

of a lawyer to a client, whether it be a conflicting, inconsistent, diverse, or other interest.

(b) *Law firm* includes, but is not limited to, a professional legal corporation, the legal department of a corporation or other organization and a legal services organization.

(c) *Person* includes a corporation, an association, a trust, a partnership, and any other organization or legal entity.

(d) *Professional legal corporation* means a corporation, or an association treated as a corporation, authorized by law to practice law for profit.

(e) *State* includes the District of Columbia, Puerto Rico, and other Federal territories and possessions.

(f) *Tribunal* includes all courts and all other adjudicatory bodies. A tribunal shall be deemed "available" when it would have jurisdiction to hear a complaint, if timely brought.

(g) *Bar association* includes a bar association of specialists as referred to in section 1200.10(b) of this Part.

(h) *Qualified legal assistance organization* means an office or organization of one of the four types listed in section 1200.8(d)(1) through (4), inclusive, that meets all the requirements thereof.

(i) *Fraud* does not include conduct, although characterized as fraudulent by statute or administrative rule, which lacks an element of scienter, deceit, intent to mislead, or knowing failure to correct misrepresentations which can be reasonably expected to induce detrimental reliance by another.

\* "Confidence" and "Secret" are defined in section 1200.19(a) of this Part.

#### § 1200.2 [DR 1-101] Maintaining Integrity and Competence of the Legal Profession

(a) A lawyer is subject to discipline if the lawyer has made a materially false statement in, or has deliberately failed to disclose a material fact requested in connection with, the lawyer's application for admission to the bar.

(b) A lawyer shall not further the application for admission to the bar of another person that the lawyer knows to be unqualified in respect to character, education, or other relevant attribute.

#### § 1200.3 [DR 1-102] Misconduct

(a)<sup>1</sup> A lawyer or law firm shall not:

- (1) Violate a disciplinary rule.
- (2) Circumvent a disciplinary rule through actions of another.
- (3) Engage in illegal conduct involving moral turpitude.

652

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment, on the basis of age, race, creed, color, national origin, sex, disability, marital status, or sexual orientation. Where there is available a tribunal of competent jurisdiction, other than a Departmental Disciplinary Committee, a complaint of professional misconduct based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable, and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding.

(7) In domestic relations matters, begin a sexual relationship with a client during the course of the lawyer's representation of the client.

(8) Engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

1. So in original. No par. (b) has been enacted.

#### § 1200.4 [DR 1-103] Disclosure of Information to Authorities

(a) A lawyer possessing knowledge, (1) not protected as a confidence or secret, or (2), not gained in the lawyer's capacity as a member of a bona fide lawyer assistance or similar program or committee, of a violation of section 1200.3 of this Part that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness in other respects as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

(b) A lawyer possessing knowledge or evidence, not protected as a confidence or secret, concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges.

#### § 1200.5 [DR 1-104] Responsibilities of a Partner or Supervisory Lawyer

(a) A law firm shall make reasonable efforts to ensure that all lawyers in the firm conform to the disciplinary rules.

(b) A lawyer with management responsibility in the law firm or direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the disciplinary rules.

(c) A law firm shall adequately supervise, as appropriate, the work of partners, associates and nonlawyers who work at the firm. The degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter, and the likelihood that ethical problems might arise in the course of working on the matter.

(d) A lawyer shall be responsible for a violation of the disciplinary rules by another lawyer or for the conduct of a nonlawyer employed or retained by or associated with the lawyer that would be a violation of the disciplinary rules if engaged in by a lawyer if:

(1) The lawyer orders, or directs the specific conduct, or, with knowledge of the specific conduct, ratifies it; or

(2) The lawyer is a partner in the law firm in which the other lawyer practices or the nonlawyer is employed, or has supervisory authority over the other lawyer or the nonlawyer, and knows of such conduct, or in the exercise or reasonable management or supervisory authority should have known of the conduct so that reasonable remedial action could be or could have been taken at a time when its consequences could be or could have been avoided or mitigated.

#### § 1200.6 [DR 2-101] Publicity and Advertising

(a) A lawyer on behalf of himself or herself or partners or associates, shall not use or disseminate or participate in the preparation or dissemination of any public communication containing statements or claims that are false, deceptive, misleading or cast reflection on the legal profession as a whole.

(b) Advertising or other publicity by lawyers, including participation in public functions, shall not contain puffery, self-laudation, claims regarding the quality of the lawyers' legal services, or claims that cannot be measured or verified.

(c) It is proper to include information, provided its dissemination does not violate the provisions of subdivisions (a) and (b) of this section, as to:

(1) education, degrees and other scholastic distinctions, dates of admission to any bar; areas of the law in which the lawyer or law firm practices, as authorized by the code of professional responsibility; public offices and teaching positions held; memberships in bar associations or other professional societies or organizations, including offices and committee assignments therein; foreign language fluency;

(2) names of clients regularly represented, provided that the client has given prior written consent;

(3) bank references; credit arrangements accepted; prepaid or group legal services programs in which the attorney or firm participates; and

(4) legal fees for initial consultation; contingent fee rates in civil matters when accompanied by a statement disclosing the information required by subdivision (1) of this section; range of fees for services, provided that there be available to the public free of charge a written statement clearly describing the scope of each advertised service; hourly rates; and fixed fees for specified legal services.

(d) Advertising and publicity shall be designed to educate the public to an awareness of legal needs and to provide information relevant to the selection of the most appropriate counsel. Information other than that specifically authorized in subdivision (C) of this section that is consistent with these purposes may be disseminated providing that it does not violate any other provisions of this Rule.

(e) A lawyer or law firm advertising any fixed fee for specified legal services shall, at the time of fee publication, have available to the public a written statement clearly describing the scope of each advertised service, which statement shall be delivered to the client at the time of retainer for any such service. Such legal services shall include all those services which are recognized as reasonable and necessary under local custom in the area of practice in the community where the services are performed.

(f) If the advertisement is broadcast, it shall be prerecorded or taped and approved for broadcast by the lawyer, and a recording or videotape of the actual transmission shall be retained by the lawyer for a period of not less than one year following such transmission. All advertisements of legal services that are mailed, or are distributed other than by radio, television, directory, newspaper, magazine or other periodical, by a lawyer or law firm with an office for the practice of law in this state, shall also be subject to the following provisions:

(1) A copy of each advertisement shall at the time of its initial mailing or distribution be filed with the Departmental Disciplinary Committee of the appropriate judicial department.

(2) Such advertisement shall contain no reference to the fact of filing.

(3) If such advertisement is directed to a predetermined addressee, a list, containing the names and addresses of all persons to whom the advertisement is being or will thereafter be mailed or distributed, shall be retained by the lawyer or law firm for a period of not less than one year following the last date of mailing or distribution.

(4) The advertisements filed pursuant to this subdivision shall be open to public inspection.

(5) The requirements of this subdivision shall not apply to such professional cards or other announcements the distribution of which is authorized by section 1200.7 of this Part.

653