The Amendments to the Advertising Rules

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Effective June 1, 2026, the Presiding Justices of the four Departments of the Appellate Division of the New York State Supreme Court adopted amendments to the advertising rules of the New York Rules of Professional Conduct. The new rules, which were recommended by the State Bar's Committee on Standards of Attorney Conduct (known as COSAC), essentially adopt the advertising rules and comments promulgated in 2018 by the American Bar Association as Rules 7.1 and 7.3, and eliminate Rule 7.4 by moving its subject matter to Rule 7.1(c). Rule 7.2 on Payment for Referrals is unchanged. In addition, unlike the ABA, New York has retained Rule 7.5 of the New York Rules, on professional notices, letterheads and law firm names, which was amended in June 2020.[1]

When the ABA updated the Model Rules on advertising, it identified three trends that demanded "simplicity and uniformity" in the regulation of lawyer advertising: First, the growth of multijurisdictional practice favors the elimination of detailed, complex, and contradictory advertising rules. Second, the widespread use of the internet and social media allows lawyers to use innovative methods to inform the public about the availability of legal services, but contradictory state advertising regulations impede these innovations. Third, development of First Amendment and antitrust jurisprudence call into question the lawfulness of the advertising rules as they then existed.

The principal provision of the old rule in New York was a prohibition against using or disseminating any advertisement that contains statements that are false, deceptive or misleading. On top of that requirement, the old rule contained numerous paragraphs detailing information that an ad could or could not contain. All that detail now has been eliminated.

What has changed?

The Rule now covers all communication about the lawyer's services – not just "advertising". The defined term advertising has been eliminated from the terminology section. Instead, the Rule prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services,[2] and says 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. The exception in the old rule for existing clients has been eliminated. As Comment [1] to the Rule makes clear:

> This Rule governs all communications that a lawyer makes about the lawyer or the lawyer's services, including advertising and including communications to existing

clients and to other lawyers. Whatever means are used to make known a lawyer or a lawyer's services, statements about them must be truthful.

False statements or misrepresentations about the lawyer or the lawyer's services and deceptive communications may also violate Rule 8.4(c), which prohibits conduct involving "dishonesty, fraud, deceit or misrepresentation."

Using Actors to portray a judge or lawyer or fictionalized events without disclosing they are fictional. Old Rule 7.1(c) was very specific about the need to disclose that portrayals were unreal. Those requirements have been eliminated in favor of the simple false or misleading standard.

Communications that look like legal documents. Old Rule 7.1(c)(4) prohibited an advertisement from being made to look like a legal document. That provision no longer exists, although a communication made to look like a legal document would undoubtedly be considered misleading under Rule 7.1 and deceptive under Rule 8.4(c).

Communications Requiring the Warning "Prior results do not guarantee a similar outcome". Rule 7.1(d) required that, if an ad contained statements likely to create expectations about the results the lawyer can receive, or statements that compare the lawyer's services with the services of other lawyers, or testimonials of clients or former clients, it had to be factually supported and it had to be accompanied by the statement "Prior results do not guarantee a similar outcome". That rule has also been eliminated. But, again, lawyers may want to consider using the disclaimer to avoid the charge that their ads are misleading because of differences in the facts.

Communications Required to be Denominated Attorney Advertising. Rule 7.1(f) required that advertisements, except those on radio, TV or billboards, were required to be labeled "Attorney Advertising". That requirement has been eliminated.

Identifying the Responsible Person for a Communication. Old Rule 7.1(h) required that all advertisements include the name, principal law office address and telephone number of the lawyer or law firm whose services were being offered. The attribution requirement is now contained in Rule 7.1(d), which no longer requires that an ad contain the principal law office address. It now says that any communication made under Rule 7.1 must include the name and contact information of at least one lawyer or law firm responsible for its content. And Comment [10] clarifies that contact information should always include a telephone number **or** a physical office address, and may also include a website address, an email address, and other contact information that may be helpful to clients and potential clients.

Specialization. The rules on communicating specialization used to be found in Rule 7.4. That Rule allowed a lawyer to publicly identify one or more areas of law in which the lawyer practices, or to state that the practice of the lawyer is limited to one or more areas of law, but it prohibited the lawyer from claiming to be a specialist or specializing in a particular field of law, unless certified by an entity approved by the ABA. The requirements are now contained in Rule 7.1(c), which provides that a lawyer cannot state or imply that the lawyer is **certified** as a specialist in a particular field of law, unless the lawyer has been certified by an organization that has been approved by a broader list of potential certifiers, and the name of the certifying organization is clearly identified in the communication. However, Comment [7] to the rule explains the rule's new authority to say that the lawyer is a specialist in a field:

> A lawyer is generally permitted to state that the lawyer “concentrates in” or is a “specialist,” practices a “specialty,” or “specializes in” particular fields based on the lawyer’s experience, specialized training or education, but such communications are subject to the “false and misleading” standard applied in Rule 7.1 to communications concerning a lawyer’s services.

As COSAC stressed in one of its reports, "A lawyer's claim to be a "certified" specialist triggers the requirements of [the rule], but a claim to be a "specialist" without certification is permitted as long as the claim is not false or misleading under Rule 7.1."

In-Person Solicitation. Rule 7.3 covers in-person solicitation and prohibits live in-person contact in most cases. Old Rule 7.3 required onerous filing and recordkeeping requirements. For example, it required the lawyer to file a copy of the solicitation with the attorney disciplinary committee of the judicial department of the lawyer's principal office, including a copy of the solicitation; and a transcript of the audio portion of any radio or television solicitation. If a solicitation was directed to a predetermined recipient, the lawyer was required to maintain a list of the names and addresses of all recipients for a period of not less than three years following the last date of its dissemination. Those filing and recordkeeping requirements have been eliminated.

Solicitation in mass torts and personal injury or wrongful death actions within 30 days after the incident. The other big change in Rule 7.3 was to eliminate the prohibition of solicitation in mass torts and personal injury or wrongful death actions within 30 days after the incident. As COSAC explained in its proposal to the State Bar, this prohibition, which was not in the ABA Model Rules, was unfair to both potential plaintiffs’ lawyers and their potential clients because it gave defendants and insurance companies an unfair advantage. Potential defendants and insurance adjusters could settle claims before potential plaintiffs’ counsel could solicit representation.[3]

New Exception to the Prohibition Against In-Person Solicitation. The old New York rule contained an exception for solicitations directed to a close friend, relative or existing or former client of the lawyer. The new rule also exempts soliciting a person who routinely uses for business purposes the type of legal services offered by the lawyer. Comment [5] explains that there is less potential for overreaching when the person contacted is known routinely to use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law or intellectual property lawyers; and small business proprietors who routinely hire lawyers for lease or contract issues. But that clearly doesn't include all fields of law.

Conclusion

The changes in the rules – both the black letter and the comments – are extensive. Lawyers who communicate about their services will want to review them carefully.

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[1]A marked version of the changes may be found on the website of the courts at: https://www.nycourts.gov/rules/amendments-joint-rules-departments-appellate-division . The Rules of Professional Conduct, as amended, may be found on the Bar Association's website at: https://nysba.org/wp-content/uploads/2026/08/NYSBA-NY-Rules-of-Professional-Conduct-August-10-2026.pdf

[2] This standard is similar to the Federal Trade Commission Act's standard for advertising, which requires claims in advertisements to be truthful and not deceptive or unfair, and to be evidence-based. Consumer reviews, endorsements and testimonials are also regulated.

[3] This change did not have any effect on federal statutes that prohibit certain unsolicited communications concerning a potential action for personal injury or wrongful death following an airplane or rail accident. See, e.g. 49 USCA 1136, 49 USCA 1139. Nor does it override NY Jud. L. § 480 (entering a hospital for the purpose of negotiating a settlement or obtaining a general release or statement).