LAWYER ADVERTISING IN IOWA AFTER 2012*

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ABSTRACT

Although long having a reputation for imposing the most restrictive rules in the nation on lawyer advertising, Iowa gradually removed most of these restrictions over the decades. Until 2013, however, there were notable exceptions: a continuing instruction that information about lawyers, legal services, and legal fees be presented in a “dignified” fashion; a strict prohibition on claims by a lawyer about a level of quality or ability; and rigorous controls on the sound and visual content of broadcast media advertising. Now those specific restrictions have been replaced by (more uniform) language based on the American Bar Association’s Model Rules of Professional Conduct. In doing so, the Iowa Supreme Court more directly connected the ethics rules on lawyer advertising to the public interest in preventing deceptive or misleading messages. The Authors, both of whom have served on drafting committees for the Iowa Rules of Professional Conduct, describe the 2013 revisions to the regulations governing communication by lawyers about legal services, with a particular focus on the elimination of the vague standard of “dignity” in lawyer advertising, the removal of the ban on making claims about a level of quality or ability in a lawyer’s reputation, and the lifting of stringent restrictions on advertising through electronic media.

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I. INTRODUCTION

Iowa has long had a powerful reputation for imposing the most restrictive rules in the nation on lawyer advertising.\(^1\) For some Iowa lawyers, that designation was worn as a badge of honor, approving of such limitations as upholding the professional image of lawyers and sparing Iowans from crass commercial depictions by advertising lawyers. Others criticized, with increasing urgency, lawyer-advertising restrictions as putting Iowa practitioners at a competitive disadvantage in offering information to potential clients about legal rights and legal services. This concern was especially acute in cities bordering neighboring states, such as Illinois and Nebraska, where lawyers could advertise more freely and in a wider range of media, including television.

By the first decade of the 21st century, Iowa’s reputation for strictly forbidding lawyer advertising had already become overstated in most respects. Although working in piecemeal fashion for more than a quarter century, the Iowa Supreme Court by 2005 substantially liberalized the lawyer-advertising rules.\(^2\) Arguably oxymoronic directives that advertising messages not be self-laudatory or self-promoting (which of course is inherent in any advertising) had been eliminated.\(^3\) Lawyers were permitted to provide basic identifying and background information without disclaimer or qualification.\(^4\) The requirement of multiple and “specifically-dictated disclaimers about advertising in general, practice areas, and organization memberships that served to make marketing communications cumbersome” was lifted in many respects.\(^5\) Lawyers could more readily

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3. Id.
4. Id.
5. Id.
indicate their fields of practice and concentration.  

As a prominent example of the major shift in attitude by the Iowa Supreme Court toward lawyer communications about legal services, Iowa’s rules on direct-mail advertising had traveled all the way from a complete ban in the 1980s to accepting such correspondence as ordinary advertising by 2006. For nearly two decades, Iowa’s approach was to treat a lawyer’s use of direct mail to the general public as a form of advertising, but to strictly regulate and require advance clearance for mailings aimed toward identified persons believed to have specific legal problems. Then, as of 2006, Iowa dropped the prior-approval requirement for direct mail to persons or groups who may need specific legal services, instead asking the lawyer to submit an affidavit explaining how the identities and specific legal needs of the recipients were discovered and verified.  

And yet, until 2012, Iowa’s reputation for hostility toward lawyer advertising continued to be quite well-deserved in certain and rather important respects—forbidding any dramatic expressions or visual images in lawyer advertising on radio and television, precluding any direct advertising about a lawyer’s quality of representation, and generally demanding that lawyer advertising be presented in a dignified style. Despite doubts about the constitutional validity of severe regulation of lawyer advertising under the First Amendment jurisprudence of the United States Supreme Court, Iowa held fast to these constraints long after they had been eroded or abandoned altogether in nearly every other jurisdiction.  

Before 2013, the rules governing “Information About Legal Services” that were collected in Article VII of the Iowa Rules of Professional Conduct departed substantially from those in the American Bar Association’s (ABA) Model Rules of Professional Conduct (Model 

6. Id.  
7. For a discussion on the evolution of Iowa’s rules on direct-mail and e-mail advertising, see generally id. § 11.3(c).  
9. See SISK & CADY, supra note 2, § 11.3(c).  
11. Id. R. 32:7.1(b).  
12. See, e.g., id. R. 32:7.2(g)–(h), (k).  
13. See infra Part II.A.
In addition to such substantive variations as the strict controls on the sound and visual content of broadcast media advertising and the instruction that information be presented in a "dignified" fashion, the Iowa rules were more verbose and frequently repetitious even when the essential substance appeared to be the same as applied in most other states. The exquisite detail of long-held regulation rose to a level characterized by some as "a Byzantine set of commands."

In April 2011, the Iowa Supreme Court appointed a committee that studied the lawyer-advertising rules, solicited public comment, held public meetings, and recommended new rules on information about legal services closely following the Model Rules. On August 29, 2012, the court adopted new rules effective at the end of the calendar year. As the court explained, the 2012–2013 amendments to the rules "conform Iowa's advertising rules to the American Bar Association's Model Rules governing lawyer advertising and lawyer communications with the public."

The new amendments to the Iowa Rules of Professional Conduct implement a large number of revisions, big and small, to the regulation of communication by lawyers about legal services. In this Article, we focus on what we suggest are the three biggest and most broadly applicable changes to Iowa's lawyer-advertising rules that took effect as of 2013.

First, the decades-old attempt to enforce a vague standard of

16. Id. R. 32.7.2(g)–(h).
21. Id. at 1.
22. See infra Part II.C.
“dignity” in lawyer advertising has now been abandoned.\footnote{See infra Part III.} With the 2012–2013 amendments, Iowa now acknowledges that “[q]uestions of effectiveness and taste in advertising are matters of speculation and subjective judgment.”\footnote{IOWA RULES OF PROF’L CONDUCT R. 32:7.2 cmt. 3 (2013).}

Second, Iowa no longer bars a lawyer from making claims about a level of quality or ability in representation.\footnote{See infra Part IV.} Nonetheless, such claims remain subject to the general bar against communications that are “false or misleading,”\footnote{IOWA RULES OF PROF’L CONDUCT R. 32:7.1.} which remains a meaningful limitation on the temptation to explicitly tout past results as an assurance of future expectations.

Third, and perhaps most significantly, Iowa no longer imposes outdated and unrealistic restrictions on advertising through electronic media.\footnote{See infra Part V.} Advertising on television, radio, or through the internet is now subject to the same requirement that all communications by a lawyer about legal services not be false or misleading.\footnote{See infra Part V.} As Iowa affirms in comments to the new rules:

Television, the internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, the internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public.\footnote{Id. R. 32:7.2 cmt. 3.}

\section*{II. THE HISTORY OF LAWYER ADVERTISING IN IOWA}

\subsection*{A. Lawyer Advertising Before 2005}

Before 1977, Iowa—and most other states—prohibited most forms of solicitation and advertising by lawyers.\footnote{See generally James M. Altman, \textit{Considering the A.B.A. ’s 1908 Canons of Ethics}, 2008 J. PROF. L. 235, 320–26 (2008) (discussing the general prohibitions against advertising and solicitation in the ABA’s 1908 Canons of Ethics, which were not superseded until 1970 by the 1969 Model Code of Professional Responsibility).} The practice of lawyer advertising was condemned by the organized bar as crass and commercial, beneath the
dignity of the legal professional, and likely to undermine respect for lawyers and for the judicial system of which they are a part.\textsuperscript{31} Furthermore, on the view that the choice of a lawyer should be based upon his or her character and reputation, promotion of legal services like other consumer products was considered to be inherently deceptive to the public.\textsuperscript{32} During this period, the only acceptable means of marketing legal services beyond bar association referral programs was word of mouth from satisfied clients, admiring colleagues in the bar, or contacts developed through the lawyer’s civic and social activities.

In 1977, everything—or nearly everything—changed. In \textit{Bates v. State Bar of Arizona}, the United States Supreme Court held that commercial speech by lawyers is entitled to a limited but meaningful level of protection under the Free Speech Clause of the First Amendment.\textsuperscript{33} The Court questioned the assertion that lawyer advertising would diminish the reputation of attorneys, refused to place any weight on professional etiquette, and rejected the argument that advertising by lawyers “inevitably will be misleading.”\textsuperscript{34}

The \textit{Bates} Court instead concluded that “[a] rule allowing restrained advertising would be in accord with the bar’s obligation to ‘facilitate the process of intelligent selection of lawyers, and to assist in making legal services fully available.’”\textsuperscript{35} Indeed, the Court highlighted the words of an Arizona state court judge who had dissented below, arguing that “the case should [be] framed in terms of ‘the right of the public as consumers and citizens to know about the activities of the legal profession,’ rather than as one involving merely the regulation of a profession.”\textsuperscript{36}

While the Supreme Court in \textit{Bates} extended constitutional protection to lawyer communications with the public as promoting informed choices

\textsuperscript{31} See \textit{id.} at 320–22 (explaining how the ABA’s 1908 Canons of Ethics “marked a major change in American legal ethics” by prohibiting the previously accepted practice of lawyer advertising because, by the beginning of the 20th century, “it was commonly believed that a lawyer who acted like a tradesman in getting a client . . . would be less likely to act ‘professionally’ in representing that client”).

\textsuperscript{32} See \textit{id.} at 321.

\textsuperscript{33} \textit{Bates v. State Bar of Ariz.}, 433 U.S. 350, 383 (1977); see also U.S. CONST. amend. I.

\textsuperscript{34} \textit{Bates}, 433 U.S. at 368–73.

\textsuperscript{35} \textit{Id.} at 377 (quoting MODEL CODE OF PROF’L RESPONSIBILITY EC 2-1 (1976)).

\textsuperscript{36} \textit{Id.} at 358 (citation omitted) (quoting \textit{In re Bates}, 555 P.2d 640, 648 (Ariz. 1976) (Holohan, J., dissenting)).
about legal services, the states are still permitted to restrain advertising that is false, deceptive, or misleading, and they may impose reasonable restrictions on the time, place, and manner of such advertising.\textsuperscript{37} Under the Court’s commercial-speech doctrine, as articulated in \textit{Central Hudson Gas & Electric Corp. v. Public Service Commission}, advertising about a lawful activity may be regulated by the government only if (1) the governmental interest is substantial, (2) the regulation directly and materially advances that government interest, and (3) the regulation is narrowly drawn.\textsuperscript{38} Although the door to lawyer advertising was opened in \textit{Bates}, and opened fairly widely, the states have retained a significant role in protecting the public from deceptive communications.\textsuperscript{39} In \textit{In re R. M. J.}, the Court acknowledged that “[t]he public’s comparative lack of knowledge, the limited ability of the professions to police themselves, and the absence of any standardization in the ‘product’ renders advertising for professional services especially susceptible to abuses that the States have a legitimate interest in controlling.”\textsuperscript{40}

In the wake of \textit{Bates}, most states responded by abandoning specific restrictions on the content of or the venues for lawyer advertising in favor of adopting general rules that prohibit false or misleading communications and that require certain disclaimers or disclosures to be made to ensure that the public is not confused or misled.\textsuperscript{41} Counter to the trends elsewhere in the country during the last two decades of the 20th century, Iowa maintained a reputation for adhering to very restrictive rules on advertising of legal services.\textsuperscript{42}

For the initial formulation of advertising rules in the immediate aftermath of the 1977 \textit{Bates} decision, the Iowa Supreme Court requested its ethics committee to investigate lawyer advertising, hold public hearings, and file a report.\textsuperscript{43} Based upon the committee’s report, which was filed in

\textsuperscript{37} \textit{Id.} at 383–84.


\textsuperscript{39} \textit{See, e.g., Iowa Rules of Prof’l Conduct} R. 32:7.1 (2013) (“A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services.”).

\textsuperscript{40} \textit{In re R.M.J.}, 455 U.S. 191, 202 (1982).

\textsuperscript{41} \textit{See Rossi & Weighner, supra} note 1, at 194–202 (describing the approach generally accepted by most states following \textit{Bates}).


\textsuperscript{43} \textit{Comm. on Prof’l Ethics & Conduct v. Humphrey}, 355 N.W.2d 565, 568
1980, the court authorized lawyer advertising, but with continuing close regulation of the content of marketing communications and with strict controls on broadcast advertising.44

In 1988, the Iowa Supreme Court appointed a special commission to explore advertising by lawyers that provided information about fields of practice or specialization.45 After a public hearing, which included expert testimony based upon studies of lawyer advertising in general and a special survey of Iowa lawyer advertising, a special master prepared a summary of findings,46 which then formed the basis for the commission’s recommendation of a new provision allowing communication of information about fields of practice by qualified attorneys.47 Based upon that recommendation, the Iowa Supreme Court adopted a new rule permitting a lawyer to designate practice in certain fields of law when the lawyer has met minimum education and experience qualifications.48

In 1997, the Iowa State Bar Association formed a task force to review the advertising rules, which eventually led to a petition to the Iowa Supreme Court seeking a number of changes in the rules.49 The court again appointed a special master, who presided over a public hearing in 2000 that included testimony by practicing lawyers, bar association officials, current and former judges, a former counsel to the disciplinary board, and a marketing expert.50 After the hearing, the special master issued findings based on the factual record together with recommendations for revision of the rules.51

In response, the Iowa Supreme Court in 2000 promulgated a set of rule changes that (1) exempted from advertising regulations those

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44. Id. at 568–69.
45. Iowa Supreme Court Bd. of Prof’l Ethics & Conduct v. Wherry, 569 N.W.2d 822, 826 (Iowa 1997).
47. See Wherry, 569 N.W.2d at 826.
48. Id.
49. Summary of Evidence, Findings of Fact, and Conclusions of Special Master, Senior Judge Albert L. Habhab at 1, In re the Petition for Modification of the Iowa Code of Prof’l Responsibility for Lawyers and Iowa Supreme Court Rule 113 (Iowa Aug. 24, 2000).
50. Id. at 1–2.
51. Id. at 2.
communications that are with other lawyers, current and former clients, or in response to a request for further information; (2) permitted dissemination to the public of basic identifying and biographical information about lawyers without accompanying disclaimers or disclosures; (3) authorized attorneys to identify themselves as engaging in a general practice (and list areas included within that general practice) without meeting qualification prerequisites or attaching a disclaimer; and (4) increased the number of fields of practice that qualified lawyers may use in describing their practices.\textsuperscript{52}

B. Lawyer Advertising from 2005 to 2012

By the 1990s, Iowa had become part of a dwindling cadre of states that still adhered to the Model Code of Professional Responsibility (Model Code), the former ethical system that had been superseded in 1983 by the Model Rules, which by then had been adopted in the substantial majority of states.\textsuperscript{53} In 1999, in articles published by the \textit{Drake Law Review} and the state’s bar journal, Professor Gregory Sisk (one of the Authors of this Article) urged Iowa to move to the Model Rules.\textsuperscript{54} Sisk argued that if Iowa were to stubbornly cling to the Model Code, which had become obsolete in the nation at large, “Iowa lawyers [would] lose the opportunity to fully share in the experiences and ethical advancements of the profession at large and to benefit from the constant reevaluation and evolution of ethical standards.”\textsuperscript{55} “Moreover, the decline in attention to the Model Code in law schools . . . and on the bar examination presage[d] a generation of new admittees to the [Iowa] bar who [would] be unfamiliar with the Code, other than as history.”\textsuperscript{56}

While one ought not flatter oneself too much that he accurately measured which way the wind was blowing, the Iowa Supreme Court later that same year issued an order, citing the Sisk articles, stating that the court was considering adoption of the Model Rules and asking for comment by the bar.\textsuperscript{57}

\textsuperscript{52} For the history of lawyer advertising in Iowa, see generally SISK & CADY, \textit{supra} note 2, § 11:2(b).
\textsuperscript{54} \textit{Id.} at 282; Gregory C. Sisk, \textit{Iowa’s Legal Ethics Rules—It’s Time to Join the Crowd}, IOWA LAW., May 1999, at 6, 6.
\textsuperscript{55} Sisk, \textit{supra} note 53, at 282; see \textit{id.} at 285–94.
\textsuperscript{56} \textit{Id.} at 283; see \textit{id.} at 302–05.
\textsuperscript{57} See Amended Order at 1, \textit{In re} the Adoption of the Model Rules of Prof’l
The Iowa State Bar Association appointed a Model Rules/Code Study Committee58—chaired by now-Chief District Judge James Gritzner, of the Southern District of Iowa59—which cast a vote of 13–1 in favor of a transition to the Model Rules format.60 That recommendation was overwhelmingly endorsed by the Iowa bar’s Board of Governors at its November 1999 meeting.61

In March 2000, the Iowa Supreme Court issued an order directing that “a new ethics framework should be adopted in Iowa, and that the Model Rules should be the primary source of that framework.”62 The court appointed the Iowa Rules of Professional Conduct Drafting Committee to undertake the initial drafting work.63 After nearly two years of regular meetings and deliberation, the drafting committee prepared its final report and proposed new Iowa Rules of Professional Conduct,64 which were delivered to the Iowa Supreme Court on July 8, 2002.65

After circulating a proposed set of rules and considering comments from the bar, the court adopted a final set of rules that became effective on July 1, 2005.66 In its order accompanying the full set of proposed rules, the Iowa Supreme Court explained:

First and foremost, the court believes the Model Rules it proposes to adopt reflect the high ethical standards traditionally required of lawyers practicing in Iowa. Secondarily, it is the court’s belief that

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59.  Id.
60.  See id. at 2, 15. The report itself does not provide the actual tally of the committee’s vote. See id. However, only one member of the committee provided a dissent to the report. Id. app. B, at 2. Furthermore, Professor Sisk, one of the Authors of this Article, was a member of the committee and has personal knowledge of this vote. See id. at 1.
61.  For the history of lawyer ethics code in Iowa, including the transition to the Model Rules format, see generally SISK & CADY, supra note 2, ch. 3.
62.  Order at 1, In re the Proposed Adoption of the Am. Bar Ass’n’s Model Rules of Prof’l Conduct (Iowa Mar. 8, 2000).
63.  Id. at 2.
64.  IOWA RULES OF PROF’L CONDUCT DRAFTING COMM., PROPOSED IOWA RULES OF PROFESSIONAL CONDUCT: FINAL REPORT TO SUPREME COURT OF IOWA 2–3 (2002). Professor Sisk served as the reporter for the drafting committee. Id. at 8.
66.  Order at 1, In re Iowa Court Rules Chapter 32 (Iowa Apr. 20, 2005).
uniformity with other jurisdictions carries several benefits. Common ethical obligations expressed in a uniform manner promote understanding and compliance by Iowa lawyers with Iowa’s ethical rules as well as with similar rules in other jurisdictions in which Iowa lawyers practice. Uniformity also facilitates legal research of ethics and the interpretation of ethical obligations.\textsuperscript{67}

In keeping with these purposes, the set of ethical rules adopted in Iowa tracks the ABA’s Model Rules quite closely and includes fewer deviations than in many states.\textsuperscript{68}

When the Model Rules format was initially adopted in Iowa in 2005, the most notable exception to the pattern of uniformity was the matter of lawyer advertising.\textsuperscript{69} Indeed, Iowa advertising rules were left largely unchanged at that time.\textsuperscript{70}

When proposing a transition to the Model Rules format in 1999, Sisk had urged that “the subject of advertising and solicitation . . . should be shunned like the plague.”\textsuperscript{71} He explained that this was not because “the issue is unimportant or . . . settled for all time and thus uncontroversial,” but because lawyer advertising could become “the tail that wags the dog. Attention to more important questions might suffer. Indeed, the success of the entire venture could be held hostage to drawn-out debate and reformulation (or ultimate preservation) of each detail of these regulations.”\textsuperscript{72}

Wisely deciding to postpone further revision of the advertising rules while making the major shift to the Model Rules format, the Iowa Supreme Court directed the drafting committee not to address rules relating to lawyer advertising.\textsuperscript{73} And, when accomplishing the transition in 2005 from

\textsuperscript{67} Order at 1–2, In the Proposed Adoption of the Iowa Rules of Prof’l Conduct (Iowa Sept. 13, 2004).

\textsuperscript{68} See generally Lucian T. Pera, Grading ABA Leadership on Legal Ethics Leadership: State Adoption of the Revised ABA Model Rules of Professional Conduct, 30 OKLA. CITY U. L. REV. 637 (2005) (assigning box scores for how closely a jurisdiction has followed the ABA’s Model Rules on a variety of topics, and consistently scoring Iowa among the states most closely following the revised Model Rules in nearly every category after the ABA Ethics 2000 project).

\textsuperscript{69} See id. at 798 (scoring Iowa’s lawyer-advertising rules at a 2—more dissimilar than similar to the Model Rules).

\textsuperscript{70} See Sisk & Cady, supra note 2, § 11.2(b) (noting only minor substantive changes to the advertising rules with the transition).

\textsuperscript{71} Sisk, supra note 53, at 312.

\textsuperscript{72} Id. at 312–13.

\textsuperscript{73} Order at 1, In re the Iowa Rules of Prof’l Conduct Drafting Comm. (Iowa
the former Iowa Code of Professional Responsibility, the Iowa Supreme Court simply translated the existing advertising rules into the format of the Iowa Rules of Professional Conduct, with only minor changes.  

Although Iowa made no significant changes to its advertising rules when moving to the Model Rules format in 2005–2006, Iowa had been gradually but substantially relaxing controls on lawyer advertising over the preceding decades.  

During the preceding quarter century, the Iowa advertising rules had undergone considerable evolution in response to changes in the nature of the practice of law, the technology available to communicate information, a movement toward the Model Rules as the template for ethical regulation of lawyers, and United States Supreme Court constitutional decisions regarding lawyer advertising. And yet, the Iowa advertising rules remained more restrictive than those in other states in significant ways.

C. Lawyer Advertising After 2012

Fulfilling its intention from 2005 to subject Iowa’s lawyer-advertising rules to further study and possible revision, the Iowa Supreme Court appointed a committee to study lawyer-advertising rules in 2011. The committee, chaired by Justice David Wiggins, was directed to “assess the efficacy of the current advertising rules” and to “determine whether these rules need to be updated to address recent developments in the law as well as developments in advertising media, including the Internet and social media.” The committee researched potential First Amendment issues and concluded that the present rules likely would not withstand constitutional scrutiny. The committee also compared the advertising rules of Iowa with those of neighboring states and the ABA’s Model Rules. This comparison revealed that the majority of the surrounding states had adopted advertising rules substantially similar to the Model Rules.

After soliciting public comments, holding public hearings, and


74. SISK & CADY, supra note 2, § 11:2(b).
75. See id.
76. See discussion supra Part II.A.
77. Order In re Supreme Court Comm., supra note 19, at 1.
78. Id. Professor Yee, one of the Authors of this Article, served as a member of the committee.
80. See id.
meeting to discuss the issues, the committee delivered its recommendation to adopt new rules in April 2012. The recommended rules closely adhered to the Model Rules for reasons identical to those articulated by the Iowa Supreme Court in 2004 when it proposed adopting other rules of professional conduct based on the Model Rules; the Model Rules “reflect the high ethical standards historically required of lawyers practicing in Iowa” and uniformity with other jurisdictions is beneficial in promoting understanding and compliance. Accordingly, effective at the beginning of 2013, the Iowa evolution on lawyer advertising reached a final stage with the adoption of the Model Rules’ advertising standards, with little continuing variation from national standards. The more succinct wording of the Model Rules has now replaced the detailed prescriptions in the former Iowa rules.

The 2012 amendments adopted by the Iowa Supreme Court implemented a large number of revisions, big and small, to the Iowa regulations governing communication by lawyers about legal services:

- A lawyer may communicate that he or she does or does not practice in particular fields of law without satisfying specific experience or continuing legal education requirements.

- A lawyer may state that he or she is certified as a specialist in a particular field of law, if the certifying organization is qualified to grant such certification based on objective and consistent standards, without a requirement of prior approval of the organization by the Attorney Disciplinary Board.

81. Id.
82. Compare id., with Order, supra note 67, at 1–2. The committee also recommended considering changes proposed by the ABA Commission on Ethics 20/20 that were pending approval by the ABA House of Delegates. Recommendation of Advertising Committee, supra note 79, at 2. These amendments to the Model Rules were subsequently adopted in August 2012. See A.B.A. Comm’n on Ethics 20/20, American Bar Association Resolution 105B (2012); ABA Commission on Ethics 20/20, ABA AM. BAR ASS’N, http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html (last visited Mar. 18, 2014).
83. Recommendation of Advertising Committee, supra note 79, at 1.
84. IOWA RULES OF PROF’L CONDUCT R. 32:7.4(a) (2013); see SISK & CADY, supra note 2, § 11:4(c).
85. IOWA RULES OF PROF’L CONDUCT R. 32:7.4(d); see SISK & CADY, supra note 2, § 11:4(d).
In addition to the traditional designation of a law firm by listing the names of present or past attorneys, an Iowa lawyer or law firm may now use nondeceptive trade names.\(^86\)

For advertising mail that is targeted to persons known to have a need for legal services, the lawyer no longer need submit an affidavit verifying the accuracy of the information; direct mail and direct e-mail sent to persons known to be in need of legal services in a particular manner need only be identified as an advertisement through a disclaimer that includes the words “Advertising Material.”\(^87\)

For advertisements suggesting a lawsuit, the previously required disclaimer that advancing meritless litigation may have consequences has been eliminated.\(^88\)

For advertisements about contingent fees, the previously required disclaimer about how the fee was to be calculated and about litigation expenses was dropped.\(^89\)

Detailed prescriptions of what constitutes a “legal service plan” in which a lawyer may participate have been superseded by rules on the limited form of compensation that may be provided by the lawyer and on the lawyer’s duty to ensure appropriate behavior by the legal service plan in communicating with the public.\(^90\)

A lawyer is now permitted to enter into a reciprocal referral arrangement with another lawyer or a nonlawyer professional.\(^91\)

The proscription on direct in-person solicitation by a

\(^{86}\) IOWA RULES OF PROF’L CONDUCT R. 32:7.5(a); see SISK & CADY, supra note 2, § 11:5(b)(2).

\(^{87}\) See IOWA RULES OF PROF’L CONDUCT R. 32:7.3(c); see also SISK & CADY, supra note 2, § 11:3(c)(1).

\(^{88}\) SISK & CADY, supra note 2, § 11:2(c)(4).

\(^{89}\) Id.

\(^{90}\) Id. § 11:2(e)(2); see IOWA RULES OF PROF’L CONDUCT R. 32:7.2(b)(2).

\(^{91}\) IOWA RULES OF PROF’L CONDUCT R. 32:7.2(b)(4); see SISK & CADY, supra note 2, § 11:2(e)(4).
lawyer is now limited to instances in which “a significant motive for the lawyer’s doing so is the lawyer’s pecuniary gain,” thus clarifying that the anti-solicitation rule does not apply to associations and messages protected under the Free Speech Clause of the First Amendment.

Among the most significant of the 2012–2013 changes—and the ones to which we now turn in greater detail below—are those involving the permissible style of lawyer advertising, the advertising of claims on the quality of representation, and advertising by broadcast media.

III. STYLE OF LAWYER ADVERTISING: ABANDONING THE VAGUE DIGNIFIED STANDARD

In language that once was typical of state ethics rules, the Iowa advertising rules that governed before 2013 demanded that information about legal services be “presented in a dignified style.” Moreover, the Iowa rules further admonished lawyers not to “rely on emotional appeal” in advertising.

Whether an insistence upon dignity in lawyer advertising could

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93. See Sisk & Cady, supra note 2, § 11:3(b)(3).
94. See infra Part III.
95. See infra Part IV.
96. See infra Part V.
99. Id. R. 32:7.1(b).
survive the extension of constitutional free speech protection to lawyer advertising is doubtful. In \textit{Zauderer v. Office of Disciplinary Counsel}, the United States Supreme Court commented:

More fundamentally, although the State undoubtedly has a substantial interest in ensuring that its attorneys behave with dignity and decorum in the courtroom, we are unsure that the State’s desire that attorneys maintain their dignity in their communications with the public is an interest substantial enough to justify the abridgement of their First Amendment rights. \textsuperscript{102}

Because the attorney in \textit{Zauderer} had not been directly disciplined for the supposed lack of dignity in the advertisement at issue or the illustration that accompanied it, the quoted passage may fall short of a dispositive holding. \textsuperscript{103} Nonetheless, the Supreme Court’s skeptical comments about dignity as a basis for regulating the content of a lawyer’s message strongly suggest that a state’s preference for decorous lawyer representations is not a state interest that would justify direct controls on the style of a lawyer’s communication with the public. \textsuperscript{104}

In the recent prominent decision of \textit{Alexander v. Cahill}, the United States Court of Appeals for the Second Circuit invalidated a New York regulation prohibiting advertisements that rely on irrelevant techniques, saying that “[q]uestions of taste or effectiveness in advertising are generally matters of subjective judgment.” \textsuperscript{105} A dignity stipulation might also prove vulnerable to challenge as being too vague and subjective to serve as a legitimate standard by which to police speech by lawyers. \textsuperscript{106}

\begin{itemize}
  \item \textsuperscript{100} See U.S. CONST. amend. I.
  \item \textsuperscript{101} See 2 GEOFFREY C. HAZARD, JR. ET AL., THE LAW OF LAWYERING § 55.4 illus. 55-5 (2013) (stating that the undignified standard is the “kind of vague and subjective criteria [that] could not long survive the Supreme Court’s application of the commercial speech doctrine to lawyer advertising”); Rodney A. Smolla, \textit{Lawyer Advertising and the Dignity of the Profession}, 59 ARK. L. REV. 437, 455 (2006) (criticizing the “dignity of the profession” rationale for restricting lawyer advertising and saying that “[t]he regulation of lawyer advertising on the grounds that it is demeaning to the profession raises profound First Amendment difficulties”).
  \item \textsuperscript{102} Zauderer v. Office of Disciplinary Counsel, 471 U.S. 626, 647–48 (1985).
  \item \textsuperscript{103} See id. at 635 n.5, 647.
  \item \textsuperscript{104} See id. at 648 (“[T]he mere possibility that some members of the population might find advertising embarrassing or offensive cannot justify suppressing it. The same must hold true for advertising that some members of the bar might find beneath their dignity.”).
  \item \textsuperscript{105} Alexander v. Cahill, 598 F.3d 79, 93 (2d Cir. 2010).
  \item \textsuperscript{106} See ROTUNDA & DZIENKOWSKI, supra note 18, § 7.2-2 (stating that}
\end{itemize}
Moreover, the prior instruction in Iowa to lawyers not to “rely on emotional appeal” in advertisements\textsuperscript{107} was not only troublingly vague, but difficult to reconcile with the general purpose of advertising and the right to raise difficult subjects. Any effective marketing strategy is designed to elicit a favorable response from the listener and, thus, to produce a positive sentiment about the lawyer who is the subject of the advertisement. A lawyer should not worry that he or she may violate an ethical prohibition through efforts to encourage the public (by appropriately nonmisleading and verifiable communications) to feel good about the advertising lawyer.

Nor should a lawyer communicating with the public about legal services be inhibited from raising sensitive topics, which may include making people aware of potential harm they may suffer from defective products, reminding members of the public of their civil rights and the dangers of governmental or societal oppression, or describing the nature of potential or pending litigation on controversial subjects. Even if the noninflammatory presentation of this information has the effect of provoking strong emotional reactions in some listeners, that potential response cannot be the measure of what is permissible. While the prior rule likely was limited in application to deliberate attempts to arouse passions and prejudices, unless those advertising strategems departed so far from communication of information as to be deceptive in appealing to emotions and prejudices, deciding what was legitimate and what crossed the line would have been in the eye of the beholder.

In any event, as of 2013, Iowa has abandoned attempts to police the style of lawyer advertising. Following the Model Rules approach, Comment 3 to Iowa Rule 7.2 would place restrictions “against ‘undignified’ advertising” among those prohibitions that some jurisdictions have maintained in the past.\textsuperscript{108} Instead, the Iowa comment now acknowledges that “[q]uestions of effectiveness and taste in advertising are matters of speculation and subjective judgment.”\textsuperscript{109}

\begin{footnotesize}
\begin{enumerate}
\item[108.] Iowa Rules of Prof’l Conduct R. 32:7.2 cmt. 3 (2013).
\item[109.] \textit{Id.}.
\end{enumerate}
\end{footnotesize}
IV. LAWYER ADVERTISING ABOUT QUALITY OF REPRESENTATION: PERMITTED UNLESS FALSE OR MISLEADING

Under the Iowa rule before 2013, a lawyer was not permitted to include in an advertisement “any statement or claim relating to the quality of the lawyer’s legal services.”\(^{110}\) This prior prohibition reflected the view that qualitative claims about a lawyer’s professional abilities were inherently unverifiable.\(^{111}\)

However, courts increasingly have invalidated state regulations of lawyer advertising that impose a blanket prohibition on statements that relate to quality or past results and have rejected arguments that such advertising is inherently misleading. In *Alexander v. Cahill*, the Second Circuit upheld a First Amendment challenge to a New York rule prohibiting lawyer advertising that included client testimonials about pending matters.\(^{112}\) While acknowledging that testimonials may mislead “if they suggest that past results indicate future performance,” the court concluded that “not all testimonials do so, especially if they include a disclaimer.”\(^{113}\) In *Public Citizen, Inc. v. Louisiana Attorney Disciplinary Board*, the United States Court of Appeals for the Fifth Circuit struck down a Louisiana rule that prohibited lawyer advertising about “past successes or results obtained,”\(^{114}\) holding that “[t]he evidence is insufficient to show that unverifiable claims in the targeted speech are so likely to be misleading that a complete prohibition is appropriate.”\(^{115}\)

As revised in 2012, the Iowa rules no longer prohibit all claims by a lawyer regarding his or her level of quality or ability.\(^{116}\) Nonetheless, such claims remain fully subject to Iowa Rules of Professional Conduct Rule


\(^{111}\) *See id.* & cmt. 1.

\(^{112}\) Alexander v. Cahill, 598 F.3d 79, 92 (2d Cir. 2010).

\(^{113}\) *Id.*


\(^{115}\) *Id.* at 223. *But see* Harrell v. Fla. Bar, 915 F. Supp. 2d 1285, 1292, 1311–12 (M.D. Fla. 2011) (holding that prohibitions against lawyer advertising that make quality claims or promise results are not unconstitutionally vague); *In re PRB Docket No. 2002.093, 868 A.2d 709, 712 (Vt. 2005)* (“Direct claims of expertise that are not truthful and factually verifiable . . . may be prohibited or restricted as unduly misleading.”).

\(^{116}\) *See Iowa Rules of Prof’l Conduct R. 32:7.1 (2013).*
7.1’s general bar against communications that are “false or misleading.”\(^{117}\)

In *Bates v. State Bar of Arizona*, the Supreme Court alluded to the “peculiar problems” associated with advertising claims about the quality of legal services and observed that “[s]uch claims probably are not susceptible of precise measurement or verification and, under some circumstances, might well be deceptive or misleading to the public, or even false.”\(^{118}\)

Moreover, assertions about quality often involve what Professor Geoffrey Hazard and William Hodes describe as “use of a lawyer’s ‘track record’ as a selling point.”\(^{119}\) Given that “[m]any factors other than lawyer skill contribute to the result in any case,” Hazard and Hodes explain that a lawyer’s claims of ability “based upon results are especially likely to be misleading.”\(^{120}\)

As with expressions in general, context often matters greatly. The prohibition on false or misleading representations applies with particular force to communications or advertisements to the general public that market a lawyer’s legal services, recognizing that the necessarily abbreviated nature of such messages means that subjective descriptions, emotional appeals, and claims of quality are more likely to mislead members of the public who are considering retaining a lawyer.\(^{121}\)

**V. LAWYER ADVERTISING BY BROADCAST MEDIA: PERMITTED WITHOUT SPECIAL RESTRICTIONS**

When it comes to radio and television broadcast media, Iowa’s reputation for maintaining exceptionally stringent rules regarding lawyer advertising was well-deserved.\(^{122}\) Before 2013, the Iowa rules provided that information could be communicated over radio or television “only by a single nondramatic voice, not that of the lawyer, and with no other background sound,” and a television advertisement could not display

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\(^{117}\) *Id.*


\(^{119}\) *HAZARD, supra* note 101, § 55.4 illus. 55-3.

\(^{120}\) *Id.*

\(^{121}\) *See IOWA RULES OF PROF’L CONDUCT R. 32:7.1 & cmts. 1–3 (2013).*

\(^{122}\) A few other states impose limits on the content of television advertising of legal services. *See, e.g.*, N.J. RULES OF PROF’L CONDUCT R. 7.2(a) (2004) (“No drawings, animations, dramatizations, music, or lyrics shall be used in connection with televised [legal] advertising.”). However, Iowa appears to have been alone in allowing no visual depiction other than printed words, not even that of the advertising lawyer. *See IOWA RULES OF PROF’L CONDUCT R. 32:7.2(c) (2012) (amended 2013).*
anything other than the words in print being read by the announcer.\textsuperscript{123}

Under those restrictions, the viewer of lawyer television advertising in Iowa would see nothing other than printed words scrolling across the screen and hear nothing other than a solitary voice speaking in a style that, while perhaps not a monotone, included very little inflection. And that voice could be anyone except the very lawyer whose legal services were being offered.\textsuperscript{124}

Not surprisingly, few Iowa lawyers bothered to advertise by radio or television, given that, in the words of Margaret Raymond, the Iowa rules had “taken all the fun out of lawyer ads.”\textsuperscript{125}

From the beginning of the modern era of lawyer advertising, Iowa had staked out a position of decided antipathy or excessive caution to broadcast media. In 1983, as part of an effort to encourage adoption by the Iowa Supreme Court of tight controls on television advertising by lawyers, the Iowa State Bar Association commissioned a study by a research firm on the effects of such advertising on public perceptions of the legal profession.\textsuperscript{126} The study participants, who were a randomly selected sample of Iowans from one urban county, were asked to evaluate the characteristics of lawyers, both before and after the participants were shown a series of television advertisements by lawyers.\textsuperscript{127} With respect to each character trait, the rating fell precipitously after viewing lawyer advertising: trustworthiness (from 71 percent to 14 percent), professionalism (from 71 percent to 21 percent), honesty (from 65 percent to 14 percent), and dignity (from 45 percent to 14 percent).\textsuperscript{128}

A subsequent study in 1991 by Jim Rossi and Mollie Weighner, then law students at the University of Iowa, compared the perceptions of lawyers by members of the public in Wisconsin (where television

\textsuperscript{123} Iowa Rules of Prof’l Conduct R. 32:7.2(e).

\textsuperscript{124} As one lawyer commented in 2011 to Iowa’s Supreme Court Committee to Study Lawyer Advertising Rules, this put a lawyer who appropriately advertised his ability to speak Spanish with clients in the awkward position of being unable to demonstrate that ability by using his own voice in radio and television advertisements. See Order In re Supreme Court Comm., supra note 19, at 2.

\textsuperscript{125} Margaret Raymond, Inside, Outside: Cross-Border Enforcement of Attorney Advertising Restrictions, 43 Akron L. Rev. 801, 802 (2010).

\textsuperscript{126} Rossi & Weighner, supra note 1, at 222; John J. Watkins, Lawyer Advertising, the Electronic Media, and the First Amendment, 49 Ark. L. Rev. 739, 772 (1997).

\textsuperscript{127} See Rossi & Weighner, supra note 1, at 222–23; Watkins, supra note 126.

\textsuperscript{128} Rossi & Weighner, supra note 1, at 223; see also Watkins, supra note 126.
advertising by lawyers was common) and Iowa (where television advertising by lawyers was uncommon due, at least in part, to strict regulations). On every attribute surveyed, on a scale of 1 to a high score of 7, the Iowa public held more favorable views about lawyers than did the Wisconsin public: honesty (Iowa 4.60 to Wisconsin 4.11), competency (Iowa 4.91 to Wisconsin 4.55), helpfulness (Iowa 4.78 to Wisconsin 4.30), effectiveness (Iowa 4.72 to Wisconsin 4.43), and reliability (Iowa 4.70 to Wisconsin 4.22). Whether these varying perceptions were entirely attributable to the single variable of lawyer advertising was doubtful, but the results were consistent with the hypothesis that the dignity of the profession could be harmed by lawyer advertising.

By contrast, in its review of the research, the American Bar Association Commission on Advertising found no support for the claim that lawyer advertising on television significantly affects the public image of lawyers. The commission concluded in 1995 that “[p]rint advertising is not inherently more dignified than television advertising.” And the style of the advertising may make a difference in public perception of lawyers, but not necessarily in the predicted direction. Participants in an ABA study perceived lawyers as significantly less honest after viewing nondramatic and informative “talking head” television commercials for legal services, while they found lawyers to be significantly more intelligent after watching “stylish” commercials with actors and dramatizations.

The sharply differing opinions among lawyers and judges about the validity and wisdom of strict restrictions on lawyer television advertising in Iowa were well-represented in the contrasting majority and dissenting opinions of the Iowa Supreme Court in a series of decisions in the 1980s addressing the constitutional challenge to Iowa’s lawyer-advertising rules.

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129. Rossi & Weighner, supra note 1, at 232.

130. Id. at 233 tbl.1.

131. Compare id. (reporting generally higher rankings for lawyers as a profession in Iowa than Wisconsin), with id. at 234 tbl.2 (reflecting across-the-board ratings that were lower for lawyers who advertise).

132. See AM. BAR ASS’N COMM’N ON ADVER., LAWYER ADVERTISING AT THE CROSSROADS: PROFESSIONAL POLICY CONSIDERATIONS 81 (1995) (discounting both the Iowa State Bar Association and University of Iowa studies because neither study “attempted to measure the potential variations based on the different contents of the commercials”).

133. Id.

In Committee on Professional Ethics & Conduct v. Humphrey, a majority of the Iowa Supreme Court upheld the state’s stringent rules on broadcast media advertising, finding a substantial government interest in “fostering rational, intelligent, and voluntary decision making in determining the need for legal services and selecting a lawyer.” 135 Justice Harris, writing for the majority, concluded that the Iowa prohibitions on background sound, visual displays, and dramatic elements merely removed “the tools which would manipulate the viewer’s mind and will.” 136

The Iowa Supreme Court reaffirmed approval of the broadcast-advertising restrictions 137 after the United States Supreme Court remanded the Humphrey case for further consideration. 138 In this second Humphrey opinion, the majority reinforced its negative appraisal of electronic-media advertising as “tolerat[ing] much less deliberation by those at whom it is aimed” because “[b]oth sight and sound are immediate . . . in a flash they are gone without a trace.” 139

In a special concurrence, Chief Justice Reynoldson highlighted what he saw as the dangers that would unfold if less-restrained television advertising by lawyers were allowed. 140 In his view, the profession’s task of policing misleading and fraudulent communications by lawyers would be made all the more difficult by unrestricted broadcast advertising because “the sights, color, sounds, subliminal messages, and not-so-hidden persuaders of commercial television advertising were added to the burden.” 141 Fearing especially the potential for a decline in respect for the courts, Reynoldson argued that “[s]olemn forums for the litigation of cases whose lawyer-officers resemble carnival barker at the doors scarcely can avoid being viewed as carnivals, or at least, places where justice is bought

136. Id.
139. Humphrey II, 377 N.W.2d at 646. But see Bernadette Miragliotta, First Amendment: The Special Treatment of Legal Advertising, 1990 ANN. SURV. AM. L. 597, 626–27 (“Viewers [of televised lawyer advertisements] have the opportunity to reflect and consider their options before contacting [an] attorney . . . The consumer retains ultimate control over the flow of information.”) (footnote omitted).
140. Humphrey II, 377 N.W.2d at 649–50 (Reynoldson, C.J., concurring specially).
141. Id. at 649.
and sold as in any marketplace.”

Justice Larson, joined by Justice McCormick, dissenting in both 

Humphrey
decisions. In his original dissent, Justice Larson accurately 
described “the restrictions on technique” imposed by the Iowa television 
advertising rules as “in fact a prescription for dullness, prohibiting all 
background music, dramatization, and other methods of stimulating viewer 
interest.”

Nor were the television commercials at issue in 

Humphreymelodramatic in nature or likely to entrance an audience through use of 

high-end production techniques and innovative use of technology. Indeed, these broadcast advertisements, as Justice Larson noted in his 

post-remand dissent, could also “be characterized as dull by today’s standards.” In one of the commercials, a physician looking at an x-ray 
commented that he has “see[n] firsthand, injuries caused by the neglect of 
others,” and that a person suffering such an injury “should be talking to a 
lawyer.” In another commercial, set in a bowling alley, two bowlers noted 
that one team was a man short because “he was injured through the 
negligence of others,” and these bowlers concluded that the teammate 
should talk to a lawyer and that the choice of a lawyer “will be 
important.”

Justice Larson contended that these commercials were protected by 

the First Amendment because they served the vital public interest of

142. Id. at 650.
143. 
Humphrey II, 377 N.W.2d at 654 (Larson, J., dissenting); 
144. 
Humphrey I, 355 N.W.2d at 572 (Larson, J., dissenting). Two decades 
later, in 2004, notwithstanding the plain text of the rule, the Iowa Board of Professional 
Ethics and Conduct expressed discomfort with the stark nakedness of the visual display 
allowed under the television advertising rule. Iowa Supreme Court Bd. of Prof’l Ethics 
& Conduct, Op. 04-08 (2004). Despite the unambiguous direction that “no visual 
display shall be allowed except that allowed in print as articulated by the announcer,” 
the board issued an ethics opinion to allow the use of a photograph of the advertising 
lawyer on television, provided that it was “only that of the lawyer in a traditional still 
photograph, not of the lawyer in a dramatic pose.” (quoting IOWA CODE PROF’L 
RESPONSIBILITY FOR LAWYERS DR 2-101(B)(5)(a) (2004)) (internal quotation mark 
omitted).
145. 
See Humphrey II, 377 N.W.2d at 654 (Larson, J., dissenting) (describing 
the commercials); 
Humphrey I, 355 N.W.2d at 566.
146. 
Humphrey II, 377 N.W.2d at 654 (Larson, J., dissenting).
147. 
Id. (alteration in original) (internal quotation marks omitted).
148. 
Id. (internal quotation marks omitted).
informing people “about the nature of their legal rights and the means of pursuing them.” Each of the commercials at issue in Humphrey conveyed the message that if someone is injured by another, the law might provide a remedy, and the advertisements explained how someone could contact a law firm. Justice Larson noted, “[t]he potential for these ‘slice of life’ commercials to inform the public about other general matters”—such as consumer rights, the value of a will, or the wisdom of obtaining legal representation in contract matters or when purchasing a house—“is almost unlimited.” When Humphrey returned to the Iowa Supreme Court after remand by the United States Supreme Court, Justice Larson concluded in his second dissent that Iowa’s extremely stringent rules regarding broadcast advertising could not satisfy the constitutional requirement that less restrictive measures be implemented if possible, rather than imposing an outright prohibition.

Nearly 30 years ago, Justice Larson complained that the Iowa rules did not merely regulate broadcast communications about legal services, but had “a virtual stranglehold on lawyer advertising.” He said it was “undisputed that the effect of these limitations on technique is to substantially diminish the effectiveness of any television advertising.” Those words proved to be prophetic, as the strict and stark limitations on what could be displayed and said in a television advertisement made the use of that medium by lawyers so unattractive as to be rarely employed in Iowa. The practical effect of silencing an entire medium for communication about legal services arguably confirmed the constitutional infirmity of these stringent rules. As one commentator stated at that point in time, “any regulation that excludes the use of the most powerful and persuasive instruments of mass communication is necessarily inconsistent with, and in derogation of, the public’s right to know.”

149. Humphrey I, 355 N.W.2d at 575 (Larson, J., dissenting).
150. See supra notes 147–48 and accompanying text.
151. Humphrey II, 377 N.W.2d at 655 (Larson, J., dissenting).
152. Id. at 657–58; see also Zauderer v. Office of Disciplinary Counsel, 471 U.S. 626, 648 (1985) (finding that Ohio had failed to establish “that the potential abuses associated with the use of illustrations in attorneys’ advertising cannot be combated by any means short of a blanket ban”).
155. Michael Schein, Comment, Commercial Speech and the Limits of Legal Advertising, 58 OR. L. REV. 193, 218 (1979); see also Alexander v. Cahill, 598 F.3d 79, 94 (2d Cir. 2010) (invalidating a prohibition against irrelevant techniques in lawyer
In 2012, the Iowa Supreme Court accepted the recommendation of a study committee to abandon the severe restrictions on broadcast advertising of lawyer services. Following the approach of the Model Rules, Comment 3 to Rule 7.2 of the Iowa Rules of Professional Conduct now acknowledges that television is one of “the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television . . . advertising, therefore, would impede the flow of information about legal services to many sectors of the public.”

Effective at the beginning of 2013, Rule 7.2 expressly permits lawyer advertising “through written, recorded, or electronic communication, including public media.” No special restrictions or rules governing broadcast advertising are continued. Instead, television and radio advertising of legal services is subject to the same constraint as all lawyer advertising—that the communications not be false or misleading.

VI. CONCLUSION

Over the decades, Iowa has pruned away many extraneous stipulations and confusing minutiae in its lawyer-advertising rules and has increasingly connected the rules ever more tightly to the public interest in preventing deceptive or misleading messages by lawyers to the public. Until 2013, however, there were notable exceptions: a continuing instruction that information about lawyers, legal services, and legal fees be presented in a dignified fashion; a strict prohibition on claims by a lawyer regarding a level of quality or ability; and strict controls on the sound and visual content of broadcast media advertising. Now those specific

advertising and rejecting the argument that potential clients might be misled by “gimmicks” such as those used by the challenging lawyers in portraying themselves in a television ad as “giants towering above local buildings,” able to “run to a client’s house so quickly that they appear as blurs,” and as “provid[ing] legal assistance to space aliens”).

156. Order In re Amendments, supra note 19.
158. Id. R. 32:7.2(a).
159. See id. R. 32:7.2 cmt. 1 ("[T]he public’s need to know about legal services can be fulfilled in part through advertising. . . . The interest in expanding public information about legal services ought to prevail over tradition.").
160. Id. R. 32:7.1 & cmt. 1.
161. See supra Part II.
162. See supra Part III.
163. See supra Part IV.
164. See supra Part V.
restrictions have been laid to rest. Instead, the Iowa rules on lawyer advertising are now subject to the general requirement that all communications by a lawyer about legal services not be false or misleading.\textsuperscript{165} Moreover, the decades-old attempt to enforce a vague standard of dignity in lawyer advertising has been abandoned.\textsuperscript{166} In other respects, while the substance of Iowa advertising rules already had moved in the direction of closer conformity to national standards, the more succinct wording of the Model Rules has now replaced the detailed prescriptions in the former Iowa rules.\textsuperscript{167}

While the formal regulations on advertising of legal services have been relaxed considerably over the years, what is permissible for a lawyer in terms of marketing schemes and what is wise in terms of building a long-term successful career in the profession may not be synonymous. Nicholas Critelli, former president of the Iowa State Bar Association and an active participant in the debate about the advertising rules in Iowa at each stage of their evolution, suggests that “[t]he shortsighted lawyer who engages in sanctioned but unrestrained and undignified public advertising” may suffer damage to his or her reputation with colleagues and judges that outweighs any temporary financial advantage.\textsuperscript{168}

On questions about lawyer advertising, the matter now moves away from the regime of government regulation to the realms of professional reputation and individual character.

\textsuperscript{165} See Iowa Rules of Prof’l Conduct R. 32:7.1 & cmt. 1.
\textsuperscript{166} See supra Part III.
\textsuperscript{167} See supra Parts II.B–C.
\textsuperscript{168} Nicholas V. Critelli, Jr., An Assessment of the Changes—Supreme Court Proposes Liberalized Ad Rules, IOWA LAW., Sept. 2001, at 11, 11.