



Selected Model Rules of Professional Conduct



at Hofstra University's Maurice A. Deane School of Law

Ellen C. Yaroshefsky

*Howard Lichtenstein Distinguished Professor of Legal Ethics and
Executive Director of the Monroe H. Freedman Institute
for the Study of Legal Ethics*

ABA Model Rule 1.1

Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

ABA Model Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

ABA Model Rule 1.4 Communication

- (a) A lawyer shall:
 - 1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
 - 2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - 3) keep the client reasonably informed about the status of the matter;
 - 4) promptly comply with reasonable requests for information; and
 - 5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

ABA Model Rule 1.7

Conflict Of Interest: Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if.....

(2) **there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.**

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or other law;
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
- (3) the lawyer is discharged.

ABA Model Rule 1.16

Declining or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- 1) the representation will result in violation of the Rules of Professional Conduct or other law;
- 2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
- 3) the lawyer is discharged.

ABA Model Rule 1.16

Declining or Terminating Representation, (cont.)

(b) except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

- 1) withdrawal can be accomplished without material adverse effect on the interests of the client;
- 2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
- 3) the client has used the lawyer's services to perpetrate a crime or fraud;
- 4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
- 5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
- 6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
- 7) other good cause for withdrawal exists.

ABA Model Rule 3.8

Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

- a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
- b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;
- c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;
- d) **make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;**

ABA Model Rule 5.1

Responsibilities of Partners, Managers, and Supervisory Lawyers

- a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.
- b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.
- c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:
 - 1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
 - 2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

ABA Model Rule 5.2

Responsibilities of a Subordinate Lawyer

- a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.
- b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

ABA Model Rule 6.2

Rule 6.2 Accepting Appointments

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:

- a) representing the client is likely to result in violation of the Rules of Professional Conduct or other law;
- b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or
- c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

ABA Model Rule 8.3

Reporting Professional Misconduct

- a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.
- b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.
- c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

ABA Model Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- d) engage in conduct that is prejudicial to the administration of justice;
- e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.