

Rule 8.4. Misconduct, PA ST RPC Rule 8.4

Purdon's Pennsylvania Statutes and Consolidated Statutes

Rules of Professional Conduct (Refs & Annos)

Maintaining the Integrity of the Profession

Rules of Prof. Conduct, Rule 8.4, 42 Pa.C.S.A.

Rule 8.4. Misconduct

Currentness

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

Credits

Adopted Oct. 16, 1987, effective April 1, 1988. Amended Dec. 15, 1994, imd. effective; Aug. 23, 2004, effective Jan. 1, 2005.

Editors' Notes

EXPLANATORY COMMENT

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client of action the client is lawfully entitled to take.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept

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can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

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

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

CODE OF PROF. RESP. COMPARISON

With regard to Rule 8.4(a)-(d) DR 1-102(A) provides that “A lawyer shall not:

“(1) Violate a Disciplinary Rule.

“(2) Circumvent a Disciplinary Rule through actions of another.

“(3) Engage in illegal conduct involving moral turpitude.

“(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

“(5) Engage in conduct that is prejudicial to the administration of justice.

“(6) Engage in any other conduct that adversely reflects on his fitness to practice law.”

Rule 8.4(e) is substantially similar to DR 9-101(C).

There is no direct counterpart to Rule 8.4(f) in the Disciplinary Rules of the Code. EC 7-34 states in part that “A lawyer ... is never justified in making a gift or a loan to a judge, a hearing officer, or an official employee of a tribunal” EC 9-1 states that “A lawyer should promote public confidence in our legal system and in the legal profession.”

Notes of Decisions (51)

Rules of Prof. Conduct, Rule 8.4, 42 Pa.C.S.A., PA ST RPC Rule 8.4
Current with amendments received thru October 15, 2015.