

**RPC 7.3
SOLICITATION OF CLIENTS**

(a) A lawyer may solicit professional employment unless:

(1) the solicitation is false or misleading;

(2) the lawyer knows or reasonably should know that the physical, emotional, or mental state of the subject of the solicitation is such that the person could not exercise reasonable judgment in employing a lawyer;

(3) the subject of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(4) the solicitation involves coercion, duress, or harassment.

(b) A lawyer shall not compensate, or give or promise anything of value to, a person who is not an employee or lawyer in the same law firm for the purpose of recommending or securing the services of the lawyer or law firm, except that a lawyer may:

(1) pay the reasonable cost of advertisements or communications permitted by RPC 7.1, including online group advertising;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service;

(3) pay for a law practice in accordance with RPC 1.17;

(4) refer clients to another lawyer or LLLT or other nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if:

(i) the reciprocal referral agreement is not exclusive, and

(ii) the client is informed of the existence and nature of the agreement;

(5) give nominal gifts that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services.

(c) **[Reserved.]**

(d) **[Reserved.]**

Comments

[1] **[Washington revision.]** A solicitation is a targeted communication initiated by or on behalf of a lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. Solicitations can include in-person, written, telephonic, and electronic communications. In contrast, a lawyer's communication typically does not constitute a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website, or a television commercial, or if it is in response to a request for information or is automatically generated in response to Internet searches.

[2] **[Reserved.]**

[3] **[Reserved.]**

[4] [Reserved.]

[5] [Reserved.]

[Comment 4 amended effective April 14, 2015; Renumbered as 5 and amended effective September 1, 2016.]

[6] [Reserved.]

[7] [Reserved.]

[8] [Reserved.]

[9] [Reserved.]

Additional Washington Comments (10-16)

[10] While all communications about a lawyer's services are subject to the general prohibition against false or misleading communication in RPC 7.1, in-person solicitation can create problems because of the particular circumstances in which the solicitation takes place, and those circumstances are, therefore, appropriately regulated. Subsection (a) of this rule prohibits solicitation in circumstances or through means that are not conducive to intelligent, rational decisions. Unwanted solicitations (after the subject has informed the lawyer not to make contact) or solicitations involving coercion, duress, or harassment are specifically prohibited. Such circumstances and means could be the harassment of early morning or late-night telephone calls to a potential client to solicit legal work, repeated calls at any time of day, solicitation of an accident victim or the victim's family shortly after the accident or while the victim is still in medical distress (particularly where a lawyer seeks professional employment by in-person or other real-time contact in such circumstances), or solicitation of vulnerable subjects, such as persons facing incarceration, or their family members, in or near a courthouse. The prohibition on solicitation of a subject who cannot "exercise reasonable judgment in employing a lawyer" extends to an individual with diminished capacity who cannot adequately act in the individual's own interest, and the provisions of RPC 1.14 may provide guidance in evaluating "the physical, emotional, or mental" state of the subject.

[11] Under RPC 5.1, RPC 5.3, and RPC 8.4(a), the solicitation restrictions that apply to the lawyer's own acts or conduct also extend to acts or conduct by employees, agents, or any third persons acting on the lawyer's behalf.

[12] Washington has not adopted subsection (e) of the Model Rule creating a safe harbor for in-person and telephonic solicitations in the context of a prepaid or group legal services plan because solicitations of professional employment by any means and in all contexts are permitted subject to the exceptions contained in subsection (a)(1) – (4). In addition, prior provisions and comments under RPC 7.3 in Washington relating to in-person, telephonic, or real-time electronic solicitations in the context of referrals from a third party or a lawyer referral service have been removed because solicitations by any means in this context are permitted subject to the exceptions contained in paragraphs (a)(1)–(4) of this RPC.

Paying Others to Recommend a Lawyer

[13] Subsection (b) of this rule was derived from former Washington RPC 7.2(b).

[14] Except as permitted under subsections (b)(1)–(b)(5), lawyers are not permitted to pay others for recommending the lawyer's services or for channeling professional work in a manner that violates RPC 7.1 or RPC 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional

qualities. Subsection (b)(1), however, allows a lawyer to pay for advertising and solicitations permitted by RPC 7.1 and this rule, including the costs of print directory listings, online directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-based advertisements, and group advertising. A lawyer may 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, as long as the employees, agents, and vendors do not direct or regulate the lawyer's professional judgment (see RPC 5.4(c)). Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with RPC 1.5(e) (division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with RPC 7.1 (communications concerning a lawyer's services). To comply with RPC 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. See also RPC 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); RPC 8.4(a) (duty to avoid violating the rules through the acts of another). For the definition of nonlawyer for the purposes of RPC 5.3, see Washington cmt. 5 to Rule 5.3.

[15] A lawyer may pay the usual charges of a legal service plan or a not-for-profit lawyer referral service. A "legal service plan" is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A "lawyer referral service," on the other hand, is any individual or entity that operates for the direct or indirect purpose of referring potential clients to lawyers, regardless of whether the term "referral service" is used. The "usual charges" of a legal service plan or not-for-profit lawyer referral service are fees that are openly promulgated and uniformly applied. Not-for-profit lawyer referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements.

[16] A lawyer also may agree to refer clients to another lawyer or LLLT or other 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 RPC 2.1 and 5.4(c). Except as provided in RPC 1.5(e), a lawyer who receives referrals from a lawyer or LLLT or other nonlawyer professional must not pay anything solely for the referral, but the lawyer does not violate this Rule by agreeing to refer clients to the other lawyer or LLLT or other nonlawyer professional, so long as the reciprocal referral agreement is not exclusive and the client is informed of the referral agreement. Conflicts of interest created by such arrangements are governed by RPC 1.7. Reciprocal referral agreements should not be of indefinite duration and should be reviewed periodically to determine whether they comply with these rules. This rule does not restrict referrals or divisions of revenues or net income among lawyers within firms comprised of multiple entities. Under LLLT RPC 1.5(e), however, an LLLT may not enter into an arrangement for the division of a fee with a lawyer who is not in the same firm as the LLLT.

[Rule adopted effective September 1, 1985; Amended effective September 1, 1988; Rule amended and comments adopted effective September 1, 2006; Comment [4] amended effective April 14, 2015; Rule amended effective September 1, 2016; New Comment [1] adopted, subsequent comments renumbered and amended, and Comment [14] adopted effective September 1, 2016; Rule amended effective September 1, 2018; Rule amended and comments amended and adopted effective January 26, 2021.]