

Nevada Rules of Professional Conduct 7.1-7.5, 1.4, 1.18 Lawyer Advertising – March 2018

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.

Rule 7.2. Advertising.

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.

(a) Except as allowed under Rule 1.5(e), 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.

(b) Any communication made pursuant to this Rule shall include the following disclaimers and disclosures:

(1) *Use of actors.* If the advertisement uses any actors to portray a lawyer, members of the law firm, clients, or utilizes depictions of fictionalized events or scenes, the same must be disclosed. In the event actors are used, the disclosure must be sufficiently specific to identify which persons in the advertisement are actors, and the disclosure must appear for the duration in which the actor(s) appear in the advertisement.

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

(3) *Areas 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 Rule 7.4.

(4) *Contingency fees.* 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 a disclaimer that the client may be liable for the opposing parties' fees and costs.

(5) *Range of fees.* A lawyer who advertises a specific fee or range of fees shall include the duration said fees are in effect and any other limiting conditions to the availability of the fees.

(6) *Quality of Services.* Statements describing or characterizing the quality of the lawyer's services in advertisements and written communications are subject to proof of verification, to be provided at the request of the state bar or a client or prospective client.

(7) *Statement regarding past results.* If the advertisement contains any reference to past successes or results obtained, the communicating lawyer or member of the law firm must have served as lead counsel in the matter giving rise to the recovery, or was primarily responsible for the settlement or verdict. The advertisement shall also contain a disclaimer that past results do not guarantee, warrant, or predict future cases.

If the past successes or results obtained include a monetary sum, the amount involved must have been actually received by the client, and the reference must be accompanied by adequate information regarding the nature of the case or matter and the damages or injuries sustained by the client, and if the gross amount received is stated, the attorney fees and litigation expenses withheld from the amount must be stated as well.

(c) Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or writing 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.

(d) Any information required by these rules to appear in an advertisement must be reasonably prominent and clearly legible if written, or intelligible if spoken.

(e) Nothing in this Rule prohibits a lawyer or law firm from permitting the inclusion in law lists and law directories intended primarily for the use of the legal profession of such information as has traditionally been included in these publications.

Rule 7.2A. Advertising Filing Requirements.

(a) *Filing requirements.* A Lawyer or law firm shall file with the state bar: (1) a copy or recording of all advertisements disseminated in exchange for something of value; and (2) written or recorded communications the lawyer causes to be disseminated for the purpose of advertising legal services. For the purpose of this Rule, websites are not considered to be advertisements subject to the filing requirements. Submission shall be in a format provided by the bar within 15 days of first dissemination accompanied by a form supplied by the state bar and a filing fee, as established by the board of governors.

(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.

Rule 7.2B. Volunteer Advisory Committees; Pre-Dissemination Review.

(a) *Standing Lawyer Advertising Advisory Committees.* The board of governors shall create a Standing Lawyer Advertising Advisory Committee to review filings submitted under Rule 7.2A and to respond to written requests from an advertising lawyer or law firm voluntarily seeking an advance opinion regarding that lawyer's compliance with the advertising rules.

The board of governors may promulgate bylaws, rules of procedure, and reasonable fees for advance opinions to offset the administrative costs of these committees, as it deems necessary and proper.

(1) *Committee composition.* The committee shall have 11 members: 8 of whom shall be members in good standing of the state bar, 4 of whom shall practice in northern Nevada and 4 whom shall practice in southern Nevada; 3 members may be non-lawyers.

(i) *Appointment.* Members shall be appointed by the board of governors and serve 2-year terms, subject to reappointment at the board's discretion. No member shall serve a lifetime total of more than 12 years. Members may be removed by the board of governors for cause.

(ii) *Minimum duties.* The committee shall meet as often as necessary to review all matters before it in a timely fashion. Advance opinions shall be provided within 30 days of submission of the request or sooner. Requests to expedite review of advertisements shall be

granted whenever possible within reason. The board of governors may promulgate a procedure and attach an added fee for expedited requests.

(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. Bar counsel may initiate appropriate disciplinary action if warranted.

(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.

(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 an appeal of the committee's finding of noncompliance.

(2) *Appeal.* Appeals are decided by the committee, whose decision shall be controlling.

(d) *Limitations; when binding on discipline authority.* The committee created under this Rule is primarily dedicated to providing independent, volunteer peer advance opinions to lawyers upon request as a safe-harbor to future disciplinary action only. No request for an advance opinion shall be granted after a disciplinary investigation is commenced on the subject advertisement. In the event an opinion is inadvertently issued by a committee during or after a disciplinary review is in progress, the decision of any disciplinary panel convened pursuant to [Supreme Court Rule 105](#) shall be controlling.

An advance opinion of noncompliance issued under this Rule shall not be binding on any disciplinary panel or bar counsel. An advance finding of compliance is binding on the disciplinary panel and bar counsel in favor of the advertising lawyer provided that the representations, statements, materials, facts and written assurances received in connection therewith are true and not misleading. An advance opinion of compliance constitutes admissible evidence if offered by a party.

(e) *Annual report.* The board of governors shall file an annual report with the clerk of this court that addresses, among other things, the status of lawyer advertising in this state.

Rule 7.3. Communications With Prospective Clients.

(a) *Direct contact with prospective clients.* Except as permitted pursuant to paragraph (d) of this Rule, a lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, by mail, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone, telegraph or facsimile, by letter or other writing, or by other communication directed to a specific recipient.

(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 Rule 7.2. The

disclaimers shall be in a type size and legibility sufficient to cause the disclaimers to be conspicuous.

(c) Additional disclaimer on mailers or written advertisements or communications. Direct or indirect mail envelope, 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 red ink, the following warning:

NOTICE: THIS IS AN ADVERTISEMENT!

(d) Target mail to prospective clients. In the event of an incident involving claims for personal injury or wrongful death, written communication directed to an individual injured in the incident or to a family member or legal representative of such an individual, seeking to represent the injured individual or legal representative thereof in potential litigation or in a proceeding arising out of the incident is prohibited in Nevada within 30 days of the date of the incident. After 30 days following the incident, any such communication must comply with paragraphs (b) and (c) of this Rule and must comply with all other Rules of Professional Conduct.

This provision limiting contact with an injured individual or the legal representative thereof applies as well to lawyers or law firms or any associate, agent, employee, or other representative of a lawyer or law firm who represent actual or potential defendants or entities that may defend and/or indemnify said defendants.

Rule 7.4. Communication of Fields of Practice and Specialization.

(a) A lawyer may communicate that the lawyer is a specialist or expert or that he or she practices in particular fields of law, provided the lawyer complies with this Rule. Nothing in this Rule shall be construed to prohibit communication of fields of practice unless the communication is false or misleading.

(b) *Patent law.* 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) *Admiralty law.* A lawyer engaged in admiralty practice may use the designation “Admiralty,” “Proctor in Admiralty” or a substantially similar designation.

(d) *Specialist or expert.* 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 calendar 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 field 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) for 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 of specialty 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. Additional 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 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.

(e) *Temporary exemption from CLE requirements.* The board of governors or its designee may grant a member's request for temporary exemption from completion of the specific continuing legal education requirements imposed by this Rule for exceptional, extreme, and undue hardship unique to the member.

(f) *Extension to complete CLE requirements.* If a lawyer is unable to complete the hours of accredited continuing legal education during the preceding calendar year as required by this Rule, the lawyer may apply to the board of continuing legal education for an extension of time in which to complete the hours. For good cause the board may extend the time not more than 6 months.

(g) *Records.* A lawyer who communicates a specialty pursuant to this Rule shall keep time records to demonstrate compliance with paragraph (d)(2). Such records shall be available to the State Bar of Nevada and the board of continuing legal education on request.

(h) *Guidelines.* The board of governors of the state bar shall be authorized to formulate and publish a set of guidelines to aid members of the state bar in complying with the requirements of this Rule.

(i) *Law lists and legal directories.* This Rule does not apply to listings placed by a lawyer or law firm in reputable law lists and legal directories that are primarily addressed to lawyers.

Rule 7.4A. State Bar Approval of Organizations That Certify Lawyers as Specialists.

The board of governors of the state bar may, for the purposes of Rule 7.4, approve organizations that certify lawyers as specialists in accordance with this Rule. The board of governors may, in its discretion, appoint a committee to assist the board in implementing a program for the approval of certifying organizations. Any such committee shall be comprised of members of the state bar and such others whom the board of governors deems necessary and proper.

(a) *Rules; authority.* The board of governors shall implement rules and standards by which the board approves organizations to certify lawyers as specialists in particular areas of law, and which describe the conditions and procedures under which such approval shall be granted, maintained, and revoked. The board shall retain jurisdiction to approve, deny, or revoke approval of a certifying organization under this Rule and may establish fees for administering its duties under this Rule. At its discretion, the board may delegate any other duties associated with approving specialty certification organizations as it deems necessary and proper.

(b) *Minimum standards for certifying organizations.* To be approved under this Rule, in addition to meeting the standards adopted by the board of governors, an organization that certifies lawyers as specialists in a particular area of the law must make certification available to all lawyers who meet objective and consistently applied standards relevant to the specialty area of law.

(c) *Duration of approval; renewal; revocation.* The board's approval of the certifying organization shall be valid for a period of 5 years, subject to discretionary renewal upon application by the organization. The board of governors may revoke approval of a certifying organization at any time for violation of this Rule or violation of any other terms and conditions of the approval. Notice of a decision to deny approval, deny renewal, or revoke approval shall be provided to the petitioning organization and an opportunity to appeal provided.

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 that has registered with the State Bar of Nevada under Rule 7.5A may use the same name in each jurisdiction. 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. 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.

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

Rule 1.4. Communication.

(a) A lawyer shall:

(1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;

(2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) Keep the client reasonably informed about the status of the matter;

(4) Promptly comply with reasonable requests for information; and

(5) Consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) Lawyer's Biographical Data Form. 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.

(vi) Any and all disciplinary sanctions imposed by any jurisdiction and/or court, whether or not the lawyer is licensed to practice law in that jurisdiction and/or court. For purposes of this Rule, disciplinary sanctions include all private reprimands imposed after March 1, 2007, and any and all public discipline imposed, regardless of the date of the imposition.

(vii) If the lawyer is engaged in the private practice of law, whether the lawyer maintains professional liability insurance, and if the lawyer maintains a policy, the name and address of the carrier.

(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 name of the publication in which they were published.

(ii) A good faith estimate of the number of jury trials tried 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 organizations 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 bar 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)(i) through (v) 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.

Rule 1.18. Duties to Prospective Client.

(a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) Both the affected client and the prospective client have given informed consent, confirmed in writing, or:

(2) The lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) The disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) Written notice is promptly given to the prospective client.

(e) A person who communicates information to a lawyer without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, or for purposes which do not include a good faith intention to retain the lawyer in the subject matter of the consultation, is not a “prospective client” within the meaning of this Rule.

(f) A lawyer may condition conversations with a prospective client on the person’s informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. If the agreement expressly so provides, the prospective client may also consent to the lawyer’s subsequent use of information received from the prospective client.

(g) 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:

(1) The lawyer or law firm shall promptly furnish (by mail if requested) the written information described in Rule 1.4(c).

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

(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 one size larger than the largest type used in the contract and the words "DO NOT SIGN" shall appear on the client signature line.

Supreme Court Rules 99 & 106

Rule 99. Jurisdiction.

1. Every attorney admitted to practice law in Nevada, specially admitted by a court of this state for a particular proceeding, practicing law here, whether specially admitted or not, or whose advertising for legal services regularly appears in Nevada is subject to the exclusive disciplinary jurisdiction of the supreme court and the disciplinary boards and hearing panels created by these rules.

2. Nothing contained in these rules denies any court the power to maintain control over proceedings conducted before it, such as the power of contempt, nor do these rules prohibit any association from censuring, suspending, or expelling its members.

Rule 106. Privilege and limitation.

1. Privilege. All participants in the discipline process, including grievants, bar counsel staff, members of disciplinary panels, diversion and mentoring participants, and witnesses, shall be absolutely immune from civil liability. No action may be predicated upon the filing of a disciplinary complaint or grievance or any action taken in connection with such a filing by any of the participants. Except that any disclosures made pursuant to Rule 121(16) shall not be immune under this rule.

2. Limitation. Disciplinary proceedings shall not be commenced against an attorney for alleged misconduct occurring more than 4 years prior to the receipt of the grievance or filing of the complaint by bar counsel. In the event of fraud or concealment, the 4 year period begins on the date the fraud or concealment was discovered by the grievant, or on the date facts were known to bar counsel, which should have lead bar counsel to discover the alleged misconduct. For purposes of Rule of Professional Conduct 7.2A (Advertising Filing Requirements), the 4-year period begins on the date the advertisement or communication was actually known to bar counsel.