16-804. Misconduct.

It is professional misconduct for a lawyer to:

A. 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;

B. commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

C. engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

D. engage in conduct that is prejudicial to the administration of justice;

E. 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

F. knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

G. engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, color, national origin, ancestry, ethnicity, physical or mental disability, age, sexual orientation, gender, gender identity, pregnancy, childbirth or a condition related to pregnancy or childbirth, [~~or~~] marital status, or military 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 in accordance with Rule 16-116 NMRA. This paragraph does not preclude legitimate advice or advocacy consistent with these rules.

[As amended by Supreme Court Order No. 08-8300-029, effective November 3, 2008; as amended by Supreme Court Order No. 19-8300-012, effective December 1, 2019; as amended by Supreme Court Order No. S-1-RCR-2026-00196, effective December 31, 2026.]

Committee commentary. —

[1] 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. Paragraph A, however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] A lawyer that creates or participates in a one-party recording does not violate Paragraph C unless the lawyer's conduct involves dishonesty, fraud, deceit, or misrepresentation.

[~~[2]~~] [3] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful 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.

[~~[3]~~] [4] Discrimination and harassment by lawyers in violation of Paragraph G undermine confidence in the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual

harassment 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 anti-harassment statutes and case law may guide application of Paragraph G.

[~~[4]~~] [5] 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 social activities in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity 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.

[~~[5]~~] [6] A lawyer does not violate Paragraph G by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of underserved populations in accordance with these rules and other law. A lawyer's representation of a client does not constitute an endorsement by the lawyer of the client's views or activities. *See* Rule 16-102(B) NMRA.

[~~[6]~~] [7] 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 16-102(D) NMRA 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.

[~~[7]~~] [8] 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 lawyers. 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.

[Adopted by Supreme Court Order No. 08-8300-029[~~, effective November 3, 2008~~]; as amended by Supreme Court Order No. 19-8300-012[~~, effective December 1, 2019~~]; as amended by Supreme Court Order No. S-1-RCR-2026-00196.]