

under which the contact is initiated. For example, a person undergoing active medical treatment for traumatic injury is unlikely to be in an emotional state in which reasonable judgment about employing a lawyer can be exercised. Moreover, if after sending a letter or other communication to a client as permitted by Rule 7.2 the lawyer receives no response, any further effort to communicate with the prospective client may violate the provisions of Rule 7.3 (b).

The requirement in Rule 7.3 (c) that certain communications be marked "Advertising Material" does not apply to communications sent in response to requests of potential clients or their spokespersons or sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from a client known to be in need of legal services within the meaning of this Rule.

This Rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to a prospective client. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under Rule 7.2. Subsection (i) of this Rule would permit an attorney to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan.

Rule 7.4. Communication of Fields of Practice

(a) A lawyer may communicate the fact that the lawyer does or does not practice 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 admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation.

(d) A lawyer shall not state or imply that the lawyer is a specialist in a particular field of law except as provided herein and in Rule 7.4A.

(P.B. 1978-1997, Rule 7.4.) (Amended June 30, 2008, to take effect Jan. 1, 2009.)

HISTORY—2009: In 2009, the introductory paragraph was redesignated as subsection (a), and the last sentence of that paragraph was deleted. Prior to 2009, that sentence read: "A lawyer shall not state or imply that the lawyer is a specialist except as follows and as provided in Rule 7.4A." Also in 2009, what had been designated as "(1)" became subsection "(b)," "and;" was deleted from the end of the newly designated subsection (b), and what had been designated as "(2)" became subsection "(c)." Capitalization changes were made

in the newly designated subsections (b) and (c), and subsection (d) was added.

COMMENTARY: This Rule permits a lawyer to indicate fields of practice in communications about the lawyer's services. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. A lawyer may indicate that the lawyer "concentrates in," "focuses on," or that the practice is "limited to" particular fields of practice as long as the statements are not false or misleading in violation of Rule 7.1. However, the lawyer may not use the terms "specialist," "certified," "board-certified," "expert" or any similar variation, unless the lawyer has been certified in accordance with Rule 7.4A.

Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.

Rule 7.4A. Certification as Specialist

(a) Except as provided in Rule 7.4, a lawyer shall not state or imply that he or she is a specialist in a field of law unless the lawyer is currently certified as a specialist in that field of law by a board or other entity which is approved by the Rules Committee of the superior court of this state. Among the criteria to be considered by the Rules Committee in determining upon application whether to approve a board or entity as an agency which may certify lawyers practicing in this state as being specialists, shall be the requirement that the board or entity certify specialists on the basis of published standards and procedures which (1) do not discriminate against any lawyer properly qualified for such certification, (2) provide a reasonable basis for the representation that lawyers so certified possess special competence, and (3) require redetermination of the special qualifications of certified specialists after a period of not more than five years.

(b) Upon certifying a lawyer practicing in this state as being a specialist, the board or entity that certified the lawyer shall notify the Statewide Grievance Committee of the name and juris number of the lawyer, the specialty field in which the lawyer was certified, the date of such certification and the date such certification expires.

(c) A lawyer shall not state that he or she is a certified specialist if the lawyer's certification has terminated, or if the statement is otherwise contrary to the terms of such certification.

(d) Certification as a specialist may not be attributed to a law firm.

(e) Lawyers may be certified as specialists in the following fields of law:

(1) Administrative law: The practice of law dealing with states, their political subdivisions, regional and metropolitan authorities and other public entities including, but not limited to, their rights and duties, financing, public housing and

urban development, the rights of public employees, election law, school law, sovereign immunity, and constitutional law; practice before federal and state courts and governmental agencies.

(2) Admiralty: The practice of law dealing with all matters arising under the carriage of goods by sea act (COGSA), Harter Act, Jones Act, and federal and state maritime law including, but not limited to, the carriage of goods, collision and other maritime torts, general average, salvage, limitation of liability, ship financing, ship subsidies, the rights of injured sailors and longshoremen; practice before federal and state courts and governmental agencies (including the Federal Maritime Commission).

(3) Antitrust: The practice of law dealing with all matters arising under the Sherman Act, Clayton Act, Federal Trade Commission Act, Hart-Scott-Rodino Antitrust Improvements Act and state antitrust statutes including, but not limited to, restraints of trade, unfair competition, monopolization, price discrimination, restrictive practices; practice before federal and state courts and governmental agencies.

(4) Appellate practice: The practice of law dealing with all procedural and substantive aspects of civil and criminal matters before federal and state appeals courts including, but not limited to, arguments and the submission of briefs.

(5) Business Bankruptcy: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was engaged in business before the institution of a Chapter 7, 9, or 11 proceeding. This includes, but is not limited to, business liquidations, business reorganizations, and related adversary and contested proceedings.

(6) Child Welfare Law: The practice of law representing children, parents or the government in all child protection proceedings including emergency, temporary custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption. Child Welfare Law does not include representation in private child custody and adoption disputes where the state is not a party.

(7) Consumer Bankruptcy: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was not engaged in business before the institution of a Chapter 7, 12, or 13 proceeding. This includes, but is not limited to, liquidations, wage earner plans, family farmers and related adversary and contested proceedings.

(8) Civil rights and discrimination: The practice of law dealing with all matters arising under federal and state law relating to proper treatment in the

areas of, among others, public accommodations, voting, employment, housing, administration of welfare and social security benefits; practice before federal and state courts and governmental agencies.

(9) Civil trial practice: The practice of law dealing with representation of parties before federal or state courts in all noncriminal matters.

(10) Commercial transactions: The practice of law dealing with all aspects of commercial paper, contracts, sales and financing, including, but not limited to, secured transactions.

(11) Consumer claims and protection: The practice of law dealing with all aspects of consumer transactions including, but not limited to, sales practices, credit transactions, secured transactions and warranties; all matters arising under the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Magnuson-Moss Act, the Truth in Lending Act, state statutes such as the "Little FTC" acts, and other analogous federal and state statutes.

(12) Corporate and business organizations: The practice of law dealing with all aspects of the formation, operation and dissolution of corporations, partnerships (general and limited), agency and other forms of business organizations.

(13) Corporate finance and securities: The practice of law dealing with all matters arising under the Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisors Act (or the Federal Securities Code, if adopted) and other federal and state securities statutes; financing corporate activities; mergers and acquisitions; practice before the Securities and Exchange Commission and state securities commissions.

(14) Criminal: The practice of law dealing with the prosecution or representation of persons accused of crimes at all stages of criminal proceedings in federal or state courts including, but not limited to, the protection of the accused's constitutional rights.

(15) Environmental: The practice of law dealing with all aspects of the regulation of environmental quality by both federal and state governments; control of air pollution, water pollution, noise pollution, toxic substances, pesticides, and civilian uses of nuclear energy; solid waste/ resource recovery; all matters arising under the National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control Act, Noise Control Act, Solid Waste Disposal Act, Toxic Substance Control Act and other federal and state environmental statutes; practice before federal and state courts and governmental agencies.

(16) Estate planning and probate: The practice of law dealing with all aspects of the analysis and

planning for the conservation and disposition of estates, giving due consideration to the applicable tax consequences, both federal and state; the preparation of legal instruments in order to effectuate estate plans; administering estates, including tax related matters, both federal and state.

(17) Family and matrimonial: The practice of law dealing with all aspects of antenuptial and domestic relationships, separation and divorce, alimony and child support, distribution of assets, child custody matters and adoption, giving due consideration to the tax consequences, and court proceedings relating thereto.

(18) Government contracts and claims: The practice of law dealing with all aspects of the negotiation and administration of contracts with federal and state governmental agencies.

(19) Immigration and naturalization: The practice of law dealing with obtaining and retaining permission to enter and remain in the United States including, but not limited to, such matters as visas, change of status, deportation and naturalization; representation of aliens before courts and governmental agencies; protection of aliens' constitutional rights.

(20) International: The practice of law dealing with all aspects of the relations among states, international business transactions, international taxation, customs and trade law and foreign and comparative law.

(21) Labor: The practice of law dealing with all aspects of employment relations (public and private) including, but not limited to, unfair labor practices, collective bargaining, contract administration, the rights of individual employees and union members, employment discrimination; all matters arising under the National Labor Relations Act (Wagner Act), Labor Management Relations Act (Taft-Hartley Act), Labor Management Reporting and Disclosure Act (Landrum-Griffin Act), Fair Labor Standards Act, Title VII of The Civil Rights Act of 1964, Occupational Safety and Health Act (OSHA), Employee Retirement Income Security Act (ERISA), other federal statutes and analogous state statutes; practice before the National Labor Relations Board, analogous state boards, federal and state courts, and arbitrators.

(22) Military: The practice of law dealing with the presentation of parties before courts-martial and other military tribunals in disputes arising under the uniform code of military justice; the representation of veterans and their dependents in seeking government benefits due to them on account of military service; handling civil law problems of the military.

(23) Natural Resources: The practice of law dealing with all aspects of the regulation of natural

resources such as coal, oil, gas, minerals, water and public lands; the rights and responsibilities relating to the ownership and exploitation of such natural resources.

(24) Patent, trademark and copyright: The practice of law dealing with all aspects of the registration, protection and licensing of patents, trademarks or copyrights; practice before federal and state courts in actions for infringement and other actions; the prosecution of applications before the United States Patent and Trademark Office; counseling with regard to the law of unfair competition as it relates to patents, trademarks and copyrights.

(25) (A) Residential Real Estate: The practice of law dealing with all aspects of real property transactions involving single one-to-four family residential dwellings when the client uses such dwelling or expresses in writing the intent to use such dwelling as the client's primary or other residence including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives, and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, and determination of property rights. (B) Commercial Real Estate: The practice of law dealing with all aspects of real property transactions except for residential real estate as defined in subparagraph (A) of this subdivision, including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, real estate development and financing (with due consideration to tax and securities consequences) and determination of property rights.

(26) Taxation: The practice of law dealing with all matters arising under the Internal Revenue Code, Employee Retirement Income Security Act (ERISA), state and local tax laws and foreign tax laws, including counseling with respect thereto; practice before federal and state courts and governmental agencies.

(27) Workers' Compensation: The practice of law dealing with the representation of parties before federal and state agencies, boards and courts in actions to determine eligibility for workers' compensation, and disability.

(P.B. 1978-1997, Rule 7.4A.) (Amended June 20, 2005, to take effect Jan. 1, 2006; amended June 29, 2007, to take effect Jan. 1, 2008; amended June 30, 2008, to take effect Jan. 1, 2009.)

HISTORY—2009: In 2009, the current subsection (b) was added. What had been subsections (b), (c) and (d), became subsections (c), (d) and (e), respectively. Also, in 2009, “distribution of assets” was inserted in subsection (e) (17) between “child support” and “child custody matters.”

AMENDMENT NOTES: The changes to this rule require that upon certifying a lawyer as a specialist the certifying board or entity shall notify the Statewide Grievance Committee of the basic information pertinent to such certification.

Rule 7.4B. Legal Specialization Screening Committee

(a) The Chief Justice, upon recommendation of the Rules Committee of the superior court, shall appoint a committee of five members of the bar of this state which shall be known as the “Legal Specialization Screening Committee.” The Rules Committee of the superior court shall designate one appointee as chair of the Legal Specialization Screening Committee and another as vice chair to act in the absence or disability of the chair.

(b) When the committee is first selected, two of its members shall be appointed for a term of one year, two members for a term of two years, and one member for a term of three years, and thereafter all regular terms shall be three years. Terms shall commence on July 1. In the event that a vacancy arises in this position before the end of a term, the Chief Justice, upon recommendation of the Rules Committee of the superior court, shall appoint a member of the bar of this state to fill the vacancy for the balance of the term. The Legal Specialization Screening Committee shall act only with a concurrence of a majority of its members, provided, however, that three members shall constitute a quorum.

(c) The Legal Specialization Screening Committee shall have the power and duty to:

(1) Receive applications from boards or other entities for authority to certify lawyers practicing in this state as being specialists in a certain area or areas of law.

(2) Investigate each applicant to determine whether it meets the criteria set forth in Rule 7.4A (a).

(3) Submit to the Rules Committee of the superior court a written recommendation, with reasons therefor, for approval or disapproval of each application, or for the termination of any prior approval granted by the Rules Committee.

(4) Adopt regulations and develop forms necessary to carry out its duties under this section. The regulations and forms shall not become effective until first approved by the Rules Committee of the superior court.

(5) Consult with such persons deemed by the committee to be knowledgeable in the fields of law to assist it in carrying out its duties.

(P.B. 1978-1997, Rule 7.4B.)

Rule 7.4C. Application by Board or Entity to Certify Lawyers as Specialists

Any board or entity seeking the approval of the Rules Committee of the superior court for authority to certify lawyers practicing in this state as being specialists in a certain field or fields of law as set forth in Rule 7.4A (e), shall file an original and six copies of its application with the Legal Specialization Screening Committee pursuant to Rule 7.4B.

(P.B. 1978-1997, Rule 7.4C.) (Amended June 30, 2008, to take effect Jan. 1, 2009.)

HISTORY—2009: In 2009, the reference to “Rule 7.4 (d)” was replaced with “Rule 7.4 (e).”

AMENDMENT NOTES: The change to this rule reflects the change in the lettering of Section 7.4A above.

Rule 7.5. Firm Names and Letterheads

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name 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.

(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.

(P.B. 1978-1997, Rule 7.5.)

COMMENTARY: A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm’s identity or by a trade name such as the “ABC Legal Clinic.” Although the United States supreme court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as “Springfield Legal Clinic,” an express disclaimer that it is a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven 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.

With regard to subsection (d), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, “Smith and Jones,” for that title suggests partnership in the practice of law.