

1 **Rule 1.0. Terminology.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 Comment

57 Confirmed in Writing

58 [1] If it is not feasible to obtain or transmit a written confirmation at the time the client gives
59 informed consent, then the licensed paralegal practitioner must obtain or transmit it within a
60 reasonable time thereafter. If a licensed paralegal practitioner has obtained a client's informed
61 consent, the licensed paralegal practitioner may act in reliance on that consent so long as it is
62 confirmed in writing within a reasonable time thereafter.

63 Firm

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

76 [3] Reserved.

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

81 Fraud

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

87 Informed Consent

88 [6] Many of the licensed paralegal Practitioner Rules of Professional Conduct require the
89 licensed paralegal practitioner to obtain the informed consent of a client or other person (e.g., a
90 former client or, under certain circumstances, a prospective client) before accepting or
91 continuing representation or pursuing a course of conduct. See, e.g, Rules 1.6(a), 1.7(b) and
92 1.9(a). The communication necessary to obtain such consent will vary according to the rule
93 involved and the circumstances giving rise to the need to obtain informed consent. In some

94 circumstances it may be required for a licensed paralegal practitioner to advise a client or other
95 person to seek the advice of an attorney.

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

104 Screened

105 [8] This definition applies to situations where screening of a personally disqualified licensed
106 paralegal practitioner is permitted to remove imputation of a conflict of interest under Rules
107 1.10, 1.11, 1.12 or 1.18.

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

124 to the matter and periodic reminders of the screen to the screened licensed paralegal practitioner
125 and all other firm personnel.

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