Ethical Considerations to Legislative Changes in Chapter 7B

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THE NORTH CAROLINA STATE BAR
SOCIAL SERVICES ATTORNEYS 2026 WINTER CONFERENCE

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What is a Deputy Counsel?

Deputy Counsel in the State Bar's Office of Counsel.

Mostly, we investigate and prosecute attorneys for violations of the Rules of Professional Conduct.

We can't... Give you ethics advice.

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STATUTORY CHANGES AFFECTING DSS LAWYERS

SESSION LAW 2025-16

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Old Language in N.C. Gen. Stat. § 7B-305

§ 7B-305. Request for review by prosecutor.

The person making the report shall have five working days, from receipt of the decision of the director of the department of social services not to petition the court, to notify the prosecutor that the person is requesting a review. The prosecutor shall notify the person making the report and the director of the time and place for the review, and the director shall immediately transmit to the prosecutor a copy of a summary of the assessment. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 6.)

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Changes to N.C. Gen. Stat. § 7B-305

SECTION 1.3.(c) G.S. 7B-305 reads as rewritten:
"**§ 7B-305. Request for review by ~~prosecutor.~~prosecutor or Division.**

House Bill 612 Session Law 2025-16 Page 3

The person making the report shall have five working days, from receipt of the decision of the director of the department of social services not to petition the court, to notify the prosecutor or constituent concern line at the Division that the person is requesting a review. The ~~prosecutor~~ entity receiving the request for review shall notify the person making the report and the director of the time and place for the review, and the director shall immediately transmit to the ~~prosecutor~~ entity receiving the request a copy of a summary of the assessment. Nothing precludes the person making a report from requesting a review from both the prosecutor and the Division."

...

(11a) Division. – The Division of Social Services of the Department of Health and Human Services.

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Old Language in N.C. Gen. Stat. § 7B-306

§ 7B-306. Review by prosecutor.

The prosecutor shall review the director's determination that a petition should not be filed within 20 days after the person making the report is notified. The review shall include conferences with the person making the report, the protective services worker, the juvenile, if practicable, and other persons known to have pertinent information about the juvenile or the juvenile's family. At the conclusion of the conferences, the prosecutor may affirm the decision made by the director, may request the appropriate local law enforcement agency to investigate the allegations, or may direct the director to file a petition. (1979, c. 815, s. 1; 1981, c. 469, s. 7; 1993, c. 516, s. 7; 1998-202, s. 6; 1999-456, s. 60.)

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Changes to N.C. Gen. Stat. § 7B-306

SECTION 1.3.(d) G.S. 7B-306 reads as rewritten:

"**§ 7B-306. Review by ~~prosecutor.~~prosecutor or Division.**

(a) The prosecutor or Division, respectively, receiving the request for review shall conduct the review. Within two business days of receiving a request for review, the reviewing entity shall notify the other entity that a request for review has been made. The other entity may also conduct a review. Reviews may be conducted as an independent or shared review and the entities may consult with one another as part of a review. The ~~prosecutor~~ reviewing entity shall review the director's determination that a petition should not be filed within 20 days after ~~the person making the report is notified.~~ receipt of a request for review made in accordance with G.S. 7B-305. The review shall include conferences with the person making the report, the protective services worker, the juvenile, if practicable, and other persons known to have pertinent information about the juvenile or the juvenile's family.

(b) At the conclusion of the ~~conferences,~~ review, ~~the prosecutor~~ a reviewing entity may ~~affirm~~ take any of the following actions:

(1) Affirm the decision made by the ~~director, may request~~ director.

(2) Request the appropriate local law enforcement agency to investigate the ~~allegations, or may direct~~ allegations.

(3) Direct the director to file a petition. If both entities conduct a review and either entity directs that a petition be filed, the director shall file a petition. The Division may also direct the director to take a specific action to provide protective services."

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RELVEANT RULES OF PROFESSIONAL CONDUCT

- 5.4 (Professional Independence of a Lawyer)
- 3.1 (Meritorious Claims and Contentions)
- 1.13 (Organization As Client)
- 1.4 (Communication)
- 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer)
- Preamble (paragraph 12)

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Rule 5.4 (Professional Indepedence of a Lawyer)

(c) A lawyer shall not permit a person who recommends, engages, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

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RULE 3.1 MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

Rule 3.1

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[1] The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure. The law, both procedural and substantive, establishes the limits within which an advocate may proceed. However, the law is not always clear and never is static. Accordingly, in determining the proper scope of advocacy, account must be taken of the law's ambiguities and potential for change.

Comments to Rule 3.1

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[2] The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law.

Comments to Rule 3.1

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Ethics Opinions Interpreting Rule 3.1 (there are only 12)

CPR 122. An attorney representing the defendant in divorce action, when advised by the client that parties have not been separated a year, must file an answer denying the allegation of separation even though the client does not wish to contest the divorce.

CPR 321. It is improper for an attorney to file motions and pleadings for the mere purpose of delay.

2003 Formal Ethics Opinion 12. Opinion rules that an insurance defense lawyer may give the insured and the insurance carrier an evaluation of a pending case, including settlement prospects, but may not recommend that the carrier decline to settle and go to trial if this recommendation is contrary to the wishes of the insured.

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Ethics Opinions Interpreting Rule 3.1 (cont.)

2006 Formal Ethics Opinion 9. Opinion rules that if the lawyer concludes that pursuit of a lawsuit filed against a defendant is frivolous, but the GAL for the minor client insists on continuing the litigation, the lawyer must either move to withdraw from the representation or seek to have the GAL removed.

2008 Formal Ethics Opinion 3. Opinion rules a lawyer may assist a pro se litigant by drafting pleadings and giving advice without making an appearance in the proceeding and without disclosing or ensuring the disclosure of his assistance to the court unless required to do so by law or court order.

2008 Formal Ethics Opinion 4. Opinion rules that a lawyer may issue a subpoena in compliance with Rule 45 of the Rules of Civil Procedure which authorizes a subpoena for the production of documents to the lawyer's office without the need to schedule a hearing, deposition or trial.

2008 Formal Ethics Opinion 17. Opinion rules that a lawyer appointed to represent a parent at the trial of a juvenile case may file a notice of appeal to preserve the client's right to appeal although the lawyer does not believe that the appeal has merit.

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Ethics Opinions Interpreting Rule 3.1 (cont.)

2009 Formal Ethics Opinion 5. Opinion rules that a lawyer may serve the opposing party with discovery requests that require the party to reveal her citizenship status, but the lawyer may not report the status to ICE unless required to do so by federal or state law.

2009 Formal Ethics Opinion 15. Opinion rules that a prosecutor must dismiss a DWI charge when the prosecutor fails to appeal a court order suppressing evidence from the traffic stop thereby eliminating the evidence necessary to prove the charge.

2011 Formal Ethics Opinion 3. Opinion rules that a criminal defense lawyer may advise an undocumented alien that deportation may result in avoidance of a criminal conviction and may file a notice of appeal to superior court although there is a possibility that the client will be deported.

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Ethics Opinions Interpreting Rule 3.1 (cont.)

2013 Formal Ethics Opinion 1 . Opinion rules that, subject to conditions, a prosecutor may enter into an agreement to consent to vacating a conviction upon the convicted person's release of civil claims against the prosecutor, law enforcement authorities, or other public officials or entities.

2016 Formal Ethics Opinion 2 . Opinion rules that, when advancing claims on behalf of a criminal defendant who filed a pro se Motion for Appropriate Relief, subsequently appointed defense counsel must correct erroneous claims and statements of law or facts set out in the previous pro se filing.

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Rule 1.13 (Organization as Client)

RULE 1.13 ORGANIZATION AS CLIENT

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee. or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law which reasonably might be imputed to the organization, and is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

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Rule 1.13 (Organization as Client cont.)

(c) If, despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon action, or a refusal to act, that is clearly a violation of law and is likely to result in substantial injury to the organization, the lawyer may reveal such information outside the organization to the extent permitted by Rule 1.6 and may resign in accordance with Rule 1.16.

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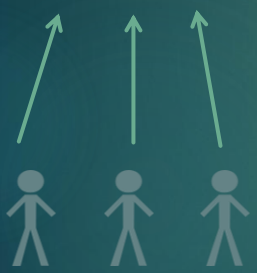
Rule 1.13 Organization As Client
(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.



Attorney/Client Relationship

All duties of loyalty & confidentiality flow to Agency. Must advise Agency & act at Agency direction.

County Attorney

Members of the Public

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Comments to Rule 1.13

[1] An organizational client is a legal entity, but it cannot act except through its officers, directors, employees, shareholders and other constituents. Officers, directors, employees and shareholders are the constituents of the corporate organizational client. The duties defined in this Rule apply equally to unincorporated associations. "Other constituents" as used in this Rule means the positions equivalent to officers, directors, employees and shareholders held by persons acting for organizational clients that are not corporations.

[3] When constituents of the organization make decisions for it, the decisions ordinarily must be accepted by the lawyer even if their utility or prudence is doubtful. Decisions concerning policy and operations, including ones entailing serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear, however, that when the lawyer knows that the organization may be substantially injured by action of an officer or other constituent that violates a legal obligation to the organization or is a violation of the law that might be imputed to the organization, the lawyer must proceed as is reasonably necessary in the best interest of the organization. As defined in Rule 1.0(g), knowledge can be inferred from circumstances, and a lawyer cannot ignore the obvious.

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Rule 1.4 (Communication)

RULE 1.4 COMMUNICATION

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(f), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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Comments to Rule 1.4

[2] If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See Rule 1.2(a).

[3] Paragraph (a)(2) requires the lawyer to consult with the client about the means to be used to accomplish the client's objectives. In some situations - depending on both the importance of the action under consideration and the feasibility of consulting with the client - this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

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Comments to Rule 1.4 (cont.)

Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in Rule 1.0(f).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See Rule 1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

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Rule 1.2 (Scope of Representation and Allocation of Authority between Client and Lawyer)

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RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.

(1) A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(2) A lawyer does not violate this rule by acceding to reasonable requests of opposing counsel that do not prejudice the rights of a client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(3) In the representation of a client, a lawyer may exercise his or her professional judgment to waive or fail to assert a right or position of the client.

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

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

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Comments to Rule 1.2

Allocation of Authority between Client and Lawyer

[1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation. Lawyers are encouraged to treat opposing counsel with courtesy and to cooperate with opposing counsel when it will not prevent or unduly hinder the pursuit of the objective of the representation. To this end, a lawyer may waive a right or fail to assert a position of a client without first obtaining the client's consent. For example, a lawyer may consent to an extension of time for the opposing party to file pleadings or discovery without obtaining the client's consent.

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Comments to Rule 1.2 (cont.)

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

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

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Comments to Rule 1.2 (cont.)

Independence from Client's Views or Activities

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

Criminal, Fraudulent and Prohibited Transactions

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

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Let's Talk about Examples of Violations of Rule 3.1

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Preamble to the RPC

[12] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system, and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

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Ethics Update

NEW ADOPTED AND PROPOSED OPINIONS

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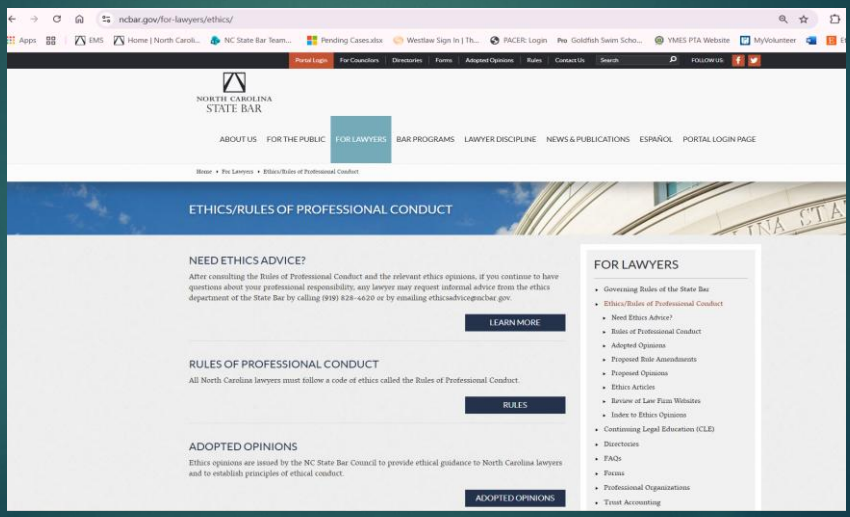
Where can I find new and proposed opinions?



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Newly Adopted Opinion (since summer 2025)

2025 FORMAL ETHICS OPINION 2

‹ Previous Opinion Next Opinion ›

NEGOTIATING LICENSURE REPORTING CAPABILITY DURING MEDIATION

Adopted: July 25, 2025

Opinion affirms prohibition on lawyers participating in a settlement agreement that includes a limitation on a party's or counsel's ability to report misconduct to the North Carolina State Bar and rules a lawyer serving as a mediator may not assist with or participate in a mediated settlement agreement that includes such a term.

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Proposed Opinions / Inquiries (since summer 2025)

Proposed 2025 Formal Ethics Opinion 3
Client Consent to Annual Rate Increase
January 5, 2026

Proposed opinion clarifies when and how a lawyer may increase the billing rate for services during the representation.

Proposed 2026 Formal Ethics Opinion 1
Closing Attorney's Referral to Law Partner's Title Insurance Agency
January 22, 2026

Proposed opinion rules that a lawyer may not refer a client in a closing transaction to a title agency in which the lawyer's law partner has a financial interest.

Proposed 2026 Formal Ethics Opinion 2
Release of Claims and Non-Disparagement Clause in Fee Agreement or as a Condition of Fee Dispute Resolution
January 22, 2026

Proposed opinion rules that when a lawyer is required by the rules to refund an unearned fee, the lawyer may not condition the resolution of a fee dispute on the client's agreement to release claims related to the representation and/or refrain from publishing negative comments about the lawyer or the law firm and may not include the same or similar language in a fee agreement.

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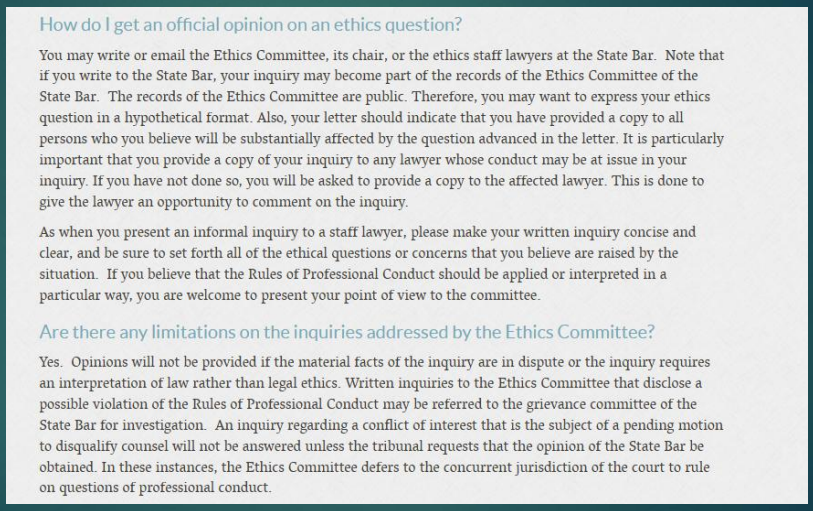
How do we get an opinion on this issue?



How do I get an official opinion on an ethics question?

You may write or email the Ethics Committee, its chair, or the ethics staff lawyers at the State Bar. Note that if you write to the State Bar, your inquiry may become part of the records of the Ethics Committee of the State Bar. The records of the Ethics Committee are public. Therefore, you may want to express your ethics question in a hypothetical format. Also, your letter should indicate that you have provided a copy to all persons who you believe will be substantially affected by the question advanced in the letter. It is particularly important that you provide a copy of your inquiry to any lawyer whose conduct may be at issue in your inquiry. If you have not done so, you will be asked to provide a copy to the affected lawyer. This is done to give the lawyer an opportunity to comment on the inquiry.

As when you present an informal inquiry to a staff lawyer, please make your written inquiry concise and clear, and be sure to set forth all of the ethical questions or concerns that you believe are raised by the situation. If you believe that the Rules of Professional Conduct should be applied or interpreted in a particular way, you are welcome to present your point of view to the committee.

Are there any limitations on the inquiries addressed by the Ethics Committee?

Yes. Opinions will not be provided if the material facts of the inquiry are in dispute or the inquiry requires an interpretation of law rather than legal ethics. Written inquiries to the Ethics Committee that disclose a possible violation of the Rules of Professional Conduct may be referred to the grievance committee of the State Bar for investigation. An inquiry regarding a conflict of interest that is the subject of a pending motion to disqualify counsel will not be answered unless the tribunal requests that the opinion of the State Bar be obtained. In these instances, the Ethics Committee defers to the concurrent jurisdiction of the court to rule on questions of professional conduct.

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Need ethics advice?

- State Bar has 4 ethics lawyers
- Confidential advice
- Advice geared towards <u>your</u> PROSPECTIVE conduct
- Phone: (919) 828-4620
- Email: ethicsadvice@ncbar.gov

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Ethics FAQ

May I rely on the advice I receive in response to a telephone or emailed ethics inquiry?

Yes. Although an opinion of a staff ethics lawyer is not a formal ethics opinion, you may rely upon the advice that you receive. Informal ethics opinions are intended to provide guidance to a lawyer who is in the midst of an ethical dilemma. If a grievance is subsequently filed against you, the fact that you sought and followed the advice of a staff lawyer at the State Bar will be the best evidence of your good faith effort to comply with the Rules.

What kinds of opinions does the Ethics Committee issue?

Three kinds of official opinions are issued by the Ethics Committee: published opinions, known as "Formal Ethics Opinions," which appear in each issue of the State Bar Journal where they are identified as proposed opinions with respect to which comment is solicited; unpublished opinions, known as "ethics decisions," which are privately transmitted to inquiring lawyers and concern matters that are not thought to be of interest or concern to the broader membership of the bar; and "ethics advisories," which are opinions offered by designated staff counsel of the State Bar to inquiring lawyers who seek advice about their own contemplated conduct.

Informal oral or email opinions that address a lawyer's own actual or contemplated conduct may also be obtained from the ethics lawyers at the State Bar.

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Ethics FAQ (cont.)

How can I get an informal opinion on an ethical dilemma that I am facing?

If your inquiry relates to your own prospective conduct, you may telephone the State Bar and ask to speak to an ethics lawyer or you may send an email to ethicsadvice@ncbar.gov. You also may make an appointment to discuss your question in person with a staff ethics lawyer. Telephone calls and appointments may be made during the hours of nine a.m. to five p.m., Monday through Friday.

One of the three staff ethics lawyers will respond to your inquiry. The advice that you receive from an ethics lawyer is considered an informal, or unofficial, opinion of the State Bar because it is not reviewed or approved by the Ethics Committee. However, the communication between you and the ethics lawyer is confidential to the same extent as a communication between a lawyer and a client under Rule 1.6 of the Rules of Professional Conduct. Because the communication is confidential, you do not have to present the inquiry to the ethics lawyer in a hypothetical or to otherwise attempt to obscure client information: just present the facts in a manner that is clear, concise, and identifies your ethical dilemma.

There are some questions to which the staff lawyers may not respond. If the question relates to the conduct of another lawyer, you must write to the State Bar for a response from the Ethics Committee and send a copy of the letter to the lawyer whose conduct is at issue. This gives the other lawyer an opportunity to comment upon the inquiry. If an inquiry discloses a possible violation of the Rules, you may be encouraged to file a formal report with the State Bar. If the question relates to past conduct (your own or that of another lawyer), the staff lawyer will decline to answer because there is no guidance to be given as to future conduct. The staff lawyer will also decline to respond to an inquiry that involves a novel question that is not clearly answered by the Rules or by prior published ethics opinions. The inquiring lawyer will be asked to put the question in writing for submission to the Ethics Committee for its official consideration at its next quarterly meeting.

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NC Lawyer Assistance Program

- Substance abuse
- Mental health
- Other stressors

- Free
- Confidential

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NC Lawyer Assistance Program

www.nclap.org

Robyn Moraites, Director

Candace Hoffman, Assistant Director

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NC Lawyer Assistance Program

Cathy Killian
Western Clinical Coordinator
(704) 910-2310

Nicole Ellington
Eastern Clinical Coordinator
(919) 719-9267

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