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## Rule 3 The Practice of Law

### 3.01 MAKING LEGAL SERVICES AVAILABLE

#### Making Services Available

3.01 (1) A lawyer shall make legal services available to the public in an efficient and convenient way.

#### Commentary

A lawyer may assist in making legal services available by participating in the Legal Aid Plan and lawyer referral services and by engaging in programmes of public information, education or advice concerning legal matters.

**Right to Decline Representation** - A lawyer may decline a particular representation (except when assigned as counsel by a tribunal), but that discretion should be exercised prudently, particularly if the probable result would be to make it difficult for a person to obtain legal advice or representation. Generally, a lawyer should not decline representation merely because a person seeking legal services or that person's cause is unpopular or notorious, or because powerful interests or allegations of misconduct or malfeasance are involved, or because of the lawyer's private opinion about the guilt of the accused. A lawyer declining representation should assist in obtaining the services of another licensee qualified in the particular field and able to act.

When a lawyer offers assistance to a client or prospective client in finding another licensee, the assistance should be given willingly and, except where a referral fee is permitted by rule 2.08(7), without charge.

#### Restrictions

- (2) In offering legal services, a lawyer shall not use means
- (a) that are false or misleading,
  - (b) that amount to coercion, duress, or harassment,
  - (c) that take advantage of a person who is vulnerable or who has suffered a traumatic experience and has not yet had a chance to recover,
  - (d) that are intended to influence a person who has retained another lawyer for a particular matter to change his or her lawyer for that matter, unless the change is initiated by the person or the other lawyer, or
  - (e) that otherwise bring the profession or the administration of justice into disrepute.

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## Commentary

A person who is vulnerable or who has suffered a traumatic experience and has not yet had a chance to recover may need the professional assistance of a lawyer, and this rule does not prevent a lawyer from offering his or her assistance to such a person. Rather, the rule prohibits the lawyer from using unconscionable or exploitive means that bring the profession or the administration of justice into disrepute.

**3.02 MARKETING****Marketing Legal Services**

3.02 (1) In this Rule, "marketing" includes advertisements and other similar communications in various media as well as firm names (including trade names), letterhead, business cards and logos.

- (2) A lawyer may market legal services if the marketing
  - (a) is demonstrably true, accurate and verifiable,
  - (b) is neither misleading, confusing, or deceptive, nor likely to mislead, confuse or deceive, and
  - (c) is in the best interests of the public and is consistent with a high standard of professionalism.

## Commentary

Examples of marketing that may contravene this rule include:

- a. stating an amount of money that the lawyer has recovered for a client or referring to the lawyer's degree of success in past cases, unless such statement is accompanied by a further statement that past results are not necessarily indicative of future results and that the amount recovered and other litigation outcomes will vary according to the facts in individual cases;
- b. suggesting qualitative superiority to other lawyers;
- c. raising expectations unjustifiably;
- d. suggesting or implying the lawyer is aggressive;
- e. disparaging or demeaning other persons, groups, organizations or institutions;
- f. taking advantage of a vulnerable person or group;
- g. using testimonials or endorsements which contain emotional appeals.

**Advertising of Fees**

- (3) A lawyer may advertise fees charged by the lawyer for legal services if
  - (a) the advertising is reasonably precise as to the services offered for each fee quoted,
  - (b) the advertising states whether other amounts, such as disbursements and taxes, will be charged in addition to the fee, and
  - (c) the lawyer adheres to the advertised fee.

**3.03 ADVERTISING NATURE OF PRACTICE**

**Certified Specialist**

3.03 (1) A lawyer may advertise that the lawyer is a specialist in a specified field only if the lawyer has been so certified by the Society.

Commentary

Lawyer’s advertisements may be designed to provide information to assist a potential client to choose a lawyer who has the appropriate skills and knowledge for the client’s particular legal matter.

In accordance with s. 20(1) of the Society’s By-law 15 on Certified Specialists, the lawyer who is not a certified specialist is not permitted to use any designation from which a person might reasonably conclude that the lawyer is a certified specialist.

In a case where a firm practises in more than one jurisdiction, some of which certify or recognize specialization, an advertisement by such a firm which makes reference to the status of a firm member as a specialist, in media circulated concurrently in the other jurisdiction(s) and the certifying jurisdiction, shall not be considered as offending this rule if the certifying authority or organization is identified.

A lawyer may advertise areas of practice, including preferred areas of practice or that his or her practice is restricted to a certain area of law. An advertisement may also include a description of the lawyer’s or law firm’s proficiency or experience in an area of law. In all cases, the representations made must be accurate (that is, demonstrably true) and must not be misleading.

**3.04 Interprovincial Law Firms**

**Interprovincial Law Firms**

3.04 (1) Lawyers may enter into agreements with lawyers in other Canadian jurisdictions to form an interprovincial law firm, so long as they comply with the requirements of this rule.

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**Requirements**

- (2) A lawyer who is a member of an interprovincial law firm and qualified to practise in Ontario shall comply with all the requirements of the Society.
- (3) A lawyer who is a member of an interprovincial law firm and qualified to practise in Ontario shall ensure that the books, records, and accounts pertaining to the practice in Ontario are available in Ontario on demand by the Society's auditors or their designated agents.
- (4) A lawyer who is a member of an interprovincial law firm and qualified to practise in Ontario shall ensure that his or her partners, associates, or employees who are not qualified to practise in Ontario are not held out as and do not represent themselves as qualified to practise in Ontario.

*[Amended - November 2008]*