

# ADVISORY ETHICS OPINION 91-02

## **SYNOPSIS:**

Lawyers may list themselves in yellow page directories by field of concentration.

## **FACTS:**

NYNEX Information Resources Company is soliciting lawyers in at least part of the State to list themselves in the yellow pages under certain practice specialties. The Vermont Bar Association is requesting an opinion as to whether this practice would constitute a violation of the Code of Professional Responsibility.

## **OPINION:**

The issue is whether lawyers may list themselves in the Yellow Pages of the telephone directory under certain practice headings without violating the Code of Professional Responsibility.

DR 2-105 of the Code states:

A lawyer may communicate the fact that the lawyer practices or does not practice in particular fields of law and that the lawyer concentrates in one or more fields of law. A lawyer shall not state that the lawyer is a specialist except in the areas of patent or admiralty law if the lawyer is admitted to engage in patent practice before the United States Patent and Trademark Office or is engaged in admiralty practice, or where the lawyer has met the requirements for recognition as a specialist, as determined by the Supreme Court of Vermont.

A comparable Guide of Physicians and Surgeons - Medical-M.D. arranged by practice appears in the July 1990 NYNEX Yellow Pages. There, an explanatory note indicates:

Physicians and Surgeons in this guide have chosen to list themselves by the field of medicine to which they limit their practice. This guide may not include all physicians.

It is the Committee on Professional Responsibility's opinion that a listing of lawyers by field of practice that included a similar disclaimer, prominently displayed, indicating that the listing by field of concentration is what the attorneys have chosen, would not violate the Code of Professional Responsibility.

The recent United States Supreme Court case of *Peel v. Attorney Registration and Disciplinary Commission*<sup>1</sup>, held that states may not categorically prohibit lawyers from advertising their certifications by *bona fide* private organizations. The holding in *Peel* may necessitate the expansion of the last part of DR 2-105.

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<sup>1</sup> *Peel v. Attorney Registration and Disciplinary Commission*, 58 U.S.L.W. 4684 (June 4, 1990)