



## Committee on Professional Ethics

### Opinion 1235 (01/03/2021)

**Topic:** Firm Name; Trade Names; Assumed Names

**Digest:** A law firm may operate under two different assumed names that distinguish separate practice areas of the firm, provided that no particular facts and circumstances would make it false, deceptive, or misleading to do so.

**Rule:** 7.5(b)

#### FACTS:

1. The inquirer's law firm is developing a new practice area that will differ substantially from the firm's current practice area. To keep the practices separate and to enhance branding for the new practice area, the firm will operate the two practice areas under separate assumed names (also referred to as d/b/a or "doing business as" certificates). Each practice area, using its assumed name, will have its own marketing materials and website. The firm name will be disclosed wherever the assumed names are posted or published.

#### QUESTION:

2. May a law firm operate under more than one assumed name?

#### OPINION:

3. On June 24, 2020, the New York Courts amended Rule 7.5(b) of the New York Rules of Professional Conduct (the "Rules") to permit lawyers to practice under trade names that are not false, deceptive, or misleading. We applied the amended rule to several situations in N.Y. State 1207 ¶ 5 (2020), stating: "A law firm may practice in New York using a name that is not the name of any lawyer practicing in the firm – in other words, under a trade name – so long as the name under which the firm practices is not false, deceptive or misleading." . In N.Y. State 1226 ¶ 9 (2021), we applied amended Rule 7.5(b) to domain names. The inquirer in Opinion 1226 wished to use a domain name for his website and email address that was different from the name he used for the law firm. We approved, saying: "Nothing in the Rules prohibits use of a domain name different from the name of the law firm." We cautioned, however, that we "could conceive of circumstances where the differing names might otherwise violate Rule 7.5(b) ...."

4. The same analysis applies to the current inquiry. In our view, there is nothing inherently false, deceptive or misleading in a single law firm using two separate assumed names when holding itself out or marketing itself as a provider of legal services in two distinct practice areas, but there could well be particular facts and circumstances that would cause us to reach a different conclusion in a different case. No such particular facts or circumstances were presented to us here, especially

where the firm will disclose its full name wherever the assumed names are posted or published, so we conclude that using two distinct “d/b/a” names for different practice areas within the same firm would not be false, deceptive, or misleading and thus would not violate Rule 7.5(b).

**CONCLUSION:**

5. A law firm entity may operate under two different assumed names that distinguish separate practice areas provided that no particular facts and circumstances would make it false, deceptive, or misleading to do so.

(24-21)