

SECTION .0700 - INFORMATION ABOUT LEGAL SERVICES

27 NCAC 02 RULE 7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading. Such communications include but are not limited to a statement that is likely to create an unjustified expectation about results the lawyer can achieve; a statement that states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law; or a statement that compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

Comment

False and Misleading Communications

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

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

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

[4] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. Rule 8.4(c). See also Rule 8.4(e) for the prohibition against stating or implying an ability to improperly influence a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

Firm Names, Letterheads, and Professional Designations

[5] Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current principals or by the names of deceased or retired principals where there has been a succession in the firm's identity. The name of a retired principal may be used in the name of a law firm only if the principal has ceased the practice of law. A lawyer or law firm also may be designated by a trade name, 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 or retired lawyer who was not a former principal 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 or charitable legal services organization may be required to avoid a misleading implication.

[6] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

[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(d), because to do so would be false and misleading. It is also misleading to use a designation such as "Smith and Associates" for a solo practice.

[8] This Rule does not prohibit the employment by a law firm of a lawyer who is licensed to practice in another jurisdiction, but not in North Carolina, provided the lawyer's practice is exclusively limited to areas that do not

require a North Carolina law license. The lawyer's name may be included in the firm letterhead, provided all communications by such lawyer on behalf of the firm indicate the jurisdiction in which the lawyer is licensed as well as the fact that the lawyer is not licensed in North Carolina.

[9] If law offices are maintained in another jurisdiction, the law firm is an interstate law firm and must register with the North Carolina State Bar as required by 27 N.C. Admin. Code 1E.0200 et seq.

Dramatizations

[10] Dramatizations of fictional cases in video advertisements are potentially misleading. See 2010 FEO 9, RPC 164. A communication by a lawyer that contains a dramatization depicting a fictional situation is not misleading if it complies with paragraph (a) above and contains a conspicuous written or oral statement, at the beginning and the end of the communication, explaining that the communication contains a dramatization and does not depict actual events or real persons.

History Note: Authority G.S. 84-23;

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