

Rule 5.4A. Professional Independence of a Lawyer.

(a) A lawyer or law firm may provide legal services pursuant to sections (b) and (c) of this Rule only if there is at all times no interference with the lawyer's:

- (1) professional independence of judgment;
- (2) duty of loyalty to a client; and
- (3) protection of client confidences.

(b) A lawyer or law firm may share legal fees with a nonlawyer if:

- (1) the lawyer or law firm provides written notice to the affected client and, if applicable, to any other person paying the legal fees;
- (2) the written notice describes the relationship with the nonlawyer, including the fact of the fee-sharing arrangement; and
- (3) the lawyer or law firm provides the written notice before accepting representation or before sharing fees from an existing client.

(c) A lawyer may permit a person to recommend, retain, or pay the lawyer to render legal services for another.

(d) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(e) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

- (1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;
- (2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

(f) A lawyer may practice in a non-profit corporation which is established to serve the public interest provided that the nonlawyer directors and officers of such corporation do not interfere with the independent professional judgment of the lawyer.

Comments

[1] The provisions of this Rule are to protect the lawyer's professional independence of judgment, to assure that the lawyer is loyal to the needs of the client, and to protect clients from the disclosure of their confidential information. Where someone other than the client pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client and may not interfere with the lawyer's professional judgment.

[2] Paragraphs (b), (c), (d), and (e) permit individual lawyers or law firms to pay for client referrals, share fees with nonlawyers, or allow third party retention in a context that does not change the business model or structure of the lawyer's or firm's practice. Paragraphs (b), (c), (d), and (e) do not permit any fee sharing or third party retention or other business relationships that change the business model or structure of the firm's practice, amounting to nonlawyer investment, ownership, or the practical equivalent. Such relationships are only permitted subject to Rule 5.4B and Utah Supreme Court Standing Order No. 15. Whether in accepting or paying for referrals, or fee-sharing, the lawyer must protect the lawyer's professional judgment, ensure the lawyer's loyalty to the client, and protect client confidences.

[3] This Rule differs from the ABA Model Rule.

Effective August 14, 2020