

Alabama Rules of Professional Conduct

Client-Lawyer Relationship

Rule 1.1.

Competence.

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A lawyer and client may agree, pursuant to Rule 1.2(c), to limit the scope of the representation with respect to a matter. In such circumstances, competence means the knowledge, skill, thoroughness, and preparation reasonably necessary for such limited representation.

[Amended eff. 3-26-2012]

Comment

Legal Knowledge and Skill

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

A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence, and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill considered action under emergency conditions can jeopardize

the client's interest.

A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.2.

Thoroughness and Preparation

Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transaction ordinarily require more elaborate treatment than matters of lesser consequence.

Maintaining Competence

To maintain the requisite knowledge and skill, a lawyer should engage in continuing study and education.

Comparison with Former Alabama Code of Professional Responsibility

Rule 1.1 adds a requirement, not previously existing in Alabama, that affirmatively requires a lawyer to provide competent representation and that particularizes the elements of competence.

In 1974 Alabama rejected the ABA's Model DR 6-101(A)(1), which provided that a lawyer shall not handle a matter "which he knows or should know that he is not competent to handle, without associating himself with a lawyer who is competent to handle it," together with Model DR 6-101(A)(2), which required "preparation adequate in the circumstances," and Model DR 6-101(A)(3), which prohibited the "[n]eglect of a legal matter." Rather, Alabama adopted as DR 6-101 a requirement that "A lawyer shall not willfully neglect a legal matter entrusted to him." The former DR 6-101 is carried forward in Rule 1.3.

Note from the reporter of decisions: The order amending Rule 1.1, Rule 1.2(c), Rule 4.2, and Rule 4.3, Alabama Rules of Professional Conduct, and amending Rule 11, Alabama Rules of Civil Procedure, and adopting Rule 87, Alabama Rules of Civil Procedure, is published in that volume of *Alabama Reporter* that contains Alabama cases from __ So. 3d.