

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.130(7.20) Advertising

(1) A lawyer may advertise legal services through communications in compliance with these Rules.

(2) A lawyer shall not give anything of value to a non-lawyer for recommending the lawyer's services, except that a lawyer may:

- (a)** pay the reasonable cost of advertising or communication permitted by this Rule; and,
- (b)** pay the usual charges of a legal service plan, not to include a division of fees, operated by an organization not owned or directed by the lawyer, or,
- (c)** pay the usual charges of a not-for-profit or qualified lawyer referral service that has been approved by the highest court in the jurisdiction where the service operates an agency designated by that court or by the Kentucky Bar Association.

(3) Any communication made pursuant to these Rules shall include the name of at least one lawyer licensed in Kentucky, or law firm any of whose members are licensed in Kentucky, responsible for its contents.

(4) Communication by a lawyer with a person or entity with whom that lawyer has an immediate family or current attorney-client relationship, or a communication in response to an inquiry from any person or entity seeking information, shall be exempt from the provisions of the Advertising Rules and the Advertising Regulations, with the exception of SCR 3.130(7.15).

(5) If a lawyer or a law firm advertises legal services and a lawyer's name or image is used to present the advertisement, the lawyer must be the lawyer who will actually perform the service advertised unless the advertisement prominently discloses that the service may be performed by other lawyers. If the advertising lawyer or firm is advertising for clients for the purpose of referring the client to another lawyer or firm, that fact must be disclosed prominently in the advertisement.

HISTORY: Amended by Order 2009-05, eff. 7-15-09; prior amendment eff. 1-1-02 (Order 2001-2); adopted by Order 92-1, eff. 8-1-92

Supreme Court Commentary

2009:

(1) Neither this Rule nor SCR 3.130 (7.3) prohibits communications authorized by law, such as notice to members of a class in class action litigation.

(2) A lawyer is allowed to pay for advertising permitted by this Rule, but otherwise is not permitted to pay another person for channeling professional work. This restriction does not prevent an organization or person other than the lawyer from advertising or recommending the lawyer's services. Thus, a legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in not-for-profit lawyer referral programs and pay the usual fees charged by such programs. Paragraph (b) does not prohibit paying regular compensation to an assistant, such as a secretary, to prepare communications permitted by this Rule.

(3) A lawyer may pay the usual charges of a legal service plan or a not-for-profit qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists potential clients to secure legal representation. This Rule only permits a lawyer to pay the usual charges of a not-for-profit qualified lawyer referral service. A not-for-profit qualified lawyer referral service is one that is approved by the highest court of the jurisdiction where the service operates or by an agency designated by the highest court in that jurisdiction to handle such approvals, or in Kentucky by the Kentucky Bar Association.

(4) A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must make reasonable efforts to determine that the activities of the plan or

service are compatible with the lawyer's professional obligations. Legal service plans and lawyer referral services may communicate with potential clients, but such communication must conform with the Advertising Rules and Advertising Regulations. For example, the plan may not engage in advertising that is false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan mislead potential clients to believe that the plan was a lawyer referral service sponsored by a state agency or bar association. Similarly, the lawyer may not allow in-person, telephonic, or real-time contacts by the plan that would violate SCR 3.130(1.5)(e).

(5) This Rule does not address the circumstances under which a lawyer may be permitted to share or split a fee with other lawyers. For ethical requirements applicable to fee sharing arrangements see SCR 3.130(1.5)(e).