

communication is false or misleading if it:

- (1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
 - (2) Is likely to create an unjustified expectation about results the practitioner can achieve, or states or implies that the practitioner can achieve results by means that violate the Rules of Professional Conduct or other law; or
 - (3) Compares the practitioner's services with other practitioners' services, unless the comparison can be factually substantiated.
- (b) A practitioner, or another on behalf of a practitioner, shall not seek by in-person contact, employment (or employment of a partner, associate, or other person or party) by a potential client having immediate or prospective business before the Office who has not sought the practitioner's advice regarding employment of a practitioner, if:
- (1) The solicitation involves use of a statement or claim that is false or misleading, within the meaning of paragraph (a) of this section;
 - (2) The solicitation involves the use of undue influence;
 - (3) The potential client is apparently in a physical or mental condition which would make it unlikely that the potential client could exercise reasonable, considered judgment as to the selection of a practitioner;
 - (4) The solicitation involves the use of an intermediary and the practitioner has not taken all reasonable steps to ensure that the potential client is informed of:
 - (i) The consideration, if any, paid or to be paid by the practitioner to the intermediary; and
 - (ii) The effect, if any, of the payment to the intermediary on the total fee to be charged; or
 - (5) The solicitation involves the use of an invention promoter and the practitioner has not taken all reasonable steps to ensure that the potential client is informed:
 - (i) In every contract or other agreement between the potential client and invention promoter the specific amount of all legal fees and expenses included in funds the client delivers or is obligated to deliver to the promoter;
 - (ii) In every communication by the invention promoter requesting funds from the client the specific amount of all legal fees and expenses included in funds the client delivers or is obligated to deliver to the promoter; and
 - (iii) The discount (expressed as a percent) from the customary fee the practitioner gives or will give in the fees

charged for legal services rendered for a client referred by the promoter.

(c) A practitioner shall not knowingly assist an organization that furnishes or pays for legal services to others having immediate or prospective business before the Office to promote the use of the practitioner's services or those of the practitioner's partner or associate, or any other practitioner affiliated with the practitioner or the practitioner's firm, as a private practitioner, if the promotional activity involves the use of coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.

(d) No practitioner shall personally, or through acts of another, with respect to any prospective business before the Office, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any prospective applicant or other person having immediate or prospective business before the Office.

(e) A practitioner may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the practitioner's practice before the Office.

§ 11.702 Advertising.

(a) Subject to the requirements of §§ 11.701 and 11.703, a practitioner may advertise services regarding practice before the Office through public media, such as a telephone directory, legal directory, newspaper or other periodical, outdoor advertising, radio or television, through written or recorded communication, or through electronic media.

(b) A copy or recording of an advertisement or communication (whether in printed or electronic media) authorized by paragraph (a) of this section shall be kept for two years after its last dissemination along with a record of when and where it was used.

(c) A practitioner shall not give anything of value to a person or organization for recommending the practitioner's services in practice before the Office except that a practitioner may:

- (1) Pay the reasonable costs of advertisements or communications permitted by this section; and
- (2) Pay the usual charges of a not-for-profit lawyer referral service or legal service organization.

(d) A practitioner who is a lawyer may pay for a law practice in accordance with § 11.117.

(e) Any advertisement or communication to the public made pursuant to this section shall include

the name of at least one practitioner responsible for its content.

§ 11.703 Direct contact with prospective clients

(a) A practitioner personally, or through the actions of another, shall not by in-person or telephone contact solicit professional employment from a prospective client having immediate or prospective business before the Office with whom the practitioner has no family or prior professional relationship when a significant motive for the practitioner's doing so is the practitioner's pecuniary gain under circumstances evidencing undue influence, intimidation, or overreaching.

(b) A practitioner personally, or through the actions of another, shall not solicit professional employment from a prospective client having immediate or prospective business before the Office by written or recorded communication or by in-person or telephone contact even when not otherwise prohibited by paragraph (a) of this section, if:

- (1) The prospective client has made known to the practitioner a desire not to be solicited by the practitioner; or
- (2) The solicitation involves false or misleading statements, undue influence, coercion, duress or harassment.

(c) Every written (including in print or electronic media) or recorded communication from or on behalf of a practitioner, soliciting professional employment from a prospective client known to be in need of legal services in a particular matter before the Office, and with whom the practitioner has no family or prior professional relationship, shall include the words "Advertising Material" on the outside envelope, and at the beginning and ending of any electronic or recorded communication.

(d) Notwithstanding the prohibitions in paragraph (a) of this section, a practitioner may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the practitioner which uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

§ 11.704 Communication of fields of practice and certification.

A practitioner may communicate the fact that the practitioner does or does not practice in particular fields of law. A practitioner shall not state or imply that the practitioner has been recognized or certified as a specialist in a particular field of law except as follows: