

PROPOSED

LOUISIANA RULES OF PROFESSIONAL CONDUCT

INFORMATION ABOUT LEGAL SERVICES

PROPOSED

RULE 7.1 GENERAL

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

(b) Advertisements Not Disseminated in Louisiana. 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.

PROPOSED

RULE 7.2 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

The following shall apply to any communication conveying information about a lawyer, a lawyer's services or a law firm's services:

(a) Required Information.

(1) **Name of Lawyer.** All advertisements and written communications pursuant to these Rules shall include the name of at least one lawyer responsible for their content.

(2) **Location of Practice.** 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. If an advertisement or written communication lists a telephone number in connection with a specified geographic area other than an area containing a bona fide office, appropriate qualifying language must appear in the advertisement.

(b) Prohibited Statements and Information.

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

(A) contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading;

(B) contains any reference to past successes or results obtained or is otherwise likely to create an unjustified expectation about results the lawyer can achieve except as allowed in the Rule regulating information about a lawyer's services provided upon request;

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

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

(E) contains a testimonial;

(F) includes a portrayal of a client by a non-client or the reenactment of any events or scenes or pictures that are not actual or authentic;

(G) includes the portrayal of a judge, 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;

(H) depicts the use of a courtroom;

(I) resembles a legal pleading, notice, contract or other legal document;

(J) utilizes a nickname, moniker, motto or trade name that states or implies an ability to obtain results in a matter; or

(K) fails to comply with Rule 1.8(e)(4)(iii).

(2) Misleading or Deceptive Factual Statements. Any factual statement contained in any advertisement or written communication or any information furnished to a prospective client under this Rule shall not:

(A) be directly or impliedly false or misleading;

(B) be potentially false or misleading;

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

(D) be unsubstantiated in fact; or

(E) be unfair or deceptive.

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

(4) **Prohibited Visual and Verbal Portrayals.** Visual or verbal descriptions, depictions, or portrayals of persons, things, or events shall not be deceptive, misleading, or manipulative.

(5) **Advertising Areas of Practice.** A lawyer or law firm shall not state or imply in advertisements or communications that the lawyer or law firm currently practices in an area of practice when that is not the case.

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

(c) General Regulations Governing Content of Advertisements.

(1) **Use of Illustrations.** Illustrations, including photographs, used in advertisements shall contain no features that are likely to deceive, mislead, or confuse the viewer.

(2) **Fields of Practice.** 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 subdivision (c)(3) of this Rule.

(3) **Communication of Fields of Practice.** A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is “certified,” “board certified,” 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 areas 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” or a “specialist in (area of certification).”

(B) **Lawyers Certified by Organizations Other Than the Louisiana Board of Legal 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” or a “specialist in (area of certification)” if:

- (i) the lawyer complies with Section 6.2 of the Plan of Legal Specialization for 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" 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 name of the state bar in all communications pertaining to such certification.

(4) Disclosure of Liability For Expenses Other Than Fees. Every advertisement and 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.

(5) Period for Which Advertised Fee Must be Honored. A lawyer who advertises a specific fee or range of fees for a particular service shall honor the advertised fee or range of fees for at least 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.

(6) **Firm Name.** A lawyer shall not advertise services under a name that violates the provisions of Rule 7.10.

(7) **Payment by Non-Advertising Lawyer.** No lawyer shall, directly or indirectly, pay all or a part of the cost of an advertisement by a lawyer not in the same firm.

(8) **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.

(9) **Payment for Recommendations; Lawyer Referral Service Fees.** A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising or written or recorded communication permitted by these Rules, and may pay the usual charges of a lawyer referral service or other legal service organization only as follows:

(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.

(10) **Language of Required Statements.** Any words or statements required by these Rules to appear in an advertisement or direct mail communication must appear in the same language in which the advertisement or direct mail communication appears. If more than one language is used in an advertisement or direct mail communication, any words or statements required by these Rules must appear in each language used in the advertisement or direct mail communication.

(11) **Appearance of Required Statements.** Any words or statements required by these Rules to appear in an advertisement or communication must be clearly legible if written or intelligible if spoken aloud. If the words or statements appear in text, then the text also must be legible and no smaller than one-quarter the size of the largest type otherwise appearing in the advertisement or direct mail communication, or eight-point typeface, whichever is larger.

(12) **Permissible Content of Advertisements.** The following information in advertisements and written communications shall be presumed not to violate the provisions of subdivision (b)(1) of this Rule:

(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) foreign language ability;

(E) fields of law in which the lawyer practices, including official certification logos, subject to the requirements of subdivisions (c)(2) and (c)(3) of this Rule;

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

(G) fee for initial consultation and fee schedule, subject to the requirements of subdivisions (c)(4) and (c)(5) of this Rule;

(H) 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;

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

(J) an illustration of the scales of justice not deceptively similar to official certification logos or the Louisiana State Bar Association logo, a gavel, or traditional renditions of Lady Justice, or a photograph of the head and shoulders 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.

PROPOSED

RULE 7.3 ADVERTISEMENTS IN THE PUBLIC PRINT MEDIA

(a) Generally. Advertisements disseminated in the public print media are subject to the requirements of Rule 7.2.

(b) Disclosure Statement. All advertisements in the public print media shall contain the following disclosure: "The hiring of a lawyer is an important decision that should not be based solely upon advertisements." This disclosure, however, need not appear in advertisements in the public print media that contain no illustrations and no information other than that listed in subdivision (c)(12) of Rule 7.2, or written communications sent in compliance with Rule 7.4.

PROPOSED

RULE 7.4 DIRECT CONTACT WITH PROSPECTIVE CLIENTS

(a) Solicitation. Except as provided in subdivision (b) of this Rule, a lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior 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. A lawyer shall not enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this Rule. The term "solicit" includes contact in person, by telephone, telegraph, or facsimile, or by other communication directed to a specific recipient and includes (i) any written form of communication directed to a specific recipient and not meeting the requirements of subdivision (b) of this Rule, and (ii) any electronic mail communication directed to a specific recipient and not meeting the requirements of subdivision (c) of Rule 7.6. For the purposes of this Rule 7.4, the phrase "prior lawyer-client relationship" shall not include relationships in which the client was an unnamed member of a class action.

(b) Written Communication.

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

(A) the written communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster occurred more than thirty days prior to the mailing of the communication;

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

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

(D) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim or is improper under subdivision (b)(1) of Rule 7.2; or

(E) 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.

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

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

(B) In instances where there is no family or prior lawyer-client relationship, a lawyer shall not initiate any form of targeted solicitation, whether a written or recorded communication, of a person or persons known to need legal services of a particular kind provided by the lawyer in a particular matter for the purpose of obtaining professional employment unless such communication complies with the requirements set forth below and is not otherwise in violation of these Rules:

(i) Such communication shall state clearly the name of at least one member in good standing of the Association responsible for its content.

(ii) 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. Brochures solicited by clients or prospective clients need not contain the "ADVERTISEMENT" mark.

(iii) A copy of each such written communication and a sample of the envelopes in which the communications are enclosed shall be filed with the Louisiana State Bar Association either prior to or

concurrently with the mailing of the communication to a prospective client, as provided in Rule 7.7. The lawyer also shall retain a copy of each written communication for three years after its last dissemination. If identical written communications are sent to two or more prospective clients, the lawyer may comply with this requirement by filing one of the identical written communications and retaining for three years a single copy together with a list of the names and addresses of persons to whom the written communication was sent.

(C) 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.

(D) 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."

(E) 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.

(F) 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.

(G) 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.

PROPOSED

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

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

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

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

- (A) any feature that is deceptive, misleading, manipulative, or that is likely to confuse the viewer or listener;
- (B) any spokesperson's voice or image that is recognizable to the public in the community where the advertisement appears;
- (C) lawyers who are not members of the advertising law firm speaking on behalf of the advertising lawyer or law firm; or
- (D) 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;
- (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; or
- (C) a non-lawyer spokesperson speaking on behalf of the lawyer or law firm, as long as the spokesperson's voice or image is not recognizable to the public in the community where the advertisement appears, and that spokesperson shall provide a spoken disclosure identifying the

spokesperson as a spokesperson and disclosing that the spokesperson is not a lawyer.

PROPOSED

RULE 7.6 COMPUTER-ACCESSED COMMUNICATIONS

(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, 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)(C), (b)(2)(D), (b)(2)(E), (b)(2)(F) and (b)(2)(G) 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, in accordance with subdivision (a)(2) of Rule 7.2; and

(3) the subject line of the communication states "LEGAL ADVERTISEMENT."

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

PROPOSED

RULE 7.7 EVALUATION OF ADVERTISEMENTS

(a) Louisiana State Bar Association Rules of Professional Conduct Committee.

With respect to said Committee, it shall be the task of the Committee, or any subcommittee designated by the Rules of Professional Conduct Committee (hereinafter collectively referred to as "the Committee"): 1) to evaluate all advertisements filed with the Committee for compliance with the Rules governing lawyer advertising and solicitation and to provide written advisory opinions concerning compliance with those Rules to the respective filing lawyers; 2) to develop a handbook on lawyer advertising for the guidance of and dissemination to the members of the Louisiana State Bar Association; and 3) to recommend, from time to time, such amendments to the Rules of Professional Conduct as the Committee may deem advisable.

(1) **Recusal of Members.** Members of the Committee shall recuse themselves from consideration of any advertisement proposed or used by themselves or by other lawyers in their firms.

(2) **Meetings.** The Committee shall meet as often as is necessary to fulfill its duty to provide prompt opinions regarding submitted advertisements' compliance with the lawyer advertising and solicitation rules.

(3) **Procedural Rules.** The Committee may adopt such procedural rules for its activities as may be required to enable the Committee to fulfill its functions.

(4) **Reports to the Court.** Within six months following the conclusion of the first year of the Committee's evaluation of advertisements in accordance with these Rules, and annually thereafter, the Committee shall submit to the Supreme Court of Louisiana a report detailing the year's activities of the Committee. The report shall include such information as the Court may require.

(b) Advance Written Advisory Opinion. Subject to the exemptions stated in Rule 7.8, any lawyer who advertises services through any public media or through written communications sent in compliance with Rule 7.4 or 7.6(c) may obtain a written advisory opinion concerning the compliance of a contemplated advertisement or written communication in advance of disseminating the advertisement or communication by submitting to the Committee the material and fee specified in subdivision (d) of this Rule at least thirty days prior to such dissemination. If the Committee finds that the advertisement or written communication complies with these Rules, the lawyer's voluntary submission in compliance with this subdivision shall be deemed to satisfy the regular filing requirement set forth below in subdivision (c) of this Rule.

(c) Regular Filing. Subject to the exemptions stated in Rule 7.8, any lawyer who advertises services through any public media or through written communications sent in compliance with Rule 7.4 or 7.6(c) shall file a copy of each such advertisement or 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 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 written communication in advance of dissemination, in compliance with subdivision (b) of this Rule, and the advertisement or 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 (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 sample envelope in which the written communication will be enclosed, if the communication is to be mailed;

(4) 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

(5) 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 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 written communication.

(e) Evaluation of Advertisements. The Committee shall evaluate all advertisements and written communications filed with it pursuant to this Rule for compliance with the applicable Rules on lawyer advertising and solicitation. The Committee shall complete its evaluation within thirty days following receipt of a filing unless the Committee 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 thirty-day period, and so advises the filing lawyer in writing within the thirty-day period. In the latter event, the Committee shall complete its review as promptly as the circumstances reasonably allow. If the Committee does not send any communication in writing to the filing lawyer within thirty days following receipt of the filing, the advertisement or written communication will be deemed approved.

(f) Additional Information. If the Committee requests additional information, the filing lawyer shall comply promptly with the request. Failure to comply with such requests may result in a finding of non-compliance for insufficient information.

(g) Notice of Noncompliance; Effect of Continued Use of Advertisement.

When the Committee determines that an advertisement or written communication is not in compliance with the applicable Rules, the Committee shall advise the lawyer in writing that dissemination or continued dissemination of the advertisement or written communication may result in professional discipline. The Committee shall report to the Office of Disciplinary Counsel a finding under subsections (c) or (f) of this Rule that the advertisement or written communication is not in compliance, unless within ten days of notice from the Committee the filing lawyer certifies in writing that the advertisement or written communication has not and will not be disseminated.

(h) Committee Determination Not Binding; Evidence. A finding by the Committee of either compliance or noncompliance shall not be binding in a disciplinary proceeding, but may be offered as evidence.

(i) Change of Circumstances; Re-filing Requirement. If a change of circumstances occurring subsequent to the Committee'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 re-file the advertisement or a modified advertisement with the Committee along with an explanation of the change in circumstances and an additional fee as set by the Court.

(j) Maintaining Copies of Advertisements. 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.

PROPOSED

RULE 7.8 EXEMPTIONS FROM THE FILING AND REVIEW REQUIREMENT

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

(a) any advertisement or written communication that contains only content that is permissible under Rule 7.2(c)(12).

(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 name, the city where the law offices are located, 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.

PROPOSED

***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 (b)(1)(B) 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 misleading.

(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.

PROPOSED

RULE 7.10 FIRM NAMES AND LETTERHEAD

(a) False, Misleading, or Deceptive. A lawyer or law firm shall not use a firm name, logo, letterhead, professional designation, trade name or service mark that violates the provisions of these Rules.

(b) Trade Names. 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 (b)(1) of Rule 7.2.

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

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

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

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

(g) Deceased or Retired Members of Law Firm. 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.