

**ADVERTISING REVIEW COMMITTEE  
INTERNAL OPERATING RULES AND PROCEDURES  
(EFFECTIVE AS OF JULY 3, 1995, REVISED 6-11-99, REVISED 5-6-2005)**

1. Purpose

These operating rules are: (1) for the administrative use of the Advertising Review Committee of the State Bar of Texas constituted pursuant to Texas Disciplinary Rules of Professional Conduct 7.07; (2) not substantive and do not alter, enlarge or abrogate any portion of Part VII of the Texas Disciplinary Rules of Professional Conduct; and (3) to be applied in a manner that promotes the fair and just discharge of the Committee's responsibilities.

2. Definitions

1. **Advertisement.** An advertisement in the public media contemplated by Rule 7.04.
2. **Advertiser.** A lawyer or law firm that advertises their legal services in any public media or sends or delivers a Solicitation within the meaning of Rules 7.04 or 7.05.
3. **Application.** The form to be completed and filed with a copy of an Advertisement or Solicitation as required by Rules 7.07 (a) (b), or (c).
4. **Approved.** A finding that an Advertisement or Solicitation complies with Part VII of the Rules.
5. **Bar.** The State Bar of Texas
6. **Chief Disciplinary Counsel.** The Bar's Office of the Chief Disciplinary Counsel.
7. **Committee.** The twelve persons appointed by the Bar President to review Advertisements and Solicitations as required by Rule 7.07.
8. **Disapproved.** A finding that an Advertisement or Solicitation does not comply with Part VII of the Rules.
9. **Exempt Advertisement.** An Advertisement that need not be filed with the Committee and contains only one or more of the materials listed in Rule 7.07 (e)(1) or is one of the materials identified in Rule 7.07 (e) (2)-(7).
10. **Panel.** A four member grouping of Committee members.

11. **Pre-Approval.** A finding that an Advertisement or Solicitation filed with the Committee at least 30 days prior to its first dissemination or mailing complies with Part VII of the Rules.
12. **Production Script.** A writing that states all words used in a public media Advertisement and describes in detail the actions, events, scenes and background sounds together with a listing of the names of persons portrayed or heard to speak.
13. **Rule(s).** The Texas Disciplinary Rules of Professional Conduct as adopted by the Texas Supreme Court.
14. **Solicitation.** A writing contemplated by Rule 7.05.
15. **Substantiating Information.** Information provided by an Advertiser to the Committee to substantiate claims in an Advertisement or Solicitation.

3. Committee Status

The Committee is a permanent Bar committee and is not subject to dissolution by the Bar Board under Article VIII of the State Bar Rules.

4. Committee Membership

1. Composition.

1. The Committee is composed of twelve members. Nine members shall be attorneys licensed to practice law in the State of Texas and in good standing as Bar members. Three members shall be public members who have, other than as consumers, no interest, direct or indirect, in the practice of law or the legal profession.
2. No person may serve as a Committee member, while they are a District Grievance Committee member, a Bar officer or director, a Bar employee, or a Texas Young Lawyers Association officer or director; provided, however, the Bar Board Chair shall appoint two Bar directors as a Committee adviser and as an alternate Committee adviser, and the Texas Young Lawyers Association President shall appoint a Texas Young Lawyers Association director as a Committee adviser.

3. Committee members are not eligible for reappointment to more than one additional three-year term.
  2. Appointment and Terms. Except for the initial appointments, Committee members will serve three year terms unless sooner terminated through disqualification, resignation, or other cause. Terms begin on June 1, of the year and expire on May 31 of the third year thereafter. Committees are appointed by the Bar President, subject to the Board's concurrence, no later than June 1 of the year.
  3. Removal. Members may be removed by the Bar Board for good cause. Among other grounds, the failure or inability to attend Committee meetings on a regular basis shall, at the Bar Board's discretion, constitute good cause for the Member's removal.
  4. Vacancies. Vacancies are to be filled in the same manner as term appointments but are only for the vacated position's unexpired term.
  5. Chair. The Bar President, subject to the Bar Board's concurrence, shall designate annually a member to chair the Committee.
  6. Reimbursement. Committee members and advisers will be reimbursed for their reasonable, actual, and necessary expenses.
5. Committee Meetings
1. Meetings. The Committee shall meet at least quarterly (or as otherwise required), in such places, and for such time periods as the Committee's business requires. Meetings are convened at the Chair's call. Timely advance notice of all Committee meetings shall be sent to all members in writing.
  2. Executive Sessions. The Committee may meet, as needed, in closed executive session. During an executive session, only Committee members shall be present in the absence of an invitation to others whose presence is necessary to conduct Committee business.
  3. Conference Calls. The Committee may, at the Chair's instance, conduct its business by conference call but, in such event, any action taken must be reduced to writing and signed by the Chair.
  4. Quorum. A simple majority of the then appointed Committee members shall constitute a quorum.

5. **Votes.** Each Committee member present at a Committee meeting, except the Chair, shall have a single vote. All matters subject to a vote shall be decided by a simple majority of those members attending the meeting. The Chair shall vote to break a tie.
  6. **Appearances.** Interested persons are welcome to attend any public Committee meeting. The Committee, however, is not a court or adjudicatory body and, therefore, oral presentations or argument by or for an Advertiser shall not be permitted.
  7. **Public Comment.** Public comment shall be included on the agenda of each regularly scheduled Committee meeting. The Chair may, as needed, limit the discussion to pertinent subject matter and the time permitted for each person wishing to address the Committee.
  8. **Attendance.** Committee members are expected to attend all Committee meetings.
  9. **Rules of Procedure.** Committee meetings shall be governed by Roberts Rules of Order. The Chair's rulings on parliamentary procedure shall be final.
6. **Filing Requirements**
1. **Applications.**
    1. An Advertiser that is either seeking Pre-Approval or merely filing an Advertisement or Solicitation shall submit an original and one copy of a completed Application in the form approved by the Committee.
    2. Only one Application is required for each Advertisement or Solicitation form.
      - (1) A new Application is not required each time an identical Advertisement is disseminated or an identical form Solicitation is sent or delivered.
      - (2) A new Application or further action by the Advertiser are not required when an Advertisement receives Pre-Approval.
      - (3) A new Application is not required when an Advertiser responds to a request for Substantiating Information.

- (4) A new Application is required if a previously Approved Advertisement or Solicitation is modified substantively. A substantive modification is defined as any addition, deletion, or change in text or context beyond simple changes in phone numbers, addresses, etc.

## 2. Specimens.

1. Each Application regarding a written, recorded or other electronic media Advertisement or Solicitation shall be accompanied by two copies of the Advertisement or Solicitation.
  2. Each Pre-Approval Application regarding an audio or video Advertisement shall be accompanied by two copies of the final Production Script. A recording of each audio or video Advertisement that has been previously submitted for Pre-Approval must be submitted to the Committee at or about the time the Advertisement is actually disseminated regardless of whether it receives Pre-Approval.
  3. Each Application regarding a filed audio or video Advertisement shall be accompanied by a recording of the Advertisement and two copies of the final Production Script.
  4. Audio recordings shall be submitted on two-track cassettes or CD's and video recordings shall be submitted in VHS or DVD format.
  5. Any public media advertisement or solicitation communication in a non-English language shall be accompanied by an English translation of that advertisement or solicitation.
3. Filing Fees. Each Application shall be accompanied by a check, money order, or credit card acceptable to the State Bar in the amount of the filing fee made payable to the State Bar of Texas.
  4. Incomplete Applications. An Application that does not comply with these subparts A-C shall be returned to the Advertiser without being docketed as provided for below.

## 7. Internal Review Procedures

1. Docketing. Upon its receipt with all required attachments, a completed Application shall be assigned a docket number and the Advertiser's name, address, phone

number, date received, whether Pre-Approval is sought, and the type of Advertisement or Solicitation shall be entered into a computerized database. The docket shall also reflect: (1) the date and substance of all communications with the Advertiser and (2) all determinations regarding its Application.

b. **Reviewing For Compliance.** All Solicitations and non-exempt Advertisements shall be reviewed for their compliance with Part VII of the Rules.

1. **Pre-Approval Review.**

(1) If Pre-Approval is sought and a representation or statement in an Advertisement or Solicitation requires substantiation, the Advertiser shall be sent a notice requesting appropriate Substantiating Information. If Substantiating Information is not provided timely, the Application and docket will be endorsed "Disapproved."

(2) If Pre-Approval is sought and a proposed Advertisement or Solicitation, in light of any Substantiating Information that the Advertiser has provided timely, violates the Rules, the Advertiser shall be notified of the violation's nature and be requested to resubmit the Advertisement or Solicitation, with corrections.

(3) If Pre-Approval is sought and a proposed Advertisement or Solicitation, after a final review in light of any Substantiating Information and corrections, complies with Part VII of the Rules, the Advertiser will be so notified and the Application, Advertisement (or Solicitation), and docket shall be endorsed "Approved."

(4) If Pre-Approval is sought and a proposed Advertisement or Solicitation, after a final review in light of any Substantiating Information and corrections, does not comply with Part VII of the Rules, the Advertiser will be so notified and the Application, Advertisement (or Solicitation), and docket shall be endorsed "Disapproved."

2. **Review of Filings**

(1) If Pre-Approval is not sought and a representation or statement in an Advertisement or Solicitation requires substantiation, the Advertiser shall be sent a notice requesting the Advertiser to provide appropriate Substantiating Information.

- (2) If Pre-Approval is not sought and a proposed Advertisement or Solicitation, after a final review in light of any Substantiating Information and corrections, complies with Part VII of the Rules, the Advertiser will be so notified and the Application, Advertisement (or Solicitation), and docket shall be endorsed "Approved."
- (3) If Pre-Approval is not sought and an Advertisement or Solicitation, after a final review in light of any Substantiating Information, does not comply with Part VII of the Rules, the Application, Advertisement (or Solicitation), and docket will be endorsed "Disapproved."

8. Initiation of Complaint

If an Advertisement or Solicitation, after a final review in light of any Substantiating Information and corrections, violates Part VII of the Rules, a complaint alleging such violation shall be filed with the Chief Disciplinary Counsel. The complaint shall include:

1. A copy of the relevant Application and the accompanying Advertisement or Solicitation;
  1. A copy of the relevant docket;
  2. A copy of any relevant written communications with the Advertiser;
  3. A statement concerning the nature of the alleged violation; and
  4. Copies of any Substantiating Information and corrections supplied by the Advertiser substantiating a statement or representation.

9. Notices and Time Limitations

1. **Writing Required.** All notices to, and Substantiating Information from, Advertisers contemplated by these internal operating rules shall be in writing. Any notice contemplated by these Internal Operating Rules, or Substantiating Information provided by an Advertiser, that is transmitted electronically satisfies the writing requirement.
2. **Transmission Form.** Any notice contemplated by these Internal Operating Rules, or Substantiating Information from an Advertiser, may be transmitted by any form of U.S. Mail, regular delivery service, or electronically.

3. Time Periods.

1. If Pre-Approval is sought, the Committee shall, within 25 days after receiving a completed Application, either notify the Advertiser that the Advertisement or Solicitation complies with the Rules; request Substantiating Information; or notify the Advertiser that the Advertisement or Solicitation does not comply with the Rules and state the reasons therefor.
2. If Pre-Approval is sought and the Advertiser is notified that Substantiating Information is required or that its materials do not comply with the Rules, the notice will inform the Advertiser that any Substantiating Information or corrections must be received by the Committee within 20 days of the notice's date.
3. If an Advertisement or Solicitation is filed without seeking Pre-Approval, the Committee shall, within 45 days after receiving the Application, either: (1) determine whether the material complies with the Rules or (2) request Substantiating Information from the Advertiser.
4. If the Advertiser provides Substantiating Information or corrections, the time period for reviewing such materials begins to run anew upon its receipt.

10. Staff

1. Employment. The Committee, with the Bar's approval, may retain full and part-time staff employees to assist in the Committee's duties.
2. Duties. The staff may be authorized to:
  1. receive and review Applications for completeness;
  2. docket Applications and Committee communications with the Advertiser;
  3. determine whether an Advertisement is exempt from filing requirements under Rule 7.07(e);
  4. make non-discretionary decisions as to whether an Advertisement or Solicitation complies with Part VII of the Rules;
  5. request Substantiating Information from an Advertiser;

6. recommend actions to the Committee or a Panel regarding discretionary decisions as to whether an Advertisement or Solicitation should be Disapproved; and
7. refer non-discretionary violations to the Chief Disciplinary Counsel.

## 11. Panels

1. **Composition.** The Chair may divide the Committee members into three review panels. Any such Panel shall consist of three attorney and one public members. The Committee Chair shall be a non-voting Ex Officio member of all Panels to which the Chair is not otherwise assigned as a regular member.
2. **Duties.** Any such Panel shall review Advertisements and Solicitations for discretionary determinations as to whether they comply with the Rules. A panel may, to the extent necessary, also review staff decisions regarding compliance with the Rules.
3. **Chairs.** The Committee Chair shall appoint one Panel member to serve as the Panel's chair.
4. **Meetings.** Any such Panel shall meet at least quarterly (and as otherwise necessary) in such places and such times as the Panel's business requires. Panel meetings shall be staggered throughout the month so as to evenly distribute the Committee's workload and facilitate timely responses to Applications and filings within the parameters proscribed by these Internal Operating Rules. Within the constraints of this subpart, Panel meetings shall be convened at the Panel Chair's call. Reasonable advance notice of all Panel meetings shall be provided in writing.
5. **Conference Calls.** A Panel may, at its Chair's instance, conduct its business by conference call. In such event, any action taken by the Panel must be reduced to writing and signed by the Panel Chair.
6. **Quorum.** Participation by at least two members of the then appointed Panel members shall constitute a quorum.
7. **Votes.** Each Panel member present at a Panel meeting, except the Chair, shall have a single vote. If at least three Panel members are present at a Panel meeting, all matters subject to a vote shall be decided by a simple majority of those

members attending the meeting (and the Panel Chair shall vote to break a tie).  
If only two Panel members are present, all matters subject to a vote shall be decided by an unanimous vote.

8. Attendance. Panel members are expected to attend all of their respective Panel meetings.
  - a. Rules of Procedure. Any such Panel meetings shall be governed by Roberts Rules of Order. The Chair's rulings on parliamentary procedure shall be final.

12. Ad Hoc Sub-Committees

The Chair, at its discretion, is authorized to appoint ad hoc sub-committees as are reasonable and necessary to perform the Committee's mission.

13. Construction

In the event of any conflict between the Internal Operating Rules and Procedures and Part VII of the Texas Disciplinary Rules of Professional Conduct, the terms and provisions of Part VII of the Texas Disciplinary Rules of Professional Conduct shall govern and take precedence.

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