

CHAPTER 32
IOWA RULES OF PROFESSIONAL CONDUCT

FILED

AUG 01 2019

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1 **Rule 32:1.1: COMPETENCE**

2
3 **A lawyer shall provide competent representation to a client.**
4 **Competent representation requires the legal knowledge, skill,**
5 **thoroughness, and preparation reasonably necessary for the**
6 **representation.**

7
8 **Comment**

9
10 *Retaining or Contracting With Other Lawyers*

11
12 [6] Before a lawyer retains or contracts with other lawyers outside the
13 lawyer's own firm to provide or assist in the provision of legal services to a client,
14 the lawyer should ordinarily obtain informed consent from the client and must
15 reasonably believe that the other lawyers' services will contribute to the
16 competent and ethical representation of the client. *See also* rules 32:1.2
17 (allocation of authority), 32:1.4 (communication with client), 32:1.5(3e) (fee
18 sharing), 32:1.6 (confidentiality), and 32:5.5(a) (unauthorized practice of law).
19 The reasonableness of the decision to retain or contract with other lawyers
20 outside the lawyer's own firm will depend upon the circumstances, including the
21 education, experience, and reputation of the nonfirm lawyers; the nature of the
22 services assigned to the nonfirm lawyers; and the legal protections, professional
23 conduct rules, and ethical environments of the jurisdictions in which the services
24 will be performed, particularly relating to confidential information.

25
26 **Rule 32:1.3: DILIGENCE**

27
28 **A lawyer shall act with reasonable diligence and promptness in**
29 **representing a client.**

30
31 **Comment**

32
33 [5] To prevent neglect of client matters in the event of a sole practitioner's
34 death or disability, the duty of diligence may require that each sole practitioner
35 prepare a plan, in conformity with applicable rules, that designates another
36 competent lawyer to review client files, notify each client of the lawyer's death or
37 disability, and determine whether there is a need for immediate protective action.
38 *See* Iowa Ct. R. 39.18; *see also id. rs.* 345.17(6) and 354.18 (where reasonable
39 necessity exists, the local chief judge shall appoint a lawyer to serve as trustee
40 to inventory files, sequester client funds, and take any other appropriate action
41 to protect the interests of the clients and other affected persons of a deceased,
42 suspended, or disabled lawyer).

1 **Rule 32:1.4: COMMUNICATIONS**
2

3 (a) A lawyer shall:

4 (1) promptly inform the client of any decision or circumstance with
5 respect to which the client's informed consent, as defined in rule 32:1.0(e),
6 is required by these rules;

7 (2) reasonably consult with the client about the means by which the
8 client's objectives are to be accomplished;

9 (3) keep the client reasonably informed about the status of the
10 matter;

11 (4) promptly comply with reasonable requests for information; and

12 (5) consult with the client about any relevant limitation on the
13 lawyer's conduct when the lawyer knows that the client expects assistance
14 not permitted by the Iowa Rules of Professional Conduct or other law.

15 (b) A lawyer shall explain a matter to the extent reasonably necessary
16 to permit the client to make informed decisions regarding the
17 representation.
18

19 **Rule 32:1.10: IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE**
20

21 (a) While lawyers are associated in a firm, none of them shall
22 knowingly represent a client when any one of them practicing alone would
23 be prohibited from doing so by rules 32:1.7 or 32:1.9, unless

24 (1) the prohibition is based on a personal interest of the disqualified
25 lawyer and does not present a significant risk of materially limiting the
26 representation of the client by the remaining lawyers in the firm; or

27 (2) the prohibition is based upon rule 32:1.9(a) or (b) and arises out of
28 the disqualified lawyer's association with a prior firm, and

29 (i) the disqualified lawyer is timely screened from any participation
30 in the matter and is apportioned no part of the fee therefrom;

31 (ii) written notice is promptly given to any affected former client to
32 enable the former client to ascertain compliance with the provisions of this
33 rule, which shall include a description of the screening procedures
34 employed; a statement of the firm's and of the screened lawyer's
35 compliance with these rules; a statement that review may be available
36 before a tribunal; and an agreement by the firm to respond promptly to any
37 written inquiries or objections by the former client about the screening
38 procedures; and

39 (iii) certifications of compliance with these rules and with the
40 screening procedures are provided to the former client by the screened
41 lawyer and by a partner of the firm, at reasonable intervals upon the former
42 client's written request and upon termination of the screening procedures.

43 (b) When a lawyer has terminated an association with a firm, the firm
44 is not prohibited from thereafter representing a person with interests
45 materially adverse to those of a client represented by the formerly
46 associated lawyer and not currently represented by the firm, unless:

1 **(1) the matter is the same or substantially related to that in which**
2 **the formerly associated lawyer represented the client; and**

3 **(2) any lawyer remaining in the firm has information protected by**
4 **rules 32:1.6 and 32:1.9(c) that is material to the matter.**

5 **(c) A disqualification prescribed by this rule may be waived by the**
6 **affected client under the conditions stated in rule 32:1.7.**

7 **(d) The disqualification of lawyers associated in a firm with former or**
8 **current government lawyers is governed by rule 32:1.11.**

9
10 **Comment**

11
12 *Principles of Imputed Disqualification*

13
14 [2] The rule of imputed disqualification stated in paragraph (a) gives effect
15 to the principle of loyalty to the client as it applies to lawyers who practice in a
16 law firm. Such situations can be considered from the premise that a firm of
17 lawyers is essentially one lawyer for purposes of the rules governing loyalty to
18 the client, or from the premise that each lawyer is vicariously bound by the
19 obligation of loyalty owed by each lawyer with whom the lawyer is associated.
20 Paragraph (a)(1) operates only among the lawyers currently associated in a firm.
21 When a lawyer moves from one firm to another, the situation is governed by rules
22 32:1.9(b), 32:1.10(a)(2), and 32:1.10(b).

23
24 [4] The rule in paragraph (a) also does not prohibit representation by
25 others in the law firm where the person prohibited from involvement in a matter
26 is a nonlawyer, such as a paralegal or legal secretary. Nor does paragraph (a)
27 prohibit representation if the lawyer is prohibited from acting because of events
28 before the person became a lawyer, for example, work that the person did while
29 as a law student. Such persons, however, ordinarily must be screened from any
30 personal participation in the matter to avoid communication to others in the firm
31 of confidential information that both the nonlawyers and the firm have a legal
32 duty to protect. See rules 32:1.0(k) and 32:5.3.

33
34 **Rule 32:1.13: ORGANIZATION AS CLIENT**

35
36 **(a) A lawyer employed or retained by an organization represents the**
37 **organization acting through its duly authorized constituents.**

38 **(b) If a lawyer for an organization knows that an officer, employee, or**
39 **other person associated with the organization is engaged in action, intends**
40 **to act, or refuses to act in a matter related to the representation that is a**
41 **violation of a legal obligation to the organization, or a violation of law that**
42 **reasonably might be imputed to the organization, and that is likely to result**
43 **in substantial injury to the organization, then the lawyer shall proceed as**
44 **is reasonably necessary in the best interest of the organization. Unless the**
45 **lawyer reasonably believes that it is not necessary in the best interest of**
46 **the organization to do so, the lawyer shall refer the matter to higher**

1 **authority in the organization, including, if warranted by the circumstances**
2 **to the highest authority that can act on behalf of the organization as**
3 **determined by applicable law.**

4 **(c) Except as provided in paragraph (d), if**

5 **(1) despite the lawyer's efforts in accordance with paragraph (b) the**
6 **highest authority that can act on behalf of the organization insists upon or**
7 **fails to address in a timely and appropriate manner an action, or a refusal**
8 **to act, that is clearly a violation of law, and**

9 **(2) the lawyer reasonably believes that the violation is reasonably**
10 **certain to result in substantial injury to the organization, then the lawyer**
11 **may reveal information relating to the representation whether or not rule**
12 **32:1.6 permits such disclosure, but only if and to the extent the lawyer**
13 **reasonably believes necessary to prevent substantial injury to the**
14 **organization.**

15 **(d) Paragraph (c) shall not apply with respect to information relating**
16 **to a lawyer's representation of an organization to investigate an alleged**
17 **violation of law, or to defend the organization or an officer, employee, or**
18 **other constituent associated with the organization against a claim arising**
19 **out of an alleged violation of law.**

20 **(e) A lawyer who reasonably believes that the lawyer has been**
21 **discharged because of the lawyer's actions taken pursuant to paragraphs (b)**
22 **or (c), or who withdraws under circumstances that require or permit the**
23 **lawyer to take action under either of those paragraphs, shall proceed as the**
24 **lawyer reasonably believes necessary to ensure—assure that the**
25 **organization's highest authority is informed of the lawyer's discharge or**
26 **withdrawal.**

27 **(f) In dealing with an organization's directors, officers, employees,**
28 **members, shareholders, or other constituents, a lawyer shall explain the**
29 **identity of the client when the lawyer knows or reasonably should know**
30 **that the organization's interests are adverse to those of the constituents**
31 **with whom the lawyer is dealing.**

32 **(g) A lawyer representing an organization may also represent any of**
33 **its directors, officers, employees, members, shareholders, or other**
34 **constituents, subject to the provisions of rule 32:1.7. If the organization's**
35 **consent to the dual representation is required by rule 32:1.7, the consent**
36 **shall be given by an appropriate official of the organization other than the**
37 **individual who is to be represented, or by the shareholders.**

38
39 **Comment**

40
41 *Relation to Other Rules*

42
43 [6] The authority and responsibility provided in this rule are concurrent
44 with the authority and responsibility provided in other rules. In particular, this
45 rule does not limit or expand the lawyer's responsibility under rules 32:1.8,
46 32:1.16, 32:3.3, or 32:4.1. Paragraph (c) of this rule supplements rule 32:1.6(b)

1 by providing an additional basis upon which the lawyer may reveal information
2 relating to the representation, but does not modify, restrict, or limit the
3 provisions of rule 32:1.6(b)(1) - (6). Under paragraph (c) the lawyer may reveal
4 such information only when the organization's highest authority insists upon or
5 fails to address threatened or ongoing action that is clearly a violation of law,
6 and then only to the extent the lawyer reasonably believes necessary to prevent
7 reasonably certain substantial injury to the organization. It is not necessary that
8 the lawyer's services be used in furtherance of the violation, but it is required
9 that the matter be related to the lawyer's representation of the organization. If
10 the lawyer's services are being used by an organization to further a crime or
11 fraud by the organization, rules 32:1.6(b)(2) and 32:1.6(b)(3) may permit the
12 lawyer to disclose confidential information. In such circumstances rule 32:1.2(d)
13 may also be applicable, in which event, withdrawal from the representation
14 under rule 32:1.16(a)(1) may be required.

15
16 *Government Agency*

17
18 [9] The duty defined in this rule applies to governmental organizations.
19 Defining precisely the identity of the client and prescribing the resulting
20 obligations of such lawyers may be more difficult in the government context and
21 is a matter beyond the scope of these rules. *See* Scope [18]. Although in some
22 circumstances the client may be a specific agency, it may also be a branch of
23 government, such as the executive branch, or the government as a whole. For
24 example, if the action or failure to act involves the head of a bureau, either the
25 department of which the bureau is a part or the relevant branch of government
26 may be the client for purposes of this rule. Moreover, in a matter involving the
27 conduct of government officials, a government lawyer may have authority under
28 applicable law to question such conduct more extensively than that of a lawyer
29 for a private organization in similar circumstances. Thus, when the client is a
30 governmental organization, a different balance may be appropriate between
31 maintaining confidentiality and ~~ensuring~~ assuring that the wrongful act is
32 prevented or rectified, for public business is involved. In addition, duties of
33 lawyers employed by the government or lawyers in military service may be
34 defined by statutes and regulation. This rule does not limit that authority. For
35 example, the provisions of Iowa Code sections 232.90 and 232.114 adequately
36 accommodate the potentially conflicting roles of county attorneys in criminal
37 prosecutions and child in need of assistance or termination of parental rights
38 proceedings. *See* Scope.

39
40 *Clarifying the Lawyer's Role*

41
42 [10] There are times when the organization's interest may be or become
43 adverse to those of one or more of its constituents. In such circumstances the
44 lawyer should advise any constituent, whose interest the lawyer finds adverse to
45 that of the organization, of the conflict or potential conflict of interest, that the
46 lawyer cannot represent such constituent, and that such person may wish to

1 obtain independent representation. Care must be taken to ~~ensure~~assure that
2 the individual understands that, when there is such adversity of interest, the
3 lawyer for the organization cannot provide legal representation for that
4 constituent individual, and that discussions between the lawyer for the
5 organization and the individual may not be privileged.

6
7 **Rule 32:1.14: CLIENT WITH DIMINISHED CAPACITY**

8
9 **(a) When a client's capacity to make adequately considered decisions**
10 **in connection with a representation is diminished, whether because of**
11 **minority, mental impairment, or for some other reason, the lawyer shall,**
12 **as far as reasonably possible, maintain a normal client-lawyer relationship**
13 **with the client.**

14 **(b) When the lawyer reasonably believes that the client has**
15 **diminished capacity, is at risk of substantial physical, financial, or other**
16 **harm unless action is taken, and cannot adequately act in the client's own**
17 **interest, the lawyer may take reasonably necessary protective action,**
18 **including consulting with individuals or entities that have the ability to**
19 **take action to protect the client and, in appropriate cases, seeking the**
20 **appointment of a guardian ad litem, conservator, or guardian.**

21 **(c) Information relating to the representation of a client with**
22 **diminished capacity is protected by rule 32:1.6. When taking protective**
23 **action pursuant to paragraph (b), the lawyer is impliedly authorized under**
24 **rule 32:1.6(a) to reveal information about the client, but only to the extent**
25 **reasonably necessary to protect the client's interests.**

1 **Rule 32:1.16: DECLINING OR TERMINATING REPRESENTATION**

2
3 (a) Except as stated in paragraph (c), a lawyer shall not represent a
4 client or, where representation has commenced, shall withdraw from the
5 representation of a client if:

6 (1) the representation will result in violation of the Iowa Rules of
7 Professional Conduct or other law;

8 (2) the lawyer's physical or mental condition materially impairs the
9 lawyer's ability to represent the client; or

10 (3) the lawyer is discharged.

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

13 (1) withdrawal can be accomplished without material adverse effect
14 on the interests of the client;

15 (2) the client persists in a course of action involving the lawyer's
16 services that the lawyer reasonably believes is criminal or fraudulent;

17 (3) the client has used the lawyer's services to perpetrate a crime or
18 fraud;

19 (4) the client insists upon taking action that the lawyer considers
20 repugnant or with which the lawyer has a fundamental disagreement;

21 (5) the client fails substantially to fulfill an obligation to the lawyer
22 regarding the lawyer's services and has been given reasonable warning that
23 the lawyer will withdraw unless the obligation is fulfilled;

24 (6) the representation will result in an unreasonable financial burden
25 on the lawyer or has been rendered unreasonably difficult by the client; or

26 (7) other good cause for withdrawal exists.

27 (c) A lawyer must comply with applicable law requiring notice to or
28 permission of a tribunal when terminating a representation. When ordered
29 to do so by a tribunal, a lawyer shall continue representation
30 notwithstanding good cause for terminating the representation.

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

38
39 **Comment**

40
41 *Assisting the Client upon Withdrawal*

42
43 [9] Even if the lawyer has been unfairly discharged by the client, a lawyer
44 must take all reasonable steps to mitigate the consequences to the client. The
45 lawyer may retain papers as security for a fee to the extent permitted by Iowa
46 Code sections 602.10116 to 602.10120 or other law. See rule 32:1.15.

1
2 **Rule 32:2.3: EVALUATION FOR USE BY THIRD PERSONS**
3

4 (a) A lawyer may provide an evaluation of a matter affecting a client
5 for the use of someone other than the client if the lawyer reasonably
6 believes that making the evaluation is compatible with other aspects of the
7 lawyer's relationship with the client.

8 (b) When the lawyer knows or reasonably should know that the
9 evaluation is likely to affect the client's interests materially and adversely,
10 the lawyer shall not provide the evaluation unless the client gives informed
11 consent.

12 (c) Except as disclosure is authorized in connection with a report of
13 an evaluation, information relating to the evaluation is otherwise protected
14 by rule 32:1.6.

15
16 **Comment**

17
18 *Financial Auditors's Requests for Information*
19

20 [6] When a question concerning the legal situation of a client arises at the
21 instance of the client's financial auditor and the question is referred to the
22 lawyer, the lawyer's response may be made in accordance with procedures
23 recognized in the legal profession. Such a procedure is set forth in the American
24 Bar Association Statement of Policy Regarding Lawyers' Responses to Auditors'
25 Requests for Information, adopted in 1975.
26

27 **Rule 32:2.4: LAWYER SERVING AS THIRD-PARTY NEUTRAL**
28

29 (a) A lawyer serves as a third-party neutral when the lawyer assists
30 two or more persons who are not clients of the lawyer to reach a resolution
31 of a dispute or other matter that has arisen between them. Service as a
32 third-party neutral may include service as an arbitrator, a mediator, or in
33 such other capacity as will enable the lawyer to assist the parties to resolve
34 the matter.

35 (b) A lawyer serving as a third-party neutral shall inform
36 unrepresented parties that the lawyer is not representing them. When the
37 lawyer knows or reasonably should know that a party does not understand
38 the lawyer's role in the matter, the lawyer shall explain the difference
39 between the lawyer's role as a third-party neutral and a lawyer's role as one
40 who represents a client.

1 **Comment**

2
3 [2] The role of a third-party neutral is not unique to lawyers, although, in
4 some court-connected contexts, only lawyers are allowed to serve in this role or
5 to handle certain types of cases. In performing this role, the lawyer may be
6 subject to court rules or other laws that apply either to third-party neutrals
7 generally or to lawyers serving as third-party neutrals. Lawyer-neutrals may
8 also be subject to various codes of ethics, such as the Code of Ethics for
9 Arbitration in Commercial Disputes prepared by a joint committee of the
10 American Bar Association and the American Arbitration Association or the Model
11 Standards of Conduct for Mediators jointly prepared by the American Bar
12 Association, the American Arbitration Association, and the Society of
13 Professionals in Dispute Resolution. In 1987, the Iowa sSupreme eCourt
14 adopted the Rules Governing Standards of Practice for Lawyer Mediators in
15 Family Disputes, which is now the Standards of Conduct for Mediators, chapter
16 11 of the Iowa Court Rules. Lawyers engaged in ~~family law~~-mediation should
17 carefully review these rules because they address matters of special concern and
18 state different and more restrictive rules on conflicts of interest.

19
20 **Rule 32:3.6: TRIAL PUBLICITY**

21
22 **(a) A lawyer who is participating or has participated in the**
23 **investigation or litigation of a matter shall not make an extrajudicial**
24 **statement that the lawyer knows or reasonably should know will be**
25 **disseminated by means of public communication and will have a substantial**
26 **likelihood of materially prejudicing an adjudicative proceeding in the**
27 **matter.**

28 **(b) Notwithstanding paragraph (a), a lawyer may state:**

29 **(1) the claim, offense, or defense involved and, except when**
30 **prohibited by law, the identity of the persons involved;**

31 **(2) information contained in a public record;**

32 **(3) that an investigation of a matter is in progress;**

33 **(4) the scheduling or result of any step in litigation;**

34 **(5) a request for assistance in obtaining evidence and information**
35 **necessary thereto;**

36 **(6) a warning of danger concerning the behavior of a person involved,**
37 **when there is reason to believe that there exists the likelihood of**
38 **substantial harm to an individual or to the public interest; and**

39 **(7) in a criminal case, in addition to subparagraphs (1) through (6):**

40 **(i) the identity, residence, occupation, and family status of the**
41 **accused;**

42 **(ii) if the accused has not been apprehended, information necessary**
43 **to aid in apprehension of that person;**

44 **(iii) the fact, time, and place of arrest; and**

45 **(iv) the identity of investigating and arresting officers or agencies and**
46 **the length of the investigation.**

1 **(c) Notwithstanding paragraph (a), a lawyer may make a statement**
2 **that a reasonable lawyer would believe is required to protect a client from**
3 **the substantial undue prejudicial effect of recent publicity not initiated by**
4 **the lawyer or the lawyer's client. A statement made pursuant to this**
5 **paragraph shall be limited to such information as is necessary to mitigate**
6 **the recent adverse publicity.**

7 **(d) No lawyer associated in a firm or government agency with a lawyer**
8 **subject to paragraph (a) shall make a statement prohibited by paragraph (a).**

9 **(e) Any communication made under paragraph (b) that includes**
10 **information that a defendant will be or has been charged with a crime must**
11 **also include a statement explaining that a criminal charge is merely an**
12 **accusation and the defendant is presumed innocent until and unless proven**
13 **guilty.**

14
15 **Comment**

16
17 [1] It is difficult to strike a balance between protecting the right to a fair
18 trial and safeguarding the right of free expression. Preserving the right to a fair
19 trial necessarily entails some curtailment of the information that may be
20 disseminated about a party prior to trial, particularly where trial by jury is
21 involved. If there were no such limits, the result would be the practical
22 nullification of the protective effect of the rules of forensic decorum and the
23 exclusionary rules of evidence. On the other hand, there are vital social interests
24 served by the free dissemination of information about events having legal
25 consequences and about legal proceedings themselves. The public has a right
26 to know about threats to its safety and measures aimed at ~~ensuring~~ assuring its
27 security. It also has a legitimate interest in the conduct of judicial proceedings,
28 particularly in matters of general public concern. Furthermore, the subject
29 matter of legal proceedings is often of direct significance in debate and
30 deliberation over questions of public policy.

31
32 **Rule 32:3.7: LAWYER AS WITNESS**

33
34 **(a) A lawyer shall not act as advocate at a trial in which the lawyer is**
35 **likely to be a necessary witness unless:**

36 **(1) the testimony relates to an uncontested issue;**

37 **(2) the testimony relates to the nature and value of legal services**
38 **rendered in the case; or**

39 **(3) disqualification of the lawyer would work substantial hardship on**
40 **the client.**

41 **(b) A lawyer may act as advocate in a trial in which another lawyer in**
42 **the lawyer's firm is likely to be called as a witness unless precluded from**
43 **doing so by rule 32:1.7 or rule 32:1.9.**

44
45 **Comment**

1 *Conflict of Interest*

2
3 [6] In determining if it is permissible to act as advocate in a trial in which
4 the lawyer will be a necessary witness, the lawyer must also consider that the
5 dual role may give rise to a conflict of interest that will require compliance with
6 rules 32:1.7 or 32:1.9. For example, if there is likely to be substantial conflict
7 between the testimony of the client and that of the lawyer, the representation
8 involves a conflict of interest that requires compliance with rule 32:1.7. This
9 would be true even though the lawyer might not be prohibited by paragraph (a)
10 from simultaneously serving as advocate and witness because the lawyer's
11 disqualification would work a substantial hardship on the client. Similarly, a
12 lawyer who might be permitted to simultaneously serve as an advocate and a
13 witness by paragraph (a)(3) might be precluded from doing so by rule 32:1.9.
14 The problem can arise whether the lawyer is called as a witness on behalf of the
15 client or is called by the opposing party. Determining whether or not such a
16 conflict exists is primarily the responsibility of the lawyer involved. If there is a
17 conflict of interest, the lawyer must secure the client's informed consent,
18 confirmed in writing. In some cases, the lawyer will be precluded from seeking
19 the client's consent. See rule 32:1.7. See rule 32:1.0(b) for the definition of
20 "confirmed in writing" and rule 32:1.0(e) for the definition of "informed consent."
21

22 **Rule 32:3.8: SPECIAL RESPONSIBILITIES OF A PROSECUTOR**

23
24 **The prosecutor in a criminal case shall:**

25 **(a) refrain from prosecuting a charge that the prosecutor knows or**
26 **reasonably should know is not supported by probable cause;**

27 **(b) make reasonable efforts to ensure ~~assure~~ that the accused has been**
28 **advised of the right to, and the procedure for obtaining, counsel and has**
29 **been given reasonable opportunity to obtain counsel;**

30 **(c) not seek to obtain from an unrepresented accused a waiver of**
31 **important pretrial rights, such as the right to a preliminary hearing;**

32 **(d) make timely disclosure to the defense of all evidence or**
33 **information known to the prosecutor that tends to negate the guilt of the**
34 **accused or mitigates the offense, and, in connection with sentencing,**
35 **disclose to the defense and to the tribunal all unprivileged mitigating**
36 **information known to the prosecutor, except when the prosecutor is**
37 **relieved of this responsibility by a protective order of the tribunal;**

38 **(e) not subpoena a lawyer in a grand jury or other criminal proceeding**
39 **to present evidence about a past or present client unless the prosecutor**
40 **reasonably believes:**

41 **(1) the information sought is not protected from disclosure by any**
42 **applicable privilege;**

43 **(2) the evidence sought is essential to the successful completion of**
44 **an ongoing investigation or prosecution; and**

45 **(3) there is no other feasible alternative to obtain the information;**
46 **and**

1 **(f) except for statements that are necessary to inform the public of**
2 **the nature and extent of the prosecutor's action and that serve a legitimate**
3 **law enforcement purpose, refrain from making extrajudicial comments that**
4 **have a substantial likelihood of heightening public condemnation of the**
5 **accused and exercise reasonable care to prevent investigators, law**
6 **enforcement personnel, employees, or other persons assisting or associated**
7 **with the prosecutor in a criminal case from making an extrajudicial**
8 **statement that the prosecutor would be prohibited from making under rule**
9 **32:3.6 or this rule.**

10 **(g) When a prosecutor knows of new, credible, and material evidence**
11 **creating a reasonable likelihood that a convicted defendant did not commit**
12 **an offense of which the defendant was convicted, the prosecutor shall:**

13 **(1) promptly disclose that evidence to an appropriate court or**
14 **authority, and**

15 **(2) if the conviction was obtained in the prosecutor's jurisdiction,**

16 **(i) promptly disclose that evidence to the defendant unless a court**
17 **authorizes delay, and**

18 **(ii) undertake further investigation, or make reasonable efforts to**
19 **cause an investigation, to determine whether the defendant was convicted**
20 **of an offense that the defendant did not commit.**

21 **(h) When a prosecutor knows of clear and convincing evidence**
22 **establishing that a defendant in the prosecutor's jurisdiction was convicted**
23 **of an offense that the defendant did not commit, the prosecutor shall seek**
24 **to remedy the conviction.**

25
26 **Comment**

27
28 [1] A prosecutor has the responsibility of a minister of justice and not
29 simply that of an advocate. This responsibility carries with it specific obligations
30 to see that the defendant is accorded procedural justice, ~~and~~ that guilt is decided
31 upon the basis of sufficient evidence, and that special precautions are taken to
32 prevent and to rectify the conviction of innocent persons. The extent of
33 mandated remedial action is a matter of debate and varies in different
34 jurisdictions. See generally ABA Standards of Criminal Justice Relating to the
35 Prosecution Function. Competent representation of the sovereignty may require
36 a prosecutor to undertake some procedural and remedial measures as a matter
37 of obligation. Applicable law may require other measures by the prosecutor, and
38 knowing disregard of those obligations or a systematic abuse of prosecutorial
39 discretion could constitute a violation of rule 32:8.4.

40
41 [3] The exception in paragraph (d) recognizes that a prosecutor may seek
42 an appropriate protective order from the tribunal if disclosure of information to
43 the defense could result in substantial harm to an individual or to the public
44 interest. ~~For purposes of paragraph (d), evidence tending to negate the guilt of~~
45 ~~the accused includes evidence that tends to impeach a witness for the State.~~

1 [7] When a prosecutor knows of new, credible, and material evidence
2 creating a reasonable likelihood that a person outside the prosecutor's
3 jurisdiction was convicted of a crime that the person did not commit, paragraph
4 (g) requires prompt disclosure to the court or other appropriate authority, such
5 as the chief prosecutor of the jurisdiction where the conviction occurred. If the
6 conviction was obtained in the prosecutor's jurisdiction, paragraph (g) requires
7 the prosecutor to examine the evidence and undertake further investigation to
8 determine whether the defendant is in fact innocent or make reasonable efforts
9 to cause another appropriate authority to undertake the necessary investigation,
10 and to promptly disclose the evidence to the court and, absent court-authorized
11 delay, to the defendant. Consistent with the objectives of rules 32:4.2 and
12 32:4.3, disclosure to a represented defendant must be made through the
13 defendant's counsel, and, in the case of an unrepresented defendant, would
14 ordinarily be accompanied by a request to a court for the appointment of counsel
15 to assist the defendant in taking such legal measures as may be appropriate.

16
17 [8] Under paragraph (h), once the prosecutor knows of clear and
18 convincing evidence that the defendant was convicted of an offense that the
19 defendant did not commit, the prosecutor must seek to remedy the conviction.
20 Necessary steps may include disclosure of the evidence to the defendant,
21 requesting that the court appoint counsel for an unrepresented indigent
22 defendant, and, where appropriate, notifying the court that the prosecutor has
23 knowledge that the defendant did not commit the offense of which the defendant
24 was convicted.

25
26 [9] A prosecutor's independent judgment, made in good faith, that the new
27 evidence is not of such nature as to trigger the obligations of sections (g) and (h),
28 though subsequently determined to have been erroneous, does not constitute a
29 violation of this rule.

30
31 **Rule 32:5.1: RESPONSIBILITIES OF A PARTNERS, MANAGERS, AND OR**
32 **SUPERVISORY LAWYERS**

33
34 **(a) A partner in a law firm, and a lawyer who individually or together**
35 **with other lawyers possesses comparable managerial authority in a law**
36 **firm, shall make reasonable efforts to ensure that the firm has in effect**
37 **measures giving reasonable assurance that all lawyers in the firm conform**
38 **to the Iowa Rules of Professional Conduct.**

39 **(b) A lawyer having direct supervisory authority over another lawyer**
40 **shall make reasonable efforts to ensure that the other lawyer conforms to**
41 **the Iowa Rules of Professional Conduct.**

42 **(c) A lawyer shall be responsible for another lawyer's violation of the**
43 **Iowa Rules of Professional Conduct if:**

44 **(1) the lawyer orders or, with knowledge of the specific conduct,**
45 **ratifies the conduct involved; or**

46 **(2) the lawyer is a partner or has comparable managerial authority in**

1 **the law firm in which the other lawyer practices, or has direct supervisory**
2 **authority over the other lawyer, and knows of the conduct at a time when**
3 **its consequences can be avoided or mitigated but fails to take reasonable**
4 **remedial action.**

5
6 **Rule 32:5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL**
7 **PRACTICE OF LAW**

8
9 (a) A lawyer shall not practice law in a jurisdiction in violation of the
10 regulation of the legal profession in that jurisdiction, or assist another in
11 doing so.

12 (b) A lawyer who is not admitted to practice in this jurisdiction shall
13 not:

14 (1) except as authorized by these rules or other law, establish an office
15 or other systematic and continuous presence in this jurisdiction for the
16 practice of law; or

17 (2) hold out to the public or otherwise represent that the lawyer is
18 admitted to practice law in this jurisdiction.

19 (c) A lawyer admitted in another United States jurisdiction, and not
20 disbarred or suspended from practice in any jurisdiction, may provide legal
21 services on a temporary basis in this jurisdiction that:

22 (1) are undertaken in association with a lawyer who is admitted to
23 practice in this jurisdiction and who actively participates in the matter;

24 (2) are in or reasonably related to a pending or potential proceeding
25 before a tribunal in this or another jurisdiction, if the lawyer, or a person
26 the lawyer is assisting, is authorized by law or order to appear in such
27 proceeding or reasonably expects to be so authorized;

28 (3) are in or reasonably related to a pending or potential arbitration,
29 mediation, or other alternative dispute resolution proceeding in this or
30 another jurisdiction, if the services arise out of or are reasonably related to
31 the lawyer's practice in a jurisdiction in which the lawyer is admitted to
32 practice and are not services for which the forum requires pro hac vice
33 admission; or

34 (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are
35 reasonably related to the lawyer's practice in a jurisdiction in which the
36 lawyer is admitted to practice.

37 (d) A lawyer admitted in another United States jurisdiction or in a
38 foreign jurisdiction, and not disbarred or suspended from practice in any
39 jurisdiction or the equivalent thereof, or a person otherwise lawfully
40 practicing as an in-house counsel under the laws of a foreign jurisdiction,
41 may provide legal services through an office or other systematic and
42 continuous presence in this jurisdiction that:

43 (1) are provided to the lawyer's employer or its organizational
44 affiliates, ~~and~~ are not services for which the forum requires pro hac vice
45 admission; and when performed by a foreign lawyer and requires advice on
46 the law of this or another U.S. jurisdiction or of the United States, such

1 **advice shall be based upon the advice of a lawyer who is duly licensed and**
2 **authorized by the jurisdiction to provide such advice; or**

3 **(2) are services that the lawyer is authorized by federal or other law**
4 **or rule to provide in this jurisdiction.**

5 **(e) For purposes of paragraph (d):**

6 **(1) the foreign lawyer must be a member in good standing of a**
7 **recognized legal profession in a foreign jurisdiction, the members of which**
8 **are admitted to practice as lawyers or counselors at law or the equivalent,**
9 **and subject to effective regulation and discipline by a duly constituted**
10 **professional body or a public authority; or,**

11 **(2) the person otherwise lawfully practicing as an in-house counsel**
12 **under the laws of a foreign jurisdiction must be authorized to practice**
13 **under this rule by, in the exercise of its discretion, the Iowa Supreme Court.**

14
15 **Comment**

16
17 [5] There are occasions in which a lawyer admitted to practice in another
18 United States jurisdiction, and not disbarred or suspended from practice in any
19 jurisdiction, may provide legal services on a temporary basis in this jurisdiction
20 under circumstances that do not create an unreasonable risk to the interests of
21 their clients, the public, or the courts. Paragraph (c) identifies four such
22 circumstances. The fact that conduct is not so identified does not imply that the
23 conduct is or is not authorized. With the exception of paragraphs (d)(1) and
24 (d)(2), this rule does not authorize a U.S. or foreign lawyer to establish an office
25 or other systematic and continuous presence in this jurisdiction without being
26 admitted to practice generally here.

27
28 [7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice
29 law in any United States jurisdiction, which includes the District of Columbia
30 and any state, territory, or commonwealth of the United States. The word
31 “admitted” in paragraphs (c), (d), and (e) contemplates that the lawyer is
32 authorized to practice in the jurisdiction in which the lawyer is admitted and
33 excludes a lawyer who, while technically admitted, is not authorized to practice
34 because, for example, the lawyer is on inactive status.

35
36 [15] Paragraph (d) identifies two circumstances in which a lawyer who is
37 admitted to practice in another United States jurisdiction or a foreign
38 jurisdiction, and is not disbarred or suspended from practice in any jurisdiction,
39 or the equivalent thereof, may establish an office or other systematic and
40 continuous presence in this jurisdiction for the practice of law ~~as well as provide~~
41 ~~legal services on a temporary basis~~. Except as provided in paragraphs (d)(1) and
42 (d)(2), a lawyer who is admitted to practice law in another United States or foreign
43 jurisdiction and who establishes an office or other systematic or continuous
44 presence in this jurisdiction must become admitted to practice law generally in
45 this jurisdiction.

1 [16] Paragraph (d)(1) applies to a U.S. or foreign lawyer who is employed
2 by a client to provide legal services to the client or its organizational affiliates,
3 i.e., entities that control, are controlled by, or are under common control with
4 the employer. This paragraph does not authorize the provision of personal legal
5 services to the employer's officers or employees. The paragraph applies to in-
6 house corporate lawyers, government lawyers, and others who are employed to
7 render legal services to the employer. The lawyer's ability to represent the
8 employer outside the jurisdiction in which the lawyer is licensed generally serves
9 the interests of the employer and does not create an unreasonable risk to the
10 client and others because the employer is well situated to assess the lawyer's
11 qualifications and the quality of the lawyer's work. To further decrease any risk
12 to the client, when advising on the domestic law of a United States jurisdiction
13 or on the law of the United States, the foreign lawyer authorized to practice under
14 paragraph (d)(1) of this rule needs to base that advice on the advice of a lawyer
15 licensed and authorized by the jurisdiction to provide it.
16

17 [18] Paragraph (d)(2) recognizes that a U.S. or foreign lawyer may provide
18 legal services in a jurisdiction in which the lawyer is not licensed when
19 authorized to do so by federal or other law, which includes statute, court rule,
20 executive regulation, or judicial precedent.
21

22 **Rule 32:5.7: RESPONSIBILITIES REGARDING LAW-RELATED SERVICES**

23
24 **(a) A lawyer shall be subject to the Iowa Rules of Professional Conduct**
25 **with respect to the provision of law-related services, as defined in**
26 **paragraph (b), if the law-related services are provided:**

27 **(1) by the lawyer in circumstances that are not distinct from the**
28 **lawyer's provision of legal services to clients; or**

29 **(2) in other circumstances by an entity controlled by the lawyer**
30 **individually or with others if the lawyer fails to take reasonable measures**
31 **to ~~ensure~~ assure that a person obtaining the law-related services knows**
32 **that the services are not legal services and that the protections of the**
33 **client-lawyer relationship do not exist.**

34 **(b) The term "law-related services" denotes services that might**
35 **reasonably be performed in conjunction with and in substance are related**
36 **to the provision of legal services, and that are not prohibited as**
37 **unauthorized practice of law when provided by a nonlawyer.**
38

39 **Comment**

40
41 [3] When law-related services are provided by a lawyer under
42 circumstances that are not distinct from the lawyer's provision of legal services
43 to clients, the lawyer in providing the law-related services must adhere to the
44 requirements of the Iowa Rules of Professional Conduct as provided in paragraph
45 (a)(1). Even when the law-related and legal services are provided in
46 circumstances that are distinct from each other, for example through separate

1 entities or different support staff within the law firm, the Iowa Rules of
2 Professional Conduct apply to the lawyer as provided in paragraph (a)(2) unless
3 the lawyer takes reasonable measures to ~~ensure~~assure that the recipient of the
4 law-related services knows that the services are not legal services and that the
5 protections of the client-lawyer relationship do not apply.

6
7 [4] Law-related services also may be provided through an entity that is
8 distinct from that through which the lawyer provides legal services. If the lawyer
9 individually or with others has control of such an entity's operations, the rule
10 requires the lawyer to take reasonable measures to ~~ensure~~assure that each
11 person using the services of the entity knows that the services provided by the
12 entity are not legal services and that the Iowa Rules of Professional Conduct that
13 relate to the client-lawyer relationship do not apply. A lawyer's control of an
14 entity extends to the ability to direct its operation. Whether a lawyer has such
15 control will depend upon the circumstances of the particular case.

16
17 [6] In taking the reasonable measures referred to in paragraph (a)(2) to
18 ~~ensure~~assure that a person using law-related services understands the practical
19 effect or significance of the inapplicability of the Iowa Rules of Professional
20 Conduct, the lawyer should communicate to the person receiving the law-related
21 services, in a manner sufficient to ~~ensure~~assure that the person understands
22 the significance of the fact, that the relationship of the person to the business
23 entity will not be a client-lawyer relationship. The communication should be
24 made before entering into an agreement for provision of or providing law-related
25 services, and preferably should be in writing.

26
27 [8] Regardless of the sophistication of potential recipients of law-related
28 services, a lawyer should take special care to keep separate the provision of law-
29 related and legal services in order to minimize the risk that the recipient will
30 assume that the law-related services are legal services. The risk of such
31 confusion is especially acute when the lawyer renders both types of services with
32 respect to the same matter. Under some circumstances the legal and law-related
33 services may be so closely entwined that they cannot be distinguished from each
34 other, and the requirement of disclosure and consultation imposed by paragraph
35 (a)(2) of the rule cannot be met. In such a case a lawyer will be responsible for
36 ~~ensuring~~assuring that both the lawyer's conduct and, to the extent required by
37 rule 32:5.3, that of nonlawyer employees in the distinct entity that the lawyer
38 controls ~~comply~~complies in all respects with the Iowa Rules of Professional
39 Conduct.

40
41 [10] When a lawyer is obliged to accord the recipients of such services the
42 protections of those rules that apply to the client-lawyer relationship, the lawyer
43 must take special care to heed the proscriptions of the rules addressing conflict
44 of interest (rules 32:1.7 through 32:1.11, especially rules 32:1.7(a)(2) and
45 32:1.8(a), (b), and (f)), and to scrupulously adhere to the requirements of rule
46 32:1.6 relating to disclosure of confidential information. The promotion of the

1 law-related services must also in all respects comply with rules 32:7.1 through
2 32:7.35, ~~32:7.7, and 32:7.8~~, dealing with advertising and solicitation. In that
3 regard, lawyers should take special care to identify the obligations that may be
4 imposed as a result of this state's decisional law.

5
6 **Rule 32:6.5: NONPROFIT AND COURT-ANNEXED LIMITED LEGAL**
7 **SERVICES PROGRAMS**

8
9 **(a) A lawyer who, under the auspices of a program sponsored by a**
10 **nonprofit organization or court, provides short-term limited legal services**
11 **to a client without expectation by either the lawyer or the client that the**
12 **lawyer will provide continuing representation in the matter:**

13 **(1) is subject to rules 32:1.7 and 32:1.9(a) only if the lawyer knows**
14 **that the representation of the client involves a conflict of interest; and**

15 **(2) is subject to rule 32:1.10 only if the lawyer knows that another**
16 **lawyer associated with the lawyer in a law firm is disqualified by rule 32:1.7**
17 **or 32:1.9(a) with respect to the matter.**

18 **(b) Except as provided in paragraph (a)(2), rule 32:1.10 is inapplicable**
19 **to a representation governed by this rule.**

20
21 **Comment**

22
23 [3] Because a lawyer who is representing a client in the circumstances
24 addressed by this rule ordinarily is not able to check systematically for conflicts
25 of interest, paragraph (a) requires compliance with rule 32:1.7 or 32:1.9(a) only
26 if the lawyer knows that the representation presents a conflict of interest for the
27 lawyer, and with rule 32:1.10 only if the lawyer knows that another lawyer in the
28 lawyer's firm is disqualified by rules 32:1.7 or 32:1.9(a) in the matter.

29
30 [4] Because the limited nature of the services significantly reduces the risk
31 of conflicts of interest with other matters being handled by the lawyer's firm,
32 paragraph (b) provides that rule 32:1.10 is inapplicable to a representation
33 governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2)
34 requires the participating lawyer to comply with rule 32:1.10 when the lawyer
35 knows that the lawyer's firm is disqualified by rules 32:1.7 or 32:1.9(a). By virtue
36 of paragraph (b), however, a lawyer's participation in a short-term limited legal
37 services program will not preclude the lawyer's firm from undertaking or
38 continuing the representation of a client with interests adverse to a client being
39 represented under the program's auspices. Nor will the personal disqualification
40 of a lawyer participating in the program be imputed to other lawyers participating
41 in the program.

42
43 **Rule 32:7.1: COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

44
45 **A lawyer shall not make a false or misleading communication about**
46 **the lawyer or the lawyer's services. A communication is false or misleading**

1 **if it contains a material misrepresentation of fact or law, or omits a fact**
2 **necessary to make the statement considered as a whole not materially**
3 **misleading.**

4
5 **Comment**

6
7 [1] This rule governs all communications about a lawyer's services,
8 including advertising ~~permitted by rule 32:7.2~~. Whatever means are used to
9 make known a lawyer's services, statements about them must be truthful.

10
11 [2] ~~Truthful statements that are misleading~~Misleading truthful statements
12 ~~are also prohibited~~ by this rule. A truthful statement is misleading if it omits a
13 fact necessary to make the lawyer's communication considered as a whole not
14 materially misleading. A truthful statement is ~~also misleading~~ if ~~there is a~~
15 substantial likelihood exists that it will lead a reasonable person to formulate a
16 specific conclusion about the lawyer or the lawyer's services for which there is
17 no reasonable factual foundation. A truthful statement is also misleading if
18 presented in a way that creates a substantial likelihood that a reasonable person
19 would believe the lawyer's communication requires that person to take further
20 action when, in fact, no action is required.

21
22 [3] ~~An advertisement~~A communication that truthfully reports a lawyer's
23 achievements on behalf of clients or former clients may be misleading if
24 presented so as to lead a reasonable person to form an unjustified expectation
25 that the same results could be obtained for other clients in similar matters
26 without reference to the specific factual and legal circumstances of each client's
27 case. Similarly, an unsubstantiated claim about a lawyer's or law firm's services
28 or fees, or an unsubstantiated comparison of the lawyer's or law firm's services
29 or fees with the services or fees~~those~~ of other lawyers or law firms, may be
30 misleading if presented with such specificity as would lead a reasonable person
31 to conclude that the comparison or claim can be substantiated. The inclusion
32 of an appropriate disclaimer or qualifying language may preclude a finding that
33 a statement is likely to create unjustified expectations or otherwise mislead the
34 public.

35
36 [4] It is professional misconduct for a lawyer to engage in conduct involving
37 dishonesty, fraud, deceit, or misrepresentation. Rule 32:8.4(c). See also rule
38 32:8.4(e) for the prohibition against stating or implying an ability to improperly
39 influence improperly a government agency or official or to achieve results by
40 means that violate the Iowa Rules of Professional Conduct or other law.

41
42 [5] Firm names, letterhead, and professional designations are
43 communications concerning a lawyer's services. A firm may be designated by
44 the names of all or some of its current members, by the names of deceased
45 members where there has been a succession in the firm's identity, or by a trade
46 name if it is not false or misleading. A lawyer or law firm also may be designated

1 by a distinctive website address, social media username, or comparable
2 professional designation that is not misleading. A law firm name or designation
3 is misleading if it implies a connection with a government agency, with a
4 deceased lawyer who was not a former member of the firm, with a lawyer not
5 associated with the firm or a predecessor firm, with a nonlawyer or with a public
6 or charitable legal services organization. If a firm uses a trade name that
7 includes a geographical name such as "Springfield Legal Clinic," an express
8 statement explaining that it is not a public legal aid organization may be required
9 to avoid a misleading implication.

10
11 [6] A law firm with offices in more than one jurisdiction may use the same
12 name or other professional designation in each jurisdiction.

13
14 [7] Lawyers may not imply or hold themselves out as practicing together
15 in one firm when they are not a firm, as defined in rule 32:1.0(c), because to do
16 so would be false and misleading.

17
18 [8] It is misleading to use the name of a lawyer holding a public office in
19 the name of a law firm, or in communications on the law firm's behalf, during
20 any substantial period in which the lawyer is not actively and regularly practicing
21 with the firm.

22
23 **Rule 32:7.2: ADVERTISING COMMUNICATIONS CONCERNING A LAWYER'S**
24 **SERVICES: SPECIFIC RULES**

25
26 ~~(a) Subject to the requirements of rules 32:7.1 and 32:7.3, a~~ **A lawyer**
27 **may advertise communicate information regarding the lawyer's services**
28 **through written, recorded, or electronic communication, including**
29 **publicany media.**

30 **(b) A lawyer shall not compensate, give, or promise anything of value**
31 **to a person for recommending the lawyer's services except that a lawyer**
32 **may:**

33 **(1) pay the reasonable costs of advertisements or communications**
34 **permitted by this rule;**

35 **(2) pay the usual charges of a legal service plan or a not-for-profit or**
36 **qualified lawyer referral service. A qualified lawyer referral service is a**
37 **lawyer referral service that has been approved by an appropriate regulatory**
38 **authority;**

39 **(3) pay for a law practice in accordance with rule 32:1.17; and**

40 **(4) refer clients to another lawyer or a nonlawyer professional**
41 **pursuant to an agreement not otherwise prohibited under these rules that**
42 **provides for the other person to refer clients or customers to the lawyer, if:**

43 **(i) the reciprocal referral agreement is not exclusive; and**

44 **(ii) the client is informed of the existence and nature of the**
45 **agreement; and**

46 **(5) give nominal gifts as an expression of appreciation that are neither**

1 **intended nor reasonably expected to be a form of compensation for**
2 **recommending a lawyer's services.**

3 **(c) A lawyer shall not state or imply that a lawyer is certified as a**
4 **specialist in a particular field of law, unless:**

5 **(1) the lawyer has been certified as a specialist by an organization**
6 **that has been approved by an appropriate authority of the state or the**
7 **District of Columbia or a U.S. Territory or that has been accredited by the**
8 **American Bar Association; and**

9 **(2) the name of the certifying organization is clearly identified in the**
10 **communication.**

11 **(d) Any communication made pursuant to under this rule shall must**
12 **include the name and office address contact information of at least one**
13 **lawyer or law firm responsible for its content.**

14
15 **Comment**

16
17 ~~[1] To assist the public in learning about and obtaining legal services,~~
18 ~~lawyers should be allowed to make known their services not only through~~
19 ~~reputation but also through organized information campaigns in the form of~~
20 ~~advertising. Advertising involves an active quest for clients, contrary to the~~
21 ~~tradition that a lawyer should not seek clientele. However, the public's need to~~
22 ~~know about legal services can be fulfilled in part through advertising. This need~~
23 ~~is particularly acute in the case of persons of moderate means who have not~~
24 ~~made extensive use of legal services. The interest in expanding public~~
25 ~~information about legal services ought to prevail over tradition. Nevertheless,~~
26 ~~advertising by lawyers entails the risk of practices that are misleading or~~
27 ~~overreaching.~~

28
29 ~~[2][1] This rule permits public dissemination of information concerning a~~
30 ~~lawyer's or law firm's name, or firm name, address, email address, website, and~~
31 ~~telephone number; the kinds of services the lawyer will undertake; the basis on~~
32 ~~which the lawyer's fees are determined, including prices for specific services and~~
33 ~~payment and credit arrangements; a lawyer's foreign language ability; names of~~
34 ~~references and, with their consent, names of clients regularly represented; and~~
35 ~~other information that might invite the attention of those seeking legal~~
36 ~~assistance.~~

37
38 ~~[3] Questions of effectiveness and taste in advertising are matters of~~
39 ~~speculation and subjective judgment. Some jurisdictions have had extensive~~
40 ~~prohibitions against television and other forms of advertising, against advertising~~
41 ~~going beyond specified facts about a lawyer, or against "undignified" advertising.~~
42 ~~Television, the internet, and other forms of electronic communication are now~~
43 ~~among the most powerful media for getting information to the public, particularly~~
44 ~~persons of low and moderate income; prohibiting television, the internet, and~~
45 ~~other forms of electronic advertising, therefore, would impede the flow of~~
46 ~~information about legal services to many sectors of the public. Limiting the~~

1 ~~information that may be advertised has a similar effect and assumes that the~~
2 ~~bar can accurately forecast the kind of information that the public would regard~~
3 ~~as relevant. But see rule 32:7.3(a) for the prohibition against a solicitation~~
4 ~~through a real time electronic exchange initiated by the lawyer.~~

5
6 ~~[4] Neither this rule nor rule 32:7.3 prohibits communications authorized~~
7 ~~by law, such as notice to members of a class in class action litigation.~~

8
9 *Paying Others to Recommend a Lawyer*

10
11 ~~[5][2] Except as permitted under paragraphs (b)(1)-(b)(4)(5), lawyers are not~~
12 ~~permitted to pay others for recommending the lawyer's services, or for~~
13 ~~channeling professional work in a manner that violates rule 32:7.3. A~~
14 ~~communication contains a recommendation if it endorses or vouches for a~~
15 ~~lawyer's credentials, abilities, competence, character, or other professional~~
16 ~~qualities. Directory listings and group advertisements that list lawyers by~~
17 ~~practice area, without more, do not constitute impermissible~~
18 ~~"recommendations."~~

19
20 ~~[3] Paragraph (b)(1), however, allows a lawyer to pay for advertising and~~
21 ~~communications permitted by this rule, including the costs of print directory~~
22 ~~listings, on-line directory listings, newspaper ads, television and radio airtime,~~
23 ~~domain-name registrations, sponsorship fees, Internet-based advertisements,~~
24 ~~and group advertising. A lawyer may compensate employees, agents, and~~
25 ~~vendors who are engaged to provide marketing or client development services,~~
26 ~~such as publicists, public-relations personnel, business-development staff,~~
27 ~~television and radio station employees or spokespersons, and website designers.~~

28
29 ~~[4] Paragraph (b)(5) permits lawyers to give nominal gifts as an expression~~
30 ~~of appreciation to a person for recommending the lawyer's services or referring a~~
31 ~~prospective client. The gift may not be more than a token item as might be given~~
32 ~~for holidays, or other ordinary social hospitality. A gift is prohibited if offered or~~
33 ~~given in consideration of any promise, agreement, or understanding that such a~~
34 ~~gift would be forthcoming or that referrals would be made or encouraged in the~~
35 ~~future.~~

36
37 ~~[5] Moreover, a lawyer may pay others for generating client leads, such~~
38 ~~as Internet-based client leads, as long as the lead generator does not recommend~~
39 ~~the lawyer, any payment to the lead generator is consistent with rules 32:1.5(e)~~
40 ~~(division of fees) and 32:5.4 (professional independence of the lawyer), and the~~
41 ~~lead generator's communications are consistent with rule 32:7.1~~
42 ~~(communications concerning a lawyer's services). To comply with rule 32:7.1, a~~
43 ~~lawyer must not pay a lead generator that states, implies, or creates a reasonable~~
44 ~~impression that it is recommending the lawyer, is making the referral without~~
45 ~~payment from the lawyer, or has analyzed a person's legal problems when~~
46 ~~determining which lawyer should receive the referral. See comment [2]~~

1 (definition of “recommendation”). *See also* rule 32:5.3 (duties of lawyers and law
2 firms with respect to the conduct of nonlawyers); rule 32:8.4(a) (duty to avoid
3 violating the rules through the acts of another).

4
5 [6] A lawyer may pay the usual charges of a legal service plan or a not-for-
6 profit or qualified lawyer referral service. A legal service plan is a prepaid or
7 group legal service plan or a similar delivery system that assists people who seek
8 to secure legal representation. A lawyer referral service, on the other hand, is
9 any organization that holds itself out to the public as a lawyer referral service.
10 ~~Such Qualified referral services are understood by the public to be consumer-~~
11 ~~oriented organizations that provide unbiased referrals to lawyers with~~
12 ~~appropriate experience in the subject matter of the representation and afford~~
13 ~~other client protections, such as complaint procedures or malpractice insurance~~
14 ~~requirements. Consequently, this rule only permits a lawyer to pay the usual~~
15 ~~charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer~~
16 ~~referral service is one that is approved by an appropriate regulatory authority as~~
17 ~~affording adequate protections for the public.~~ *See, e.g., the American Bar*
18 *Association’s Model Supreme Court Rules Governing Lawyer Referral Services*
19 *and Model Lawyer Referral and Information Service Quality Assurance Act.*

20
21 [7] A lawyer who accepts assignments or referrals from a legal service plan
22 or referrals from a lawyer referral service must act reasonably to assure that the
23 activities of the plan or service are compatible with the lawyer’s professional
24 obligations. ~~*See rule 32:5.3.*~~ Legal service plans and lawyer referral services may
25 communicate with the public, but such communication must be in conformity
26 with these rules. Thus, advertising must not be false or misleading, as would be
27 the case if the communications of a group advertising program or a group legal
28 services plan would mislead the public to think that it was a lawyer referral
29 service sponsored by a state agency or bar association. ~~Nor could the lawyer~~
30 ~~allow in person, telephonic, or real time contacts that would violate rule 32:7.3.~~

31
32 [8] A lawyer also may agree to refer clients to another lawyer or a nonlawyer
33 professional, in return for the undertaking of that person to refer clients or
34 customers to the lawyer. Such reciprocal referral arrangements must not
35 interfere with the lawyer’s professional judgment as to making referrals or as to
36 providing substantive legal services. *See* rules 32:2.1 and 32:5.4(c). Except as
37 provided in rule 32:1.5(e), a lawyer who receives referrals from a lawyer or
38 nonlawyer professional must not pay anything solely for the referral, but the
39 lawyer does not violate paragraph (b) of this rule by agreeing to refer clients to
40 the other lawyer or nonlawyer professional, so long as the reciprocal referral
41 agreement is not exclusive and the client is informed of the referral agreement.
42 Conflicts of interest created by such arrangements are governed by rule 32:1.7.
43 Reciprocal referral agreements should not be of indefinite duration and should
44 be reviewed periodically to determine whether they comply with these rules. This
45 rule does not restrict referrals or divisions of revenues or net income among
46 lawyers within firms comprised of multiple entities.

1
2 Communications about Fields of Practice
3

4 [9] Paragraph (c) of this rule permits a lawyer to communicate that the
5 lawyer does or does not practice in particular areas of law. A lawyer is generally
6 permitted to state that the lawyer “concentrates in” or is a “specialist,” practices
7 a “specialty,” or “specializes in” particular fields based on the lawyer’s
8 experience, specialized training, or education, but such communications are
9 subject to the “false and misleading” standard applied in rule 32:7.1 to
10 communications concerning a lawyer’s services.

11
12 [10] The Patent and Trademark Office has a long-established policy of
13 designating lawyers practicing before the Office. The designation of Admiralty
14 practice also has a long historical tradition associated with maritime commerce
15 and the federal courts. A lawyer’s communications about these practice areas
16 are not prohibited by this rule.

17
18 [11] This rule permits a lawyer to state that the lawyer is certified as a
19 specialist in a field of law if such certification is granted by an organization
20 approved by an appropriate authority of a state, the District of Columbia, or a
21 U.S. Territory or accredited by the American Bar Association or another
22 organization, such as a state supreme court or a state bar association, that has
23 been approved by the authority of the state, the District of Columbia, or a U.S.
24 Territory to accredit organizations that certify lawyers as specialists.
25 Certification signifies that an objective entity has recognized an advanced degree
26 of knowledge and experience in the specialty area greater than is suggested by
27 general licensure to practice law. Certifying organizations may be expected to
28 apply standards of experience, knowledge, and proficiency to ensure that a
29 lawyer’s recognition as a specialist is meaningful and reliable. To ensure that
30 consumers can obtain access to useful information about an organization
31 granting certification, the name of the certifying organization must be included
32 in any communication regarding the certification.

33
34 Required Contact Information
35

36 [12] This rule requires that any communication about a lawyer or law
37 firm’s services include the name of, and contact information for, the lawyer or
38 law firm. Contact information includes a website address, a telephone number,
39 an email address, or a physical office location.

40
41 **Rule 32:7.3: SOLICITATION OF CLIENTS**
42

43 **(a) “Solicitation” or “solicit” denotes a communication initiated by or**
44 **on behalf of a lawyer or law firm that is directed to a specific person the**
45 **lawyer knows or reasonably should know needs legal services in a particular**
46 **matter and that offers to provide, or reasonably can be understood as**

1 **offering to provide, legal services for that matter.**

2 **(b) A lawyer shall not solicit professional employment by live person-**
3 **to-person contact in person, live telephone, or real-time electronic contact**
4 **solicit professional employment when a significant motive for the lawyer's**
5 **doing so is the lawyer's or law firm's pecuniary gain, unless the person**
6 **contacted is with a:**

7 **(1) is a lawyer; or**

8 **(2) person who has a family, close personal, or prior business or**
9 **professional relationship with the lawyer or law firm; or**

10 **(3) person who routinely uses for business purposes the type of legal**
11 **services offered by the lawyer.**

12 **(b)(c) A lawyer shall not solicit professional employment by written,**
13 **recorded, or electronic communication or by in-person, telephone, or real-**
14 **time electronic contact even when not otherwise prohibited by paragraph**
15 **(a)(b), if:**

16 **(1) the target of the solicitation has made known to the lawyer a**
17 **desire not to be solicited by the lawyer; or**

18 **(2) the solicitation involves coercion, duress, or harassment.**

19 **(c) Every written, recorded, or electronic communication from a**
20 **lawyer soliciting professional employment from anyone known to be in**
21 **need of legal services in a particular matter shall include the words**
22 **"Advertising Material" on the outside envelope, if any, and at the beginning**
23 **and ending of any recorded or electronic communication, unless the**
24 **recipient of the communication is a person specified in paragraphs (a)(1) or**
25 **(a)(2).**

26 **(d) This rule does not prohibit communications authorized by law or**
27 **ordered by a court or other tribunal.**

28 **(e) Notwithstanding the prohibitions in paragraph (a) this rule, a**
29 **lawyer may participate with a prepaid or group legal service plan operated**
30 **by an organization not owned or directed by the lawyer that uses in-person**
31 **or telephone live person-to-person contact to solicit enroll memberships or**
32 **sell subscriptions for the plan from persons who are not known to need**
33 **legal services in a particular matter covered by the plan.**

34
35 **Comment**

36
37 [1] A solicitation is a targeted communication initiated by the lawyer that
38 is directed to a specific person and that offers to provide, or can reasonably be
39 understood as offering to provide, legal services. In contrast, a Paragraph (b)
40 prohibits a lawyer from soliciting professional employment by live person-to-
41 person contact when a significant motive for the lawyer's doing so is the lawyer's
42 or the law firm's pecuniary gain. A lawyer's communication is typically does not
43 constitute a solicitation if it is directed to the general public, such as through a
44 billboard, an internet banner advertisement, a website or a television
45 commercial, or if it is in response to a request for information or is automatically
46 generated in response to internet electronic searches.

1
2 [2] “Live person-to-person contact” means in-person, face-to-face, live
3 telephone and other real-time visual or auditory person-to-person
4 communications, where the person is subject to a direct personal encounter
5 without time for reflection. Such person-to-person contact does not include chat
6 rooms, text messages, or other written communications that recipients may
7 easily disregard. There is a potential for abuse—overreaching exists when a
8 lawyer, seeking pecuniary gain, solicits a person—solicitation involves direct in-
9 person, live telephone, or real-time electronic contact by a lawyer with someone
10 known to be in need of legal services. These—This forms of contact subjects a
11 person to the private importuning of the trained advocate in a direct
12 interpersonal encounter. The person, who may already feel overwhelmed by the
13 circumstances giving rise to the need for legal services, may find it difficult fully
14 to fully evaluate all available alternatives with reasoned judgment and
15 appropriate self-interest in the face of the lawyer’s presence and insistence upon
16 being retained immediately—an immediate response. The situation is fraught with
17 the possibility of undue influence, intimidation, and over-reaching—overreaching.
18

19 [3] ~~This—The~~ potential for abuse—overreaching inherent in live person-to-
20 person contact—direct in person, live telephone, or real-time electronic solicitation
21 justifies its prohibition, particularly—since lawyers have alternative means of
22 conveying necessary information to those who may be in need of legal services.
23 In particular, communications can be mailed or transmitted by email or other
24 electronic means that ~~do not involve real-time contact and~~ do not violate other
25 laws governing solicitations. These forms of communications and solicitations
26 make it possible for the public to be informed about the need for legal services,
27 and about the qualifications of available lawyers and law firms, without
28 subjecting the public to live person-to-person—direct in person, telephone, or real-
29 time electronic persuasion that may overwhelm a person’s judgment.
30

31 [4] ~~The use of general advertising and written, recorded or electronic~~
32 ~~communications to transmit information from lawyer to the public, rather than~~
33 ~~direct in person, live telephone, or real-time electronic contact, will help to~~
34 ~~assure that the information flows cleanly as well as freely. The contents of~~
35 ~~advertisements and communications permitted under rule 32:7.2 can be~~
36 ~~permanently recorded so that they cannot be disputed and may be shared with~~
37 ~~others who know the lawyer. This potential for informal review is itself likely to~~
38 ~~help guard against statements and claims that might constitute false and~~
39 ~~misleading communications, in violation of rule 32:7.1. The contents of direct~~
40 ~~in person, live telephone, or real-time electronic—live person-to-person~~ contact
41 can be disputed and may not be subject to third-party scrutiny. Consequently,
42 they are much more likely to approach (and occasionally cross) the dividing line
43 between accurate representations and those that are false and misleading.
44

45 [5] There is far less likelihood that a lawyer would engage in abusive
46 ~~practices—overreaching~~ against a former client, or a person with whom the lawyer

1 has a close personal, ~~or family, business, or professional~~ relationship, or in
2 situations in which the lawyer is motivated by considerations other than the
3 lawyer's pecuniary gain. Nor is there a serious potential for ~~abuse-overreaching~~
4 when the person contacted is a lawyer or is known to routinely use the type of
5 legal services involved for business purposes. Examples include persons who
6 routinely hire outside counsel to represent the entity; entrepreneurs who
7 regularly engage business, employment law, or intellectual property lawyers;
8 small business proprietors who routinely hire lawyers for lease or contract
9 issues; and other people who routinely retain lawyers for business transactions
10 or formations. Consequently, the general prohibition in rule 32:7.3(a) and the
11 requirements of rule 32:7.3(c) are not applicable in those situations. Also,
12 Paragraph (a)(b) is not intended to prohibit a lawyer from participating in
13 constitutionally protected activities of public or charitable legal-service-legal-
14 service organizations or bona fide political, social, civic, fraternal, employee, or
15 trade organizations whose purposes include providing or recommending legal
16 services to their members or beneficiaries.

17
18 ~~[6] But even permitted forms of solicitation can be abused. Thus, any~~
19 ~~solicitation which that contains false or misleading information which is false or~~
20 ~~misleading within the meaning of rule 32:7.1, which that involves coercion,~~
21 ~~duress, or harassment within the meaning of rule 32:7.3(b)(c)(2), or which that~~
22 ~~involves contact with someone who has made known to the lawyer a desire not~~
23 ~~to be solicited by the lawyer within the meaning of rule 32:7.3(b)(c)(1) is~~
24 ~~prohibited. Moreover, if after sending a letter or other communication as~~
25 ~~permitted by rule 32:7.2 the lawyer receives no response, any further effort to~~
26 ~~communicate with the recipient of the communication may violate the provisions~~
27 ~~of rule 32:7.3(b). Live, person-to-person contact of individuals who may be~~
28 ~~especially vulnerable to coercion or duress is ordinarily not appropriate, for~~
29 ~~example, the elderly, those whose first language is not English, or the disabled.~~

30
31 ~~[7] This rule is does not intended to prohibit a lawyer from contacting~~
32 ~~representatives of organizations or groups that may be interested in establishing~~
33 ~~a group or prepaid legal plan for their members, insureds, beneficiaries, or other~~
34 ~~third parties for the purpose of informing such entities of the availability of and~~
35 ~~details concerning the plan or arrangement, which the lawyer or lawyer's firm is~~
36 ~~willing to offer. This form of communication is not directed to people who are~~
37 ~~seeking legal services for themselves. Rather, it is usually addressed to an~~
38 ~~individual acting in a fiduciary capacity seeking a supplier of legal services for~~
39 ~~others who may, if they choose, become prospective clients of the lawyer. Under~~
40 ~~these circumstances, the activity which the lawyer undertakes in communicating~~
41 ~~with such representatives and the type of information transmitted to the~~
42 ~~individual are functionally similar to and serve the same purpose as advertising~~
43 ~~permitted under rule 32:7.2.~~

44
45 ~~[8] The requirement in rule 32:7.3(c) that certain communications be~~
46 ~~marked "Advertising Material" does not apply to communications sent in~~

1 ~~response to requests of potential clients or their spokespersons or sponsors.~~
2 ~~General announcements by lawyers, including changes in personnel or office~~
3 ~~location, do not constitute communications soliciting professional employment~~
4 ~~from a client known to be in need of legal services within the meaning of this~~
5 ~~rule. Communications authorized by law or ordered by a court or tribunal include~~
6 ~~a notice to potential members of a class in class action litigation.~~

7
8 [9] Paragraph ~~(d)~~(e) of this rule permits a lawyer to participate with an
9 organization which uses personal contact to ~~solicit~~ enroll members for its group
10 or prepaid legal service plan, provided that the personal contact is not
11 undertaken by any lawyer who would be a provider of legal services through the
12 plan. The organization must not be owned by or directed (whether as manager
13 or otherwise) by any lawyer or law firm that participates in the plan. For
14 example, paragraph ~~(d)~~(e) would not permit a lawyer to create an organization
15 controlled directly or indirectly by the lawyer and use the organization for the ~~in-~~
16 ~~person or telephone~~ person-to-person solicitation of legal employment of the
17 lawyer through memberships in the plan or otherwise. The communication
18 permitted by these organizations ~~also~~ must not be directed to a person known to
19 need legal services in a particular matter, but ~~is to~~ must be designed to inform
20 potential plan members generally of another means of affordable legal services.
21 Lawyers who participate in a legal service plan must reasonably assure that the
22 plan sponsors are in compliance with rules 32:7.1, 32:7.2, and 32:7.3(b)(c). ~~See~~
23 ~~32:8.4(a).~~

24
25 **Rule 32:7.4: ~~(RESERVED)~~COMMUNICATION OF FIELDS OF PRACTICE AND**
26 **SPECIALIZATION**

27
28 ~~(a) A lawyer may communicate the fact that the lawyer does or does~~
29 ~~not practice in particular fields of law.~~

30 ~~(b) A lawyer admitted to engage in patent practice before the United~~
31 ~~States Patent and Trademark Office may use the designation "Patent~~
32 ~~Attorney" or a substantially similar designation.~~

33 ~~(c) A lawyer engaged in Admiralty practice may use the designation~~
34 ~~"Admiralty," "Proctor in Admiralty," or a substantially similar designation.~~

35 ~~(d) A lawyer shall not state or imply that a lawyer is certified as a~~
36 ~~specialist in a particular field of law, unless:~~

37 ~~(1) the lawyer has been certified as a specialist by an organization or~~
38 ~~state authority that the attorney can demonstrate is qualified to grant such~~
39 ~~certification to attorneys who meet objective and consistently applied~~
40 ~~standards relevant to practice in a particular area of law;~~

41 ~~(2) the name of the certifying organization is clearly identified in the~~
42 ~~communication;~~

43 ~~(3) the reference to the certification must be truthful and verifiable~~
44 ~~and may not be misleading in violation of rule 32:7.1; and~~

45 ~~(4) the representation by the lawyer that he or she is certified as a~~
46 ~~specialist states that the Supreme Court of Iowa does not certify lawyers~~

1 ~~as specialists in the practice of law and that certification is not a~~
2 ~~requirement to practice law in the State of Iowa.~~

3
4 **Comment**

5
6 [1] Paragraph (a) of this rule permits a lawyer to indicate areas of practice
7 in communications about the lawyer's services. If a lawyer practices only in
8 certain fields, or will not accept matters except in a specified field or fields, the
9 lawyer is permitted to so indicate. A lawyer is generally permitted to state that
10 the lawyer is a "specialist," practices a "specialty," or "specializes in" particular
11 fields, but such communications are subject to the "false and misleading"
12 standard applied in rule 32:7.1 to communications concerning a lawyer's
13 services.

14
15 [2] Paragraph (b) recognizes the long-established policy of the Patent and
16 Trademark Office for the designation of lawyers practicing before the Office.
17 Paragraph (c) recognizes that designation of Admiralty practice has a long
18 historical tradition associated with maritime commerce and the federal courts.

19
20 [3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a
21 specialist in a field of law if such certification is granted by an organization or
22 state authority that uses objective and consistently applied standards relevant
23 to practice in a particular area of law. Certification signifies that an objective
24 entity has recognized an advanced degree of knowledge and experience in the
25 specialty area greater than is suggested by general licensure to practice law.
26 Certifying organizations are expected to apply standards of experience,
27 knowledge, and proficiency to insure that a lawyer's recognition as a specialist
28 is meaningful and reliable. In order to insure that consumers can obtain access
29 to useful information about an organization granting certification, the name of
30 the certifying organization must be included in any communication regarding
31 the certification. Any reference that the lawyer is certified as a specialist must
32 be verifiable, meet the requirements of rule 32:7.1, and include the disclaimer
33 as required by paragraph (d)(4) of this rule.

34
35 **Rule 32:7.5: (RESERVED) FIRM NAMES AND LETTERHEADS**

36
37 ~~(a) A lawyer shall not use a firm name, letterhead, or other~~
38 ~~professional designation that violates rule 32:7.1. A trade name or uniform~~
39 ~~resource locator (URL) may be used by a lawyer in private practice if it does~~
40 ~~not imply a connection with a government agency or with a public or~~
41 ~~charitable legal services organization and is not otherwise in violation of~~
42 ~~rule 32:7.1.~~

43 ~~(b) A law firm with offices in more than one jurisdiction may use the~~
44 ~~same name or other professional designation in each jurisdiction, but~~
45 ~~identification of the lawyers in an office of the firm shall indicate the~~
46 ~~jurisdictional limitations on those not licensed to practice in the~~

1 ~~jurisdiction where the office is located.~~

2 ~~(c) The name of a lawyer holding a public office shall not be used in~~
3 ~~the name of a law firm, or in communications on its behalf, during any~~
4 ~~substantial period in which the lawyer is not actively and regularly~~
5 ~~practicing with the firm.~~

6 ~~(d) Lawyers may state or imply that they practice in a partnership or~~
7 ~~other organization only when that is the fact.~~

8 ~~(e) Every letterhead, sign, advertisement, card, or other place where~~
9 ~~a trade name or URL is communicated to the public, where the trade name~~
10 ~~or URL is more than a minor variation of the official name of the lawyer,~~
11 ~~firm, or organization, shall display the name and address of one or more of~~
12 ~~its principally responsible lawyers licensed to practice in Iowa.~~

13
14 **Comment**

15
16 [1] A firm may be designated by the names of all or some of its members,
17 by the names of deceased or retired members where there has been a continuing
18 succession in the firm's identity, by the name as it appears on a lawyer's current
19 license to practice, or by a trade name such as the "ABC Legal Clinic." A lawyer
20 or law firm may also be designated by a distinctive website address or
21 comparable professional designation. Use of trade names in law practice is
22 acceptable so long as it is not misleading. If a private firm uses a trade name
23 that includes a geographical name such as "Sioux City Legal Clinic," an express
24 disclaimer that it is not a public legal aid agency may be required to avoid a
25 misleading implication. The use of the phrase "Legal Aid" for other than a non-
26 profit legal aid agency is not permissible. It may be observed that any firm name
27 including the name of a deceased partner is, strictly speaking, a trade name. The
28 use of such names to designate law firms has proven a useful means of
29 identification. However, it is misleading to use the name of a lawyer not
30 associated with the firm or a predecessor of the firm, or the name of a nonlawyer.

31
32 [2] With regard to paragraph (d), lawyers sharing office facilities, but who
33 are not in fact associated with each other in a law firm, may not denominate
34 themselves as, for example, "Smith and Jones," for that title suggests that they
35 are practicing law together in a firm.

36
37 **Rule 32:7.6: POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT**
38 **LEGAL ENGAGEMENTS OR APPOINTMENTS BY JUDGES**

39
40 **A lawyer or law firm shall not accept a government legal engagement**
41 **or an appointment by a judge if the lawyer or law firm makes a political**
42 **contribution or solicits political contributions for the purpose of obtaining**
43 **or being considered for that type of legal engagement or appointment.**

44
45 **Comment**

1 [5] Political contributions are for the purpose of obtaining or being
2 considered for a governmental legal engagement or appointment by a judge if,
3 but for the desire to be considered for the legal engagement or appointment, the
4 lawyer or law firm would not have made or solicited the contributions. The
5 purpose may be determined by an examination of the circumstances in which
6 the contributions occur. For example, one or more contributions that in the
7 aggregate are substantial in relation to other contributions by lawyers or law
8 firms, made for the benefit of an official in a position to influence award of a
9 government legal engagement, and followed by an award of the legal engagement
10 to the contributing or soliciting lawyer or the lawyer's firm would support an
11 inference that the purpose of the contributions was to obtain the engagement,
12 absent other factors that weigh against existence of the proscribed purpose.
13 Those factors may include among others that the contribution or solicitation was
14 made to further a political, social, or economic interest or because of an existing
15 personal, family, or professional relationship with a candidate.

16
17 **Rule 32:8.2: JUDICIAL AND LEGAL OFFICIALS**

18
19 (a) A lawyer shall not make a statement that the lawyer knows to be
20 false or with reckless disregard as to its truth or falsity concerning the
21 qualifications or integrity of a judge, adjudicatory officer, or public legal
22 officer, or of a candidate for election or appointment to judicial or legal
23 office.

24 (b) A lawyer who is a candidate for judicial office shall comply with
25 the applicable provisions of the Iowa Code of Judicial Conduct.

26
27 **Rule 32:8.4: MISCONDUCT**

28
29 It is professional misconduct for a lawyer to:

30 (a) violate or attempt to violate the Iowa Rules of Professional
31 Conduct, knowingly assist or induce another to do so, or do so through the
32 acts of another;

33 (b) commit a criminal act that reflects adversely on the lawyer's
34 honesty, trustworthiness, or fitness as a lawyer in other respects;

35 (c) engage in conduct involving dishonesty, fraud, deceit, or
36 misrepresentation;

37 (d) engage in conduct that is prejudicial to the administration of
38 justice;

39 (e) state or imply an ability to influence improperly a government
40 agency or official or to achieve results by means that violate the Iowa Rules
41 of Professional Conduct or other law;

42 (f) knowingly assist a judge or judicial officer in conduct that is a
43 violation of applicable rules of judicial conduct or other law; or

44 (g) engage in conduct that the lawyer knows or reasonably should
45 know is harassment or discrimination on the basis of race, sex, religion,
46 national origin, ethnicity, disability, age, sexual orientation, gender

1 **identity, marital status, or socioeconomic status in conduct related to the**
2 **practice of law. This paragraph does not limit the ability of a lawyer to**
3 **accept, decline, or withdraw from a representation in accordance with rule**
4 **32:1.16. This paragraph does not preclude legitimate advice or advocacy**
5 **consistent with these rules**~~**engage in sexual harassment or other unlawful**~~
6 ~~**discrimination in the practice of law or knowingly permit staff or agents**~~
7 ~~**subject to the lawyer's direction and control to do so.**~~

8
9 **Comment**

10
11 [3] Discrimination and harassment by lawyers in violation of paragraph (g)
12 undermine confidence in the legal profession and the legal system. Such
13 discrimination includes harmful verbal or physical conduct that manifests bias
14 or prejudice towards others. Harassment includes sexual harassment and
15 derogatory or demeaning verbal or physical conduct. Sexual harassment
16 includes unwelcome sexual advances, requests for sexual favors, and other
17 unwelcome verbal or physical conduct of a sexual nature. The substantive law
18 of antidiscrimination and anti-harassment statutes and case law may guide
19 application of paragraph (g).~~A lawyer who, in the course of representing a client,~~
20 ~~knowingly manifests, by words or conduct, bias or prejudice based upon race,~~
21 ~~sex, religion, national origin, disability, age, sexual orientation or socioeconomic~~
22 ~~status, violates paragraph (d) when such actions are prejudicial to the~~
23 ~~administration of justice. Legitimate advocacy respecting the foregoing factors~~
24 ~~does not violate paragraph (d).~~

25
26 [4] Conduct related to the practice of law includes representing clients;
27 interacting with witnesses, coworkers, court personnel, lawyers, and others
28 while engaged in the practice of law; operating or managing a law firm or law
29 practice; and participating in bar association, business, or social activities in
30 connection with the practice of law. Lawyers may engage in conduct undertaken
31 to promote diversity and inclusion without violating this rule by, for example,
32 implementing initiatives aimed at recruiting, hiring, retaining, and advancing
33 diverse employees or sponsoring diverse law student organizations.

34
35 [5] A trial judge's finding that peremptory challenges were exercised on a
36 discriminatory basis does not alone establish a violation of paragraph (g)~~this~~
37 ~~rule. A lawyer does not violate paragraph (g) by limiting the scope or subject~~
38 ~~matter of the lawyer's practice or by limiting the lawyer's practice to members of~~
39 ~~underserved populations in accordance with these rules and other law. A lawyer~~
40 ~~may charge and collect reasonable fees and expenses for a representation. Rule~~
41 ~~32:1.5(a). Lawyers also should be mindful of their professional obligations under~~
42 ~~rule 32:6.1 to provide legal services to those who are unable to pay, and their~~
43 ~~obligation under rule 32:6.2 not to avoid appointments from a tribunal except~~
44 ~~for good cause. See Rule 32:6.2(a), (b), and (c). A lawyer's representation of a~~
45 ~~client does not constitute an endorsement by the lawyer of the client's views or~~
46 ~~activities. See Rule 32:1.2(b).—For another reference to discrimination as~~

1 ~~professional misconduct, see paragraph (g).~~

2
3 [4][6] A lawyer may refuse to comply with an obligation imposed by law
4 upon a good faith belief that no valid obligation exists. The provisions of rule
5 32:1.2(d) concerning a good faith challenge to the validity, scope, meaning, or
6 application of the law apply to challenges of legal regulation of the practice of
7 law.

8
9 [5][7] Lawyers holding public office assume legal responsibilities going
10 beyond those of other citizens. A lawyer's abuse of public office can suggest an
11 inability to fulfill the professional role of a lawyer. The same is true of abuse of
12 positions of private trust such as trustee, executor, administrator, guardian,
13 agent, and officer, director, or manager of a corporation or other organization.

14
15 [6][8] It is not professional misconduct for a lawyer to advise clients or
16 others about or to supervise or participate in lawful covert activity in the
17 investigation of violations of civil or criminal law or constitutional rights or in
18 lawful intelligence-gathering activity, provided the lawyer's conduct is otherwise
19 in compliance with these rules. "Covert activity" means an effort to obtain
20 information on unlawful activity through the use of misrepresentations or other
21 subterfuge. Covert activity may be commenced by a lawyer or involve a lawyer
22 as an advisor or supervisor only when the lawyer in good faith believes there is
23 a reasonable possibility that unlawful activity has taken place, is taking place,
24 or will take place in the foreseeable future. Likewise, a government lawyer who
25 supervises or participates in a lawful covert operation which involves
26 misrepresentation or deceit for the purpose of gathering relevant information,
27 such as law enforcement investigation of suspected illegal activity or an
28 intelligence-gathering activity, does not, without more, violate this rule.

29
30 **Rule 32:8.5: DISCIPLINARY AUTHORITY; CHOICE OF LAW**

31
32 **(a) Disciplinary Authority. A lawyer admitted to practice in Iowa is**
33 **subject to the disciplinary authority of Iowa, regardless of where the**
34 **lawyer's conduct occurs. A lawyer not admitted in Iowa is also subject to**
35 **the disciplinary authority of Iowa if the lawyer provides or offers to provide**
36 **any legal services in Iowa. A lawyer may be subject to the disciplinary**
37 **authority of both Iowa and another jurisdiction for the same conduct.**

38 **(b) Choice of Law. In any exercise of the disciplinary authority of**
39 **Iowa, the rules of professional conduct to be applied shall be as follows:**

40 **(1) for conduct in connection with a matter pending before a tribunal,**
41 **the rules of the jurisdiction in which the tribunal sits, unless the rules of**
42 **the tribunal provide otherwise; and**

43 **(2) for any other conduct, the rules of the jurisdiction in which the**
44 **lawyer's conduct occurred or, if the predominant effect of the conduct is**
45 **in a different jurisdiction, the rules of that jurisdiction shall be applied to**
46 **the conduct. A lawyer shall not be subject to discipline if the lawyer's**

1 **conduct conforms to the rules of a jurisdiction in which the lawyer**
2 **reasonably believes the predominant effect of the lawyer's conduct will**
3 **occur.**

4
5 **Comment**

6
7 *Disciplinary Authority*

8
9 [1] It is longstanding law that the conduct of a lawyer admitted to practice
10 in Iowa is subject to the disciplinary authority of Iowa. Extension of the
11 disciplinary authority of Iowa to other lawyers who provide or offer to provide
12 legal services in Iowa is for the protection of the citizens of Iowa. Reciprocal
13 enforcement of a jurisdiction's disciplinary findings and sanctions will further
14 advance the purposes of this rule. *See* Iowa Ct. Rs. 34.10, 34.19~~35-19~~. A lawyer
15 who is subject to Iowa's disciplinary authority under rule 32:8.5(a) appoints the
16 Clerk of the Supreme Court of Iowa to receive service of process with respect to
17 Iowa disciplinary matters. The fact that the lawyer is subject to the disciplinary
18 authority of Iowa may be a factor in determining whether personal jurisdiction
19 may be asserted over the lawyer for civil matters.

20
21 *Choice of ~~I~~Law*

22
23 [5] When a lawyer's conduct involves significant contacts with more than
24 one jurisdiction, it may not be clear whether the predominant effect of the
25 lawyer's conduct will occur in a jurisdiction other than the one in which the
26 conduct occurred. So long as the lawyer's conduct conforms to the rules of a
27 jurisdiction in which the lawyer reasonably believes the predominant effect will
28 occur, the lawyer shall not be subject to discipline under this rule. With respect
29 to conflicts of interest, in determining a lawyer's reasonable belief under
30 paragraph (b)(2), a written agreement between the lawyer and client that
31 reasonably specifies a particular jurisdiction as within the scope of that
32 paragraph may be considered if the agreement was obtained with the client's
33 informed consent confirmed in the agreement.