
E-92-4 Referral of personal injury clients to health-care providers

Question

May an attorney practicing personal injury law, who sends direct mail advertising in the form of a personalized letter to individuals involved in automobile accidents, also indicate in the direct letter advertising that the attorney can suggest various health-care providers or other sources of medical care if the injured party does not have a treating physician?

Opinion

Advertising that an “attorney can suggest various health-care providers or other sources of medical care if the injured party does not have a treating physician” is misleading without a caveat. SCR 20:7.1(a)(1). Such advertising also must comply with SCR 20:7.3(a) and (b) relating to targeted direct mail.

The caveat should explain that such referrals are made only after the lawyer discusses with a client how, if at all, a referral by the lawyer could affect the representation. When engaged in this consultation with a client, a lawyer would, for example, explain: 1) that the lawyer’s involvement in a referral might be used to impeach the testimony of the health-care provider in question, particularly if there is a pattern of such referrals to that provider; and 2) any financial interest that the lawyer may have in the health-care provider’s business and any other association that the lawyer may have with the health-care provider that could materially limit the client’s representation. SCR 20:1.8(a) and SCR 20:1.7(b).