

Texas Amends Rules Governing Attorney Advertising to Meet the Needs of the Digital Age

On May 25, the Texas Supreme Court signed an [order approving and adopting amendments](#) to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure, effective July 1. This was the first update to the rules in more than a decade.

The [Texas Disciplinary Rules of Professional Conduct](#) define proper behavior for purposes of professional discipline. Advertising is covered in [Rule 7](#) – specifically, Rule 7.02: “Communications Concerning a Lawyer’s Services,” a go-to source for the basics of communications by attorneys and law firms.

One of the main reasons for the changes is to modernize the ethics rules for the digital age, as well as reduce burdens related to [law firm websites](#), use of [social media](#), [pro bono programs](#) and communications with experienced business clients.

According to Gene Major, director of advertising for the Texas Bar attorney compliance division, Section 7 regarding advertising was last amended in 2005. “It had been quite awhile since these rules had been reviewed and amended,” said Major. “We started the process in 2017 when then-State Bar President Tom Vick gave the Advertising Review Committee the directive to look at the rules with the goal of streamlining them to make them easier to understand and more user-friendly.”

Major notes that the biggest change, a revision to Rule 7.01(c), allows Texas firms to use trade names, as long as they are not false or misleading. The Lone Star state was one of the last states to prohibit the use of trade names. Major gives an example: “You can now call your firm Travis County Criminal Lawyers, but you can’t call your firm Best Travis County Criminal Lawyers.”

This rule change is likely to benefit small law firms, solo practitioners and newer firms the most. The bigger law firms and more-established smaller firms are not expected to spend the time and money on rebranding themselves. Law firms will still be required to submit their proposed trade names to the state bar for approval.

Four other amendments to the rules that affect legal marketing include:

1. Email, text and social media solicitations must be labeled “advertisement” unless they go to a lawyer, family member, close friend, past client or business associate, or an experienced user of the type of legal services involved.
2. Attorneys in Texas may now pay for “ordinary social hospitality of nominal value” for



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- their clients and referral sources (read: meals and entertainment). “Nominal” is not defined, but major gifts, such as Super Bowl tickets, are not likely to be permissible.
3. Lawyers still must avoid misleading communications, including the use of clip art or actors to show lawyers or clients without a disclaimer, according to comments about the rules.
 4. Law firms will still have to file their website homepages with the State Bar of Texas Advertising Review Committee, unless they are otherwise exempt, but the rest of a website does not have to be filed unless the committee requests it.

Major added that the internet and social media have radically changed attorney advertising and electronic communications. “Rules that govern something that is continually evolving, like advertising, need to be looked at and modified and made modern every few years,” he said.

Detailed information and additional links can be found [here](#).