

**THE PROFESSIONAL ETHICS COMMITTEE
FOR THE STATE BAR OF TEXAS
Opinion No. 685
January 2020**

QUESTION PRESENTED

Under the Texas Disciplinary Rules of Professional Conduct, may lawyers encourage current and former clients to post positive reviews or comments and favorable “star” ratings of the lawyer through a search engine’s or social media platform’s review feature?

STATEMENT OF FACTS

An online search engine includes a feature that allows users to post reviews of business organizations and professionals, such as law firms and lawyers. The lawyer has no control over the search engine, which allows users to post a “star” rating of the lawyer and make comments that can be seen by other users of the search engine. An aggregate star rating of the lawyer appears on the search engine when a user searches the name of the lawyer. Star ratings and comments left by individual users can also be seen by users of the search engine.

The lawyer desires a favorable star rating on the search engine and user comments that cast the lawyer in a positive light. To achieve this, the lawyer asks current and former clients to leave positive comments and favorable star ratings. The lawyer does not pay or provide anything of value in exchange for these favorable reviews.

DISCUSSION

This opinion addresses whether lawyers may encourage current and former clients to leave positive reviews or star ratings online. This opinion does not address the broader implications of social media on the practice of law, nor does it address whether vendors, employees, or the lawyer’s friends and family may be encouraged to post reviews or favorable star ratings.

Lawyers, their websites, and their social media sites have long been subject to lawyer advertising and solicitation rules. *See* State Bar of Texas Advertising Review Committee Interpretive Comment 17 (March 1996, rev. May 2003, rev. 2010) (applying advertising rules “to information disseminated digitally via the Internet”). The practice of encouraging online reviews from clients on third-party websites is a newer development.

Although the Texas Disciplinary Rules of Professional Conduct do not expressly prohibit a lawyer from requesting search engine or social media reviews, a lawyer has a duty not to make or sponsor any communications that are “false or misleading.” Rule

7.02(a). Comment 2 to Rule 7.02 states that the Rule “governs all communications about a lawyer's services, including advertisements regulated by Rule 7.04 and solicitation communications regulated by Rules 7.03 and 7.05.” Comment 2 further notes: “Whatever means are used to make known a lawyer’s services, statements about them must be truthful and nondeceptive.” Furthermore, Rule 8.04(a)(3) provides that a lawyer shall not “engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

This Committee has not previously addressed whether a lawyer may encourage current and former clients to post positive reviews. The Committee has examined a lawyer’s publishing a *response* to a former client’s *negative* review on the internet, finding that a lawyer “may post a proportional and restrained response that does not reveal any confidential information or otherwise violate the Texas Disciplinary Rules of Professional Conduct.” Professional Ethics Committee Opinion 662 (August 2016).

While this Committee has not previously addressed whether a lawyer may encourage current and former clients to post positive reviews, ethics committees in other jurisdictions have. For example, Connecticut lawyers may seek positive reviews from clients and direct them to websites. However, they cannot suggest that clients submit reviews that “contain any information that would be ‘false or misleading’” and lawyers must not give something of value to the client in exchange for submitting a review. Connecticut Informal Opinion 2012-03 (2012). The District of Columbia Bar Legal Ethics Committee has opined that information contained on a lawyer’s social media pages must be truthful and not misleading, especially when the lawyer controls the medium, such as a firm website or a social media profile. District of Columbia Bar Ethics Opinion 370 (Nov. 2016). The opinion further concluded that a lawyer has no affirmative duty to monitor sites where the attorney does not have editorial control over the postings but noted that, “under certain circumstances, it may be appropriate for the attorney to request that the poster remove the content, to request that the social networking site remove the content, or for the attorney to post a curative response.” *Id.*

Similarly, the Committee concludes that, under the Rules, a Texas lawyer may ask current and former clients to post favorable star ratings and online reviews about the lawyer. The lawyer must not, however, encourage anyone to make false or misleading statements or statements that the person has no factual basis for making.

The Committee does not decide the issue of whether a lawyer has an affirmative duty to monitor websites, social media platforms, or similar sites for false, misleading, or unfounded statements. But, if a lawyer becomes aware that a client made a favorable false or misleading statement or a statement that the client has no factual basis for making, the lawyer should take reasonable steps to see that such statements are corrected or removed in order to avoid violating Rules 7.02(a) and 8.04(a)(3). If the lawyer controls the content of the website or platform where the false, misleading, or unfounded statement resides, the lawyer has an affirmative obligation either to encourage the author to correct the false, misleading, or unfounded statements or to remove the statements entirely. If the lawyer does not control the website or platform and cannot remove the false, misleading, or

unfounded statements, the lawyer should address the matter with the author of the review or consider addressing the concern with the administrator of that platform to see if the review can be removed or revised. Alternatively, the lawyer should consider making a curative comment on the website or social media platform. If the lawyer communicates with the platform's administrator or makes a curative statement, the lawyer must be careful not to breach the lawyer's duty under Rule 1.05 to maintain the confidentiality of client information. *See* Opinion 662.

CONCLUSION

The Texas Disciplinary Rules of Professional Conduct do not prohibit a lawyer from encouraging current and former clients to leave positive reviews or ratings online, provided that the lawyer does not encourage the clients to make statements that are false, misleading, or unfounded. If a lawyer becomes aware that a client posted a favorable review that is false, misleading, or unfounded, the lawyer should take reasonable steps to see that the statement is corrected or removed.