

# Self-Assessment Test

February 2007

## New York Professional Responsibility Report

Receive one-half hour of CLE credit in Ethics and Professionalism by reading the Feb. 2007 issue of NYPRR and answering the following questions. The answers are contained within the newsletter. Return this form, together with your payment of \$15 by check or money order. For both true-false questions and multiple-choice questions, mark the correct box with an "x". You must score 80 (16 out of 20 correct) to receive a certificate.

The first twelve questions all relate to the new Lawyer Advertising Rules which became effective February 1.

1. The term "Advertisement" refers to:

- an article on the law by a lawyer in a general-circulation magazine or newspaper
- a communication intended to encourage retention of the lawyer by new clients
- any communication in writing by a lawyer not related to a current legal matter.

2. A communication by a lawyer does not come within the term "Advertisement" if it is directed to:

- a "sophisticated" recipient
- not more than 50 prospective clients at one time
- another lawyer.

3. Provided it is not "false, deceptive or misleading," the following information is permitted in an advertisement:

- a claim that the lawyer can achieve a specific result in a matter
- endorsement of the lawyer by a current client about a pending matter
- a lawyer's bona fide professional ratings.

4. An advertisement may include a paid endorsement of a lawyer provided:

- the person making the endorsement is a former client
- the person making the endorsement is not well known to the general public
- it discloses that the person making the endorsement is being compensated therefor.

5. An advertisement describing the quality of a lawyer's services must also state:

- the number of times the lawyer has supplied the same or similar services
- the disclosure, "Prior results do not guarantee a similar outcome"
- the disclosure "other lawyers are qualified to render similar services."

6. The following advertisements must carry the label

"Attorney Advertising":

- radio and television ads
- ads in a directory
- ads contained in a lawyer's mail to prospective clients.

7. A law firm may not use a domain name which:

- does not identify the firm
- implies the ability to obtain results in a matter
- is in another language than English

8. The term "solicitation" has been extended to prohibit:

- participation by a lawyer in a computer chat room not limited to other lawyers
- all communication by a lawyer to anyone other than a current client or a person connected to a current matter
- participation by a lawyer in an open public discussion of legal issues.

9. In the opinion of Roy Simon, the term "solicitation" has been modified to add:

- targeted mail and e-mail
- any correspondence containing a reference to a lawyer's qualifications
- any advertising (including radio, TV and newspaper) directed at clients involved in a single event.

10. Any written or computer-accessed solicitation directed to a recipient prompted by a specific occurrence involving the recipient must include:

- a statement of the lawyer's experience in providing services in similar circumstances
- a schedule of the lawyer's usual fees for similar matters
- a statement disclosing how the lawyer learned the identity of the recipient and the recipient's potential legal need.

11. The advertising rules apply to lawyers not admitted in New York who:

- apply to appear before a New York court pro haec vice.
- appear on a radio or TV station in New York to discuss an occurrence in New York
- solicit retention by New York residents.

12. The new rule imposing a thirty-day blackout for

<p>solicitation after an incident involving potential claims for personal injury or wrongful death applies to:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> only lawyers representing potential plaintiffs</li> <li><input type="checkbox"/> only lawyers representing potential defendants</li> <li><input type="checkbox"/> both lawyers representing potential plaintiffs and those representing potential defendants.</li> </ul> <p>13. The common objective of lawyers and auditors representing public companies is:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> recommending changes in the Treaty between the ABA and the AICPA</li> <li><input type="checkbox"/> accurate reporting and appropriate corporate conduct</li> <li><input type="checkbox"/> a review of the standards and codes governing lawyers and accountants.</li> </ul> <p>14. One important responsibility of in-house and outside lawyers representing public companies is:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> certification as a specialist in Accounting Professional Liability</li> <li><input type="checkbox"/> acquiring a basic familiarity with all the relevant accounting concepts</li> <li><input type="checkbox"/> at least five hours of CLE credits in Accounting for Public Companies in each registration cycle.</li> </ul> <p>15. To ensure that lawyers are actively involved on matters of financial disclosure:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> all financial statements of a public company should be certified by the Chief Legal Officer</li> <li><input type="checkbox"/> lawyers, management and auditors should focus on the provisions of SOX § 304.</li> <li><input type="checkbox"/> at least one lawyer should attend all meetings between management and the auditors.</li> </ul> <p>16. One item in a company's financial statement on which company lawyers should be consulted is:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> allocation of expenditures between capital improvements and ordinary repairs</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> the computation of gross and net profit</li> <li><input type="checkbox"/> creating reserves for claims in litigation.</li> </ul> <p>17. Another item on which company lawyers should be consulted before a financial statement is issued:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the impact of the company's contracts on income recognition</li> <li><input type="checkbox"/> what portion of the company's net profits should be distributed as dividends to shareholders</li> <li><input type="checkbox"/> whether the company needs to borrow for future expansion.</li> </ul> <p>18. To confirm that a lawyer has been consulted in connection with a particular financial disclosure:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the lawyer's name and the content of his disclosures should be recited in the financial statement to which the disclosures are relevant</li> <li><input type="checkbox"/> the lawyer should certify to financial personnel in writing the facts within his personal knowledge relevant to the disclosure</li> <li><input type="checkbox"/> the lawyer and financial personnel should reduce the content of their discussion to a joint memo.</li> </ul> <p>19. Company counsel may be required to "report up" if management resists:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the advice of counsel on the merits of a law suit</li> <li><input type="checkbox"/> counsel's advice that a clearly material unasserted claim should be disclosed to the company's auditors and in the financial statement</li> <li><input type="checkbox"/> counsel's advice with respect to the company's future production plans.</li> </ul> <p>20. The CityBar Task Force recommended that counsel report any possible unasserted claims against the company, as well as any advice to management that such claims be disclosed to the auditors, to:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the SEC</li> <li><input type="checkbox"/> the company's Chief Financial Officer</li> <li><input type="checkbox"/> the company's Audit Committee.</li> </ul>
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**Only experienced lawyers may earn CLE credits by reading NYPRR and completing the monthly self-assessment test. Newly admitted lawyers may not earn CLE credits in this way.**

<p><b>To receive CLE credit certification, payment must be submitted with test.</b></p> <p>Mail to: NYPRR 1328 Boston Post Road Larchmont, NY 10538</p> <p><input type="checkbox"/> \$15.00 check enclosed    <input type="checkbox"/> Credit card charge \$15.00</p> <p style="margin-left: 100px;"> <input type="checkbox"/> Visa  <input type="checkbox"/> AMEX  <input type="checkbox"/> Mastercard </p> <p>Card # _____</p> <p>Exp. date: _____</p>	<p>Your Name _____</p> <p>Firm/Company _____</p> <p>Address _____</p> <p>City _____ State _____ Zip _____</p> <p>Phone _____ Fax _____</p> <p>E-mail Address _____</p> <p>Signature _____ Date _____</p>
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