

ETHICS ADVISORY PANEL
Opinion #93-39, Request #349
Issued June 30, 1993

An attorney asks whether he or she may state on letterhead a statement that the attorney is certified by the National Board of Trial Advocacy and if so, must the disclaimer of Rule 7.4 be included.

Rule 7.1 entitled "Communication Concerning a Lawyer's Services" governs all communications by a lawyer. The rule provides that:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

- (a) contains a material misrepresentation or omits a fact necessary to make the statement considered as a whole not materially misleading;
- (b) is likely to create an unjustified expectation about results . . . ; or
- (c) compares the lawyer's services with other lawyer's services

Rule 7.4 entitled "Communication of Fields of Practice" is also pertinent to this inquiry. The Rule states that:

A lawyer may not, however, indicate that his or her practice is limited to or concentrated in particular fields of law unless, as part of the same communication, the lawyer also indicates that Rhode Island does not have a procedure for certification or recognition of specialization by lawyers

Assuming that the inquiring attorney will comply with Rules 7.1 and 7.4 as set forth above, the Panel opines that the proposed statement may be placed on letterhead. The statement of certification on the lawyer's letterhead implies a concentration which, in turn, requires the disclaimer under Rule 7.4.

The Panel notes that the United States Supreme Court has sustained the findings of the highest court of two states that a statement as to certification by this particular organization is not misleading. See, Peel v. Illinois, 496 U.S. 91, 110 L.Ed. 2d 83, 110 S.Ct. 2281 (1990).