

advertising and solicitation are unconstitutional. See *NAACP v. Button*, 371 U.S. 415 (1963); *Brotherhood of Railroad Trainmen v. Virginia ex rel. Virginia State Bar*, 377 U.S. 1 (1964); *United Mine Workers v. Illinois Bar Ass'n*, 389 U.S. 217 (1967); and *United Transportation Union v. Michigan Bar*, 401 U.S. 576 (1971).

That may or may not be true. I hope the Supreme Court is ultimately presented with the question and decides it, but I do not believe it has done so yet.

Three of the four cases cited by the majority (*i.e.*, all but the *NAACP* case) involved solicitation directed by organizations at their own members, as part of a group legal services plan. In none of those cases did lawyers themselves take part in the solicitation nor did lawyers make any payment to the solicitors.

In the only case which involved participation by lawyers themselves in activities of solicitation or which involved solicitation outside the membership of the sponsoring organization, the services were rendered free to the clients. *NAACP v. Button*, 371 U.S. at 420, 440 n.19. Moreover, that case involved a state antisolicitation statute specifically tailored by amendment to curb civil rights litigation and found by the Court to have the potential for “smothering” such exercise of lawful activity on behalf of an “unpopular minority.” *Id.* at 423-25, 434-36. No such reprehensible purpose or application lies behind the Code of Professional Responsibility as adopted in the District of Columbia.

The Supreme Court case which comes closest to deciding the question of the constitutionality of bans on lawyer advertising is *Semler v. Oregon State Board*, 294 U.S. 608 (1935). There the Court upheld the constitutionality of a state statute which made dentists subject to revocation of license for "advertising professional superiority or the performance of professional services in a superior manner."

Granted the case is forty years old, it was cited without disapproval in both *Goldfarb* and *Bigelow*. 421 U.S. at 792 and 825. The Court in the latter case said specifically that it was not deciding "the precise extent to which the First Amendment permits regulation of advertising that is related to activities the State may legitimately regulate," and that its decision was "in no way inconsistent with our holdings in the Fourteenth Amendment cases that concern the regulation of professional activity." 421 U.S. at 825. *Semler* was cited as one of the cases upholding state regulation of professional activity.

While free speech policy considerations advanced by the Supreme Court in the cases cited by the Committee are relevant to what it has proposed, and no restriction on speech is ever to be taken lightly, the majority vastly overstates its case in asserting that it is "abundantly clear . . . that the present provisions of the Code of Professional Responsibility, forbidding advertising and solicitation by lawyers, are constitutionally invalid." The determination by the Bar (and ultimately by the Court of Appeals) of what is in the public interest as to lawyer advertising and

solicitation has not been foreclosed by constitutional decisions of the Supreme Court. Rather, such a determination has been mandated by the Supreme Court, which called in *Bigelow* for a “balancing” of competing interests—“assessing the First Amendment interest at stake and weighing it against the public interest allegedly served by the regulation.” *Id.* at 826.

On one free speech point, I am in total agreement with the majority. I do not believe that regulation of lawyer advertising or solicitation based on a standard of what is “dignified” or “in good taste” would be either practical or constitutional. If the door once opened, we shall have to take the bad with the good. In that regard, it should be noted that a number of witnesses at the public hearing who supported removing the ban on lawyer advertising and solicitation joined their support with simplistic statements to the effect that of course such activities should not be conducted in such a manner as to be undignified or irritating to the public. It is just not that simple.

### THE BASIC PROBLEM

The Legal Ethics Committee is correct in its recognition that there are major problems in the District of Columbia, as elsewhere in the nation, in making possible the delivery of affordable legal services to persons of moderate income and modest assets. People have legal problems, as they have medical problems, which quickly outrun their ability to pay.

I don't agree with the Committee majority in its conclusion based on a study in Johnson City, Tennessee, that most people have an exaggerated idea of lawyers' charges. I believe that legal services, like medical services, are expensive and people know it. That is particularly true in an area like the District of Columbia where the overhead costs associated with practicing law are high.

The majority is correct in stating that the "axiomatic norm" of Canon 2 is that the legal profession has a duty to try to do something about this. While it is doubtful that the problem can be solved in the long run without public funds, that does not relieve the bar of its responsibility. Part of the reason for the recent movement for removing the proscriptions on advertising and solicitation by lawyers is that the legal profession has not done all it should do in carrying out its duty under Canon 2. Individual lawyers have not done all they should do in meeting the personal ethical obligation placed on each of them by Canon 2—To "Assist the Legal Profession in Fulfilling Its Duty To Make Legal Counsel Available."

This is changing, however. Bar-sponsored or bar-endorsed group legal services plans and legal clinics are appearing. Prepaid legal insurance plans are developing. The bar is actively involved in experiments with certification of specialists, one result of which may be the lowering of costs of services by channeling similar legal problems to those most qualified to handle them efficiently. There is increased in-

terest across the country in making lawyer referral services more responsive to the needs of moderate income clients. These developments in the 1970's, aimed at serving middle and moderate income Americans, have followed equally commendable developments in the 1960's aimed primarily at serving indigents.

Nonetheless, it has remained impossible for lawyers to engage in any meaningful price competition, or for clients to enjoy the benefits of that type of competition, because the bar has not opened up the channels of communication between lawyers and clients as to fees. In some instances, through mandatory minimum fee schedules now ruled illegal, the bar has actively opposed price competition. That has foreclosed lawyers who have been able to achieve economies of operation, or who are willing and able to work for less remuneration themselves, from reaching their natural market—the consumer who must have a cheaper price in order to be able to afford a lawyer. This has happened at the same time that we have more young lawyers entering the profession than ever before, many of them unable to practice their chosen profession because of absence of employment opportunities.

#### ALTERNATIVE APPROACHES TO THE PROBLEM

Two current developments in the District of Columbia suggest ways of communicating information to the public about the availability and cost of legal

services without the evils arising from commercial advertising. First, the Lawyer Referral Services Committee of the D.C. Bar has recently proposed to the Board of Governors that the Bar initiate a "Lawyer Register." Lawyers participating in the service could list information relevant to clients in selecting an attorney, including fee information if they so chose, on a registration sheet which would be made available to members of the public at the Bar Offices and perhaps at other locations. The various registration sheets would be cumulated and cross-indexed in such categories as areas of concentration of practices, geographic location of office, and language fluencies. The service would be free to lawyers and members of the public. The instructions to the public on how to use the service would encourage contacts with other clients or attorneys for references before entering into a retainer agreement.

The Committee has proposed that the availability of the new service be vigorously promoted by the Bar through institutional advertising. Such advertising could and should include information to the public on how to recognize the need for professional legal help and when to seek a lawyer.

A second encouraging development is a recommendation to the Board of Governors by the Committee on Specialization that the Bar publish a "Lawyer Directory." Information about lawyers choosing to be listed would be published in the directory, including fee information. The charge to participating attorneys would be \$10 per listing, and the directory

would be sold at a nominal cost to members of the public.

In the case of both the Lawyer Register and the Lawyer Directory, the dissemination of information would be subject to the supervision of the appropriate Bar committee. The Legal Ethics Committee has already ruled that the Lawyer Register, operated by the Bar as a lawyer referral service, would comply with existing provisions of the Code of Professional Responsibility. If the Lawyer Directory does not also comply, any change in the Code necessary to permit its publication would be slight.

Reference should be made to the reports of those two committees for the details of their proposals. Neither of these proposed new services of the Bar is subject to the objections applicable to unrestricted lawyer advertising and solicitation. Both of them would achieve what commercial advertising and solicitation would not, maximum dissemination of information useful to a prospective consumer of legal services in the selection of a lawyer, at little or no cost to the lawyer wishing to disseminate that information. They would provide consumers of legal services with a device for comparing information as to all attorneys who wish to be considered in the comparison process, not just those attorneys who can afford to advertise and whose sales pitch happens to reach the client when the need for legal services is there.

The proposal of the Legal Ethics Committee as to advertising and solicitation, and the proposals of

these other two committees of the Bar for a Lawyer Register and a published Lawyer Directory, are not mutually exclusive. The Board of Governors may choose to endorse them all. However, I suggest the other two proposals as a more acceptable and effective way of addressing the concerns which prompted the report and recommendations of the Ethics Committee. At the very least, I would not venture into unrestricted commercialism without first seeing whether adequate information about the availability and cost of legal services cannot be communicated to the public by more moderate means.

APPENDIX C

DISCUSSION DRAFT

Proposed Amendments to Ethical Considerations and  
Disciplinary Rules of Canon 2 of the Code of  
Professional Responsibility

Prepared by the  
American Bar Association  
Standing Committee on  
Ethics and Professional Responsibility

December 6, 1975

Background

The Canons of Professional Ethics were first adopted by the American Bar Association in 1908. They were amended from time to time thereafter by the Association. On August 14, 1964, Lewis F. Powell, Jr., then President of the American Bar Association (now Associate Justice of the Supreme Court of the United States) created a Special Committee on Evaluation of Ethical Standards. The work of this Committee resulted in the development of the Code of Professional Responsibility which was adopted by the House of Delegates on August 12, 1969. Since that time the Code has been amended by the House of Delegates in 1970, 1974, and 1975.

The Standing Committee on Ethics and Professional Responsibility has held two open meetings to discuss the present limitations on advertising. The

first open meeting of the Committee was held on October 3, 1975 in Washington, D.C. for the purpose of hearing comments from predominantly non-lawyer national organizations. The second open meeting was held November 1, 1975 in Chicago, Illinois for the purpose of hearing comments from the bench and bar. All Section and Committee chairmen of the American Bar Association were invited as were the presidents of all Bar Associations represented in the House of Delegates of the American Bar Association.

The amendments prepared for discussion are the outgrowth of study by the Committee and discussion within the profession of the ethical issues bearing on communications to the public about the availability of lawyers' services. The amendments reflect comments submitted to the Committee at hearings by lawyers, lawyers' organizations, legal service organizations and consumer organizations. In preparing the Discussion Draft, the Committee carefully considered the recent decisions of the Supreme Court in the *Bigelow* and *Goldfarb* cases.

#### Comments on Discussion Draft

Canon 2 reads as follows:

"A lawyer should assist the legal profession in fulfilling its duty to make legal counsel available."

Historically, the profession has believed that advertising by lawyers was neither required nor appropriate to fulfill its responsibilities under this

Canon. However, in the context of contemporary society, particularly with respect to its metropolitan characteristics in a service-oriented economy, the continued validity of these beliefs has been questioned by some. The draft amendment would permit advertising by lawyers, unless the material contains "a false, fraudulent, misleading, deceptive or unfair statement or claim." The draft Disciplinary Rules define such a statement as one which :

- "(1) contains a misrepresentation of fact;
- "(2) is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
- "(3) contains a client's laudatory statements about a lawyer;
- "(4) is intended or is likely to create false or unjustified expectations of favorable results;
- "(5) implies unusual legal ability, other than as permitted by DR 2-105;
- "(6) relates to legal fees other than a standard consultation fee or a range of fees for specific types of services without fully disclosing all variables and other relevant factors;
- "(7) conveys the impression that the lawyer is in a position to influence improperly any court, tribunal, or other public body or official;
- "(8) is intended or likely to result in a legal action or a legal position being taken or asserted merely to harass or maliciously injure another;

- “(9) is intended or is likely to appeal primarily to a lay person’s fears, greed, desires for revenge, or similar emotions;
- “(10) contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived.”

Consistent with the foregoing Draft Disciplinary Rules, the Committee has drafted changes in the Ethical Considerations of Canon 2, particularly EC 2-8 and EC 2-8A, which read as follows:

“EC2-8. Selection of a lawyer by a lay person should be informed. Advice and recommendations of third parties—relatives, friends, acquaintances, business associates, or other lawyers—and proper publicity may be helpful. Advertisements and public communications, whether in law lists, announcement cards, newspapers or other forms, should be formulated to convey only information that is necessary to make an appropriate selection. Self-laudation should be avoided. Information that may be helpful in some situations would include: (1) office information, e.g., name, including name of law firm and names of professional associates; addresses; telephone numbers; and office hours; (2) biographical data; and (3) description of the practice, e.g., one or more fields of law in which the lawyer or law firm concentrates; a statement that practice is limited to one or more fields of law; and a statement that the lawyer or law firm specializes in a particular field of law or law practice but only if authorized by the

rules of the authority having jurisdiction under state law over the subject of specialization.

“The proper motivation for commercial publicity by lawyers lies in the need to inform the public of the availability of competent, independent legal counsel. The public benefit derived from advertising depends upon the usefulness of the information provided to the community or to the segment of the community to which it is directed. Advertising marked by excesses of content, volume, scope or frequency, or which unduly emphasizes unrepresentative biographical data, does not provide that public benefit. For example, undue prominence should not be given to a prior governmental position outside the context of biographical information. Similarly, the use of media whose scope or nature clearly suggests that the use is intended for self-laudation of the lawyer without concomitant benefit to the public does not serve the public need. Improper advertising may hinder informed selection of competent, independent counsel, and advertising involving excessive cost may unnecessarily increase fees for legal services.

“EC2-8A. Advertisements and other public communications should make it apparent that the necessity and advisability of legal action depends on variant factors that must be evaluated individually. Fee information usually will be incomplete and misleading to a lay person. Therefore, public communications should not attempt to give fee information beyond a statement of a standard consultation fee, a statement of a range of fees for specific types of

legal services, and the availability of credit arrangements. Because of the individuality of each legal problem, public statements regarding average, minimum or estimated fees normally will be deceiving as will commercial publicity conveying information as to results previously achieved, general or average solutions, or expected outcomes. For example, it would be misleading to advertise a set fee for a divorce case without disclosing the fact that the particular lawyer will not accept employment by every potential client for that fee. Advertisements or public claims that convey an impression that the ingenuity of the lawyer rather than the justice of the claim is determinative are similarly improper. Statistical data based on past performance or prediction of future success is deceptive because it ignores important variables. The context of factual assertions and opinions should be clearly evident in all public communications. It is improper to claim or imply an ability to influence a court, tribunal, or other public body or official by other than competent representation of a just cause. Commercial publicity and public communications should indicate the seriousness of undertaking any legal action. Not only must commercial publicity be truthful but its accurate meaning must be apparent to the lay person with no legal background. Any commercial publicity for which payment is made should so indicate."

The Discussion Draft would permit a lawyer to state that he is limiting his practice to a particular area or field of law or is concentrating his practice

**68a**

in one or more particular areas of the law, providing that his statements are not misleading. It also would permit lawyers to indicate other degrees and professional licenses.

The Discussion Draft does not distinguish television, radio, newspapers, magazines, and direct mail advertisements. All paid advertisements must be identified as such.

The suggested amendments would not affect existing prohibitions of solicitation of clients by lawyers.

*Canon 2 \**

*A Lawyer Should Assist the Legal  
Profession in Fulfilling Its Duty to Make  
Legal Counsel Available*

EC 2-1 \* \* \*

*Recognition of Legal Problems*

EC 2-2 The legal profession should assist lay[men] *persons* to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers [acting under proper auspices] should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. [Such educational programs should be motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers. Examples of permissible activities include] Preparation of [institutional] advertisements and professional articles for lay publications and participation in seminars, lectures, and civic programs *should be motivated by a desire to benefit the public in its awareness of legal needs and selection of the most appropriate counsel.* [but a lawyer who participates in such activities should shun personal publicity.]

EC 2-3 Whether a lawyer acts properly in volunteering advice to a lay[man] *person* to seek legal

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\* Additions italicized [Deletions Bracketed].

services depends upon the circumstances. The giving of advice that one should take legal action could well be in fulfillment of the duty of the legal profession to assist lay[men] *persons* in recognizing legal problems. The advice is proper *whenever it is* [only if] motivated by a desire to protect one who does not recognize that he may have legal problems or who is ignorant of his legal rights or obligations. *It* [Hence, the advice] is improper if motivated by a desire to [obtain personal benefit, secure personal publicity, or] cause [litigation] legal action to be *taken* brought] merely to harass or injure another. *A lawyer best serves the public if he does not volunteer advice in order to obtain private gain in regard to employment.* [Obviously] A lawyer should not contact a non-client, *personally or through a representative*, [directly or indirectly,] for the purpose of being retained to represent him for compensation.

EC 2-4 Since motivation is subjective and often difficult to judge, the motives of a lawyer who volunteers advice likely to produce legal controversy may well be suspect if he receives professional employment or other benefits as a result. A lawyer who volunteers advice that one should obtain the services of a lawyer [generally should not himself] *and who then* accepts employment, compensation, or other benefit in connection with that matter *gives at least the appearance of impropriety.* However, it is not improper for a lawyer to volunteer such advice and render resulting legal services to close friends, rela-

## 71a

tives, former clients (in regard to matters germane to former employment), and regular clients.

EC 2-5 A lawyer who writes or speaks for the purpose of educating members of the public to recognize their legal problems *and informing them of his services* should carefully refrain from giving or appearing to give a general solution applicable to all apparently similar individual problems, since slight changes in fact situations may require a material variance in the applicable advice; otherwise, the public may be misled and misadvised. Talks and writings by lawyers for lay[men] *persons* should caution them not to attempt to solve individual problems upon the basis of the information contained therein.

### *Selection of a Lawyer [Generally]*

EC 2-6 \* \* \*

EC 2-7 Changed conditions, however, have seriously restricted the effectiveness of the traditional selection process. Often the reputations of lawyers are not sufficiently known to enable lay[men] *persons* to make intelligent choices. The law has become increasingly complex and specialized. Few lawyers are willing and competent to deal with every kind of legal matter, and many lay[men] *persons* have difficulty in determining the competence of lawyers to render different types of legal services. The selection of legal counsel is particularly difficult for transients, persons moving into new areas, persons of

limited education or means, and others who have little or no contact with lawyers. *Lack of information about the availability of lawyers and the expense of initial consultation have been said to lead lay persons to avoid seeking legal advice.*

EC 2-8 Selection of a lawyer by a lay person should be informed. [man often is the result of the] Advice and recommendation of third parties—relatives, friends, acquaintances, business associates, or other lawyers—and proper publicity may be helpful. [. A layman is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment. A lawyer should not compensate another person for recommending him, for influencing a prospective client to employ him, or to encourage future recommendations.] *Advertisements and public communications, whether in law lists, announcement cards, newspapers or other forms, should be formulated to convey only information that is necessary to make an appropriate selection. Self-laudation should be avoided. Information that may be helpful in some situations would include: (1) office information, e.g., name, including name of law firm and names of professional associates; addresses; telephone numbers; and office hours; (2) biographical data; and (3) description of the practice, e.g., one or more fields of law in which the lawyer or law firm concentrates; a statement that practice is limited to one or more*

*fields of law; and a statement that the lawyer or law firm specializes in a particular field of law practice but only if authorized by the rules of the authority having jurisdiction under state law over the subject of specialization.*

*The proper motivation for commercial publicity by lawyers lies in the need to inform the public of the availability of competent, independent legal counsel. The public benefit derived from advertising depends upon the usefulness of the information provided to the community or to the segment of the community to which it is directed. Advertising marked by excesses of content, volume, scope or frequency, or which unduly emphasizes unrepresentative biographical data, does not provide that public benefit. For example, undue prominence should not be given to a prior governmental position outside the context of biographical information. Similarly, the use of media whose scope or nature clearly suggests that the use is intended for self-laudation of the lawyer without concomitant benefit to the public does not serve the public need. Improper advertising may hinder informed selection of competent, independent counsel, and advertising involving excessive cost may unnecessarily increase fees for legal services.*

*EC 2-8A Advertisements and other public communications should make it apparent that the necessity and advisability of legal action depends on variant factors that must be evaluated individually. Fee information usually will be incomplete and misleading*

*to a lay person. Therefore, public communications should not attempt to give fee information beyond a statement of a standard consultation fee, a statement of a range of fees for specific types of legal services, and the availability of credit arrangements. Because of the individuality of each legal problem, public statements regarding average, minimum or estimated fees normally will be deceiving as will commercial publicity conveying information as to results previously achieved, general or average solutions, or expected outcomes. For example, it would be misleading to advertise a set fee for a divorce case without disclosing the fact that the particular lawyer will not accept employment by every potential client for that fee. Advertisements or public claims that convey an impression that the ingenuity of the lawyer rather than the justice of the claim is determinative are similarly improper. Statistical data based on past performance or prediction of future success is deceptive because it ignores important variables. The context of factual assertions and opinions should be clearly evident in all public communications. It is improper to claim or imply an ability to influence a court, tribunal, or other public body or official by other than competent representation of a just cause. Commercial publicity and public communications should indicate the seriousness of undertaking any legal action. Not only must commercial publicity be truthful but its accurate meaning must be apparent to the lay person with no legal background. Any*

*commercial publicity for which payment is made should so indicate.*

[Selection of a Lawyer: Professional Notices and Listings]

EC 2-9 The traditional *regulation* of [ban against] advertising by lawyers [, which is subject to certain limited exceptions,] is rooted in the public interest. Competitive advertising [would encourage] *through which a lawyer seeks business by use of extravagant, artful, self-laudatory [brashness] or brash statements or appeals to fears and emotions* could mislead and harm the lay[man] person. Furthermore, [it] *public communications that would [inevitably] produce unrealistic expectations in particular cases and bring about distrust of the law and lawyers would be harmful to society.* Thus, public confidence in our legal system would be impaired by such advertisements of professional services. The attorney-client relationship, *being [is] personal and unique, [and] should not be established as a result of pressures or [and] deceptions.* [History has demonstrated that confidence in the legal system is best preserved by strict, self-imposed controls over, rather than by unlimited, advertising.] *The necessity of affording the public access to information relevant to legal rights has resulted in some relaxation of the former restrictions against advertising by lawyers. Those restrictions have long been relaxed in regard to law lists, announcement cards and institutional advertising and in certain other respects. Historically, those re-*

*strictions were imposed to prevent deceptive publicity that would mislead lay persons, cause distrust of the law and lawyers, and undermine public confidence in the legal system, and all lawyers should remain vigilant to prevent such results. Only unambiguous information relevant to a layperson's decision regarding his legal rights or his selection of counsel is appropriate in public communications.*

EC 2-10 [Methods of advertising that are subject to the objections stated above should be and are prohibited. However, t]The Disciplinary Rules recognize the value of giving assistance in the selection process through forms of advertising that furnish identification of a lawyer while avoiding *falsity, deception, and misrepresentation. All publicity should be evaluated with regard to its effect on the layperson with no legal experience. The layperson is best served if advertisements only identify the lawyer and his location, indicate any limitation of practice, contain no misleading fee information or emotional appeals, and emphasize the necessity of an individualized evaluation of the situation before conclusions as to legal needs and probable expenses can be made. The attorney-client relationship must result from a free and informed choice by the lay person. Unwarranted promises of benefits, overpersuasion, or vexatious or harassing conduct are improper.* [such objections. For example, a lawyer may be identified in the classified section of the telephone directory, in the office building directory, and on his letterhead and profes-

sional card. But at all times the permitted notices should be dignified and accurate.]

EC 2-11 The name under which a lawyer conducts his practice may be a factor in the selection process. The use of a [trade name or an assumed] name *which* could mislead lay[men] *persons* concerning the identity, responsibility, and status of those practicing thereunder *is not proper*. [Accordingly, a lawyer in private practice should practice only under his own name, the name of a lawyer employing him, a partnership name composed of the name of one or more of the lawyers practicing in a partnership, or, if permitted by law, in the name of a professional legal corporation, which should be clearly designated as such.] For many years some law firms have used a firm name retaining one or more names of deceased or retired partners and such practice is not improper if the firm is a bona fide successor of a firm in which the deceased or retired person was a member, if the use of the name is authorized by law or by contract, and if the public is not misled thereby. However, the name of a partner who withdraws from a firm but continues to practice law should be omitted from the firm name in order to avoid misleading the public.

EC 2-12 \* \* \*

EC 2-13 \* \* \*

EC 2-14 In some instances a lawyer confines his practice to a particular field of law. In the absence

of state controls to insure the existence of special competence, a lawyer should not be permitted to hold himself out as a specialist or as having *official recognition as a specialist*, [special training or ability,] other than [in the historically excepted] *the* fields of admiralty, trademark, and patent law *where holding one's self out as a specialist historically has been permitted*. A lawyer may, however, publicly indicate a limitation of his practice or a concentration in one or more particular areas or fields of law if the public announcement clearly reflects that the lawyer has not been officially recognized or certified as a specialist.

EC 2-15 \* \* \*

DR 2-101 [Publicity in General] *Publicity and Advertising.*

- (A) A lawyer shall not, [prepare, cause to be prepared,] *on behalf of himself, his partner, or associate, or any other lawyer affiliated with him or his firm*, use[, ] or participate in the use of[, ] any form of public communication [that contains professionally self-laudatory statements calculated to attract lay clients;] *containing a false fraudulent, misleading, deceptive or unfair statement or claim*. A [as used herein,] “public communication” *as used herein* includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, *book, law list or legal directory*, [magazine, or book]
- (B) A [lawyer shall not publicize himself, or his partner, or associate, or any other lawyer affli-

ated with him or his firm, as a lawyer through newspaper or magazine advertisements, radio or television announcements, display advertisements in city or telephone directories, or other means of commercial publicity, nor shall he authorize or permit others to do so in his behalf. However, a lawyer recommended by, paid by or whose legal services are furnished by, a qualified legal assistance organization may authorize or permit or assist such organization to use means of dignified commercial publicity, which does not identify any lawyer by name, to describe the availability or nature of its legal services or legal service benefits. This rule does not prohibit limited and dignified identification of a lawyer as well as by name:

- (1) In political advertisements when his professional status is germane to the political campaign or to a political issue.
- (2) In public notices when the name and profession of a lawyer are required or authorized by law or are reasonably pertinent for a purpose other than the attraction of potential clients.
- (3) In routine reports and announcements of a bona fide business, civic, professional, or political organization in which he serves as a director or officer.
- (4) In and on legal documents prepared by him.
- (5) In and on legal textbooks, treatises, and other legal publications, and in dignified advertisements thereof.
- (6) In communications by a qualified legal assistance organization, along with the bio-

graphical information permitted under DR 2-102(A)(6), directed to a member or beneficiary of such organization.]

*false, fraudulent, misleading, deceptive or unfair statement or claim include a statement or claim which:*

- (1) contains a misrepresentation of fact;*
- (2) is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;*
- (3) contains a client's laudatory statements about a lawyer;*
- (4) is intended or is likely to create false or unjustified expectations of favorable results;*
- (5) implies unusual legal ability, other than as permitted by DR 2-105;*
- (6) relates to legal fees other than a standard consultation fee or a range of fees for specific types of services without fully disclosing all variables and other relevant factors;*
- (7) conveys the impression that the lawyer is in a position to influence improperly any court, tribunal, or other public body or official;*
- (8) is intended or likely to result in a legal action or a legal position being taken or asserted merely to harass or maliciously injure another;*
- (9) is intended or is likely to appeal primarily to a lay person's fears, greed, desires for revenge, or similar emotions;*
- (10) contains other representations or implications that in reasonable probability will*

81a

*cause an ordinary, prudent person to misunderstand or be deceived.*

- (C) A lawyer shall not compensate or give anything of value to [representatives] a *representative* of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity [in a news item] *unless the fact of compensation is made known in such publicity.*

DR 2-102. Professional Notices, Letterheads, Offices and Law Lists.

- (A) A lawyer or law firm [shall *may* not use a professional card[s], professional announcement card[s], office sign[s], letterhead[s], telephone directory listing[s], law list[s], legal directory listing[s], or a similar professional notice[s] or device[s], except that the following may be used if they are in dignified form:
- (1) A professional card of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, and any information permitted under DR-2-105. A professional card of a law firm may also give the names of members and associates. Such cards may be used for identification but may not be published in periodicals, magazines, newspapers, or other media.
  - (2) A brief professional announcement card stating new or changed associations or addresses, change of firm name, or similar matters pertaining to the professional office of a lawyer or law firm, which may be mailed to lawyers, clients, former clients,

personal friends, and relatives. It shall not state biographical data except to the extent reasonably necessary to identify the lawyer or to explain the change in his association, but it may state the immediate past position of the lawyer. It may give the names and dates of predecessor firms in a continuing line of succession. It shall not state the nature of the practice except as permitted under DR 2-105.

- (3) A sign on or near the door of the office and in the building directory identifying the law offices. The sign shall not state the nature of the practice, except as permitted under DR 2-105.
- (4) A letterhead of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, associates and any information permitted under DR 2-105. A letterhead of a law firm may also give the names of members and associates, and names and dates relating to deceased and retired members. A lawyer may be designated "Of Counsel" on a letterhead if he has a continuing relationship with a lawyer or law firm, other than as a partner or associate. A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if he or the firm devotes a substantial amount of professional time in the representation of that client. The letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

- (5) A listing of the office of a lawyer or law firm in the alphabetical and classified sections of the telephone directory or directories for the geographical area or areas in which the lawyer resides or maintains offices or in which a significant part of his clientele resides and in the city directory of the city in which his or the firm's office is located; but the listing may give only the name of the lawyer or law firm, the fact that he is a lawyer, addresses and telephone numbers. The listing shall not be in distinctive form or type. A law firm may have a listing in the firm name separate from that of its members and associates. The listing in the classified section shall not be under a heading or classification other than "Attorneys" or "Lawyers," except that additional headings or classifications descriptive of the types of practice referred to in DR 2-105 are permitted.
- (6) A listing in a reputable law list or legal directory brief biographical and other informative data. A law list or directory is not reputable if its management or contents are likely to be misleading or injurious to the public or to the profession. A law list is conclusively established to be reputable if it is certified by the American Bar Association as being in compliance with its rules and standards. The published data may include only the following: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the law-

yer or law firm concentrates; a statement that practice is limited to one or more fields of law; a statement that the lawyer or law firm specializes in a particular field of law or law practice but only if authorized under DR 2-105(A)(4); date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public or quasi-public offices; military service; posts of honor; legal authorships; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; memberships and offices in legal fraternities and legal societies; technical and professional licenses; memberships in scientific, technical and professional associations and societies; foreign language ability; names and addresses of references, and, with their consent, names of clients regularly represented.] *if it includes a statement or claim that is false, fraudulent, misleading, deceptive or unfair within the meaning of DR 2-101(B).*

- (B) A lawyer [in private practice] shall not practice under [a trade name,] a name that is misleading as to the identity, *responsibility or status of those* [of the lawyer or lawyers] practicing *thereunder, or is otherwise false, fraudulent, misleading, deceptive or unfair within the meaning of DR 2-101(B), or is contrary to law.* [under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that] *However, the name of*

a professional corporation or professional association may contain "P.C." or "P.A." or similar symbols indicating the nature of the organization, and 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. A lawyer who assumes a judicial, legislative, or public executive or administrative post or office shall not permit his name to remain in the name of a law firm or to be used in professional notices of *or public communication by* the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm, and during such period other members of the firm shall not use his name in the firm name or in professional notices of *or public communications by* the firm.

- (C) A lawyer shall not hold himself out as having a partnership with one or more other lawyers unless they are in fact partners.
- (D) A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listing make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.
- [(E) A lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on his letterhead, office sign or

professional card, nor shall he identify himself as a lawyer in any publication in connection with his other profession or business.]

[(F)](E) Nothing contained herein shall prohibit a lawyer from using or permitting the use of, in connection with his name, an earned degree or title derived therefrom indicating his training in law.

DR 2-103. Recommendation or *Solicitation* of Professional Employment.

(A) A lawyer shall not recommend employment[,]  
*or assist another person in recommending employment,* as a private practitioner, of himself, his partner, or associate to a non-lawyer who has not sought his advice regarding employment of a lawyer[.] *except that if success in asserting rights of defenses of his clients in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept employment from those he is permitted under applicable law to contact for the purpose of obtaining their joinder.*

[(C)] A lawyer shall not request a person or organization to recommend or promote the use of his services or those of his partner or associate, or any other lawyer affiliated with him or his firm, as a private practitioner, except that

- (1) He may request referrals from a lawyer referral service operated, sponsored, or approved by a bar association and may pay its fees incident thereto.
- (2) He may cooperate with the legal service activities of any of the offices or organizations enumerated in DR 2-103(D)(1)

87a

through (4) and may perform legal services for those to whom he was recommended by it to do such work if:

- (a) The person to whom the recommendation is made is a member or beneficiary of such office or organization; and
- (b) The lawyer remains free to exercise his independent professional judgment on behalf of his client.]

[(D)](B) A lawyer shall not knowingly assist [a person or] *an* organization that furnished or pays for legal services to others to promote the use of his services or those of his partner, or associate, or any other lawyer affiliated with him or his firm, [except as permitted in DR-2-101 (B)]. However, this does not prohibit a lawyer or his partner or associate or any other lawyer affiliated with him or his firm from being recommended, employed or paid by, or cooperating with, one of the following offices or organizations that promote the use of his services or those of his partner or associate or any other lawyer affiliated with him or his firm if there is no interference with the exercise of independent professional judgment in behalf of his client:

- (1) A legal aid office or public defender office:
  - (a) Operated or sponsored by a duly accredited law school.
  - (b) Operated or sponsored by a bona fide non-profit community organization.
  - (c) Operated or sponsored by a governmental agency.
  - (d) Operated, sponsored, or approved by a bar association.

- (2) A military legal assistance office.
- (3) A lawyer referral service operated, sponsored, or approved by a bar association.
- (4) Any bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:
  - (a) Such organization, including any affiliate, is so organized and operated that no profit is derived by it from the rendition of legal services by lawyers, and that, if the organization is organized for profit, the legal services are not rendered by lawyers employed, directed, supervised or selected by it except in connection with matters where such organization bears ultimate liability of its member or beneficiary.
  - (b) Neither the lawyer, nor his partner, nor associate, nor any other lawyer affiliated with him or his firm, nor any non-lawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate or affiliated lawyer.
  - (c) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.
  - (d) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

- (e) Any member or beneficiary who is entitled to have legal services furnished or paid for by the organization may, if such member or beneficiary so desires, select counsel other than that furnished, selected or approved by the organization for the particular matter involved; and the legal services plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved would be unethical, improper or inadequate under the circumstances of the matter involved and the plan provides an appropriate procedure for seeking such relief.
- (f) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court and other legal requirements that govern its legal service operations.
- (g) Such organization has filed with the appropriate disciplinary authority at least annually a report with respect to its legal service plan, if any, showing its terms, its schedule of benefits, its subscription charges, agreements with counsel, and financial results of its legal service activities or, if it has failed to do so, the lawyer does not know or have cause to know of such failure.]

*as a private practitioner, if:*

- (1) *the promotional activity involves use of a statement or claim that is false, fraudulent, misleading, deceptive or unfair within the meaning of DR 2-101(B); or*
- (2) *the promotional activity involves the use of coercion, duress, compulsion, intimidation, threats, unwarranted promises of benefits, overpersuasion, overreaching, or vexatious or harassing conduct.*

[(B)] (C) A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client, except that he may pay for *publicity and advertising permitted by DR 2-101* and the usual and reasonable fees or dues charged by [any of the organizations listed in DR 2-103 (D).] *a lawyer referral service operated, sponsored, or approved by a bar association.*

[(E)] (D) A lawyer shall not accept employment when he knows or it is obvious that the person who seeks his services does so as a result of conduct prohibited under this Disciplinary Rule.

DR 2-104 Suggestion of Need of Legal Services.

(A) A lawyer who has given unsolicited advice to a lay[man] *person* that he should obtain counsel or take legal action shall not accept employment resulting from that advice [, except that:

- (1) A lawyer may accept employment by a close friend, relative, former client (if the advice is germane to the former employment), or one whom the lawyer reasonably believes to be a client.

- (2) A lawyer may accept employment that results from his participation in activities designed to educate laymen to recognize legal problems, to make intelligent selection of counsel, or to utilize available legal services if such activities are conducted or sponsored by a qualified legal assistance organization.
- (3) A lawyer who is recommended, furnished or paid by a qualified legal assistance organization enumerated in DR 2-103 (D) (1) through (4) may represent a member or beneficiary thereof, to the extent and under the conditions prescribed therein.
- (4) Without affecting his right to accept employment, a lawyer may speak publicly or write for publication on legal topics so long as he does not emphasize his own professional experience or reputation and does not undertake to give individual advice.
- (5) If success in asserting rights or defenses of his clients in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept, but shall not seek, employment from those contacted for the purpose of obtaining their joinder.]

*if:*

- (1) *The advice embodies or implies a statement or claim that is false, fraudulent, misleading, deceptive or unfair within the meaning of DR 2-101 (B); or*
- (2) *The advice involves the use by the lawyer of coercion, duress, compulsion, intimidation, threats, unwarranted promises of bene-*

*fits, overpersuasion, overreaching, or vexatious or harrassing conduct.*

DR 2-105. Limitation of Practice.

- (A) A lawyer shall not hold himself publicly as, [a specialist or as limiting his practice, except as permitted under DR 2-102 (A) (6)] or *imply that he is, a recognized or certified specialist, except as follows:*
  - (1) A lawyer admitted to practice before the United States Patent Office may use the designation "Patents," "Patent Attorney," or "Patent Lawyer," or any combination of those terms, on his letterhead and office sign. A lawyer engaged in the trademark practice may use the designation "Trademarks," "Trademarks Attorney," or "Trademark Lawyer," or any combination of those terms, on his letter head and office sign, and a lawyer engaged in the admiralty practice may use the designation "Admiralty," "Proctor in Admiralty," or "Admiralty Lawyer," or any combination of those terms, on his letterhead and office sign.
  - [(2) A lawyer may permit his name to be listed in lawyer referral service offices according to the fields of law in which he will accept referrals.
  - (3) A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of spe-

cial competence or experience. The announcement shall not be distributed to lawyers more frequently than one in a calendar year, but it may be published periodically in legal journals.]

[(4)] (2) A lawyer who is certified as a specialist in a particular field of law or law practice by the authority having jurisdiction under state law over the subject of specialization by lawyers may hold himself out as such specialist but only in accordance with the rules prescribed by that authority.

(B) *A statement, announcement, or holding out as limiting practice to a particular area or field of law or as concentrating practice to one or more particular areas or fields of law does not constitute a violation of DR 2-105 (A) if the statement, announcement or holding out does not include a statement or claim that is false, misleading, deceptive or unfair within the meaning of DR 2-101 (B).*

\* \* \* \*

### Definitions

As used in the Disciplinary Rules of the Code of Professional Responsibility:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (4) \* \* \*
- (5) \* \* \*
- (6) \* \* \*

(7) "A Bar association" includes a bar association of specialists as referred to in DR 2-105 (A) (1) or [(4)] (2).

(8) "Qualified legal assistance organization" means [an office or organization of one of the four types listed in DR 2-103(D) (1)-(4), inclusive] *a legal aid, public defender, or military assistance office; a lawyer referral service; or a bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries, provided the office, service or organization receives no profit from the rendition of legal services, is not designed to procure financial benefit or legal work for a lawyer as a private practitioner, does not infringe the individual member's freedom as a client to challenge the approved counsel or to select outside counsel at client's expense, is not in violation of any applicable law, and has filed with the appropriate disciplinary authority at least annually a report with respect to its legal service plan. [that meets all the requirements thereof.]*

APPENDIX D

[SEAL] NEWS RELEASE

THE STATE BAR OF CALIFORNIA

FOR IMMEDIATE RELEASE

September 20, 1976

FRESNO—Ralph J. Gampell, President-elect of the State Bar, told the Bar's Conference of Delegates today that proposed changes in Rules of Professional Conduct for lawyers would benefit the public by providing more useful information about what attorneys do.

He said a program the Bar's Board of Governors has recommended for adoption by the California Supreme Court is a carefully balanced proposal easing limitations on lawyer advertising which would better enable people to select attorneys to meet their needs. At the same time, he said, it would retain safeguards against false and misleading statements and abusive solicitation practices.

Gampell spoke in response to a request from the Conference yesterday that the Board withdraw its proposal for further modification.

Gampell pointed out that the Supreme Court must exercise its own independent judgment on the rule changes and he invited delegates, their local bars and any interested groups of individual to file their positions with the Court.

The new rules were adopted by the Bar's Board of Governors at their August meeting by a 12-3 vote.

Persons commenting upon or objecting to the specific rules proposed by the Board may file petitions and briefs in the Supreme Court in accordance with rule 952, subd. (c) of the California Rules of Court.

(Filed by the Clerk of the Court as *In the Matter of the Proposed Repeal of Rule 2-106, Rules of Professional Conduct* under Bar Misc. No. 3922.)

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On August 26, 1976, subject to the approval of the Supreme Court of California, the Board of Governors repealed Rule 2-106 and adopted Rules 2-101, 2-102, 2-103 and 2-104, Rules of Professional Conduct, in the following form:

**Rule 2-101 General Prohibitions Against Solicitation of Professional Employment.**

(A) A member of the State Bar shall not solicit professional employment. By way of example but without limiting the prohibition:

(1) A member of the State Bar shall not solicit professional employment in or about any prison or jail or other place of detention of persons, or the scene of any accident, or any hospital or sanitarium or other place of health care, or any court, or any public institution, or any public place, or any public street or highway, or any private institution or property of any character whatsoever, either personally or by use of any other person, firm, association, partnership, corporation or other entity or instrumentality acting on the member's behalf in any manner or in any capacity whatsoever.

97a

(2) A member of the State Bar shall not solicit professional employment by compensating or giving or promising anything of value to a person or entity for the purpose of recommending or securing the member's employment by a client, or as a reward for having made a recommendation resulting in the member's employment by a client.

(3) A member of the State Bar shall not solicit professional employment by compensating or giving or promising anything of value to any representative of the press, radio, television or other communication medium in anticipation of or in return for publicity of the member or any other attorney.

(4) A member of the State Bar shall not solicit professional employment by recommending employment of the member or the member's partner or associate to a non-lawyer who has not sought the member's advice regarding employment of a member of the State Bar.

(5) A member of the State Bar shall not solicit professional employment by advertisement or other means of commercial publicity nor shall the member authorize or permit others to do so in the member's behalf.

(B) A member of the State Bar shall not accept employment when the member knows or should know that the person who seeks the member's services does so as a result of conduct prohibited under (A) of this rule.

(C) This rule does not prohibit the following identification of a member of the State Bar as such as

well as by name and other reasonably pertinent data so long as such identification is not primarily directed to soliciting professional employment:

- (1) In political advertisements;
- (2) In public communications when the name and profession of a member of the State Bar are required or authorized by law or are reasonably pertinent for a purpose other than for the solicitation of potential clients;
- (3) In or on legal documents prepared by the member of the State Bar;
- (4) In routine reports and announcements of a bona fide business, civic, professional or political organization in which the member serves as a director or officer or other official capacity; and
- (5) In or on articles, books, treatises, pamphlets, brochures or other such publications and in advertisements thereof.

Rule 2-102. Public Information Communications.

(A) A member of the State Bar may participate in the publication of any of the information about the member or the member's firm specified in (B) (3) of this rule in any of the following:

- (1) Law lists and legal directories approved by the Board of Governors pursuant to the following criteria:
  - (a) The information published therein is substantially in the form and language specified in (B) (3) of this rule.
  - (b) Each such law list or legal directory is a separate collation which includes a rea-

sonable number of attorneys (from different sole law practices, law partnerships, professional associations of attorneys practicing law together or law corporations), considering the size of the legal community and the field or fields of law involved, listed together under the title "Attorneys" or "Lawyers" and under such additional subclassifications (including, but not limited to, geographical areas in which members reside or maintain offices or regularly practice, fields of law or certified specialists) as are not likely to be misleading or injurious to the public or the profession.

(c) Preferential prominence is not given to any member listed therein, by different size or character of type, underscoring or any other method used for emphasis or to attract attention.

(d) The information itself and the manner in which the information is presented or distributed (i) are not false, fraudulent, misleading, deceptive or unfair, (ii) are not likely to mislead or deceive, whether because in context they make only a partial disclosure of variables and relevant facts, or for other reasons, (iii) do not contain laudatory statements about the member or the member's firm, (iv) are not intended or likely to create false or unjustified expectations of favorable results, (v) do not convey the impression that the member or the member's firm is in a position to influence improperly any court, tribunal or other pub-

lic body or official, (vi) are not intended or likely to encourage a legal action or position being taken or asserted primarily to harass or maliciously injure another, (vii) are not intended or likely to appeal primarily to a person's fears, greed, desires for revenge or similar emotions, (viii) do not contain representations or implications that are likely to deceive or to cause misunderstanding, and (ix) are not for the primary purpose of obtaining professional employment of a particular member or member's firm for a specific matter or transaction.

(e) The law list or legal directory is published no more frequently than once quarterly.

(f) The law list or legal directory contains such explanatory information as the Board of Governors may prescribe from time to time for the protection of persons to whom the communications are addressed.

(g) The law list or legal directory clearly specifies for what period of time the information contained therein will be in effect.

(h) Law lists or legal directories may be published or distributed by commercial publishers of law lists or legal directories; bar associations; newspaper publishers; publishers of telephone directories; service clubs; charitable organizations; consumer organizations; labor unions; business, professional or trade associations; and entities enumerated in Rule 2-104, provided the person or entity publishing the law list or legal directory files with the State Bar a certifi-

101a

cation that it will not arbitrarily, capriciously or unreasonably exclude any member of the State Bar from its law list or legal directory.

A member shall not participate in the publication of information about the member or the member's firm in any law list or legal directory which the member knows or should know does not comply with the requirements of this rule and has not been approved by the Board of Governors or has been subsequently disapproved by the Board of Governors. Applications for approval of law lists and legal directories shall be made on such forms and pursuant to such rules as adopted and as from time to time amended by the Board of Governors.

(2) Classified sections of the telephone directory or directories for the geographical area or areas in which the member of the State Bar resides or maintains offices or regularly practices law, provided:

(a) All listings of members and members' firms therein are in a separate collation listed together under the title "Attorneys" or "Lawyers" and, if under sub-classifications, are only arranged according to fields of law in which the member or the member's firm concentrates, primarily engages, or will accept cases, or in which the member is a certified specialist.

(b) The information permitted in (B) (3) of this rule is presented in substantially the form and language set forth therein.

102a

(c) Introductory paragraphs or footnotes include such explanatory information as the Board of Governors may prescribe from time to time for the protection of persons to whom the communications are addressed.

(d) The presentation of the information does not violate the provisions of (1) (c) or (d) of (A) of this rule.

(3) Law lists or legal directories published periodically by the State Bar.

As used herein, "fields of law" include, but is not limited to, administrative agency law, admiralty or maritime law, antitrust law, (field(s) of) appellate practice, bankruptcy law, business law, (field(s) of) civil practice, civil rights law, condemnation law, contract law, copyright law, corporation and partnership law, creditor's rights law, criminal law, debtor's rights law, education law, employment law, entertainment law, environmental law, estate planning, family law, general practice, immigration and naturalization law, juvenile law, labor law, landlord and tenant law, (field(s) of) malpractice law, patent law, pension and profit sharing law, personal injury law, probate law, real estate law, senior citizens law, social security law, taxation law, trademark law, (field(s) of) trial practice, trust law, unemployment insurance law, veterans law, welfare law, worker's compensation law, zoning law.

(B) A member of the State Bar may participate in the publication of any of the information about the

103a

member or the member's firm specified in paragraph (3) of this subdivision to the extent permitted in (A) of this rule and in Rules 2-103 and 2-104, provided:

(1) Both the information itself and the manner in which the information is presented or distributed (a) are not false, fraudulent, misleading, deceptive or unfair, (b) are not likely to mislead or deceive, whether because in context they make only a partial disclosure of variables and relevant facts, or for other reasons, (c) do not contain laudatory statements about the member or the member's firm, (d) are not intended or likely to create false or unjustified expectations of favorable results, (e) do not convey the impression that the member or the member's firm is in a position to influence improperly any court, tribunal or other public body or official, (f) are not intended or likely to encourage a legal action or position being taken or asserted primarily to harass or maliciously injury another, (g) are not intended or likely to appeal primarily to a person's fears, greed, desires for revenge or similar emotions, (h) do not contain representations or implications that are likely to deceive or to cause misunderstanding, and (i) are not for the primary purpose of obtaining professional employment of a particular member or member's firm for a specific matter or transaction.

(2) Only members who hold a current certificate as a specialist issued by the California Board of Legal Specialization pursuant to a plan for specialization approved by the Board of Gov-

ernors may use the terms “certified specialist”, “specialist”, “speciality”, “specializes” or “specializing” in describing themselves or the nature of their practice; and only members who are registered to practice in patent matters before the United States Patent and Trademark Office may use the words “patent” or “patents” in describing themselves or the nature of their practice.

(3) Such information is presented in substantially the following form and language:

(a) Name of the member of the State Bar;

*Form:* “[name of member]”

(b) Name under which the member practices, which may be accompanied by a statement clarifying that the practice is (i) a sole practice, (ii) a law partnership, (iii) an association of attorneys or (iv) a public interest law firm which has been ruled exempt from federal income tax under the Internal Revenue Code; provided that if the name under which the member practices is a law corporation, the statement clarifying that the practice is a law corporation shall be given and shall comply with the provisions of section 6164 of the Business and Professions Code;

*Form:* “[name of member’s firm, e.g. ‘Legal Clinic of Doe and Roe’, ‘Doe and Roe, Lawyers’], [‘a sole practitioner’ or ‘a law partnership’ or ‘an association of attorneys’ or ‘a law corporation’ or ‘public interest law firm’]”

105a

(c) The name(s) of predecessor law firm(s) in a continuing line of succession;

*Form:* “formerly: [name(s) of predecessor law firm(s) listed in reverse chronological order]”

(d) Address(es) and telephone number(s) of the office(s) maintained by the member or the member’s firm for the practice of law;

*Form:* “[address(es)], [telephone number(s)]”

(e) Office hours regularly maintained by the member or the member’s firm for the practice of law, and a statement that the member is available to meet with clients or potential clients at times other than the specified office hours;

*Form:* “office hours: [days and hours regularly maintained], [and/or ‘by appointment’] [telephone answered:] [days and hours regularly answered or ‘24 hours’]”

(f) A statement that the member is (or is not) willing to meet with potential clients at locations other than the member’s office(s);

*Form:* “interviews [‘not’] limited to office(s)”

(g) Language(s) other than English spoken fluently by the member;

*Form:* “fluent in: [name(s) of language(s)]”

(h) Language(s) other than English for which the member or the member's firm provides interpreter(s), and a statement whether such interpreter(s) are provided without charge;

*Form:* "[‘free’] [name(s) of language(s)] interpreter(s) provided"

(i) Cost of an initial interview for a specified period of time, or a statement that such interview for a specified period of time is without charge;

*Form:* "initial interview: [‘1/2 hour’ or ‘1 hour’ or other specified period of time], [dollar amount or ‘free’]"

(j) A statement that the member or the member's firm does (or does not) provide a written fee schedule, and if such fee schedule is provided a statement whether such fee schedule is provided without charge;

*Form:* "[‘free’] written fee schedule available"

(k) A statement that the member or the member's firm is (or is not) willing to provide written fee estimates for specific services prior to providing such services, and if such fee estimates are provided a statement whether such fee estimates are provided without charge;

*Form:* "[‘free’] written fee estimates given"

(l) Field(s) of law practiced by the member or the member's firm in which fees are set by statute;

*Form:* "[field(s) of law] fees set by statute"

(m) Hourly fee(s) or range of hourly fee(s) charged by the member or the member's firm, *together with* all of the variables and other relevant factors that could affect the amount(s) of the stated fee(s);

*Form:* ["hourly fee(s), together with all variables and relevant factors]: [dollar amount(s)]"

(n) Fee(s) or range(s) of fee(s) charged by the member or the member's firm for specific types of services, *together with* all of the variables and other relevant factors that could affect the amounts of the stated fee(s);

*Form:* "[type(s) of service(s), together with all variables and relevant factors]: [dollar amount(s)]"

(o) Type(s) of case(s) that the member or the member's firm is willing to accept on a contingency fee basis, *together with* the terms of a typical contingency fee contract (including, without limitation, how both investigation costs and litigation costs are computed and paid) *and* all of the variables and other relevant factors that could affect the stated terms;

*Form:* “contingency fee case(s): [type(s) of case(s)], [terms of contingency fee contract(s), together with all variables and relevant factors]”

(p) Name(s) of credit card(s) accepted by the member or the member’s firm in payment of fees (or a statement that credit cards are not accepted);

*Form:* “[name(s) of credit card(s)] accepted”

(q) A statement that the member or the member’s firm regularly accepts (or does not regularly accept) installment payments of fees on mutually satisfactory terms;

*Form:* “installment payments accepted on mutually satisfactory terms”

(r) A statement that the member or the member’s firm is (or is not) willing to submit any fee dispute(s) to arbitration, and if so willing a statement that such arbitration is or is not binding;

*Form:* “fee disputes submitted to [binding] arbitration”

(s) A statement that the member holds current certificate(s) as a specialist issued by the California Board of Legal Specialization pursuant to a plan for specialization approved by the Board of Governors;

*Form:* “certified specialist in [field(s) of law]”

(t) A statement that the member is registered to practice in patent matters before the United States Patent and Trademark Office;

*Form:* “patents” or “patent law” or “registered to practice in patent matters”

(u) Field(s) of law to which the member and/or member’s firm limits the member’s and/or firm practice;

*Form:* “[‘lawyer’s’] [‘firm’s’] practice limited to: [field(s) of law]”

(v) One or more fields of law in which the member or the member’s firm concentrates or primarily engages (not to exceed (i) in the case of a member, three, and (ii) in the case of a firm, three per member or ten, whichever is less);

*Form:* “[‘lawyer’ or ‘firm’] [‘concentrates in:’ or ‘primarily engages in:’] [field(s) of law]”

(w) One or more fields of law in which the member or the member’s firm accepts cases, *together with* the information set forth in (v) above;

*Form:* “[‘lawyer’ or ‘firm’] [‘concentrates in:’ or ‘primarily engages in:’] [field(s) of law] and accepts cases in: [field(s) of law]”

(x) A statement that the member or the member’s firm is interested in providing professional services under group legal services

plan(s) which the member or the member's firm does not actually serve;

*Form:* "interested in serving group plans"

(y) A statement that the member or the member's firm is interested in providing professional services under prepaid legal services plan(s) which the member or the member's firm does not actually serve;

*Form:* "interested in serving prepaid plans"

(z) One or more fields of law in which the member and/or the member's firm will not accept cases;

*Form:* "[ 'lawyer' ] [ 'firm' ] will *not* accept cases in: [ field(s) of law ]"

(aa) Number of active members of the State Bar (including the member), who are associated with the member or the member's firm in the practice of law on a substantially full-time basis;

*Form:* "number of California lawyers: [ whole number ]"

(bb) Name(s) of (i) active member(s) of the State Bar who are, (ii) deceased member(s) of the State Bar who have been and (iii) with their consent, living member(s) of the State Bar who have been, associated with the member or the member's firm in the practice of law, and a statement with regard to each, that he or she is or was (i) a full-time partner, (ii) a full-time associate or (iii) has a continuing relationship with the member or the member's

111a

firm other than as a full-time partner or a full-time associate (“of counsel”), *together with* the pertinent dates with regard to any such member who is not currently associated with the member or the member’s firm in the practice of law;

*Form:* “[‘partner(s):’] [name(s) and, if applicable, dates of former association in years];

[‘associate(s):’] [name(s) and, if applicable, dates of former association in years];

[‘of counsel:’] [name(s) and, if applicable, dates of former association in years]”

(cc) Date and place of the member’s birth;

*Form:* “born: [date, place]”

(dd) State(s) and federal court(s) in which the member is entitled to practice law, *together with* the date(s) of admission to such practice;

*Form:* “admitted to practice in: [state, year]; [state, year]; [name of federal court, year]; [name of federal court, year]; [etc.]”

(ee) Name(s) of other professional license(s) currently or formerly held by the member, *together with* the state(s) issuing the license(s) and the pertinent dates;

*Form:* “other license(s): [official title or abbreviation of license(s) *currently* held], [state(s) of issuance], [first year of member’s continuous holding of the license(s)]

‘—present’; [official title or abbreviation of license(s) *formerly* held], [state(s) of issuance], [dates in years that license(s) were held]”

(ff) Name(s) of school(s) from which the member has graduated, and with regard to each such school, a statement describing the nature of the school, the date the member graduated, the degree(s) the member received and any scholastic distinction(s) the member received;

*Form:* “[‘college’ or ‘law school’ or ‘engineering school’ or other appropriate description of the nature of the school attended by the member]: [name of school; year of graduation, degree(s) received, official name or abbreviation of scholastic distinction(s) received]”

(gg) Official title(s) of public or quasi-public office(s) or post(s) of honor currently or formerly held by the member, *together with* the pertinent dates;

*Form:* “[official title or abbreviation of office(s) or post(s) of honor *currently* held], [year member’s current term began] ‘—present’; [official title or abbreviation of office(s) or post(s) of honor *formerly* held], [dates in years that office or post was held]”

(hh) Name(s) of the branch(es) of the armed forces of the United States in which the member served, and the pertinent dates of such service;

113a

*Form:* “[name(s) of branch(es)], [dates of service in years]”

(ii) Publication(s) authored by the member;

*Form:* “author: [title of work authored, title of publication, date of publication]”

(jj) Teaching position(s) currently or formerly held by the member, *together with* the pertinent dates;

*Form:* “[official title or abbreviation of position *currently* held], [name of school], [first year of member’s continuous service in position] ‘—present’; [official title or abbreviation of position *formerly* held], [name of school], [dates in years that position was held]”

(kk) Name(s) of organization(s) or component(s) thereof to which the member belongs or belonged, and the pertinent dates of such membership;

*Form:* “member: [official name(s) or abbreviation(s) of organization(s) to which the member *currently* belongs], [first year of member’s continuous membership therein] ‘—present’; [official name(s) or abbreviation(s) of component(s) of organization(s) to which the member *currently* belongs], [first year of member’s continuous membership therein] ‘—present’; [official name(s) or abbreviation(s) of organization(s) to which the member *formerly* belonged], [dates of membership in years];

114a

[official name(s) or abbreviation(s) of component(s) of organization(s) to which the member *formerly* belonged], [dates of membership in years]”

(11) Name(s) of position(s) of responsibility currently or formerly held by the member in organization(s), *together with* the pertinent dates;

*Form:* “[official name(s) or abbreviation(s) of position(s) *currently* held] [first year of member’s continuous service in position(s)] ‘—present’; [official name(s) or abbreviation(s) of position(s) *formerly* held], [dates in years that position was held]”

(C) In addition to the conduct permitted by this rule, members of the State Bar and law firms may continue to be listed in a telephone directory, community directory or guide, law list or legal directory, or in a membership roster, membership register, membership directory or other membership list of a service club, charitable organization, fraternity, school alumni association or business, professional or trade association to which the member belongs, in the manner previously permitted by Rules 2-103(A) (5), (6) and (7) and 2-106(4) of the Rules of Professional Conduct extant immediately prior to effective date of this rule.

Rule 2-103. Professional Announcements, Door and Office Signs, Professional Cards, Letterheads and Trade Names.

Only to the extent permitted in this rule:

(A) A member of the State Bar available to act as a consultant to or as an associate of other members of the State Bar may distribute to other members of the State Bar and publish in legal journals circulated or distributed primarily to members of the State Bar or lawyers licensed in other jurisdictions an announcement in modest and dignified form of such availability setting forth any of the information permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

(B) A member of the State Bar or a member's law firm may mail to lawyers, clients, former clients, personal friends and relatives a brief professional announcement card in modest and dignified form stating new or changed associations or addresses, change of firm name, or similar matters, pertaining to the professional office of the member or of the member's firm and any of the information permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein. The announcement may be distributed only once for any new or changed association or address, change of firm name, or similar matters.

(C) A member of the State Bar or a member's law firm may have a sign in modest and dignified form on or near the door of the member's or firm's law office and in the building directory identifying the law office. The sign may state the nature of the practice only to the extent permitted under Rule 2-102(B)(3)(s), (t), (u) or (v) in substantially the form and language set forth therein.

(D) A member of the State Bar or a member's law firm may use a professional card in modest and dignified form and only for the purpose of identification. The professional card of a member may identify the member by name as a lawyer and give the member's address(es), telephone number(s) and give the name of the member's law firm in substantially the form and language set forth in Rule 2-102(B)(3)(b). The professional card of a law firm may give its name in substantially the form and language set forth in Rule 2-102(B)(3)(b) and may also give the names of members and associates. The card may state the nature of the practice only to the extent permitted under Rule 2-102(B)(3)(s), (t), (u) or (v) in substantially the form and language set forth therein.

(E) A member of the State Bar or a member's law firm may use stationery with a professional letterhead in modest and dignified form. The letterhead of a member may identify the member by name and as a lawyer and give the member's address(es), telephone number(s), the name of the member's law firm in substantially the form and language set forth in Rule 2-102(B)(3)(b) and the names of members and associates thereof. A letterhead of a law firm may give its name in substantially the form and language set forth in Rule 2-102(B)(3)(b) and may also give the names of members and associates, names and dates relating to deceased and retired members, and the names and dates of predecessor firms in a continuing line of succession. A member

of the State Bar may be designated "of counsel" on a letterhead if the member has a continuing relationship with a lawyer or law firm other than as a full-time partner or associate. The letterhead may state the nature of the practice only to the extent permitted under Rule 2-102(B)(3)(s), (t), (u) or (v) in substantially the form and language set forth therein.

(F) A member of the State Bar who is engaged both in the practice of law and another profession or business shall not so indicate on his or her office sign, professional card or letter head, nor shall the member identify himself or herself as a member of the State Bar in connection with the member's other profession or business.

(G) A member of the State Bar or a member's law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if the member or the firm devotes a substantial amount of professional time in the representation of that client, provided the member of the State Bar uses such letterhead only for correspondence relating to the professional representation of the client the member represents as general counsel unless the member performs no legal services for anyone other than the client the member represents as general counsel.

(H) A member of the State Bar or a member's law firm may practice under a fictitious name, provided that such name (1) includes the member's name or the name(s) of other member(s) of the

State Bar who are associated with the member or the member's firm in the practice of law or the name(s) of deceased or retired member(s) of the firm or of a predecessor firm in a continuing line of succession or the name of a partnership within the meaning of (1) of this rule or, in the case of a law corporation, complies with the provisions of section 6164 of the Business and Professions Code, (2) is not false, fraudulent, misleading, deceptive or unfair, (3) is not likely to mislead or deceive, (4) does not contain laudatory statements about the member or the member's firm, (5) is not intended or likely to create false or unjustified expectations of favorable results, (6) does not convey the impression that the member or the member's firm is in a position to influence improperly any court, tribunal or other public body or official, (7) is not intended or likely to result in a legal action or position being taken or asserted primarily to harass or maliciously injure another, (8) is not intended or likely to appeal primarily to a person's fears, greed, desires for revenge or similar emotions, and (9) does not contain representations or implications that are likely to deceive or to cause misunderstanding.

(I) A partnership may be formed or continued between or among lawyers licensed in different jurisdictions, provided all enumerations of the members and associates of the firm make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions, and further provided that (1) each per-

son occupying each office of the firm located in California who shall hold himself or herself out as a member or associate of such firm shall be an active member of the State Bar and (2) each person holding himself or herself out as a member of the firm shall be a bona fide partner in such firm, with a bona fide share in the profits, liabilities and professional responsibilities thereof and (3) at least one person occupying each office of the firm located in California shall be such a bona fide partner and an active member of the State Bar.

Rule 2-104. Public, Group and Prepaid Legal Service Programs.

(A) The participation of a member of the State Bar in a legal aid plan or program for the furnishing of services to indigents or pursuant to the plan or program or a non-profit organization formed for charitable or other public purposes which furnishes legal services to persons only in respect to their civic or political or constitutional rights and not otherwise in furtherance of such charitable or other public purposes of such organization, and the publicizing of such plans or programs are not, of themselves, violations of these Rules of Professional Conduct provided the name of such member of the State Bar is not publicized. Nothing in this rule shall prohibit a representative of such a plan or programs from stating in response to inquiries as to the identity of such member of the State Bar any of the information con-

cerning the member permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

(B) The participation of a member of the State Bar in a lawyer referral service established, sponsored, supervised and operated in conformity with the Minimum Standards for a Lawyer Referral Service in California, as adopted and as from time to time amended by the Board of Governors is not, of itself, a violation of these Rules of Professional Conduct provided the name of such member of the State Bar is not publicized. Nothing in this rule shall prohibit a representative of such lawyer referral service from identifying a member of the State Bar who is participating in that service, and stating any of the information concerning the member permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein, in connection with the making of a requested referral in conformity with the said Minimum Standards. A member of the State Bar may permit his or her name to be listed in lawyer referral service offices according to the fields of law in which the member will accept referrals and in such manner as is proper under the standards which the Board of Governors may from time to time promulgate.

(C) The furnishing of legal services by a member of the State Bar pursuant to an arrangement for the provision of such services to the individual member of a group, as herein defined, at the request of such

group, is not of itself in violation of these Rules of Professional Conduct if the arrangement:

- (1) permits any member of the group to obtain legal services independently of the arrangement from any attorney of his or her choice,
- (2) is so administered and operated as to prevent

- (a) such group, its agents or any member thereof from interfering with or controlling the performance of the duties of such member of the State Bar to the member's client.

- (b) such group, its agents or any member thereof from directly or indirectly deriving a profit from or receiving any part of the consideration paid to the member of the State Bar for the rendering of legal services thereunder,

- (c) unlicensed persons from practicing law thereunder, and

- (d) all publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting forth the purposes and activities of the group or the nature and extent of the legal services or both, without any identification of the member or members of the State Bar rendering or to render such services.

Nothing in this rule shall prohibit a statement in communications to persons entitled to receive legal services under the arrangement or in response to individual inquiries as to the identity of the member

or members of the State Bar rendering or to render the services giving any of the information concerning the member or members permitted in Rule 2-102 (B) (3) in substantially the form and language set forth therein.

As used in this rule, a group means a professional association, trade association, labor union or other non-profit organization or combination of persons, incorporated or otherwise and including employees of a single employer, whose primary purpose and activities are other than the rendering of legal services.

A member of the State Bar furnishing legal services pursuant to an arrangement for the provision thereof shall advise the State Bar thereof within 60 days after the entering into the same. Thereafter the member shall advise the State Bar, on forms provided by it, of the following matters: the name of the group, its address, whether it is incorporated, its primary purposes and activities, the number of its members and a general description of the types of legal services offered pursuant to the arrangement. Annually on January 31, the member shall report to the State Bar, on forms provided by it, any changes in such matters, and the number of members of the group to whom legal services were rendered during the calendar year. Each report filed pursuant hereto and the information contained therein, except the name and address of the group, the fact that it has an arrangement for the provision of legal services and the names of members of the State Bar providing such services shall be confidential.

(D) Section a. The furnishing of legal services by a member of the State Bar pursuant to an arrangement for pre-paid legal services or other plan for defraying the costs of professional services of attorneys, is not of itself in violation of these Rules of Professional Conduct, if:

(1) the arrangement was established by or at the request of a group defined in Rule 2-104(C) of these rules for the individual members of the group and other wise complies with Rule 2-104 (C); or

(2) the arrangement is developed, administered and operated by a non-profit organization, incorporated or otherwise and

(a) permits any client to obtain legal services independently of the arrangement, from any attorney of his or her choice; and

(b) is so developed, administered and operated that

(i) the panel of attorneys furnishing legal services thereunder consists of at least 20% or 1000 of the active members of the State Bar engaged in private practice and maintaining their principal offices in the geographical area served by the arrangement, whichever is the lesser number, but in no event less than 15 such active members; and

(ii) the panel of attorneys furnishing the legal services thereunder is open to any active member of the State Bar engaged in practice in the geographical

area served by the arrangement, provided that a panel of attorneys which is open to all of the members of a local bar association is deemed to comply with this requirement if membership in that bar association is open to any active member of the State Bar engaged in practice in said geographical area, and

(iii) the client shall have the right to select any attorney on the panel to perform the legal services provided that the attorney consents to perform the legal services, and

(iv) any referral of a client to an attorney or attorneys on the panel of attorneys furnishing legal services under the arrangement shall be at the request of the client and in a manner consistent with those provisions of the "Minimum Standards for a Lawyer Referral Service in California" respecting the making of referrals; and

(c) is so developed, administered and operated as to prevent

(i) a third party from interfering with or controlling the performance of duties of the member of the State Bar to the member's client, and

(ii) a third party from receiving any part of the consideration paid to the member of the State Bar for furnishing legal services thereunder except

as permitted by Rules 2-108 and 3-102 of these rules, and

(iii) unlicensed persons from practicing law thereunder, and

(iv) all publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting forth the purposes and activities of the non-profit organization or the nature and extent of the benefits pursuant to the arrangement or both, without any identification of the member or members of the State Bar rendering or to render legal services; provided that all such publicizing and soliciting activities are in good faith engaged in solely for the purpose of developing, administering or operating the arrangement, and not for the purpose of soliciting business for, or for the self-aggrandizement of, any specific member or members of the State Bar; provided further that all publicizing and soliciting activities concerning the arrangement, except publicizing activities directed at persons entitled to receive legal services under the arrangement, shall terminate at such time as the total number of persons entitled to receive legal services under all arrangements of which the State Bar is advised pursuant to Rule 2-104 (C) of these rules is equivalent to the total number of persons entitled to receive legal services under all arrange-

ments reported to the State Bar pursuant to Section b.1.(b) of this Rule 2-104(D). For the purposes of this subsection (c)(iv) "persons" shall not include those who are eligible to receive legal services solely by reason of being a spouse or dependent family member.

Once the requirements of Section a.2.(b)(i) of this Rule 2-104(D) have been satisfied, nothing in this rule shall prohibit a statement in communications to persons entitled to receive legal services under the arrangement or in response to individual inquiries as to the identity of the member or members of the State Bar rendering or to render the services giving any of the information concerning the member or members permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

As used in this section, "geographical area" means any one of the following: (1) the state; (2) one or more municipal court judicial districts; (3) any combination of one or more municipal court judicial districts together with one or more counties; (4) one or more counties; (5) one or more of the superior court districts in a county of 5,000,000 or more persons according to the latest federal census.

Section b. Subject to the provisions of Section c. of this Rule 2-104(D), a member of the State Bar who has agreed to furnish legal services pursuant to an arrangement for prepaid legal services or other plan for defraying the costs of professional services of attorneys, shall

127a

(1) Within 60 days after entering into such agreement, file a notice thereof with the State Bar, and thereafter file with the State Bar, on the report forms provided by it and within 60 days after receiving such forms, the following under either (a) or (b), as applicable:

(a) If the arrangement was established by or at the request of a group pursuant to Section a.1. of this Rule 2-104(D):

(i) the name and office address of the group, the number of its members, its primary purposes and activities, and a copy of any agreement the member of the State Bar has entered into with the group respecting the arrangement;

(ii) if a person or entity other than the group itself is administering the arrangement, the name and office address of such person or entity, whether such person or entity is incorporated, a copy of any agreement the member of the State Bar has entered into with such person or entity respecting the arrangement, and a copy of any agreement such person or entity has entered into with the group respecting the arrangement; and

(iii) a description of the methods and procedures under the agreement, if any, (A) whereby a client who is entitled to benefits under the arrangement may, upon request, be referred to an attorney or attorneys on the panel of attorneys furnishing legal services

under the arrangement, (B) for periodically obtaining from those being served by the arrangement their comments, evaluations and recommendations respecting the operation of and furnishing of legal services under the arrangement, and (C) for resolution of client grievances.

(b) If the arrangement is developed, administered and operated by a non-profit organization pursuant to Section a.2. of this Rule 2-104(D) :

(i) the name and office address of the non-profit organization and, if incorporated, a copy of its articles of incorporation and by-laws;

(ii) the geographical area served by the arrangement;

(iii) a copy of any agreement between the member of the State Bar and the non-profit organization respecting the arrangement;

(iv) the name and office address of any group being served by the arrangement, the number of its members, its primary purposes and activities, and a copy of any agreement the member of the State Bar or the non-profit organization, or both, has entered into with the group respecting the arrangement;

(v) if individuals, as distinguished from members of a group, are being served by the arrangement, then the number of such individuals and a copy

129a

of each form of agreement entered into between the non-profit organization and such individuals respecting the arrangement; and

(vi) a description of the methods and procedures under the arrangement, if any, as required under 1.(a) (iii) of this section.

(2) Annually thereafter, by January 31, file with the State Bar, on the report forms provided by it, the following: the number of persons to whom the member rendered legal services during the preceding calendar year pursuant to the arrangement, and the types of such services; and the changes, if any, in the information or documents the member filed with the State Bar under either 1.(a) or 1.(b) of this Section b.

Section c. Any notice, information or documents required to be filed by a member of the State Bar pursuant to Section b. of this Rule 2-104(D) need not be filed by such member personally if, within the time periods specified in that section, such notice, information or documents are filed on the member's behalf by either: (1) the group's officer, agent, or employee having primary responsibility for the arrangement established pursuant to Section a.1. of this Rule 2-104(D), or if such arrangement is being administered by a person or entity other than the group, by such person or entity; (2) the non-profit organization administering the arrangement pursuant to Section a.2. of this Rule 2-104(D).

**130a**

When such notice, information or documents are so filed on behalf of two or more members of the State Bar for any one arrangement, they shall be consolidated where possible in a single notice or reporting form and documents already on file may be incorporated by reference so long as there are no changes therein.

Section d. Any notice, information or documents received by the State Bar pursuant to Sections b. or c. of this Rule 2-104(D) shall be public, whether or not also received by the State Bar pursuant to Rule 2-104(C) of these rules.