

LFC Requester:	Chavez, Felix
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/5/25 *Check all that apply:*
Bill Number: HB 262 Original Correction
 Amendment Substitute

Sponsor: Rep. Rebecca Dow **Agency Name and Code:** AOC
Short Title: Legal Services Advertisements **Number:** 218
Title: _____ **Person Writing:** Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 262 enacts a new statutory section within Chapter 57, governing Trade Practices and Regulations, to require an advertisement for legal services that includes a monetary amount awarded to a client for a settlement or judgment of a civil action to also disclose the monetary amount that was charged to the client for the services rendered for that civil action.

HB 262 requires the Attorney General (AG) to assess an attorney or law firm in violation of this statutory section a civil penalty of \$500 for each violation. HB 262 also permits the AG or a district attorney (DA), with the AG's permission, to bring a civil action in district court to recover a civil penalty assessed pursuant to this section. Civil penalties collected pursuant to this section are required to be deposited in the current school fund.

The effective date of the Act is July 1, 2025.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced civil actions, and appeals from the assessment of a civil penalty, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) New Mexico Rule of Professional Conduct 16-106(A) provides that a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by Subsection B of this rule, none of which provisions cover required disclosure in advertisements.

In commentary to the rule, the New Mexico Supreme Court Code of Professional Conduct Committee noted:

The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law.

The committee also noted that Subsection B(5) of the rule permits a lawyer entitled to a fee to prove the services rendered in an action to collect it, stating, "This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of

the fiduciary.” See <https://casetext.com/rule/new-mexico-court-rules/new-mexico-rules-of-professional-conduct/article-1-client-lawyer-relationship/rule-16-106-confidentiality-of-information#:~:text=A%20lawyer%20may%20not%20disclose,Professional%20Conduct%20or%20other%20law.>

2) Some examples from other states requiring disclosure of attorney fee and costs arrangements:

- **Arizona:** advertisement containing information on the lawyer’s fees must explain if the client will be held liable for expenses regardless of the outcome and whether the percentage fee will be computed before expenses are deducted from the recovery.
- **California:** when an advertisement states that there will be no fee without recovery, the advertisement must also include whether or not the client will be held liable for costs. If the advertisement states that an attorney works on a contingency basis, the statement must also advise if the client will be held responsible for any advanced costs when no recovery is obtained.
- **Colorado:** communications implying that a client does not have to pay a fee must also disclose that the client may be liable for costs, but this provision does not apply to communications that discuss contingent or percentage fee arrangements.
- **Connecticut:** advertisements and written communications containing information on fees are required to disclose if the client will be held responsible for court costs and litigation expenses. The disclosure must be the same print size and type as the information regarding the lawyer’s fees. If broadcast, the disclosure must appear for the same duration as the information regarding fees.

See *Legal Advertising Laws*, April 2023 (updated December 2024),

<https://www.pmpmg.com/legal-advertising-laws/#:~:text=Advertisements%20and%20written%20communication%20that%20contains%20information, responsible%20for%20court%20costs%20and%20litigation%20expenses.&text=If%20an%20advertisement%20states%20or%20indicates%20that, costs%2C%20fees%20for%20gathering%20evidence%20and%20more,> and for a listing of additional examples of state laws requiring disclosure of fee and cost arrangements.

It appears that the state law examples above can be distinguished from the HB 262 requirement that when a monetary award amount is mentioned in an advertisement the advertisement is also required to disclose the monetary amount that was charged to the client for services rendered, in that the other state laws apply generally to disclosure of fee and cost *arrangements* and are not requiring disclosure of protected and confidential information related to specific client representation.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS