

1 **Rule 7.1. Communications Concerning a Lawyer's Services.**

2 Effective:

3 (a) A lawyer shall not make a false or misleading communication about the lawyer or the
4 lawyer's services. A communication is false or misleading if it:

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

7 (2) is likely to create an unjustified or unreasonable expectation about results the lawyer can
8 achieve or has achieved; or

9 (3) contains a testimonial or endorsement that violates any portion of this Rule.

10 (b) A lawyer shall not interact with a prospective client in a manner that involves coercion,
11 duress, or harassment.

12 (c) A lawyer shall not directly communicate with a prospective client for the purpose of
13 obtaining professional employment if the communication concerns a disaster or an action for
14 personal injury or wrongful death, unless:

15 (1) the disaster, injury, or death occurred more than 30 days prior to the communication;

16 (2) the prospective client is a person who has a familial, close personal, or prior professional
17 relationship with the lawyer or lawyer's law firm; or

18 (3) the communication is initiated by the prospective client or at the request of a third party
19 who has a familial or close personal relationship with the prospective client.

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22 **Comments**

23 [1] This Rule governs all communications about a lawyer's services. Whatever means are used to
24 make known a lawyer's services, statements about them must be truthful.

25 [2] Truthful statements that are misleading are also prohibited by this Rule. A truthful statement
26 is misleading if it omits a fact necessary to make the lawyer's communication considered as a
27 whole not materially misleading. A truthful statement is also misleading if there is a substantial
28 likelihood that it will lead a reasonable person to formulate a specific conclusion about the
29 lawyer or the lawyer's services for which there is no reasonable factual foundation.

30 [3] By way of example, this Rule permits the following, so long as they are not false or
31 misleading: public dissemination of information concerning a lawyer's name or firm name,

32 address, email address, website, and telephone number; the kinds of services the lawyer will
33 undertake; the basis on which the lawyer's fees are determined, including prices for specific
34 services and payment and credit arrangements; the use of actors or dramatizations to portray the
35 lawyer, law firm, client, or events; the courts or jurisdictions where the lawyer is permitted to
36 practice, and other information that might invite the attention of those seeking legal assistance.

37 [4] An advertisement that truthfully reports a lawyer's achievements on behalf of clients or
38 former clients may be misleading if presented so as to lead a reasonable person to form an
39 unjustified expectation that the same results could be obtained for other clients in similar matters
40 without reference to the specific factual and legal circumstances of each client's case. Similarly,
41 an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other
42 lawyers may be misleading if presented with such specificity as would lead a reasonable person
43 to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer
44 or qualifying language may preclude a finding that a statement is likely to create unjustified
45 expectations or otherwise mislead the public.

46 [5] A lawyer can communicate practice areas and can state that he or she "specializes" in a field
47 based on experience, training, and education, subject to the "false or misleading" standard set
48 forth in this Rule. A lawyer shall not state or imply that the lawyer is certified as a specialist in a
49 particular field unless the lawyer has been certified as a specialist by an objective entity and the
50 name of the entity is clearly identified in the communication.

51 [6] In order to avoid coercion, duress, or harassment, a lawyer should proceed with caution when
52 initiating contact with someone in need of legal services, especially when the contact is "live,"
53 whether that be in-person, face-to-face, live telephone and other real-time visual or auditory
54 person-to-person communications, where the person is subject to a direct personal encounter
55 without time for reflection.

56 [7] Firm names, letterhead and professional designations are communications concerning a
57 lawyer's services. A firm may be designated by the names of all or some of its current members,
58 by the names of deceased or retired members where there has been a succession in the firm's
59 identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be
60 designated by a distinctive website address, social media username or comparable professional
61 designation that is not misleading. A law firm name or designation is misleading if it implies a
62 connection with a government agency, with a deceased lawyer who was not a former member of

63 the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or
64 with a public or charitable legal services organization. If a firm uses a trade name that includes a
65 geographical name such as “Springfield Legal Clinic,” an express statement explaining that it is
66 not a public legal aid organization may be required to avoid a misleading implication.

67 [8] A law firm with offices in more than one jurisdiction may use the same name or other
68 professional designation in each jurisdiction.

69 [9] Lawyers may not imply or hold themselves out as practicing together in one firm when they
70 are not a firm, as defined in Rule 1.0(d), because to do so would be false and misleading.

71 [10] It is misleading to use the name of a lawyer holding public office in the name of a law firm,
72 or in communications on the law firm’s behalf, during any substantial period in which the lawyer
73 is not practicing with the firm. A firm may continue to use in its firm name the name of a lawyer
74 who is serving in Utah’s part-time legislature as long as that lawyer is still associated with the
75 firm.

76 [11] See Rules 5.3 (duties of lawyers and law firms with respect to the conduct of non-lawyers);
77 Rule 8.4(a) (duty to avoid violating the Rules through the acts of another); and Rule 8.4(e)
78 (prohibition against stating or implying an ability to influence improperly a government agency
79 or official or to achieve results by means that violate the Rules of Professional Conduct or other
80 law).

81 [12] This Rule differs from the ABA Model Rule. ~~Additional changes have been made to the~~
82 ~~comments.~~

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