Filing # 158497035 E-Filed 10/03/2022 04:40:26 PM

APPENDIX A

PROPOSED AMENDMENT IN LEGISLATIVE FORMAT

October 3, 2022

RECEIVED, 10/03/2022 04:41:22 PM, Clerk, Supreme Court

Contents

Rules Regulating the florida bar 4

Chapter 1 general..... 4

1-3. Membership..... 4

RULE 1-3.5 RETIREMENT..... 4

RULE 1-3.7 REINSTATEMENT TO MEMBERSHIP 5

1-7. Membership fees and fiscal control .....**Error! Bookmark not defined.**

RULE 1-7.3 MEMBERSHIP FEES .....**Error! Bookmark not defined.**

Chapter 2 Bylaws of The florida bar..... 7

2-9. Policies and rules 7

BYLAW 2-9.7 INSURANCE FOR MEMBERS OF BOARD OF GOVERNORS, OFFICERS, GRIEVANCE COMMITTEE MEMBERS, UPL COMMITTEE MEMBERS, CLIENTS' SECURITY FUND COMMITTEE MEMBERS, AND EMPLOYEES 7

Chapter 4 Rules of professional conduct 8

4-1. Client-lawyer relationship 8

RULE 4-1.6 CONFIDENTIALITY OF INFORMATION 8

4-3. Advocate 18

RULE 4-3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR.... 18

CHAPTER 5. RULES REGULATING TRUST ACCOUNTS..... 19

5-1. GENERALLY 19

RULE 5-1.1 TRUST ACCOUNTS 19

CHAPTER 11. RULES GOVERNING THE LAW SCHOOL PRACTICE PROGRAM..... 34

11-1. GENERALLY..... 34

RULE 11-1.1 PURPOSE 34
RULE 11-1.2 ACTIVITIES 34
RULE 11-1.3 REQUIREMENTS AND LIMITATIONS 35
RULE 11-1.4 CERTIFICATION OF STUDENT 37
RULE 11-1.5 APPROVAL OF LEGAL AID ORGANIZATION 37
RULE 11-1.6 OTHER ACTIVITIES 38
RULE 11-1.7 SUPERVISION 39
~~RULE 11-1.8 MISCELLANEOUS~~ 40
RULE 11-1.~~9~~8 CONTINUATION OF PRACTICE PROGRAM AFTER COMPLETION OF LAW SCHOOL PROGRAM OR GRADUATION 40
RULE 11-1.~~10~~9 CERTIFICATION OF MEMBERS OF OUT-OF-STATE BARS 42
Chapter 19 Center for professionalism 43
~~RULE 19-1.5 RELATIONSHIP TO THE SUPREME COURT COMMISSION ON PROFESSIONALISM~~ 43
Chapter 20 Florida Registered Paralegal Program 43
20-5. Inegigibility for registration or renewal 44
RULE 20-5.1 GENERALLY 44

RULES REGULATING THE FLORIDA BAR

CHAPTER 1 GENERAL
1-3. MEMBERSHIP
RULE 1-3.5 RETIREMENT

(a) Eligibility. Any member of The Florida Bar may retire from The Florida Bar ~~up~~on petition or other written request to, and approval of, the executive director.

(b) Practice of Law Prohibited.

(1) A retired member ~~shall~~must not practice law in this state ~~except upon petition for reinstatement~~unless reinstated to active membership in good standing by the executive director or unless certified as an emeritus lawyer under chapter 12 of these rules, but only for those activities permitted under chapter 12 of these rules~~, and approval of, the executive director; the payment of all membership fees, costs, or other amounts owed to The Florida Bar; and the completion of all outstanding continuing legal education or basic skills course requirements~~.

(2) Retired members must affirmatively represent their retired status when any statement of Florida Bar membership is made, e.g., when in writing, Esquire (Ret.) or Member, Florida Bar (Ret.).

(3) Retired members must not hold themselves out as being able to practice law in Florida or render advice on matters of Florida law unless certified as an emeritus lawyer under chapter 12 of these rules.

(c) Reinstatement. To be reinstated to active membership in good standing, a retired member must:

(1) complete the reinstatement application;

(2) pay all membership fees, costs, or other amounts owed to The Florida Bar;

(3) complete all outstanding continuing legal education or basic skills course requirements as stated elsewhere in these rules; and

(4) be approved for reinstatement by the executive director.

(d) Permanent Retirement. A member who ~~seeks and~~ is approved to permanently retire ~~shall~~is not ~~be~~ eligible for reinstatement or readmission. A retired member ~~shall be~~is entitled to receive ~~such~~ other privileges as the board of governors ~~may~~ authorizes.

(e) Discipline. A retired member ~~shall~~ remains subject to disciplinary action for acts committed before the effective date of retirement. Acts committed after retirement may be considered in evaluating the member's fitness ~~to resume~~for reinstatement to the practice of law in Florida as elsewhere stated in these ~~Rules Regulating The Florida Bar~~rules.

(f) Referral to Board of Governors. If the executive director is in doubt as to disposition of a petition, the executive director may refer the petition to the board of governors for its action.

(g) Review of Disposition. Action of the executive director or board of governors denying a petition for retirement or reinstatement from retirement may be reviewed ~~up~~on petition to the Supreme Court of Florida.

RULE 1-3.7 REINSTATEMENT TO MEMBERSHIP

(a) Eligibility for Reinstatement. Members who have retired or been delinquent for a period of time not in excess of 5 years are eligible for reinstatement under this rule. Time will be calculated from the day of the retirement or delinquency.

Inactive members may also seek reinstatement under this rule.

(b) Petitions Required. A member seeking reinstatement must file a petition with the executive director setting forth the reason for

inactive status, retirement, or delinquency and showing good cause why the petition for reinstatement should be granted. The petitioner must include all required information on a form approved by the board of governors. The petition must be accompanied by a nonrefundable reinstatement fee of $150 and payment of all arrearages unless adjusted by the executive director with concurrence of the executive committee for good cause shown. Inactive members are not required to pay the reinstatement fee. No member will be reinstated if, from the petition or from investigation conducted, the petitioner is not of good moral character and morally fit to practice law or if the member is delinquent with the continuing legal education or basic skills course requirements.

If the executive director is in doubt as to approval of a petition, the executive director may refer the petition to the board of governors for its action. Action of the executive director or board of governors denying a petition for reinstatement may be reviewed on petition to the Supreme Court of Florida.

(c) Members Who Have Retired or Been Delinquent for Less Than 5 Years, But More Than 3 Years. Members who have retired or been delinquent for less than 5 years, but more than 3 years, must complete 11 hours of continuing legal education courses for each year or portion of a year that the member had retired or was deemed delinquent.

(d) Members Who Have Retired or Been Delinquent for 5 Years or More. Members who have retired or have been deemed delinquent for a period of 5 years or longer will not be reinstated under this rule and must be readmitted upon application to the Florida Board of Bar Examiners and approval by the Supreme Court of Florida.

(e) Members Who Have Permanently Retired. Members who have permanently retired will not be reinstated under this rule.

(f) Members Delinquent 60 Days or Less. ~~Reinstatement~~Any member reinstated from delinquency for payment of membership

fees, trust account compliance certification, or completion of continuing legal education or basic skills course requirements approved within 60 days from the date of delinquency i~~s effective on the last business day before the delinquency. Any member reinstated within the 60-day period~~ is not considered in violation of these rules and is not subject to disciplinary sanction for practicing law in Florida during that time.

(g) Inactive Members. Inactive members may be reinstated to active membership in good standing to become eligible to practice law in Florida by petition filed with the executive director, in the form and as provided in (b) above, except:

(1) If the member has been inactive for greater than 5 years, has been authorized to practice law in another jurisdiction, and either actively practiced law in that jurisdiction or held a position that requires a license as a lawyer for the entire period of time, the member will be required to complete the Florida Law Update continuing legal education course as part of continuing legal education requirements.

(2) If the member has been inactive for greater than 5 years and does not meet the requirements of subdivision (1), the member will be required to complete the basic skills course requirement and the 33-hour continuing legal education requirement.

(3) An inactive member is not eligible for reinstatement until all applicable continuing legal education requirements have been completed and the remaining portion of membership fees for members in good standing for the current fiscal year have been paid.

CHAPTER 2 BYLAWS OF THE FLORIDA BAR
2-9. POLICIES AND RULES
BYLAW 2-9.7 INSURANCE FOR MEMBERS OF BOARD OF GOVERNORS, OFFICERS, GRIEVANCE COMMITTEE MEMBERS,

UPL COMMITTEE MEMBERS, CLIENTS' SECURITY FUND COMMITTEE MEMBERS, AND EMPLOYEES

The bar will provide insurance coverage for current and former members of the board of governors, officers of The Florida Bar, members of UPL, clients' security fund, and grievance committees, and employees of The Florida Bar as authorized by the budget committee and included in the budget. The bar will indemnify current and former officers, board of governors, UPL, clients' security fund, and grievance committee members and bar employees as provided in the standing board policies.

CHAPTER 4 RULES OF PROFESSIONAL CONDUCT
4-1. CLIENT-LAWYER RELATIONSHIP
RULE 4-1.6 CONFIDENTIALITY OF INFORMATION

(a) Consent Required to Reveal Information. A lawyer must not reveal information relating to a client's representation ~~of a client~~ except as stated in subdivisions (b), (c), and (d), unless the client gives informed consent.

(b) When Lawyer Must Reveal Information. A lawyer must reveal confidential information to the extent the lawyer reasonably believes necessary to:

(1) ~~to~~ prevent a client from committing a crime; or

(2) ~~to~~ prevent ~~a~~ death or substantial bodily harm ~~to another~~.

(c) When Lawyer May Reveal Information. A lawyer may reveal confidential information to the extent the lawyer reasonably believes necessary to:

(1) ~~to~~ serve the client's interest unless it is information the client specifically requires not to be disclosed;

(2) ~~to~~ establish a claim or defense on the lawyer's behalf ~~of the lawyer~~ in a controversy between the lawyer and client;

(3) ~~to~~ establish a defense to a criminal charge or civil claim against the lawyer based on conduct in which the client was involved;

(4) ~~to~~ respond to allegations in any proceeding concerning the lawyer's representation of the client;

(5) ~~to~~ comply with the Rules Regulating The Florida Bar; ~~or~~

(6) ~~to~~ detect and resolve conflicts of interest between lawyers in different firms arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client; or

(7) respond to specific allegations published via the internet by a former client (e.g. a negative online review) that the lawyer has engaged in criminal conduct punishable by law.

(d) Exhaustion of Appellate Remedies. When required by a tribunal to reveal confidential information, a lawyer may first exhaust all appellate remedies.

(e) Inadvertent Disclosure of Information. A lawyer must make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the client's representation ~~of a client~~.

(f) Limitation on Amount of Disclosure. When disclosure is mandated or permitted, the lawyer must disclose no more information than is required to meet the requirements or accomplish the purposes of this rule.

Comment

The lawyer is part of a judicial system charged with upholding the law. One of the lawyer's functions is to advise clients so that

they avoid any violation of the law in the proper exercise of their rights.

This rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See rule 4-1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, rule 4-1.9(c) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client, and rules 4-1.8(b) and 4-1.9(b) for the lawyer's duties with respect to the use of confidential information to the disadvantage of clients and former clients.

A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See terminology for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based on experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

The principle of confidentiality is given effect in 2 related bodies of law, the attorney-client privilege (which includes the work product doctrine) in the law of evidence and the rule of confidentiality established in professional ethics. The attorney-client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The

confidentiality rule applies not merely to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose confidential information except as authorized or required by the Rules Regulating The Florida Bar or by law. However, none of the foregoing limits the requirement of disclosure in subdivision (b). This disclosure is required to prevent a lawyer from becoming an unwitting accomplice in the fraudulent acts of a client. See also Scope.

The requirement of maintaining confidentiality of information relating to representation applies to government lawyers who may disagree with the policy goals that their representation is designed to advance.

Authorized disclosure

A lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation, except to the extent that the client's instructions or special circumstances limit that authority. In litigation, for example, a lawyer may disclose information by admitting a fact that cannot properly be disputed or in negotiation by making a disclosure that facilitates a satisfactory conclusion.

Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Disclosure adverse to client

The confidentiality rule is subject to limited exceptions. In becoming privy to information about a client, a lawyer may foresee that the client intends serious harm to another person. However, to the extent a lawyer is required or permitted to disclose a client's purposes, the client will be inhibited from revealing facts that would enable the lawyer to counsel against a wrongful course of action.

While the public may be protected if full and open communication by the client is encouraged, several situations must be distinguished.

First, the lawyer may not counsel or assist a client in conduct that is criminal or fraudulent. See rule 4-1.2(d). Similarly, a lawyer has a duty under rule 4-3.3(a)(4) not to use false evidence. This duty is essentially a special instance of the duty prescribed in rule 4-1.2(d) to avoid assisting a client in criminal or fraudulent conduct.

Second, the lawyer may have been innocently involved in past conduct by the client that was criminal or fraudulent. In this situation the lawyer has not violated rule 4-1.2(d), because to "counsel or assist" criminal or fraudulent conduct requires knowing that the conduct is of that character.

Third, the lawyer may learn that a client intends prospective conduct that is criminal. As stated in subdivision (b)(1), the lawyer must reveal information in order to prevent these consequences. It is admittedly difficult for a lawyer to "know" when the criminal intent will actually be carried out, for the client may have a change of mind.

Subdivision (b)(2) contemplates past acts on the part of a client that may result in present or future consequences that may be avoided by disclosure of otherwise confidential communications. Rule 4-1.6(b)(2) would now require the lawyer to disclose information reasonably necessary to prevent the future death or substantial bodily harm to another, even though the act of the client has been completed.

The lawyer's exercise of discretion requires consideration of such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction, and factors that may extenuate the conduct in question. Where practical the lawyer should seek to persuade the client to take suitable action. In any case, a

disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to the purpose.

Withdrawal

If the lawyer's services will be used by the client in materially furthering a course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in rule 4-1.16(a)(1).

After withdrawal the lawyer is required to refrain from making disclosure of the client's confidences, except as otherwise provided in rule 4-1.6. Neither this rule nor rule 4-1.8(b) nor rule 4-1.16(d) prevents the lawyer from giving notice of the fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion, document, affirmation, or the like.

Where the client is an organization, the lawyer may be in doubt whether contemplated conduct will actually be carried out by the organization. Where necessary to guide conduct in connection with the rule, the lawyer may make inquiry within the organization as indicated in rule 4-1.13(b).

Dispute concerning lawyer's conduct

A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these rules. In most situations, disclosing information to secure this advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, subdivision (c)(5) permits this disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct.

Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the

conduct or representation of a former client. The lawyer's right to respond arises when an assertion of complicity has been made. Subdivision (c) does not require the lawyer to await the commencement of an action or proceeding that charges complicity, so that the defense may be established by responding directly to a third party who has made the assertion. The right to defend, of course, applies where a proceeding has been commenced. Where practicable and not prejudicial to the lawyer's ability to establish the defense, the lawyer should advise the client of the third party's assertion and request that the client respond appropriately. In any event, disclosure should be no greater than the lawyer reasonably believes is necessary to vindicate innocence, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it, and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

If the lawyer is charged with wrongdoing in which the client's conduct is implicated, the rule of confidentiality should not prevent the lawyer from defending against the charge. A charge can arise in a civil, criminal, or professional disciplinary proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person; for example, a person claiming to have been defrauded by the lawyer and client acting together. A lawyer entitled to a fee is permitted by subdivision (c) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary. As stated above, the lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of disclosure.

<u>Subdivision (c)(7) allows a lawyer to respond to specific allegations published via the internet by a former client (e.g. a negative online review) that the lawyer has engaged in criminal</u>

conduct punishable by law. However, under subdivision (f), even when the lawyer is operating within the scope of the (c)(7) exception, disclosure must be no greater than the lawyer reasonably believes necessary to refute the specific allegations.

Disclosures otherwise required or authorized

The attorney-client privilege is differently defined in various jurisdictions. If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, rule 4-1.6(a) requires the lawyer to invoke the privilege when it is applicable. The lawyer must comply with the final orders of a court or other tribunal of competent jurisdiction requiring the lawyer to give information about the client.

The Rules of Professional Conduct in various circumstances permit or require a lawyer to disclose information relating to the representation. See rules 4-2.3, 4-3.3, and 4-4.1. In addition to these provisions, a lawyer may be obligated or permitted by other provisions of law to give information about a client. Whether another provision of law supersedes rule 4-1.6 is a matter of interpretation beyond the scope of these rules, but a presumption should exist against a supersession.

Detection of Conflicts of Interest

Subdivision (c)(6) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, for example, when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. See comment to rule 4-1.17. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has

terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. The disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, subdivision (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these rules.

Any information disclosed under this subdivision may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. This subdivision does not restrict the use of information acquired by means independent of any disclosure under this subdivision. This subdivision also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, for example, when a lawyer in a firm discloses information to another lawyer in the same firm to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

Acting Competently to Preserve Confidentiality

Paragraph (e) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See rules 4-1.1, 4-5.1 and 4-5.3. The unauthorized access to, or the inadvertent or unauthorized

disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (e) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to forgo security measures that would otherwise be required by this rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, for example state and federal laws that govern data privacy or that impose notification requirements on the loss of, or unauthorized access to, electronic information, is beyond the scope of these rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see the comment to rule 4-5.3.

When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would

otherwise be prohibited by this rule. Whether a lawyer may be required to take additional steps in order to comply with other law, for example state and federal laws that govern data privacy, is beyond the scope of these rules.

Former client

The duty of confidentiality continues after the client-lawyer relationship has terminated. See rule 4-1.9 for the prohibition against using such information to the disadvantage of the former client.

4-3. ADVOCATE
RULE 4-3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case ~~shall~~must:

(a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

(b) not seek to obtain from an unrepresented accused a waiver of important pre-trial rights such as a right to a preliminary hearing; and

(c) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.

Comment

A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations such as making a reasonable effort to assure that the accused has been advised of the right to and the procedure for obtaining counsel and has been given a reasonable opportunity

to obtain counsel so that guilt is decided upon the basis of sufficient evidence. Precisely how far the prosecutor is required to go in this direction is a matter of debate. ~~Florida has adopted the American Bar Association Standards of Criminal Justice Relating to Prosecution Function. This is the product of prolonged and careful deliberation by lawyers experienced in criminal prosecution and defense and should be consulted for further guidance.~~ See also rule 4-3.3(d) governing ex parte proceedings, among which grand jury proceedings are included. Applicable law may require other measures by the prosecutor and knowing disregard of these obligations or systematic abuse of prosecutorial discretion could constitute a violation of rule 4-8.4.

Subdivision (b) does not apply to an accused appearing pro se with the approval of the tribunal, nor does it forbid the lawful questioning of a suspect who has knowingly waived the rights to counsel and silence.

The exception in subdivision (c) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest.

CHAPTER 5. RULES REGULATING TRUST ACCOUNTS
5-1. GENERALLY
RULE 5-1.1 TRUST ACCOUNTS

(a) Nature of Money or Property Entrusted to Attorney.

(1) *Trust Account Required; Location of Trust Account; Commingling Prohibited*. A lawyer must hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with a representation. All funds, including advances for fees, costs, and expenses, must be kept in a separate federally insured bank, credit union, or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third

person and clearly labeled and designated as a trust account except:

(A) A lawyer may maintain funds belonging to the lawyer in the lawyer's trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account; and

(B) A lawyer may deposit the lawyer's own funds into trust to replenish a shortage in the lawyer's trust account. Any deposits by the lawyer to cover trust account shortages must be no more than the amount of the trust account shortage, but may be less than the amount of the shortage. The lawyer must notify the bar's lawyer regulation department immediately of the shortage in the lawyer's trust account, the cause of the shortage, and the amount of the replenishment of the trust account by the lawyer.

(2) *Compliance with Client Directives*. Trust funds may be separately held and maintained other than in a bank, credit union, or savings and loan association account if the lawyer receives written permission from the client to do so and provided that written permission is received before maintaining the funds other than in a separate account.

(3) *Safe Deposit Boxes*. If a lawyer uses a safe deposit box to store trust funds or property, the lawyer must advise the institution in which the deposit box is located that it may include property of clients or third persons.

(b) Application of Trust Funds or Property to Specific Purpose. Money or other property entrusted to a lawyer for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of a lawyer are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over the property on demand is conversion.

(c) Liens Permitted. This subchapter does not preclude the retention of money or other property on which the lawyer has a valid lien for services nor does it preclude the payment of agreed fees from the proceeds of transactions or collection.

(d) Controversies as to Amount of Fees. Controversies as to the amount of fees are not grounds for disciplinary proceedings unless the amount demanded is clearly excessive, extortionate, or fraudulent. In a controversy alleging a clearly excessive, extortionate, or fraudulent fee, announced willingness of an attorney to submit a dispute as to the amount of a fee to a competent tribunal for determination may be considered in any determination as to intent or in mitigation of discipline; provided, such willingness shall not preclude admission of any other relevant admissible evidence relating to such controversy, including evidence as to the withholding of funds or property of the client, or to other injury to the client occasioned by such controversy.

(e) Notice of Receipt of Trust Funds; Delivery; Accounting. On receiving funds or other property in which a client or third person has an interest, a lawyer must promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer must promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, on request by the client or third person, must promptly render a full accounting regarding the property.

(f) Disputed Ownership of Trust Funds. When in the course of representation a lawyer is in possession of property in which 2 or more persons (1 of whom may be the lawyer) claim interests, the property must be treated by the lawyer as trust property, but the portion belonging to the lawyer or law firm must be withdrawn within a reasonable time after it becomes due unless the right of the lawyer or law firm to receive it is disputed, in which event the portion in dispute must be kept separate by the lawyer until the

dispute is resolved. The lawyer must promptly distribute all portions of the property as to which the interests are not in dispute.

(g) Interest on Trust Accounts (IOTA) Program.

(1) *Definitions*. As used in this rule, the term:

(A) "Nominal or short term" describes funds of a client or third person that the lawyer has determined cannot earn income for the client or third person in excess of the costs to secure the income.

(B) "Foundation" means The Florida Bar Foundation, Inc. which serves as the designated IOTA fund administrator and monitors and receives IOTA funds from eligible institutions and distributes IOTA funds consistent with the obligations and directives in this rule.

(C) "IOTA account" means an interest or dividend-bearing trust account benefiting The Florida Bar Foundation established in an eligible institution for the deposit of nominal or short-term funds of clients or third persons.

(D) "Eligible institution" means any bank or savings and loan association authorized by federal or state laws to do business in Florida and insured by the Federal Deposit Insurance Corporation, any state or federal credit union authorized by federal or state laws to do business in Florida and insured by the National Credit Union Share Insurance Fund, or any successor insurance corporation(s) established by federal or state laws, or any open-end investment company registered with the Securities and Exchange Commission and authorized by federal or state laws to do business in Florida, all of which must meet the requirements set out in subdivision (5), below.

(E) "Interest or dividend-bearing trust account" means a federally insured checking account, business or consumer

deposit account or sub account, business or consumer deposit account or sub account that does not have a maturity date (non-maturing deposit), or investment product, including a daily financial institution repurchase agreement or a money market fund. A daily financial institution repurchase agreement must be fully collateralized by, and an open-end money market fund must consist solely of, United States Government Securities. A daily financial institution repurchase agreement may be established only with an eligible institution that is deemed to be "well capitalized" or "adequately capitalized" as defined by applicable federal statutes and regulations. An open-end money market fund must hold itself out as a money market fund as defined by applicable federal statutes and regulations under the Investment Company Act of 1940 and have total assets of at least $250 million. The funds covered by this rule are subject to withdrawal on request and without delay.

(F) A "qualified grantee organization" is a charitable or other nonprofit organization that facilitates or directly provides qualified legal services by qualified legal services providers and that has experience in successfully doing so.

(G) "Qualified legal services" are free legal services provided directly to low-income clients for their civil legal needs in Florida, and includes post-conviction representation, programs that assist low-income clients in navigating legal processes, and the publication of legal forms or other legal resources for use by pro se litigants.

(H) A "qualified legal services provider" is a member of The Florida Bar or other individual authorized by the Rules Regulating The Florida Bar or other law to provide qualified legal services.

(I) "Direct expenses required to administer the IOTA funds" means those actual costs directly incurred by the foundation

in performing the obligations imposed by this rule. Direct expenses required to administer the IOTA funds must not exceed 15% of collected IOTA funds in any fiscal year without the court's prior approval. These costs include preparation of the foundation's annual audit on IOTA funds, compensation of staff who exclusively perform the required collection, distribution, and reporting obligations imposed by this rule and overhead expenses of the foundation directly related to fulfilling its obligations under this rule. Direct expenses required to administer the IOTA funds also include:

(i) actual costs and expenses incurred by the foundation to increase the amount of IOTA funds available for distribution;

(ii) funding of reserves deemed by the foundation to be reasonably prudent to promote stability in distribution of IOTA funds to qualified grantee organizations;

(iii) direct costs related to providing training and technology to qualified grantee organizations, as specified below; and

(iv) direct costs to administer the Loan Repayment Assistance Program and to distribute funds in connection with the program (but not the program funds themselves).

(J) "The court" means the Florida Supreme Court.

(2) *Required Participation*. All nominal or short-term funds belonging to clients or third persons that are placed in trust with any member of The Florida Bar practicing law from an office or other business location within the state of Florida must be deposited into one or more IOTA accounts, unless the funds may earn income for the client or third person in excess of the costs incurred to secure the income, except as provided elsewhere in this chapter. Only trust funds that are nominal or short term must be deposited into an IOTA account. The Florida ~~bar~~Bar

member must certify annually, in writing, that the bar member is in compliance with, or is exempt from, the provisions of this rule.

(3) *Determination of Nominal or Short-Term Funds*. The lawyer must exercise good faith judgment in determining on receipt whether the funds of a client or third person are nominal or short term. In the exercise of this good faith judgment, the lawyer must consider ~~such~~ factors as the:

(A) amount of a client's or third person's funds to be held by the lawyer or law firm;

(B) period of time the funds are expected to be held;

(C) likelihood of delay in the relevant transaction(s) or proceeding(s);

(D) lawyer or law firm's cost of establishing and maintaining an interest-bearing account or other appropriate investment for the benefit of the client or third person; and

(E) minimum balance requirements ~~and/~~or service charges or fees imposed by the eligible institution.

The determination of whether a client's or third person's funds are nominal or short term rests in the sound judgment of the lawyer or law firm. No lawyer will be charged with ethical impropriety or other breach of professional conduct based on the exercise of the lawyer's good faith judgment.

(4) *Notice to Foundation*. Lawyers or law firms must advise the foundation, at its current location posted on The Florida Bar's website, of the establishment of an IOTA account for funds covered by this rule. The notice must include: the IOTA account number as assigned by the eligible institution; the name of the lawyer or law firm on the IOTA account; the eligible institution name; the eligible institution address; and the name

and Florida Bar number of the lawyer, or of each member of The Florida Bar in a law firm, practicing from an office or other business location within the state of Florida that has established the IOTA account.

(5) *Eligible Institution Participation in IOTA*. Participation in the IOTA program is voluntary for banks, credit unions, savings and loan associations, and investment companies. Institutions that choose to offer and maintain IOTA accounts must meet the following requirements:

(A) Interest Rates and Dividends. Eligible institutions must maintain IOTA accounts ~~which~~that pay the highest interest rate or dividend generally available from the institution to its non-IOTA business or consumer account customers, or its non-maturing deposit account customers when IOTA accounts meet or exceed the same minimum balance ~~or other account eligibility~~ qualifications~~, if any~~.

(B) Determination of Interest Rates and Dividends. In determining the highest interest rate or dividend generally available from the institution to its non-IOTA accounts in compliance with subdivision (5)(A), above, eligible institutions may consider factors, in addition to the IOTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided that these factors do not discriminate between IOTA accounts and accounts of non-IOTA customers, and that these factors do not include that the account is an IOTA account. The minimum interest rate paid net of all fees and service charges ("yield") must be no less than 25 basis points (.25%). When the Wall Street Journal Prime Rate ("indexed rate") is between 325 and 499 basis points (3.25% and 4.99%), the yield must be no less than 300 basis points (3.00%) below the indexed rate in effect on the first business day of each month. When the indexed rate is 500 basis points (5.00%) or above, the

yield must be no less than 40% of the indexed rate in effect on the first business day of each month.

(C) Remittance and Reporting Instructions. Eligible institutions must:

(i) calculate and remit interest or dividends on the balance of the deposited funds, in accordance with the institution's standard practice for non-IOTA account customers, less reasonable service charges or fees, if any, in connection with the deposited funds, at least quarterly, to the foundation;

(ii) transmit with each remittance to the foundation a statement showing the name of the lawyer or law firm from whose IOTA account the remittance is sent, the lawyer's or law firm's IOTA account number as assigned by the institution, the rate of interest applied, the period for which the remittance is made, the total interest or dividend earned during the remittance period, the amount and description of any service charges or fees assessed during the remittance period, and the net amount of interest or dividend remitted for the period; and

(iii) transmit to the depositing lawyer or law firm, for each remittance, a statement showing the amount of interest or dividend paid to the foundation, the rate of interest applied, and the period for which the statement is made.

(6) *Small Fund Amounts*. The foundation may establish procedures for a lawyer or law firm to maintain an interest-free trust account for client and third-person funds that are nominal or short term when their nominal or short-term trust funds cannot reasonably be expected to produce or have not produced interest income net of reasonable eligible institution service charges or fees.

(7) *Confidentiality and Disclosure*. The foundation must protect the confidentiality of information regarding a lawyer's or law firm's trust account obtained by virtue of this rule. However, the foundation must, on an official written inquiry of The Florida Bar made in the course of an investigation conducted under these Rules Regulating The Florida Bar, disclose requested relevant information about the location and account numbers of lawyer or law firm trust accounts.

(h) Interest on Funds That Are Not Nominal or Short-Term. A lawyer who holds funds for a client or third person and who determines that the funds are not nominal or short-term as defined in this subchapter may not receive benefit from any interest on funds held in trust.

(i) Unidentifiable Trust Fund Accumulations and Trust Funds Held for Missing Owners. When a lawyer's trust account contains an unidentifiable accumulation of trust funds or property, or trust funds or property held for missing owners, the funds or property must be designated as unidentifiable or held for missing owners. The lawyer must make a diligent search and inquiry to determine the beneficial owner of any unidentifiable accumulation or the address of any missing owner. If the beneficial owner of an unidentified accumulation is determined, the funds must be properly identified as trust property in the lawyer's possession. If a missing beneficial owner is located, the trust funds or property must be paid over or delivered to the beneficial owner if the owner is then entitled to receive the funds or property. Trust funds and property that remain unidentifiable and funds or property that are held for missing owners must be disposed of as provided in applicable Florida law after diligent search and inquiry fail to identify the beneficial owner or owner's address.

(j) Disbursement against Uncollected Funds. A lawyer generally may not use, endanger, or encumber money held in trust for a client for purposes of carrying out the business of another client without the permission of the owner given after full disclosure

of the circumstances. However, certain categories of trust account deposits are considered to carry a limited and acceptable risk of failure so that disbursements of trust account funds may be made in reliance on these deposits without disclosure to and permission of affected clients. Except for disbursements based upon any of the 6 categories of limited-risk uncollected deposits enumerated below, a lawyer may not disburse funds held for a client or on behalf of that client unless the funds held for that client are collected funds. For purposes of this provision, "collected funds" means funds deposited, finally settled, and credited to the lawyer's trust account. The lawyer may disburse uncollected funds from the trust account in reliance on the deposit when the deposit is made by a:

(1) certified check or cashier's check;

(2) check or draft representing loan proceeds issued by a federally or state-chartered bank, savings bank, savings and loan association, credit union, or other duly licensed or chartered institutional lender;

(3) bank check, official check, treasurer's check, money order, or other instrument issued by a bank, savings and loan association, or credit union when the lawyer has reasonable and prudent grounds to believe the instrument will clear and constitute collected funds in the lawyer's trust account within a reasonable period of time;

(4) check drawn on the trust account of a lawyer licensed to practice in the state of Florida or on the escrow or trust account of a real estate broker licensed under applicable Florida law when the lawyer has a reasonable and prudent belief that the deposit will clear and constitute collected funds in the lawyer's trust account within a reasonable period of time;

(5) check issued by the United States, the state of Florida, or any agency or political subdivision of the state of Florida;

(6) check or draft issued by an insurance company, title insurance company, or a licensed title insurance agency authorized to do business in the state of Florida and the lawyer has a reasonable and prudent belief that the instrument will clear and constitute collected funds in the trust account within a reasonable period of time.

A lawyer's disbursement of funds from a trust account in reliance on deposits that are not yet collected funds in any circumstances other than those set forth above, when it results in funds of other clients being used, endangered, or encumbered without authorization, may be grounds for a finding of professional misconduct. In any event, disbursement is at the risk of the lawyer making the disbursement. If any of the deposits fail, the lawyer, on obtaining knowledge of the failure, must immediately act to protect the property of the lawyer's other clients. However, the lawyer will not be guilty of professional misconduct if the lawyer accepting any check that is later dishonored personally pays the amount of any failed deposit or secures or arranges payment from sources available to the lawyer other than trust account funds of other clients.

(k) Overdraft Protection Prohibited. A lawyer must not authorize overdraft protection for any account that contains trust funds.

Comment

A lawyer must hold property of others with the care required of a professional fiduciary. This chapter requires maintenance of a bank or savings and loan association account, clearly labeled as a trust account and in which only client or third party trust funds are held.

Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances.

All property that is the property of clients or third persons should be kept separate from the lawyer's business and personal property and, if money, in 1 or more trust accounts, unless requested otherwise in writing by the client. Separate trust accounts may be warranted when administering estate money or acting in similar fiduciary capacities.

A lawyer who holds funds for a client or third person and who determines that the funds are not nominal or short-term as defined elsewhere in this subchapter should hold the funds in a separate interest-bearing account with the interest accruing to the benefit of the client or third person unless directed otherwise in writing by the client or third person.

Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds must be promptly distributed.

Third parties, such as a client's creditors, may have lawful claims against funds or other property in a lawyer's custody. A lawyer may have a duty under applicable law to protect these third-party claims against wrongful interference by the client. When the lawyer has a duty under applicable law to protect the third-party claim and the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. However, a lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, and, where appropriate, the lawyer should consider the possibility of depositing the property or funds in dispute into the registry of the applicable court so that the matter may be adjudicated.

The Supreme Court of Florida has held that lawyer trust accounts may be the proper target of garnishment actions. *See Arnold, Matheny and Eagan, P.A. v. First American Holdings, Inc.*, 982 So. 2d 628 (Fla. 2008). Under certain circumstances lawyers may have a legal duty to protect funds in the lawyer's trust account that have been assigned to doctors, hospitals, or other health care providers directly or designated as Medpay by an insurer. *See The Florida Bar v. Silver*, 788 So. 2d 958 (Fla. 2001); *The Florida Bar v. Krasnove*, 697 So. 2d 1208 (Fla. 1997); *The Florida Bar v. Neely*, 587 So. 2d 465 (Fla. 1991); Florida Ethics Opinion 02-4.

The obligations of a lawyer under this chapter are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves only as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this rule. However, where a lawyer is an escrow agent and represents a party to a transaction involving the escrowed funds, the Supreme Court of Florida has held that lawyers acting as escrow agents have a fiduciary duty to protect the interests of all parties having an interest in escrowed funds whether the funds are in a lawyer's trust account or a separate escrow account. *The Florida Bar v. Golden*, 566 So. 2d 1286 (Fla. 1990); *See also The Florida Bar v. Hines*, 39 So. 3d 1196 (Fla. 2010); *The Florida Bar v. Marrero*, 157 So. 3d 1020 (Fla. 2015).

Each lawyer is required to be familiar with and comply with the Rules Regulating Trust Accounts as adopted by the Supreme Court of Florida.

Money or other property entrusted to a lawyer for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of a lawyer are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over the property on demand must be a conversion. This does not preclude the retention of money or other

property on which a lawyer has a valid lien for services or to preclude the payment of agreed fees from the proceeds of transactions or collections.

Advances for fees and costs (funds against which costs and fees are billed) are the property of the client or third party paying same on a client's behalf and are required to be maintained in trust, separate from the lawyer's property. Retainers are not funds against which future services are billed. Retainers are funds paid to guarantee the future availability of the lawyer's legal services and are earned by the lawyer on receipt. Retainers, being funds of the lawyer, may not be placed in the client's trust account.

The test of excessiveness found elsewhere in the Rules Regulating The Florida Bar applies to all fees for legal services including retainers, nonrefundable retainers, and minimum or flat fees.

Foundation Provision of Training and Technology; Grantees' Funds from Non-IOTA Sources

While the foundation may use IOTA funds to provide training and technology to qualified grantee organizations, and qualified grantee organizations may use disbursed IOTA funds to pay the foundation for that training and technology, the foundation may not condition a grant on payment for these, or any, services provided by the foundation to the qualified grantee organization. For instance, the foundation may arrange for bulk purchasing of technology which can then be provided to a qualified grantee organization at a lower cost than would be otherwise available to the qualified grantee organization, but the foundation may not, as a grant condition, require the grantee to pay the foundation for such services. A qualified grantee organization should, but is not required to, receive funds from sources other than IOTA funds to support its overall mission.

CHAPTER 11. RULES GOVERNING THE LAW SCHOOL PRACTICE PROGRAM
11-1. GENERALLY
RULE 11-1.1 PURPOSE

The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for ~~such~~legal services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rules are adopted.

RULE 11-1.2 ACTIVITIES

(a) Definition. A law school practice program is a credit-bearing clinical program coordinated by a law school in which students directly provide representation to clients in litigation under the supervision of a lawyer.

(b) Appearance in Court or Administrative Proceedings. An eligible law student may appear in any court or before any administrative tribunal in this state on behalf of any indigent person if the person on whose behalf the student is appearing has ~~indicated in writing~~ consented in writing to that appearance and the supervising lawyer has ~~also indicated in writing approval of~~approved that appearance in writing. In those cases in which the indigent person has a right to appointed counsel, the supervising ~~attorney shall~~lawyer must be personally present at all critical stages of the proceeding. In all cases, the supervising ~~attorney shall~~lawyer must be personally present when required by the court or administrative tribunal, ~~who~~which ~~shall~~ determines the extent of the eligible law student's participation in the proceeding.

(c) Appearance for the State in Criminal Proceedings. An eligible law student may ~~also~~ appear in any criminal matter on behalf of the state with the written approval of the state attorney or the attorney general and of the supervising lawyer. ~~In such cases the~~The supervising ~~attorney shall~~lawyer must be personally present

when required by the court, ~~who~~which ~~shall~~ determines the extent of the law student's participation in the proceeding.

(d) Appearance on Behalf of Governmental Officers or Entities. An eligible law student may ~~also~~ appear in any court or before any administrative tribunal in any civil matter on behalf of the state, state officers, or state agencies, or on behalf of a municipality or county~~, provided~~ that ~~the municipality or county~~ has a full-time legal staff~~,~~ with the written approval of the ~~attorney~~lawyer representing the state, state officer, state agency, municipality, or county. The ~~attorney~~lawyer representing the state, state officer, state agency, municipality, or county ~~shall~~must supervise the law student and ~~shall~~ be personally present when required by the court or administrative tribunal, which ~~shall~~ determines the extent of the law student's participation in the proceeding.

(e) Filing of Consent and Approval. In each case, the written consent and approval referred to above ~~shall~~must be filed in the record of the case and ~~shall be~~ brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. If the client is the state attorney, state officer, or governmental entity, ~~it shall be sufficient to file~~filing the written consent and approval with the clerk and each presiding judge once for the term of the student's participation is sufficient.

~~**(f) Fixing of Standards of Indigence.** The board of governors shall fix the standards by which indigence is determined under this chapter upon the recommendation of the largest voluntary bar association located in the circuit in which a program is implemented hereunder.~~

RULE 11-1.3 REQUIREMENTS AND LIMITATIONS

In order to make an appearance ~~pursuant to~~under this chapter, the law student must:

(a) ~~have~~ register~~ed~~ with the Florida Board of Bar Examiners as a certified legal intern registrant; ~~have paid~~pay ~~the~~a $75 registration fee ~~for such registration~~ if the registration is ~~completed~~filed within the first 250 days of the registrant's law school education or $150 if the registration is filed after the 250-day deadline (any fee paid under this subdivision will be deducted from the applicable application fee if the certified legal intern registrant later applies for admission to The Florida Bar); and ~~have received~~receives a letter of clearance as to character and fitness from the Florida Board of Bar Examiners; ~~any fee paid under this subdivision shall be deducted from the applicable application fee should the certified legal intern registrant subsequently decide to apply for admission to The Florida Bar~~;

(b) be ~~duly~~ enrolled in the United States in, and appear~~ing~~ as part of a law school practice program of, a law school approved by the American Bar Association;

(c) have completed legal studies amounting to at least 4 semesters or 6 quarters for which the student has received not less than 48 semester hours or 72 quarter hours of academic credit or the equivalent ~~if the school is on some other basis~~;

(d) be certified by the dean of the student's law school as being of good character and competent legal ability and as being adequately trained to perform as a legal intern in a law school practice program;

(e) be introduced to the court in which the student is appearing by ~~an attorney~~a lawyer admitted to practice in that court;

(f) neither ask for nor receive any compensation or remuneration of any kind for the student's services from the person on whose behalf the student renders services~~, but this shall~~; although this does not prevent a state attorney, public defender, legal aid organization, ~~or~~ state officer, or governmental entity from paying compensation to the eligible law student ~~(~~nor ~~shall~~does it

prevent ~~any of the foregoing~~them from ~~making such charge~~charging for ~~its~~ services as ~~it~~they may ~~otherwise~~ require~~)~~; and

(g) certify in writing that the law student has read and ~~is familiar with~~and will abide by the Rules of Professional Conduct as adopted by ~~this court and will abide by the provisions thereof~~The Supreme Court of Florida.

RULE 11-1.4 CERTIFICATION OF STUDENT

The certification of a student by the law school dean or the dean's designee:

(a) ~~Shall~~must be filed with the clerk of ~~this court~~the Supreme Court of Florida, ~~and~~where~~, unless it is sooner withdrawn,~~ it ~~shall~~ remains in effect ~~until the expiration of~~for 18 months after it is filed unless withdrawn sooner~~.~~;

(b) ~~May~~may be withdrawn by the dean, or the dean's designee, at any time by mailing a notice, that does not need to include the cause for withdrawal, ~~to that effect~~ to the clerk of ~~this court~~the Supreme Court of Florida~~. It is not necessary that the notice state the cause for withdrawal.~~;

(c) ~~May~~may be terminated by ~~this court~~the Supreme Court of Florida at any time without notice or hearing and without any showing of cause. ~~Notice of the termination may be filed with the clerk of the court.~~

RULE 11-1.5 APPROVAL OF LEGAL AID ORGANIZATION

Legal aid organizations that provide a majority of their legal services to the indigent and use law student interns ~~pursuant to~~under this chapter must be approved by the ~~supreme court~~Supreme Court of Florida. A legal aid organization seeking approval ~~shall~~must file a petition with the clerk of the court certifying that it is a nonprofit organization and ~~reciting~~stating with specificity the:

(a) ~~the~~ structure of the organization and whether it accepts funds from its clients;

(b) ~~the~~ major sources of funds used by the organization;

(c) ~~the~~ criteria used to determine potential clients' eligibility for legal services performed by the organization;

(d) ~~the~~ types of legal and nonlegal services performed by the organization; and

(e) ~~the~~ names of all Florida Bar members ~~of The Florida Bar~~ who are employed by the organization or who regularly perform legal work for the organization.

Legal aid organizations ~~approved on the effective date of~~under this chapter ~~need not reapply for approval, but all such organizations~~ are under a continuing duty to notify the court promptly of any significant modification to their structure or sources of funds.

RULE 11-1.6 OTHER ACTIVITIES

(a) Preparation of Documents; Assistance of Indigents. ~~In addition, an~~An eligible law student may engage in other activities~~,~~ under the general supervision of a member of ~~the bar of this court~~The Florida Bar, but outside the personal presence of that lawyer, including preparation of:

(1) ~~preparation of~~ pleadings and other documents to be filed in any matter in which the student is eligible to appear, ~~but such pleadings or documents must be~~ signed by the supervising lawyer;

(2) ~~preparation of~~ briefs, abstracts, and other documents to be filed in appellate courts of this state, ~~but such documents must be~~ signed by the supervising lawyer;

(3) ~~except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this court, assistance~~applications and supporting documents for post-conviction relief to indigent inmates ~~or~~of correctional institutions or other persons who request ~~such~~ assistance ~~in preparing applications for and supporting documents for postconviction relief~~, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this court. If there is ~~an attorney~~a lawyer of record in the matter, all ~~such~~ assistance must be supervised by ~~the attorney of record,~~ and all documents submitted to the court must be signed by, that lawyer~~ and all documents submitted to the court on behalf of such a client must be signed by the attorney of record~~.

(b) Identification of Student in Documents and Pleadings. Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If the student participated in drafting only a portion of it, that fact may be mentioned.

(c) Participation in Oral Argument. An eligible law student may participate in oral argument in appellate courts but only in the presence of the supervising lawyer.

RULE 11-1.7 SUPERVISION

~~The member of the bar under whose supervision an eligible law student does any of the things permitted by~~A supervising lawyer under this chapter must:

(a) be a ~~lawyer~~a member of The Florida Bar in good standing and eligible to practice law in Florida whose service as a supervising lawyer for this program is approved by the dean of the law school in which the law student is enrolled~~ and who is a member of The Florida Bar in good standing and eligible to practice law in Florida~~;

(b) be a lawyer employed by a state attorney, public defender, an approved legal aid organization, a state officer, or a governmental entity enumerated in rule 11-1.2~~(d)~~;

(c) assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work; and

(d) assist the student in the student's preparation to the extent the supervising lawyer considers it necessary.

~~RULE 11-1.8 MISCELLANEOUS~~

~~Nothing contained in this chapter shall affect the right of any person who is not admitted to the practice of law to do anything that the person might lawfully do prior to the adoption of this chapter.~~

RULE 11-1.~~9~~8 CONTINUATION OF PRACTICE PROGRAM AFTER COMPLETION OF LAW SCHOOL PROGRAM OR GRADUATION

(a) Certification. A law student at an American Bar Association-approved Florida law school who has filed an application for admission to The Florida Bar, ~~has~~ received an initial clearance letter as to character and fitness from the Florida Board of Bar Examiners, ~~has~~ completed a law school practice program awarding a minimum of 3 semester credit hours or the equivalent or requiring at least 200 hours of actual participation in the program, and ~~has~~ had certification withdrawn by the law school dean by reason of successful completion of the program or ~~has~~ graduated from law school following successful completion of the program may make appearances for any of the same supervisory authorities under the same circumstances and restrictions that were applicable to students in law school programs ~~pursuant to~~under this chapter if the supervising ~~attorney~~lawyer:

(1) files a certification in the same manner and subject to the same limitations as that required to be filed by the law school

dean; ~~and files a separate certificate of the dean stating that the law student has successfully completed the law school practice program. This certification may be withdrawn in the same manner as provided for the law school dean's withdrawal of certification. The maximum term of certification for graduates shall be 12 months from graduation; and~~.

(2) further certifies that the ~~attorney will~~lawyer assumes the duties and responsibilities of ~~the~~a supervising ~~attorney~~lawyer ~~as provided by other provisions of~~under this chapter~~.~~; and

(3) files a separate certificate of the dean stating that the law student has successfully completed the law school practice program. This certification may be withdrawn in the same manner as provided for the law school dean's withdrawal of certification. ~~The maximum term of certification for graduates shall be 12 months from graduation; and~~.

(b) Graduates of Non-Florida Law Schools. A graduate of an American Bar Association-approved non-Florida law school may qualify for continuation in the practice program if the graduate has ~~made application~~filed an application for admission to The Florida Bar, ~~and~~ received a letter of initial clearance as to character and fitness from the Florida Board of Bar Examiners, and has successfully completed a clinical program in law school that met the definition of a law school practice program under rule 11-1.2~~(a) and~~ that awarded a minimum of 3 semester hours or the equivalent or required at least 200 hours of actual participation in the program.

(c) Term of Certification. The maximum term of certification for graduates is 12 months from the date of graduation.

(~~e~~d) Termination of Certification. ~~Failure of a post-graduate certified legal intern to do any of the following shall result in the automatic termination of certification:~~

~~(1) failure to take the next available Florida bar examination;~~

~~(2) failure to take the second available Florida bar examination, if unsuccessful on the first administration;~~

~~(3) failure to pass every portion of the Florida bar examination by at least the second administration, if unsuccessful on the first administration; or~~

~~(4) denial of admission to The Florida Bar.~~Failure to take the next available Florida bar examination, failure of any portion of the Florida bar examination on the second administration if a second administration is required, or denial of admission to The Florida Bar terminates certification under this rule.

(e) Withdrawal of Certification. Certification may be withdrawn in the same manner as the law school dean's withdrawal of certification.

RULE 11-1.~~10~~9 CERTIFICATION OF MEMBERS OF OUT-OF-STATE BARS

(a) Persons Authorized to Appear. A member of an out-of-state bar may practice law in Florida ~~pursuant to~~under this chapter if the member of the out-of-state bar:

(1) ~~the appearance is made as~~is an employee of the attorney general, a state attorney, a public defender, or the capital collateral representative; ~~and~~

(2) ~~the member of an out-of-state bar has made application~~has applied for admission to The Florida Bar; ~~and~~

(3) ~~the member of an out-of-state bar~~ submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes; and

(4) ~~the member of an out-of-state bar~~ is in good standing with that bar, is eligible to practice law in that jurisdiction, and is not currently the subject of disciplinary proceedings.

(b) Term of Certification. The maximum term of certification under this section is 12 months from the date of certification~~; provided, however, that the certification may extend~~but may be extended beyond 12 months if the certificate holder has passed the Florida bar examination and is awaiting the results of the character and fitness evaluation of the Florida Board of Bar Examiners. ~~Certification may be withdrawn in the same manner as provided for the withdrawal of certification by a law school dean.~~

(c) Termination of Certification. Failure to take the next available Florida bar examination, failure of any portion of the Florida bar examination, or denial of admission to The Florida Bar terminates certification under this rule.

(d) Withdrawal of Certification. Certification may be withdrawn in the same manner as the law school dean's withdrawal of certification.

CHAPTER 19 CENTER FOR PROFESSIONALISM

~~RULE 19-1.5 RELATIONSHIP TO THE SUPREME COURT COMMISSION ON PROFESSIONALISM~~

~~The commission on professionalism has been established by administrative order of the Supreme Court of Florida and has been charged with the planning and implementation of an ongoing plan and policy to ensure that the fundamental ideals and values of the justice system and the legal profession are inculcated in all of those persons serving or seeking to serve in the system.~~

~~The center shall endeavor to assist the commission in this regard consistent with the center's funding, staffing, operational, and reporting structure.~~

CHAPTER 20 FLORIDA REGISTERED PARALEGAL PROGRAM

20-5. INEGIGIBILITY FOR REGISTRATION OR RENEWAL RULE 20-5.1 GENERALLY

~~The following individuals are~~A person is ineligible for registration ~~as a Florida Registered Paralegal~~ or ~~for~~ renewal of a registration ~~that was previously granted~~ to become a Florida Registered Paralegal if that person:

(a) ~~a person who~~ is currently suspended or disbarred or ~~who~~ has resigned or been revoked in lieu of discipline from the practice of law in any state or jurisdiction;

(b) ~~a person who~~ has been convicted of a felony in any state or jurisdiction and ~~whose~~has not had the person's civil rights ~~have not been~~ restored;

(c) ~~a person who~~ has been found to have engaged in the unlicensed ~~(~~or unauthorized~~)~~ practice of law in any state or jurisdiction within 7 years of the application date;

(d) ~~a person whose~~has had that person's registration or license to practice ~~has been~~ terminated or revoked for disciplinary reasons by a professional organization, court, disciplinary board, or agency in any jurisdiction;

(e) ~~a person who~~ is no longer primarily performing paralegal work as defined elsewhere in these rules;

(f) ~~a person who~~ fails to comply with prescribed continuing education requirements as set forth elsewhere in this chapter; ~~or~~

(g) ~~a person who~~ is providing services directly to the public as permitted by case law and subchapter 10-2 of these rules; or

(h) engages in conduct involving dishonestly, fraud, deceit, or misrepresentation in the application or reapplication process.