

May 7, 2002

THE QUESTION

As we all know, Florida has no licensure for mediators. In other words, anyone can print a business card saying "John Doe, Mediator," without having taken any certified training course. However, when a mediator has been certified in a particular area, i.e. Circuit Civil, Family or Dependency, is the mediator able to generically state "John Doe, Certified Mediator" on the business card, without specifically identifying the particular area of certification?

My concern is drawn from two levels. First, I am interested to know if any training standard requires trainers to advise their trainees that the rules only permit stating the actual Certification achieved, precluding a generic statement "John Doe, Certified Mediator."

Second, Rule 10.610 in pertinent part says:

"...a mediator shall not engage in marketing practices which contain...misleading information. A mediator shall ensure that any advertisements of the mediator's qualifications...are accurate and honest."

If a Certified Circuit Civil mediator is holding him/herself out to be a "Certified Mediator" (without designating the particular area of certification) isn't that mediator engaging in misleading advertising, if that mediator is using that business card to market business to family practitioners, when in fact that mediator is NOT family certified? Conversely, can a Family Certified mediator print a card that says "Certified Mediator" and market to Circuit Civil prospects, who may believe, from reading the advertising, that the Certification is civil in nature. Aren't these situations in violation of the above quoted Rule?

If this question has not yet been answered, please forward this query to the MEAC for an appropriate response.

Thank you,

Certified Family and Circuit Mediator
Southern Division

AUTHORITY REFERENCED

Rule 10.610, Florida Rules for Certified and Court-Appointed Mediators
MQAP Opinion 99-013

SUMMARY

The generic designation, “certified mediator,” is inherently misleading and therefore in violation of rule 10.610.

OPINION

Rule 10.610, Florida Rules for Certified and Court-Appointed Mediators, requires that all advertising be neither false nor misleading. In MQAP 99-013, the Committee confronted the situation of a letterhead which did not differentiate which attorneys on the letterhead were certified mediators. In that Opinion, the Committee stated that the failure to distinguish on the letterhead “implies that both attorneys named are qualified in the areas listed” and was therefore misleading.

In the scenario described in the question, the failure to differentiate is based on the type of certification. Since the type is not specifically noted, a reader could be misled into believing a “certified mediator” is certified in an area in which the mediator is not certified. In the alternative, it could be viewed as a claim that the mediator is certified in all fields or that there is one general certification required for all types of mediation. Thus, the Committee believes that such a generic designation is inherently misleading and therefore in violation of rule 10.610.

Date

Charles M. Rieders, Committee Chair