

Practice Book Amendments
Rules of Professional Conduct
Superior Court Rules
Forms

July 13, 2021

NOTICE

SUPERIOR COURT

On June 11, 2021, the judges of the Superior Court adopted the amendments to the Practice Book contained in Part I of this Notice. Those amendments become effective on January 1, 2022, except that:

the amendments to Section 2-35 (g) become effective on July 13, 2021, upon promulgation, by being published in the Connecticut Law Journal, pursuant to Section 1-9 of the Practice Book; and the amendments to Sections 3-8 (b) and 35a-21, which were adopted on an interim basis on June 26, 2020, and made effective on promulgation on July 14, 2020, and which were the subject of the public hearing on May 10, 2021, remain in effect, uninterrupted.

Also on June 11, 2021, the judges of the Superior Court considered the amendments to the Practice Book that are contained in Part II of this Notice and adopted the following recommendations in connection with those amendments:

the suspension of Section 2-27A, concerning Minimum Continuing Legal Education (MCLE) requirements for 2020, and the amendments to Sections 23-68 and 44-10A, concerning the use of interactive audiovisual devices in civil, family, and criminal matters, remain in effect, uninterrupted;

Section E3-22 concerning Certified Law School Graduates, remains in effect until no later than November 15, 2021; and

the remaining amendments to the Practice Book contained in Part II of this Notice remain in effect until no later than the expiration of the public health and civil preparedness emergencies first declared by the Governor on March 10, 2020, and thereafter declared anew, and renewed and extended.

At the time of publication of this Notice, the public health and civil preparedness emergencies declared by the Governor are scheduled to expire on July 20, 2021. Any amendments to the Practice Book that expire as a result of the termination of the declared emergencies will not appear in the 2022 edition of the Practice Book.

Attest:

Joseph J. Del Ciampo
Counsel to the Rules Committee
Director of Legal Services

INTRODUCTION

Contained herein are amendments to the Rules of Professional Conduct, the Superior Court Rules, and new Forms. These amendments are indicated by brackets for deletions and underlines for added language. The designation “NEW” is printed with the title of each new rule and form. This material should be used as a supplement to the Practice Book until the next edition becomes available.

The Amendment Notes to the Rules of Professional Conduct and the Commentaries to the Superior Court Rules are for informational purposes only.

Rules Committee of the
Superior Court

PART I

CHAPTER AND SECTION HEADING OF THE RULES

RULES OF PROFESSIONAL CONDUCT

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- Rule
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-

Law Firms and Associations

- Rule
5.5. Unauthorized Practice of Law
-

Maintaining the Integrity of the Profession

- Rule
8.4. Misconduct
-

SUPERIOR COURT—GENERAL PROVISIONS

**CHAPTER 2
ATTORNEYS**

- Sec.
2-8. Qualifications for Admission
2-13A. Military Spouse Temporary Licensing
2-27. Clients' Funds; [Lawyer] Attorney Registration
2-27A. Minimum Continuing Legal Education
2-27B. (NEW) Enforcement of Attorney Registration and Minimum
Continuing Legal Education; Administrative Suspension
2-35. Action by Statewide Grievance Committee or Reviewing
Committee
2-36. Action by Statewide Grievance Committee on Request for
Review
2-39. Reciprocal Discipline
2-42. Conduct Constituting Threat of Harm to Clients
2-53. Reinstatement after Suspension; Disbarment or Resignation

communicate the availability of their services in this jurisdiction is governed by Rules 7.1 to 7.5.

AMENDMENT NOTE: The changes to this rule create a new category of permissible practice that would, under limited circumstances, permit attorneys who are licensed and in good standing in other jurisdictions to engage in pro bono practice in Connecticut.

Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

(1) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(2) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(3) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(4) Engage in conduct that is prejudicial to the administration of justice;

(5) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; [or]

(6) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law[.]; or

(7) Engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, sexual orientation, gender identity, gender

expression or marital status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation, or to provide advice, assistance or advocacy consistent with these Rules.

COMMENTARY: Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Subdivision (1), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of wilful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, which have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation. Counseling or assisting a client with regard to conduct expressly permitted under Connecticut law is

not conduct that reflects adversely on a lawyer's fitness notwithstanding any conflict with federal or other law. Nothing in this commentary shall be construed to provide a defense to a presentment filed pursuant to Practice Book Section 2-41.

[A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status, violates subdivision (4) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate subdivision (4).]

Discrimination and harassment in the practice of law undermine confidence in the legal profession and the legal system. Discrimination includes harmful verbal or physical conduct directed at an individual or individuals that manifests bias or prejudice on the basis of one or more of the protected categories. Not all conduct that involves consideration of these characteristics manifests bias or prejudice: there may be a legitimate nondiscriminatory basis for the conduct.

Harassment includes severe or pervasive derogatory or demeaning verbal or physical conduct. Harassment on the basis of sex includes unwelcome sexual advances, requests for sexual favors and other unwelcome verbal or physical conduct of a sexual nature.

The substantive law of antidiscrimination and antiharassment statutes and case law should guide application of paragraph (7), where applicable. Where the conduct in question is subject to federal or state antidiscrimination or antiharassment law, a lawyer's conduct does not violate paragraph (7) when the conduct does not violate such law.

Moreover, an administrative or judicial finding of a violation of state or federal antidiscrimination or antiharassment laws does not alone establish a violation of paragraph (7).

A lawyer's conduct does not violate paragraph (7) when the conduct in question is protected under the first amendment to the United States constitution or article first, § 4 of the Connecticut constitution.

Conduct related to the practice of law includes representing clients; interacting with witnesses, coworkers, court personnel, lawyers and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association, business or professional activities or events in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity, equity and inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring, retaining and advancing diverse employees or sponsoring diverse law student organizations.

A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of paragraph (7). Moreover, no disciplinary violation may be found where a lawyer exercises a peremptory challenge on a basis that is permitted under substantive law. A lawyer does not violate paragraph (7) by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of a particular segment of the population in accordance with these rules and other law. A lawyer may charge and collect reasonable fees and expenses for a representation. Rule 1.5 (a). Lawyers also should be mindful of their professional obligations under Rule 6.1 to provide legal services to those who

are unable to pay, and their obligation under Rule 6.2 not to avoid appointments from a tribunal except for good cause. See Rule 6.2 (1), (2) and (3). A lawyer's representation of a client does not constitute an endorsement by the lawyer of the client's views or activities. See Rule 1.2 (b).

[A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists.] The provisions of Rule 1.2 (d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of a lawyer. The same is true of abuse of positions of private trust, such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

AMENDMENT NOTE: The amendment to this rule defines discrimination, harassment and sexual harassment as professional misconduct.

AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

Sec. 2-8. Qualifications for Admission

To entitle an applicant to admission to the bar, except under Section 2-13 of these rules, the applicant must satisfy the bar examining committee that: