

# **Committee on Disciplinary Rules and Referenda**

## **Supplement for March 4, 2020, Meeting**

- Public Comments Received through March 3, 2020 – Proposed Changes to Part VII, Texas Disciplinary Rules of Professional Conduct (Lawyer Advertising and Solicitation Rules)
- Public Comments Received through March 3, 2020 – Proposed Rule 13.04, Texas Rules of Disciplinary Procedure (Voluntary Appointment of Custodian Attorney for Cessation of Practice)

**Committee on Disciplinary Rules and Referenda  
Proposed Rule Changes**

**Texas Disciplinary Rules of Professional Conduct  
Part VII. Information about Legal Services  
(Lawyer Advertising and Solicitation Rules)**

**Public Comments Received  
Through March 3, 2020**

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Excessive Advertising  
**Date:** Monday, March 2, 2020 10:33:27 AM

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**\* State Bar of Texas External Message \*** - Use Caution Before Responding or Opening Links/Attachments

**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Fatima     |
| <b>Last Name</b>  | Badreddine |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 24111249   |

**Feedback**

**Subject** Excessive Advertising

**Comments**

I transferred to Texas within the past year from Arizona. I believe that these rules are moving in the right direction and are much needed in Texas. The amount of attorney advertising out here is excessive. The attorney referrals to so-called pain management providers is also uncalled for, excessive, and in my opinion, a conflict of interest. However, I think the rule on advertising verdict amounts should preclude advertising these amounts because there is no way to advertise in a manner that is not misleading to the public. How can a single advertisement explain that a verdict was reached due to the egregious factual circumstances specific to that case that are not likely to apply to the client's case? For instance, the Thomas J. Henry firm often advertises verdicts worth millions for cases that (to my knowledge) involved DWI and/or death. I'm not against advertising, but it should not be misleading and reasonable expectations must be set.

**From:** [REDACTED]  
**To:** [CDRR](#)  
**Subject:** CDRR Comment: Proposed rule changes: Lawyer Advertising  
**Date:** Monday, March 2, 2020 11:26:00 AM

|   |            |
|---|------------|
| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Dawn       |
| <b>Last Name</b>  | Meade      |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 13879750   |

|  |   |
|--|---|
| <b>Feedback</b>  |   |
| <b>Subject</b>   | Proposed rule changes: Lawyer Advertising |
| <b>Comments</b>  |   |
| <p>           I have a comment on Rule 7.06. Prohibited Employment. Specifically, Rule 7.06(c) should be stricken or altered. As a 28 year litigator, I understand the need to draft the rules to punish "laundered" cases: Those referred to an "innocent" attorney by less scrupulous attorneys who chase business and attain it illegally so it may be "referred" to others for a part of the fee. Nevertheless, this Rule places an unacceptably high burden on attorneys to whom cases are referred, and puts them in the position of, after rendering services for their client, being punished and forced to sacrifice all of the time and work because of the origin of the case. I don't believe for one second that, unless the referring attorney is a known scoundrel, most attorneys would have any way to know that a referral found its origins in rules violations, especially violations that occurred by a person other than the lawyer. Whenever a client is referred to me, I always inquire about how they found me. I do securities fraud and frankly, more than half of them can't articulate who even sent them my way. Many times they have made an initial inquiry only to be sent from firm to firm until they find someone who knows that I "do that kind of law." If they were originally sent on that journey to find "me" by a lawyer who impermissibly solicited them, I could be a year into representation before something triggers a memory and the client tells me off the cuff that, "I saw John Doe's commercial last night. I forgot that guy called me last year and sent me to X, who sent me to you." That scenario, which likely plays out often, is akin to an "innocent purchaser" situation and no attorney who has worked hard to represent someone should be punished by a strict liability, "catch-all rule." I suggest, at the very least, some alteration like what I set out below: (c) A lawyer who has not violated paragraph (a) or (b) in accepting employment in a matter ("reporting attorney"), but who subsequently discovers that the referring attorney violated paragraph (a) or (b) shall: (1) immediately report the violation to the State Bar _____; (2) within 30 days of the report made pursuant to (c)(1), submit to the _____ a written explanation of how the case came to be referred to the reporting attorney; and (3) respond within 30 days of receiving any further inquiry made by _____, regarding the report made by the reporting attorney pursuant to (c)(1). (d) If, after investigation of the issue, _____ informs the reporting attorney that _____ determined the reporting attorney should have known that s/he accepted employment in a matter where a lawyer violated paragraph (a) or (b), then the reporting attorney shall not continue employment in connection with the matter unless nothing of value is given thereafter in return for that employment.         </p> |   |

**From:** [JR Smith](#)  
**To:** [cdrr](#)  
**Subject:** RE: Seeking Comments on Proposed Rule Changes: Lawyer Advertising & Cessation of Practice  
**Date:** Monday, March 2, 2020 12:57:03 PM

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I do not think lawyers should be allowed to advertise

J. R. Smith

j

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**From:** State Bar of Texas - CDRR [mailto:cdrr@texasbar.com]  
**Sent:** Monday, March 02, 2020 9:35 AM  
**To:** [REDACTED]  
**Subject:** Seeking Comments on Proposed Rule Changes: Lawyer Advertising & Cessation of Practice

State Bar of Texas



# Proposed Rule Changes

**Public Comments Sought**

## Lawyer Advertising and Solicitation Rules

The Committee on Disciplinary Rules and Referenda has published [proposed changes to Part VII \(Information about Legal Services\), Texas Disciplinary Rules of Professional Conduct](#), in the March issue of the *Texas Bar Journal* and the February 28 issue of the *Texas Register*. The published proposal includes revisions to the previously recommended rule changes. For a summary and background of the latest revisions, and to view the proposed rule changes, please click [here](#).

The Committee will accept comments concerning the proposed rule changes through April 10, 2020. Comments on the proposed rule changes can be submitted [here](#).

A public hearing on the proposed rule changes will be held at 10:30 a.m. on April 7, 2020, at the Texas Law Center in Austin.

## Voluntary Appointment of Custodian Attorney for Cessation of Practice

The Committee has also published [proposed Rule 13.04 \(Voluntary Appointment of Custodian Attorney for Cessation of Practice\), Texas Rules of Disciplinary Procedure](#), in the March issue of the *Texas Bar Journal* and the February 28 issue of the *Texas Register*.

The Committee will accept comments concerning the proposed rule through April 10, 2020. Comments on the proposed rule can be submitted [here](#).

A public hearing on the proposed rule will be held at 10:30 a.m. on April 7, 2020, at the Texas Law Center in Austin.

## Additional Information

The Committee is responsible for overseeing the initial process for proposing a change or addition to the disciplinary rules (Gov't Code § 81.0873). For more information, go to [texasbar.com/CDRR](https://texasbar.com/CDRR).

To subscribe to email updates, including notices of public hearings and published rules for comment, click [here](#).

Sincerely,  
Committee on Disciplinary Rules and Referenda

## Committee on Disciplinary Rules and Referenda

State Bar of Texas | 1414 Colorado | Austin, Texas 78701 | 800.204.2222

[Unsubscribe](#)



**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDOR Comment: Support elimination of attorney trade name prohibition  
**Date:** Monday, March 2, 2020 1:03:06 PM

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**Contact**

|                   |             |
|-------------------|-------------|
| <b>First Name</b> | Christopher |
| <b>Last Name</b>  | Gagne       |
| <b>Email</b>      | [REDACTED]  |
| <b>Member</b>     | Yes         |
| <b>Barcard</b>    | 24060906    |

**Feedback**

**Subject** | Support elimination of attorney trade name prohibition

**Comments**

I whole heartedly agree with and support the proposed changes to the attorney advertising rules that would eliminate the prohibition against using a law firm trade name. It is long overdue to move Texas into conformity with other jurisdictions that permit the use of trade names for law firms. Please pass the proposed rule change as soon as possible. Sincerely, Chris Gagne

**From:** [REDACTED]  
**To:** [CDRR](#)  
**Subject:** CDRR Comment: Proposed change to 7.01 (e)  
**Date:** Monday, March 2, 2020 2:55:31 PM

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|   |            |
|---|------------|
| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Camden     |
| <b>Last Name</b>  | Chancellor |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 24082800   |

|  |                             |
|--|-----------------------------|
| <b>Feedback</b>  |                             |
| <b>Subject</b>   | Proposed change to 7.01 (e) |
| <b>Comments</b>  |                             |
| <p>This proposed rule absolutely shall not be implemented. A licensed lawyer in the state of texas can, and will, at all times, be able to propose the use of force, or deadly force, when the same force is not a violation of Texas Law. As an attorney at law, I have had situations where my clients had civil proof of right of possession and ownership over surface premises or personal property... and Texas law allows for the use of force to prevent harm to one's self, or to those under one's protection. A lawyer can and will use force if the lawyer so decides, and the consequences of the use of force are not violations of criminal law. A lawyer may use deadly force to protect another. A lawyer may use DEADLY FORCE to defend against the taking of certain property. An intent to use force in advance is acceptable if people are warned as concerns trespassing or violation of Texas castle doctrine. You shall not pass this proposed change.</p> |                             |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Trade Names  
**Date:** Monday, March 2, 2020 3:01:01 PM

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### Contact

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Michael    |
| <b>Last Name</b>  | Sanders    |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 24007981   |

### Feedback

|                |             |
|----------------|-------------|
| <b>Subject</b> | Trade Names |
|----------------|-------------|

### Comments

Do not allow the use of trade names. It cheapens the profession. They are almost always misleading. One firm in the state has been using a trade name for years and continues to do so. The firm's name implies a level of intelligence that the attorneys at the firm do not have. The use of trade names will cause unending fights between lawyers over trademarks and trade names. There are plenty of ways for the public to find out which lawyers practice in which areas. We do not need the people choosing lawyers based upon who came up with the best trade name. As I understand it, part of the justification for this change is that the majority of other states allow trade names. My response: So What? The majority of other states do things that we do not do in Texas. I do not want the way we do things in Texas in general, and the practice of law in particular, to be governed by standards enacted just because the majority of other states use that standard.

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: As regards 701(e)  
**Date:** Monday, March 2, 2020 8:27:09 PM

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**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Camden     |
| <b>Last Name</b>  | Chancellor |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 24082800   |

**Feedback**

|                |                   |
|----------------|-------------------|
| <b>Subject</b> | As regards 701(e) |
|----------------|-------------------|

**Comments**

This also carries a potential restraint of trade against lawyers offering security services. The proposed rule is vague enough to incorporate anti-competitive activities which are allowed to licensed attorneys. I'm not aware of Prohibition's against attorneys offering other services. Therefore the proposed rule limits the ability of licensed attorneys to give presentations concerning the use of force and/or to offer services in connection with personal protection services.

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Proposed Changes to Part VII  
**Date:** Tuesday, March 3, 2020 2:44:01 PM

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**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Ruben      |
| <b>Last Name</b>  | Robles     |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 17118400   |

**Feedback**

**Subject** | Proposed Changes to Part VII

**Comments**

From the proposed changes I infer that someone believes that lawyers are being too dignified in their advertising; they are bringing too much honor to our profession; the public needs less protection from deceitful, aggressive and downright embarrassing lawyer ads. I'd like to meet that person and I'd like to have that person watch some daytime and late night TV with me. These proposed changes can only bring more disparagement of our profession. But I guess that's the goal. Maybe after 35 years of practice it's time for me to retire while I retain a modicum of dignity. Thanks.

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: 7.01 (e) proposed  
**Date:** Tuesday, March 3, 2020 3:34:12 PM

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**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Camden     |
| <b>Last Name</b>  | Chancellor |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 24082800   |

**Feedback**

|                |                   |
|----------------|-------------------|
| <b>Subject</b> | 7.01 (e) proposed |
|----------------|-------------------|

**Comments**

The State of Texas has a penal code exception that a woman is not prosecuted for violence against her unborn child. The State Bar of Texas professional conduct rules do not contain any such exception. Therefore this new provision would apply to lawyers who advertise reproductive rights relating to abortion. These lawyers are therefore encouraging results based on violence against unborn children, and the state bar did not incorporate an appropriate exception.

**Committee on Disciplinary Rules and Referenda  
Proposed Rule Changes**

**Texas Rules of Disciplinary Procedure  
Rule 13.04. Voluntary Appointment of Custodian Attorney  
For Cessation of Practice**

**Public Comments Received  
Through March 3, 2020**

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDOR Comment: Custodian Attorney for Cessation of Practice  
**Date:** Monday, March 2, 2020 9:49:23 AM

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**\* State Bar of Texas External Message \*** - Use Caution Before Responding or Opening Links/Attachments

**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Steven     |
| <b>Last Name</b>  | Hayes      |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 09280100   |

**Feedback**

|                |  |
|----------------|--|
| <b>Subject</b> | Custodian Attorney for Cessation of Practice |
|----------------|--|

**Comments**

I did not read the entire proposed rule carefully. But I thank the Committee for its work on this, and other, issues. In the last sentence of the penultimate paragraph of the proposed rule, it says "no person . . . may incur any liability" from serving as a custodian attorney. Did you intend to say "no person . . . will incur any liability"? The latter gives protection to the attorney, the former disallows the attorney to take on liability. I think. Yours, Steve

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Proposed Rule Change: Designation of atty for lawpractice cessation  
**Date:** Monday, March 2, 2020 11:48:48 AM

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**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Dawn       |
| <b>Last Name</b>  | Meade      |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 13879750   |

**Feedback**

**Subject** | Proposed Rule Change: Designation of atty for lawpractice cessation

**Comments**

This is a good rule. When I started my solo practice, my malpractice carrier required that I do this and I thought then that we probably ought to require same among our members who have solo offices.