



**Council of Delegates
Meeting**

**May 10, 2022
Ohio Statehouse
Columbus**

Council of Delegates Meeting
Tuesday, May 10, 2022
1:00 PM

President David H. Lefton presiding

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COUNCIL OF DELEGATES MEETING AGENDA
Tuesday, May 10, 2022
1:00 p.m.

President David H. Lefton presiding

I. Roll Call of the Council, CEO and Corporate Secretary Mary Amos Augsburger

II. Committee and Section Reports

A. Report of the Elder and Special Needs Law Section

To create a new section of code to authorize a probate court, upon its own motion or application of an interested party, to appoint a person with limited authority to apply for Medicaid benefits or other related public assistance, and to document the alleged incompetent's physical or mental impairment for the purposes of making such application.

III. Reports of the Ohio State Bar Association Board of Governors

A. To place before the Supreme Court of Ohio a proposal to amend Gov. Bar R. X, Section 3 in order to allow diversity, inclusion, and elimination of bias training to be eligible professional conduct topics to qualify towards the required biennial two and one-half credit hours of professional conduct instruction.

B. To place before the Supreme Court of Ohio a proposal to amend Rule 5.4 of the Ohio Rules of Professional Conduct in order to allow lawyers to work collaboratively with non-lawyer professionals on a client matter in a manner that involves sharing fees.

C. To place before the Supreme Court of Ohio a proposal to amend Rules 7.1 – 7.5 of the Ohio Rules of Professional Conduct in order to simplify and update the rules governing information about legal services.

IV. Adjournment

Awards will also be presented throughout the day for the Ohio Bar Medal, the Nettie Cronise Lutes Award, the Eugene R. Weir Award and the Ohio Access to Justice Foundation Presidential Award

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**Ohio State Bar Association
2021 - 2022 Council of Delegates
David H. Lefton, President**

District 1

Counties: **Butler, Clermont, Clinton, Hamilton and Warren**

Board of Governors Representative:

Theresa L. Nelson, 312 Walnut Street, Suite 1800, Cincinnati, OH 45202	06/30/23
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Council of Delegates (18):

Eric K. Combs, 255 E. 5 th Street, Suite 1900, Cincinnati, OH 45202	06/30/22
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Sara Cooperrider, 425 Walnut Street, Suite 1800, Cincinnati, OH 45020	06/30/22
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Kendra L. Daugherty, 4529 Aicholtz Road, Cincinnati, OH 45245	06/30/22
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John D. Holschuh, Jr., 600 Vine Street, Suite 2700, Cincinnati, OH 45202	06/30/22
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John D. Holschuh, III, 600 Vine Street, Suite 2700, Cincinnati, OH 45202	06/30/22
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Doloris F. Learmonth, 3498 Forest Oak Court, Cincinnati, OH 45208	06/30/22
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Kelly M. Myers, 600 Vine Street, 9 th Floor, Cincinnati, OH 45202	06/30/22
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Zachary D. Prendergast, 250 E. 5 th Street, Suite 310, Cincinnati, OH 45202	06/30/22
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James C. Shew, 16 N. Main Street, Middletown, OH 45042	06/30/22
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Terrence M. Donnellon, 9079 Montgomery Road, Cincinnati, OH 45242	06/30/23
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Richard I. Fleischer, 810 Sycamore Street, 2 nd Floor, Cincinnati, OH 45202	06/30/23
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Gregory S. French, 1244 Padlock Hills Avenue, Cincinnati, OH 45229	06/30/23
Michael L. Gay, 201 E. Fifth Street, Suite 900, Cincinnati, OH 45202	06/30/23
Barbara J. Howard, 120 E. Fourth Street, Suite 960, Cincinnati, OH 45202	06/30/23
Stephen C. Lane, 7419 Kingsgate Way, Suite A, West Chester, OH 45069	06/30/23
Lauren E. Raizk, 145 N. South Street, Wilmington, OH 45177	06/30/23
Charles E. Strain, 1535 Cohasset Drive, Cincinnati, OH 45255	06/30/23
John J. Williams, 600 Vine Street, Suite 1400, Cincinnati, OH 45202	06/30/23

District 2

Counties: Darke, Miami, Montgomery, Preble and Shelby

Board of Governors Representative:

Magistrate Kathleen S. Lenski, 380 W. 2 nd Street, Dayton, OH 45422-4240	06/30/24
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Council of Delegates (7):

Judge Gary J. Carter, 201 W. Poplar St., Sidney, OH 45365	06/30/22
Jared B. Chamberlain, 215 W. Water Street, Troy, OH 45373	06/30/23
Elizabeth J. Orlando, 301 W. Third Street, 5 th Floor, Dayton, OH 45422	06/30/23
Judge Jenifer K. Overmyer, 101 E. Main Street, 2 nd Floor, Eaton, OH 45320	06/30/23
Matthew J. Pierron, 507 S. Broadway Street, Greenville, OH 45331	06/30/23

Michael W. Sandner, 40 N. Main Street, Suite 2700,
Dayton, OH 45423 06/30/23

Katrina L. Wahl, 40 N. Main Street, Suite 2700,
Dayton, OH 45423 06/30/23

District 3

**Counties: Defiance, Fulton, Hancock, Henry, Paulding, Putnam,
Van Wert, Williams and Wood**

Board of Governors Representative:

Judge Denise H. McColley, 660 N. Perry Street, Suite 401
Napoleon, OH 43545 06/30/22

Council of Delegates (3):

Ryan S. Breininger, 117 W. Maple Street,
Bryan, OH 43506 06/30/22

Pamela A. Heringhaus, 1 Courthouse Square,
Bowling Green, OH 43402 06/30/22

Clayton Crates, 901 Ralston Ave.,
Defiance, OH 43512 06/30/23

District 4

Counties: Lucas, Ottawa and Sandusky

Board of Governors Representative:

Michelle L. Kranz, 6627 W. Central Avenue, Ste. 100,
Toledo, OH 43617 6/30/23

Council of Delegates (6):

Joseph K. Cole, 300 Madison Avenue, Ste. 1000
Toledo, OH 43604 06/30/22

Shelly R. Kennedy, 725 W. Broadway Street,
Maumee, OH 43537 06/30/22

Linde H. Webb, 2630 Edgehill Road,
Ottawa Hills, OH 43615 06/30/22

Vallie T. Bowman-English, 555 N. Erie Street,
Toledo, OH 43604 06/30/23

Adam S. Nightingale, One SeaGate, 24th Floor,
P.O. Box 10032, Toledo, OH 43699 06/30/23

Sarah K. Skow, 900 Adams Street,
Toledo, OH 43604 06/30/23

District 5

Counties: Crawford, Delaware, Marion, Morrow, Seneca and Wyandot

Board of Governors Representative:

Robert J. Rice, 145 N. Union Street,
Delaware, OH 43015 06/30/23

Council of Delegates (3):

Russell J. Long, 111 W. Rensselaar St,
Bucyrus, OH 44820 06/30/22

Hari K. Sathappan, 8251 Liberty Road N.,
Powell, OH 43065 06/30/22

Ronald D. Cramer, 116 S. Main Street,
Marion, OH 43302 06/30/23

District 6

Counties: Champaign, Clark, Fayette, Greene, Logan, Madison and Union

Board of Governors Representative:

Gregory R. Flax, 500 N. Fountain Avenue,
Urbana, OH 43078 06/30/22

Council of Delegates (3):

William C. Hicks, P. O. Box 1687,
Springfield, OH 45501 06/30/22

Amanda J. Lantz, 333 N. Limestone Street, Ste. 202A,
Springfield, OH 45503 06/30/23

Douglas M. Smith, 112 N. Main Street,
Bellefontaine, OH 43311 06/30/23

District 7

Counties: Franklin

Board of Governors Representative:

Lisa Pierce Reisz, 52 East Gay Street,
Columbus, OH 43215 06/30/23

Caitlin E. Anderson, 700 Cardinal Place,
Dublin, OH 43017 06/30/22

Michael E. Flowers, 41 S. High St., Ste. 2200,
Columbus, OH 43215 06/30/24

Council of Delegates (26):

Belinda S. Barnes, 471 E. Broad Street, 19th Floor,
Columbus, OH 43215 06/30/22

Sally W. Bloomfield, 100 S. Third Street,
Columbus, OH 43215 06/30/22

Paul Giorgianni, 1538 Arlington Avenue,
Columbus, OH 43212 06/30/22

Eric W. Johnson, 400 S. Fifth Street, Suite 101,
Columbus, OH 43215 06/30/22

Helen Mac Murray, 6530 West Campus Oval, Suite 210,
New Albany, OH 43054 06/30/22

Jane Higgins Marx, 366 E. Broad Street,
Columbus, OH 43215 06/30/22

Heather G. Sowald, 400 S. Fifth Street, Suite 101,
Columbus, OH 43215 06/30/22

Magistrate Elizabeth J. Watters, 345 S. High Street,
Room 5807, Columbus, OH 43215 06/30/22

Bradley B. Wrightsel, 3300 Riverside Drive, Suite 100, Columbus, OH 43221	06/30/22
Thomas J. Bonasera, 191 W. Nationwide Boulevard, Ste. 300, Columbus, OH 43215	06/30/23
David A. Bressman, 5186 Paul G. Blazer Parkway, Dublin, OH 43017	06/30/23
Stephen E. Chappellear, 100 E. Broad Street, 21 st Floor, Columbus, OH 43215	06/30/23
Christopher T. Curry, 483 Dempsey Road, Westerville, OH 43081	06/30/23
Hilary R. Damaser, 30 E. Broad Street, 26 th Floor, Columbus, OH 43215	06/30/23
Polly J. Harris, 41 South High Street, Suite 2900, Columbus, OH 43215	06/30/23
Caitlyn Nestleroth Johnson, 30 E. Broad Street, 17 th Floor, Columbus, OH 43215	06/30/23
Judge Stephen L. McIntosh, 345 S. High Street, Ct Rm 4B, Columbus, OH 43215	06/30/23
Elizabeth A. Mote, 1350 W. Fifth Avenue, Suite 330, Columbus, OH 43212	06/30/23
Scott R. Mote, 1650 Lake Shore Drive, Suite 375, Columbus, OH 43204	06/30/23
Andrew W. Owen, 65 East State Street, Suite 1100, Columbus, OH 43215	06/30/23
Jalyn Parks, 1465 E. Broad Street, Suite B, Columbus, OH 43205	06/30/23
Beatrice K. Sowald, 125 Eastmoor Boulevard, Columbus, OH 43209	06/30/23
E. Jane Taylor, 318 E. Beck Street, Columbus, OH 43206	06/30/23
Audrey E. Varwig, 65 E. State Street, Suite 1510, Columbus, OH 43215	06/30/23

Brian Kelso, 843 City Park Avenue.,
Columbus, OH 43206 06/30/23

Mindy K. Yocum, 7652 Sawmill Road, Suite 263,
Dublin, OH 43016 06/30/23

District 8

**Counties: Adams, Brown, Gallia, Highland, Jackson, Lawrence, Pickaway, Pike,
Ross, Scioto and Vinton**

Board of Governors Representative:

Frederick C. Fisher, Jr., 311 Park Avenue,
Ironton, OH 45638 06/30/24

Council of Delegates (2):

Richard W. Clagg, 16 E. Broadway Street,
Wellston, OH 45692 06/30/22

George L. Davis, III, 602 Chillicothe Street, Ste. 802,
Portsmouth, OH 45662 06/30/23

District 9

Counties: Coshocton, Fairfield, Knox, Licking, Muskingum and Perry

Board of Governors Representative:

Janice A. Baughman, 111 N. 4th Street,
Zanesville, OH 43701 06/30/22

Council of Delegates (3):

Wendi Fowler, 1 S. Main St.,
Mount Vernon, OH 43050 06/30/22

Jason W. Given, 318 Chestnut Street,
Coshocton, OH 43812 06/30/23

Patrick S. Carpenter, 32 North Park Place, P.O. Box 309,
Newark, OH 43058 06/30/23

District 10

Counties: Ashland, Erie, Holmes, Lorain, Medina, Richland, Huron and Wayne

Board of Governors Representative:

Christopher Lake Brown, 30 N. Diamond Street,
Mansfield, OH 44902 06/30/23

Council of Delegates (6):

Gowri V. Hampole, 124 Middle Avenue, 4th Floor,
Elyria, OH 44035 06/30/22

Robert J. Reynolds, P. O. Box 958,
Wooster, OH 44691 06/30/22

Patricia A. Walker, 231 S. Broadway St.,
Medina, OH 44256 06/30/22

Lee E. Belardo, 1001 Jaycox Rd., Suite 1,
Avon, OH 44011 06/30/23

Kevin W. Donovan, 409 East Ave., Suite A,
Elyria, OH 44035 06/30/23

Andrew P. Lycans, 225 N. Market St.,
Wooster, OH 44691 06/30/23

District 11

Counties: Portage and Summit

Board of Governors Representative:

William G. Chris, 50 S. Main St., 10th Floor,
Akron, OH 44308 06/30/24

Montrella S. Jackson, 217 S. High Street, Ste. 713,
Akron, OH 44308 06/30/23

Council of Delegates (8):

Karen D. Adinolfi, 222 S. Main Street, Suite 400,
Akron, OH 44308 06/30/22

Susan L. Durr, 2231 Broad Boulevard, Cuyahoga Falls, OH 44223	06/30/22
Ronald S. Kopp, 222 S. Main Street, Suite 400, Akron, OH 44308	06/30/22
Maura E. Scanlon, 4040 Embassy Parkway, Suite 240, Akron, OH 44333	06/30/22
Terri E. Brunsdon, 2251 Front Street, Suite 206, Cuyahoga Falls, OH 44221	06/30/23
Melissa A. Graham-Hurd, 4030 Massillon Road, Suite B, Uniontown, OH 44685	06/30/23
Carmen V. Roberto, 3988 Greenridge Dr., Uniontown, OH 44685	06/30/23
Bruce H. Wilson, 120 E. Mill Street, Suite 416, Akron, OH 44308	06/30/23

District 12

Counties: Cuyahoga

Board of Governors Representative:

Michael J. Frantz, Jr., 200 Public Square, Ste. 3000, Cleveland, OH 44114	06/30/22
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Council of Delegates (25):

Christa A.G. Heckman, 950 Main Avenue, 4th Floor, Cleveland, OH 44113	06/30/22
Lisa A. Reid, 615 W. Superior Avenue, 11th Floor, Cleveland, OH 44113	06/30/22
Karen E. Rubin, 127 Public Square, Suite 3900, Cleveland, OH 44114	06/30/22
John P. Thomas, 301 Hamilton Drive, Broadview Heights, OH 44147	06/30/22
Klevis Bakiaj, 200 Public Square, Ste. 3000,	

Cleveland, OH 44114	06/30/22
Erin McDevitt-Frantz, 812 Huron Rd, Suite 650, Cleveland, OH 44115	06/30/22
Chris Hawley, 600 Superior Ave. E., Suite 2100, Cleveland, OH 44114	06/30/22
Jared Hasson, 19337 Frazier Drive, Rocky River, OH 44116	06/30/22
Ian Friedman, 1360 E. 9 th St., Suite 650, Cleveland, OH 44114	06/30/22
Alison Archer, 615 W. Superior Ave., Floor 11, Cleveland, OH 44113	06/30/22
Jonathan Scandling, 200 Public Square, Suite 3000, Cleveland, OH 44114	06/30/22
Keith A. Ashmus, 24380 Lake Road, Bay Village, OH 44140	06/30/23
Awatef Assad, 2079 E. 9 th St., Floor 7, Cleveland, OH 44115	06/30/23
Eileen M. Bitterman, 323 W. Lakeside Avenue, Suite 200, Cleveland, OH 44113	06/30/23
Jeffrey A. Brauer, 200 Public Square, Suite 2800, Cleveland, OH 44114	06/30/23
Luke T. Brewer, 623 W. St. Clair Avenue, Cleveland, OH 44113	06/30/23
Michael C. Brink, 6055 Parkland Avenue, Cleveland, OH 44124	06/30/23
Megan E. Goedeker, 812 Huron Road, Suite 650 Cleveland, OH 44115	06/30/23
Alicia N. Graves, 26110 Emery Road, Suite 250, Cleveland, OH 44128	06/30/23
Fredric E. Kramer, 4608 St. Clair Avenue, Cleveland, OH 44103	06/30/23
John P.L. Mills, 1300 Ontario Street, 13 th Floor	

Cleveland, OH 44113	06/30/23
Marlon A. Primes, 801 W. Superior Avenue, Suite 400, Cleveland, OH 44113	06/30/23
Daniel J. Ryan, 55 Public Square, Suite 2100, Cleveland, OH 44113	06/30/23
Nancy C. Schuster, 2913 Clinton Avenue, Cleveland, OH 44113	06/30/23
Dane A. Shralow, 32680 Shadowbrook Drive, Solon, OH 44139	06/30/23

District 13

Counties: Columbiana and Mahoning

Board of Governors Representative:

Ronald E. Slipski, 527 Greenmont Drive, Canfield, OH 44406	06/30/23
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Council of Delegates (3):

J. Michael Thompson, 6 Federal Plaza Central, Ste. 1300, Youngstown, OH 44503	06/30/22
David “Chip” C. Comstock, Jr., 3701B Boardman Canfield Rd., Canfield, OH 44406	06/30/22
Mark A. Hutson, 33 Pittsburgh St., Columbiana, OH 44408	06/30/22

District 14

Counties: Carroll, Stark and Tuscarawas

Board of Governors Representative:

Daniel R. Griffith, 4481 Munson St., NW, Suite 200, Canton, OH 44718	06/30/24
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Council of Delegates (4):

Jennifer L. Thomas, P. O. Box 235, Carrollton, OH 44615	06/30/22
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Howard L. Wernow, 4940 Munson Street NW, Suite 1100, Canton, OH 44718	06/30/22
Stephanie A. Lehota, 4775 Munson St. NW, Canton, OH 44735	06/30/23
Thomas P. Moushey, 1844 W. State Street, Suite A, Alliance, OH 44601	06/30/23

District 15

Counties: Belmont, Guernsey, Harrison, Jefferson and Monroe

Board of Governors Representative:

Bryan C. Conaway, 126 N. 9 th Street, Cambridge, OH 43725	06/30/24
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Council of Delegate (2):

Kyle Bickford, 46457 National Road W., Saint Clairsville, OH 43950	06/30/22
C. Keith Plummer, P. O. Box 640, Cambridge, OH 43725	06/30/23

District 16

Counties: Allen, Auglaize, Hardin and Mercer

Board of Governors Representative:

Amy B. Ikerd, 119 N. Walnut Street, Celina, OH 45822	06/30/24
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Council of Delegates (2):

Andrea L. Henning, 102 Devonshire Dr. #C, Lima, OH 45804	06/30/22
Zach G. Ferrall, 146 E. Spring St., St. Marys, OH 45885	06/30/22

District 17

Counties: Athens, Hocking, Meigs, Morgan, Noble and Washington

Board of Governors Representative:

Scott M. Robe, 14 W. Washington Street,
Athens, OH 45701 06/30/22

Council of Delegates (2):

Kristopher O. Justice, 424 2nd Street,
Marietta, OH 45750 06/30/22

James K. Stanley, 117 W. 2nd Street,
Pomeroy, OH 45769 06/30/23

District 18

Counties: Ashtabula, Geauga, Lake and Trumbull

Board of Governors Representative:

Dennis M. Coyne, 1428 Hamilton Avenue,
Cleveland, OH 44114 06/30/22

Council of Delegates (4):

Samuel R. Martillotta, 11715 Riverwood Drive,
Chardon, OH 44024 06/30/22

Matthew G. Vansuch, 6550 Seville Drive, Ste. B,
Canfield, OH 44406 06/30/22

Michael E. Hamper, III, 531 East Beech Street,
Jefferson, OH 44047 06/30/23

Anna M. Parise, 60 S. Park Place,
Painesville, OH 44077 06/30/23

At-Large Delegates

Martin E. Mohler, 405 Madison Avenue, Ste. 1000,

Toledo, OH 43604	06/30/22
Christina M. Spencer, 6494 Centerville Business Parkway, Dayton, OH 45459	06/30/22
John S. Stith, 250 E. 5 th Street, Ste. 2200, Cincinnati, OH 45202	06/30/22
Carol Seubert Marx, 106 Starrit Street, Ste. 210, Lancaster, OH 43130	06/30/23
Rachel A. Sabo, 6612 Dalmore Lane, Dublin, OH 43016	06/30/23
Lawrence J. Scanlon, 57 S. Broadway St., 3 rd Floor, Akron, OH 44308	06/30/23

Parliamentarian

Robert A. Brundrett, 33 N. High Street, 6th Floor Columbus, OH 43215	06/30/22
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At-Large Board of Governors Appointees

Caitlin E. Anderson, 700 Cardinal Place, Dublin, OH 43017	06/30/22
Montrella S. Jackson, 217 S. High Street, Ste. 713, Akron, OH 44308	06/30/23
Michael E. Flowers, 41 S. High St., Ste. 2200, Columbus, OH 43215	06/30/24

OSBA Elected Officers

Judge Linda Teodosio, Immediate Past President, 650 Dan Street, Akron, OH 44310	06/30/22
David H. Lefton, President, 3074 Madison Road, Cincinnati, OH 45209	06/30/23
Judge Dean Wilson, President-elect, 105 N. Main St., New Lexington, OH 43764	06/30/24

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**OHIO STATE BAR ASSOCIATION
BYLAWS OF THE
COUNCIL OF DELEGATES**

Section I

In the absence or disability of both the president and president-elect of the Association, the meetings of this Council shall be presided over by a chairperson pro tempore, elected by a majority vote of the Council members present, which chairperson, when elected, shall serve in that capacity only during the sessions of the meeting at which he or she is elected. The secretary shall convene the first session of any meeting from or at which both the president and president-elect are absent or unable to preside, and preside during the election of such chairperson pro tempore.

Section II

No action shall be taken upon reports of committees or sections of the Association unless they are submitted in writing; and no such committee or section report, which has been published in the *Ohio State Bar Association Report* or other publication of the Association that is distributed to all regular members, as directed by the Board of Governors, prior to the date of the meeting of the Council, shall be read orally to the meeting unless, by motion adopted by two-thirds vote of the delegates present, such a reading be ordered.

Section III

No person shall, without the consent of two-thirds of the delegates present, be entitled to speak more than once or for more than five minutes on any issue before the Council. Reports presented by committees and sections shall be limited to ten minutes, provided, however, that the ten-minute restriction shall not apply to the discussion of a proposal subsequent to its initial presentation. A member of the council or person presenting a report or resolution shall be entitled to open and close the discussion on the matter under consideration.

Section IV

Voting on all matters shall be by voice vote unless the presiding officer is in doubt concerning the result, or a division of the house is requested by any member, in either of which events a standing vote shall be taken.

Section V

The president of the Association shall, with the advice and consent of the Board of Governors, appoint a parliamentarian to aid and assist him or the chairperson at all meetings of the Council of Delegates. Said parliamentarian, whose term of office shall be concurrent with that of the president, shall not be a member of the current Board of Governors or the Council of Delegates.

Section VI

The order of business of all meetings of the Council of Delegates shall be the following:

1. Roll call.
2. Action of minutes of previous meetings.
3. Unfinished business from preceding day, if any.
4. Special order of business for the day, as previously prepared by the president, president-elect and secretary of the Association.
5. New business.

Section VII

Roberts' Rules of Order shall govern the Council of Delegates in all its proceedings, except to the extent to which these bylaws are, or the Constitution of the Association is, inconsistent therewith.

Section VIII

These bylaws may be amended by the majority vote of the delegates present at any meetings, provided the proposed amendment has been published in the *Ohio State Bar Association Report* or other publication of the Association that is distributed to all regular members as directed by the Board of Governors at least once, not less than one week prior to the date of the meeting at which action on said amendment is taken.

As amended by the Council of Delegates November 7, 2003

Resolution No. 2 *(Policy only – not a part of the actual COD bylaws)*

WHEREAS there may be more proposed bills recommended by the Association committees and sections and approved by the Council of Delegates for introduction in the legislature than can reasonably be handled in the legislature effectively;

THEREFORE, BE IT RESOLVED that the responsibility for the overall legislative planning for the legislative sessions be committed to the Board of Governors with the power to select the legislation which will be introduced if all of the proposed legislation approved by the Council of Delegates cannot, in the judgment of the Board of Governors, feasibly be sponsored by the Association at such legislative session, and that the committees and sections of the Association be advised of this action.

As amended by the Council of Delegates November 7, 2003.

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1 **REPORT OF THE ELDER AND SPECIAL NEEDS LAW SECTION**

2
3 *To the Council of Delegates*

4
5 To create a new section of code to authorize a probate court, upon its own motion or application
6 of an interested party, to appoint a person with limited authority to apply for Medicaid benefits or
7 other related public assistance, and to document the alleged incompetent's physical or mental
8 impairment for the purposes of making such application. This will offer protection from an
9 involuntary discharge, during the pendency of a guardianship application proceeding.

10
11
12 Respectfully submitted,

13
14 Ashley Shannon Burke, Cincinnati
15 Chair, Elder and Special Needs Law Section
16

17 **Summary and Rationale for Proposal**

18
19 When a person, due to a physical or mental impairment, is unable to identify or access their own
20 assets and income they cannot privately pay for their care. This is a priority concern where that
21 same person has been admitted to a hospital or skilled nursing facility. They also cannot receive
22 Medicaid coverage, since they cannot execute the documentation necessary or provide required
23 verifications required by the state. This leaves the individual with no means to pay, which can
24 result in the legal and involuntary discharge from a facility.

25
26 The administrative rules of the Department of Medicaid authorize Medicaid coverage for persons
27 in this situation (at, OAC 5160:1-2-01(F)(5)). However, the person's physical or mental
28 impairment must first be verified. A judicial determination of incompetency is currently required
29 to verify such impairment. The required procedure for such judicial determination leaves a gap
30 period, in which the person is in need of care but cannot verify such impairment. Federal Law (at,
31 42 CFR §435.923(a)(2)) allows a representative to act on the individual's behalf, and specifically
32 recognizes authority accorded under state law. A court appointed representative could be given
33 the authority to bridge this gap.

34
35 This proposal, while recognizing the legitimate interests of an alleged incompetent and the
36 authority of the probate court, is intended allow a representative to take any and all actions
37 necessary to secure and maintain access to public assistance so that the persons who are not able
38 to do so are not subject to the legal consequences of failure to pay for care (e.g. involuntary
39 discharge).

47 **Text of Proposal**

48
49
50 (A) If found necessary, a probate court, on its own motion or on application by any interested party,
51 may appoint a representative to act on behalf of an alleged incompetent, for the limited
52 purposes of:

- 53 (1) Taking all action necessary to make application for medical assistance pursuant to the
54 revised code and administrative rules and regulations of the Department of Medicaid.
55 (2) Executing on behalf of the alleged incompetent, pursuant the administrative rules and
56 regulations of the Department of Medicaid, such affidavits or other documents as
57 necessary to attest that the alleged incompetent:
58 (a) has a physical or mental impairment that substantially limits their ability to
59 access verifications; and
60 (b) has no available representative to assist in accessing public assistance; and
61 (c) has not granted any person durable power of attorney; and
62 (d) has no court-appointed guardian.
63 (3) Executing on behalf of the alleged incompetent such documents as may be necessary
64 to seek public assistance from the Department of Medicaid or its designees, the County
65 Departments of Job and Family Services or other agencies administering public
66 benefits designees of the Department of Medicaid, including but not limited to forms
67 and applications related to Home and Community-Based Services Waivers, Level of
68 Care assessments, Ohio Benefits Long-Term Services and Supports agency forms,
69 Supplemental Nutrition Assistance Programs, and OWF/TANF (Cash Assistance); and
70 (4) Executing on behalf of the alleged incompetent such documents as may be necessary
71 to maintain medical assistance, or other public assistance for which the alleged
72 incompetent has previously been determined to be eligible.
73

74 (B) Prior to the appointment of a representative under division (A) of this section, either the
75 representative shall have a guardianship application pending before the probate court or the
76 probate court shall conduct a hearing on the matter. If an application for guardianship is
77 pending before the probate court, it may grant the authority under division (A) of this section
78 without a hearing and address the continued need for this authority at the hearing on the
79 guardianship. If a hearing is conducted prior to the appointment of a representative under
80 division (A) of this section, it shall be in accordance with all of the following:

- 81 (1) The proposed representative shall appear at the hearing and, if appointed, shall attest
82 under oath that the proposed representative:
83 (a) has made reasonable efforts to determine if the alleged incompetent has a
84 physical or mental impairment that substantially limits their ability to access
85 verifications or access their means of self-support; and
86 (b) has made reasonable efforts to determine if another person is available to
87 represent the alleged incompetent in the actions authorized in division (A)
88 of this section; and
89 (c) shall notify any administrative agency to which an application is made by
90 said representative of any changes in circumstances which would permit the
91 alleged incompetent, or a legal representative on their behalf, to obtain

92 verifications or access their means of self-support, within ten (10) calendar
93 days of being made aware of the same; and
94 (d) shall maintain the confidentiality of information provided by the state
95 agency, as required by state and federal law.

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96 **REPORT OF THE OHIO STATE BAR ASSOCIATION BOARD OF GOVERNORS**

97
98 *To the Council of Delegates*
99

100 To place before the Supreme Court of Ohio a proposal to amend Gov. Bar R. X, Section 3 in order
101 to allow diversity, inclusion, and elimination of bias training to be eligible professional conduct
102 topics to qualify towards the required biennial two and one-half credit hours of professional
103 conduct instruction.

104
105
106 Respectfully submitted,

107
108 Christopher L. Brown, Mansfield
109 Chair, Government Affairs Committee
110

111 **Summary and Rationale for Proposal**
112

113 Following the murder of George Floyd, the OSBA under the leadership of President Linda
114 Teodosio, convened a coalition group comprised of OSBA members and non-member attorneys
115 interested in contributing ideas and implementing changes in laws and the legal profession.
116

117 Specifically, a subcommittee on CLE was created with the following goal: Yielding Meaningful
118 Change in the Profession. With that goal in mind, the subcommittee discussed three topics of
119 interest:

- 120
121 1. Making ID&E training a CLE requirement
122 2. A lawyer's promise to promote ID&E in the legal profession
123 3. Making implicit bias training as part of New Lawyer Training
124

125 Most of the subcommittee's work focused on the first goal: ID&E as a CLE requirement. This is
126 not an unprecedented concept: already, the following states have made some form of ID&E
127 training a CLE requirement: California, Illinois, Minnesota, New York, Oregon, New Jersey,
128 Colorado, Florida, West Virginia, and Missouri. After several meetings and much deliberation, the
129 OSBA subcommittee proposed a change in Gov. Bar. R. X (CLE for attorneys). The subcommittee
130 discussed various versions of the rule, including borrowing language from other states' rules, to
131 draft the proposed changes.
132

133 Mandatory CLE is a controversial topic among our members and all Ohio lawyers. Additionally,
134 in recent years, the Supreme Court Commission on CLE has been reluctant to implement additional
135 mandates for CLE. Acknowledging these circumstances, while also acknowledging that the specific
136 topic of ID&E is of the utmost importance, the intent of this proposal is to increase access to and
137 participation in diversity, inclusion, and elimination of bias training without making it mandatory.
138

139 The voluntary topics that would now qualify towards the required biennial two and one-half credit
140 hours of professional conduct instruction may include, but are not limited to the following:

- 141 • implicit and explicit bias,

- equal access to justice,
- serving a diverse population,
- diversity and inclusion initiatives in the legal profession, and
- cultural competency in the practice of law or the administration of justice.

Lawyers are uniquely qualified and well-positioned to contribute to this national conversation and in doing so, to model civility and mutual respect. The OSBA has been working to promote dialogue and increase our shared understanding around the issues of inclusion, diversity and equity in the legal profession and our justice system. Through its Equity Education Series, the OSBA has offered Ohio legal professionals and community partners the opportunity to participate in complimentary CLE programs and facilitated discussions on a variety of topics surrounding race and equity.

This proposal strikes a great balance by increasing the amount of ID&E training that will qualify towards the required biennial two and one-half credit hours of professional conduct instruction, while stopping short of creating new and unwanted mandates.

Text of Proposal

RULE X. CONTINUING LEGAL EDUCATION

Section 3. Continuing Legal Education Requirements for Attorneys.

(A) *Total credit hours.* Each attorney admitted to the practice of law in this state and each attorney registered for corporate status pursuant to Gov. Bar R. VI, Section 6 shall complete a minimum of twenty-four credit hours of continuing legal education for each biennial compliance period.

(B) Professional conduct credit hours. As part of the minimum twenty-four credit hours of continuing legal education required by division (A) of this section, an attorney shall complete a minimum of two and one-half credit hours of instruction on one or any combination of the following professional conduct topics:

(1) Legal ethics, which shall include instruction on the Ohio Rules of Professional Conduct;

(2) Professionalism, which shall include instruction on the role of attorneys in promoting ethics and professionalism among attorneys by facilitating compliance with the requirements of the Ohio Rules of Professional Conduct, “A Lawyer’s Creed,” “A Lawyer’s Aspirational Ideals,” and the “Statement Regarding the Provision of Pro Bono Legal Services by Ohio Lawyers” adopted by the Supreme Court;

181 (3) Alcoholism, substance abuse, or mental health issues, which shall include instruction
182 on any of their causes, prevention, detection, and treatment alternatives, as applicable;

183 (4) Access to justice and fairness in the courts and how these issues impact public trust and
184 confidence in the judicial system and the perception of justice in Ohio, which shall include
185 instruction on one or any combination of the following topics:

186 (a) Interacting with self-represented litigants;

187 (b) Encouraging pro bono representation;

188 (c) Accommodating language interpretation;

189 (d) Assuring fairness in matters of race, ethnicity, foreign origin, religion, gender, sexual
190 orientation, disability, socio-economic status, or other relevant topics.

191 (5) Diversity, inclusion, and elimination of bias that may include, among other topics,
192 implicit and explicit bias, equal access to justice, serving a diverse population, diversity and
193 inclusion initiatives in the legal profession, and cultural competency in the practice of law or the
194 administration of justice.

195 (C) *Single or multiple programs or activities.* The instruction related to professional
196 conduct required by division (B) of this section may be obtained in a single program or activity or
197 in separate programs or activities that include one or more of the subjects set forth in that division.

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REPORT OF THE OHIO STATE BAR ASSOCIATION BOARD OF GOVERNORS

To the Council of Delegates

To place before the Supreme Court of Ohio a proposal to amend Rule 5.4 of the Ohio Rules of Professional Conduct in order to allow lawyers to work collaboratively with non-lawyer professionals on a client matter in a manner that involves sharing fees.

Respectfully submitted,

David H. Lefton, President
OSBA Board of Governors

Summary and Rationale for Proposal

In February 2020, the American Bar Association’s House of Delegates called on states to develop regulatory innovations that would help improve the accessibility, affordability, and quality of civil legal services, while also ensuring necessary and appropriate protections that best serve clients and the public.

In response, the Ohio State Bar Association (“OSBA”) established the Law Practice Modernization Task Force. The Task Force was charged with reviewing the need for regulatory reform with the goal of connecting more legal consumers with lawyers while preserving the core values of the profession, and while recognizing that licensed attorneys remain the best trained and most suited to serve the legal needs of clients.

In its review, the Task Force specifically identified as a problem that, under Ohio’s Prof. Cond. Rule 5.4, lawyers are unable to work collaboratively with non-lawyer professionals on a single client matter in a manner that involves sharing fees. Acknowledging that the current prohibition can reduce the level of service and increase the overall cost to clients, the Task Force recommended that changes to Rule 5.4 be considered. Adopting this recommendation, the Board of Governors established the Working Group on Rule Modernization (“WG”) to review the Ohio Rules of Professional Conduct and to recommend amendments that would permit this kind of collaboration.

The WG recommended, and the Board approved, a unique rule that, without embracing more radical changes that some jurisdictions are now experimenting with, would give lawyers the freedom to offer cross-discipline collaboration to clients and to share fees on legal matters with the non-lawyers involved in that collaboration.

The proposed changes would allow for the convenience of “one-stop shopping,” a single bill for multiple kinds of allied legal and non-legal services and would promote efficiencies that could lead to more affordable fees to consumers. The proposed changes would not permit alternative business structures where lawyers can be in partnerships with other professionals or for non-lawyers to own law firms to provide joint services. This collaboration would be conditioned on a set of guardrails, however, that would protect both clients and the core values of the profession.

Those guard rails are:

- the fee to be shared must be reasonable under ORPC 1.5;
- before accepting representation, the lawyer or firm provides written notice to the affected client and, if applicable, to any other person paying the legal fees, describing the relationship with the non-lawyer and the fact of the fee-sharing arrangement;
- there is no interference with the lawyer's exercise of professional judgment;
- information relating to the representation of the client remains protected as provided under Rule 1.6 (Confidentiality of Information).

286 **Text of Proposal**

287
288 **RULE 5.4: PROFESSIONAL INDEPENDENCE OF A LAWYER**

289
290 (a) A lawyer or law firm shall not share legal fees with a nonlawyer, except in any of the following
291 circumstances:

292
293 (1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for
294 the payment of money, over a reasonable period of time after the lawyer's death, to the
295 lawyer's estate or to one or more specified persons;

296
297 (2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer
298 may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of
299 that lawyer the agreed-upon purchase price;

300
301 (3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement
302 plan, even though the plan is based in whole or in part on a profit-sharing arrangement;

303
304 (4) a lawyer may share court-awarded legal fees with a nonprofit organization that
305 employed or retained the lawyer in the matter;

306
307 (5) a lawyer may share legal fees with a nonprofit organization that recommended
308 employment of the lawyer in the matter, if the nonprofit organization complies with Rule
309 XVI of the Supreme Court Rules for the Government of the Bar of Ohio;

310
311 (6) a lawyer may share legal fees with nonlawyers who collaborate with the lawyer in
312 providing legal services in a matter provided that:

313
314 (i) the fee to be shared complies with Rule 1.5;

315
316 (ii) before accepting representation, the lawyer provides written notice to the
317 affected client and, if applicable, to any other person paying the legal fees,
318 describing the relationship with the nonlawyer and the fact of the fee-sharing
319 arrangement;

320
321 (iii) there is no interference with the lawyer's exercise of professional judgment;

322
323 (iv) information relating to the representation remains protected as provided by
324 Rule 1.6;

325 **Comment**

326
327 [3] With regard to division (a)(6), there is no intent to modify the prohibition against payment
328 of contingent fees to testifying expert witnesses or the prohibition against payment of any fee to
329 an occurrence witness. See Rule 3.4 cmt. [3] ("It is improper to pay an occurrence witness any fee
330 for testifying and it is improper to pay an expert witness a contingent fee.")). These traditional
331 prohibitions extend to sharing the lawyer's contingent fee with such witnesses.

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332 **REPORT OF THE OHIO STATE BAR ASSOCIATION BOARD OF GOVERNORS**

333
334 *To the Council of Delegates*

335
336 To place before the Supreme Court of Ohio a proposal to amend Rules 7.1 – 7.5 of the Ohio Rules
337 of Professional Conduct in order to simplify and update the rules governing information about
338 legal services.

339
340 Respectfully submitted,

341
342
343
344 David H. Lefton, President
345 OSBA Board of Governors
346

347 **Summary and Rationale for Proposal**

348
349 In February 2020, the American Bar Association’s House of Delegates called on states to develop
350 regulatory innovations that would help improve the accessibility, affordability, and quality of civil
351 legal services, while also ensuring necessary and appropriate protections that best serve clients and
352 the public.

353
354 In response, the Ohio State Bar Association (“OSBA”) established the Law Practice Modernization
355 Task Force. The Task Force was charged with reviewing the need for regulatory reform with the
356 goal of connecting more legal consumers with lawyers, who are the best trained and most suited
357 to serve the legal needs of clients, while preserving the core values of the profession.

358
359 In its review, the Task Force specifically identified as a problem that the marketplace for legal
360 services has undergone radical change since the adoption of the Ohio Rules of Professional
361 Conduct (“ORPC”) in 2007. This change has made the current ORPC rules governing lawyer
362 advertising unduly complicated and unnecessarily restrictive in some ways. The Task Force
363 recommended that simplification of these rules be proposed.

364
365 Adopting this recommendation, the Board of Governors established the Working Group on Rule
366 Modernization (“WG”) to review the ORPC and to recommend amendments that would simplify
367 and update the rules governing information about legal services to reflect the current and changing
368 legal services marketplace.

369
370 The WG recommended, and the Board approved, a package of changes that are aimed at giving
371 Ohio lawyers the ability to communicate effectively about their legal services and to be able to
372 inform potential legal consumers using modern technology and current marketing tools. The
373 proposed rule and comment amendments are largely built on the analogous Model Rules of
374 Professional Conduct, which were adopted in 2019.

375
376
377 The most significant proposed rule changes are:
378

- 379 • Eliminating the prohibition against “non-verifiable” communications regarding legal
380 services.
381
 - 382 ○ The types of communications that the Board of Professional Conduct has pointed
383 to as being “non-verifiable” include “My lawyer is the best criminal defense
384 lawyer in Columbus,” and “My lawyer never settles if he can win.” These type of
385 statements are puffery that consumers have abundant experience in detecting and
386 disregarding in commercial speech, and are not false or misleading per se.
387 Prohibiting false and misleading claims is the proper focus of ethics rules
388 regarding communications about legal services.
389
- 390 • Permitting non-exclusive reciprocal referral arrangements between lawyers and between
391 lawyers and non-lawyers, when the client is informed of the existence and nature of the
392 agreement.
393
 - 394 ○ The proposed accompanying comment confirms that paying anything solely for
395 referrals remains prohibited; the agreements must not interfere with the lawyer’s
396 independent legal judgment; and conflicts must be resolved in accordance with
397 the conflict rules. The Model Rules have permitted such reciprocal arrangements
398 since 2002 and they are permitted in numerous jurisdictions, as they recognize a
399 common mechanism by which clients are paired with lawyers and non-lawyer
400 professionals.
401
- 402 • Permitting lawyers to give nominal gifts to referral sources, provided they are not
403 compensation for recommendations.
404
 - 405 ○ This provision brings within the scope of regulation an already common practice
406 and provides the standard for evaluating the permissibility of gifts.
407
- 408 • Eliminating the requirement that print advertisements contain an “office address” but
409 requiring all communication to contain “contact information.”
410
 - 411 ○ Requiring an “office address” complicates advertising for multi-office firms and
412 can be inapplicable to virtual firms. The requirement is also often disregarded.
413 Requiring “contact information” of any type, including an email address, ensures
414 that anyone wishing to communicate regarding the advertisement can do so.
415
- 416 • Defining “solicitation” as a communication initiated by or on behalf of the lawyer
417 directed to a specific person needing legal services in a particular matter; and permitting
418 live person-to-person solicitation of lawyers, family members, those having a prior
419 business or professional relationship with the lawyer, and those who routinely use for
420 business purposes the particular type of legal services offered.
421
 - 422 ○ Expanding the scope of the existing rule to also permit live person-to-person
423 solicitation of businesspeople is justified because such businesspeople are not
424 likely to need protection from the type of overreaching that the prohibition against

live person-to-person solicitation is intended to guard against.

- Eliminating the requirement for an “Advertising Material” recital on solicitations.
 - The historic concern – that direct print mail solicitations targeted to individuals might mislead them or frighten them – appears outdated in an era when people are used to identifying as advertisements mail flyers and other communications such as they might receive after a car accident.
- Eliminating the requirement of providing the “Understanding Your Rights” document in the solicitations of accident or disaster victims within thirty days of the event.
 - Requiring a long document with specific wording to be provided in the thirty-day window renders impractical the use of certain permissible electronic media to communicate about legal services. Also, there is no comparable requirement imposed on medical professionals or the insurance industry.
- Moving selected provisions now found in ORPC 7.4 and 7.5 to the Comment section of amended ORPC 7.2 and eliminating current ORPC 7.4 and 7.5.
 - These proposed changes streamline the rules without sacrificing explanatory content and align them with the Model Rules adopted in many other jurisdictions.

447 **Text of Proposal**

448
449 **VII. INFORMATION ABOUT LEGAL SERVICES**

450
451 **RULE 7.1:**
452 **COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

453
454 A lawyer shall not make or use a false, ~~or misleading, or nonverifiable~~ communication
455 about the lawyer or the lawyer's services. A communication is false or misleading if it
456 contains a material misrepresentation of fact or law or omits a fact necessary to make the
457 statement considered as a whole not materially misleading.

458
459 **Comment**

460
461 [1] This rule governs all communications about a lawyer's services, including advertising per-
462 mitted by Rule 7.2. Whatever means are used to make known a lawyer's services, statements
463 about them must be truthful.

464
465 [2] Truthful statements that are misleading are also prohibited by this rule. A truthful statement is
466 misleading if it omits a fact necessary to make the lawyer's communication considered as a
467 whole not materially misleading. A truthful statement is ~~also~~ misleading if there is a substantial
468 likelihood that it will lead a reasonable person to formulate a specific conclusion about the law-
469 yer or the lawyer's services for which there is no reasonable factual foundation. A truthful state-
470 ment is also misleading if presented in a way that creates a substantial likelihood that a reasona-
471 ble person would believe the lawyer's communication requires that person to take further action
472 when, in fact, no action is required.

473
474 [3] ~~An advertisement~~ A communication that truthfully reports a lawyer's achievements on behalf
475 of clients or former clients may be misleading if presented so as to lead a reasonable person to
476 form an unjustified expectation that the same results could be obtained for other clients in similar
477 matters
478 without reference to the specific factual and legal circumstances of each client's case. Similarly,
479 an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other
480 lawyers may be misleading if presented with such specificity as would lead a reasonable person
481 to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer
482 or qualifying language may preclude a finding that a statement is likely to create unjustified ex-
483 pectations or otherwise mislead the public.
484 ~~expectations or otherwise mislead the public.~~

485
486 [4] ~~Characterization of rates or fees chargeable by the lawyer or law firm such as "cut-rate,"~~
487 ~~"lowest," "giveaway," "below cost," "discount," or "special" is misleading.~~

488
489 [5]

490 [4] See also Rule 8.4(e) for the prohibition against stating or implying an ability to influence im-
491 properly a government agency or official or to achieve results by means that violate the Ohio
492 Rules of Professional Conduct or other law.

493
494 [5] Firm names, letterhead and professional designations are communications concerning a law-
495 yer's services. A firm may be designated by the names of all or some of its current members, by

the names of deceased members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading.

A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization.

If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

The name of a professional corporation or association, legal clinic, limited liability company, or limited liability partnership is not misleading when it contains symbols indicating the nature of the organization as required by Gov. Bar R. III.

[6] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction. It is misleading for a law firm with offices in more than one jurisdiction to list attorneys associated with the firm unless it indicates the jurisdictional limitations on those not licensed to practice in Ohio.

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

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

RULE 7.2: ADVERTISING AND RECOMMENDATION OF PROFESSIONAL
EMPLOYMENT

COMMUNICATIONS CONCERNING A LAWYER'S SERVICES: SPECIFIC RULES

- (a) ~~Subject to the requirements of Rules 7.1 and 7.3, a~~ A lawyer may ~~advertise~~ communicate information regarding the lawyer's services through ~~written, recorded, or electronic communication, including public~~ any media.
- (b) A lawyer shall not compensate, give or promise anything of value to a person for recommending the lawyer's services except that a lawyer may ~~pay any of the following~~:
- (1) pay the reasonable costs of advertisements or communications permitted by this ~~rule~~ Rule;
 - (2) pay the usual charges of a legal service plan;
 - (3) ~~the usual charges for a nonprofit or~~ or a not-for-profit or qualified lawyer referral service that complies with Rule XVI of the Supreme Court Rules for the Government of the Bar of Ohio;
 - (4) ~~3~~ pay for a law practice in accordance with Rule 1.17;
- (c) ~~Any communication made pursuant to this rule shall include the name and office address of at least one lawyer or law firm responsible for its content.~~
- (4) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if:
 - (i) the reciprocal referral agreement is not exclusive; and
 - (ii) the client is informed of the existence and nature of the agreement; and
 - (5) give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services.
- (d) A lawyer shall not state or imply that a lawyer is a specialist in a particular field of law, unless both of the following apply: (1) the lawyer has been certified as a specialist by an organization approved by the Supreme Court Commission on Certification of Attorneys as Specialists; (2) the name of the certifying organization is clearly identified in the communication
- (d) A lawyer shall not seek employment in connection with a matter in which the lawyer or law firm does not intend to participate actively in the representation, but that the lawyer or law firm intends to refer to other counsel. This provision shall not apply to

organizations listed in Rules 7.2(b)(2) or (3) ~~or if the advertisement is in furtherance of a transaction permitted by Rule 1.17.~~

(i) For purposes of this section the requisite intention may be inferred from circumstances.

(e) Any communication made under this Rule must include the name and contact information of at least one lawyer or law firm responsible for its content.

Comment

Information About Legal Services

~~[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.~~

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

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

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

Paying Others to Recommend a Lawyer

~~[5]~~ Except as provided by these rules, permitted under paragraphs (b)(1)-(b)(5), lawyers are not permitted to ~~give anything of value to another~~pay others for recommending the lawyer's services

621 or channeling professional work in a manner that violates Rule 7.3. A communication contains a
622 recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, char-
623 acter, or other professional qualities. A reciprocal referral agreement between lawyers, or be-
624 tween a lawyer and a nonlawyer, is prohibited. Cf. Rule 1.5. Directory listings and group adver-
625 tisements that list lawyers by practice area, without more, do not constitute impermissible "rec-
626 ommendations."

627
628 [5A] Division 3] Paragraph (b)(1) allows a lawyer to pay for advertising and communications
629 permitted by this rule Rule, including the costs of print directory listings, on-line directory list-
630 ings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees,
631 Internet-based advertisements, and group advertising. A lawyer may compensate employees,
632 agents, and vendors who are engaged to provide marketing or client-development services, such
633 as publicists, public-relations personnel, business-development staff, television and radio station
634 employees or spokespersons and website designers. Moreover, a

635
636 [4] Paragraph (b)(5) permits lawyers to give nominal gifts as an expression of appreciation to a
637 person for recommending the lawyer's services or referring a prospective client. The gift may
638 not be more than a token item as might be given for holidays, or other ordinary social hospital-
639 ity. A gift is prohibited if offered or given in consideration of any promise, agreement or under-
640 standing that such a gift would be forthcoming or that referrals would be made or encouraged in
641 the future.

642
643 [5] Neither this rule nor Rule 7.3 prohibits communications authorized by law, such as notice to
644 members of a class in class action litigation.

645
646 [6] A lawyer may pay others for generating client leads, including such as Internet-based client
647 leads, provided as long as the lead generator does not recommend the lawyer, any payment to the
648 lead generator is consistent with Rules 1.5(e) (division of fees) and 5.4; (professional independ-
649 ence of the lawyer), and the lead generator's communications are consistent with Rule 7.1: (com-
650 munications concerning a lawyer's services). To comply with Rule 7.1, a lawyer shall must not
651 pay a lead generator that states, implies, or creates a reasonable impression that it is recommend-
652 ing the lawyer, is making the referral without payment from the lawyer, or has analyzed a per-
653 son's legal problems when determining which lawyer should receive the referral. See Rules 5.3
654 and 8.4(a) See Comment [2] (definition of "recommendation"). See also Rule 5.3 (duties of law-
655 yers and law firms with respect to the conduct of nonlawyers); Rule 8.4(a) (duty to avoid violat-
656 ing the Rules through the acts of another).

657
658 [67] A lawyer may pay the usual charges of a legal service plan or a nonprofit not-for-profit or
659 qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a
660 similar delivery system that assists people who seek to secure legal representation. A lawyer re-
661 ferred service, on the other hand, is any organization that holds itself out to the public as a lawyer
662 referral service. Such Qualified referral services are understood by the public to be consumer-ori-
663 ented organizations that provide unbiased referrals to lawyers with appropriate experience in the
664 subject matter of the representation and afford other client protections, such as complaint proce-
665 dures or malpractice insurance requirements. Consequently, this rule Rule only permits a lawyer
666 to pay the usual charges of a nonprofit not-for-profit or qualified lawyer referral service. A quali-
667 fied lawyer referral service is one that is approved by pursuant to Rule XVI of the Supreme
668 Court Rules for the Government of the Bar of Ohio. Relative to fee sharing, see Rule 5.4(a)(5).

[78] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the ~~lawyer's~~ lawyer's professional obligations. ~~See Rule 5.3.~~ Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these ~~rules~~ Rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association.

[9] A lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in return for the undertaking of that person to refer clients or customers to the lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's professional judgment as to making referrals or as to providing substantive legal services. See Rule 2.1 and 5.4(c). Except as provided in Rule 1.5(e), a lawyer who receives referrals from a lawyer or nonlawyer professional must not pay anything solely for the referral, but the lawyer does not violate paragraph (b) of this Rule by agreeing to refer clients to the other lawyer or nonlawyer professional, so long as the reciprocal referral agreement is not exclusive, and the client is informed of the referral agreement. Conflicts of interest created by such arrangements are governed by Rule 1.7. Reciprocal referral agreements should not be of indefinite duration and should be reviewed periodically to determine whether they comply with these Rules. This Rule does not restrict referrals or divisions of revenues or net income among lawyers within firms comprised of multiple entities.

[10] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this Rule.

[11] This Rule permits a lawyer to state that the lawyer is a specialist in a field of law if such certification is granted by an organization approved by the Supreme Court Commission on Certification of Attorneys as Specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge, and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. In order to ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

association. Nor could the lawyer allow in-person, telephonic, or real-time contacts that would violate Rule 7.3.

[8] [RESERVED]

[12] This Rule requires that any communication about a lawyer or law firm's services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address or a physical office location.

**RULE 7.3:
SOLICITATION OF CLIENTS**

- ~~(a) A lawyer shall not by in-~~ (a) “Solicitation” or “solicit” denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person, the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.
- ~~(b) A lawyer shall not solicit professional employment by live telephone, or real-time electronic contact solicit professional employment person-to-person contact~~ when a significant motive for the lawyer’s doing so is the lawyer’s or law firm’s pecuniary gain, unless ~~either of the following applies~~ contact is with a:
- _____ (1) ~~the person contacted is a~~ lawyer;
- (2) ~~the person contacted~~ who has a family, close personal, or prior business or professional relationship with the lawyer; or law firm; or
- ~~(b)(3) person who routinely uses for business purposes the type of legal services offered by the lawyer.~~
- ~~(c) A lawyer shall not solicit professional employment by written, recorded, or electronic communication or by in-person, telephone, or real-time electronic contact even when not otherwise prohibited by division (a), if any of the following applies~~ paragraph (b), if:
- (1) _____ the person being solicited ~~target of the solicitation~~ has made known to the lawyer a desire not to be solicited by the lawyer; or
- (2) _____ the solicitation involves coercion, duress; or harassment; or
- (3) _____ the lawyer knows or reasonably should know that the person to whom the communication is addressed is a minor or an incompetent or that the person’s physical, emotional, or mental state makes it unlikely that the person could exercise reasonable judgment in employing a lawyer.
- ~~(d) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.~~
- ~~(e) Notwithstanding the prohibitions of this rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.~~
- ~~(f)(c) Unless the recipient of the communication is a person specified in division (a)(1) or (2) of this rule, every written, recorded, or electronic communication from a lawyer soliciting~~

professional employment from anyone whom the lawyer reasonably believes to be in need of legal services in a particular matter shall comply with all of the following:

(1) ~~Disclose accurately and fully the manner in which the lawyer or law firm became aware of the identity and specific legal need of the addressee;~~

(2) ~~Disclaim or refrain from expressing any predetermined evaluation of the merits of the addressee's case;~~

(3) ~~Conspicuously include in its text and on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication the recital "ADVERTISING MATERIAL" or "ADVERTISEMENT ONLY."~~

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

~~(e) If a communication soliciting professional employment from anyone is sent within thirty days of an accident or disaster that gives rise to a potential claim for personal injury or wrongful death, the following "Understanding Your Rights" shall be included with the communication.~~

~~UNDERSTANDING YOUR RIGHTS*~~

~~If you have been in an accident, or a family member has been injured or killed in a crash or some other incident, you have many important decisions to make. It is important for you to consider the following:~~

~~1. Make and keep records—If your situation involves a motor vehicle crash, regardless of who may be at fault, it is helpful to obtain a copy of the police report, learn the identity of any witnesses, and obtain photographs of the scene, vehicles, and any visible injuries. Keep copies of receipts of all your expenses and medical care related to the incident.~~

~~2. You do not have to sign anything—You may not want to give an interview or recorded statement without first consulting with an attorney, because the statement can be used against you. If you may be at fault or have been charged with a traffic or other offense, it may be advisable to consult an attorney right away. However, if you have insurance, your insurance policy probably requires you to cooperate with your insurance company and to provide a statement to the company. If you fail to cooperate with your insurance company, it may void your coverage.~~

~~3. Your interests versus interests of insurance company—Your interests and those of the other person's insurance company are in conflict. Your interests may also be in conflict with your own insurance company. Even if you are not sure who is at fault, you should contact your own insurance company and advise the company of the incident to protect your insurance coverage.~~

- 811
812 4. ~~There is a time limit to file an insurance claim—Legal rights, including filing a lawsuit, are~~
813 ~~subject to time limits. You should ask what time limits apply to your claim. You may need to~~
814 ~~act immediately to protect your rights.~~
815
816 5. ~~Get it in writing—You may want to request that any offer of settlement from anyone be put in~~
817 ~~writing, including a written explanation of the type of damages which they are willing to~~
818 ~~cover.~~
819
820 6. ~~Legal assistance may be appropriate—You may consult with an attorney before you sign any~~
821 ~~document or release of claims. A release may cut off all future rights against others, obligate~~
822 ~~you to repay past medical bills or disability benefits, or jeopardize future benefits. If your in-~~
823 ~~terests conflict with your own insurance company, you always have the right to discuss the~~
824 ~~matter with an attorney of your choice, which may be at your own expense.~~
825
826 7. ~~How to find an attorney—If you need professional advice about a legal problem but do not~~
827 ~~know an attorney, you may wish to check with relatives, friends, neighbors, your employer,~~
828 ~~or co-workers who may be able to recommend an attorney. Your local bar association may~~
829 ~~have a lawyer referral service that can be found in the Yellow Pages or on the Internet.~~
830
831 8. ~~Check a lawyer's qualifications—Before hiring any lawyer, you have the right to know the~~
832 ~~lawyer's background, training, and experience in dealing with cases similar to yours.~~
833
834 9. ~~How much will it cost?—In deciding whether to hire a particular lawyer, you should discuss,~~
835 ~~and the lawyer's written fee agreement should reflect:~~
836
837 a. ~~How is the lawyer to be paid? If you already have a settlement offer, how will that affect~~
838 ~~a contingent fee arrangement?~~
839
840 b. ~~How are the expenses involved in your case, such as telephone calls, deposition costs,~~
841 ~~and fees for expert witnesses, to be paid? Will these costs be advanced by the lawyer or~~
842 ~~charged to you as they are incurred? Since you are obligated to pay all expenses even if~~
843 ~~you lose your case, how will payment be arranged?~~
844
845 c. ~~Who will handle your case? If the case goes to trial, who will be the trial attorney?~~
846

847 This information is not intended as a complete description of your legal rights, but as a checklist
848 of some of the important issues you should consider.

849 ~~*THE SUPREME COURT OF OHIO, WHICH GOVERNS THE CONDUCT OF LAWYERS~~
850 ~~IN THE STATE OF OHIO, NEITHER PROMOTES NOR PROHIBITS THE DIRECT~~
851 ~~SOLICITATION OF PERSONAL INJURY VICTIMS. THE COURT DOES REQUIRE~~
852 ~~THAT, IF SUCH A SOLICITATION IS MADE, IT MUST INCLUDE THE ABOVE~~
853 ~~DISCLOSURE.~~(h)

854 ~~(f) Notwithstanding the prohibitions in division (a) of this rule, a lawyer may participate with a~~
855 ~~prepaid or group legal service plan operated by an organization not owned or directed by~~
856 ~~the lawyer that uses in person or telephone contact to solicit memberships or subscrip-~~
857 ~~tions for the plan from persons who are not known to need legal services in a particular~~
858 ~~matter covered by the plan.~~

Comment

Comment

[1] ~~A solicitation is-~~ Paragraph (b) prohibits a communication initiated by the lawyer that is directed to a specific person or persons, or to a class of persons, and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a to-person contact when a significant motive for the lawyer's doing so is the lawyer's or the law firm's pecuniary gain. A lawyer's communication typically does not constitute a solicitation if it is (a) directed to the general public, such as through a billboard, an Internet-based banner advertisement, a website, or a television commercial, (b) or if it is in response to a request for information; or (c) is automatically generated in response to Internet searches.

[2] ~~There is a potential for abuse when a solicitation involves direct in-person, live telephone, or real-time electronic contact by a lawyer with someone known to need legal services. These forms of contact subject these searches.~~

[2] "Live person-to-person contact" means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not include chat rooms, text messages or other written communications that recipients may easily disregard. A potential for overreaching exists when a lawyer, seeking pecuniary gain, solicits a person known to be in need of legal services. This form of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult to fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon being retained immediately-an immediate response. The situation is fraught with the possibility of undue influence, intimidation, and over-reachingoverreaching.

[3] ~~This~~ The potential for abuseoverreaching inherent in direct in-live person, live telephone, or real-time electronic solicitation-to-person contact justifies its prohibition, particularly since a lawyer has lawyers have alternative means of conveying necessary information to those who may be in need of legal services. Communications. In particular, communications can be mailed or transmitted by email or other electronic means that do not involve real-time contact and do not violate other laws governing solicitations. These forms of communicationcommunications make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to direct in-live person, telephone, or real-time electronic-to-person persuasion that may overwhelm the person's judgment. In using any telephone or other electronic communication, a lawyer remains subject to all applicable state and federal telemarketing laws and regulations.

[4] ~~The use of general advertising and written, recorded, or electronic communications to transmit information from lawyer to the public, rather than direct in-person, live telephone, or real-time electronic contact, will help to ensure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know~~

907 the lawyer. This potential for informal review is itself likely to help guard against statements
908 and claims that might constitute false and misleading communications, in violation of Rule 7.1.
909 The contents of direct ~~in~~live person-to-person, live telephone, or real-time electronic contact can
910 be disputed and may not be subject to third-party scrutiny. Consequently, they are much more
911 likely to approach, ~~(and occasionally cross,)~~ the dividing line between accurate representations
912 and those that are false and misleading.

913
914 [5]- There is far less likelihood that a lawyer would engage in ~~abusive practices~~overreaching
915 against a former client, or a person with whom the lawyer has a close personal ~~or~~, family, busi-
916 ness or professional relationship, or in situations in which the lawyer is motivated by considera-
917 tions other than the lawyer's pecuniary gain. Nor is there a serious potential for ~~abuse~~overreach-
918 ing when the person contacted is a lawyer.

919 Consequently, ~~the general prohibition in Rule 7.3(a) and the requirements of Rule 7.3(c) are not~~
920 ~~applicable in those situations. Also, division (a) or is known to routinely use the type of legal ser-~~
921 ~~vices involved for business purposes. Examples include persons who routinely hire outside coun-~~
922 ~~sel to represent the entity; entrepreneurs who regularly engage business, employment law or in-~~
923 ~~tellectual property lawyers; small business proprietors who routinely hire lawyers for lease or~~
924 ~~contract issues; and other people who routinely retain lawyers for business transactions or for-~~
925 ~~mations. Paragraph (b) is not intended to prohibit a lawyer from~~
926 participating in constitutionally protected activities of public or charitable legal-service organi-
927 zations or bona fide political, social, civic, fraternal, employee, or trade organizations whose pur-
928 poses include providing or recommending legal services to their members or beneficiaries.

929
930 [6] ~~Even permitted forms of solicitation can be abused. Thus, any~~A solicitation that contains in-
931 formation ~~that is false or misleading information~~ within the meaning of Rule 7.1, that involves
932 coercion, duress, or harassment within the meaning of Rule 7.3(b)(c)(2), or that involves contact
933 with someone who has made known to the lawyer a desire not to be solicited by the lawyer
934 within the meaning of Rule 7.3(b)(1) ~~is prohibited. Moreover, if after sending a letter or other~~
935 ~~communication as permitted by Rule 7.2 the lawyer receives no response, any further effort to~~
936 ~~communicate with the recipient may violate Rule 7.3(b)-c)(1) is prohibited. Live, person-to-per-~~
937 ~~son contact of individuals who may be especially vulnerable to coercion or duress is ordinarily~~
938 ~~not appropriate, for example, the elderly, those whose first language is not English, or the disa-~~
939 ~~bled.~~

940
941 [7]- ~~This rule is~~Rule does not ~~intended to~~ prohibit a lawyer from contacting representatives of or-
942 ganizations or groups that may be interested in establishing a group or prepaid legal plan for their
943 members, insureds, beneficiaries, or other third parties for the purpose of informing such entities
944 of the availability of and details concerning the plan or arrangement ~~that~~which the lawyer or law-
945 yer's~~lawyer's~~ firm is willing to offer. This form of communication is not directed to people who
946 are seeking legal services for themselves. Rather, it is usually addressed to an individual acting
947 in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose,
948 become
949 prospective clients of the lawyer. Under these circumstances, the activity ~~that~~which the lawyer
950 undertakes in communicating with such representatives and the type of information transmitted
951 to the individual are functionally similar to and serve the same purpose as advertising permitted
952 under Rule 7.2.

954 [8] Communications authorized by law or ordered by a court or tribunal include a notice to po-
955 tential members of a class in class action litigation.

956
957 ~~[9][8] None of the requirements of Rule 7.3 applies to communications sent in response to re-~~
958 ~~quests from clients or others. General announcements by lawyers, including changes in personnel~~
959 ~~or office location, do not constitute communications soliciting professional employment from a~~
960 ~~person known to be in need of legal services within the meaning of this rule.~~

961
962 ~~[8A] The use of written, recorded, and electronic communications to solicit persons who~~
963 ~~have suffered personal injuries or the loss of a loved one can potentially be offensive. Nonethe-~~
964 ~~less, it is recognized that such communications assist potential clients in not only making a~~
965 ~~meaningful determination about representation, but also can aid potential clients in recognizing~~
966 ~~issues that may be foreign to them. Accordingly, the information contained in division Para-~~
967 ~~graph (e) must be communicated when the solicitation occurs within thirty days of an accident or~~
968 ~~disaster that gives rise to a potential claim for personal injury or wrongful death.~~

969
970 ~~[9] Division (f) of this rule~~Rule permits a lawyer to participate with an organization ~~that~~which
971 ~~uses personal contact to solicit~~enroll members for its group or prepaid legal service plan, pro-
972 ~~vided that the personal contact is not undertaken by any lawyer who would be a provider of legal~~
973 ~~services through the plan. The organization must not be owned by or directed,~~ (whether as man-
974 ~~ager or otherwise,) by any lawyer or law firm that participates in the plan. For example, division~~
975 ~~(f)paragraph (e) would not permit a lawyer to create an organization controlled directly or indi-~~
976 ~~rectly by the lawyer and use the organization for the in-person or telephone-to-person sollicita-~~
977 ~~tion of legal employment of the lawyer~~
978 ~~through memberships in the plan or otherwise. The communication permitted by these organiza-~~
979 ~~tions also~~ must not be directed to a person known to need legal services in a particular
980 ~~matter, but is to~~must be designed to inform potential plan members generally of another means
981 ~~of~~
982 ~~affordable legal services. Lawyers who participate in a legal service plan must reasonably ensure~~
983 ~~assure~~ that the plan sponsors are in compliance with Rules 7.1, 7.2, and 7.3(b). ~~See Rule 8.4(a).~~

RULE 7.4: COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law or limits his or her practice to or concentrates in particular fields of law.

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

(c) A lawyer engaged in trademark practice may use the designation "Trademarks," "Trademark Attorney," or a substantially similar designation.

(d) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty," or a substantially similar designation.

(e) A lawyer shall not state or imply that a lawyer is a specialist in a particular field of law, unless both of the following apply:

(1) the lawyer has been certified as a specialist by an organization approved by the Supreme Court Commission on Certification of Attorneys as Specialists;

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

Comment

[1] Division (a) of this rule permits a lawyer to indicate areas of practice in communications about the lawyer's services. If a lawyer practices only in certain fields, or will not accept matters except in a specified field or fields, the lawyer is permitted to so indicate.

[2] Divisions (b) and (c) recognize the long-established policy of the Patent and Trademark Office for the designation of lawyers practicing before the office. Division (d) recognizes that designation of Admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.

[3] Division (e) permits a lawyer to state that the lawyer is a specialist in a field of law if such certification is granted by an organization approved by the Supreme Court Commission on Certification of Attorneys as Specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge, and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. In order to ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

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 lawyer in private practice shall not practice under a name that is misleading as to the identity of the lawyer or lawyers practicing under the name, or a firm name containing surnames other than those of one or more of the lawyers in the firm, except that the name of a professional corporation or association, legal clinic, limited liability company, or limited liability partnership shall contain symbols indicating the nature of the organization as required by Gov. J. Bar R. III. If otherwise lawful, a firm may use as, or continue to include in, its name the surname of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

(b) A law firm with offices in more than one jurisdiction that lists attorneys associated with the firm shall indicate the jurisdictional limitations on those not licensed to practice in Ohio.

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

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

Comment

[1] A firm may be designated by the names of all or some of its members or by the names of deceased members where there has been a continuing succession in the firm's identity. The letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession. A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. The use of the surname of a deceased partner to designate law firms is a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm or the name of a nonlawyer.

[2] With regard to division (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm. The use of a disclaimer such as "not a partnership" or "an association of sole practitioners" does not render the name or designation permissible.

[3] A lawyer may be designated "Of Counsel" if the lawyer has a continuing relationship with a lawyer or law firm, other than as a partner or associate.

[4] A legal clinic operated by one or more lawyers may be organized by the lawyer or lawyers for the purpose of providing standardized and multiple legal services. The name of the law office may include the phrase "legal clinic" or words of similar import. The name of any active lawyer in the clinic may be retained in the name of the legal clinic after the lawyer's death, retirement, or inactivity because of age or disability, and the name must otherwise conform to other provisions of the Ohio Rules of Professional Conduct and the Supreme Court Rules for the

1073 Government of the Bar of Ohio. The legal clinic cannot be owned by, and profits or losses can-
1074 not be shared with, nonlawyers or lawyers who are not actively engaged in the practice of law in
1075 the organization.

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