27 NCAC 02 RULE 7.2  ADVERTISING
(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.
(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may
   (1) pay the reasonable costs of advertisements or communications permitted by this Rule;
   (2) pay the usual charges of a not-for-profit lawyer referral service that complies with Rule 7.2(d), or a prepaid or group legal services plan that complies with Rule 7.3(d); and
   (3) pay for a law practice in accordance with Rule 1.17.
(c) Any communication made pursuant to this rule, other than that of a lawyer referral service as described in paragraph (d), shall include the name and office address of at least one lawyer or law firm responsible for its content.
(d) A lawyer may participate in a lawyer referral service subject to the following conditions:
   (1) the lawyer is professionally responsible for its operation including the use of a false, deceptive, or misleading name by the referral service;
   (2) the referral service is not operated for a profit;
   (3) the lawyer may pay to the lawyer referral service only a reasonable sum which represents a proportionate share of the referral service's administrative and advertising costs;
   (4) the lawyer does not directly or indirectly receive anything of value other than legal fees earned from representation of clients referred by the service;
   (5) employees of the referral service do not initiate contact with prospective clients and do not engage in live telephone or in-person solicitation of clients;
   (6) the referral service does not collect any sums from clients or potential clients for use of the service; and
   (7) all advertisements by the lawyer referral service shall:
      (A) state that a list of all participating lawyers will be mailed free of charge to members of the public upon request and state where such information may be obtained; and
      (B) explain the method by which the needs of the prospective client are matched with the qualifications of the recommended lawyer.
Comment
[1] To assist the public in learning about and obtaining legal services, lawyers are permitted 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 may entail the risk of practices that are misleading or overreaching.
[2] This Rule permits public dissemination of information concerning a lawyer's name or firm 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. Television, the Internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, 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 7.1(b) for the disclaimer required in any advertisement that contains a dramatization and see Rule 7.3(a) for the prohibition against a 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.
[5] "Electronic communication(s)," as used in Section 7 of the Rules of Professional Conduct, refers to the transfer of written, signals, data, sounds, images, signs or intelligence via an electronic device or over any electronic medium. Examples of electronic communications include, but are not limited to, websites, email, text messages, social media messaging and image sharing. A lawyer who sends electronic communications to advertise or market the
lawyer's professional services must comply with these Rules and with any state or federal restrictions on such communications. See, e.g., N.C. Gen. Stat. §75-104; Telephone Consumer Protection Act, 47 U.S.C. §227; and 47 CFR 64.

Paying Others to Recommend a Lawyer

[6] Except as permitted under paragraphs (b)(1)-(b)(3), lawyers are not permitted to pay others for recommending the lawyer's services or for channeling professional work in a manner that violates Rule 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents, and vendors who are engaged to provide marketing or client-development services, such as publicists, public-relations personnel, business-development staff, and website designers. Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with Rule 1.5(e)(division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with Rule 7.1 (communications concerning a lawyer's service). To comply with Rule 7.1, a lawyer must not pay a lead generator if the lead generator states, implies, or creates an impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. See also Rule 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); Rule 8.4(a)(duty to avoid violating the Rules through the acts of another).

[7] A lawyer may pay the usual charges of a prepaid or group legal services plan or a not-for-profit lawyer referral service. A legal services plan is defined in Rule 7.3(d). Such a plan assists people who seek to secure legal representation. A lawyer referral service, on the other hand, is any organization that holds itself out to the public as a lawyer referral service. Such referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this Rule only permits a lawyer to pay the usual charges of a not-for-profit lawyer referral service.

[8] A lawyer who accepts assignments or referrals from a prepaid or group 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 professional obligations. See Rule 5.3. Any lawyer who participates in a legal services plan or lawyer referral service is professionally responsible for the operation of the service in accordance with these rules regardless of the lawyer's knowledge, or lack of knowledge, of the activities of the service. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these 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 prospective clients to think that it was a lawyer referral service sponsored by a state agency or bar association. The term "referral" implies that some attempt is made to match the needs of the prospective client with the qualifications of the recommended lawyer. To avoid misrepresentation, paragraph (d)(7)(B) requires that every advertisement for the service must include an explanation of the method by which a prospective client is matched with the lawyer to whom he or she is referred. In addition, the lawyer may not allow in-person, telephonic, or real-time contacts that would violate Rule 7.3.

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