

4-7.22 | REFERRALS, DIRECTORIES AND POOLED ADVERTISING

(a) Applicability of Rule. A lawyer is prohibited from participation with any qualifying provider that does not meet the requirements of this rule and any other applicable Rule Regulating the Florida Bar.

(b) Qualifying Providers. A qualifying provider is any person, group of persons, association, organization, or entity that receives any benefit or consideration, monetary or otherwise, for the direct or indirect referral of prospective clients to lawyers or law firms, including but not limited to:

- (1) matching or other connecting of a prospective client to a lawyer drawn from a specific group or panel of lawyers or who matches a prospective client with lawyers or law firms;
- (2) a group or pooled advertising program, offering to refer, match or otherwise connect prospective legal clients with lawyers or law firms, in which the advertisements for the program use a common telephone number or website address and prospective clients are then matched or referred only to lawyers or law firms participating in the group or pooled advertising program;
- (3) publishing in any media a listing of lawyers or law firms together in one place; or
- (4) providing tips or leads for prospective clients to lawyers or law firms.

(c) Entities that are not Qualifying Providers. The following are not qualifying providers under this rule:

- (1) a pro bono referral program, in which the participating lawyers do not pay a fee or charge of any kind to receive referrals or to belong to the referral panel, and are undertaking the referred matters without expectation of remuneration; and
- (2) a local or voluntary bar association solely for listing its members on its website or in its publications.



(d) When Lawyers May Participate with Qualifying Providers.

A lawyer may participate with a qualifying provider as defined in this rule only if the qualifying provider:

(1) engages in no communication with the public and in no direct contact with prospective clients in a manner that would violate the Rules of Professional Conduct if the communication or contact were made by the lawyer;

(2) receives no fee or charge that is a division or sharing of fees, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(3) refers, matches or otherwise connects prospective clients only to persons lawfully permitted to practice law in Florida when the services to be rendered constitute the practice of law in Florida;

(4) does not directly or indirectly require the lawyer to refer, match or otherwise connect prospective clients to any other person or entity for other services or does not place any economic pressure or incentive on the lawyer to make such referrals, matches or other connections;

(5) provides The Florida Bar, on no less than an annual basis, with the names and Florida bar membership numbers of all lawyers participating in the service unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(6) provides the participating lawyer with documentation that the qualifying provider is in compliance with this rule unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(7) responds in writing, within 15 days, to any official inquiry by bar counsel when bar counsel is seeking information described in this subdivision or conducting an investigation into the conduct of the qualifying provider or a lawyer who participates with the qualifying provider;



(8) neither represents nor implies to the public that the qualifying provider is endorsed or approved by The Florida Bar, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules;

(9) uses its actual legal name or a registered fictitious name in all communications with the public;

(10) affirmatively discloses to the prospective client at the time a referral, match or other connection is made of the location of a bona fide office by city, town or county of the lawyer to whom the referral, match or other connection is being made; and

(11) does not use a name or engage in any communication with the public that could lead prospective clients to reasonably conclude that the qualifying provider is a law firm or directly provides legal services to the public.

(e) Responsibility of Lawyer. A lawyer who participates with a qualifying provider:

(1) must report to The Florida Bar within 15 days of agreeing to participate or ceasing participation with a qualifying provider unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules; and

(2) is responsible for the qualifying provider's compliance with this rule if:

(A) the lawyer does not engage in due diligence in determining the qualifying provider's compliance with this rule before beginning participation with the qualifying provider; or

(B) The Florida Bar notifies the lawyer that the qualifying provider is not in compliance and the lawyer does not cease participation with the qualifying provider and provide documentation to The Florida Bar that the lawyer has ceased participation with the qualifying provider within 30 days of The Florida Bar's notice.



(Adopted January 31, 2013, effective May 1, 2013 (108 So.3d 609), amended March 8, 2018, effective April 30, 2018 (238 So.3d 164).)

Comments

Every citizen of the state should have access to the legal system. A person's access to the legal system is enhanced by the assistance of a qualified lawyer. Citizens often encounter difficulty in identifying and locating lawyers who are willing and qualified to consult with them about their legal needs. It is the policy of The Florida Bar to encourage qualifying providers to: (a) make legal services readily available to the general public through a referral method that considers the client's financial circumstances, spoken language, geographical convenience, and the type and complexity of the client's legal problem; (b) provide information about lawyers and the availability of legal services that will aid in the selection of a lawyer; and (c) inform the public where to seek legal services.

Subdivision (b)(3) addresses the publication of a listing of lawyers or law firms together in any media. Any media includes but is not limited to print, Internet, or other electronic media.

A lawyer may not participate with a qualifying provider that receives any fee that constitutes a division of legal fees with the lawyer, unless the qualifying provider is The Florida Bar Lawyer Referral Service or a lawyer referral service approved by The Florida Bar pursuant to chapter 8 of these rules. A fee calculated as a percentage of the fee received by a lawyer, or based on the success or perceived value of the case, would be an improper division of fees. Additionally, a fee that constitutes an improper division of fees occurs when the qualifying provider directs, regulates, or influences the lawyer's professional judgment in rendering legal services to the client. See e.g. rules 4-5.4 and 4-1.7(a)(2). Examples of direction, regulation or influence include when the qualifying provider places limits on a lawyer's representation of a client, requires or prohibits the performance of particular legal services or tasks, or requires the use of particular forms or the use of particular third party providers, whether participation with a particular qualifying provider would violate this rule requires a case-by-case determination.

Division of fees between lawyers in different firms, as opposed to any monetary or other consideration or benefit to a qualifying provider, is governed by rule 4-1.5(g) and 4-1.5(f)(4)(D).

If a qualifying provider has more than 1 advertising or other program that the lawyer may participate in, the lawyer is responsible for the qualifying provider's compliance with this rule solely for the program or programs that the lawyer agrees to participate in. For example, there are qualifying providers that provide a directory service and a matching service. If the lawyer agrees to participate in only one of those programs, the lawyer is responsible for the qualifying provider's compliance with this rule solely for that program.



A lawyer who participates with a qualifying provider should engage in due diligence regarding compliance with this rule before beginning participation. For example, the lawyer should ask The Florida Bar whether the qualifying provider has filed any annual reports of participating lawyers, whether the qualifying provider has filed any advertisements for evaluation, and whether The Florida Bar has ever made inquiry of the qualifying provider to which the qualifying provider has failed to respond. If the qualifying provider has filed advertisements, the lawyer should ask either The Florida Bar or the qualifying provider for copies of the advertisement(s) and The Florida Bar's written opinion(s). The lawyer should ask the qualifying provider to provide documentation that the provider is in full compliance with this rule, including copies of filings with the state in which the qualifying provider is incorporated to establish that the provider is using either its actual legal name or a registered fictitious name. The lawyer should also have a written agreement with the qualifying provider that includes a clause allowing immediate termination of the agreement if the qualifying provider does not comply with this rule.

A lawyer participating with a qualifying provider continues to be responsible for the lawyer's compliance with all Rules Regulating the Florida Bar. For example, a lawyer may not make an agreement with a qualifying provider that the lawyer must refer clients to the qualifying provider or another person or entity designated by the qualifying provider in order to receive referrals or leads from the qualifying provider. See rule 4-7.17(b). A lawyer may not accept referrals or leads from a qualifying provider if the provider interferes with the lawyer's professional judgment in representing clients, for example, by requiring the referral of the lawyer's clients to the qualifying provider, a beneficial owner of the qualifying provider, or an entity owned by the qualifying provider or a beneficial owner of the qualifying provider. See rule 4-1.7(a)(2). A lawyer also may not refer clients to the qualifying provider, a beneficial owner of the qualifying provider, or an entity owned by the qualifying provider or a beneficial owner of the qualifying provider, unless the requirements of rules 4-1.7 and 4-1.8 are met and the lawyer provides written disclosure of the relationship to the client and obtains the client's informed consent confirmed in writing. A lawyer participating with a qualifying provider may not pass on to the client the lawyer's costs of doing business with the qualifying provider. See rules 4-1.7(a)(2) and 4-1.5(a).

