

CLASS 13

Professional Responsibility and Legal Ethics

The "Business" of Law: Lawyer Advertising

• Overarching principal:

- Lawyer advertising is disliked by the law establishment. However, there are First Amendment issues that do not allow the outright banning of such advertising.
- First Amendment Rule: A state may not ban lawyer advertising as long as it is honest and not misleading, but it may fairly regulate it (lawyer advertising is "commercial speech").

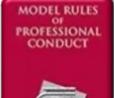
• Rules that apply to attorney advertising:

- A. Must not contain any false or misleading information
- B. Must not create unjustified or unrealistic expectations
- C. Must not make comparisons or claims that cannot be verified or substantiated
- D. Must not claim to be a "specialist" in an area unless the lawyer is certified in that area; the attorney must identify the certificate and the certifying organization in any such advertisement



The "Business" of Law: Solicitation of Clients

- Rules (again based on the balancing test between protecting client and freedom of speech):
 - In person solicitation of strangers is not allowed
 - In person solicitation is allowed if:
 - The potential client is a relative or friend
 - The potential client is a **past client of the attorney**
 - Mailing general advertisements are governed by the same rules as advertising
 - Targeted mail to people whom the lawyer knows suffers from a particular legal problem is allowed, so long as:
 - the mail is true and not misleading
 - it is clearly marked "Advertising Material"
 - it does not violate any of the other advertising rules



QUIZ TIME!





Profession Responsibility and Legal Ethics Class 13

Online Referral Programs

Features

- Pay a Service Fee to get Leads
- Some include bidding on services
- Some are referrals from a subscription
- Based website to the attorneys
- Attorney-client matching websites
- Potential Ethical Violations
 - Model Rule 7.2(b): A lawyer shall not give anything of value to a person for recommending the lawyer's services.
 - Advertising in a state in which the attorney is not licensed!
- Solution: Be clear in message to clients!

