

Rule 4.1. Truthfulness in Statements to Others.

1 In the course of representing a client a licensed paralegal practitioner shall not knowingly:

2 (a) Make a false statement of material fact or law to a third person; or

3 (b) Fail to disclose a material fact, when disclosure is necessary to avoid assisting a criminal
4 or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

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6 Comment

7 Misrepresentation

8 [1] A licensed paralegal practitioner is required to be truthful when dealing with others on a
9 client's behalf, but generally has no affirmative duty to inform an opposing party of relevant
10 facts. A misrepresentation can occur if the licensed paralegal practitioner incorporates or affirms
11 a statement of another person that the licensed paralegal practitioner knows is false.

12 Misrepresentations can also occur by partially true but misleading statements or omissions that
13 are the equivalent of affirmative false statements. For dishonest conduct that does not amount to
14 a false statement or for misrepresentation by a licensed paralegal practitioner other than in the
15 course of representing a client, see Rule 8.4.

16 Statements of Fact

17 [2] This Rule refers to statements of fact. Whether a particular statement should be regarded
18 as one of fact can depend on circumstances. Under generally accepted conventions in
19 negotiation, certain types of statements ordinarily are not taken as statements of material fact.
20 Estimates of price or value placed on the subject of a transaction and a party's intentions as to an
21 acceptable settlement of a claim are ordinarily in this category, and so is the existence of an
22 undisclosed principal except where nondisclosure of the principal would constitute fraud.
23 Licensed paralegal practitioners should be mindful of their obligations under applicable law to
24 avoid criminal and tortious misrepresentation.

25 Crime or Fraud by Client

26 [3] Under Rule 1.2(d), a licensed paralegal practitioner is prohibited from counseling or
27 assisting a client in conduct that the paralegal practitioner knows is criminal or fraudulent.
28 Paragraph (b) states a specific application of the principle set forth in Rule 1.2(d) and addresses
29 the situation where a client's crime or fraud takes the form of a lie or misrepresentation.
30 Ordinarily, a licensed paralegal practitioner can avoid assisting a client's crime or fraud by

31 withdrawing from the representation. Sometimes it may be necessary for the licensed paralegal
32 practitioner to give notice of the fact of withdrawal and to disaffirm an opinion, document,
33 affirmation or the like. In extreme cases, substantive law may require a licensed paralegal
34 practitioner to disclose information relating to the representation to avoid being deemed to have
35 assisted the client's crime or fraud. If the licensed paralegal practitioner can avoid assisting a
36 client's crime or fraud only by disclosing this information, then under paragraph (b) the licensed
37 paralegal practitioner is required to do so, unless the disclosure is prohibited by Rule 1.6.

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