

1 **Model Rule 1.0: Terminology**

2 (l) “Solicitation” or “solicit” denotes a communication initiated by or on behalf of a lawyer or law
3 firm that is directed to a specific person reasonably believed to need legal services in a particular
4 matter and that offers to provide, or reasonably can be understood as offering to provide, legal
5 services for that matter.

6 ~~(m)~~ (n) “Substantial” when used in reference to degree or extent denotes a material matter of clear
7 and weighty importance.

8 ~~(m)~~ (n) “Tribunal” denotes a court, an arbitrator in a binding arbitration proceeding or a legislative
9 body, administrative agency or other body acting in an adjudicative capacity. A legislative body,
10 administrative agency or other body acts in an adjudicative capacity when a neutral official, after
11 the presentation of evidence or legal argument by a party or parties, will render a binding legal
12 judgment directly affecting a party's interests in a particular matter.

13 ~~(n)~~ (o) “Writing” or “written” denotes a tangible or electronic record of a communication or
14 representation, including handwriting, typewriting, printing, photostating, photography, audio or
15 videorecording, and electronic communications. A “signed” writing includes an electronic sound,
16 symbol or process attached to or logically associated with a writing and executed or adopted by a
17 person with the intent to sign the writing.

18

19 **Model Rule 7.1: Communications Concerning A Lawyer's Services**

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

24 **Comment**

25 [1] This Rule governs all communications about a lawyer's services including advertising
26 ~~permitted by Rule 7.2.~~ that is constitutionally protected commercial speech. Whatever means are
27 used to make known a lawyer's services, statements about them must be truthful.

28 [2] Truthful statements that are misleading are also prohibited by this Rule. A truthful statement
29 is misleading if it omits a fact necessary to make the lawyer's communication considered as a
30 whole not materially misleading. A truthful statement is ~~also~~ misleading if there is a substantial
31 likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer
32 or the lawyer's services for which there is no reasonable factual foundation. A truthful statement
33 also is misleading if presented in a way that leads a reasonable person to believe the lawyer's
34 communication requires that person to take further action when, in fact, no action is required.

35 [3] ~~An advertisement~~ A communication that truthfully reports a lawyer's achievements on behalf
36 of clients or former clients may be misleading if presented so as to lead a reasonable person to
37 form an unjustified expectation that the same results could be obtained for other clients in similar
38 matters without reference to the specific factual and legal circumstances of each client's case.
39 Similarly, an unsubstantiated claim about a lawyer's or law firm's services or fees, or an
40 unsubstantiated comparison of the lawyer's or law firm's services or fees with the services or fees
41 those of other lawyers or law firms, may be misleading if presented with such specificity as would
42 lead a reasonable person to conclude that the comparison or claim can be substantiated. The
43 inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a
44 statement is likely to create unjustified expectations or otherwise mislead the public.

45 [4] ~~See also Rule 8.4(e) for the prohibition against stating or implying an ability to influence~~
46 ~~improperly a government agency or official or to achieve results by means that violate the Rules~~
47 ~~of Professional Conduct or other law.~~

48 **Firm Names and Designations**¹

49 [4] Firm names, letterhead and professional designations are communications concerning a
50 lawyer's services. A trade name may be used by a lawyer in private practice if it is not false or
51 misleading. A trade name is misleading if it implies a connection with a government agency, with
52 a deceased lawyer who was not a former member of the firm, or with a public or charitable legal
53 services organization.

54 [5] A firm may be designated by the names of all or some of its members, by the names of deceased
55 members where there has been a succession in the firm's identity, or by a trade name such as the
56 "ABC Legal Clinic." A lawyer or law firm also may be designated by a distinctive website address,
57 electronic social media "handle," or comparable professional designation. If a firm uses a trade
58 name that includes a geographical name such as "Springfield Legal Clinic," an express statement
59 explaining that it is not a public legal aid agency may be required to avoid a misleading implication.
60 A firm name including the name of a deceased partner is, strictly speaking, a trade name. The use
61 of such names to designate law firms has proven a useful means of identification. However, it is
62 misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm,
63 or the name of a nonlawyer.

64 [6] A law firm with offices in more than one jurisdiction may use the same name or other
65 professional designation in each jurisdiction. Lawyers in such an office should indicate where they
66 are admitted to practice.

67 [7] Lawyers may not imply or hold themselves out as practicing together in one firm when they
68 are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading.

69 [8] It is misleading to use the name of a lawyer holding a public office in the name of a law firm,
70 or in communications on the law firm's behalf, during any substantial period in which the lawyer
71 is not actively and regularly practicing with the firm.

72

¹ Proposed Comments [4] through [8] to Rule 7.1 are drawn from current Rule 7.5.

73 **Rule 7.2: Advertising Communications Concerning a Lawyer's Services: Specific Rules**

74 (a) ~~Subject to the requirements of Rules 7.1 and 7.3, a~~ A lawyer may advertise services through
75 ~~written, recorded or electronic communication, including public~~ any media.

76 (b) A lawyer shall not give anything of value to a person for recommending the lawyer's services
77 except that a lawyer may

78 (1) pay the reasonable costs of advertisements or communications permitted by this Rule;

79 (2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer
80 referral service. A qualified lawyer referral service is a lawyer referral service that has been
81 approved by an appropriate regulatory authority;

82 (3) pay for a law practice in accordance with Rule 1.17; ~~and~~

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

86 (i) the reciprocal referral agreement is not exclusive; and

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

88 (5) give nominal gifts that are neither intended nor reasonably expected to be a form of
89 compensation for recommending a lawyer's services.

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

92 **Comment**

93 ~~[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed~~
94 ~~to make known their services not only through reputation but also through organized information~~
95 ~~campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to~~
96 ~~the tradition that a lawyer should not seek clientele. However, the public's need to know about~~
97 ~~legal services can be fulfilled in part through advertising. This need is particularly acute in the case~~

Working Draft December 21, 2017

98 of persons of moderate means who have not made extensive use of legal services. The interest in
99 expanding public information about legal services ought to prevail over considerations of tradition.
100 Nevertheless, advertising by lawyers entails the risk of practices that are misleading or
101 overreaching.

102 [1] ~~[2]~~ This Rule permits public dissemination of information concerning a lawyer's or law firm's
103 name, ~~or firm name,~~ address, email address, website, and telephone number; the kinds of services
104 the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices
105 for specific services and payment and credit arrangements; a lawyer's foreign language ability;
106 names of references and, with their consent, names of clients regularly represented; and other
107 information that might invite the attention of those seeking legal assistance.

108 ~~[3] Questions of effectiveness and taste in advertising are matters of speculation and subjective~~
109 ~~judgment. Some jurisdictions have had extensive prohibitions against television and other forms~~
110 ~~of advertising, against advertising going beyond specified facts about a lawyer, or against~~
111 ~~"undignified" advertising. Television, the Internet, and other forms of electronic communication~~
112 ~~are now among the most powerful media for getting information to the public, particularly persons~~
113 ~~of low and moderate income; prohibiting television, Internet, and other forms of electronic~~
114 ~~advertising, therefore, would impede the flow of information about legal services to many sectors~~
115 ~~of the public. Limiting the information that may be advertised has a similar effect and assumes~~
116 ~~that the bar can accurately forecast the kind of information that the public would regard as relevant.~~
117 ~~But see Rule 7.3(a) for the prohibition against a solicitation through a real time electronic~~
118 ~~exchange initiated by the lawyer.~~

119 ~~[4] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to~~
120 ~~members of a class in class action litigation.~~

121 **Paying Others to Recommend a Lawyer**

122 [2] ~~[5]~~ Except as permitted under paragraphs (b)(1)-(b)~~(4)(5)~~, lawyers are not permitted to pay
123 others for recommending the lawyer's services. ~~or for channeling professional work in a manner~~
124 ~~that violates Rule 7.3.~~ A communication contains a recommendation if it expresses, implies or
125 suggests value as to the lawyer's services or ~~if it endorses or vouches for a lawyer's~~ credentials,
126 abilities, competence, character, or other professional qualities. Directory listings and group

127 advertisements that list lawyers by practice area, without more, do not constitute impermissible
128 “recommendations.”

129
130 [3] Paragraph (b)(1) ~~however~~, allows a lawyer to pay for advertising and communications
131 permitted by this Rule, including the costs of print directory listings, on-line directory listings,
132 newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-
133 based advertisements, and group advertising. A lawyer may compensate employees, agents and
134 vendors who are engaged to provide marketing or client development services, such as publicists,
135 public-relations personnel, business-development staff and website designers.²

136
137 [4] Paragraph (b)(5) permits nominal gifts as might be given for holidays, or other ordinary social
138 hospitality. A gift is prohibited if offered or given in consideration of any promise, agreement or
139 understanding that such a gift would be forthcoming or that referrals would be made or encouraged
140 in the future.

141
142 [5] ~~Moreover, a~~ A lawyer may pay others for generating client leads, such as Internet-based client
143 leads, as long as the lead generator does not recommend the lawyer, any payment to the lead
144 generator is consistent with Rules 1.5(e) (division of fees) and 5.4 (professional independence of
145 the lawyer), and the lead generator’s communications are consistent with Rule 7.1
146 (communications concerning a lawyer’s services). To comply with Rule 7.1, a lawyer must not
147 pay a lead generator that states, implies, or creates a reasonable impression that it is recommending
148 the lawyer, is making the referral without payment from the lawyer, or has analyzed a person’s
149 legal problems when determining which lawyer should receive the referral. See Comment [2]
150 (definition of “recommendation”). See also Rule 5.3 (duties of lawyers and law firms with respect
151 to the conduct of nonlawyers); Rule 8.4(a) (duty to avoid violating the Rules through the acts of
152 another.

153 [6] A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified
154 lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar
155 delivery system that assists people who seek to secure legal representation. A lawyer referral

² This comes from cmt. [5] to current Rule 7.2. The revision simply breaks former cmt. [5] to Rule 7.2 into three cmts, i.e. [2], [3], and [5] to new 7.2.

156 service, on the other hand, is any organization that holds itself out to the public as a lawyer referral
157 service. Such Qualified referral services are ~~understood by the public to be~~ consumer-oriented
158 organizations that provide unbiased referrals to lawyers with appropriate experience in the subject
159 matter of the representation and afford other client protections, such as complaint procedures or
160 malpractice insurance requirements. Consequently, this Rule only permits a lawyer to pay the usual
161 charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service
162 is one that is approved by an appropriate regulatory authority as affording adequate protections for
163 the public. ~~See, e.g., the American Bar Association's Model Supreme Court Rules Governing~~
164 ~~Lawyer Referral Services and Model Lawyer Referral and Information Service Quality Assurance~~
165 ~~Act (requiring that organizations that are identified as lawyer referral services (i) permit the~~
166 ~~participation of all lawyers who are licensed and eligible to practice in the jurisdiction and who~~
167 ~~meet reasonable objective eligibility requirements as may be established by the referral service for~~
168 ~~the protection of the public; (ii) require each participating lawyer to carry reasonably adequate~~
169 ~~malpractice insurance; (iii) act reasonably to assess client satisfaction and address client~~
170 ~~complaints; and (iv) do not make referrals to lawyers who own, operate or are employed by the~~
171 ~~referral service.)~~

172 ~~[7] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a~~
173 ~~lawyer referral service must act reasonably to assure that the activities of the plan or service are~~
174 ~~compatible with the lawyer's professional obligations. See Rule 5.3. Legal service plans and lawyer~~
175 ~~referral services may communicate with the public, but such communication must be in conformity~~
176 ~~with these Rules. Thus, advertising must not be false or misleading, as would be the case if the~~
177 ~~communications of a group advertising program or a group legal services plan would mislead the~~
178 ~~public to think that it was a lawyer referral service sponsored by a state agency or bar association.~~
179 ~~Nor could the lawyer allow in-person, telephonic, or real-time contacts that would violate Rule 7.3~~

180 ~~[8] [7]~~ A lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in
181 return for the undertaking of that person to refer clients or customers to the lawyer. Such reciprocal
182 referral arrangements must not interfere with the lawyer's professional judgment as to making
183 referrals or as to providing substantive legal services. See Rules 2.1 and 5.4(c). Except as provided
184 in Rule 1.5(e), a lawyer who receives referrals from a lawyer or nonlawyer professional must not
185 pay anything solely for the referral, but the lawyer does not violate paragraph (b) of this Rule by

186 agreeing to refer clients to the other lawyer or nonlawyer professional, so long as the reciprocal
187 referral agreement is not exclusive and the client is informed of the referral agreement. Conflicts
188 of interest created by such arrangements are governed by Rule 1.7. Reciprocal referral agreements
189 should be of indefinite duration and should be reviewed periodically to determine whether they
190 comply with these Rules. This Rule does not restrict referrals or divisions of revenues or net
191 income among lawyers within firms comprised of multiple entities.

192 **Model Rule 7.3: Solicitation of Clients**

193 (a) A lawyer shall not solicit professional employment by live person to person contact~~in person,~~
194 ~~live telephone or real-time electronic contact~~ solicit professional employment when a significant
195 motive for the lawyer's doing so is the lawyer's or law firm's pecuniary gain, unless the ~~person~~
196 ~~contacted~~ is:

197 (1) with ~~is~~ a lawyer; ~~or~~

198 (2) with a person who has a family, close personal, or prior business or professional
199 relationship with the lawyer; or

200 (3) with a person who is known by the lawyer to be an experienced user of the type of legal
201 services involved for business matters.

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

205 (1) the target of the solicitation has made known to the lawyer a desire not to be solicited
206 by the lawyer; or

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

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

Working Draft December 21, 2017

213 (c) This Rule does not prohibit communications authorized by law or ordered by a court or other
214 tribunal.

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

220 **Comment**

221 [1] ~~A solicitation is a targeted communication initiated by the lawyer that is directed to a specific~~
222 ~~person and that offers to provide, or can reasonably be understood as offering to provide, legal~~
223 ~~services. In contrast, a Paragraph (a) prohibits a lawyer from soliciting professional employment~~
224 ~~by live person to person contact when a significant motive for the lawyer's doing so is the lawyer's~~
225 ~~or the law firm's pecuniary gain. See Rule 1.0(1) for a definition of solicitation. A lawyer's~~
226 ~~communication is typically does not constitute a solicitation if it is directed to the general public,~~
227 ~~such as through a billboard, an Internet banner advertisement, a website or a television commercial,~~
228 ~~or if it is in response to a request for information or is automatically generated in response to~~
229 ~~Internet searches.~~

230 [2] “Live person to person contact” means in person, face to face, telephone and real-time person
231 to person communications such as Skype or Facetime, and other visual/auditory communications
232 where the prospective client may feel obligated to speak with the lawyer. Such person to person
233 contact does not include chat rooms, text messages, or other written communications that
234 recipients may easily disregard. There is a A potential for abuse overreaching exists when a
235 solicitation involves a lawyer, seeking pecuniary gain, direct in person, live telephone or real time
236 electronic contact solicits a person by a lawyer with someone known to be in need of legal services.
237 ~~These~~ This forms of contact subjects a person to the private importuning of the trained advocate
238 in a direct interpersonal encounter. The person, who may already feel overwhelmed by the
239 circumstances giving rise to the need for legal services, may find it difficult to fully evaluate ~~fully~~
240 all available alternatives with reasoned judgment and appropriate self-interest in the face of the
241 lawyer's presence and insistence upon ~~being retained immediately~~ an immediate response. The
242 situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

243 [3] ~~This~~ The potential for abuse overreaching inherent in live person to person contact ~~direct in-~~
244 ~~person, live telephone or real-time electronic solicitation~~ justifies its prohibition, ~~particularly~~ since
245 lawyers have alternative means of conveying necessary information. ~~to those who may be in need~~
246 ~~of legal services.~~ In particular, communications can be mailed or transmitted by email or other
247 electronic means that ~~do not involve real-time contact and~~ do not violate other laws. ~~governing~~
248 ~~solicitations.~~ These forms of communications ~~and solicitations~~ make it possible for the public to
249 be informed about the need for legal services, and about the qualifications of available lawyers
250 and law firms, without subjecting the public to live person to person ~~direct in-person, telephone or~~
251 ~~real-time electronic~~ persuasion that may overwhelm a person's judgment.

252 [4] ~~The use of general advertising and written, recorded or electronic communications to transmit~~
253 ~~information from lawyer to the public, rather than direct in-person, live telephone or real-time~~
254 ~~electronic contact, will help to assure that the information flows cleanly as well as freely. The~~
255 ~~contents of advertisements and communications permitted under Rule 7.2 can be permanently~~
256 ~~recorded so that they cannot be disputed and may be shared with others who know the lawyer.~~
257 ~~This potential for informal review is itself likely to help guard against statements and claims that~~
258 ~~might constitute false and misleading communications, in violation of Rule 7.1.~~ The contents of
259 live person to person ~~direct in-person live telephone or real-time electronic~~ contact can be disputed
260 and may not be subject to third-party scrutiny. Consequently, they are much more likely to
261 approach (and occasionally cross) the dividing line between accurate representations and those
262 that are false and misleading.

263 [5] There is far less likelihood that a lawyer would engage in ~~abusive practices~~ overreaching
264 against a former client, or a person with whom the lawyer has a close personal, ~~or~~ family, business
265 or professional relationship, or in situations in which the lawyer is motivated by considerations
266 other than the lawyer's pecuniary gain. Nor is there a serious potential for ~~abuse~~ overreaching when
267 the person contacted is a lawyer or is known to be an experienced user of the type of legal services
268 involved for business purposes. For instance, an "experienced user" of legal services for business
269 matters may include constituents of a business entity who hire outside counsel to represent the
270 entity; entrepreneurs who regularly engage business, employment law, or intellectual property
271 lawyers; small proprietorships that hire lawyers for lease or contract issues; and other people who
272 retain lawyers for business transactions or formations. An experienced user of legal services would

273 not ordinarily include someone who has hired lawyers on multiple occasions for family law
274 matters, criminal matters or personal injury claims. ~~Consequently, the general prohibition in Rule~~
275 ~~7.3(a) and the requirements of Rule 7.3(c) are not applicable in those situations.~~ Also, Paragraph
276 (a) is not intended to prohibit a lawyer from participating in constitutionally protected activities of
277 public or charitable legal-service organizations or bona fide political, social, civic, fraternal,
278 employee or trade organizations whose purposes include providing or recommending legal
279 services to their members or beneficiaries.

280 ~~[6] But even permitted forms of solicitation can be abused. Thus, any~~ A solicitation that ~~which~~
281 contains false or misleading information ~~which is false or misleading~~ within the meaning of Rule
282 7.1, that ~~which~~ involves coercion, duress or harassment within the meaning of Rule 7.3(b)(2), or
283 that ~~which~~ involves contact with someone who has made known to the lawyer a desire not to be
284 solicited by the lawyer within the meaning of Rule 7.3(b)(1) is prohibited. ~~Moreover, if after~~
285 ~~sending a letter or other communication as permitted by Rule 7.2 the lawyer receives no response,~~
286 ~~any further effort to communicate with the recipient of the communication may violate the~~
287 ~~provisions of Rule 7.3(b).~~

288 [7] This Rule is does not intended to ~~to~~ prohibit a lawyer from contacting representatives of
289 organizations or groups that may be interested in establishing a group or prepaid legal plan for
290 their members, insureds, beneficiaries or other third parties for the purpose of informing such
291 entities of the availability of and details concerning the plan or arrangement which the lawyer or
292 lawyer's firm is willing to offer. This form of communication is not directed to people who are
293 seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a
294 fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become
295 prospective clients of the lawyer. Under these circumstances, the activity which the lawyer
296 undertakes in communicating with such representatives and the type of information transmitted to
297 the individual are functionally similar to and serve the same purpose as advertising permitted under
298 Rule 7.2.

299 ~~[8] The requirement in Rule 7.3(c) that certain communications be marked "Advertising Material"~~
300 ~~does not apply to communications sent in response to request so potential clients or their~~
301 ~~spokespersons or sponsors. General announcements by lawyers, including changes in personnel~~

Working Draft December 21, 2017

302 ~~or office location do not constitute communications soliciting professional employment from a~~
303 ~~client known to be in need of legal services within the meaning of this Rule.~~

304 [8] Communications authorized by law or ordered by a court or tribunal include a notice to
305 potential members of a class in class action litigation.

306 [9] Paragraph (d) of this Rule permits a lawyer to participate with an organization which uses
307 personal contact to ~~solicit~~ enroll members for its group or prepaid legal service plan, provided that
308 the personal contact is not undertaken by any lawyer who would be a provider of legal services
309 through the plan. The organization must not be owned by or directed (whether as manager or
310 otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (d)
311 would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer
312 and use the organization for the in-person or telephone solicitation of legal employment of the
313 lawyer through memberships in the plan or otherwise. The communication permitted by these
314 organizations ~~also~~ must not be directed to a person known to need legal services in a particular
315 matter, but ~~is to~~ be designed to inform potential plan members generally of another means of
316 affordable legal services. Lawyers who participate in a legal service plan must reasonably assure
317 that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3(b). ~~See 8.4(a).~~

318 **Rule 7.4 Communication of Fields of Practice and Specialization**

319 (a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields
320 of law.

321 ~~(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark~~
322 ~~Office may use the designation “Patent Attorney” or a substantially similar designation.~~

323 ~~(c) A lawyer engaged in Admiralty practice may use the designation “Admiralty,” “Proctor in~~
324 ~~Admiralty” or a substantially similar designation.~~

325 ~~(b) (d)~~ A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular
326 field of law, unless:

327 (1) the lawyer has been certified as a specialist by an organization that has been approved
328 by an appropriate ~~state~~ authority of the state or the District of Columbia or a U.S. Territory
329 or that has been accredited by the American Bar Association; and

330 (2) the name of the certifying organization is clearly identified in the communication.

331 **Comment**

332 [1] Paragraph (a) of this Rule permits a lawyer to indicate areas of practice in communications
333 about the lawyer’s services. If a lawyer practices only in certain fields, or will not accept matters
334 except in a specified field or fields, the lawyer is permitted to so indicate. A lawyer is generally
335 permitted to state that the lawyer “concentrates in” or is a “specialist,” practices a “specialty,” or
336 “specializes in” particular fields based on the lawyer’s experience, specialized training or
337 education, but such communications are subject to the “false and misleading” standard applied in
338 Rule 7.1 to communications concerning a lawyer’s services.

339 [2] ~~Paragraph (b) recognizes the long-established policy of the~~ The Patent and Trademark Office
340 has a long-established policy of designating for the designation of lawyers practicing before the
341 Office. Paragraph (c) recognizes that The designation of Admiralty practice also has a long
342 historical tradition associated with maritime commerce and the federal courts. A lawyer’s
343 communications about these practice areas are not prohibited by this Rule.

344 [3] ~~Paragraph (d)~~ This Rule permits a lawyer to state that the lawyer is certified as a specialist in a
345 field of law if such certification is granted by an organization approved by an appropriate ~~state~~

Working Draft December 21, 2017

346 authority of a state, the District of Columbia, or a U.S. Territory or accredited by the American
347 Bar Association or another organization, such as a state supreme court or a state bar association,
348 that has been approved by the ~~state~~ authority of the state, the District of Columbia or a U.S.
349 Territory to accredit organizations that certify lawyers as specialists. Certification signifies that an
350 objective entity has recognized an advanced degree of knowledge and experience in the specialty
351 area greater than is suggested by general licensure to practice law. Certifying organizations may
352 be expected to apply standards of experience, knowledge and proficiency to insure that a lawyer's
353 recognition as a specialist is meaningful and reliable. In order to insure that consumers can obtain
354 access to useful information about an organization granting certification, the name of the certifying
355 organization must be included in any communication regarding the certification.

356

357 **Rule 7.5 Firm Names and Letterheads³**

358 ~~(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates~~
359 ~~Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection~~
360 ~~with a government agency or with a public or charitable legal services organization and is not~~
361 ~~otherwise in violation of Rule 7.1.~~

362 ~~(b) A law firm with offices in more than one jurisdiction may use the same name or other~~
363 ~~professional designation in each jurisdiction, but identification of the lawyers in an office of the~~
364 ~~firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction~~
365 ~~where the office is located.~~

366 ~~(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in~~
367 ~~communications on its behalf, during any substantial period in which the lawyer is not actively~~
368 ~~and regularly practicing with the firm.~~

369 ~~(d) Lawyers may state or imply that they practice in a partnership or other organization only when~~
370 ~~that is the fact.~~

371 **Comment**

372 ~~[1] A firm may be designated by the names of all or some of its members, by the names of deceased~~
373 ~~members where there has been a continuing succession in the firm's identity or by a trade name~~
374 ~~such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive~~
375 ~~website address or comparable professional designation. Although the United States Supreme~~
376 ~~Court has held that legislation may prohibit the use of trade names in professional practice, use of~~
377 ~~such names in law practice is acceptable so long as it is not misleading. If a private firm uses a~~
378 ~~trade name that includes a geographical name such as "Springfield Legal Clinic," an express~~
379 ~~disclaimer that it is a public legal aid agency may be required to avoid a misleading implication.~~
380 ~~It may be observed that any firm name including the name of a deceased partner is, strictly~~
381 ~~speaking, a trade name. The use of such names to designate law firms has proven a useful means~~
382 ~~of identification. However, it is misleading to use the name of a lawyer not associated with the~~
383 ~~firm or a predecessor of the firm, or the name of a nonlawyer.~~

384 ~~[2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated~~
385 ~~with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones,"~~
386 ~~for that title suggests that they are practicing law together in a firm.~~

³ Rule 7.5 is deleted. Proposed Comments [4] through [8] in Proposed Rule 7.1 are derived from current 7.5.