



**RULES REGULATING THE FLORIDA BAR
SUBCHAPTER 4-8
MAINTAINING THE INTEGRITY OF THE PROFESSION**

{LAST UPDATE: 7/27/2020}

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RULES REGULATING THE FLORIDA BAR

CHAPTER: 4 RULES OF PROFESSIONAL CONDUCT

SECTION: 8 MAINTAINING THE INTEGRITY OF THE PROFESSION

RULES: 4-8.1 through 4-8.6



4-8.1 | REFERRALS, DIRECTORIES AND POOLED ADVERTISING

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;
- (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 rule 4-1.6; or
- (c) commit an act that adversely reflects on the applicant's fitness to practice law. An applicant who commits such an act before admission, but which is discovered after admission, shall be subject to discipline under these rules.

(Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended October 6, 2005, effective January 1, 2006 (916 So.2d 655); amended March 23, 2006, effective May 22, 2006 (933 So.2d 417).)

Comments

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. Subdivision (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.

This rule is subject to the provisions of the fifth amendment of the United States Constitution and the corresponding provisions of the Florida Constitution. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this rule.



A lawyer representing an applicant for admission to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including rule 4-1.6 and, in some cases, rule 4-3.3.

An applicant for admission may commit acts that adversely reflect on the applicant's fitness to practice law and which are discovered only after the applicant becomes a member of the bar. This rule provides a means to address such misconduct in the absence of such a provision in the Rules of the Supreme Court Relating to Admissions to the Bar.



4-8.2 | BAR ADMISSION AND DISCIPLINARY MATTERS

(a) Impugning Qualifications and Integrity of Judges or Other Officers. A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office.

(b) Candidates for Judicial Office; Code of Judicial Conduct Applies. A lawyer who is a candidate for judicial office shall comply with the applicable provisions of Florida's Code of Judicial Conduct.

(Amended and effective June 8, 1989 (544 So.2d 193); amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252).)

Comments

Assessments by lawyers are relied on in evaluating the professional or personal fitness of persons being considered for election or appointment to judicial office and to public legal offices, such as attorney general, prosecuting attorney, and public defender. Expressing honest and candid opinions on such matters contributes to improving the administration of justice. Conversely, false statements by a lawyer can unfairly undermine public confidence in the administration of justice.

False statements or statements made with reckless disregard for truth or falsity concerning potential jurors, jurors serving in pending cases, or jurors who served in concluded cases undermine the impartiality of future jurors who may fear to execute their duty if their decisions are ridiculed. Lawyers may not make false statements or any statement made with the intent to ridicule or harass jurors.

When a lawyer seeks judicial office, the lawyer should be bound by applicable limitations on political activity.

To maintain the fair and independent administration of justice, lawyers are encouraged to continue traditional efforts to defend judges and courts unjustly criticized.



4-8.3 | JUDICIAL AND LEGAL OFFICIALS

(a) Reporting Misconduct of Other Lawyers. 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 must inform the appropriate professional authority.

(b) Reporting Misconduct of Judges. 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 must inform the appropriate authority.

(c) Confidences Preserved. This rule does not require disclosure of information:

- (1) otherwise protected by rule 4-1.6;
- (2) gained by a lawyer while serving as a mediator or mediation participant if the information is privileged or confidential under applicable law; or
- (3) gained by a lawyer or judge while participating in an approved lawyers assistance program unless the lawyer's participation in an approved lawyers assistance program is part of a disciplinary sanction, in which case a report about the lawyer who is participating as part of a disciplinary sanction must be made to the appropriate disciplinary agency.

(d) Limited Exception for Florida Bar Established Law Practice Management Program. A lawyer employed by or acting on behalf of the law practice management advice and education program established and supervised by the board of governors is exempt from the obligation to disclose knowledge of the conduct of another member of The Florida Bar that raises a substantial question as to the other lawyer's fitness to practice, if the lawyer employed by or acting on behalf of the program acquired the knowledge while engaged in the course of the lawyer's regular job duties as an employee of the program.



(Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended and effective Feb. 8, 2001 (795 So.2d 1); amended March 23, 2006, effective May 22, 2006 (933 So.2d 417); amended April 12, 2012, effective July 1, 2012 (101 So.3d 807); amended November 9, 2017, effective February 1, 2018 (234 So.3d 632); amended January 4, 2019, effective March 5, 2019 (267 So.3d 891).)

Comments

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. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

A report about misconduct is not required where it would involve violation of rule 4-1.6. However, a lawyer should encourage a client to consent to disclosure where prosecution would not substantially prejudice the client's interests.

If a lawyer were obliged to report every violation of the rules, the failure to report any violation would itself be a professional offense. Such a requirement existed in many jurisdictions, but proved to be unenforceable. This rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware.

The duty to report professional misconduct does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the rules applicable to the client-lawyer relationship.

Generally, Florida statutes provide that information gained through a "mediation communication" is privileged and confidential, including information which discloses professional misconduct occurring outside the mediation. However, professional misconduct occurring during the mediation is not privileged or confidential under Florida statutes.

Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in an approved lawyers or judges assistance program. In that circumstance, providing for an exception to the reporting requirements of subdivisions (a) and (b) of this rule encourages lawyers and judges to seek treatment through such a program. Conversely, without such an exception, lawyers and judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public. These rules do not otherwise address the confidentiality of information received by a lawyer or judge participating in an approved lawyers assistance program; such an obligation, however, may be imposed by the rules of the program or other law.

4-8.4 | REPORTING PROFESSIONAL MISCONDUCT

A lawyer shall not:

- (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, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule;
- (d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic;
- (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;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;
- (g) fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel or the agency is conducting an investigation into the lawyer's conduct. A written response shall be made:



- (1) within 15 days of the date of the initial written investigative inquiry by bar counsel, grievance committee, or board of governors;
- (2) within 10 days of the date of any follow-up written investigative inquiries by bar counsel, grievance committee, or board of governors;
- (3) within the time stated in any subpoena issued under these Rules Regulating The Florida Bar (without additional time allowed for mailing);
- (4) as provided in the Florida Rules of Civil Procedure or order of the referee in matters assigned to a referee; and
- (5) as provided in the Florida Rules of Appellate Procedure or order of the Supreme Court of Florida for matters pending action by that court.

Except as stated otherwise herein or in the applicable rules, all times for response shall be calculated as provided elsewhere in these Rules Regulating The Florida Bar and may be extended or shortened by bar counsel or the disciplinary agency making the official inquiry upon good cause shown.

Failure to respond to an official inquiry with no good cause shown may be a matter of contempt and processed in accordance with rule 3-7.11(f) of these Rules Regulating The Florida Bar.

(h) willfully refuse, as determined by a court of competent jurisdiction, to timely pay a child support obligation; or

(i) engage in sexual conduct with a client or a representative of a client that exploits or adversely affects the interests of the client or the lawyer-client relationship.

If the sexual conduct commenced after the lawyer-client relationship was formed it shall be presumed that the sexual conduct exploits or adversely affects the interests of the client or the lawyer-client relationship. A lawyer may rebut this presumption by proving by a preponderance of the evidence that the sexual conduct did not exploit or adversely affect the interests of the client or the lawyer-client relationship.

The prohibition and presumption stated in this rule do not apply to a lawyer in the same firm as another lawyer representing the client if the lawyer involved in the sexual conduct does not personally provide legal services to the client and is screened from access to the file concerning the legal representation.

(Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended July 1, 1993 (621 So.2d 1032); amended July 1, 1993, effective Jan. 1, 1994 (624 So.2d 720); amended Feb. 9, 1995 (649 So.2d 868); amended July 20, 1995 (658 So.2d 930); amended Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179); Feb. 8, 2001 (795 So.2d 1); May 20, 2004 (SC03-705), 875 So.2d 448); amended October 6, 2005, effective January 1, 2006 (916 So.2d 655); amended March 23, 2006, effective May 22, 2006 (933 So.2d 417); amended November 19, 2009, effective February 1, 2010 (24 So.3d 63).)

Comments

Lawyers are subject to discipline when they 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, as when they request or instruct an agent to do so on the lawyer's behalf. Subdivision (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take, provided that the client is not used to indirectly violate the Rules of Professional Conduct.

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offense carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, or breach of trust or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of rule 4-1.2(d) concerning a good faith challenge to the validity, scope, meaning, or application of the law apply to challenges of legal regulation of the practice of law.

Subdivision (c) recognizes instances where lawyers in criminal law enforcement agencies or regulatory agencies advise others about or supervise others in undercover investigations, and provides an exception to allow the activity without the lawyer engaging in professional

misconduct. The exception acknowledges current, acceptable practice of these agencies. Although the exception appears in this rule, it is also applicable to rules 4-4.1 and 4-4.3. However, nothing in the rule allows the lawyer to engage in such conduct if otherwise prohibited by law or rule.

Subdivision (d) of this rule proscribes conduct that is prejudicial to the administration of justice. Such proscription includes the prohibition against discriminatory conduct committed by a lawyer while performing duties in connection with the practice of law. The proscription extends to any characteristic or status that is not relevant to the proof of any legal or factual issue in dispute. Such conduct, when directed towards litigants, jurors, witnesses, court personnel, or other lawyers, whether based on race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, physical characteristic, or any other basis, subverts the administration of justice and undermines the public's confidence in our system of justice, as well as notions of equality. This subdivision does not prohibit a lawyer from representing a client as may be permitted by applicable law, such as, by way of example, representing a client accused of committing discriminatory conduct.

Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of attorney. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, or agent and officer, director, or manager of a corporation or other organization.

A lawyer's obligation to respond to an inquiry by a disciplinary agency is stated in subdivision (g) of this rule and subdivision (h)(2) of rule 3-7.6. While response is mandatory, the lawyer may deny the charges or assert any available privilege or immunity or interpose any disability that prevents disclosure of a certain matter. A response containing a proper invocation thereof is sufficient under the Rules Regulating The Florida Bar. This obligation is necessary to ensure the proper and efficient operation of the disciplinary system.

Subdivision (h) of this rule was added to make consistent the treatment of attorneys who fail to pay child support with the treatment of other professionals who fail to pay child support, in accordance with the provisions of section 61.13015, Florida Statutes. That section provides for the suspension or denial of a professional license due to delinquent child support payments after all other available remedies for the collection of child support have been exhausted. Likewise, subdivision (h) of this rule should not be used as the primary means for collecting child support, but should be used only after all other available remedies for the collection of child support have been exhausted. Before a grievance may be filed or a grievance procedure initiated under this subdivision, the court that entered the child support order must first make a finding of willful refusal to pay. The child support obligation at issue under this rule includes both domestic (Florida) and out-of-state (URESA) child support obligations, as well as arrearages.

Subdivision (i) proscribes exploitation of the client or the lawyer-client relationship by means of commencement of sexual conduct. The lawyer-client relationship is grounded on mutual trust. A sexual relationship that exploits that trust compromises the lawyer-client relationship. Attorneys have a duty to exercise independent professional judgment on behalf of clients.

Engaging in sexual relationships with clients has the capacity to impair the exercise of that judgment.

Sexual conduct between a lawyer and client violates this rule, regardless of when the sexual conduct began when compared to the commencement of the lawyer-client relationship, if the sexual conduct exploits the lawyer-client relationship, negatively affects the client's interest, creates a conflict of interest between the lawyer and client, or negatively affects the exercise of the lawyer's independent professional judgment in representing the client.

Subdivision (i) creates a presumption that sexual conduct between a lawyer and client exploits or adversely affects the interests of the client or the lawyer-client relationship if the sexual conduct is entered into after the lawyer-client relationship begins. A lawyer charged with a violation of this rule may rebut this presumption by a preponderance of the evidence that the sexual conduct did not exploit the lawyer-client relationship, negatively affect the client's interest, create a conflict of interest between the lawyer and client, or negatively affect the exercise of the lawyer's independent professional judgment in representing the client.

For purposes of this rule, a "representative of a client" is an agent of the client who supervises, directs, or regularly consults with the organization's lawyer concerning a client matter or has authority to obligate the organization with respect to the matter, or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability.

4-8.5 | MISCONDUCT

A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction although engaged in practice elsewhere.

(Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252).)

Comments

In modern practice lawyers frequently act outside the territorial limits of the jurisdiction in which they are licensed to practice, either in another state or outside the United States. In doing so, they remain subject to the governing authority of the jurisdiction in which they are licensed to practice. If their activity in another jurisdiction is substantial and continuous, it may constitute the practice of law in that jurisdiction. See rule 4-5.5.

If the Rules of Professional Conduct in the 2 jurisdictions differ, principles of conflict of laws may apply. Similar problems can arise when a lawyer is licensed to practice in more than 1 jurisdiction.

Where the lawyer is licensed to practice law in 2 jurisdictions that impose conflicting obligations, applicable rules of choice of law may govern the situation. A related problem arises with respect to practice before a federal tribunal where the general authority of the states to regulate the practice of law must be reconciled with such authority as federal tribunals may have to regulate practice before them.

4-8.6 | JURISDICTION

(a) Authorized Business Entities. Lawyers may practice law in the form of professional service corporations, professional limited liability companies, sole proprietorships, general partnerships, or limited liability partnerships organized or qualified under applicable law. Such forms of practice are authorized business entities under these rules.

(b) Practice of Law Limited to Members of The Florida Bar. No authorized business entity may engage in the practice of law in the state of Florida or render advice under or interpretations of Florida law except through officers, directors, partners, managers, agents, or employees who are qualified to render legal services in this state.

(c) Qualifications of Managers, Directors and Officers. No person may serve as a partner, manager, director or executive officer of an authorized business entity that is engaged in the practice of law in Florida unless such person is legally qualified to render legal services in this state. For purposes of this rule the term "executive officer" includes the president, vice-president, or any other officer who performs a policy-making function.

(d) Violation of Statute or Rule. A lawyer who, while acting as a shareholder, member, officer, director, partner, proprietor, manager, agent, or employee of an authorized business entity and engaged in the practice of law in Florida, violates or sanctions the violation of the authorized business entity statutes or the Rules Regulating The Florida Bar will be subject to disciplinary action.

(e) Disqualification of Shareholder, Member, Proprietor, or Partner; Severance of Financial Interests. Whenever a shareholder of a professional service corporation, a member of a professional limited liability company, proprietor, or partner in a limited liability partnership becomes legally disqualified to render legal services in this state, said shareholder, member, proprietor, or partner must sever all employment with and financial interests in such authorized business entity immediately. For purposes of this rule the term "legally disqualified" does not include suspension from the practice of law for a period of time less than 91 days. Severance of employment and financial interests required by this rule will not preclude the shareholder, member,



proprietor, or partner from receiving compensation based on legal fees generated for legal services performed during the time when the shareholder, member, proprietor, or partner was legally qualified to render legal services in this state. This provision will not prohibit employment of a legally disqualified shareholder, member, proprietor, or partner in a position that does not render legal service nor payment to an existing profit sharing or pension plan to the extent permitted in rules 3-6.1 and 4-5.4(a)(3), or as required by applicable law.

(f) Cessation of Legal Services. Whenever all shareholders of a professional service corporation, or all members of a professional limited liability company, the proprietor of a solo practice, or all partners in a limited liability partnership become legally disqualified to render legal services in this state, the authorized business entity must cease the rendition of legal services in Florida.

(g) Application of Statutory Provisions. Unless otherwise provided in this rule, each shareholder, member, proprietor, or partner of an authorized business entity will possess all rights and benefits and will be subject to all duties applicable to such shareholder, member, proprietor, or partner provided by the statutes pursuant to which the authorized business entity was organized or qualified.

(Added June 8, 1989 (544 So.2d 193); amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended June 27, 1996, effective July 1, 1996 (677 So.2d 272); amended Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179); amended May 20, 2004 (875 So.2d 448); amended October 6, 2005, effective January 1, 2006 (916 So.2d 655); amended May 29, 2014; effective June 1, 2014 (140 So.3d 541).)

Comments

In 1961 this court recognized the authority of the legislature to enact statutory provisions creating corporations, particularly professional service corporations. But this court also noted that “[e]nabling action by this Court is therefore an essential condition precedent to authorize members of The Florida Bar to qualify under and engage in the practice of their profession pursuant to The 1961 Act.” *In Re The Florida Bar*, 133 So. 2d 554, at 555 (Fla. 1961).



The same is true today, whatever the form of business entity created by legislative enactment. Hence, this rule is adopted to continue authorization for members of the bar to practice law in the form of a professional service corporation, a professional limited liability company, or a limited liability partnership. This rule also permits a member of the bar to practice law as a sole proprietor or as a member of a general partnership. These types of entities are collectively referred to as authorized business entities.

Limitation on rendering legal services

No person may render legal services on behalf of an authorized business entity unless that person is otherwise authorized to do so via membership in the bar or through a motion for leave to appear. Neither the adoption of this rule nor the statutory provisions alter this limitation.

Employment by and financial interests in an authorized business entity

This rule and the statute require termination of employment of a shareholder, member, proprietor, or partner when same is “legally disqualified” to render legal services. The purpose of this provision is to prohibit compensation based on fees for legal services rendered at a time when the shareholder, member, proprietor, or partner cannot render the same type of services. Continued engagement in capacities other than rendering legal services with the same or similar compensation would allow circumvention of prohibitions of sharing legal fees with one not qualified to render legal services. Other rules prohibit the sharing of legal fees with nonlawyers and this rule continues the application of that type of prohibition. However, nothing in this rule or the statute prohibits payment to the disqualified shareholder, member, proprietor, or partner for legal services rendered while the shareholder, member, proprietor, or partner was qualified to render same, even though payment for the legal services is not received until the shareholder, member, proprietor, or partner is legally disqualified.

Similarly, this rule and the statute require the severance of “financial interests” of a legally disqualified shareholder, member, proprietor, or partner. The same reasons apply to severance of financial interests as those that apply to severance of employment. Other provisions of these rules proscribe limits on employment and the types of duties that a legally disqualified shareholder, member, proprietor, or partner may be assigned.

Practical application of the statute and this rule to the requirements of the practice of law mandates exclusion of short term, temporary removal of qualifications to render legal services. Hence, any suspension of less than 91 days, including membership fees delinquency suspensions, is excluded from the definition of the term. These temporary impediments to the practice of law are such that with the passage of time or the completion of ministerial acts, the member of the bar is automatically qualified to render legal services. Severe tax consequences would result from forced severance and subsequent reestablishment (upon reinstatement of qualifications) of all financial interests in these instances.

However, the exclusion of such suspensions from the definition of the term does not authorize the payment to the disqualified shareholder, member, proprietor, or partner of compensation based on fees for legal services rendered during the time when the shareholder, member, proprietor, or partner is not personally qualified to render such services. Continuing the employment of a legally disqualified shareholder, member, proprietor, or partner during the term of a suspension of less than 91 days requires the authorized business entity to take steps to avoid the practice of law by the legally disqualified shareholder, member, proprietor, or partner, the ability of the legally disqualified shareholder, member, proprietor, or partner to control the actions of members of the bar qualified to render legal services, and payment of compensation to the legally disqualified shareholder, member, proprietor, or partner based on legal services rendered while the legally disqualified shareholder, member, proprietor, or partner is not qualified to render them. Mere characterization of continued compensation, which is the same or similar to that the legally disqualified shareholder, member, proprietor, or partner received when qualified to render legal services, is not sufficient to satisfy the requirements of this rule.

Profit sharing or pension plans

To the extent that applicable law requires continued payment to existing profit sharing or pension plans, nothing in this rule or the statute may abridge such payments. However, if permitted under applicable law the amount paid to the plan for a legally disqualified shareholder, member, proprietor, or partner will not include payments based on legal services rendered while the legally disqualified shareholder, member, proprietor, or partner was not qualified to render legal services.

Interstate practice

This rule permits members of The Florida Bar to engage in the practice of law with lawyers licensed to practice elsewhere in an authorized business entity organized under the laws of another jurisdiction and qualified under the laws of Florida (or vice-versa), but nothing in this rule is intended to affect the ability of non-members of The Florida Bar to practice law in Florida. See, e.g., *The Florida Bar v. Savitt*, 363 So. 2d 559 (Fla. 1978).

The terms qualified and legally disqualified are imported from the Professional Service Corporation Act (Chapter 621, Florida Statutes).



APPENDIX



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