

NEW HAMPSHIRE BAR ASSOCIATION  
Ethics Committee Advisory Opinion #1992-93/6  
Advertising/Solicitation: Distribution of Business Cards  
February 10, 1993

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RULE REFERENCES:

- \*Rule 7.1
- \*Rule 7.2(a)
- \*Rule 7.3
- \*Rule 7.3(c)
- \*Rule 7.4
- \*Rule 7.5

CODE REFERENCES:

- \* DR 2-101

SUBJECTS:

- \*Advertising and Solicitation
- \*Specialization

ANNOTATION:

A lawyer who posts business cards in an area where the cards might be seen by persons not known to need legal services of the kind provided by the lawyer but who might find such services useful does not thereby engage in prohibited solicitation. (Rule 7.3(c))

A lawyer's business cards posted in a public area must not make false or misleading statements about the lawyer or the lawyer's services. (Rule 7.1)

A lawyer is not prohibited from posting business cards in a public area simply because those cards list areas in which the lawyer practices, provided that descriptions of those areas are accurate, straightforward, truthful and dignified, and provided the cards do not state or imply that the lawyer is a specialist. (Rule 7.4)

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FACTS:

The inquiring attorney wishes to advertise by placing a supply of business cards, which identify areas of practice, at certain locations where individuals may be in need of the legal services specified on the business card. The proposed business card lists as fields of practice "X Enforcement Actions" and "X Litigation."

QUESTIONS:

1. May an attorney post or place a supply of business cards, indicating a particular field of practice, at locations where people who may need the specified legal services will see the cards?
2. May the business cards indicate fields of practice?

RESPONSE:

"Lawyer advertising is a key facet of the marketing and delivery of legal services to the public." Preamble, ABA Aspirational Goals For Lawyer Advertising. In addition to the ever increasing number of court cases dealing with lawyer advertising (see, Scott, Current Ethical Issues in Attorney Advertising, 2 New Hampshire Bar News 587 (April 8, 1992)), New Hampshire Rules of Professional Conduct 7.1, 7.2,

7.3, 7.4 and 7.5 govern attorney conduct regarding the communication of information regarding legal services, including but not limited to advertising and solicitation.

Subject to the requirements of Rule 7.1 (prohibiting false and misleading communications about lawyer or a lawyer's services), lawyer advertising via public media such as telephone and other directories, radio, television, etc., not involving solicitation as defined in Rule 7.3, is expressly permitted under Rule 7.2(a).

Rule 7.3(c) of the New Hampshire Rules of Professional Conduct generally prohibits "solicitation" of professional employment from a prospective client with whom the lawyer has no family or prior professional relationship. However, excluded from this general prohibition are "letters addressed or advertising circulars distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful." Rule 7.3(c). In this inquiry, the attorney intends to post business cards at locations where other commercial and professional services are advertised. Nothing in the New Hampshire Rules of Professional Conduct, specifically Rules 7.2 and 7.3, prohibit such conduct.

Communications concerning an attorney's field(s) of practice is governed by Rule 7.4 which permits a lawyer to communicate "that the lawyer does or does not practice in particular fields of law." Under the prior Code of Professional Responsibility, DR 2-101, a listing of fields of practice without additional descriptive language is acceptable. New Hampshire Comments to Rule 7.4.<sup>1</sup> Accordingly, a business card in question which lists (without additional descriptive language) "X Actions" and "X Litigation" such as the one in question is not prohibited.<sup>2</sup>

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<sup>1</sup> The New Hampshire Comments to Rule 7.4 provide that statements of practice and non-practice which comply with the Disciplinary Rule will also comply with Rule 7.4. It is noted however, that the N.H. Comments have not been adopted by the N.H. Supreme court.

<sup>2</sup> A lawyer who publicly discloses fields of law . . . shall do so by using descriptive language that is accurate, straightforward, truthful and dignified. New Hampshire Supreme Court Order March 29, 1985, New Hampshire Comments to Rule 7.4. See also ABA Aspirational Goals For Lawyer Advertising, 2 New Hampshire Bar News 561 (March 25, 1992). This opinion is decided under existing N.H. Rules of Professional Conduct regarding advertising and solicitation; these rules are currently under review by our Supreme Court.