

February 28, 2017

ABA Standing Committee on Ethics and Professionals Responsibility  
[modelruleamend@americanbar.org](mailto:modelruleamend@americanbar.org)

The Legal Marketing Association (LMA) applauds the intention of the proposal by the Association of Professional Responsibility Lawyers (APRL) to amend ABA Model Rules 7.1, 7.2, 7.3, 7.4 and 7.5 addressing how lawyers provide the public with information about legal services. LMA believes the rule revisions will be beneficial to both lawyers and the clients they serve. We recommend the ABA adopt the revisions and consider further future modifications to address the realities of the evolving legal industry.

LMA ([www.legalmarketing.org](http://www.legalmarketing.org)) is a not-for-profit organization of over 4,000 members dedicated to serving the needs and maintaining the professional standards of the men and women involved in marketing, business development, communication and client services within the legal profession. Our organization recognizes the need to protect the general public from false, misleading or coercive lawyer communications. We support the creation of a more transparent standard that allows lawyers to educate potential clients regarding their availability and suitability to meet specific needs.

As recognized by APRL in its report dated June 15, 2015, many of the current rules are outdated, and the spread of overregulation results in more confusion to the public than clarity. Further, it has often resulted in impractical obligations on attorneys and the professional staff who support law firms in their communication, solicitation and advertising efforts. LMA agrees with APRL that the jurisdictional differences (various state bar regulations and other governing authorities) are more likely to inhibit the spread of important legal information and create barriers to competition rather than inform or protect consumers, as intended. Further, we agree with APRL that since the majority of complaints regarding attorneys running afoul of the rules are originated by other attorneys (not members of the public), an informal procedure for working with the offending attorney to bring their communications into compliance, rather than administering professional discipline, will suffice in the vast majority of cases.

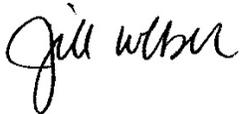
As the marketing/business development function within law firms has evolved as a professional discipline, the methods used to communicate with clients and prospects have also evolved to align with our technology-based society. This fast-paced evolution requires a more nuanced and nimble approach to regulating the industry. The work LMA's members do on behalf of their firms varies based on firm size and type, ranging from mass communication targeting the general public to individual communications focused on particular C-suite executives at large public companies. As a more specific example, many firms and lawyers provide thought leadership content on substantive legal matters as a marketing tool, publishing blogs, distributing client alerts, and writing articles for news outlets and industry organizations. Though new business may come from these efforts, their primary benefit is educational. A disservice is done to the legal industry and the general public when there are burdensome advertising restrictions on this kind of activity.

Lawyers and marketing/business development professionals must ensure compliance with the numerous, sometimes contradictory, ethical and regulatory guidelines imposed on businesses generally (e.g., FTC guidelines, CAN-SPAM, and various business and professional codes) in addition to the ethical rules imposed by each jurisdiction's bar association. The electronic tools used by lawyers and marketing/business development professionals, and the community at large, have made it increasingly difficult to limit the reach of these types of communications to any one jurisdiction despite the intended primary audience. As such, we look forward to more consistent adoption and implementation of the ABA Model Rules of Professional Conduct concerning communications, advertising, solicitation and promotion of legal services throughout the United States. In addition to allowing for more predictability for firms and lawyers who practice in multiple states, it will benefit clients with legal matters in multiple states.

LMA supports the long-term goal of streamlined Model Rules adopted widely in local jurisdictions. We encourage the Committee to consider the APRL proposed amendments, as they move us another step closer to balancing the need to protect consumers with the constitutional rights of attorneys. LMA is prepared to assist in ongoing efforts to update Model Rules, as well as to encourage universal adoption of the Rules and to provide clarity on the appropriate and consistent implementation of the Rules. The ultimate goal is to uphold the standards of the profession and allow for effective and truthful communication to the public about the scope and availability of legal services. We look forward to future dialogue on this topic, which is central to maintaining a healthy and trusted legal community.

Thank you for your consideration.

Respectfully submitted,



Jill S. Weber  
2017 President



Betsi Roach  
Executive Director