

1 **Rule 1.2. Scope of representation and allocation of authority between client and**  
2 **lawyer. Licensed paralegal practitioner notice to be displayed.**

3 (a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions  
4 concerning the objectives of representation and, as required by Rule 1.4, shall consult  
5 with the client as to the means by which they are to be pursued. A lawyer may take such  
6 action on behalf of the client as is impliedly authorized to carry out the representation. A  
7 lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the  
8 lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea  
9 to be entered, whether to waive jury trial and whether the client will testify.

10 (b) A lawyer's representation of a client, including representation by appointment, does  
11 not constitute an endorsement of the client's political, economic, social or moral views or  
12 activities.

13 (c) A lawyer may limit the scope of the representation if the limitation is reasonable under  
14 the circumstances and the client gives informed consent.

15 (d) Except as provided in subparagraphs (d)(1) and (d)(2), ~~A~~ a lawyer shall not counsel a  
16 client to engage, or assist a client, in conduct that the lawyer knows is criminal or  
17 fraudulent.

18 (d)(1) but a lawyer may discuss the legal consequences of any proposed course of  
19 conduct with a client and may counsel or assist a client to make a good faith effort to  
20 determine the validity, scope, meaning, or application of the law.

21 (d)(2) A lawyer may counsel a client regarding the validity, scope, and meaning of  
22 Utah's cannabis statutes and may assist a client in conduct that the lawyer reasonably  
23 believes is permitted by those statutes and related rules, regulations, orders, and  
24 ordinances. In these circumstances, the lawyer must also advise the client regarding  
25 the potential consequences of the client's conduct under related federal law and  
26 policy.

27 (e) A licensed paralegal practitioner shall conspicuously display in the licensed paralegal  
28 practitioner's office a notice that shall be at least 12 by 20 inches with boldface type or

29 print with each character at least one inch in height and width that contains a statement  
30 that the licensed paralegal practitioner is not a lawyer licensed to provide legal services  
31 without limitation.

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33 **Comment**

34 **Allocation of Authority between Client and Lawyer**

35 [1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes  
36 to be served by legal representation, within the limits imposed by law and the lawyer's  
37 professional obligations. The decisions specified in paragraph (a), such as whether to  
38 settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's  
39 duty to communicate with the client about such decisions. With respect to the means by  
40 which the client's objectives are to be pursued, the lawyer shall consult with the client as  
41 required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry  
42 out the representation.

43 [2] On occasion, however, a lawyer and a client may disagree about the means to be used  
44 to accomplish the client's objectives. Clients normally defer to the special knowledge and  
45 skill of their lawyer with respect to the means to be used to accomplish their objectives,  
46 particularly with respect to technical, legal and tactical matters. Conversely, lawyers  
47 usually defer to the client regarding such questions as the expense to be incurred and  
48 concern for third persons who might be adversely affected. Because of the varied nature  
49 of the matters about which a lawyer and client might disagree and because the actions in  
50 question may implicate the interests of a tribunal or other persons, this Rule does not  
51 prescribe how such disagreements are to be resolved. Other law, however, may be  
52 applicable and should be consulted by the lawyer. The lawyer should also consult with  
53 the client and seek a mutually acceptable resolution of the disagreement. If such efforts  
54 are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer  
55 may withdraw from the representation. See Rule 1.16(b)(4). Conversely, the client may  
56 resolve the disagreement by discharging the lawyer. See Rule 1.16(a)(3).

57 [3] At the outset of a representation, the client may authorize the lawyer to take specific  
58 action on the client's behalf without further consultation. Absent a material change in  
59 circumstances and subject to Rule 1.4, a lawyer may rely on such an advance  
60 authorization. The client may, however, revoke such authority at any time.

61 [4] In a case in which the client appears to be suffering diminished capacity, the lawyer's  
62 duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

### 63 **Independence from Client's Views or Activities**

64 [5] Legal representation should not be denied to people who are unable to afford legal  
65 services or whose cause is controversial or the subject of popular disapproval. By the  
66 same token, representing a client does not constitute approval of the client's views or  
67 activities.

### 68 **Agreements Limiting Scope of Representation**

69 [6] The scope of services to be provided by a lawyer may be limited by agreement with  
70 the client or by the terms under which the lawyer's services are made available to the  
71 client. When a lawyer has been retained by an insurer to represent an insured, for  
72 example, the representation may be limited to matters related to the insurance coverage.  
73 A limited representation may be appropriate because the client has limited objectives for  
74 the representation. In addition, the terms upon which representation is undertaken may  
75 exclude specific means that might otherwise be used to accomplish the client's objectives.  
76 Such limitations may exclude actions that the client thinks are too costly or that the lawyer  
77 regards as repugnant or imprudent.

78 [7] Although this Rule affords the lawyer and client substantial latitude to limit the  
79 representation, the limitation must be reasonable under the circumstances. If, for  
80 example, a client's objective is limited to securing general information about the law the  
81 client needs in order to handle a common and typically uncomplicated legal problem, the  
82 lawyer and client may agree that the lawyer's services will be limited to a brief telephone  
83 consultation. Such a limitation, however, would not be reasonable if the time allotted  
84 were not sufficient to yield advice upon which the client could rely. Although an

85 agreement for a limited representation does not exempt a lawyer from the duty to  
86 provide competent representation, the limitation is a factor to be considered when  
87 determining the legal knowledge, skill, thoroughness and preparation reasonably  
88 necessary for the representation. See Rule 1.1.

89 [8] All agreements concerning a lawyer's representation of a client must accord with the  
90 Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

91 **Criminal, Fraudulent and Prohibited Transactions**

92 [9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to  
93 commit a crime or fraud. This prohibition, however, does not preclude the lawyer from  
94 giving an honest opinion about the actual consequences that appear likely to result from  
95 a client's conduct. Nor does the fact that a client uses advice in a course of action that is  
96 criminal or fraudulent of itself make a lawyer a party to the course of action. There is a  
97 critical distinction between presenting an analysis of legal aspects of questionable  
98 conduct and recommending the means by which a crime or fraud might be committed  
99 with impunity.

100 [10] When the client's course of action has already begun and is continuing, the lawyer's  
101 responsibility is especially delicate. The lawyer is required to avoid assisting the client,  
102 for example, by drafting or delivering documents that the lawyer knows are fraudulent  
103 or by suggesting how the wrongdoing might be concealed. A lawyer may not continue  
104 assisting a client in conduct that the lawyer originally supposed was legally proper but  
105 then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the  
106 representation of the client in the matter. See Rule 1.16(a). In some cases, withdrawal  
107 alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of  
108 withdrawal and to disaffirm any opinion, document, affirmation or the like. See Rule 4.1.

109 [11] Where the client is a fiduciary, the lawyer may be charged with special obligations  
110 in dealings with a beneficiary.

111 [12] Paragraph (d) applies whether or not the defrauded party is a party to the  
112 transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal

113 or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a  
114 criminal defense incident to a general retainer for legal services to a lawful enterprise.  
115 The last clause of paragraph (d) recognizes that determining the validity or interpretation  
116 of a statute or regulation may require a course of action involving disobedience of the  
117 statute or regulation or of the interpretation placed upon it by governmental authorities.

118 [12a] Paragraph (d) addresses the dilemma facing a lawyer whose client wishes to engage  
119 in conduct that is permitted by Utah's cannabis statutes and related rules, regulations,  
120 orders, and ordinances but is prohibited by federal cannabis laws. At the time of this  
121 comment's drafting, the federal government's policy is not to enforce federal cannabis  
122 laws in states with conflicting state laws. If that policy changes, the Supreme Court may  
123 revisit this rule. Note adopted 2023.

124 [13] If a lawyer comes to know or reasonably should know that a client expects assistance  
125 not permitted by the Rules of Professional Conduct or other law or if the lawyer intends  
126 to act contrary to the client's instructions, the lawyer must consult with the client  
127 regarding the limitations on the lawyer's conduct. See Rule 1.4(a)(5).

128 [14] Lawyers are encouraged to advise their clients that their representations are guided  
129 by the Utah Standards of Professionalism and Civility and to provide a copy to their  
130 clients.

131 [14a] This rule differs from the ABA Model Rule. ~~by adding section (e) which requires~~  
132 ~~licensed paralegal practitioners to post a conspicuous notice of their limited licensure~~  
133 ~~status.~~