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ABC Update

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Virginia Clarifies Rules on Advertising for Specialists



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On April 15, 2013, the Supreme Court of Virginia announced that it would continue to allow lawyers to advertise their certifications as specialists in certain fields. The court published a new set of advertising rules that took effect on July 1, 2013. While the rules permit lawyers who hold specialty certifications to continue to advertise that fact, Virginia lawyers had faced the possibility of a change in those rules. In September 2012, the court announced proposed revisions to the lawyers' advertising rules, which would have prohibited any lawyer from advertising as a "specialist." In response to the proposed rules, a number of legal groups, including The National Elder Law Foundation, objected and asked the court to reconsider. After deliberation, the court left the previous rules unchanged.

Virginia Rule 7.4(d) provides that "[a] lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations." The advertising rules also require truthful advertising and a disclaimer about promising results for any client.

Other jurisdictions also permit attorneys to advertise their certified status, but practitioners

must take care in doing so. In December 2011, the New Jersey Supreme Court dismissed a charge against a lawyer who utilized the state's "certified attorney" seal in his advertising despite his lack of certification. The court found no evidence that his use of the seal was intentional, but the court also warned New Jersey counsel that "[p]rospectively, attorneys who are not authorized by Rule 1:39 to utilize the New Jersey Supreme Court Certified Attorney Seal, but who display the seal on their websites or in other communication, will be subject to appropriate discipline." *In re Hyderally*, N.J. No. D-134-10, Dec. 20, 2011.

As of March 2012, approximately 48 states authorize attorneys to advertise themselves as specialists. Due to the varying nature of these rules and the possibility of changes to them, you should carefully check your state's rules before advertising. **abi**

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