

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

PRACTICE OF LAW

SCR 3.130(7.40) Communication of fields of practice

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer who concentrates in, limits his or her practice to, or wishes to announce a willingness to accept cases in a particular field may advertise or publicly state that information in any manner otherwise permitted by these Rules. Any such advertisement or statement shall be strictly factual and shall not contain any form of the words “certified”, “specialist”, “expert”, or “authority”, except as follows:

- (1)** A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Lawyer" or a substantially similar designation.
- (2)** A lawyer certified by an appropriate governmental agency in admiralty practice may use the designation "Admiralty", "Proctor in Admiralty", or a substantially similar designation.
- (3)** A lawyer may state or imply that he or she is “certified”, a “specialist”, an “expert” or “authority” in a particular field of law only if:
 - (a)** the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or by a national organization that the attorney demonstrates is qualified to grant such certification to attorneys who meet objective and consistently applied standards relevant to practice in a particular area of the law; and
 - (b)** the name of the certifying organization is clearly identified in the communication; and
 - (c)** if the lawyer is licensed to practice law in Kentucky, the communication must state that Kentucky does not certify specialties in legal fields. The communication may occur only for as long as the lawyer remains so certified and in good standing.

HISTORY: Amended by Order 2009-5, eff. 7-1509; prior amendments eff. 1-1-02 (Order 2001-2); adopted by Order 92-1, eff. 8-1-92

Supreme Court Commentary

2009:

- [1]** This Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted to so indicate.
- [2]** Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.
- [3]** Certificates discussed in SCR 3.130(7.40)(3) must meet the criteria set forth in *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91, 110 S.Ct. 2281 (1990). Stating or implying that the lawyer is certified as a “specialist”, an “expert” or “authority” is not permitted except as provided in this rule. The lawyer may state or imply that he or she is certified as a specialist, expert or authority only if the certification is granted by an organization approved by an appropriate state authority, such as a state bar association, or by an organization that qualifies under *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91, 110 S.Ct. 2281 (1990). Certifying organizations are expected to apply standards of experience, knowledge and proficiency to insure that a lawyer's recognition as a specialist is meaningful and reliable. To insure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication about certification, and the communication must state that Kentucky does not certify specialties in legal fields. If the Commission is not satisfied that the certifying organization's standards and procedures are sufficiently meaningful and rigorous to make the communication truthful, it may disapprove the communication under SCR 3.130(7.15).

[4] Refer to SCR 3.130(702)(1)(i) for other applications of *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91, 110 S.Ct. 2281 (1990).

2001:

[1] This Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services, for example, in a telephone directory or other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, stating that the lawyer is a "specialist" is not permitted. Use of that term may be misleading unless the lawyer is certified or recognized in accordance with procedures in the state where the lawyer is licensed to practice.

[2] Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts. (Commentary from former SCR 3.130(7.4).)

1989:

[1] This Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services, for example, in a telephone directory or other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, stating that the lawyer is a "specialist" or that the lawyer's practice "is limited to" or "concentrated in" particular fields is not permitted. These terms have acquired a secondary meaning implying formal recognition as a specialist. Hence, use of these terms may be misleading unless the lawyer is certified or recognized in accordance with procedures in the state where the lawyer is licensed to practice.

[2] Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts. (Commentary from former SCR 3.130(7.4).)