

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CH. 81]

Amendment of Rule 1.8 of the Pennsylvania Rules of Professional Conduct; Disciplinary Rules Docket No. 251

Order

Per Curiam

And Now, this 9th day of October, 2024, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for comment in the *Pennsylvania Bulletin*, 53 Pa.B. 5275 (August 26, 2023):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1.8 of the Rules of Professional Conduct is amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days.

Additions to the rules are in bold and are underlined.

Deletions from the rules are shown in bold and brackets.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

Rule 1.8. Conflict of Interest: Current Clients: Specific Rules.

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(j) A lawyer shall not have sexual relations with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced. **“Sexual relations” includes, but is not limited to, communications of a sexual nature.**

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Comment:

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Client-Lawyer Sexual Relationships

(17) The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer’s fiduciary role, in violation of the lawyer’s basic ethical obligation not to use the trust of the client to the client’s disadvantage. In addition, such a relationship

presents a significant danger that, because of the lawyer’s emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client’s own emotional involvement renders it unlikely that the client could give adequate informed consent, this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client. **For purposes of this Rule, “communications of a sexual nature” means requesting or transmitting any content, images, audio, video, or messages that contain sexually explicit material or that are intended to arouse or gratify the sexual desire of the sender or recipient. Communications that contain sexually explicit content but are related to the client’s legal matter and are made in furtherance of the representation are not “communications of a sexual nature” for the purposes of this Rule.**

(18) Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer’s ability to represent the client will be materially limited by the relationship. See Rule 1.7(a)(2).

(19) When the client is an organization, paragraph (j) of this Rule prohibits a lawyer for the organization (whether inside counsel or outside counsel) from having a sexual relationship with a constituent of the organization who supervises, directs or regularly consults with that lawyer concerning the organization’s legal matters.

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[Pa.B. Doc. No. 24-1519. Filed for public inspection October 25, 2024, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CH. 81]

Amendment of Rules 5.5, 7.1, 7.2, 7.3, 7.4, 7.5, and 7.7 of the Pennsylvania Rules of Professional Conduct; No. 252 Disciplinary Rules Docket

Order

Per Curiam

And Now, this 15th day of October, 2024, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; which followed the proposal to

amend Pa.R.P.C. 5.5, 7.1, 7.2, 7.3, 7.4, 7.5, and 7.7 having been published for comment in the *Pennsylvania Bulletin*, 51 Pa.B. 891 (February 20, 2021):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 5.5, 7.1, 7.2, 7.3, 7.4, 7.5, and 7.7 of the Pennsylvania Rules of Professional Conduct are amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective in 30 days.

Material to be added is bolded and underlined.

Material to be deleted is bolded and in brackets.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

LAW FIRMS AND ASSOCIATIONS

Rule 5.5. Unauthorized Practice of Law; Multi-jurisdictional Practice of Law.

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Comment:

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(4) Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in this jurisdiction violates paragraph (b) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also [**Rules 7.1(a) and 7.5(b)**] **Rule 7.1.**

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(21) Paragraphs (c) and (d) do not authorize communications advertising legal services **to prospective clients** in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services **to prospective clients** in this jurisdiction is governed by Rules 7.1 to [**7.5**] **7.3.**

INFORMATION ABOUT LEGAL SERVICES

Rule 7.1. Communications Concerning a Lawyer's Services.

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. 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.

Comment:

(1) This Rule governs all communications about a lawyer's services, including advertising [**permitted by Rule 7.2**]. Whatever means are used to make known a lawyer's services, statements about them must be truthful.

(2) [**Truthful**] **Misleading truthful** statements [**that are misleading**] are [**also**] prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is [**also**] misleading if [**there is**] a substantial likelihood **exists** that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. **A truthful statement is also misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.**

(3) [**An advertisement**] **A communication** that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an **unsubstantiated claim about a lawyer's or law firm's services or fees, or an unsubstantiated comparison of the lawyer's or law firm's services or fees with [the services or fees] those** of other lawyers **or law firms**, may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison **or claim** can be substantiated. The inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

(4) **It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4(c).** See also Rule 8.4(e) for the prohibition against stating or implying an ability to **improperly** influence [**improperly**] a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

(5) **Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased or retired members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased or retired lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining**

that it is not a public legal aid organization may be required to avoid a misleading implication.

(6) A law firm with offices in more than one jurisdiction may use the same name or other professional designation 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.

(7) Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading.

(8) It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(9) Rules 7.1 through 7.3 apply to a communication about a lawyer's nonlegal services. See Rule 5.7.

Rule 7.2. [Advertising] Communications Concerning a Lawyer's Services: Specific Rules.

(a) [Subject to the requirements of Rule 7.1, a] A lawyer may [advertise] communicate information regarding the lawyer's services through [written, recorded or electronic communications, including public media, not within the purview of Rule 7.3] any media.

[(b) A copy or recording of an advertisement or written communication shall be kept for two years after its last dissemination along with a record of when and where it was used. This record shall include the name of at least one lawyer responsible for its content.

(c) [(b) A lawyer shall not compensate, give or promise anything of value to a person for recommending the lawyer's services[,] except that a lawyer may [pay]:

(1) pay the reasonable [cost] costs of advertisements or [written] communications permitted by this Rule;

(2) pay the usual charges of a lawyer referral service or [other] legal service [organization] plan; and

(3) pay for a law practice in accordance with Rule 1.17.

(c) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is a specialist in a particular field, except as follows:

(1) a lawyer who has been certified by an organization approved by the Supreme Court of Pennsylvania as a certifying organization in accordance with paragraph (d) may advertise the certification during such time as the certification of the lawyer and the approval of the organization are both in effect;

(2) lawyer who is currently certified as a specialist in a particular field of law under the regulations of the highest court of a state in which that lawyer

is licensed to practice may communicate that certification so long as the lawyer clearly designates the jurisdiction from which the certification was issued and, unless the lawyer is also certified as described in paragraph (1) above, the communication also states that the lawyer is not certified in Pennsylvania;

(3) a lawyer who is not certified as a specialist as described in paragraphs (1) or (2) above may not claim to be a specialist in a particular field of law unless the lawyer can objectively verify the claim based upon the lawyer's experience, specialized training or education, and the claim is not otherwise false or misleading in violation of Rule 7.1, see Comment (8);

(i) a lawyer who communicates a specialty under this paragraph (3) shall include a disclaimer stating that the lawyer is not certified in the claimed specialty;

(ii) a lawyer may not claim specialization in more than one field of law;

(4) a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "patent attorney" or substantially similar designation; and

(5) a lawyer engaged in admiralty practice may use the designation "admiralty," "proctor in admiralty" or substantially similar designation.

(d) [No advertisement or public communication shall contain an endorsement by a celebrity or public figure.] Upon recommendation of the Pennsylvania Bar Association, the Supreme Court of Pennsylvania may approve for purposes of paragraph (c) an organization that certifies lawyers, if the Court finds that:

(1) advertising by a lawyer of certification by the certifying organization will provide meaningful information, which is not false, misleading or deceptive, for use of the public in selecting or retaining a lawyer; and

(2) certification by the organization is available to all lawyers who meet objective and consistently applied standards relevant to practice in the area of the law to which the certification relates.

The approval of the certifying organization shall be for such period not longer than five (5) years as the Court shall order, and may be renewed upon recommendation of the Pennsylvania Bar Association.

(e) An advertisement or public communication that contains a paid endorsement shall disclose that the endorser is being paid or otherwise compensated for his or her appearance or endorsement. No advertisement or public communication shall contain an endorsement by a celebrity or public figure.

(f) A non-lawyer shall not portray a lawyer or imply that he or she is a lawyer in any advertisement or public communication; nor shall an advertisement or public communication portray a fictitious entity as a law firm, use a fictitious name to refer to lawyers not associated together in a law firm, or otherwise imply that lawyers are associated together in a law firm if that is not the case. An advertisement or public communication shall not contain a portrayal of a client by a non-client; the re-enactment of any events or

scenes; or, pictures or persons, which are not actual or authentic, without a disclosure that such depiction is a dramatization.

[(g)] An advertisement or public communication shall not contain a portrayal of a client by a non-client; the re-enactment of any events or scenes; or, pictures or persons, which are not actual or authentic, without a disclosure that such depiction is a dramatization.

[(h)] **[(g)]** Every advertisement that contains information about the lawyer's fee shall be subject to the following requirements:

(1) Advertisements that state or indicate that no fee **[(shall)]** **will** be charged in the absence of recovery shall disclose that the client will be liable for certain expenses in addition to the fee, if such is the case.

(2) A lawyer who advertises a specific fee or hourly rate or range of fees for a particular service shall honor the advertised fee for at least ninety (90) days; provided that for advertisements in media published annually, the advertised fee shall be honored for no less than one (1) year following initial publication unless otherwise stated as part of the advertisement.

[(i)] **[(h)]** All advertisements and written communications shall disclose the geographic location, by city or town, of the office in which the lawyer or lawyers who will actually perform the services advertised principally practice law. If the office location is outside the city or town, the county in which the office is located must be disclosed.

[(j)] **[(i)]** A lawyer shall not, directly or indirectly (whether through an advertising cooperative or otherwise), pay all or any part of the costs of an advertisement by a lawyer not in the same firm or by any for-profit entity other than the lawyer's firm, unless the advertisement discloses the name and principal office address of each lawyer or law firm involved in paying for the advertisement and, if any lawyer or law firm will receive referrals from the advertisement, the circumstances under which referrals will be made and the basis and criteria on which the referral system operates.

[(k)] **[(j)]** A lawyer shall not, directly or indirectly, advertise that the lawyer or **[(his or her)]** **the lawyer's** law firm will only accept, or has a practice limited to, particular types of cases unless the lawyer or **[(his or her)]** law firm handles **[(,)]** **these types of cases** as a principal part of **[(his, her or its)]** **the lawyer's or law firm's** practice **[(,)]** **all aspects of the cases so advertised from intake through trial. If a lawyer or law firm advertises for a particular type of case that the lawyer or law firm ordinarily does not handle from intake through trial, that fact must be disclosed** **[(.]** A lawyer or law firm shall not advertise as a pretext to refer cases obtained from advertising to other lawyers.

[(k)] Any communication made under this Rule must include the name and contact information of at least one lawyer or law firm responsible for its content.

Comment:

[(1)] To assist the public in learning about and obtaining legal services, lawyers should be allowed 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 entails the risk of practices that are misleading or overreaching.

[(2)] **[(1)]** This Rule permits public dissemination of information concerning a lawyer's **[(name)]** or **[(firm)]** **law firm's** 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. Some jurisdictions have had extensive prohibitions against television and other forms of advertising, against advertising going beyond specified facts about a lawyer, or against "undignified" advertising. 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 7.3(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 a notice to members of a class in class action litigation.

Record of Advertising

[(5)] Paragraph (b) requires that a record of the content and use of advertising be kept in order to facilitate enforcement of this Rule. It does not require that advertising be subject to review prior to dissemination. Such a requirement would be burdensome and expensive relative to its possible benefits, and may be of doubtful constitutionality. **[(.]**

Paying Others to Recommend a Lawyer

[(6)] **Subject to the limitations set forth** **[(2)]** **Except as permitted** under paragraphs **[(c)]** and **[(j)]** **[(b)(1)—(b)(3)]**, a lawyer is **[(allowed)]** **not permitted** to pay **others** for **[(advertising permitted by this Rule, but otherwise is not permitted to pay another**

person 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. Directory listings and group advertisements that list lawyers by practice area, without more, do not constitute impermissible "recommendations."

(3) Paragraph [(c)(1), however,] (b)(1) allows a lawyer to pay for advertising and communications permitted by this Rule, including the cost of print [,] directory listings, on-line directory listings, newspaper ads, television and radio [air time] air-time, 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, television and radio station employees or spokespersons and website designers.

[Moreover, a] (4) 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 Rules 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 services). To comply with Rule 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable 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 Comment (2) (definition of "recommendation"). See also Rule 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers) for the duties of lawyers and law firms with respect to the conduct of non-lawyers and Rule 8.4(a) (duty to avoid violating the Rules through the acts of another). [This restriction does not prevent an organization or person other than the lawyer from advertising or recommending the lawyer's services. Thus, a]

(5) A legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in lawyer referral programs and pay the usual fees charged by such programs. [Paragraph (c) does not prohibit paying regular compensation to an assistant, such as a secretary, to prepare communications permitted by this Rule.] A "legal service plan" is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation.

(6) A lawyer who accepts assignments or referrals from a 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. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these Rules. A

"lawyer referral service" is any person, group of persons, association, organization or entity that receives a fee or charge for referring or causing the direct or indirect referral of a potential client to a lawyer drawn from a specific group or panel of lawyers.

Communications About Fields of Practice

(7) Paragraph (c)(1) permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by the Supreme Court of Pennsylvania. Paragraph (c)(2) permits a lawyer to state the lawyer is certified as a specialist under the regulations of the highest court of another state where the lawyer is licensed to practice, so long as the lawyer clearly states if the lawyer is not also certified in Pennsylvania. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Court approved certifying organizations may be expected to apply standards of experience, knowledge and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

(8) Paragraph (c) of this Rule generally permits a lawyer to communicate that the lawyer does or does not practice in a particular area of law. Under paragraph (c)(3), a lawyer is 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 objectively verifiable experience, specialized training or education. Such communications are subject to the "false and misleading" standard applied in Rule 7.1 to communications concerning a lawyer's services. Authorizing such objectively verifiable statements comports with constitutional limitations on the regulation of commercial speech. Appropriate bases for a lawyer's claim of specialization under paragraph (c)(3) may include the proportion of the lawyer's practice devoted to the specialty, the years of experience practicing the specialty, the continued education acquired pertaining to the specialty, and the recency of the experience or education in the field of specialization.

(9) The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this Rule.

[Endorsements

(7) Paragraphs (d) and (e) require] (10) Paragraph (e) requires truthfulness in any advertising in which an endorsement of a lawyer or law firm is made. The prohibition against endorsement by a celebrity or public figure is consistent with the purpose of Rule 7.1 to avoid the creation of an unjustified expectation of a particular legal result on the part of a prospective client.

Portrayals

[(8)] (11) [Paragraphs] Paragraph (f) [and (g)], similarly, [require] requires truth in advertising when portrayals are made part of legal advertising. A portrayal, by its nature, is a depiction of a person, event or scene, not the actual person, event or scene itself. [Paragraphs] Paragraph (f) [and (g) were added to ensure] ensures that any portrayals used in advertising legal services are not misleading or overreaching. Creating the impression that lawyers are associated in a firm where that is not the case [was considered] is inherently misleading because it suggests that the various lawyers involved are available to support each other and contribute to the handling of a case. Paragraph (f) accordingly prohibits advertisements that create the impression of a relationship among lawyers where none exists, such as by using a fictitious name to refer to the lawyers involved if they are not associated together in a firm.

Disclosure of Fees and Client Expenses

[(9)] (12) Consistent with the public's need to have an accurate dissemination of information about the cost of legal services, paragraph [(h)] (g) requires disclosure of a client's responsibility for payment of expenses in contingent fee matters when the client will be required to pay any portion of expenses that will be incurred in the handling of a legal matter.

[(10)] (13) Under the same rationale, paragraph [(h)] (g) imposes minimum periods of time during which advertised fees must be honored.

Disclosure of Geographic Location of Practice

[(11)] (14) Paragraph [(i)] (h) requires disclosure of the geographic location in which the advertising lawyer's primary practice is situated. This provision seeks to rectify situations in which a person seeking legal services is misled into concluding that an advertising lawyer has his or her primary practice in the client's hometown when, in fact, the advertising lawyer's primary practice is located elsewhere. Paragraph [(i)] (h) ensures that a client has received a disclosure as to whether the lawyer he or she ultimately chooses maintains a primary practice located outside of the client's own city, town or county.

Disclosure of Payment of Advertising Costs

[(12)] (15) Paragraph [(j)] (i) prohibits lawyers and law firms from paying advertising costs of independent lawyers or other persons unless disclosure is made in the advertising of the name and address of each paying lawyer or law firm, as well as of the business relationship between the paying parties and the advertising parties.

[(13)] (16) Advertisements sponsored by advertising cooperatives (where lawyers or law firms pool resources to buy advertising space or time) are considered advertisements by each of the lawyers participating in the cooperative and accordingly will be subject generally to all of the provisions of these Rules on advertising. Advertising cooperatives have been referred to expressly in paragraph [(j)] (i) to make clear that references to "indirect" actions are intended to have a wide scope and include advertising cooperatives and similar arrangements. Thus, advertising cooperatives and similar arrangements are permissible, but only if the required disclosures are made. In the case of cooperative arrangements, the required disclosures must include the basis or criteria on which

lawyers or law firms participating in the cooperative will be referred cases, e.g., chronological order of calls, geographic location, etc.

[(14)] (17) Paragraph [(k)] (j) prohibits a lawyer from misleading the public by giving the impression in an advertisement that the lawyer or [his or her] the lawyer's law firm [specializes] practices in a particular area of the law unless the lawyer or [his or her] the law firm handles the type of case advertised as a principal part of the practice [of the lawyer or law firm]. For example, where a lawyer advertises for "personal injury cases" or "serious personal injury cases" or "death cases only" those types of cases must, in fact, constitute a principal part of the practice of the lawyer or [his or her] firm.

[(15)] (18) Paragraph [(k)] (j) also prohibits advertising for the primary purposes of obtaining cases that can be referred or brokered to another lawyer. Obviously, a lawyer is permitted and encouraged to refer cases to other lawyers where that lawyer does not have the skill or expertise to properly represent a client. However, it is misleading to the public for a lawyer or law firm, with knowledge that the lawyer or law firm will not be handling a majority of the cases attracted by advertising, to nonetheless advertise for those cases only to refer the cases to another lawyer whom the client did not initially contact. In addition, a lawyer who advertises for a particular type of case may not mislead the client into believing that the lawyer or law firm will fully represent that client when, in reality, the lawyer or law firm refers all of its non-settling cases to another law firm for trial.

Required Contact Information

(19) This Rule requires that any communication about a lawyer or law firm's services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address or a physical office location.

Rule 7.3. Solicitation of Clients.

(a) "Solicitation" or "solicit" denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

[(a)] (b) A lawyer shall not solicit [in-person or by intermediary] professional employment [from a person with whom the lawyer has no family or prior professional relationship] by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or law firm's pecuniary gain, unless the [person contacted is a] contact is with a:

(1) lawyer [or has a]; or

(2) person who has a family, close personal, or prior professional relationship with the lawyer or law firm.

[The term "solicit" includes contact in-person, by telephone or by real-time electronic communication, but, subject to the requirements of Rule 7.1 and Rule 7.3(b), does not include written communi-

cations, which may include] (c) A lawyer may utilize targeted, direct mail advertisements to solicit professional employment.

[(b)] (d) A lawyer [may contact, or send a written communication to, the target of the solicitation for the purpose of obtaining professional employment unless] shall not solicit professional employment even when not otherwise prohibited by paragraph (b), if:

(1) the lawyer knows or reasonably should know that the physical, emotional or mental state of the [**person**] target of the solicitation is such that the person could not exercise reasonable judgment in employing a lawyer;

(2) the [**person**] target of the solicitation has made known to the lawyer a desire not to receive communications from the lawyer;

(3) the [**communication**] solicitation involves coercion, duress, or harassment; or

(4) the [**communication is a**] solicitation is directed to a party who has been named as a defendant or respondent in a domestic relations action. In such cases, the lawyer shall wait until proof of service appears on the docket before communication with the named defendant or respondent.

(e) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.

(f) Notwithstanding the prohibitions in this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses live person-to-person contact to enroll members or sell subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Comment:

(1) [A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a] Paragraph (b) prohibits a lawyer from soliciting professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or the law firm's pecuniary gain. A lawyer's communication [typically does not constitute] is not a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to [**Internet**] electronic searches.

(2) [**There is a potential for abuse when a solicitation involves direct in-person**] “Live person-to-person contact” means in-person, face-to-face, live telephone [or] and other real-time [electronic contact by a lawyer with someone known to need legal services. These forms] visual or auditory person-to-person communications where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact includes

text messages. Person-to-person contact does not include chat rooms or other written communications that recipients may easily disregard. A potential for overreaching exists when a lawyer, seeking pecuniary gain, solicits a person known to be in need of legal services. This form of contact [**subject**] subjects a person to the private importuning of a trained advocate, in a direct interpersonal encounter. The person who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult **to** fully [**to**] evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon [**being retained immediately**] an immediate response. The situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

(3) [**This**] The potential for [**abuse**] overreaching inherent in [**direct in-person, live telephone or real-time electronic solicitation**] live person-to-person contact, justifies its prohibition, [**particularly**] since lawyers have alternative means of conveying necessary information [**to those who may be in need of legal services**]. In particular, communications can be mailed or transmitted by email or other electronic means that [**do not involve real-time contact and**] do not violate other laws [**governing solicitations**]. These forms of communications [**and solicitations**] make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to [**direct in-person, telephone or real-time electronic**] live person-to-person persuasion that may overwhelm a person's judgment.

(4) [**The use of general advertising and written, recorded or electronic communications to transmit information from lawyer to the public, rather than direct in-person, live telephone or real-time electronic contact, will help to assure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of Rule 7.1.**] The contents of [**direct in-person, live telephone or real-time electronic**] live person-to-person contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations from those that are false and misleading.

(5) There is far less likelihood that a lawyer would engage in [**abusive practices**] overreaching against a former client, or a person with whom the lawyer has a close personal or family relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for [**abuse**] overreaching when the person contacted is a lawyer. Consequently, the general prohibition in Rule 7.3(a) is not applicable in those situations. [**Also, paragraph (a)**] Paragraph (b) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal,

employee or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

(6) **[But even permitted forms of solicitation can be abused. Thus, any]** A solicitation **[which]** that contains **false or misleading** information **[which is false or misleading]** within the meaning of Rule 7.1, **[which]** that involves coercion, duress or harassment within the meaning of **[Rule 7.3(b)(3)]** **Rule 7.3(d)(3)**, or **[which]** that involves contact with someone who has made known to the lawyer desire not to be solicited by the lawyer within the meaning of **[Rule 7.3(b)(2)]** **Rule 7.3(d)(2)** is prohibited. Moreover, if after sending a letter or other communication as permitted by Rule 7.2 the lawyer receives no response, any further effort to communicate with the recipient of the communication may violate the provisions of Rule 7.3(b). **Live, person-to-person contact of individuals who may be especially vulnerable to coercion or duress is ordinarily not appropriate, for example, the elderly, those whose first language is not English, or the disabled.**

(7) This Rule **[is]** **does** 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 purposes 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 people who are seeking legal services for themselves. 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.

(8) In **[this instance]** **Rule 7.3(d)(4)**, the term "domestic relations actions" includes the actions governed by the Family Court Rules, *see* Pa.R.C.P. No. 1931(a), and actions pursuant to the Protection of Victims of Sexual Violence or Intimidation Act, *see* 42 Pa.C.S. §§ 62A03 *et seq.* In such cases, a defendant/respondent party's receipt of a lawyer's solicitation prior to being served with the complaint can increase the risk of a violent confrontation between the parties. The prohibition in **[RPC 7.3(b)(4)]** **RPC 7.3(d)(4)** against any solicitation prior to proof of service appearing on the docket is intended to reduce any such risk and allow for the plaintiff to take any appropriate steps.

(9) Communications authorized by law or ordered by a court or tribunal include a notice to potential members of a class in class action litigation.

(10) Paragraph (f) of this Rule permits a lawyer to participate with an organization which uses personal contact to enroll 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. The organization must not be owned by or

directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (f) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the person-to-person solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations must not be directed to a person known to need legal services in a particular matter, but must be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably assure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3(d).

Rule 7.4. **[Communication of Fields of Practice and Specialization]** **[Reserved].**

[(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state that the lawyer is a specialist except as follows:

(1) 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;

(2) a lawyer engaged in admiralty practice may use the designation "admiralty," "proctor in admiralty," or a substantially similar designation;

(3) a lawyer who has been certified by an organization approved by the Supreme Court of Pennsylvania as a certifying organization in accordance with paragraph (b) may advertise the certification during such time as the certification of the lawyer and the approval of the organization are both in effect;

(4) a lawyer may communicate that the lawyer is certified in a field of practice only when that communication is not false or misleading and that certification is granted by the Supreme Court of Pennsylvania.

(b) Upon recommendation of the Pennsylvania Bar Association, the Supreme Court of Pennsylvania may approve for purposes of paragraph (a) an organization that certifies lawyers, if the Court finds that:

(1) advertising by a lawyer of certification by the certifying organization will provide meaningful information, which is not false, misleading or deceptive, for use of the public in selecting or retaining a lawyer; and

(2) certification by the organization is available to all lawyers who meet objective and consistently applied standards relevant to practice in the area of the law to which the certification relates.

The approval of the certifying organization shall be for such period not longer than five (5) years as the Court shall order, and may be renewed upon recommendation of the Pennsylvania Bar Association.

Comment:

(1) This Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services; for example, in a telephone directory or

other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, stating that the lawyer is a “specialist” is not permitted unless the lawyer has been certified as a specialist by a certifying organization approved under the procedure of paragraph (b). The standards in paragraph (b)(1) and (2) are intended to comply with the requirements for advertising claims of specialization set forth in *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91, 110 L.Ed.2d 83, 110 S.Ct. 2281 (1990).]

Rule 7.5. [Firm Names and Letterheads] [Reserved].

[(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, government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1. If otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation 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 shall not state or imply that they practice in a partnership or other organization unless that is the fact.

Comment:

(1) 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.” A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. 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, or the name of a nonlawyer.

(2) With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, “Smith and Jones,” for that title suggests that they are practicing law together in a firm.]

Rule 7.7. [Lawyer Referral Service] [Reserved].

[(a) A lawyer shall not accept referrals from a lawyer referral service if the service engaged in communication with the public or direct contact with prospective clients in a manner that would violate the Rules of Professional Conduct if the communication or contact were made by the lawyer.

(b) A “lawyer referral service” is any person, group of persons, association, organization or entity that receives a fee or charge for referring or causing the direct or indirect referral of a potential client to a lawyer drawn from a specific group or panel of lawyers.

Comment:

(1) This Rule prevents a lawyer from circumventing the Rules of Professional Conduct by using a lawyer referral service or similar organization which would not be subject to the Rules of Professional Conduct. A lawyer may pay the usual charges of a lawyer referral service. A lawyer may not, however, share legal fees with a non-lawyer. See Rule 5.4(a).]

[Pa.B. Doc. No. 24-1520. Filed for public inspection October 25, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

COLUMBIA COUNTY

Crime Victim’s Compensation Fund, Victim Witness Services; 24 AD 2024; 1 MV 2024

Order

And Now, this 11th day of April, 2024, pursuant to 18 P.S. § 11.1101,

It Is Hereby Ordered as follows:

1. The total assessment of the Crime Victim’s Compensation Fund, the Victim Witness Services Fund, and the Local Victim Services Fund (as recently amended in Act 77 of 2022) shall be increased to \$90.00 unless otherwise ordered by this Court. This assessment shall be effective for all crimes occurring after April 7, 2023 and only to cases in which sentencing occurs after the effective date of this Order per paragraph 4., as follows. This assessment shall be applicable to criminal cases in which the defendant pleads guilty, nolo contendere, who is otherwise convicted of a crime, or who is placed in any type of diversionary program, including, but not limited to, Accelerated Rehabilitative Disposition and Felony Diversion.

2. This cost shall be imposed at both the Magisterial District courts and the Court of Common Pleas of this

Judicial District notwithstanding any statutory provision to the contrary.

3. Pursuant to 18 P.S. § 11.1101(b), disposition of the assessment shall be as follows:

a. \$44.00 of the costs imposed shall be paid into the Crime Victim's Compensation Fund;

b. \$25.00 of the costs imposed shall be paid to the Victim Witness Services Fund through the Pennsylvania Commission on Crime and Delinquency;

c. \$21.00 of the costs imposed shall be paid to the Local Victims Services Fund. These monies shall be deposited into a separate account to be utilized by the Office of District Attorney of Columbia County solely in the manner required by 18 P.S. § 11.1101;

d. These changes replace the former Section 11.1101(b)(1) and (2) assessments, which subsections were deleted by Act 77 of 2022, P.L. 775, § 12.

4. This Order shall be effective within thirty (30) days after publication thereof in *The Pennsylvania Bulletin*, and shall govern all criminal matters.

5. The District Court Administrator, in accordance with Pa.R.Crim.P. 105, shall:

a. File one (1) copy of this Order with the Administrative Office of the Pennsylvania Courts via email to adminrules@pacourts.us;

b. File with the Legislative Bureau for publication in *The Pennsylvania Bulletin*.

c. Publish one (1) copy of this Order on the Columbia-Montour 26th Judicial District County Court website.

By the Court

HONORABLE GARY E. NORTON,
President Judge

[Pa.B. Doc. No. 24-1521. Filed for public inspection October 25, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CRAWFORD COUNTY

In the Matter of a Booking Center Fee; No. AD 1 of 2024

Administrative Order

And Now, October 16, 2024, the Court, pursuant to 42 Pa.C.S.A. §§ 1725.5 and 1725.6, *Orders* as follows:

1. Every person described in 42 Pa.C.S.A. § 1725.5(a) shall be required to pay a booking center fee of two hundred dollars in addition to any other fines, penalties or costs imposed by law; and

2. This Order shall be processed in accordance with Pa.R.J.A. 103(c), and effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN F. SPATARO,
President Judge

[Pa.B. Doc. No. 24-1522. Filed for public inspection October 25, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTOUR COUNTY

Crime Victim's Compensation Fund, Victim Witness Services; 14 AD 2024; 1 MV 2024

Order

And Now, this 11th day of April, 2024, pursuant to 18 P.S. § 11.1101,

It Is Hereby Ordered as follows:

1. The total assessment of the Crime Victim's Compensation Fund, the Victim Witness Services Fund, and the Local Victim Services Fund (as recently amended in Act 77 of 2022) shall be increased to \$90.00 unless otherwise ordered by this Court. This assessment shall be effective for all crimes occurring after April 7, 2023 and only to cases in which sentencing occurs after the effective date of this Order per paragraph 4., as follows. This assessment shall be applicable to criminal cases in which the defendant pleads guilty, nolo contendere, who is otherwise convicted of a crime, or who is placed in any type of diversionary program, including, but not limited to, Accelerated Rehabilitative Disposition and Felony Diversion.

2. This cost shall be imposed at both the Magisterial District courts and the Court of Common Pleas of this Judicial District notwithstanding any statutory provision to the contrary.

3. Pursuant to 18 P.S. § 11.1101(b), disposition of the assessment shall be as follows:

a. \$44.00 of the costs imposed shall be paid into the Crime Victim's Compensation Fund;

b. \$25.00 of the costs imposed shall be paid to the Victim Witness Services Fund through the Pennsylvania Commission on Crime and Delinquency;

c. \$21.00 of the costs imposed shall be paid to the Local Victims Services Fund. These monies shall be deposited into a separate account to be utilized by the Office of District Attorney of Montour County solely in the manner required by 18 P.S. § 11.1101;

d. These changes replace the former Section 11.1101(b)(1) and (2) assessments, which subsections were deleted by Act 77 of 2022, P.L. 775, § 12.

4. This Order shall be effective within thirty (30) days after publication thereof in *The Pennsylvania Bulletin*, and shall govern all criminal matters.

5. The District Court Administrator, in accordance with Pa.R.Crim.P. 105, shall:

a. File one (1) copy of this Order with the Administrative Office of the Pennsylvania Courts via email to adminrules@pacourts.us;

b. File with the Legislative Bureau for publication in *The Pennsylvania Bulletin*.

c. Publish one (1) copy of this Order on the Columbia-Montour 26th Judicial District County Court website.

By the Court

HONORABLE GARY E. NORTON,
President Judge

[Pa.B. Doc. No. 24-1523. Filed for public inspection October 25, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHAMPTON COUNTY

Administrative Order 2024-17—Applications for Treatment Courts; No. C-48-AD-408-2024

Administrative Order

And Now, this 11th day of October, 2024, with respect to the Northampton County Court of Common Pleas' Recovery Court, Mental Health Court, and Veterans' Court (collectively "Northampton County Treatment Courts"), it is hereby *Ordered* and *Decreed*, as follows:

1. All applications for admission to the Northampton County Treatment Courts shall be submitted directly to the Administrative Judge of Treatment Courts, the Honorable Jennifer Sletvold, by either hand delivery to Court Administration or via email at spascoe@norcopa.gov. Any application that is submitted elsewhere, without being provided to the Administrative Judge of Treatment Courts, will not be considered; and

2. Any application for the Northampton County Treatment Courts must be submitted within thirty (30) days from the date of arraignment, without exception, in order to be considered. Applications for Mental Health Court

may be submitted even if the physician certification remains pending.

It is further *Directed* that the Court Administrator of Northampton County shall comply with all publishing requirements set forth in Pa.R.J.A. 103(c)(5)-(6), such as: filing two (2) certified copies of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; filing one (1) certified copy of the Order with the Administrative Office of Pennsylvania Courts; publishing a copy of this Order on the Court's website; and incorporating these procedures into the complete set of Northampton County Local Rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

This local rule shall become effective on Monday, November 18, 2024, after no less than thirty (30) days of publication in the *Pennsylvania Bulletin*.

By the Court

CRAIG A. DALLY,
President Judge

[Pa.B. Doc. No. 24-1524. Filed for public inspection October 25, 2024, 9:00 a.m.]