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Users of LinkedIn, Beware!

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In our competitive world, businesses are using new forms of technology to market and network. As a result, many law firms are taking advantage of social-media websites to connect with both clients and fellow members of the bar. One popular tool for this is LinkedIn, a professional networking website that allows you to create either a personal or company profile accessible to other members of the website. While the benefits of this website are endless, an attorney must always be cognizant of the ethical implications in using such a social-media tool.

One of the popular features of LinkedIn allows your connections to “endorse” your “Skills and Expertise.” Often, these endorsements come from connections who have no firsthand knowledge of your actual skills but who simply wish to help a friend gain business with hopes that you will return the favor of endorsing them down the road. Moreover, your connections also have the ability to write testimonials praising your work. The question then becomes: Do these endorsements and testimonials violate any applicable ethical codes? Unfortunately, with social media evolving daily, there is no clear answer, as jurisdictions struggle with how to address these potentially new forms of attorney advertising. However, a review of the ABA Model Rules and some recent ethics opinions from various jurisdictions sheds some light on where to draw the line in using these types of social-media websites.

Pursuant to ABA Model Rule 7.1, a lawyer is not to make any false or misleading claims about his or her services. A recent ethics [advisory opinion](#) from South Carolina finds that information on business advertising and networking websites are deemed both communications and advertisements and, thus, must not be false, misleading, deceptive, or unfair. While South Carolina recognizes the benefits of LinkedIn and does not prohibit its use, it does forbid the posting of any content that is false or misleading. Other jurisdictions, such as Florida, appear to be heading in a much stricter direction with regard to attorneys’ use of social-media websites. Namely, a recent [opinion](#) by the Florida Bar’s Committee on Advertising recommended prohibiting the endorsement of one’s “Skills and Expertise” unless that lawyer is actually certified in that area of practice. Thus, in Florida even if you have successfully tried thousands of products-liability cases, unless you are actually certified in that specific area of law, it is not permitted for someone to endorse your skills and expertise. Therefore, an attorney has an affirmative duty to regularly monitor his or her LinkedIn page and delete any “endorsements” or “testimonials” that are either false or could potentially be viewed by a reasonable person as misleading.

Along those same lines, another issue arises out of listing areas of practice in the “Specialties” section of either your personal or law firm’s page. While at first glance this may seem innocuous,

many jurisdictions are strictly enforcing what individual attorneys and law firms can list as a specialty. For example, the New York State Bar Association Committee on Professional Ethics [prohibits](#) law firms from listing the firm's services in LinkedIn's "Specialties" section because New York Bar rules only permit individual lawyers to state that they are specialists if they have been certified in a particular field of law. However, a law firm in New York is still allowed to identify the areas of law in which it practices. Thus, New York takes a similar approach to Florida in terms of an attorney calling himself or herself a specialist in a particular area of law.

As noted above, there are still no uniform rules for using LinkedIn or other social-media websites by an attorney. Thus, an attorney must know the states' rules and opinions on these topics, as each jurisdiction takes a different approach. While the general consensus is that using these social-media websites is acceptable, the websites must not display information that could be deemed false or misleading. Therefore, an attorney must always be aware of and comply with the ethics laws of any state where his or her law firm has an office, as well as the laws of any state where he or she actively solicits clients. However, law-firm administrators and managing partners should not be reluctant to take advantage of the benefits of LinkedIn or any other social media, for that matter, as they can be excellent tools for business development. Simply, one must be cognizant to follow his or her jurisdiction's rules on using social media, and implement reasonable policies to regulate same. Further, some disciplinary authorities have suggested placing a legal disclaimer on these social-media pages stating that the post is merely lawyer advertising, similar to a disclaimer used on a firm's actual website. Thus, if an attorney or law firm is going to use a LinkedIn page, then someone must be assigned to regularly check and regulate the content of the page to delete any endorsements or testimonials that are not true or could be deemed misleading.

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