

Alabama Rules of Professional Conduct

Maintaining the Integrity of the Profession

Rule 8.4.

Misconduct.

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official;
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable Canons of Judicial Ethics or other law; or
- (g) Engage in any other conduct that adversely reflects on his fitness to practice law.

Comment

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

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

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

This rule does not repeal, abrogate, or modify Rule 22 of the Alabama Rules of Disciplinary Procedure (Interim), which provides for mandatory disbarment or suspension under specified circumstances.

Comparison with Former Alabama Code of Professional Responsibility

With regard to paragraphs (a) through (d), DR 1-102(A) provided that a lawyer shall not:

- “(1) Violate a Disciplinary Rule.
- “(2) Circumvent a Disciplinary Rule through actions of another.
- “(3) Engage in illegal conduct involving moral turpitude.
- “(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- “(5) Engage in conduct that is prejudicial to the administration of justice.
- “(6) Engage in any other conduct that adversely reflects on his fitness to practice law.”

Former DR 7-102(A)(B) provided that “[i]n his representation of a client, a lawyer shall not... (8) Knowingly engage in other illegal conduct....”

Paragraph (e) is substantially similar to DR 9-101(C).

There is no direct counterpart to paragraph (f) in the former Alabama Code of Professional Responsibility. EC 7-34 stated in part that “[a] lawyer... is never justified in making a gift or a loan to a [judicial officer] except legitimate political campaign contributions under appropriate circumstances.” EC 9-1 stated that a lawyer “should promote public confidence in our [legal] system and in the legal profession.”

Paragraph (g) was not included within the ABA Model Rules, but was carried from the former Alabama Code of Professional Responsibility DR 1-102(A)(6).