

BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE

**FORMAL ETHICS OPINION 99-F-144(a)**

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Lawyers listing areas of practice on the Internet, including law directories or other Web sites available to the public, should comply with the certification of specialization disclosure requirements of DR 2-101(C)

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The Tennessee Supreme Court implemented the attorney certification of specialization program effective on June 15, 1994 when certifications of specialization became available in the areas of **Civil Trial, Criminal Trial, Business Bankruptcy, Consumer Bankruptcy, Creditors' Rights**, and all areas reasonably included in any of these areas. On August 25, 1995, the Supreme Court approved standards and made certification of specialization available in the areas of **Medical Malpractice, Legal Malpractice, Accounting Malpractice and Elder Law**; and on January 6, 1997 certification of specialization became available in the area of **Estate Planning**.

Disciplinary Rule 2-101(C) embodied in Tennessee Supreme Court Rule 8 provides three separate precise disclosures which may potentially be required in an advertisement of legal services with regard to any area of the law advertised. If an attorney is certified in one area advertised, is not certified in another area advertised, and no certification is available in another area advertised, then all three disclosures are required. The disclosures are: [See DR 2-101(C)(2)(3) and (4)]

Certified as a (area of practice)  
Specialist by the Tennessee Commission on Continuing  
Legal Education and Specialization  
Not certified as a (area of practice)  
Specialist by the Tennessee Commission on Continuing  
Legal Education and Specialization  
Certification as a (area of practice)

Formal Ethics Opinion 99-F-144(a)

Specialist is not current available in Tennessee

The intent of DR 2-101(C) was to assure meaningful flow of information to consumers of legal services and to protect against misleading communications to the public. The rule is applicable to all published or broadcast “communications” and consequently applicable to Internet communications.

Tennessee Formal Ethics Opinion 84-F-76 (October 16, 1984) stated that certification of specialization disclosures were not required when listing areas of practice in the *Martindale-Hubbell Law Directory* because the directory, at that time, was intended for the use of lawyers and not actively marketed to the lay public.

Technology and client development practices have dramatically changed since 1984. *Martindale-Hubbell* now publishes its law directory on the Internet and is available to the lay public. *Martindale-Hubbell*'s marketing materials to lawyers encourage listing of areas of practice for increased visibility, including online Internet availability, making the following assurances to participating lawyers; “Multi-media circulation to millions of potential clients”, “Your credentials are available to millions of prospective clients... on the Internet...a new Web site gateway for the general public” and “*Martindale.Com* is now averaging a million searches a month, while *Lawyers.Com* averages over 7,000 - - visitors a day just months after the launch - together more than 12 million searches a year.”

Therefore lawyers listing areas of practice on the Internet, including law directories or other Web sites available to the general public should comply with the certification of specialization disclosure requirements of DR 2-101(C). The specific disclosure language of DR 2-101(C) may be included or, in the alternative compliance is assured if the initial screen for each lawyer includes the following precise explanation displayed in a prominent manner.

Certifications of Specialization are available to Tennessee lawyers in all areas of practice relating to or included in the areas of Civil Trial, Criminal Trial, Business Bankruptcy, Consumer Bankruptcy, Creditor's Rights, Medical Malpractice, Legal Malpractice,

Formal Ethics Opinion 99-F-144(a)

Accounting Malpractice, Elder Law and Estate  
Planning. Listing of related or included  
practice areas  
herein does not constitute or imply a  
representation of certification of specialization.

This ethics opinion becomes effective and applicable on January 1, 2000, at which  
time full compliance is required.

To the extent Formal Ethics Opinion 84-F-76 conflicts with this opinion, it is  
overruled.

This 10<sup>th</sup> day of December, 1999.

ETHICS COMMITTEE:

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