

**Rule 1.0. Terminology.**

1       (a) "Belief" or "believes" denotes that the person involved actually supposed the fact in  
2 question to be true. A person's belief may be inferred from circumstances.

3       (b) "Confirmed in writing," when used in reference to the informed consent of a person,  
4 denotes informed consent that is given in writing by the person or a writing that a licensed  
5 paralegal practitioner promptly transmits to the person confirming an oral informed consent. See  
6 paragraph (f) for the definition of "informed consent." If it is not feasible to obtain or transmit  
7 the writing at the time the person gives informed consent, then the licensed paralegal practitioner  
8 must obtain or transmit it within a reasonable time thereafter.

9       (c) "Consult" or "consultation" denotes communication of information reasonably sufficient  
10 to permit the client to appreciate the significance of the matter in question.

11       (d) "Firm" or "licensed paralegal practitioner firm" denotes a licensed paralegal practitioner  
12 or licensed paralegal practitioners in a partnership, professional corporation, sole proprietorship  
13 or other association authorized to practice law; or licensed paralegal practitioners employed in a  
14 law firm, a legal services organization or the legal department of a corporation or other  
15 organization.

16       (e) "Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or  
17 procedural law of the applicable jurisdiction and has a purpose to deceive.

18       (f) "Informed consent" denotes the agreement by a person to a proposed course of conduct  
19 that is within the scope of the licensed paralegal practitioner's licensure after the licensed  
20 paralegal practitioner has communicated adequate information and explanation about the  
21 material risks of and reasonably available alternatives to the proposed course of conduct.

22       (g) "Knowingly," "known" or "knows" denotes actual knowledge of the fact in question. A  
23 person's knowledge may be inferred from circumstances.

24       (h) "Partner" denotes a member of a partnership, a shareholder in a licensed paralegal  
25 practitioner firm organized as a professional corporation, or a member of an association  
26 authorized to practice law.

27       (i) "Reasonable" or "reasonably" when used in relation to conduct by a licensed paralegal  
28 practitioner denotes the conduct of a reasonably prudent and competent licensed paralegal  
29 practitioner.

30 (j) "Reasonable belief" or "reasonably believes" when used in reference to a licensed  
31 paralegal practitioner denotes that the licensed paralegal practitioner believes the matter in  
32 question and that the circumstances are such that the belief is reasonable.

33 (k) "Reasonably should know" when used in reference to a licensed paralegal practitioner  
34 denotes that a licensed paralegal practitioner of reasonable prudence and competence would  
35 ascertain the matter in question.

36 (l) "Rule" refers to the corresponding Rule of Licensed Paralegal Practitioner Professional  
37 Conduct.

38 (m) "Screened" denotes the isolation of a licensed paralegal practitioner from any  
39 participation in a matter through the timely imposition of procedures within a firm that are  
40 reasonably adequate under the circumstances to protect information that the isolated licensed  
41 paralegal practitioner is obligated to protect under these Rules or other law.

42 (n) "Substantial" when used in reference to degree or extent denotes a material matter of clear  
43 and weighty importance.

44 (o) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or a  
45 legislative body, administrative agency or other body acting in an adjudicative capacity. A  
46 legislative body, administrative agency or other body acts in an adjudicative capacity when a  
47 neutral official, after the presentation of evidence or legal argument by a party or parties, will  
48 render a binding legal judgment directly affecting a party's interests in a particular matter.

49 (p) "Writing" or "written" denotes a tangible or electronic record of a communication or  
50 representation, including handwriting, typewriting, printing, photostating, photography, audio or  
51 video recording and electronic communications. A "signed" writing includes an electronic sound,  
52 symbol or process attached to or logically associated with a writing and executed or adopted by a  
53 person with the intent to sign the writing.

54

55 Comment

56 Confirmed in Writing

57 [1] If it is not feasible to obtain or transmit a written confirmation at the time the client gives  
58 informed consent, then the licensed paralegal practitioner must obtain or transmit it within a  
59 reasonable time thereafter. If a licensed paralegal practitioner has obtained a client's informed

60 consent, the licensed paralegal practitioner may act in reliance on that consent so long as it is  
61 confirmed in writing within a reasonable time thereafter.

#### 62 Firm

63 [2] Whether two or more licensed paralegal practitioners constitute a firm within paragraph  
64 (d) can depend on the specific facts. For example, two practitioners who share office space and  
65 occasionally consult or assist each other ordinarily would not be regarded as constituting a firm.  
66 However, if they present themselves to the public in a way that suggests that they are a firm or  
67 conduct themselves as a firm, they should be regarded as a firm for purposes of these Rules. The  
68 terms of any formal agreement between associated licensed paralegal practitioners are relevant in  
69 determining whether they are a firm, as is the fact that they have mutual access to information  
70 concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the  
71 underlying purpose of the rule that is involved. A group of licensed paralegal practitioners could  
72 be regarded as a firm for purposes of the rule that the same licensed paralegal practitioner should  
73 not represent opposing parties in litigation, while it might not be so regarded for purposes of the  
74 rule that information acquired by one licensed paralegal practitioner is attributed to another.

#### 75 [3] Reserved.

76 [4] Similar questions can also arise with respect to licensed paralegal practitioners in legal  
77 aid and legal services organizations. Depending upon the structure of the organization, the entire  
78 organization or different components of it may constitute a firm or firms for purposes of these  
79 Rules.

#### 80 Fraud

81 [5] When used in these Rules, the terms "fraud" or "fraudulent" refer to conduct that is  
82 characterized as such under the substantive or procedural law of the applicable jurisdiction and  
83 has a purpose to deceive. This does not include merely negligent misrepresentation or negligent  
84 failure to apprise another of relevant information. For purposes of these Rules, it is not necessary  
85 that anyone has suffered damages or relied on the misrepresentation or failure to inform.

#### 86 Informed Consent

87 [6] Many of the licensed paralegal Practitioner Rules of Professional Conduct require the  
88 licensed paralegal practitioner to obtain the informed consent of a client or other person (e.g., a  
89 former client or, under certain circumstances, a prospective client) before accepting or  
90 continuing representation or pursuing a course of conduct. See, e.g, Rules 1.6(a), 1.7(b) and

91 1.9(a). The communication necessary to obtain such consent will vary according to the rule  
92 involved and the circumstances giving rise to the need to obtain informed consent. In some  
93 circumstances it may be required for a licensed paralegal practitioner to advise a client or other  
94 person to seek the advice of an attorney.

95 [7] Obtaining informed consent will usually require an affirmative response by the client or  
96 other person. In general, a licensed paralegal practitioner may not assume consent from a client's  
97 or other person's silence. Consent may be inferred, however, from the conduct of a client or other  
98 person who has reasonably adequate information about the matter. A number of rules require that  
99 a person's consent be confirmed in writing. See, e.g., Rules 1.7(b) and 1.9(a). For a definition of  
100 "writing" and "confirmed in writing," see paragraphs (p) and (b). Other rules require that a  
101 client's consent be obtained in a writing signed by the client. See, e.g., Rules 1.8(a) and (g). For a  
102 definition of "signed," see paragraph (p).

103 Screened

104 [8] This definition applies to situations where screening of a personally disqualified licensed  
105 paralegal practitioner is permitted to remove imputation of a conflict of interest under Rules  
106 1.10, 1.11, 1.12 or 1.18.

107 [9] The purpose of screening is to assure the affected parties that confidential information  
108 known by the personally disqualified licensed paralegal practitioner remains protected. The  
109 personally disqualified licensed paralegal practitioner should acknowledge the obligation not to  
110 communicate with any of the other attorneys and licensed paralegal practitioners in the firm with  
111 respect to the matter. Similarly, other licensed paralegal practitioners in the firm who are  
112 working on the matter should be informed that the screening is in place and that they may not  
113 communicate with the personally disqualified licensed paralegal practitioner with respect to the  
114 matter. Additional screening measures that are appropriate for the particular matter will depend  
115 on the circumstances. To implement, reinforce and remind all affected licensed paralegal  
116 practitioners of the presence of the screening, it may be appropriate for the firm to undertake  
117 such procedures as a written undertaking by the screened licensed paralegal practitioner to avoid  
118 any communication with other firm personnel and any contact with any firm files or other  
119 information, including information in electronic form, relating to the matter, written notice and  
120 instructions to all other firm personnel forbidding any communication with the screened licensed  
121 paralegal practitioner relating to the matter, denial of access by the screened licensed paralegal

122 practitioner to firm files or other information, including information in electronic form, relating  
123 to the matter and periodic reminders of the screen to the screened licensed paralegal practitioner  
124 and all other firm personnel.

125 [10] In order to be effective, screening measures must be implemented as soon as practical  
126 after a licensed paralegal practitioner or law firm knows or reasonably should know that there is a  
127 need for screening.

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