COMMITTEE ON ATTORNEY ADVERTISING

Appointed by the Supreme Court of New Jersey

OPINION 45

Committee on Attorney Advertising

**Attorney Advertisement Claiming "Expertise" and
"Specialization" in an Area of Law
(Superseding Opinion 7)**

The Committee on Attorney Advertising received a grievance about a law firm website that states that the lawyers have "expertise" in tax law. The firm concentrates its practice in tax law. The firm's principal lawyer has an L.L.M. in tax, is the author of numerous publications on tax law, lectures on tax law, served as an attorney for the Internal Revenue Service, and has been practicing tax law for more than 30 years.

The Committee on Attorney Advertising previously prohibited lawyers from stating that they are "experts," have "expertise," are "specialists," or "specialize" in an area of law unless they are certified by the Supreme Court or an organization approved by the American Bar Association. Use of these terms by lawyers who are not certified was considered to be misleading, in violation of Rule of Professional Conduct 7.1(a). After revisiting the issue in light of recent out-of-state First Amendment decisions in attorney advertising, the Committee has now determined that lawyers may use the terms "expertise," "specialize," and "specialist" in advertising provided the terms are accurate and the lawyers can demonstrate the necessary education, training, and experience to substantiate the claim. The Committee retains the

restriction on the use of the term "expert" to lawyers who are certified by the Supreme Court or an organization approved by the American Bar Association.

An "expert" is defined as a person "[h]aving special skill or knowledge derived from training or experience." Webster's Third New International Dictionary (1993). The Committee finds that a lawyer claiming to be an "expert" must be able to substantiate the claim with readily verifiable and objective criteria. Certification by the Supreme Court or an organization approved by the American Bar Association provides this objective verification of a lawyer's "expert" status.

The Committee notes that lawyers can have "expertise" in an area of law without having been certified as an "expert" by the Court or an approved organization. The term "expertise" reflects special skill and extensive experience in an area of law.

Further, a "specialist" is a person "who devotes or limits his interest to some special branch (as of an activity, business, art, or science)." Webster's Third New International Dictionary (1993). Devotion to an area of law (as a "specialist" or a person who "specializes") does not, of itself, necessarily imply greater ability than that held by others.

Accordingly, the Committee finds that the terms "expertise," "specialist," and "specialization," if true, are not inherently misleading. Thus, their use, if accurate, is not prohibited under Rule of Professional Conduct 7.1(a).

Should attorney advertising using the terms "expertise," "specialist," and "specialization" be challenged, the Committee will require the lawyer to substantiate the accuracy of the claim. The substantiation of "expertise" calls for a higher showing of accomplishment and capability than "specialist" and "specialization," which connotes a concentration of time in a particular area. Factors supporting the claim of "expertise," "specialist," or "specialization" include

education, experience, and training. Inclusion on attorney ratings lists such as Super Lawyers and Best Lawyers, or receipt of similar accolades, does not support the claim that a lawyer has "expertise" in a field of law.

In sum, the Committee finds that accurate self-described specialization or expertise, without more, is not necessarily misleading and, if true, may be included in attorney advertising. Lawyers bear the burden of demonstrating the necessary education, training, and experience to substantiate such claims. Only lawyers who are certified by the Supreme Court or an organization approved by the American Bar Association may call themselves "experts."