

**Rule 7.2 [1-400, 1-320(B), (C), & (A)(4), 2-200(B)] Advertising
(Commission's Proposed Rule Adopted on March 31 – April 1, 2016
– Clean Version)**

- (a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through any written, recorded or electronic means of communication, including public media.
- (b) A lawyer shall not compensate, promise or give anything of value to a person or entity for the purpose of recommending or securing the services of the lawyer or the lawyer's law firm,* except that a lawyer may:
 - (1) pay the reasonable* costs of advertisements or communications permitted by this Rule;
 - (2) pay the usual charges of a legal services plan or a qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service established, sponsored and operated in accordance with the State Bar of California's Minimum Standards for a Lawyer Referral Service in California;
 - (3) pay for a law practice in accordance with Rule 1.17;
 - (4) refer clients to another lawyer or a nonlawyer professional pursuant to an arrangement not otherwise prohibited under these Rules or the State Bar Act that provides for the other person* to refer clients or customers to the lawyer, if
 - (i) the reciprocal referral arrangement is not exclusive, and
 - (ii) the client is informed of the existence and nature of the arrangement;
 - (5) offer or give a gift or gratuity to a person* or entity having made a recommendation resulting in the employment of the lawyer or the lawyer's law firm,* provided that the gift or gratuity was not offered or given in consideration of any promise, agreement, or understanding that such a gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future.
- (c) Any communication made pursuant to this Rule shall include the name and address of at least one lawyer or law firm* responsible for its content.

Comment

[1] This Rule permits public dissemination of accurate information concerning a lawyer and the lawyer's services, including for example, the lawyer's name or firm* name, the lawyer's contact information; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability;

names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance. This Rule, however, prohibits the dissemination of false or misleading information, for example, an advertisement that sets forth a specific fee or range of fees for a particular service where, in fact, the lawyer charges or intends to charge a greater fee than that stated in the advertisement.

[2] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as court-approved class action notices.

Paying Others to Recommend a Lawyer

[3] Paragraph (b)(1) permits a lawyer to compensate employees, agents and vendors who are engaged to provide marketing or client-development services, such as publicists, public-relations personnel, business-development staff and website designers. See Rule 5.3 for the duties of lawyers and law firms* with respect to supervising the conduct of nonlawyers who prepare marketing materials and provide client development services.

[4] Paragraph (b)(4) permits a lawyer to make referrals to another lawyer or nonlawyer professional, in return for the undertaking of that person* to refer clients or customers to the lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's professional judgment as to making referrals or as to providing substantive legal services. See Rule[s 2.1 and]¹ 5.4(c). Conflicts of interest created by arrangements made pursuant to paragraph (b)(4) are governed by Rule 1.7. A division of fees between or among lawyers not in the same law firm* is governed by Rule 1.5.1.

¹ The Rules Revision Commission has not made a recommendation to adopt or reject a counterpart to ABA Model Rule 2.1. This bracketed reference is a placeholder pending a recommendation from the Commission. Consideration of Model Rule 2.1 is anticipated for the Commission's August 26, 2016 meeting.

**Proposed Rule 7.2 [1-400, 1-320(B), (C), & (A)(4), 2-200(B)] Advertising
Synopsis of Public Comments**

TOTAL = 1 **A =** —
D = —
M = 1
NI = —

No.	Commenter/Signatory	Comment on Behalf of Group?	A/D/M/NI ¹	Rule Section or Cmt.	Comment	RRC Response
2016-43ar	COPRAC (Baldwin) (8-12-16)	Y	M	Cmt. 1	<p>Rule permits better understanding of lawyer's duties relating to communications intended for the general public.</p> <p>Comment 1 should be amended to reference B&P Code 6158.2.</p>	<p>No response required.</p> <p>The Commission is not recommending the addition of a cross-reference to B&P §6158.2 in Rule 7.2 Cmt.[1] for two reasons. <i>First</i>, a cross reference to the entire State Bar Act article on lawyer advertising is included in Rule 7.1 Cmt.[6] and this renders it unnecessary to add a subsequent specific reference §6158.2. <i>Second</i>, § 6158.2 by its terms is limited to electronic media advertising and might lead to confusion about the scope of Rule 7.2 or the guidance in Cmt.[1], which do not share that limitation.</p>

¹ A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED

