



**New York State Bar Association
Committee on Professional Ethics**

Opinion 1279 (02/18/2025)

Topic: Prohibited referral fees

Digest: A promise by a lawyer to pay a nonlawyer referrer to perform “administrative” work in connection with each matter referred to the lawyer constitutes a thing of “value” as compensation for or as a reward for a referral and thus violates Rule 7.2(a).

Rules: 7.2(a)

FACTS:

1. The inquirer represents medical providers in arbitration proceedings against insurance carriers. The medical providers in these arbitrations are disputing claim denials by the insurance carriers. When a matter settles or the inquirer’s client prevails, the inquirer is paid by the insurance carrier.
2. The inquirer’s friends and family have offered to refer medical providers to him if the inquirer pays them a fee for the referrals. In response to such offers, the inquirer proposes to pay the referring individuals a flat fee for “administrative, non-attorney related work” by the referring individuals whether or not the inquirer is eventually paid by the insurance carrier. The work by the referring individuals would include their completion and online filing of an arbitration request form for each matter that they refer to the inquirer. (We understand that completing and filing arbitration requests may lawfully be done by a person other than the inquirer and may be done by a non-lawyer.)

QUESTION:

3. May the inquirer pay a flat fee for “administrative, non-attorney related work” (such as completing and filing arbitration forms) to non-attorney individuals who refer a medical provider to the inquirer that the inquirer eventually secures as a client?

OPINION:

4. Rule 7.2(a) of the Rules of Professional Conduct (the “Rules”) states that “[a] lawyer shall not compensate or give anything of value to a person or organization to recommend or obtain employment by a client, or as a reward for having made a recommendation resulting in employment by a client.” Comment [1] to Rule 7.2 amplifies this basic prohibition: “Lawyers are not permitted to pay others for channeling professional work.” The only exceptions to Rule 7.2(a) appear in Rules 1.5(g) and 5.8, which are inapplicable here. In short, Rule 7.2(a) forbids payment to anyone who refers a potential client to a lawyer if the payment is a *quid pro quo* for referring the client. See N.Y. State 1014, ¶ 6 (2014) (The vice that these rules address is the payment to what have been described as “touts,” runners” and “ambulance chasers.”).

5. The Inquirer’s proposal to compensate referrers by paying them a flat fee payment for completing and filing a form requesting arbitration (and/or other administrative filings) on behalf of the referred client would run afoul of Rule 7.2(a) because such paid work would be a thing of “value” within the meaning of the Rule. In our view, paying a referrer with an opportunity for paid work is as much a thing of value as a direct payment for the referral.

6. To elaborate, the paid work that the inquirer would like to promise to referrers is a “reward” to referrers for delivering clients to the attorney. It is thus “compensation” and a thing “of value” and is equivalent to a payment for a referral, which is prohibited by Rule 7.2(a). *See* N.Y. State 1237 ¶ 13 (2022) (“In exchange for the real estate broker’s referrals, the inquirer proposes to provide the real estate broker with the ability to charge the clients who hire the inquirer a lower commission without a corresponding reduction in the amount the broker will earn as a commission. Because this ability to charge a lower commission constitutes ‘something of value’ that is given in exchange for a referral, the arrangement would violate Rule 7.2(a).”). We think the arrangement proposed by the inquirer here is analogous to the arrangement we said was prohibited by Rule 7.2(a) in N.Y. State 1237, so we reach the same conclusion.

CONCLUSION:

7. A promise by a lawyer to pay a nonlawyer referrer to perform “administrative” work in connection with each matter referred to the lawyer constitutes a thing of “value” as compensation for or as a reward for a referral, and thus violates Rule 7.2(a).

(10-24)