30) days prior to the sending of the communication.

Indiana Rule 7.3(b)(3): A lawyer shall not solicit professional employment from a prospective client by in-person or by written, recorded, audio, video, or electronic communication, including the Internet, if: the solicitation concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the solicitation is addressed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the initiation of the solicitation.

Kentucky Rule SCR 3.130(7.09)(4): Any communication pursuant to Rule 7.09(3) shall be sent to those prospective clients who have been involved in a disaster as defined in SCR 3.130(7.60) Article III (1) only after thirty (30) days have elapsed from the occurrence of the disaster.

Louisiana Rule 7.4((b)(1)(A): 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 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 thirty days prior to the mailing of the communication.

Michigan Rule 7.3(c)(2): If the written solicitation concerns an action, or potential claim, that pertains to the person to whom a communication is directed, or a relative of such person, the communication shall not be transmitted less than 30 days after the injury, death, or accident occurred that has given rise to the action or potential claim.

Missouri Rule 4-7.3(c)(4): A lawyer shall not send, nor knowingly permit to be sent, on behalf of the lawyer, the lawyer's firm, the lawyer's partner, an associate or any other lawyer affiliated with the lawyer or the lawyer's firm a written solicitation to any prospective client for the purpose of obtaining professional employment if the written solicitation concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person solicited or a relative of that person if the accident or disaster occurred less than 30 days prior to the solicitation or if the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person solicited makes it unlikely that the person would exercise reasonable judgment in employing a lawyer.

Nevada Rule 7.3(d) Target mail to prospective clients. Written communication directed to a specific prospective client who may need legal services due to a particular transaction or occurrence is prohibited in Nevada within 45 days of the transaction or occurrence giving rise to the communication. After 45 days following the transaction or occurrence, any such communication must comply with paragraphs (b) and (c) of this rule and must comply with all other Rules of Professional Conduct.

New Jersey Rule 7.3(b)(4): A lawyer shall not contact, or send a written communication to, a prospective client for the purpose of obtaining professional employment if (4) the communication involves unsolicited direct contact with a prospective client within thirty days after a specific mass-disaster event, when such contact concerns potential compensation arising from the event.

New York Rule 7.3(e): No solicitation relating to a specific incident involving potential claims for personal injury or wrongful death shall be disseminated before the 30th day after the date of the incident, unless a filing must be made within 30 days of the incident as a legal prerequisite to the particular claim, in which case no unsolicited communication shall be made before the 15th day after the date of the incident.

New York Rule 4.5(a) & (b):
(a) In the event of an incident involving potential claims for personal injury or wrongful death, no solicited communication shall be made to an individual injured in the incident or to a family member or legal representative of such an individual, by a lawyer or law firm, or by any associate, agent, employee, or other representative of a lawyer or law firm representing actual or potential defendants or entities that may defend and/or indemnify said defendants, before the 30th day after the date of the incident, unless a filing must be made within 30 days of the incident as a legal prerequisite to the particular claim, in which case no unsolicited communication shall be made before the 15th day after the date of the incident.
(b) An unsolicited communication by a lawyer or law firm, seeking to represent an injured individual or the legal representative thereof under the circumstance described in paragraph (a) shall comply with Rule 7.3(e).

South Carolina Rule 7.3(b)(3): A lawyer shall not solicit professional employment from a prospective client by direct written, recorded or electronic communication or by in-person, telephone, telegraph, facsimile or realtime electronic contact even when not otherwise prohibited by paragraph (a), if the solicitation concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person solicited or a relative of that person unless the accident or disaster occurred more than thirty (30) days prior to the solicitation.

Tennessee Rule 7.3(b)(3): A lawyer shall not solicit professional employment from a potential client by written, recorded, or electronic communication or by in-person, live telephone, or real-time electronic contact even when not otherwise prohibited by paragraph (a), if a significant motive for the solicitation is the lawyer's pecuniary gain and the communication concerns an action for personal injury, worker's compensation, wrongful death, or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a member of that person's family, unless the accident or disaster occurred more than thirty (30) days prior to the mailing or transmission of the communication or the lawyer has a family, close personal, or prior professional relationship with the person solicited.

Wyoming Rule 7.3(d): Any targeted communication to prospective clients by a lawyer in person, contact through a third party at the direction of the lawyer, by telephone, or real-time electronic contact is prohibited. Written communication by telegraph, facsimile, by mail or other writing, electronic communication or by any other means of communication directed to a specific prospective client with whom the lawyer has no family or prior professional relationship, who may need legal services due to a specific occurrence, is prohibited within thirty (30) days of the occurrence. After the thirty (30) days have elapsed exclusive of the day of the occurrence, written communication may be directed to a specific prospective client, but such written communication must comply with Rule 7.1 and 7.3(c).

<u>Communication Concerning Injunction for Protection against Physical Violence</u> (Florida)

Florida Rule 4.74(b)(1)(G): 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 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.

Solicitation Sent Within 30 Days of Accident or Disaster Must Include "Understanding Your Rights" Statement (Ohio)

Ohio Rule 7.3(e): If a communication soliciting professional employment from a prospective client or a relative of a prospective client is sent within thirty days of an accident or disaster that gives rise to a potential claim for personal injury or wrongful death, the following "Understanding Your Rights" must be enclosed with the communication. [For the "Understanding Your Rights" statement, see http://www.sconet.state.oh.us/Atty-Svcs/ProfConduct/rules/default.asp#Rule7_3]

Person Solicited is Represented by Counsel (Alabama, Arkansas, Colorado, Connecticut, Florida, Indiana, Missouri, Rhode Island, South Carolina)

Alabama Rule 7.3(b)(1)(ii): A lawyer shall not send, or knowingly permit to be sent, on a lawyer's behalf or on behalf of the lawyer's firm or on behalf of a partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication to a prospective client for the purpose of obtaining professional employment if 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.

Arkansas Rule 7.3(e)(3): Even when otherwise permitted by this rule, a lawyer shall not solicit professional employment from a prospective client by written or recorded communication or by in-person or telephone contact if: (3) the prospective client is known to the lawyer to be represented in connection with the matter concerning the solicitation by counsel, except where the prospective client has initiated the contact with the lawyer.

Colorado Rule 7.3(c)(1): A lawyer shall not solicit professional employment from a prospective client believed to be in need of legal services which arise out of the personal injury or death of any person by written, recorded, or electronic communication. This provision shall not apply if the lawyer has a family or prior professional relationship with the prospective client, or if the communication is issued more than 30 days after the occurrence of the event for which the legal representation is being solicited. Any such communication must comply with the following:

(1) no such communication may be made if the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter.

Connecticut Rule 7.3(b)(4): A lawyer shall not contact, or send, a written or electronic communication to, a prospective client, for the purpose of obtaining professional employment if: (4) 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.

Florida Rule 4-7.4(b)(1)(B): 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 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.

Indiana Rule 7.3(b)(4): A lawyer shall not solicit professional employment from a prospective client by in-person or by written, recorded, audio, video, or electronic communication, including the Internet, if: the solicitation concerns a specific matter and the lawyer knows, or reasonably should know, that the person to whom the solicitation is directed is represented by a lawyer in the matter.

Missouri Rule 4-7.3(b)(9): A lawyer shall not send a written solicitation regarding a specific matter if the lawyer knows or reasonably should know that the person to whom the solicitation is directed is represented by a lawyer in the matter.

Rhode Island Rule 7.3(b)(5): A lawyer shall not solicit professional employment from a prospective client by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if the 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.

South Carolina Rule 7.3(b)(4): A lawyer shall not solicit professional employment from a prospective client by direct written, recorded or electronic communication or by in-person, telephone, telegraph, facsimile or realtime electronic contact even when not otherwise prohibited by paragraph (a), if the solicitation concerns a specific matter and the lawyer knows, or reasonably should know, that the person solicited is represented by a lawyer in the matter.

<u>Person Solicited Represented by Counsel and Incarcerated</u> (District of Columbia)

District of Columbia Rule 7.1(e): Any lawyer or person acting on behalf of a lawyer who solicits or invites or seeks to solicit any person incarcerated at the District of Columbia Jail, the Correctional Treatment Facility or any District of Columbia juvenile detention facility for the purpose of representing that person for a fee paid by or on behalf of that person or under the Criminal Justice Act, D.C. Code Ann. § 11-2601 (2001) *et seq.*, in any then-pending criminal case in which that person is represented, must provide timely and adequate notice to the person's then-current lawyer prior to accepting any fee from or on behalf of the incarcerated person.

<u>Requiring Statement That If Recipient Has Representation Then Please Disregard</u> (Alabama, Arkansas, Connecticut, Florida, Missouri, Tennessee)

Alabama Rule 7.3(b)(2)(vii): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: (vii) the first sentence of the written communication shall state: "If you have already hired or retained a lawyer in connection with [state the general subject matter of the solicitation], please disregard this letter [pamphlet, brochure, or written communication]."

Arkansas Rule 7.3(b)(5): Notwithstanding the prohibitions described in Paragraph (a), a lawyer may solicit professional employment from a prospective client known to be in need of legal services in a particular matter by written communication. Such written communication shall: (5) begin with the statement that "If you have already retained a lawyer, please disregard this letter."

Connecticut Rule 7.3(d): The first sentence of any written communication concerning a specific matter shall be: "If you have already retained a lawyer for this matter, please disregard this letter."

Florida Rule 4-7.4(b)(2)(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."

Missouri Rule 4-7.3(b)(3) Written Solicitation. A lawyer may initiate written solicitations to an existing or former client, lawyer, friend or relative without complying with the requirements of this Rule 4-7.3(b). Written solicitations to others are subject to the following requirements: (3) each written solicitation must include the following: "Disregard this solicitation if you have already engaged a lawyer in connection with the legal matter referred to in this solicitation. You may wish to consult your lawyer or another lawyer instead of me (us). The exact nature of your legal situation will depend on many facts not known to me (us) at this time. You should understand that the advice and information in this solicitation is general and that your own situation may vary. This statement is required by rule of the Supreme Court of Missouri."

Tennessee Rule 7.3(c)(6)(iii): Any communication seeking employment by a specific potential client in a specific matter shall comply with the following additional requirements: (iii) The first sentence of the communication shall state, "IF YOU HAVE ALREADY HIRED OR RETAINED A LAWYER IN THIS MATTER, PLEASE DISREGARD THIS MESSAGE."

Omits ABA Model Rule 7.3(a)(1), which Permits Direct Contact with Prospective Client Who is a Lawyer (Alabama, Arkansas, California, Connecticut, Georgia, Hawaii, Kentucky, Louisiana, Maine, Michigan, Mississippi, Nevada, New Jersey, New York, Pennsylvania, Texas, Virginia, West Virginia)

ABA Model Rule 7.3(a)(1):A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyers pecuniary gain, unless the person contacted:

(1) is a lawyer.

Omits ABA Model 7.3(a)(2), Which Permits Direct Contact with Prospective Client Who has Family, Close Personal, or Prior Professional Relationship with Lawyer (District of Columbia, Maine, Massachusetts, New Jersey, Virginia)

ABA Model Rule 7.3(a)(2):A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyers pecuniary gain, unless the person contacted:

(2) has a family, close personal, or prior professional relationship with the lawyer.

Omits Portion of ABA Model 7.3(a)(2) That Permits Direct Contact with Prospective Client Who has Close Personal Relationship with Lawyer (Florida)

Direct Contact with Non-Commercial Clients When Solicitation Involves Harassing Conduct, Coercion, Duress, Compulsion, Intimidation or Unwarranted Promises of Benefits (Maine)

Maine Rule 7.3(a): A lawyer, in person, by live telephone, or by real-time electronic contact, shall not solicit professional employment from a non-commercial client if such solicitation involves or has substantial potential of harassing conduct, coercion, duress, compulsion, intimidation or unwarranted promises of benefits. The prospective client's sophistication regarding legal matters; the physical, emotional state of the prospective non-commercial client; and the circumstances in which the solicitation is made are factors to be considered when evaluating the solicitation.

Permits Direct Contact with Business or Not-For-Profit Organization or Governmental Body (New Hampshire, Rhode Island)

New Hampshire Rule 7.3(a)(3) & (4): A lawyer shall not initiate by in-person, live voice, recorded or other real-time means, contact with a prospective client for the purpose of obtaining professional employment, unless the person contacted:
(3) is an employee, agent, or other representative of a business, non-profit or governmental organization not known to be in need of legal services in a particular matter, and the lawyer seeks to provide services on behalf of the organization; or
(4) is an individual who regularly requires legal services in a commercial context and is not known to be in need of legal services in a particular matter.

New Hampshire Rule 7.3(d)(ii): The following types of direct contact with prospective clients shall be exempt from subsection (a): initiation of contact for legal services by a non-profit organization.

Rhode Island Rule 7.3(a)(3): A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the pecuniary gain, unless the person contacted is a business organization, a not-for-profit organization, or governmental body an the lawyer seeks to provide services related to the organization.

Location Restrictions (accident scenes, hospitals, courthouses) (California, District of Columbia)

California Rule 1-400(E)(4): The Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in rule 1-400(A) which are presumed to be in violation of rule 1-400: (4) A "communication" which is transmitted at the scene of an accident or at or en route to a hospital, emergency care center, or other health care facility.

District of Columbia Rule 7.1(d): No lawyer or any person acting on behalf of a lawyer shall solicit or invite or seek to solicit any person for purposes of representing that person for a fee paid by or on behalf of a client or under the Criminal Justice Act, D.C. Code Ann. § 11-2601 et seq., in any present or future case in the District of Columbia Courthouse, on the sidewalks on the north, south, and west sides of the courthouse, or within 50 feet of the building on the east side.

Contact Information for Complaints (Arkansas, New Jersey, South Carolina)

Arkansas Rule 7.3(b)(6): Notwithstanding the prohibitions described in Paragraph (a), a lawyer may solicit professional employment from a prospective client known to be in need of legal services in a particular matter by written communication. Such written communication shall include the following statement in capital letters: "ANY COMPLAINTS ABOUT THIS LETTER OR THE REPRESENTATION OF ANY LAWYER MAY BE DIRECTED TO THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT, C/O CLERK, ARKANSAS SUPREME COURT, 625 MARSHALL STREET, LITTLE ROCK, ARKANSAS 72201."

New Jersey Rule 7.3(b)(5)(iii): A lawyer shall not contact, or send a written communication to, a prospective client for the purpose of obtaining professional employment if: (5) the communication involves unsolicited direct contact with a prospective client concerning a specific event not covered by section (4) of this Rule when such contact has pecuniary gain as a significant motive except that a lawyer may send a letter by mail to a prospective client in such circumstances provided the letter: (iii) contains an additional notice also at the bottom of the last page of text that the recipient may, if the letter is inaccurate or misleading, report same to the Committee on Attorney Advertising, Hughes Justice Complex, P.O. Box 037, Trenton, New Jersey 08625.

South Carolina Rule 7.3(d)(3): Direct mail solicitations sent to targeted recipients (i.e., written or recorded communications from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter) are permitted, subject to the conditions set forth in this rule and in Rules 7.1 and 7.3, provided that: Each written or recorded solicitation must include the following statement: "ANY COMPLAINTS ABOUT THIS LETTER (OR RECORDING) OR THE REPRESENTATIONS OF ANY LAWYER MAY BE DIRECTED TO THE COMMISSION ON LAWYER CONDUCT, POST OFFICE BOX 12159, COLUMBIA, SOUTH CAROLINA 29211-TELEPHONE NUMBER 803-734-2038." Where the solicitation is written, this statement must be printed in capital letters and in a size no smaller than that used in the body of the communication.

Prohibition on Imposing Involuntary Cost on Prospective Client to Respond to Solicitation (North Dakota)

North Dakota Rule 7.3(b)(3): A lawyer shall not solicit professional employment from a prospective client by written, recorded , or electronic communication or by in-person, telephone , or real-time contact even when not otherwise prohibited by paragraph (a), if the receipt of the solicitation is uninvited and imposes any involuntary economic cost on the prospective client to respond to the solicitation.

Must Not Express Predetermined Evaluation of Merits of Addressee's Case (Ohio)

Ohio Rule 7.3(c)(2): Unless the recipient of the communication is a person specified in division (a)(1) of this rule, every written, recorded, or electronic communication from a lawyer soliciting professional employment from a prospective client whom the lawyer reasonably believes to be in need of legal services in a particular matter shall comply with all of the following: (2) Disclaim or refrain from expressing any predetermined evaluation of the merits of the addressee's case.

Omits ABA Model 7.3(c), Which Requires the Words "Advertising Material" on Communications Soliciting Professional Employment (Maine)

ABA Model Rule 7.3(c): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2).

Labeling Requirements (e.g. "ADVERTISEMENT," "ADVERTISING MATERIAL," "Newsletter," etc.) (Alabama, Arizona, Arkansas, California, Connecticut, Florida, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, South Carolina, South Dakota, Tennessee, Texas, Virginia)

Alabama Rule 7.3(b)(2)(v): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: the word "Advertisement" shall appear prominently in red ink on each page of the written communication, and the word "Advertisement" shall also appear in the lower left-hand corner of the envelope in 14-point or larger type and in red ink. If the communication is a self-mailing brochure or pamphlet, the word "Advertisement" shall appear prominently in red ink on the address panel in 14-point or larger type.

Arizona Rule 7.3(c): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known or believed likely to be in need of legal services for a particular matter shall include the words "Advertising Material" in twice the font size of the body of the communication on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication. […]

Arkansas Rule 7.3(b)(1) & (4): Notwithstanding the prohibitions described in Paragraph (a), a lawyer may solicit professional employment from a prospective client known to be in need of legal services in a particular matter by written communication. Such written communication shall:

(1) include on the bottom left hand corner of the face of the envelope the word "Advertisement" in red ink, with type twice as large as that used for the name of the addressee.

(4) plainly state in capital letters "ADVERTISEMENT" on each page of the written communication.

California Rule 1-400(Standards)(5): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in Rule 1-400(A) which are presumed to be in violation of Rule 1-400:A "communication," except professional announcements, seeking professional employment for pecuniary gain, which is transmitted by mail or equivalent means which does not bear the word "Advertisement," "Newsletter" or words of similar import in 12 point print on the first page. If such communication, including firm brochures, newsletters, recent legal development advisories, and similar materials, is transmitted in an envelope, the envelope shall bear the word "Advertisement," "Newsletter" or words of similar import on the outside thereof.

Connecticut Rule 7.3(c): Every written communication, as well as any communication by audio or video recording, or other electronic means, used by a lawyer for the purpose of obtaining professional employment from a prospective client known to be in need of legal services in a particular matter, must be clearly and prominently labeled "Advertising Material" in red ink on the first page of any written communication and the lower left corner of the outside envelope or

Florida Rule 4-7.4(b)(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.

Iowa Rule 32:7.3(d): All communications authorized by paragraphs (b) and (c) shall contain the disclosures required by rule 32:7.2(h) when applicable. These communications shall, in addition to other required disclosures, carry the following disclosure in 9-point or larger type: "ADVERTISEMENT ONLY."

Kentucky SCR 3.130(7.25) Identification of advertisements
All advertisements must include the words "THIS IS AN ADVERTISEMENT", unless excepted by SCR 3.130(7.09). In recorded telephone, electronic, video, or digital communications, other than television, the speaker must first state "THE FOLLOWING IS AN ADVERTISEMENT" and must further state at the end of the communication "THIS MESSAGE HAS BEEN AN ADVERTISEMENT". All television communication, video recording or digital recording must prominently display the words "THIS IS AN ADVERTISEMENT" on the screen for as long as the lawyer's or firm's name appears on the screen. If a television communication video recording, or digital recording is longer than 60 seconds, the words "THIS IS AN ADVERTISEMENT" must be displayed throughout the entire communication. The words "THIS IS AN ADVERTISEMENT" must be prominently displayed on every page of any advertisement in writing, and displayed without scrolling on the first screen of every page of a website.

Louisiana Rule 7.4(b)(2)(B)(ii): Unsolicited written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: The top of each page of such written communication and the lower left corner of the face of the envelope in which the written communication is enclosed shall be plainly marked "ADVERTISEMENT" in print size at least as large as the largest print used in the written communication. If the written communication is in the form of a self-mailing brochure or pamphlet, the "ADVERTISEMENT" mark shall appear above the address panel of the brochure or pamphlet and on the inside of the brochure or pamphlet. Written communications solicited by clients or prospective clients, or written communications sent only to other lawyers need not contain the "ADVERTISEMENT" mark.

Mississippi Rule 7.3(c): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a particular prospective client known to be in need of legal services in a particular matter, with whom the lawyer has no family, close personal, or prior professional relationship, shall include the words, "solicitation material" on the outside envelope or at the beginning and ending of any recorded communication.

Missouri Rule 7.3(b)(1): Any written solicitation by mail shall be plainly marked "ADVERTISEMENT" on the face of the envelope and all written solicitations shall be plainly marked "ADVERTISMENT" at the top of the first page in type at least as large as the largest written type used in the written solicitation.

Nebraska Rule 3-507.3(c): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client shall include the words "This is an advertisement" on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, and in the subject line of an email, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). "This is an advertisement" shall appear in type size at least as large as the print of the address and shall be located in a conspicuous place on the envelope or postcard.

Nevada Rule 7.3(b) & (c)
(b) Direct or indirect written advertising. Any direct or indirect written mail communication or advertising circular distributed to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful, shall contain the disclaimers required by Supreme Court Rule 7.2. The disclaimers shall be in a type size and legibility sufficient to cause the disclaimers to be conspicuous, and in a size at least as large as the largest of any telephone number appearing in the ad.
(c) Additional disclaimer on mailers or written advertisements or communications. Direct or indirect mail envelopes, and written mail communications or advertising circulars shall contain, upon the outside of the envelope and upon the communication side of each page of the communication or advertisement, in legible type that is at least twice as large as the largest type used in the body of the communication, in red ink, the following warning:

NOTICE: THIS IS AN ADVERTISEMENT!

New Jersey Rule 7.3(b)(5): A lawyer shall not contact, or send a written communication to, a prospective client for the purpose of obtaining professional employment if the communication involves unsolicited direct contact with a prospective client concerning a specific event not covered by section (4) of this Rule when such contact has pecuniary gain as a significant motive except that a lawyer may send a letter by mail to a prospective client in such circumstances provided the letter: (i) bears the word "ADVERTISEMENT" prominently displayed in capital letters at the top of the first page of text; and (ii) contains the following notice at the bottom of the last page of text: "Before making your choice of attorney, you should give this matter careful thought. The selection of an attorney is an important decision."; and (iii) contains an additional notice also at the bottom of the last page of text that the recipient may, if the letter is inaccurate or misleading, report same to the Committee on Attorney Advertising, Hughes Justice Complex, P.O. Box 037, Trenton, New Jersey 08625.

New Jersey Attorney Advertising Guideline 2
(a) The word "ADVERTISEMENT" required by RPC 7.3(b)(5)(i) must be at least two font sizes larger than the largest size used in the advertising text.
(b) The font size of notices required by RPC 7.3(b)(5)(ii and iii) must be no smaller than the font size generally used in the advertisement.
(c): When envelopes or self-contained mailers used for sending direct mail solicitations are imprinted or stamped with any message relating to the subject matter of the solicitation, the

envelopes or self-contained mailers must also bear the word “ADVERTISEMENT” as required by RPC 7.3 (b)(5)(i).

New York Rule 7.1(f): Every advertisement other than those appearing in a radio, television or billboard advertisement, in a directory, newspaper, magazine or other periodical (and any web sites related thereto), or made in person pursuant to Rule 7.3(a)(1), shall be labeled “Attorney Advertising” on the first page, or on the home page in the case of a web site. If the communication is in the form of a self-mailing brochure or postcard, the words “Attorney Advertising” shall appear therein. In the case of electronic mail, the subject line shall contain the notation “ATTORNEY ADVERTISING.”

Oregon Rule 7.1(b): An unsolicited communication about a lawyer or the lawyer’s firm in which services are being offered must be clearly and conspicuously identified as an advertisement unless it is apparent from the context that it is an advertisement.

South Carolina Rule 7.3(d)(1): The words "ADVERTISING MATERIAL," printed in capital letters and in prominent type, shall appear on the front of the outside envelope and on the front of each page of the material. Every such recorded communication shall clearly state both at the beginning and at the end that the communication is an advertisement.
(2) Each written or recorded solicitation must include the following statements:
(A) ”You may wish to consult your lawyer or another lawyer instead of me (us). You may obtain information about other lawyers by consulting the Yellow Pages or by calling the South Carolina Bar Lawyer Referral Service at 799-7100 in Columbia or toll-free at 1-800-868-2284. If you have already engaged a lawyer in connection with the legal matter referred to in this communication, you should direct any questions you have to that lawyer” and
(B) ”The exact nature of your legal situation will depend on many facts not known to me (us) at this time. You should understand that the advice and information in this communication is general and that your own situation may vary.”
Where the solicitation is written, the above statements must be in a type no smaller than that used in the body of the communication.
(d) (2) Each written or recorded solicitation must include the following statements:
(A) “You may wish to consult your lawyer or another lawyer instead of me (us). You may obtain information about other lawyers by consulting the Yellow Pages or by calling the South Carolina Bar Lawyer Referral Service at 799-7100 in Columbia or toll-free at 1-800-868-2284. If you have already engaged a lawyer in connection with the legal matter referred to in this communication, you should direct any questions you have to that lawyer” and
(B) “The exact nature of your legal situation will depend on many facts not known to me (us) at this time. You should understand that the advice and information in this communication is general and that your own situation may vary.”

South Dakota Rule 7.3(d): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter shall include the words “Advertising Material” on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). Where the communication is written, the label shall appear in a minimum 18-point type or in type as large as the largest type otherwise used in the written communication, whichever is larger. This labeling requirement shall not apply to mailings of announcements of changes in address, firm structure or personnel, nor to mailings of firm brochures to persons selected on a basis other than prospective employment.

Tennessee Rule 7.3(c): If a significant motive for the solicitation is the lawyer's pecuniary gain, a lawyer shall not send a written, recorded, or electronic communication soliciting professional employment from a specifically identified recipient who is not a person specified in paragraphs (a)(1) or (a)(2) or (a)(3), unless the communication complies with the following requirements:

(1) The words "Advertising Material" appear on the outside of the envelope, if any, in which a communication is sent and at the beginning and ending of any written, recorded or electronic communication.

. . . .

(3) If a contract for representation is mailed with the communication, the top of each page of the contract shall be marked "SAMPLE" and the words "DO NOT SIGN" shall appear on the client signature line.

Texas Rule 7.05(b): Except as provided in paragraph (f) of this Rule, a written, electronic, or digital solicitation communication to prospective clients for the purpose of obtaining professional employment:

(1) shall, in the case of a non-electronically transmitted written communication, be plainly marked "ADVERTISEMENT" on its first page, and on the face of the envelope or other packaging used to transmit the communication. If the written communication is in the form of a self-mailing brochure or pamphlet, the word "ADVERTISEMENT" shall be:

(i) in a color that contrasts sharply with the background color; and

(ii) in a size of at least 3/8" vertically or three times the vertical height of the letters used in the body of such communication, whichever is larger;

(2) shall, in the case of an electronic mail message, be plainly marked "ADVERTISEMENT" in the subject portion of the electronic mail and at the beginning of the message's text;

Texas Rule 7.05(c) Except as provided in paragraph (f) of this Rule, an audio, audio-visual, digital media, recorded telephone message, or other electronic communication sent to prospective clients for the purpose of obtaining professional employment:

(1) shall, in the case of any such communication delivered to the recipient by non-electronic means, plainly and conspicuously state in writing on the outside of any envelope or other packaging used to transmit the communication, that it is an "ADVERTISEMENT";

(4) shall, in the case of a recorded audio presentation or a recorded telephone message, plainly state that it is an advertisement prior to any other words being spoken and again at the presentation's or message's conclusion; and

(5) shall, in the case of an audio-visual or digital media presentation, plainly state that the presentation is an advertisement;

(i) both verbally and in writing at the outset of the presentation and again at its conclusion; and

(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.

Texas Rule 7.04(b)(3): (b) A lawyer who advertises in the public media

(3) shall, in the case of infomercial or comparable presentation, state that the presentation is an advertisement;

(i) both verbally and in writing at its outset, after any commercial interruption, and at its conclusion; and

(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.

Virginia Rule 7.2(d)(3): A written or e-mail communication that bears the lawyer's or firm's name and the purpose of which in whole or in part is an initial contact to promote employment for a fee, sent to a prospective non-lawyer client who is not:
(1) a close friend, relative, current client, former client; or
(2) one who has initiated contact with the attorney; or
(3) one who is similarly situated with a current client of the attorney with respect to a specific matter being handled by the attorney, to the extent that the prospective client's rights may be reasonably expected to be materially affected by the outcome of the matter;
shall be identified by conspicuous display of the statement in upper case letters "ADVERTISING MATERIAL."
The required statement shall be displayed in the lower left hand corner of the address portion of the communication in type size at least equal to the largest type used on the communication and also on the front of the first page of the communication in type size at least equal to the largest type used on the page.
Further, in the case of e-mail advertising or solicitation, the header shall also display the statement, in uppercase letters, "ADVERTISING MATERIAL."
Further, any such written communication shall not be sent by registered mail or other forms of restricted delivery, nor shall such written communication be sent to any person who has made known to the lawyer a desire not to receive communications from the lawyer. Lawyers who advertise or solicit by e-mail shall include instructions of how the recipient of such communications may notify the sender that they wish not to receive such communications in the future.
This paragraph does not apply to any communication which is directed to be sent by a court or tribunal, or otherwise required by law.

Prohibits Revealing Legal Problem on Outside of Envelope (Alabama, Colorado, Connecticut, Florida, Hawaii, Louisiana, Missouri, South Carolina, Texas)

Alabama Rule 7.3 (b)(2)(ix): 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.

Colorado Rule 7.3(d)(2): Every written, recorded or electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter shall not reveal on the envelope or on the outside of a self-mailing brochure or pamphlet the nature of the prospective client's legal problem.

Connecticut Rule 7.3(e): 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.

Florida Rule 4-7.4(b)(2)(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.

Hawaii Rule 7.3(f)(5): Any written communication shall not reveal the nature of the prospective clients legal problem on the outside of the mailing.

Louisiana Rule 7.4(b)(2)(F): An unsolicited 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.

Missouri Rule 4-7.3(b)(7): A written solicitation 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.

South Carolina Rule 7.3(h): 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.

Texas Rule 7.05(b)(4): Except as provided in paragraph (f) of this Rule, a written, electronic, or digital solicitation communication to prospective clients for the purpose of obtaining professional employment: (4) shall not reveal on the envelope or other packaging or electronic mail subject line used to transmit the communication, or on the outside of a self-mailing brochure or pamphlet, the nature of the legal problem of the prospective client or non-client.

Texas Rule 7.05(c)(2): Except as provided in paragraph (f) of this Rule, an audio, audio-visual, digital media, recorded telephone message, or other electronic communication sent to prospective clients for the purpose of obtaining professional employment shall not reveal on any such envelope or other packaging the nature of the legal problem of the prospective client of non-client.

Prohibits or Restricts Solicitation or Advertisements in the Form of a Legal Document
(Alabama, Arkansas, Colorado, Connecticut, Florida, Hawaii, Louisiana, Missouri, New York, Tennessee, Texas, South Carolina, Wisconsin)

Alabama Rule 7.3(b)(2)(iv): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: (iv) the written communication shall not resemble a legal pleading, official government form or document (federal or state), or other legal document, and the manner of mailing the written communication shall not make it appear to be an official document.

Arkansas Rule 7.3(b)(3): Notwithstanding the prohibitions described in Paragraph (a), a lawyer may solicit professional employment from a prospective client known to be in need of legal services in a particular matter by written communication. Such written communication shall: (3) not have the appearance of legal pleadings or other official documents.

Colorado Rule 7.1(c): Unsolicited communications concerning a lawyer's services mailed to prospective clients . . . shall not resemble legal pleadings or other legal documents.

Connecticut Rule 7.3(g): Written communications shall be on letter-sized paper rather than legal-sized paper and shall not be made to resemble legal pleadings or other legal documents. This provision does not preclude the mailing of brochures and pamphlets.

Florida Rule 4-7.4(b)(2)(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.

Hawaii Rule 7.3(f)(3): Written communications to prospective clients for the purpose of soliciting professional employment are subject to the following requirements: (3) written communications shall not resemble legal pleadings or other legal documents

Louisiana Rule 7.2(c)(1)(K): A lawyer shall not make or permit to be made a false, misleading or deceptive communication about the lawyer, the lawyer's services or the law firm's services. A communication violates this rule if it resembles a legal pleading, notice, contract or other legal document.

Louisiana Rule 7.4(b)(2)(C): Unsolicited written communications mailed to prospective clients shall not resemble a legal pleading, notice, contract or other legal document and shall not be sent by registered mail, certified mail or other forms of restricted delivery.

Missouri Rule 4-7.3(b)(5): Written solicitations mailed to prospective clients shall not be made to resemble legal pleadings or other legal documents.

New York Rule 7.1(c)(6): An advertisement shall not be made to resemble legal documents.

Tennessee Rule 7.3(c)(4): Written communications shall not be in the form of or include legal pleadings or other formal legal documents.

Texas Rule 7.05(b)(3) Except as provided in paragraph (f) of this Rule, a written, electronic, or digital solicitation communication to prospective clients for the purpose of obtaining professional employment: shall not be made to resemble legal pleadings or other legal documents.

South Carolina Rule 7.3(f): Written communications mailed to prospective clients shall not be made to resemble legal pleadings or other legal documents.

Wisconsin Rule 20:7.3(e): Except as permitted under SCR 11.06, a lawyer, at his or her instance, shall not draft legal documents, such as wills, trust instruments or contracts, which require or imply that the lawyer's services be used in relation to that document.

Must Verify Service of Notice of Action on Civil Defendant Before Soliciting Employment (Ohio)

Ohio Rule 7.3(d): Prior to the communication soliciting professional employment from a prospective client pursuant to division (c) of this rule to a party who has been named as a defendant in a civil action, a lawyer or law firm shall verify that the party has been served with notice of the action filed against the party. Service shall be verified by consulting the docket of the court in which the action was filed to determine whether mail, personal, or residence service has been perfected or whether service by publication has been completed. Division (d) of this rule shall not apply to the solicitation of a debtor regarding representation of the debtor in a potential or actual bankruptcy action.

Permits Contact with Prospective Clients in Class Action Litigation (Indiana, Iowa, New Hampshire)

Indiana Rule 7.2 Comment [3]: Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

Iowa Rule 32:7.8(c) If success in asserting rights or defenses of a client in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept, but shall not seek, employment from those contacted for the purpose of obtaining their joinder.

New Hampshire Rule 7.3(d)(iii): The following types of direct contact with prospective clients shall be exempt from subsection (a): contact of those the lawyer is permitted under applicable law to seek to join in litigation in the nature of a class action, if success in asserting rights or defenses of the litigation is dependent upon the joinder of others.

Omits ABA Model Rule 7.3(d) but Includes a Provision about Prepaid Legal Services in Rule 7.3 Commentary (Georgia, South Dakota, Tennessee)

Georgia Rule 7.3, Comment [7]: A lawyer is allowed to pay for communications permitted by these Rules, but otherwise is not permitted to pay another person for channeling professional work. This restriction does not prevent an organization or person other than the lawyer from advertising or recommending the lawyer's services. Thus, a legal aid agency, a prepaid legal services plan or prepaid legal insurance organization 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, provided the programs are in compliance with the registration requirements of sub-paragraph (c)(1) or (c)(2)of this Rule 7.3: Direct Contact with Prospective Clients and the communications and practices of the organization are not deceptive or misleading.

South Dakota Rule 7.3, Comment [6]: This Rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their 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 which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to a prospective client. 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 which 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 Rule 7.2.

Tennessee Rule 7.3, Comment [6]: This Rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries, or other third parties if the lawyer’s purpose is to inform such entities of the lawyer’s willingness to cooperate with the plan in compliance with RPC 7.6. This form of communication is not directed to a potential client. 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 potential 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 RPC 7.2.

Courthouse Legal Assistance Program that Offers Free Representation (Maine)

Maine Rule 7.3(e): Subject to the prohibitions in paragraphs (a) and (b), a lawyer may participate in, and announce the availability of, an approved courthouse legal assistance program that offers free representation to unrepresented clients.

<u>Restrictions on Use of Lawyer Referral Services</u> (Florida, Iowa, New Hampshire, New York, Oregon, Pennsylvania, Tennessee, Texas, Washington)

Florida 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 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.

Iowa Rule 32:7.7 (c) & (d)

(c): A lawyer shall not request that a person or organization recommend or promote the use of the lawyer's services or those of a partner, associate, or any other lawyer affiliated with the lawyer's firm, as a private practitioner, except as authorized in rules 32:7.2 and 32:7.3, and except that:

(1) A lawyer may request referrals from a lawyer referral service operated or sponsored by the bar association.

(2) A lawyer may participate in a directory listing by Iowa lawyers in an organization or association of lawyers engaged in a particular area of practice upon authorization by the Iowa Supreme Court Attorney Disciplinary Board. See Iowa Ct. R. 34.14(1).

(3) A lawyer may cooperate with the legal service activities of any of the offices or organizations enumerated in paragraphs (d)(1) through (4) and may perform legal services for those to whom the lawyer was recommended by the office or organization to do such work if both of the following requirements are met:

(i) The person to whom the recommendation is made is a member or beneficiary of such office or organization.

(ii) The lawyer remains free to exercise independent professional judgment on behalf of the client.

(d) A lawyer shall not knowingly assist a person or organization that furnishes or pays for legal services to others to promote the use of the lawyer's services or those of the lawyer's partners or associates or any other lawyer affiliated with the lawyer's firm, except as permitted by this rule. However, this rule does not prohibit a lawyer, a partner, an associate, or any other lawyer affiliated with the lawyer or firm, from being recommended, employed or paid by, or cooperating with, one of the following offices or organizations that promote the use of the lawyer's services or those of a partner, associate, or any other lawyer affiliated with the lawyer or the firm:

(1) A legal aid office or public defender office operated or sponsored by a duly accredited law school, a bona fide nonprofit community organization, or a governmental agency, or operated, sponsored, or approved by a bar association.

(2) A military legal assistance office.

(3) A lawyer referral service operated, sponsored, or approved by a bar association.

(4) A legal services plan. A legal services plan is any bona fide organization that recommends, furnishes, or pays for legal services to its members or its beneficiaries provided all of the following conditions are satisfied:

(i) Such organization, including any affiliate, is organized and operated so that no profit is derived by it from the rendition of legal services by lawyers, and that, if the organization is organized for profit, the legal services are not rendered by lawyers employed, directed, supervised, or selected by it except in connection with matters where such organization bears ultimate liability of its member or beneficiary.

(ii) Neither the lawyer, nor any partner, associate, or other lawyer affiliated with the lawyer's firm, nor any nonlawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate, or affiliated lawyer.

(iii) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.

(iv) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

(v) Any member or beneficiary who is entitled to have legal services furnished or paid for by the organization may, independent of the arrangement, if such member or beneficiary so desires, and at the person's own expense, select counsel other than that furnished, selected, or approved by the organization for the particular matter involved.

(vi) The legal service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that the representation by counsel furnished, selected, or

approved would be unethical, improper, or inadequate under the circumstances of the matter involved and the plan provides an appropriate procedure for seeking such relief.
(vii) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court, and other legal requirements that govern its legal service operations.
(viii) The legal services plan is developed, administered, and operated so as to prevent a third party from interfering with or controlling a lawyer's performance of his or her duties or a third party's receipt of any part of the consideration paid to a lawyer for furnishing legal services.
(ix) There is no publicity and solicitation concerning the arrangement except by means of simple, dignified announcements. Such announcements may only set forth the purpose and activities of the organization and the nature and extent of the benefits provided under the arrangement. The announcements shall not identify the lawyers who render the legal services, and such announcement must be solely for the good faith purpose of developing, administering, or operating the arrangement, and not for the purpose of soliciting business for any specific lawyer. Nothing in this rule shall prohibit a statement in response to individual inquiries regarding the identities of the lawyers rendering services for the organization. Such responses may provide the names, addresses, and telephone numbers of such lawyers.
(x) Such organization has filed with the Iowa Supreme Court Attorney Disciplinary Board on or before July 1 of each year the report required by Iowa Ct. R. 34.14(2). A lawyer will not be deemed in violation of this provision if such organization has failed to file the required report so long as the lawyer does not know or have cause to know of such failure.

New York Rule 7.2(b): A lawyer or the lawyer's partner or associate or any other affiliated lawyer may be recommended, employed or paid by, or may cooperate with one of the following offices or organizations that promote the use of the lawyer's services or those of a partner or associate or any other affiliated lawyer, or request one of the following offices or organizations to recommend or promote the use of the lawyer's services or those of the lawyer's partner or associate, or any other affiliated lawyer as a private practitioner, if there is no interference with the exercise of independent professional judgment on behalf of the client:
(1) a legal aid office or public defender office:
(i) operated or sponsored by a duly accredited law school;
(ii) operated or sponsored by a bona fide, non-profit community organization;
(iii) operated or sponsored by a governmental agency; or
(iv) operated, sponsored, or approved by a bar association;
(2) a military legal assistance office;
(3) a lawyer referral service operated, sponsored or approved by a bar association or authorized by law or court rule;
(4) any bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:
(i) Neither the lawyer, nor the lawyer's partner, nor associate, nor any other affiliated lawyer nor any nonlawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate or affiliated lawyer.
(ii) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.
(iii) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.
(iv) The legal service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved by the organization for the particular matter involved would be unethical, improper or inadequate under the circumstances of the matter involved; and the plan provides an appropriate procedure for seeking such relief.

(v) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court or other legal requirements that govern its legal service operations.
(vi) Such organization has filed with the appropriate disciplinary authority, to the extent required by such authority, at least annually a report with respect to its legal service plan, if any, showing its terms, its schedule of benefits, its subscription charges, agreements with counsel and financial results of its legal service activities or, if it has failed to do so, the lawyer does not know or have cause to know of such failure.

New Hampshire Rule 7.3(d)(iv): The following types of direct contact with prospective clients shall be exempt from subsection (a): requests by a lawyer or the lawyer's firm for referrals from a lawyer referral service operated, sponsored or approved by a bar association, or cooperation with any other qualified legal assistance organization.

Oregon Rule 7.2(c): A lawyer or law firm may be recommended, employed or paid by, or cooperate with, a prepaid legal services plan, lawyer referral service, legal service organization or other similar plan, service or organization so long as:
(1) the operation of such plan, service or organization does not result in the lawyer or the lawyer's firm violating Rule 5.4, Rule 5.5, ORS 9.160, or ORS 9.500 through 9.520;
(2) the recipient of legal services, and not the plan, service or organization, is recognized as the client;
(3) no condition or restriction on the exercise of any participating lawyer's professional judgment on behalf of a client is imposed by the plan, service or organization; and
(4) such plan, service or organization does not make communications that would violate Rule 7.3 if engaged in by the lawyer.

Pennsylvania Rule 7.7(a) & (b)
(a) A lawyer shall not accept referrals from a lawyer referral service if the service engaged in communication with the public or 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.
(b) A "lawyer referral service" is any person, group of persons, association, organization or entity that receives a fee or charge for referring or causing the direct or indirect referral of a potential client to a lawyer drawn from a specific group or panel of lawyers.

Tennessee Rule 7.6 Intermediary Organizations: (a) An intermediary organization is a lawyer-advertising cooperative, lawyer referral service, prepaid legal insurance provider, or a similar organization the business or activities of which include the referral of its customers, members, or beneficiaries to lawyers for the performance of fee-generating legal services or the payment for or provision of legal services to the organization's customers, members, or beneficiaries in matters for which the organization does not bear ultimate responsibility. A tribunal appointing or assigning lawyers to represent parties before the tribunal or a government agency performing such functions on behalf of a tribunal is not an intermediary organization under this Rule.

(b) A lawyer shall not seek or accept a referral of a client, or compensation for representing a client, from an intermediary organization if the lawyer knows or reasonably should know that:

(1) the organization:

(i) is owned or controlled by the lawyer, a law firm with which the lawyer is associated, or a lawyer with whom the lawyer is associated in a firm; or

(ii) is engaged in the unauthorized practice of law; or

(iii) engages in marketing activities that are false or misleading or are otherwise prohibited by the Board of Professional Responsibility; or

(iv) has not registered with the Board of Professional Responsibility and complied with all requirements imposed by the Board; or

(2) the lawyer will be unable to represent the client in compliance with these Rules.

Texas Rule 7.03(e): A lawyer shall not participate with or accept referrals from a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952.

Washington Rule 7.3(a)(3): A lawyer shall not, directly or a third person, by in-person or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted has consented to the contact by requesting a referral from a not-for-profit lawyer referral service.

<u>Communication May Only Be Sent Via Regular Mail</u> (Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Hawaii, Missouri, South Carolina, Tennessee)

Alabama Rule 7.3(b)(2)(ii): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: written communications mailed to prospective clients shall be sent only by regular mail, and shall not be sent by registered mail or by any other form of restricted delivery or by express mail.

Arizona Rule 7.3(c)(2): 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.

Arkansas Rule 7.3(b)(2): Notwithstanding the prohibitions described in Paragraph (a), a lawyer may solicit professional employment from a prospective client known to be in need of legal services in a particular matter by written communication. Such written communication shall: (2) only be sent by regular mail.

Colorado Rule 7.1(c): Unsolicited communications concerning a lawyer's services mailed to prospective clients shall be sent only by regular U.S. mail, not be registered mail or other forms of restricted delivery. . . .

Connecticut Rule 7.3(c): Written communications mailed to prospective clients shall be sent only by regular United States mail, not by registered mail or other forms of restricted delivery.

Florida Rule 4-7.4(b)(2)(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.

Hawaii Rule 7.3(f)(1): Written communications to prospective clients for the purpose of soliciting professional employment are subject to the following requirements: (1) written communications to prospective clients shall be sent only by regular U.S. mail, not by registered mail or other forms of restricted delivery, and not by facsimile or e-mail.

Missouri Rule 4-7.3(b)(4): Written solicitations mailed to prospective clients shall be sent only by regular United States mail, not registered mail or other forms of restricted or certified delivery.

South Carolina Rule 7.3(e): Written communications mailed to prospective clients shall be sent only by regular U.S. mail, not by registered mail or other forms of restricted or certified delivery.

Tennessee Rule 7.3(c)(5): Communications delivered to potential clients shall be sent only by regular U.S. mail and not by registered, certified, or other forms of restricted delivery, or by express delivery or courier.

<u>If Contract of Representation is Included Then it Must Be Marked "Sample" and "Do Not Sign"</u> (Alabama, Arizona, Connecticut, Florida, Hawaii, Nevada, New York)

Alabama Rule 7.3(b)(2)(vi): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: (vi) if a contract for representation is mailed with the written communication, it will be considered a sample contract and the top of each page of the contract shall be marked "SAMPLE." The word "SAMPLE" shall be in red ink in a type size at least one point larger than the largest type used in the contract. The words "DO NOT SIGN" shall appear on the line provided for the client's signature.

Arizona Rule 7.3(c)(3): if a contract for representation is mailed with the written communication, the contract shall be marked "sample" in red ink and shall contain the words "do not sign" on the client signature line.

Connecticut Rule 7.3(f): If a contract for representation is mailed with the communication, the top of each page of the contract shall be marked "SAMPLE" in red ink in a type size one size larger than the largest type used in the contract and the words "DO NOT SIGN" shall appear on the client signature line.

Florida Rule 4-7-4(b)(2)(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.

Hawaii Rule 7.3(f)(2): Written communications to prospective clients for the purpose of soliciting professional employment are subject to the following requirements: (2) if a contract for representation is sent with the written communication, the top of each page of the contract shall be marked "SAMPLE" in red ink in a type size one size larger than the largest used in the contract and the words "DO NOT SIGN" shall appear on the client signature line.

Nevada Rule 1.18(g)(3): Whenever a prospective client shall request information regarding a lawyer or law firm for the purpose of making a decision regarding employment of the lawyer or law firm:

(3) If the information furnished to the client includes a fee contract, the top of each page of the contract shall be marked "SAMPLE" in red ink in a type size larger than the largest type used in the contract and the words "DO NOT SIGN" shall appear on the client signature line.

New York Rule 7.3(g): If a retainer agreement is provided with any solicitation, the top of each page shall be marked "SAMPLE" in red ink in a type size equal to the largest type size used in the agreement and the words "DO NOT SIGN" shall appear on the client signature line.

<u>Communication Prompted By a Specific Occurrence Must Disclose How Attorney Obtained the Information</u> (Alabama, Arizona, Arkansas, Florida, Hawaii, Louisiana, Missouri, New York, Ohio, Texas)

Alabama Rule 7.3(b)(2)(viii): In addition to the requirements of Rule 7.2, written communications to prospective clients for the purpose of obtaining professional employment are subject to the following requirements: (viii) if the written communication is prompted by a specific occurrence (e.g., death, recorded judgment, garnishment) the communication shall disclose how the lawyer obtained the information prompting the communication.

Arizona Rule 7.3(c)(4): the lawyer initiating the communication shall bear the burden of proof regarding the truthfulness of all facts contained in the communication, and shall, upon request of the State Bar or the recipient of the communication, disclose: (A) how the identity and specific legal need of the potential recipient were discovered; and (B) how the identity and knowledge of the specific need of the potential recipient were verified by the soliciting lawyer.

Arkansas Rule 7.3(d): 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.

Florida Rule 4-7.4(b)(2)(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.

Hawaii Rule 7.3(f)(4): Written communications to prospective clients for the purpose of soliciting professional employment are subject to the following requirements: (4) any written communication prompted by a specific occurrence shall disclose how the lawyer obtained the information prompting the communication.

Louisiana Rule 7.3(b)(2)(E): Any unsolicited written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member of that person shall disclose how the lawyer obtained the information prompting the communication.

Missouri Rule 4-7.3(b)(6): Any written solicitation prompted by a specific occurrence involving or affecting the intended recipient of the solicitation or family member shall disclose how the lawyer obtained the information prompting the solicitation.

New York Rule 7.3(f): Any solicitation made in writing or by computer-accessed communication and directed to a pre-determined recipient, if prompted by a specific occurrence involving or affecting a recipient, shall disclose how the lawyer obtained the identity of the recipient and learned of the recipient's potential legal need.

Ohio Rule 7.3(c)(1): Unless the recipient of the communication is a person specified in division (1)(1) or (2) of this rule, every written, recorded, or electronic communication from a lawyer soliciting professional employment from a prospective client whom the lawyer reasonably believes to be in need of legal services in a particular matter shall comply with all of the following: (1) Disclose accurately and fully the manner in which the lawyer or law firm became aware of the identity and specific legal need of the addressee.

Texas Rule 7.05(b)(5) Except as provided in paragraph (f) of this Rule, a written, electronic, or digital solicitation communication to prospective clients for the purpose of obtaining professional employment shall disclose how the lawyer obtained the information prompting the communication to solicit professional employment if such contact was prompted by a specific occurrence involving the recipient of the communication or a family member of such person(s).

Texas Rule 7.05(c)(3): Except as provided in paragraph (f) of this Rule, an audio, audio-visual, digital media, recorded telephone message, or other electronic communication sent to prospective clients for the purpose of obtaining professional employment: shall disclose, either in the communication itself or in accompanying transmittal message, how the lawyer obtained the information prompting such audio, audio-visual, digital media, recorded telephone message, or other electronic communication to solicit professional employment, if such contact was prompted by a specific occurrence involving the recipient of the communication or a family member of such person(s);

Statement That Lawyer Sending Communication Will Not be Representing Client (Colorado, Connecticut, Florida, Kentucky, Missouri, Rhode Island, Texas)

Colorado Rule 7.3(c)(2): A lawyer shall not solicit professional employment from a prospective client believed to be in need of legal services which arise out of the personal injury or death of any person by written, recorded, or electronic communication. This provision shall not apply if the lawyer has a family or prior professional relationship with the prospective client, or if the communication is issued more than 30 days after the occurrence of the event for which the legal representation is being solicited. Any such communication must comply with the following:

(2) if a lawyer other than the lawyer whose name or signature is contained in the communication will actually handle the case or matter, or if the case or matter will be referred to another lawyer or law firm, any such communication shall include a statement so advising the prospective client.

Connecticut Rule 7.3(h): If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, or if the case or matter will be referred to another lawyer or law firm, any written communication concerning a specific matter shall include a statement so advising the client.

Florida Rule 4-7.4(b)(2)(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.

Florida Rule 4-7.2(c)(13): If the case or matter will be referred to another lawyer or law firm, the communication shall include a statement do advertising the prospective client.

Kentucky SCR 3.130(7.20)(c)(5): If a lawyer or a law firm advertises legal services and a lawyer's name or image is used to present the advertisement, the lawyer must be the lawyer who will actually perform the service advertised unless the advertisement prominently discloses that the service may be performed by other lawyers. If the advertising lawyer or firm is advertising for clients for the purpose of referring the client to another lawyer or firm, that fact must be disclosed prominently in the advertisement.

Missouri Rule 4-7.3(b)(8): If a lawyer knows that a lawyer other than the lawyer whose name or signature appears on the solicitation will actually handle the case or matter or that the case or

matter will be referred to another lawyer or law firm, any written solicitation concerning a specific matter shall include a statement so advising the potential client.

Rhode Island Rule 7.2(f): Any lawyer or law firm who advertises that his or her practice includes or concentrates in particular fields of law and then refers the majority of cases in those fields of law or of that type to another lawyer, law firm or group of lawyers shall clearly state the following disclaimer:
(1) "Most cases of this type are not handled by this firm, but are referred to other attorneys.", or if applicable:
(2) "While this firm maintains joint responsibility, most cases of this type are referred to other attorneys for principal responsibility."

Texas Rule 7.04 (l): If an advertising lawyer knows or should know at the time of an advertisement in the public media that a case or matter will likely be referred to another lawyer or firm, a statement of such fact shall be conspicuously included in such advertisement.

Notification Regarding Malicious Prosecution or Abuse of Process (Iowa)

Iowa Rule 32:7.2(i): In the event a lawyer's communication seeks to advise the institution of litigation, the communication must also disclose that the filing of a claim or suit solely to coerce a settlement or to harass another could be illegal and could render the person so filing liable for malicious prosecution or abuse of process.

Prohibition on Denouncing or Disparaging Any Other Potential Party (Missouri)

Missouri Rule 4-7.3(c)(5): A lawyer shall not send, nor knowingly permit to be sent, on behalf of the lawyer, the lawyer's firm, the lawyer's partner, an associate or any other lawyer affiliated with the lawyer or the lawyer's firm, a written solicitation to any prospective client for the purpose of obtaining professional employment if: (5) the written solicitation vilifies, denounces or disparages any other potential party.

Written Statement Regarding Experience (Florida, Mississippi, Nevada)

Florida Rule 4-7.4(b)(2)(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.

Mississippi Rule 7.4(a): Each lawyer or law firm that advertises his, her or its availability to provide legal services shall have available in written form for delivery to any potential client:

(1) A factual statement detailing the background, training and experience of each lawyer or law firm.

(2) If the lawyer or law firm claims special expertise in the representation of clients in special matters or publicly limits the lawyer's or law firm's practice to special types of cases or clients, the written information shall set forth the factual details of the lawyer's experience, expertise, background, and training in such matters. Further, any advertisement or written communication shall advise any potential client of the availability of the above information by

prominently displaying in all such advertisements and communications the following notice: FREE BACKGROUND INFORMATION AVAIILABLE UPON REQUEST.

Nevada Rule 1.4(c): Each lawyer or law firm shall have available in written form to be provided upon request of the State Bar or a client or prospective client a factual statement detailing the background, training and experience of each lawyer or law firm.
(1) The form shall be known as the "Lawyer's Biographical Data Form" and shall contain the following fields of information:
(i) Full name and business address of the lawyer.
(ii) Date and jurisdiction of initial admission to practice.
(iii) Date and jurisdiction of each subsequent admission to practice.
(iv) Name of law school and year of graduation.
(v) The areas of specialization in which the lawyer is entitled to hold himself or herself out as a specialist under the provisions of Rule 7.4.
(2) Upon request each lawyer or law firm shall provide the following additional information detailing the background, training and experience of each lawyer or law firm, including but not limited to:
(i) Names and dates of any legal articles or treatises published by the lawyer, and the names of the publication in which they were published.
(ii) A good faith estimate of the number of jury trials tired to a verdict by the lawyer to the present date, identifying the court or courts.
(iii) A good faith estimate of the number of court (bench) trials tried to a judgment by the lawyer to the present date, identifying the court or courts.
(iv) A good faith estimate of the number of administrative hearings tried to a conclusion by the lawyer, identifying the administrative agency or agencies.
(v) A good faith estimate of the number of appellate cases argued to a court of appeals or a supreme court, in which the lawyer was responsible for writing the brief or orally arguing the case, identifying the court or courts.
(vi) The professional activities of the lawyer consisting of teaching or lecturing.
(vii) The names of any volunteer or charitable organization to which the lawyer belongs, which the lawyer desires to publish.
(viii) A description of bar activities such as elective or assigned committee positions in a recognized organization.
(3) A lawyer or law firm that advertises or promotes services by written communication not involving solicitation as prohibited by Rule 7.3 shall enclose with each such written communication the information described in paragraph (c)(1) of this Rule.
(4) A copy of all information provided pursuant to this Rule shall be retained by the lawyer or law firm for a period of 3 years after last regular use of the information.

Waiver and Forfeiture of Fees for Prohibited Solicitation (Texas)

Texas Rule 7.03(d):A lawyer shall not enter into an agreement for, charge for, or collect a fee for professional employment obtained in violation of Rule 7.03(a), (b), or (c).

Must Refuse to Accept or Continue Employment Procured by Conduct that Violates Rules (Florida, Iowa, Texas)

Florida Rule 4-7.4(a) A lawyer shall not enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule.

Iowa Rule 32:.7.7(e) A lawyer shall not accept employment when the lawyer knows or reasonably should know that the person seeking legal services does so as a result of conduct prohibited under this rule.

Texas Rule 7.06 Prohibited Employment
(a) A lawyer shall not accept or continue employment in a matter when that employment was procured by conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9), engaged in by that lawyer personally or by any other person whom the lawyer ordered, encouraged, or knowingly permitted to engage in such conduct.
(b) A lawyer shall not accept or continue employment in a matter when the lawyer knows or reasonably should know that employment was procured by conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9), engaged in by any other person or entity that is a shareholder, partner, or member of, an associate in, or of counsel to that lawyer's firm; or by any other person whom any of the foregoing persons or entities ordered, encouraged, or knowingly permitted to engage in such conduct.
(c) A lawyer who has not violated paragraph (a) or (b) in accepting employment in a matter shall not continue employment in that matter once the lawyer knows or reasonably should know that the person procuring the lawyer's employment in the matter engaged in, or ordered, encouraged, or knowingly permitted another to engage in, conduct prohibited by any of Rules 7.01 through 7.05, 8.04(a)(2), or 8.04(a)(9) in connection with the matter unless nothing of value is given thereafter in return for that employment.

Prohibition on Solicitation that Requires Recipient to Travel or Requires Signature (New York)

New York Rule 7.3(d): A written solicitation shall not be sent by a method that requires the recipient to travel to a location other than that at which the recipient ordinarily receives business or personal mail or that requires a signature on the part of the recipient.

Information About a Lawyer's Services Provided Upon Request (Louisiana)

Louisiana Rule 7.9: Information about a Lawyer's Services Provided Upon Request
(a) Generally. Information provided about a lawyer's or law firm's services upon request shall comply with the requirements of Rule 7.2 unless otherwise provided in this Rule 7.9.
(b) Request for Information by Potential Client. Whenever a potential client shall request information regarding a lawyer or law firm for the purpose of making a decision regarding employment of the lawyer or law firm:

(1) The lawyer or law firm may furnish such factual information regarding the lawyer or law firm deemed valuable to assist the client.

(2) The lawyer or law firm may furnish an engagement letter to the potential client; however, if the information furnished to the potential client includes a contingency fee contract, the top of each page of the contract shall be marked "SAMPLE" in print size at least as large as the largest print used in the contract and the words "DO NOT SIGN" shall appear on the client signature line.

(3) Notwithstanding the provisions of subdivision (c)(1)(D) of Rule 7.2, information provided to a potential client in response to a potential client's request may contain factually verifiable statements concerning past results obtained by the lawyer or law firm, if, either alone or in the context in which they appear, such statements are not otherwise false, misleading or deceptive.
(c) Disclosure of Intent to Refer Matter to Another Lawyer or Law Firm. A statement and any information furnished to a prospective client, as authorized by subdivision (b) of this Rule,

that a lawyer or law firm will represent a client in a particular type of matter, without appropriate qualification, shall be presumed to be misleading if the lawyer reasonably believes that a lawyer or law firm not associated with the originally-retained lawyer or law firm will be associated or act as primary counsel in representing the client. In determining whether the statement is misleading in this respect, the history of prior conduct by the lawyer in similar matters may be considered.

ABA MODEL RULE 7.4

Communication of Fields of Practice and Specialization

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.
(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.
(c) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation.
(d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:

(1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association; and
(2) the name of the certifying organization is clearly identified in the communication.

http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_7_4_communication_of_fields_of_practice_specialization.html

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DIFFERENCES IN STATE ADVERTISING RULES

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Omits ABA Model Rule 7.4 Regarding Communications of Fields of Practice and Specialization (District of Columbia, Oregon)

Omits ABA Model Rule 7.4(b) Regarding Use of "Patent Attorney" or Substantially Similar Designation (Georgia, Louisiana, Massachusetts, Michigan)

ABA Model Rule 7.4(b): A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.

Omits ABA Model Rule 7.4(c) Regarding Use of "Admiralty" or Substantially Similar Designation (Alaska, Georgia, Louisiana, Massachusetts, Michigan)

ABA Model Rule 7.4(c): A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation.

Omits ABA Model Rule 7.4(d) Regarding Stating or Implying Lawyer is a Certified as Specialist in Particular Field of Law (Massachusetts, Michigan, West Virginia). Note: Georgia omits subsection (2) of Rule 7.4(d), not subsection (1); Maine omits the American Bar Association as an accrediting agency.

ABA Model Rule 7.4(d): A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:

(1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association; and
(2) the name of the certifying organization is clearly identified in the communication.

<u>Standards and/or Disclaimers Regarding Specialization</u> (California, Colorado, Florida, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, Wyoming)

California Rule 1-400(D)(6): A communication or a solicitation (as defined herein) shall not: (6) State that a member is a "certified specialist" unless the member holds a current certificate as a specialist issued by the Board of Legal Specialization, or any other entity accredited by the State Bar to designate specialists pursuant to standards adopted by the Board of Governors, and states the complete name of the entity which granted certification.

Colorado Rule 7.4(e) In any advertisement in which a lawyer affirmatively claims to be certified in any area of the law, such advertisement shall contain the following disclosure: "Colorado does not certify attorneys as specialists in any field." This disclaimer is not required where the information concerning the lawyer's services is contained in a law list, law directory or a publication intended primarily for use of the legal profession.

Florida Rule 4-7.2(c)(6): 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, Rule Regulating The Florida Bar, may inform the public and other lawyers of the lawyer's certified areas of 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 full name of the state bar in all communications pertaining to such certification.

Kentucky SCR 3.130(7.40)(3):

(3) A lawyer may state or imply that he or she is "certified", a "specialist", an "expert" or "authority" in a particular field of law only if:

(a) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or by a national organization that the attorney demonstrates is

qualified to grant such certification to attorneys who meet objective and consistently applied standards relevant to practice in a particular area of the law; and

(b) the name of the certifying organization is clearly identified in the communication; and

(c) if the lawyer is licensed to practice law in Kentucky, the communication must state that Kentucky does not certify specialties in legal fields. The communication may occur only for as long as the lawyer remains so certified and in good standing.

Louisiana Rule 7.2(c)(5): 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," an "expert," or a "specialist" except as follows:

(A) Lawyers Certified by the Louisiana Board of Legal Specialization. A lawyer who complies with the Plan of Legal Specialization, as determined by the Louisiana Board of Legal Specialization, may inform the public and other lawyers of the lawyer's certified area(s) of legal practice. Such communications should identify the Louisiana Board of Legal Specialization as the certifying organization and may state that the lawyer is "certified," "board certified," an "expert in (area of certification)" or a "specialist in (area of certification)."

(B) Lawyers Certified by Organizations Other Than the Louisiana Board of Lgeal Specialization or Another State Bar. A lawyer certified by an organization other than the Louisiana Board of Legal Specialization 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," an "expert in (area of certification)" or a "specialist in (area of certification)" if:

(i) the lawyer complies with Section 6.2 of the Plan of Legal Specialization of the Louisiana Board of Legal Specialization; and,

(ii) the lawyer 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," an "expert in (area of certification)" or a "specialist in (area of certification)," if:

(i) the state bar program grants certification on the basis of standards reasonably comparable to the standards of the Plan of Legal Specialization, as determined by the Louisiana Board of Legal Specialization; and

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

Mississippi Rule 7.6(a): A lawyer may communicate the fact that he or she has been certified or designated in a field of law by a named organization or authority, but only if that certification or designation is granted by an organization or authority whose specialty certification or designation program is accredited by the American Bar Association. Notwithstanding the provisions of this Rule, a lawyer may communicate the fact that he is certified or designated in a particular field of law by a named, non-American Bar Association organization or authority, but must disclose such fact and further disclose that there is no procedure in Mississippi for approving certifying or designating organizations and authorities.

Missouri Rule 4-7.4: A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. Any such communication shall conform to the requirements of Rule 4-7.1. Except as provided in Rule 4-7.4(a) and (b), a lawyer shall not state or imply that the lawyer is a specialist unless the communication contains a disclaimer that neither the Supreme Court of Missouri nor The Missouri Bar reviews or approves certifying organizations or specialist designations.

Montana Rule 7.4(a): A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer may also communicate that his/her practice is limited to or concentrated in a particular field of law, if such communication does not imply an unwarranted expertise in the field so as to be false or misleading under Rule 7.1.

Nevada Rule 7.2(d): Every advertisement and written communication that indicates one or more areas of law in which the lawyer or law firm practices shall conform to the requirements of Rule 7.4.

Nevada Rule 7.4(d): In addition to the designations permitted by paragraphs (b) and (c) of this Rule, a lawyer may communicate that he or she is a specialist or expert in a particular field of law if the lawyer complies with the provisions of this paragraph.

(1) Certification. The lawyer must be certified as a specialist or expert by an organization that has been approved under Rule 7.4A.

(2) Practice hours; CLE; liability coverage; reporting. The lawyer must meet the following requirements for practice hours devoted to each field of specialization, continuing legal education in each field of specialization, and professional liability coverage:

(i) The lawyer shall have devoted at least one-third of his or her practice to each designated field of specialization for each of the preceding 2 years.

(ii) The lawyer shall have completed 10 hours of accredited continuing legal education in each designated field of specialization of practice during the preceding calendar year. The carry-forward and exemption provisions of Supreme Court Rules 210 and 214 do not apply. In reporting under subparagraph (iv), the lawyer shall identify the specific courses and hours that apply to each designated filed of specialization.

(iii) The lawyer shall carry a minimum of $500,000 in professional liability insurance, with the exception of lawyers who practice exclusively in public law. The lawyer shall provide proof of liability coverage to the state bar as part of the reporting requirement under subparagraph (iv).

(iv) The lawyer shall submit written confirmation annually to the state bar and board of continuing legal education demonstrating that the lawyer has complied with these requirements. The report shall be public information.

(3) Registration with state bar. The lawyer must file a registration of specialty, along with a $250 fee, with the executive director of the state bar on a form supplied by the state bar. The form shall include attestation of compliance with paragraph (d)(2) for each specialty registered.

(i) **Annual renewal.** A lawyer registered under this Rule must renew the registration annually by completing a renewal form provided by the state bar, paying a $250 renewal fee, and providing current information as required under paragraph (d)(2) under each specialty registered. The lawyer must submit the renewal form to the executive director of the state bar on or before the anniversary date of the initial filing of the registration with the state bar.

(ii) **Registration of multiple specialties.** A lawyer may include more than one specialty on the initial registration or include additional specialties with the annual renewal without additional charge. Addition specialties added at any other time will be assessed a one-time $50 processing fee.

(4) Revocation and Reinstatement. The board of governors shall establish rules and procedures governing the administrative revocation and reinstatement of the right to communicate a specialty for failure to pay the fees set forth in paragraph (d)(3), including reasonable processing fees for late payment and reinstatement.

(5) Advertising. A lawyer certified as a specialist under this Rule may advertise the certification during such time as the lawyer's certification and the state bar's approval of the certifying organization are both in effect. Advertising by a lawyer regarding the lawyer's

certification under this Rule shall comply with Rules 7.1 and 7.2 and shall clearly identify the name of the certifying organization.

New Hampshire Rule 7.4(c): 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 a specialist except as follows: (c) a lawyer who is certified as a specialist in a particular field of law by an organization that has been accredited by the American Bar Association may hold himself or herself out as a specialist certified by such organization.

New Jersey Rule 7.4(d): A lawyer may communicate that the lawyer has been certified as a specialist or certified in a field of practice only when the communication is not false or misleading, states the name of the certifying organization, and states that the certification has been granted by the Supreme Court of New Jersey or by an organization that has been approved by the American Bar Association. If the certification has been granted by an organization that has not been approved, or has been denied approval, by the Supreme Court of New Jersey or the American Bar Association, the absence or denial of such approval shall be clearly identified in each such communication by the lawyer.

New York Rule 7.4(c): A lawyer may state that the lawyer has been recognized or certified as a specialist only as follows:

1. A lawyer who is certified as a specialist in a particular area of law or law practice by a private organization approved for that purpose by the American Bar Association may state the fact of certification if, in conjunction therewith, the certifying organization is identified and the following statement is prominently made: "The [name of the private certifying organization] is not affiliated with any governmental authority."

2. A lawyer who is certified as a specialist in a particular area of law or law practice by the authority having jurisdiction over specialization under the laws of another state or territory may state the fact of certification if, in conjunction therewith, the certifying state or territory is identified and the following statement is prominently made: "Certification granted by the [identify state or territory] is not recognized by any governmental authority within the State of New York. Certification is not a requirement for the practice of law in the State of New York and does not necessarily indicate greater competence than other attorneys experienced in this field of law."

North Carolina Rule 7.4(a): A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

(b) A lawyer shall not state or imply that the lawyer is certified as a specialist in a field of practice unless:

(1) the certification was granted by the North Carolina State Bar;
(2) the certification was granted by an organization that is accredited by the North Carolina State Bar; or
(3) the certification was granted by an organization that is accredited by the American Bar Association under procedures and criteria endorsed by the North Carolina State Bar; and
(4) the name of the certifying organization is clearly identified in the communication.

North Dakota Rule 7.4(c): a lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly

states the name of the certifying organization and that there is no procedure in this jurisdiction for approving certifying organizations. The communication need not contain such a statement if the named organization has been accredited by the American Bar Association or the lawyer has successfully completed a certification program sponsored by a state bar association.

Oklahoma Rule 7.4(b)(3) & (4): A lawyer shall not state or imply that the lawyer is certified as a specialist in a particular field of law except as follows:
(3) a lawyer who is certified as a specialist in a particular field of law or law practice by the Supreme Court of the State of Oklahoma may communicate that fact, but only in accordance with the rules prescribed by that Court; and
(4) a lawyer who is certified as a specialist in a particular field of law or law practice by the official licensing authority of another state in which the lawyer is licensed may communicate that fact, but only in accordance with all rules and requirements of such state's licensing authority, and *provided* that the lawyer also communicates that such certification is not recognized by the Supreme Court of the State of Oklahoma.

Oregon Rule 7.1(a)(4): A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication state or implies that the lawyer or the lawyer's firm specializes in, concentrates a practice in, limits a practice to, is experienced in, is presently handling or is qualified to handle matters or areas of law if the statement or implication is false or misleading.

Pennsylvania Rule 7.4(a): A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state that the lawyer is a specialist except as follows:
(3) a lawyer who has been certified by an organization approved by the Supreme Court of Pennsylvania as a certifying organization in accordance with paragraph (b) may advertise the certification during such time as the certification of the lawyer and the approval of the organization are both in effect;
(b) Upon recommendation of the Pennsylvania Bar Association, the Supreme Court of Pennsylvania may approve for purposes of paragraph (a) an organization that certifies lawyers, if the Court finds that:

(1) advertising by a lawyer of certification by the certifying organization will provide meaningful information, which is not false, misleading or deceptive, for use of the public in selecting or retaining a lawyer; and

(2) certification by the organization is available to all lawyers who meet objective and consistently applied standards relevant to practice in the area of the law to which the certification relates. The approval of the certifying organization shall be for such period not longer than five (5) years as the Court shall order, and may be renewed upon recommendation of the Pennsylvania Bar Association.

Rhode Island Rule 7.4(d)(3) : A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless the lawyer also includes, as part of the same communication, the disclaimer that: "The Rhode Island Supreme Court licenses all lawyers in the general practice of law. The court does not license or certify any lawyer as an expert or specialist in any field of practice."

South Carolina Rule 7.4(a): A lawyer who is certified under the Rule on Lawyer Competence, Rule 408, SCACR, is entitled to advertise or state publicly in any manner otherwise permitted by these rules that the lawyer is certified as a specialist in the pertinent specialty field by the Supreme Court of South Carolina.

(b) A lawyer who is not certified as a specialist but who concentrates in, limits his or her practice to, or wishes to announce a willingness to accept cases in a particular field may so advertise or publicly state in any manner otherwise permitted by these rules. To avoid confusing or misleading the public and to protect the objectives of the South Carolina certified specialization program, any such advertisement or statements shall be strictly factual and shall not contain any form of the words "certified," "specialist," "expert," or "authority" except as permitted by Rule 7.4(d).

South Dakota Rule 7.4(c): If a lawyer or firm practices in only certain fields and desires to advertise such limitations in the yellow pages of the telephone directory any such advertising must be accompanied by the following disclaimer appearing in a prominent and conspicuous manner in such advertising or on the same page as the advertising:

(1) Such certification is granted by an organization which has been approved by the appropriate regulatory authority to grant such certification; or

(2) Such certification is granted by an organization that has not yet been approved by, or has been denied the approval available from the appropriate regulatory authority, and the absence or denial of approval is clearly stated in the communication, and in any advertising subject to Rule 7.2, such statement appears in the same sentence that communicates the certification.

(d) Pursuant to subsection (c)(1), the South Dakota Supreme Court hereby designates the American Bar Association as the appropriate regulatory authority to accredit specialty certification programs according to such standards and criteria as the American Bar Association may from time to time establish for accreditation of specialty programs.

(e) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:

(1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association; and

(2) the name of the certifying organization is clearly identified in the communication.

Tennessee Rule 7.4(d): A lawyer who has been certified as a specialist in a field of law by the Tennessee Commission on Continuing Legal Education and Specialization may state that the lawyer "is certified as a specialist in [field of law] by the Tennessee Commission on C.L.E. and Specialization." A lawyer so certified may also state that the lawyer is certified as a specialist in that field of law by an organization recognized or accredited by the Tennessee Commission on Continuing Legal Education and Specialization as complying with its requirements, provided the statement is made in the following format: "[Lawyer] is certified as a specialist in [field of law] by [organization]."

Texas Rule 7.04(b)(2): A lawyer who advertises in the public media shall not include a statement that the lawyer has been certified or designated by an organization as possessing special competence or a statement that the lawyer is a member of an organization the name of which implies that its members possess special competence, except that:

(i) a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, may state with respect to each such area, "Board Certified, [area of specialization] - Texas Board of Legal Specialization;" and

(ii) a lawyer who is a member of an organization the name of which implies that its members possess special competence, or who has been certified or designated by an organization as possessing special competence, may include a factually accurate statement of such membership or may include a factually accurate statement, "Certified [area of specialization] [name of certifying organization]," but such statements may be made only if that organization has

been accredited by the Texas Board of Legal Specialization as a bona fide organization that admits to membership or grants certification only on the basis of objective, exacting, publicly available standards (including high standards of individual character, conduct, and reputation) that are reasonably relevant to the special training or special competence that is implied and that are in excess of the level of training and competence generally required for admission to the Bar; and

(3) shall, in the case of infomercial or comparable presentation, state that the presentation is an advertisement:

(i) both verbally and in writing at its outset, after any commercial interruption, and at its conclusion; and

(ii) in writing during any portion of the presentation that explains how to contact a lawyer or law firm.

Vermont Rule 7.4(d): a lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law unless:

(1) the lawyer has been certified as a specialist by a named organization, provided that the communication clearly states that there is no procedure in Vermont for approving certifying organizations, unless the named organization has been accredited by the American Bar Association to certify lawyers as specialists in a particular field of law; and

(2) the name of the certifying organization is clearly identified in the communication.

Virginia Rule 7.4(c): Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, Rule 7.2, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

Washington Rule 7.4(d): A lawyer shall not state or imply that a lawyer is a specialist in a particular field of law, except upon issuance of an identifying certificate, award, or recognition by a group, organization, or association, a lawyer may use the terms "certified", "specialist", "expert", or any other similar term to describe his or her qualifications as a lawyer or his or her qualifications in any subspecialty of the law. If the terms are used to identify any certificate, award, or recognition by any group, organization, or association, the reference must

(1) be truthful and verifiable and otherwise comply with Rule 7.1;

(2) identify the certifying group, organization, or association; and

(3) state that the Supreme Court of Washington does not recognize certification of specialties in the practice of law and that the certificate, award, or recognition is not a requirement to practice law in the state of Washington.

Wyoming Rule 7.2(g): Except as permitted by Rule 7.4, any advertisement containing information in addition to that set forth in Rule 7.2(c) shall contain the following disclaimer:

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise.

The disclaimer must appear within the advertisement itself, or in the instance of a telephone or other directory, upon the same or the facing page as the advertisement appears. The disclaimer shall be in a type size at least as large as the smallest type size appearing in the advertisement.

Prohibits Statement of Certification if Certification is Terminated (Connecticut)

Connecticut Rule 7.4A(b): A lawyer shall not state that that he or she is a certified specialist if the lawyer's certification has terminated, or if the statement is otherwise contrary to the terms of such certification.

Prohibits Attributing Certification to a Law Firm (Connecticut)

Connecticut Rule 7.4A(c): Certification as a specialist may not be attributed to a law firm.

List of Additional Areas of Certification (Connecticut, Iowa)

Connecticut Rule 7.4A(d)(1-26)
Lawyers may be certified as specialists in the following fields of law:
(1) *Administrative law*. The practice of law dealing with states, their political subdivisions, regional and metropolitan authorities and other public entities including, but not limited to, their rights and duties, financing, public housing and urban development, the rights of public employees, election law, school law, sovereign immunity, and constitutional law; practice before federal and state courts and governmental agencies.
(2) *Admiralty*. The practice of law dealing with all matters arising under the carriage of goods by sea act (COGSA), Harter Act, Jones Act, and federal and state maritime law including, but not limited to, the carriage of goods, collision and other maritime torts, general average, salvage, limitation of liability, ship financing, ship subsidies, the rights of injured sailors and longshoremen; practice before federal and state courts and governmental agencies (including the Federal Maritime Commission).
(3) *Antitrust.* The practice of law dealing with all matters arising under the Sherman Act, Clayton Act, Federal Trade Commission Act, Hart-Scott-Rodino Antitrust Improvements Act and State Antitrust Statutes including but not limited to, restraints of trade, unfair competition, monopolization, price discrimination, restrictive practices; practice before federal and state courts and governmental agencies.
(4) *Appellate practice.* The practice of law dealing with all procedural and substantive aspects of civil and criminal matters before federal and state appeals courts including, but not limited to, arguments and the submission of briefs.
(5) *Business Bankruptcy*. The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was engaged in business before the institution of a Chapter 7, 9, or 11 proceeding. This includes, but is not limited to, business liquidations, business reorganizations, and related adversary and contested proceedings.
(6) *Consumer Bankruptcy*. The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was not engaged in business before the institution of a Chapter 7, 12, or 13 proceeding. This includes, but is not limited to, liquidations, wage earner plans, family farmers and related adversary and contested proceedings.
(7) *Civil rights and discrimination.* The practice of law dealing with all matters arising under federal and state law relating to proper treatment in the areas of, among others, public

(8) *Civil trial practice.* The practice of law dealing with representation of parties before federal or state courts in all noncriminal matters.
(9) *Commercial transactions.* The practice of law dealing with all aspects of commercial paper, contracts, sales and financing, including, but not limited to, secured transactions.
(10) *Consumer claims and protection.* The practice of law dealing with all aspects of consumer transactions including, but not limited to, sales practices, credit transactions, secured transactions and warranties; all matters arising under the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Magnuson-Moss Act, the Truth in Lending Act, state statutes such as the "Little FTC" acts, and other analogous federal and state statutes.
(11) *Corporate and business organizations.* The practice of law dealing with all aspects of the formation, operation and dissolution of corporations, partnerships (general and limited), agency and other forms of business organizations.
(12) *Corporate finance and securities.* The practice of law dealing with all matter arising under the Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisors Act (or the Federal Securities Code, if adopted) and other federal and state securities statutes; financing corporate activities; mergers and acquisitions; practice before the Securities and Exchange Commission and state securities commissions.
(13) *Criminal.* The practice of law dealing with the prosecution or representation of persons accused of crimes at all stages of criminal proceedings in federal or state courts, including, but not limited to, the protection of the accused's constitutional rights.
(14) *Environmental.* The practice of law dealing with all aspects of the regulation of environmental quality by both federal and state governments; control of air pollution, water pollution, noise pollution, toxic substances, pesticides, and civilian uses of nuclear energy; solid waste/resource recovery; all matters arising under the National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control Act, Noise Control Act, Solid Waste Disposal Act, Toxic Substance Control Act and other federal and state environmental statutes; practice before federal and state courts and governmental agencies.
(15) *Estate planning and probate.* The practice of law dealing with all aspects of the analysis and planning for the conservation and disposition of estates, giving due consideration to the applicable tax consequences, both federal and state; the preparation of legal instruments in order to effectuate estate plans; administering estates, including tax related matters, both federal and state.
(16) *Family and matrimonial.* The practice of law dealing with all aspects of antenuptial and domestic relationships, separation and divorce, alimony and child support, child custody matters and adoption, giving due consideration to the tax consequences, and court proceedings relating thereto.
(17) *Government contracts and claims.* The practice of law dealing with all aspects of the negotiation and administration of contracts with federal and state governmental agencies.
(18) *Immigration and naturalization.* The practice of law dealing with obtaining and retaining permission to enter and remain in the United States including, but not limited to, such matters as visas, change of status, deportation and naturalization; representation of aliens before courts and governmental agencies; protection of aliens' constitutional rights.
(19) *International.* The practice of law dealing with all aspects of the relations among states, international business transactions, international taxation, customs and trade law and foreign and comparative law.
(20) *Labor.* The practice of law dealing with all aspects of employment relations (public and private) including but not limited to, unfair labor practices, collective bargaining, contract administration, the rights of individual employees and union members, employment discrimination; all matters arising under the National Labor Relations Act (Wagner Act), Labor

(21) *Military.* The practice of law dealing with the presentation of parties before courts-martial and other military tribunals in disputes arising under the uniform code of military justice; the representation of veterans and their dependents in seeking government benefits due to them on account of military service; handling civil law problems of the military.
(22) *Natural Resources.* The practice of law dealing with all aspects of the regulation of natural resources such as coal, oil, gas, minerals, water and public lands; the rights and responsibilities relating to the ownership and exploitation of such natural resources.
(23) *Patent, trademark and copyright.* The practice of law dealing with all aspects of the registration, protection and licensing of patents, trademarks or copyrights; practice before federal and state courts in actions for infringement and other actions; the prosecution of applications before the United States Patent and Trademark Office; counseling with regard to the law of unfair competition as it relates to patents, trademarks and copyrights.
(24) (A) *Residential Real Estate.* The practice of law dealing with all aspects of real property transactions involving single one-to-four family residential dwellings when the client uses such dwelling or expresses in writing the intent to use such dwelling as the client's primary or other residence, including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives, and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, and determination of property rights.
(B) *Commercial Real Estate.* The practice of law dealing with all aspects of real property transactions except for residential real estate as defined in subsection (A) of this subsection, including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, real estate development and financing (with due consideration to tax and securities consequences) and determination of property rights.
(25) *Taxation.* The practice of law dealing with all matters arising under the Internal Revenue Code, Employee Retirement Income Security Act (ERISA), state and local tax laws and foreign tax laws, including counseling with respect thereto; practice before federal and state courts and governmental agencies.
(26) *Workers Compensation*. The practice of law dealing with the representation of parties before federal and state agencies, boards and courts in actions to determine eligibility for workers' compensation, and disability.

Iowa Rule 32:7.4(a) A lawyer may communicate the fact that the lawyer practices in or limits the lawyer's practice to certain fields of law as authorized by this rule. Subject to the exceptions and requirements of this rule, a lawyer may identify or describe the lawyer's practice by reference to the following fields of practice:

Administrative Law
Adoption Law
Agricultural Law
Alternate Dispute Resolution
Antitrust & Trade Regulation
Appellate Practice
Aviation & Aerospace

Banking Law
Bankruptcy
Business Law
Civil Rights & Discrimination
Collections Law
Commercial Law
Communications Law
Constitutional Law
Construction Law
Contracts
Corporate Law
Criminal Law
Debtor and Creditor
Education Law
Elder Law
Election, Campaign & Political
Eminent Domain
Employee Benefits
Employment Law
Energy
Entertainment & Sports
Environmental Law
Family Law
Finance
Franchise Law
Government
Government Contracts
Health Care
Immigration
Indians & Native Populations
Information Technology Law
Insurance
Intellectual Property
International Law
International Trade
Investments
Juvenile Law
Labor Law
Legal Malpractice
Litigation
Media Law
Medical Malpractice
Mergers & Acquisitions
Municipal Law
Natural Resources
Nonprofit Law
Occupational Safety & Health
Pension & Profit Sharing Law
Personal Injury
Product Liability
Professional Liability

Public Utility Law
Real Estate
Securities
Social Security Law
Taxation
Tax Returns
Technology and Science
Toxic Torts
Trademarks & Copyright Law
Transportation
Trial Law
Wills, Trusts, Estate Planning & Probate Law
Workers' Compensation
Zoning, Planning & Land Use

Any member of the bar desiring to expand this list may file an application with the supreme court specifying the requested change. In describing the field of practice the lawyer may use the suffix "law," "lawyer," "matters," "cases," or "litigation."

Formation of Legal Specialization Screening Committee (Connecticut)

Connecticut Rule 7.4B: Legal Specialization Screening Committee

(a) The Chief Justice, upon recommendation of the Rules Committee of the superior court, shall appoint a committee of five members of the bar of this state which shall be known as the "Legal Specialization Screening Committee." The Rules Committee of the superior court shall designate one appointee as chair of the Legal Specialization Screening Committee and another as vice chair to act in the absence or disability of the chair.
(b) When the committee is first selected, two of its members shall be appointed for a term of one year, two members for a term of two years, and one member for a term of three years, and thereafter all regular terms shall be three years. Terms shall commence on July 1. In the event that a vacancy arises in this position before the end of a term, the Chief Justice, upon recommendation of the Rules Committee of the superior court, shall appoint a member of the bar of this state to fill the vacancy for the balance of the term. The Legal Specialization Screening Committee shall act only with a concurrence of a majority of its members, provided, however, that three members shall constitute a quorum.
(c) The Legal Specialization Screening Committee shall have the power and duty to:

(1) Receive applications from boards or other entities for authority to certify lawyers practicing in this state as being specialists in a certain area or areas of law.

(2) Investigate each applicant to determine whether it meets the criteria set forth in Rule 7.4A(a).

(3) Submit to the Rules Committee of the superior court a written recommendation, with reasons therefore, for approval or disapproval of each application, or for the termination of any prior approval granted by the Rules Committee.

(4) Adopt regulations and develop forms necessary to carry out its duties under this section. The regulations and forms shall not become effective until first approved by the Rules Committee of the superior court.

(5) Consult with such persons deemed by the committee to be knowledgeable in the fields of law to assist it in carrying out its duties.

<u>Requirement of Application or Approval by Board to Certify Specialists</u> (Connecticut)

Connecticut Rule 7.4C: Application by Board or Entity to Certify Lawyers as Specialists

Any board or entity seeking the approval of the Rules Committee of the superior court for authority to certify lawyers practicing in this state as being specialists in a certain field or fields of law as set forth in Rule 7.4A(d), shall file an original and six copies of its application with the Legal Specialization Screening Committee pursuant to Rule 7.4B.

<u>No Recognition of Specialization with Exception of Patent Attorney</u> (Illinois)

Illinois Rule 7.4(b): The Supreme Court of Illinois does not recognize certifications of specialties in the practice of law, nor does it recognize certifications of expertise in any phase of the practice of law by any agency, governmental or private, or by any group, organization or association. A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.

<u>Identifying Certificates, Awards or Recognitions Must Meet Specific Requirements to use Terms Such as "Certified," "Specialist" or "Expert"</u> (Illinois)

Illinois Rule 7.4(c): Except when identifying certificates, awards or recognitions issued to him or her by an agency or organization, a lawyer may not use the terms "certified,'' "specialist,'' "expert,'' or any other, similar terms to describe his qualifications as a lawyer or his qualifications in any subspecialty of the law. If such terms are used to identify any certificates, awards or recognitions issued by any agency, governmental or private, or by any group, organization or association, the reference must meet the following requirements:

(1) the reference must be truthful and verifiable and may not be misleading in violation of Rule 7.1;

(2) the reference must state that the Supreme Court of Illinois does not recognize certifications of specialties in the practice of law and that the certificate, award or recognition is not a requirement to practice law in Illinois.

<u>Communication Regarding Achievement of National Certificate</u> (Kentucky)

Kentucky Rule SCR 3.130(7.02)(1)(i): A communication otherwise exempt under these Rules is not disqualified by the inclusion of any truthful information pertaining to national certification by an organization that the attorney demonstrates is qualified to grant such certification, to attorneys who meet objective and consistently applied standards relevant to practice in a particular area of the law.

<u>Allows Certification by Independent Certifying Agencies</u> (Indiana, Massachusetts)

Indiana Rule 7.4(d): A lawyer shall not state or imply that the lawyer is a specialist in a particular field of law, unless:

(1) The lawyer has been certified as a specialist by an Independent Certifying Organization accredited by the Indiana Commission for Continuing Legal Education pursuant to Admission and Discipline Rule 30; and,

(2) The certifying organization is identified in the communication.

Massachusetts Rule 7.4(b): Lawyers who hold themselves out as "certified" in a particular service, field or area of law must name the certifying organization and must state that the

certifying organization is "a private organization, whose standards for certification are not regulated by the Commonwealth of Massachusetts," if that is the case, or, if the certifying organization is a governmental body, must name the governmental body.

Standard of Performance of Specialists (Massachusetts)

Massachusetts Rule 7.4(c): Except as provided in this paragraph, lawyers who associate their names with a particular service, field, or area of law imply an expertise and shall be held to the standard of performance of specialists in that particular service, field, or area. Lawyers may limit responsibility with respect to a particular service, field, or area of law to the standard of an ordinary lawyer by holding themselves out in a fashion that does not imply expertise, such as by advertising that they "handle" or "welcome" cases, "but are not specialists in" a specific service, field, or area of law.

Communications to Board Regarding Specialization Are Privileged (Arizona)

Arizona Rule 7.4(b): Communications to the Arizona Board of Legal Specialization and its Advisory Commissions relating to an applicant's qualifications for specialization certification shall be absolutely privileged, and no civil action predicated thereon may be instituted or maintained against any evaluator, staff or witness who communicates with or before the Board or its Advisory Commissions. Members of the Board of Legal Specialization, its Advisory Commission, and others involved in the specialization certification process shall be immune from suit for any conduct in the course of their official duties.

Communication Must State that Certifying Organization is Not Accredited by Board (Minnesota)

Minnesota Rule 7.4(d)(2): In any communication subject to Rules 7.2, 7.3, or 7.5, a lawyer shall not state or imply that a lawyer is a specialist or certified as a specialist in a particular field of law except as follows:
(2) if the attorney is not certified as a specialist or if the certifying organization is not accredited by the Minnesota Board of Legal Certification, the communication shall clearly state the attorney is not certified by an organization accredited by that Board, and in any advertising subject to Rule 7.2, this statement shall appear in the same sentence that communicates the certification.

Penalty for Violation (Georgia)

Georgia Rule 7.4: The maximum penalty for a violation of this Rule is a public reprimand.

ABA MODEL RULE 7.5

Firm Names and Letterheads

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.
(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation 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.
(c) 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.
(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_7_5_firm_names_letterhead.html

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DIFFERENCES IN STATE ADVERTISING RULES

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Firm Name Must Include Name of One Lawyer In Firm (Georgia, Nebraska, New Jersey)

Georgia Rule 7.5(e)(1): A trade name may be used by a lawyer in private practice if: (1) the trade name includes the name of at least one of the lawyers practicing under said name.

Nebraska Rule 3-507.5(a)(1): A trade name may be used by a lawyer in private practice if the trade name includes the name of at least one of the lawyers practicing under said name. A law firm consisting solely of the name or names of deceased or retired members of the firm does not have to include the name of an active member of the firm.

New Jersey Rule 7.5(a): Except for organizations referred to in R. 1:21-1(d), the name under which a lawyer or law firm practices shall include the full or last names of one or more of the lawyers in the firm or office or the names of a person or persons who have ceased to be associated with the firm through death or retirement.

Use of "& Associates" (New Jersey)

New Jersey Rule 7.5(e): A law firm name may include additional identifying language such as "& Associates" only when such language is accurate and descriptive of the firm. Any firm name including additional identifying language such as "Legal Services" or other similar phrases shall inform all prospective clients in the retainer agreement or other writing that the law firm is not affiliated or associated with a public, quasi-public or charitable organization. However, no firm shall use the phrase "legal aid" in its name or in any additional identifying language.

<u>Prohibition or Restrictions on Trade Names</u> (Arizona, California, Florida, Indiana, Louisiana, Mississippi, Nebraska, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon; South Carolina)

Arizona Rule 7.5(a): A trade name may not be used by a lawyer in private practice.

California Rule 1-400(Standards)(9): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in Rule 1-400(A) which are presumed to be in violation of Rule 1-400:A "communication" in the form of a firm name, trade name, fictitious name, or other professional designation used by a member or law firm in private practice which differs materially from any other such designation used by such member or law firm at the same time in the same community.

Florida Rule 4-7.9(b): 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.

Florida Rule 4-7.9(c): 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.

Indiana Rule 7.5(a)(4): A trade name may be used by a lawyer in private practice subject to the following requirements:

(i) the name shall not imply a connection with a government agency or with a public or charitable legal services organization and shall not otherwise violate of Rule 7.1.

(ii) the name shall include the name of a lawyer (or the name of a de-ceased or retired member of the firm, or of a predecessor firm in a manner that complies with subparagraph (2) above).

(iii) the name shall not include words other than words that comply with clause (ii) above and words that:

(A) identify the field of law in which the firm concentrates its work, or
(B) describe the geographic location of its offices, or
(C) indicate a language fluency.

Louisiana Rule 7.2(c)(1)(L): utilizes a nickname, moniker, motto or trade name that states or implies an ability to obtain results in a matter.

Louisiana Rule 7.10(b): A lawyer or law firm shall not practice under a trade name that implies a connection with a government agency, public or charitable services organization or other professional association, that implies that the firm is something other than a private law firm, or that is otherwise in violation of subdivision (c)(1) of Rule 7.2.

Louisiana Rule 7.10(c): 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.

Mississippi Rule 7.7(b): A lawyer shall not practice under a trade or fictitious name or a name that is misleading as to the identity of the lawyer or lawyers practicing under such name. 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 legal community for those services.

Nebraska Rule 3-507.5(a)(1): A trade name may be used by a lawyer in private practice if the trade name includes the name of at least one of the lawyers practicing under said name. A law firm consisting solely of the name or names of deceased or retired members of the firm does not have to include the name of an active member of the firm.

Nevada Rule 7.5(a): A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

New Jersey Rule 7.5(f): In any case in which an organization practices under a trade name as permitted by paragraph (a) above, the name or names of one or more of its principally responsible attorneys, licensed to practice in this State, shall be displayed on all letterheads, signs, advertisements and cards or other places where the trade name is used.

New York Rule 7.5(b): A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the name of a professional corporation shall contain "P.C." or such symbols permitted by law, the name of a limited liability company or partnership shall contain "L.L.C.," "L.L.P." or such symbols permitted by law, and, if otherwise lawful, a firm may use as, or continue to include in its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Such terms as "legal clinic," "legal aid," "legal service office," "legal assistance office," "defender office" and the like, may be used only by qualified legal assistance organizations, except that the term "legal clinic" may be used by any lawyer or law firm provided the name of a participating lawyer or firm is incorporated therein. […]

North Carolina Rule 7.5(a): A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not false or misleading in violation of Rule 7.1. Every trade name used by a law firm shall be registered with the North Carolina State Bar for a determination of whether the name is misleading.

Ohio Rule 7.5(a): A lawyer in private practice shall not practice under a trade name, a name that is misleading as to identity of the lawyer or lawyers practicing under the name, or a firm name containing names other than those of one or more of the lawyer sin the firm, except that the name

of a professional corporation or association, legal clinic, limited liability company, or registered partnership shall contain symbols indicating the nature of the organization as required by Gov. Bar R. III. If otherwise lawful, a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

Oregon Rule 7.5(c)(2): A lawyer in private practice may use a trade name in private practice if the name does not state or imply a connection with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

South Carolina Rule 7.1(e): A lawyer shall not make false, misleading, deceptive, or unfair communications about the lawyer or the lawyer's services. A communication violates this rule if it:
(e) contains a nickname, moniker, or trade name that implies an ability to obtain results in a matter.

Provisions Regarding Use of "P.C.," "L.L.P.," "L.L.C.," "P.A." and "Legal Clinic" (Florida, Hawaii, Indiana, Mississippi, New York, Texas)

Florida Rule 4-7.9(b): 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.

Hawaii Rule 7.5(c): The name of a professional law corporation or limited liability law company, limited liability law partnership or other such lawful organization shall include the words "A Law Corporation," "A Limited Liability Law Company," "A Limited Liability Law Partnership," or other appropriate designation, whenever applicable.

Indiana Rule 7.5(a)(2): (2) The name of a professional corporation, professional association, limited liability partnership, or limited liability company may contain, "P.C., "P.A.," "LLP," or "LLC" or similar symbols indicating the nature of the organization.

Mississippi Rule 7.7(b): A lawyer shall not practice under a trade or fictitious name or a name that is misleading as to the identity of the lawyer or lawyers practicing under such name. 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 legal community for those services.

New York Rule 7.5(b): A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the name of a professional corporation shall contain "P.C." or such symbols permitted by law, the name of a limited liability company or partnership shall contain "L.L.C.," "L.L.P." or such symbols permitted by law, and, if otherwise lawful, a firm may use as, or continue to include in its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Such terms as "legal clinic," "legal aid," "legal service office," "legal assistance office," "defender office" and the like, may be used only by qualified legal assistance organizations, except that the term "legal clinic" may be used by any lawyer or law firm provided the name of a participating lawyer or firm is incorporated therein. […]

Texas Rule 7.01(a): A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional corporation, professional association, limited liability partnership, or professional limited liability company may contain "P.C.," "L.L.P.," "P.L.L.C.," or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.

Restrictions on Domain Names (New York)

New York Rule 7.5(e) & (f):
(e) A lawyer or law firm may utilize a domain name for an internet web site that does not include the name of the lawyer or the law firm provided:
(1) all pages of the web site clearly and conspicuously include the actual name of the lawyer or law firm;
(2) the lawyer or law firm in no way attempts to engage in the practice of law using the domain name;
(3) the domain name does not imply an ability to obtain results in a matter; and
(4) the domain name does not otherwise violate these Rules.
(f) A lawyer or law firm may utilize a telephone number which contains a domain name, nickname, moniker or motto that does not otherwise violate these Rules.

Ancillary Businesses (Iowa)

Iowa Rule 32:7:5(f): A lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on the lawyer's letterhead, office sign, or professional card, and shall not be identified as a lawyer in any publication in connection with the lawyer's other profession or business.

Disclosure of Professional Liability Insurance (South Dakota)

South Dakota Rule 7.5(e): The disclosure required in Rule 1.4(c)(1) or (2) [Rule 1.4(c) requires disclosure on lawyer's letterhead of the absence of professional liability insurance of at least $100,000] shall be in black ink with type no smaller than the type used for showing the individual lawyer's names.

Note: Four other states (Alaska Rule 1.4(c), New Hampshire Rule 1.19, Ohio Rule 1.4(c), and Pennsylvania Rule 1.4(c)) have adopted professional conduct rules requiring lawyers to notify clients, in writing, if the lawyer does not maintain professional liability insurance of at least $100,000 per occurrence and $300,000 in the aggregate).

Restrictions on Use of "Of Counsel" (Alaska, California, Kentucky, New York, Ohio, Oregon)

Alaska Rule 7.5(e): The term "of counsel" shall be used only to refer to a lawyer who has a close continuing relationship with the firm.

California Rule 1-400(Standards)(8): Pursuant to rule 1-400(E) the Board of Governors of the State Bar has adopted the following standards, effective May 27, 1989, unless noted otherwise, as forms of "communication" defined in Rule 1-400(A) which are presumed to be in violation of Rule 1-400: A "communication" which states or implies that a member or law firm is "of counsel" to another lawyer or law firm unless the former has a relationship with the latter (other than as a partner or associate, or officer or shareholder pursuant to Business and Professions Code sections 6160-6172) which is close, personal, continuous, and regular.

Kentucky SCR 3.130 (7.02)(1)(f): A lawyer may be designated "Of Counsel" on a letterhead if there is a continuing relationship with a lawyer or law firm, other than as a partner or associate.

New York Rule 7. 5(a)(4): A lawyer or law firm may be designated "Of Counsel" on a letterhead if there is a continuing relationship with a lawyer or law firm, other than as a partner or associate.

Ohio Rule 7.5 Comment [3]: A lawyer may be designated "Of Counsel" if the lawyer has a continuing relationship with a lawyer or law firm, other than as a partner or associate.

Oregon Rule 7.5(b): A lawyer may be designated "Of Counsel" on a letterhead if the lawyer has a continuing professional relationship with a lawyer or law firm, other than as a partner or associate. A lawyer may be designated as "General Counsel" or by a similar professional reference on stationery of a client if the lawyer or the lawyer's firm devotes a substantial amount of professional time in the representation of the client.

Restrictions on Use of "General Counsel" (Kentucky, New York)

Kentucky SCR 3.130(7.02)(1)(f): A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if the lawyer or the firm devotes a substantial amount of professional time in the representation of that client.

New York Rule 7.5(a)(4): A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if the lawyer or law firm devotes a substantial amount of professional time in the representation of that client.

Provisions on Use of Deceased or Retired Firm Members' Names (Georgia, Hawaii, Indiana, Kentucky, Louisiana, Nebraska, New York, Ohio, Oregon, Pennsylvania, Texas)

Georgia Rule 7.5(e)(1): A law firm name consisting solely of the name or names of deceased or retired members of the firm does not have to include the name of an active member of the firm.

Hawaii Rule 7.5(b): A law firm may use as, or continue to include in, its name the name or names of one or more deceased or retired partners of the firm in a continuing line of succession; provided that where none of the names comprising a firm name is the name of a current partner who is on the list of active attorneys maintained by the Hawai'i State Bar, there shall be at least one supervisor, manager, partner, or shareholder of the firm who is on the list of active attorneys maintained by the bar.

Indiana Rule 7.5(a)(3): If otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. See Admission & Discipline Rule 27.

Kentucky SCR 3.130(7.02)(1)(f): A letterhead of a law firm may also give . . . names and dates relating to deceased and retired members.

Louisiana Rule 7.10(g): If otherwise lawful and permitted under these Rules, a law firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the law firm, or of a predecessor firm in a continuing line of succession.

Nebraska Rule 3-507.5(a)(1): A trade name may be used by a lawyer in private practice if the trade name includes the name of at least one of the lawyers practicing under said name. A law firm consisting solely of the name or names of deceased or retired members of the firm does not have to include the name of an active member of the firm.

New York Rule 7.5(a)(4): A letterhead of a law firm may also give . . . names and dates relating to deceased and retired members.

New York Rule 7.5(b): A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the name of a professional corporation shall contain "P.C." or such symbols permitted by law, the name of a limited liability company or partnership shall contain "L.L.C.," "L.L.P." or such symbols permitted by law, and, if otherwise lawful, a firm may use as, or continue to include in its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Such terms as "legal clinic," "legal aid," "legal service office," "legal assistance office," "defender office" and the like, may be used only by qualified legal assistance organizations, except that the term "legal clinic" may be used by any lawyer or law firm provided the name of a participating lawyer or firm is incorporated therein. […]

Ohio 7.5(a) If otherwise lawful, a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

Oregon Rule 7.5(c)(3): A lawyer in private practice may use in a firm name the name or names of one or more of the retiring, deceased or retired members of the firm or a predecessor law firm in a continuing line of succession.

Pennsylvania Rule 7.5(a): A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government, government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1. If otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

Texas Rule 7.01(a): A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional corporation, professional association, limited liability partnership, or professional limited liability company may contain "P.C.," "L.L.P.," "P.L.L.C.," or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members

of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.

Prohibition on Use of Name of Nonlawyer (New York)

New York Rule 7.5(b): A lawyer or law firm may not include the name of a nonlawyer in its firm name, nor may a lawyer or law firm that has a contractual relationship with a nonlegal professional or nonlegal professional service firm pursuant to Rule 5.8 to provide legal and other professional services on a systematic and continuing basis include in its firm name the name of the nonlegal professional service firm or any individual nonlegal professional affiliated therewith.

Prohibition on Use of Name of Lawyer Disbarred or Suspended for Period of at Least Six Months (Kentucky, Rhode Island)

Kentucky SCR 3.130(7.50)(5): The name of a lawyer who is suspended by the Supreme Court from the practice of law may not be used by the law firm in any manner until the lawyer is reinstated. A lawyer who has been permanently disbarred shall not be included in a firm name, letterhead, or any other professional designation or advertisement.

Rhode Island Rule 7.5(c): The name of a lawyer holding a public office during any substantial period in which the lawyer is not actively and regularly practicing with the firm, and the name of a lawyer who is disbarred or suspended from the practice of law for a period of at least six (6) months, shall not be used in the name of a law firm or in communication on its behalf.

Legal Assistants' Names on Letterhead or Business Card (Alabama, North Dakota)

Alabama Rule 7.6: A lawyer shall not cause or permit a business card of a nonlawyer which contains the lawyer's or firm's name to contain a false or misleading statement or omission to the effect that the nonlawyer is a lawyer. A business card of a nonlawyer is not false and misleading which clearly identifies the nonlawyer as a "Legal Assistant,"' provided that the individual is employed in that capacity by a lawyer or law firm, that the lawyer or law firm supervises and is responsible for the law related tasks assigned to and performed by such individual, and that the lawyer or law firm has authorized the use of such cards.

North Dakota Rule 7.5(e): A lawyer may identify legal assistants on the lawyer's letterhead and on business cards identifying the lawyer's firm, provided the legal assistant's status is clearly identified.

Insurance Staff Attorneys (Florida)

Florida Rule 4-7.9(g): 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.

Omits Portion of ABA Model 7.5(a) Regarding Permissible Use of Trade Names by Lawyers in Private Practice (Kentucky)

Kentucky Rule SCR 3.130(7.50)(1): A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.15.

Omits ABA Model Rule 7.5(d) Permitting Lawyers to State or Imply that They Practice in a Partnership or Other Organization Only When That is the Fact (Alabama)

Exception for Lawyers Serving in State Legislature (Nevada)

Nevada Rule 7.5(c): 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. This provision does not apply to a lawyer who takes a brief hiatus from practice to serve as an elected member of the Nevada State Legislature when the legislature is in session.

Allows Mention of Other Jurisdictions Where Admitted to Practice (Alabama)

Alabama Rule 7.5(c): A lawyer or law firm may indicate on any letterhead or other communication permitted by these rules other jurisdictions in which the lawyer or the members or associates of the law firm are admitted to practice.

Restrictions on Lawyers Practicing Out of Same Office Who Are Not Partners (Washington)

Washington Comment [3]: Lawyers practicing out of the same office who are not partners, shareholders of a professional corporation, or members of a professional limited liability company or partnership may not join their names together. Lawyers who are not 1) partners, shareholders of a professional corporation, or members of a professional limited liability company or partnership, or 2) employees of a sole proprietorship, partnership, professional corporation, or members of a professional limited liability company or partnership or other organization, or 3) in the relationship of being "Of Counsel" to a sole proprietorship, partnership, professional corporation, or members of a professional limited liability company or partnership or other organization, must have separate letterheads, cards and pleading paper, and must sign their names individually at the end of all pleadings and correspondence and not in conjunction with the names of other lawyers.

Disclaimer Not Sufficient When Name Implies Partnership (Wyoming)

Wyoming Rule 7.5(d): Lawyers shall clearly and accurately state the organizational structure of the organization in which they practice. Lawyer may not state or imply that they practice in a partnership, firm or other organization if that is not the fact. If lawyers use a name or designation that implies they are practicing in a partnership, firm or other organization, when, in fact, they are not, adding a disclaimer such as "not a partnership" or "an association of sole practitioners" shall not render the name or designation permissible under Rule 7.4.

Penalty for Violation (Georgia)

Georgia Rule 7.5: The maximum penalty for a violation of this Rule is a public reprimand.