

Ethics Jeopardy: Answers and Questions



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Hypothetical One

Lawyer employs a non-lawyer legal assistant, Pat. Pat provides secretarial services, performs basic legal research, and prepares drafts of wills and divorce pleadings. Lawyer plans to expand Pat's duties to include intake interviews with prospective clients. During the intake interview, Pat will (1) perform a conflict check, (2) obtain basic client info, (3) determine if the matter falls within Lawyer's areas of practice, (4) answer general questions about fees and the representation; and, (5) if appropriate, have the prospective client sign a fee agreement.



POLLING QUESTION

Do the Rules of Professional Responsibility prohibit Lawyer from assigning Pat these intake responsibilities?

- A) Yes, the intake function must be performed by a licensed lawyer.
- B) No. Pat may perform the intake function as long as the information Pat provides is correct.
- C) Pat may assist in the intake function but may not discuss fees or obtain the client's signature on a retainer agreement.
- D) Let me reread ABA Ethics Formal Opinion 506 (Responsibilities Regarding Nonlawyer Assistants) before I answer.



ABA Opinion 506 *Permissible* Intake Activities

If trained and supervised non-lawyer can:

- obtain initial information about the matter;
- perform initial conflicts check;
- determine if the matter falls within Lawyer's practice area;
- answer general questions re fee agreement & representation; and
- obtain prospective client's signature on engagement agreement.



ABA Opinion 506 *Impermissible* Intake Activities

Opinion says Lawyer must answer certain client inquiries:

- client asks what legal services they should obtain;
- client wants to negotiate fees or expenses;
- client asks for interpretation of engagement agreement.

Lawyer must respond to prevent (1) UPL and (2) ensure accurate info so client can make informed decisions.



Hypothetical Two

An attorney received a phone call from a father asking the attorney to represent the father's son, a 21-year-old college student, against a DUI charge. The father told the attorney that he would pay the attorney's standard hourly rate for the representation, as well as any expenses. The following day, the attorney met with the son and discussed the matter. When the son told the attorney that he didn't have much money and asked how much the attorney would charge for the representation, the attorney responded that the son's father has agreed to pay for the representation. As the trial date approached, the prosecution offered a plea deal. The attorney brought the deal to the son, who accepted it. When the father later learned of this, he was furious with the attorney for failing to include him in the discussion regarding the plea deal.



POLLING QUESTION

Were the attorney's actions in representing the son proper?

- A) Yes
- B) No



Hypothetical Three

Carey Careless is defending Bleachy Bleach in litigation regarding violations of environmental statutes. A main issue in the case involves Bleachy's disposal processes and notice of harm to the local residents. The case has been pending for years. Carey is walking over to court for the final pretrial. Carey gets an email from Bleachy Bleach's CEO, Pat Prickly, forwarding a 2010 email from a local doctor, Dr. Duelittle, indicating the doctor has seen a rise in cancer cases among the town's residents. In the email, Dr. Duelittle, kindly inquires whether Bleachy's waste disposal processes meet the requirements of pertinent environmental waste statutes.

You have never seen this email from Dr. Duelittle before, but the pretrial is in 5 minutes. You believe this email and information could negatively affect the case, but you would like to look into it a bit further to see what it really is all about.



POLLING QUESTION

What do you do when you get the email?

- A) Nothing. It's too late.
- B) Ask the court for an extension, due to a last-minute fact that came to your attention.
- C) Pull aside the opposing counsel before the pretrial and discuss how to handle it jointly before the judge.
- D) Tell the court about the email and ask the court for permission to take Dr. Duelittle's deposition.



Hypothetical Four

Client retained Attorney to pursue his personal injury claim based on an automobile accident, in which he suffered a serious brain injury. Attorney met with Client to discuss his claim and then contacted the liability insurer for the defendants. There was some further contact between Attorney and Client regarding the aggravation of Client's injuries. As time went on, Client made multiple attempts to contact Attorney through e-mails, phone calls, and texts, but Attorney did not respond to Client, cut-off communication with the insurer, and failed to file the suit by the statute of limitations deadline. Eventually, Client notified Attorney by e-mail and U.S. mail that he was terminating her representation and requested that she provide him with his file. Less than five minutes after receiving Client's email, Attorney texted Client asking, "Are you firing me? Why?" Client and Attorney had no further contact, and Attorney failed to provide Client with the requested files. No written contingency fee agreement exists.



POLLING QUESTION

Was Attorney's conduct proper?

- A) Yes
- B) No



POLLING QUESTION

What if Client fired Attorney before the statute of limitations ran, would Attorney still be subject to discipline?

- A) Yes
- B) No



POLLING QUESTION

What if Attorney was sending e-mail communications to Client throughout the representation, but the Attorney misspelled the email address so the communications never reached Client; would Attorney still be subject to discipline?

- A) Yes
- B) No



Hypothetical Five

A judge is Facebook friends with a criminal defense attorney who regularly appears before the judge. The judge and Lawyer have no other relationship outside the courtroom. Lawyer appears in court representing three defendants set for arraignment.



POLLING QUESTION

Taking into consideration your state's Code of Judicial Conduct, the judge should:

- A) Disqualify from Lawyer's cases.
- B) "Unfriend" Lawyer and continue to hear Lawyer's cases.
- C) Disclose the Facebook friendship when the cases are called.
- D) Decline to disqualify or disclose and simply hear Lawyer's cases.



Herssein v. United Services
271 So. 3d 889 (Fla. 2018)

“Friendship on a social networking site between a judge and a lawyer appearing before the judge, standing alone, does not reasonably convey the impression of an inherently close or intimate relationship that might warrant disqualification.”



Also, *In re Kerenyi*, 160 Ohio St.3d 1201 (2020)

Social Media Landscape

ABA Formal Ethics Opinion 462

“Because of the open and casual nature of ESM communication, a judge will seldom have an affirmative duty to disclose an ESM connection.”



Hypothetical Six

Larry Lawyer deposed a twenty year-old, Tina Tech, in connection with a personal injury case. Tina's testimony was that she had observed Larry's client, the defendant, driving through a red light just prior to the accident. During her deposition, Tina revealed that she had a Facebook account. Through some of the things that Tina said at her deposition, Larry believed that Tina's Facebook pages might contain information that would help him impeach her testimony.

Larry has several handsome young investigators on his staff who are savvy about the workings of Facebook. Larry has one of his investigators "friend" Tina on Facebook and from pictures posted on her account, discovers that she was at a raucous party just prior to the time she witnessed the accident.



POLLING QUESTION

Ethics violation?

- A) Yes
- B) No



Hypothetical Seven

Four days before Attorney was sworn in, after passing their bar exam in State A, they were arrested and charged with disorderly conduct after engaging in an altercation with a patron at a bar. Attorney did not amend their character and fitness disclosures with State A to reflect this incident. Five years later, Attorney filed an application to be licensed in State B. As part of that application, they filed character and fitness disclosures that included the arrest in State A that occurred prior to their licensure in that state. At this time, Attorney also advised the State A Office of Attorney Admissions about the arrest that occurred four days before the swearing in ceremony.



POLLING QUESTION

Is Attorney subject to discipline in State A for their failure to disclose the arrest prior to the swearing in ceremony in State A?

- A) Yes
- B) No



POLLING QUESTION

What if Attorney disclosed the arrest two months after being licensed in State A, would they still potentially be subject to discipline?

- A) Yes
- B) No



POLLING QUESTION

Could State B deny Attorney's character and fitness application for failing to disclose the arrest in State A, even though Attorney disclosed it timely to State B?

- A) Yes
- B) No



Hypothetical Eight

Lawyer prepares a memorandum in support of a motion to dismiss, using generative artificial intelligence. About 90 percent of the memorandum is verbatim from the product produced by the AI tool. Lawyer thoroughly reviews AI's work, including case citations, before submitting the memorandum.



POLLING QUESTION

Do the Rules of Professional Conduct require that Lawyer disclose to the court that artificial intelligence assisted in the preparation of the memorandum?

- A. Yes. Rule 3.3 imposing a duty of candor to the tribunal requires disclosure.
- B. No. No rule of professional conduct requires disclosure.
- C. I don't know, but the first thing Lawyer should do is check the court's local rules/standing orders.



Standing Orders Regarding the Use of AI

“A party using AI in preparing materials submitted to the court must disclose that an AI tool was used to conduct legal research and/or was used in any way in the preparation of the submitted document.”

-Magistrate Jeffery Cole, N.D. Illinois

“No attorney . . . or a pro se party, may use Artificial Intelligence (AI) in the preparation of any filing submitted to the Court.”

-Judge Michael Newman, S.D. Ohio



Hypothetical Nine

An attorney maintains a virtual law office practice. This means that all communications with clients, storage of documents, and access to information about client matters are conducted through the internet using the secure computer servers of a third-party vendor (i.e. cloud computing).



POLLING QUESTION

Ethics violation?

- A) Yes
- B) No



Hypothetical Ten

On Facebook, Lawyer described the case of an ungrateful former client for whom Lawyer obtained a not guilty verdict on a DUI charge and only charged half of Lawyer's usual fee. The day of the acquittal the client filed an ARDC complaint against Lawyer.



POLLING QUESTION

Lawyer's discussion of the former client's case on Facebook:

- A. Violated Rule 1.6 of the Model Rules of Professional Conduct unless the former client gave informed consent to Lawyer to reveal the facts of the representation.
- B. Violated Rule 1.6 only if Lawyer revealed confidences and secrets of the former client.
- C. Did not violate Rule 1.6 because all information disclosed was part of the public record.
- D. Violated Rule 1.6 only if the information in the Facebook post created a reasonable likelihood that the identity of the former client could be determined.



Hypothetical Eleven

Lawyer, Devin Downs, represents client, Larry Lotto, in some construction matters relating to his business. Downs' representation of Lotto in those matters is concluded for about a month.

Lotto wins the lottery! He calls Downs and asks for help collecting and investing the money. Downs' personal financial situation is a mess, business is slow, he can't pay his bills. Downs asks Lotto for a loan. Lotto, trusting his lawyer says sure.



POLLING QUESTION

Ethical violation?

- A) Yes
- B) No



Hypothetical Twelve

Judge is an administrative law judge in State C. Last year, Judge served as a volunteer judge for a local middle school mock trial competition which was held in a courthouse. During the competition, Judge presided from the bench and wore the judicial robe they wear while presiding as an administrative law judge. Judge is currently running for re-election and would like to post pictures showing themselves interacting with the students from the bench while wearing the judicial robe to their social media and web campaign. The pictures would include a message about judging the mock trial competition and congratulating the students on their performance.



POLLING QUESTION

If Judge posts the pictures, is the Judge subject to discipline?

- A) Yes
- B) No



Hypothetical Thirteen

Harper Hostile is a real-estate lawyer who is representing her good friend, Harley, in the sale of the marital residence. Harley is getting a divorce from her partner, who Harper hates because of the perpetual lying and cheating (hereinafter “Cheater”). Harper gets the keys to the marital residence for the final pre-closing inspection.

Harper gets to the house an hour before the inspection is scheduled to start and goes into Cheater’s home office. Cheater’s computer is open to Cheater’s Facebook page. Harper goes on to the computer and finds information about some of Cheater’s current sidekicks. Using a made-up name and pretending that Harper and the sidekick have the miserable Cheater in common, Harper friends the sidekicks.



Hypothetical Thirteen cont'd

Harper also finds some financial information on the computer's desktop. Harper prints it out and, later, when she is alone with Harley, hands Harley the printed out financial information. Over the next several days, Harper corresponds with Cheater's Facebook sidekicks, finds out juicy tidbits about Cheater's "outside activities," and hands all of that information over to Harley.

Harley takes all of this new information and gives it to divorce lawyer, Vinnie Viper. Viper never asks Harley how this information was obtained. Viper just uses it in the divorce case to accuse Cheater of perjury, among other things.



ICJC Rule 1.2 – Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary and shall avoid impropriety* and the appearance of impropriety.



ICJC Rule 1.3 – Avoiding Misuse of the Prestige of Judicial Office

A judge shall not misuse the prestige of judicial office to advance the personal or economic interests* of the judge or others or allow others to do so.

COMMENTS [1] : It is improper to use or attempt to use the judge's position to gain personal advantage or preferential treatment of any kind. For example, it would be improper to allude to judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use the judicial title in letterhead, e-mails, or any other form of communication, including social media or social networking platforms, to gain an advantage in conducting personal business.



ICJC Rule 2.2 – Impartiality and Fairness

A judge shall uphold and apply the law* and shall perform all duties of judicial office fairly and impartially.

COMMENT [1]: To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.



ICJC Rule 2.8 – Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.



ICJC Rule 2.11 – Disqualification

(A) A judge shall be disqualified in any proceeding in which the judge's impartiality* might reasonably be questioned, including, but not limited to, the following circumstances:

- 1) The judge has a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge* of facts that are in dispute in the proceeding.

COMMENT [5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.



IRPC 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.

Legal Knowledge and Skill [1]:

In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.



IRPC 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.



IRPC 1.3: Diligence

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

COMMENT [1]: A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.



IRPC 1.3: Diligence

COMMENT [2]: Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.



IRPC 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.



IRPC 1.4: Communication cont'd

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

COMMENT [4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.



IRPC 1.5: Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;



IRPC 1.5: Fees cont'd

- (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
 - (8) whether the fee is fixed, contingent, or some type of retainer.
- (b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.



IRPC 1.6: Confidentiality of Information

(a) 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 paragraph (b) or required by paragraph (c).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(6) to comply with other law or a court order;

(e) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.



IRPC 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:
- (1) the representation of one client will be directly adverse to another client; or
 - (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.



IRPC 1.7: Conflict of Interest: Current Clients cont'd

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent.



IRPC 1.8: Conflict of Interest: Current Clients: Specific Rules

- (a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
 - (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;
 - (2) the client is informed in writing that the client may seek the advice of independent legal counsel on the transaction, and is given a reasonable opportunity to do so; and
 - (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.



IRPC 1.14: Client with Diminished Capacity

- (a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.
- (b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.



IRPC 1.14: Client with Diminished Capacity cont'd

- c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

COMMENT [4] If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor. If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct. See Rule 1.2(d).



IRPC 1.14: Client with Diminished Capacity cont'd

COMMENT [9] In an emergency where the health, safety or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent or other representative available, except when that representative's actions or inaction threaten immediate and irreparable harm to the person. The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these Rules as the lawyer would with respect to a client.



IRPC 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:

(3) the lawyer is discharged.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.



IRPC 1.16: Declining or Terminating Representation

COMMENT [4] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

COMMENT [9] Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. The lawyer may retain papers as security for a fee only to the extent permitted by law.



IRPC 3.3: Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel



IRPC 3.4: Fairness to Opposing Party and Counsel

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent

effort to comply with a legally proper discovery request by an opposing party;



IRPC 4.1: Truthfulness in Statements to Others

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.



IRPC 7.1: Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.



IRPC 8:1: Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not: (a) knowingly make a false statement of material fact; or (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by these Rules or by law.



IRPC 8:1: Bar Admission and Disciplinary Matters

COMMENT [1] The duty imposed by this Rule extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this Rule applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this Rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.



IRPC 8.3: Reporting Professional Misconduct

(a) A lawyer who knows that another lawyer has committed a violation of Rule 8.4(b) or Rule 8.4(c) shall inform the appropriate professional authority.

Comment [1] Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Rules of Professional Conduct. See *In re Himmel*, 125 Ill. 2d 531 (1988).



IRPC 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.



IRPC 8.5 – Disciplinary Authority; Choice of Law

- (a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

COMMENT [1] It is longstanding law that the conduct of a lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction. Extension of the disciplinary authority of this jurisdiction to other lawyers who provide or offer to provide legal services in this jurisdiction is for the protection of the citizens of this jurisdiction. Reciprocal enforcement of a jurisdiction's disciplinary findings may advance the purposes of this Rule, subject always to the need to avoid unjust results.



ABA Model Code of Judicial Conduct: Canon 4

A Judge Or Candidate For Judicial Office Shall Not Engage In Political Or Campaign Activity That Is Inconsistent With The Independence, Integrity, Or Impartiality Of The Judiciary.



ABA Model Rule 1.5: fees

Client-Lawyer Relationship

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;



ABA Model Rule 1.5: fees cont'd

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.



ABA Model Rule 1.6: Confidentiality of Information

- (a) 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 paragraph (b).
- (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;



ABA Model Rule 3.3: Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;

(3) offer evidence that the lawyer knows to be false...



ABA Model Rule 5.3: Responsibilities Regarding Nonlawyer Assistance

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer;

[2] Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.



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- IJEC Opinion No. 2021-4
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- Illinois Supreme Court Policy on Artificial Intelligence (eff. January 1, 2025), available at <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/e43964ab-8874-4b7a-be4e-63af019cb6f7/Illinois%20Supreme%20Court%20AI%20Policy.pdf>
- ABA Formal Op. 462, available at https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/formal_opinion_462.pdf



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