



Don't Trip Over the Ethical Fault Line

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**This is not intended, nor should it be used as, a substitute for legal advice or opinion, which can be rendered only when related to specific fact situations. The views expressed by the speakers reflect their personal views and do not necessarily reflect the official position of CSC or the employers of any speakers.*

Agenda

1 Rules

2 Scenarios

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Rules

Model 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.”

Model Rule 1.1, Comment 5

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.

Model Rule 1.1, Comment 8

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, *including the benefits and risks associated with relevant technology* [emphasis added], engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

California adopted on March 22, 2021 as Comment 1 to Rule 1.1

Jurisdictions Not Adopting Comment 8

- Alabama
- Georgia
- Maine
- Maryland
- Mississippi
- Nevada
- New Jersey
- Oregon
- Rhode Island
- South Dakota
- Washington, DC

Model Rule 1.1 Is Flexible

The Chief Reporter of the ABA Commission on Ethics 20/20 opined that "a competent lawyer's skill set needs to evolve along with technology itself," and "the specific skills lawyers will need in the decades ahead are difficult to imagine."

Model Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer

A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Model Rule 1.3: Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Model Rule 1.6: (a) Confidentiality of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

Model Rule 1.6: (b) Confidentiality of Information

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

(6) to comply with other law or a court order; or

(7) to detect and resolve conflicts of interest 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.

Model Rule 1.6: (c) Confidentiality of Information

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Model Rule 1.7: Client-Lawyer Relationship

a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

Model Rule 1.13: Organization as Client

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

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

Model Rule 2.1: Advisor

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

Model Rule 4.1: Truthfulness in Statements to Others

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Model Rule 4.3: Dealing with Unrepresented Person

Transactions With Persons Other Than Clients

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Rule 5.1: Responsibilities of a Partner or Supervisory Lawyer

Law Firms And Associations

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

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

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

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

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Rule 6.1: Voluntary Pro Bono Publico Service

Public Service

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Model Rule 8.3: Reporting Professional Misconduct

Maintaining The Integrity of The Profession

(a) A lawyer **who knows** [emphasis added] that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

The ABA and Artificial Intelligence

Resolution 604 (February 6, 2023) addresses how attorneys, regulators and other stakeholders should assess issues of accountability, transparency and traceability in AI and calls on organizations that design, develop, deploy and use AI to follow these guidelines:

- Developers of AI should ensure their products, services, systems and capabilities are subject to human authority, oversight and control.
- Organizations should be accountable for consequences related to their use of AI, including any legally cognizable injury or harm caused by their actions, unless they have taken reasonable steps to prevent harm or injury.
- Developers should ensure the transparency and traceability of their AI and protect related intellectual property by documenting key decisions made regarding the design and risk of data sets, procedures and outcomes underlying their AI.



Scenarios

The Shiny New Tool

You are the sole attorney for the company and your CEO comes to you with an urgent request. The counterparty in which you've been in a long-running dispute has suddenly reached out to settle. The counterparty has a hard deadline of 48 hours as they're closing on a transaction that has prompted their sudden desire and urgency to settle the dispute. This dispute has been a thorn in the company's side and the CEO is asking you to turn a draft settlement agreement around ASAP.

You've been using ChatGPT from OpenAI to do research and summarize case law. You believe the fastest way to draft the settlement agreement would be to use ChatGPT.

What do you need to consider before using ChatGPT to draft the settlement agreement?

The New Guy

You are the new GC of a privately held Fintech startup that is working on a solution to apply blockchain technologies for banks to comply with AML laws, first in the U.S. and then abroad. This is your first in-house role, and you are quite excited to strengthen your personal brand on technical competence after developing e-discovery expertise in private practice.

In welcoming you, the CIO states: "Our promise to customers is to increase compliance and reduce costs using AI. The founder needs a memo from you giving a legal perspective on DAOs and what is going on in the regulatory landscape – look closely at FinCen. Remember that our marketing will include a thorough legal risk analysis for early adopters. Make sure our security systems are adequate and our policies on passwords, encryption, anti-virus, all our stuff in the cloud, etc. is up to speed. You might need to review and fix our third-party contracts. Mark everything as privileged and remember open source is in our bones. I am really psyched that we hired someone with deep technical competence."

Where do you even begin?

Pillow Talk

You're the CLO at a publicly-traded company. Like many others in your industry, your company uses AI in several areas including in hiring. One of your younger attorneys maintains a consumer-oriented blog, several social media accounts related to law and technology and is a frequently criticizes Big Tech.

As the attorney has gained national prominence, senior management and HR have become increasingly uncomfortable with the attorney's activism and are concerned how this may affect the company's reputation and brand. Just this past week, the attorney wrote a blog post highly critical of the use of AI in the hiring process and extensively discussed the vendor your company uses. The attorney has also been interviewed in the mainstream media and has made several cable news appearances discussing various privacy laws around the country as they relate to individuals.

You have been asked to investigate and learn that this employee had been in a romantic relationship with an employee of the vendor AI company. What should you consider and do you have any ethical worries?

The Owner and the Friend

You're the solo attorney for a rapidly growing eCommerce company whose CEO is a longtime friend who asked you to join as both an in-house attorney and advisor given you also have an MBA. The company imports goods from overseas and sells them on various websites.

The CEO has also started several other separately organized businesses in various states where you are not admitted to practice. Although you're only counsel for the eCommerce company, the CEO regularly asks for legal advice relating to her other businesses and even personal legal matters.

The CEO is determined and often dismisses your advice. For example, you've advised her that the business has outdated website privacy policies, inadequate cyber insurance, and cannot use images on her websites without licensing agreements.

You don't want to leave this position as you enjoy the work, your colleagues, and are compensated well. However, how can you better manage this situation within professional responsibility guidelines?

Non-Profit Board Service

You're a deputy general counsel specializing in IP at a large company in the financial services industry. Your office location supports a local private K-12 school which serves more than 500 children in a disadvantaged area. Your company gives the school a considerable operating grant every year to help meet operating expenses and employees are encouraged to volunteer with the school and students.

Someone at your company always holds a seat on the board and you were asked to serve to fill a vacancy. The principal and chair told you that they were eager to have you join the board as they have never had an attorney serve and they hope that you can help the school minimize its legal spend.

Recently the school received a large grant and the board had decided to upgrade its IT infrastructure. They have asked you to gather bids, review proposals, and make a vendor recommendation. You were also asked to update the school's electronic device and internet usage policies for employee and students which was last revised in the mid-2010s. The school would also like to expand to include a pre-K program and has asked you to speak to your company to fund it.

What should you do, considering the ethics rules?

The Curious Coworkers

You're employment counsel for a business unit of an international technology company. You get along well with the leadership of your unit, some of whom have even asked your advice about family law, estate planning, and other personal legal issues.

The hiring manager came to you in a panic today about a newly hired candidate with specialized skills who is starting in two days. Several employees in the department, through their own internet research on the candidate who has a unique name, found several social media accounts for someone with that name. One such account is for a video channel where this person and his friends discuss their sexual activities, including such activities at their respective workplaces. The existing employees expressed alarm at having to work with this person.

Your company has clear hiring guidelines, and HR and hiring managers do not perform any internet or social media searches on job candidates.

The hiring manager asks for your advice and what can be done.



Thank You

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Appendix

ABA Model Rules, Exceptions and Reports

- https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/
- https://www.americanbar.org/groups/professional_responsibility/policy/rule_charts/
- <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2019/112-annual-2019.pdf>
- <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Current-Rules>

Rule 1.1: Competence – California

- (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.
- (b) For purposes of this rule, “competence” in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably* necessary for the performance of such service.
- (c) If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes* to be competent, (ii) acquiring As of July 12, 2021 2 sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes* to be competent.
- (d) In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required if referral to, or association or consultation with, another lawyer would be impractical. Assistance in an emergency must be limited to that reasonably* necessary in the circumstances.

Rule 1.1: Comment 8 – *California Follows*

Maintaining Competence:

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Rule 1.3: Diligence – *California*

(a) A lawyer shall not intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.

(b) For purposes of this rule, “reasonable diligence” shall mean that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.

Rule 1.6: Confidentiality of Information – California

- (a) A lawyer shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e)(1) unless the client gives informed consent, or the disclosure is permitted by paragraph (b) of this rule.
- (b) A lawyer may, but is not required to, reveal information protected by Business and Professions Code section 6068, subdivision (e)(1) to the extent that the lawyer reasonably believes the disclosure is necessary to prevent a criminal act that the lawyer reasonably believes is likely to result in death of, or substantial bodily harm to, an individual, as provided in paragraph (c).
- (c) Before revealing information protected by Business and Professions Code section 6068, subdivision (e)(1) to prevent a criminal act as provide in paragraph (b), a lawyer shall, if reasonable under the circumstances: (1) make a good faith effort to persuade the client: (i) not to commit to or continue the criminal act; (ii) to pursue a course of conduct that will prevent the threatened death or substantial bodily harm; or do both (i) and (ii); and (2) inform the client, at an appropriate time, of the lawyer’s ability or decision to reveal information protected by Business and Professions Code section 6068, subdivision (e)(1) as provided by paragraph (b).
- (d) In revealing information protected by Business and Professions Code section 6068, subdivision (e)(1) as provided in paragraph (b), the lawyer’s disclosure must be no more than is necessary to prevent the criminal act, given the information known to the lawyer at the time of the disclosure.
- (e) A lawyer who does not reveal information permitted by paragraph (b) does not violate this rule.

Rule 1.7: Client-Lawyer Relationship – California

A lawyer shall not, without informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.

(b) A lawyer shall not, without informed written consent* from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person,* or by the lawyer's own interests.

(c) Even when a significant risk requiring a lawyer to comply with paragraph (b) is not present, a lawyer shall not represent a client without written* disclosure of the relationship to the client and compliance with paragraph (d) where: (1) the lawyer has, or knows* that another lawyer in the lawyer's firm* has, a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter; or (2) the lawyer knows* or reasonably should know* that another party's lawyer is a spouse, parent, child, or sibling of the lawyer, lives with the lawyer, is a client of the lawyer or another lawyer in the lawyer's firm,* or has an intimate personal relationship with the lawyer.

(d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), and (c), and: As of October 28, 2021 3 of 11 (1) the lawyer reasonably believes* that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; and (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

(e) For purposes of this rule, “matter” includes any judicial or other proceeding, application, request for a ruling or other determination, contract, transaction, claim, controversy, investigation, charge, accusation, arrest, or other deliberation, decision, or action that is focused on the interests of specific persons,* or a discrete and identifiable class of persons.*

Rule 1.13: Organization as Client – California

- (a) A lawyer employed or retained by an organization shall conform his or her representation to the concept that the client is the organization itself, acting through its duly authorized directors, officers, employees, members, shareholders, or other constituents overseeing the particular engagement.
- (b) If a lawyer representing an organization knows* that a constituent is acting, intends to act or refuses to act in a matter related to the representation in a manner that the lawyer knows* or reasonably should know* is (i) a violation of a legal obligation to the organization or a violation of law reasonably* imputable to the organization, and (ii) likely to result in substantial* injury to the organization, the lawyer shall proceed as is reasonably* necessary in the best lawful interest of the organization. Unless the lawyer reasonably believes* that it is not necessary in the best lawful interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.
- (c) In taking any action pursuant to paragraph (b), the lawyer shall not reveal information protected by Business and Professions Code section 6068, subdivision (e).
- (d) If, despite the lawyer's actions in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon action, or fails to act, in a manner that is a violation of a legal obligation to the organization or a violation of law reasonably* imputable to the organization, and is likely to result in substantial* injury to the organization, the lawyer shall continue to proceed as is reasonably* necessary in the best lawful interests of the organization. The lawyer's response may include the lawyer's right and, where appropriate, duty to resign or withdraw in accordance with rule 1.16.
- (e) same as MR
- (f) In dealing with an organization's constituents, a lawyer representing the organization shall explain the identity of the lawyer's client whenever the lawyer knows* or reasonably should know* that the organization's interests are adverse to those of the constituent(s) with whom the lawyer is dealing.
- (g) A lawyer representing an organization may also represent any of its constituents, subject to the provisions of rules 1.7, 1.8.2, 1.8.6, and 1.8.7. If the organization's consent to the dual representation is required by any of these rules, the consent shall be given by an appropriate official, constituent, or body of the organization other than the individual who is to be represented, or by the shareholders.

Rule 1.13: Organization as Client – California

Comment:

[4] In determining how to proceed under paragraph (b), the lawyer should consider the seriousness of the violation and its potential consequences, the responsibility in the organization and the apparent motivation of the person* involved, the policies of the organization concerning such matters, and any other relevant considerations. Ordinarily, referral to a higher authority would be necessary. In some circumstances, however, the lawyer may ask the constituent to reconsider the matter. For example, if the circumstances involve a constituent's innocent misunderstanding of law and subsequent acceptance of the lawyer's advice, the lawyer may reasonably* conclude that the best interest of the organization does not require that the matter be referred to higher authority. If a constituent persists in conduct contrary to the lawyer's advice, it will be necessary for the lawyer to take steps to have the matter reviewed by a higher authority in the organization. If the matter is of sufficient seriousness and importance or urgency to the organization, referral to higher authority in the organization may be necessary even if the lawyer has not communicated with the constituent. For the responsibility of a subordinate lawyer in representing an organization, see rule 5.2.

Rule 2.1: Advisor – *California*

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice.

Rule 4.1: Truthfulness in Statements to Others – California

In the course of representing a client a lawyer shall not knowingly:*

(a) make a false statement of material fact or law to a third person;*

or

(b) fail to disclose a material fact to a third person* when disclosure is necessary to avoid assisting a criminal or fraudulent* act by a client, unless disclosure is prohibited by Business and Professions Code section 6068, subdivision (e)(1) or rule 1.6.

Rule 4.3: Dealing with Unrepresented Person - California

Transactions With Persons Other Than Clients

(a) In communicating on behalf of a client with a person* who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows* or reasonably should know* that the unrepresented person* incorrectly believes* the lawyer is disinterested in the matter, the lawyer shall make reasonable* efforts to correct the misunderstanding. If the lawyer knows* or reasonably should know* that the interests of the unrepresented person* are in conflict with the interests of the client, the lawyer shall not give legal advice to that person,* except that the lawyer may, but is not required to, advise the person* to secure counsel.

(b) In communicating on behalf of a client with a person* who is not represented by counsel, a lawyer shall not seek to obtain privileged or other confidential information the lawyer knows* or reasonably should know* the person* may not reveal without violating a duty to another or which the lawyer is not otherwise entitled to receive.

5.1: Responsibilities of a Partner or Supervisory Lawyer – California

Law Firms And Associations

- (a) A lawyer who individually or together with other lawyers possesses managerial authority in a law firm,* shall make reasonable* efforts to ensure that the firm* has in effect measures giving reasonable* assurance that all lawyers in the firm* comply with these rules and the State Bar Act.
- (b) A lawyer having direct supervisory authority over another lawyer, whether or not a member or employee of the same law firm,* shall make reasonable* efforts to ensure that the other lawyer complies with these rules and the State Bar Act.
- (c) A lawyer shall be responsible for another lawyer's violation of these rules and the State Bar Act if:
 - (1) the lawyer orders or, with knowledge of the relevant facts and of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer, individually or together with other lawyers, possesses managerial authority in the law firm* in which the other lawyer practices, or has direct supervisory authority over the other lawyer, whether or not a member or employee of the same law firm,* and knows* of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable* remedial action.

Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law - *California*

Law Firms And Associations

(a) A lawyer admitted to practice law in California shall not:

(1) practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction; or

(2) knowingly* assist a person* in the unauthorized practice of law in that jurisdiction.

(b) A lawyer who is not admitted to practice law in California shall not:

(1) except as authorized by these rules or other law, establish or maintain a resident office or other systematic or continuous presence in California for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in California.

Rule 6.1: Voluntary Pro Bono Publico Service - *California*

Public Service

Reserved

Rule 8.3: Reporting Professional Misconduct - California

Maintaining The Integrity of The Profession

(a) A lawyer shall, without undue delay, inform the State Bar, or a tribunal* with jurisdiction to investigate or act upon such misconduct, when the lawyer knows* of credible evidence that another lawyer has committed a criminal act or has engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property that raises a substantial* question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.

(b) Except as required by paragraph (a), a lawyer may, but is not required to, report to the State Bar a violation of these Rules or the State Bar Act.

(c) For purposes of this rule, "criminal act" as used in paragraph (a) excludes conduct that would be a criminal act in another state, United States territory, or foreign jurisdiction, but would not be a criminal act in California.

(d) This rule does not require or authorize disclosure of information gained by a lawyer while participating in a substance use or mental health program, or require disclosure of information protected by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2; mediation confidentiality; the lawyer-client privilege; other applicable privileges; or by other rules or laws, including information that is confidential under Business and Professions Code section 6234.