



The State Bar of California

CALIFORNIA PARAPROFESSIONAL PROGRAM WORKING GROUP

Date: August 31, 2021

To: California Paraprofessional Program Working Group

From: Brady R. Dewar, Assistant General Counsel, Office of General Counsel

Subject: Statutory and Rule Changes Recommended for Program Implementation

EXECUTIVE SUMMARY

The California Paraprofessional Program Working Group (Working Group) is charged with developing recommendations for consideration by the Board of Trustees for the creation of a paraprofessional licensure/certification program to increase access to legal services in California. The CPPWG's charter is informed by the [California Justice Gap Study](#) and the [Task Force on Access Through Innovation of Legal Services](#). In carrying out its charge, the Working Group must balance the dual goals of ensuring public protection and increasing access to legal services.

This memorandum reflects recommendations for Working Group review and approval in regard to recommended statutory and rule changes for implementation of the program.

BACKGROUND

At the June 25, 2021 meeting of the Working Group, the Office of General Counsel (OGC) discussed its review of statutes and regulations that will need to be changed or adapted to effectuate the recommendations of this Working Group. As discussed at that meeting, the majority of the statutes and rules identified did not present any open policy issues requiring further Working Group recommendations. (For instance, numerous provisions of the Code of Civil Procedure require service of documents on "attorneys" or require payment of "attorney fees" in certain instances. Statutory changes to apply these provisions to paraprofessionals who are permitted to practice law will be necessary to effectuate these provisions in instances where paraprofessionals are permitted to practice.) Should the paraprofessional program be authorized, State Bar staff will work with the Legislature to address these implementation issues.

However, as previewed at the June 25 meeting, a handful of the statutes and rules identified potentially presented open policy questions for Working Group consideration. After the June 25 meeting, the Regulation Subcommittee considered these issues. The staff recommendations that follow were supported by the Regulation Subcommittee during these discussions.

DISCUSSION

A. IOLTA Statute

The IOLTA (Interest on Lawyers Trust Accounts) program is established by California Business & Professions Code sections 6210 – 6228 (see Attachment A at 1-11). Pursuant to these provisions, any attorney who holds client funds is required to establish an IOLTA account and place client funds in the pooled account when the funds will be held for a short duration or are of a small enough amount such that it would be impracticable to collect interest and pay it to the client. Interest on funds in IOLTA accounts are paid to the State Bar, which distributes the funds to legal services organizations to fund civil legal services for the indigent.

The Regulation Subcommittee discussed requiring paraprofessionals who hold client funds in trust to place them in IOLTA accounts pursuant to the same terms applicable to attorneys. Such a requirement would treat paraprofessionals (and their clients) the same as attorneys (and their clients), and would support access to justice by providing funds for civil legal services to the indigent. Neither staff nor the Regulation Subcommittee identified any reasons not to require paraprofessionals who hold client funds in trust to participate in the IOLTA program on the same terms as attorneys.

Thus, it is recommended that paraprofessionals be required to open IOLTA accounts and place client funds in them pursuant to the same terms applicable to attorneys.

B. Continuing Education

The Working Group has recommended establishment of continuing education requirements for paraprofessionals. During OGC's review of parallel rules for continuing legal education for attorneys, it identified three rules presenting policy issues for the Working Group to consider in making recommendations for continuing education requirements for paraprofessionals.

First, for attorneys, State Bar Rule 2.81 permits attorneys who present at approved continuing education courses to receive continuing education credit in the amount of up to four times the time they spend presenting. (See Attachment A at 11.) This rule recognizes that teaching continuing education courses often involves particular mastery of the material and significant preparation time, and encourages attorney participation as presenters.

The Regulation Subcommittee discussed allowing paraprofessionals to receive continuing education credit for speaking at continuing education courses on the same terms as attorneys, and agreed that paraprofessionals should be granted such credit because teaching requires preparation and mastery, and because offering credit will incentivize paraprofessionals to present at such courses.

The Regulation Subcommittee also considered whether paraprofessionals should receive continuing education credit for teaching law school courses (or paraprofessional school courses) on the terms applicable to attorneys under State Bar Rule 2.82. (See Attachment A at 12.) The Regulation Subcommittee agreed that a parallel rule for paraprofessionals should not be recommended at this time, as there is no current anticipated need for paraprofessionals (who do not yet exist) to teach at law schools or paraprofessional schools. Rather, the continuing education requirements should be fulfilled through approved continuing education courses.

Finally, the Regulation Subcommittee considered whether paraprofessionals should be permitted to seek credit for attending *unapproved* continuing education courses, as attorneys are permitted to do pursuant to State Bar Rule 2.86. (See Attachment A at 12.) Staff confirmed that the rule for attorneys is primarily used by attorneys who have practices requiring specialized training in non-legal fields (such as medical billing or accounting). Because paraprofessionals will practice only in defined fields, the Regulation Subcommittee agreed that such a rule should not be adopted for paraprofessionals, who should be required to obtain continuing education in courses specifically approved for paraprofessionals.

Thus, it is recommended that paraprofessionals be permitted to receive continuing education credit for speaking at paraprofessional continuing education courses on terms mirroring those applicable to attorneys, and that paraprofessionals not be permitted to receive continuing education credit for teaching at law schools or paraprofessional schools or for taking unapproved courses.

C. Duties to Cooperate in Discipline Proceedings, Update Licensee Records, and Self-Report Adverse Events

The State Bar Act subjects attorneys to statutory duties to cooperate with disciplinary proceedings (Bus. & Prof. Code § 6068(i); see Attachment A at 12), maintain up-to-date licensee records with the State Bar (e.g., current contact information; Bus. & Prof. Code § 6068(j); see Attachment A at 13), and self-report enumerated adverse events (e.g., sanctions awards, lawsuits, and convictions; Bus. & Prof. Code § 6068(o); see Attachment A at 13).

The Regulation Subcommittee considered these items and agreed that parallel requirements are necessary for the proper functioning of the paraprofessional program. No policy reasons for not applying parallel requirements were identified.

Thus, it is recommended that paraprofessionals be subject to provisions mirroring those for attorneys set forth in Business & Professions Code sections 6068(i), 6068(j), and 6068(o).

D. Attorney-Client Privilege

The attorney-client privilege, or in the words of the statute, “lawyer-client privilege,” is established by Evidence Code sections 912(c), 917, 950, 951, 952, 954, 955, 956, 956.5, 958, 959, and 962. (See Attachment A at 14-17.)

Confidential communications between paraprofessionals and their clients would most likely be protected by the attorney-client privilege without any change to the existing statute, as Evidence Code section 950 defines “lawyer” for purposes of the privilege as “a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.” The paraprofessionals contemplated by this program would be authorized to practice law.

However, the Regulation Subcommittee agrees that the statute should be amended to make explicit that communications between paraprofessionals and clients are privileged on the same terms as communications between attorneys and clients. This is consistent with the “fundamental purpose” of the privilege, which “is to safeguard the confidential relationship between clients and their attorneys so as to promote full and open discussion of the facts and tactics surrounding individual legal matters.” *Costco Wholesale Corp. v. Superior Ct.*, 47 Cal. 4th 725, 732 (2009) (internal quotations omitted). Applying the privilege to paraprofessionals will encourage their clients to be candid and make full disclosures to the paraprofessionals. This will help ensure that paraprofessionals have all necessary facts, not only to represent their clients but to refer them to an attorney in the event that the client needs legal services that can only be performed by an attorney. The Regulation Subcommittee did not identify any policy reasons for not applying the attorney-client privilege to paraprofessionals.

Thus, it is recommended that the statutory provisions establishing the lawyer-client privilege make explicit that the privilege applies to communications between paraprofessionals and their clients on the same terms applicable to communications between attorneys and clients.

E. Attorney Work Product Doctrine

The attorney work product doctrine is set forth at Code of Civil Procedure sections 2018.010 – 2018.080. (See Attachment A at 17-19.) These statutes have the purposes of “[p]reserv[ing] the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of those cases” and “[p]revent[ing] attorneys from taking undue advantage of their adversary’s industry and efforts.” These rationales apply equally to paraprofessionals practicing law.

The Regulation Subcommittee agrees that the same rationales supporting the work product doctrine for attorneys apply to paraprofessionals. Further, not applying the work product doctrine to paraprofessionals could place their clients at a disadvantage in disputes with parties represented by attorneys, because the work of the attorney would be protected by the work product doctrine while the work of the paraprofessional could be subject to discovery by the opposing party. The Regulation Subcommittee did not identify any policy reasons for not extending the attorney work product doctrine to paraprofessionals.

Thus, it is recommended that the statutory provisions establishing the attorney work product doctrine be extended to apply to the work product of paraprofessionals.

F. Statute of Limitations

Pursuant to Code of Civil Procedure section 340.6, claims against an attorney “for a wrongful act or omission, other than for actual fraud, arising in the performance of professional services” are subject to a statute of limitations of “one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the facts constituting the wrongful act or omission, or four years from the date of the wrongful act or omission, whichever occurs first.” (See Attachment A at 19-20.) The statute provides for tolling, including during the pendency of the representation and when the attorney willfully conceals the facts constituting the wrongful act or omission. This statute was enacted in response to rising malpractice insurance rates for attorneys and because, in the absence of this statute, the statute of limitations applicable to claims by clients against their attorneys depended on how the claim was pleaded; generally, a statute of limitations of two years (if pleaded as breach of an oral contract or tort affecting intangible property) or four years (if pleaded as a breach of written agreement) applied. See *Lee v. Hanley*, 61 Cal. 4th 1225, 1234 (2015) (discussing history of Code of Civil Procedure section 340.6).

The Regulation Subcommittee agreed that the Legislature should enact a specific statute of limitations for claims for wrongful acts or omissions by paraprofessionals in the performance of professional services in order to provide clarity to clients. Several members of the Regulation Subcommittee opined that, to promote public protection, a longer statute of limitations should apply to paraprofessionals than applies to attorneys or that claims against both attorneys and paraprofessionals should be subject to a longer statute of limitations than is set forth in Code of Civil Procedure section 340.6. Some members also suggested that a discovery rule apply to all limitation’s periods for claims against paraprofessionals.

Thus, it is recommended a specific statute of limitations be established for claims against paraprofessionals for wrongful acts or omissions, other than for actual fraud, arising in the performance of professional services. The Working Group may also wish to recommend that such claims be subject to the same limitations period as claims against attorneys, or that different limitation periods apply.

G. Complaints Alleging Civil Conspiracy Between Attorneys and Clients

Civil Code section 1714.10 requires a court determination that a plaintiff has shown a reasonable probability of prevailing before a plaintiff may file a complaint alleging a cause of action against an attorney for a civil conspiracy with and his or her client arising from an attempt to contest or compromise a claim or dispute based on the attorney's representation of the client. (See Attachment A at 20-21.) This pre-filing requirement protects attorneys against baseless claims of civil conspiracy, but adds procedural requirements for plaintiffs pursuing such claims.

The Regulation Subcommittee did not take a position on whether this statute should be extended to paraprofessionals. Given the anticipated limited scope of paraprofessionals' practice, it is not clear how often a paraprofessional would be subject to civil conspiracy claims of the sort addressed by this statute.

Staff does not recommend a particular Working Group action on this issue.

H. Running and Capping

Rule 7.4(d) of the Rules of Professional Conduct for Licensed Paraprofessionals approved by the Working Group bars the use of runners and cappers by paraprofessionals. However, the Working Group has not yet recommended that the Legislature enact a statute barring running and capping for paraprofessionals. For attorneys, running and capping is prohibited by Business & Professions Code sections 6151 – 6154. (See Attachment A at 21-23.)

The Regulation Subcommittee agrees that the Working Group should recommend that the Legislature enact a statutory ban on running and capping by and for paraprofessionals mirroring the provisions for attorneys set forth in Business & Professions Code sections 6151 – 6154.

Thus, it is recommended that a statutory ban on running and capping by and for paraprofessionals mirroring the provisions for attorneys set forth in Business & Professions Code sections 6151 – 6154 be enacted.

I. Voidability of Fee Agreements for Failure to Comply With Rule 1.5.2 of Professional Conduct for Licensed Paraprofessionals

Rule 1.5.2 of the Rules of Professional Conduct for Licensed Paraprofessionals approved by the Working Group requires paraprofessionals to enter into written agreements with their clients making specified disclosures. Business & Professions Code sections 6147 and 6148 impose written fee agreement requirements for attorneys and impose certain requirements for such

agreements. (See Attachment A at 23-25.) The statutes further provide that “[f]ailure to comply with any provision of this section renders the agreement voidable at the option of the plaintiff, and the attorney shall thereupon be entitled to collect a reasonable fee.” Bus. & Prof. § 6147(b); *see also* Bus. & Prof. § 6148(c).

The Regulation Subcommittee agrees that, should paraprofessionals violate Rule 1.5.2 of the Rules of Professional Conduct for Licensed Paraprofessionals by failing to enter into a written agreement with a client that complies with the rule, the paraprofessional’s agreement with the client shall be voidable at the option of the client, and the paraprofessional shall be entitled to collect a reasonable fee.

Thus, it is recommended that a statutory provision be enacted providing that when a paraprofessional fails to enter into a written agreement with a client that complies with Rule 1.5.2 of the Rules of Professional Conduct for Licensed Paraprofessionals, the paraprofessional’s agreement with the client shall be voidable at the option of the client, with the paraprofessional entitled to collect a reasonable fee.

RECOMMENDATION AND PROPOSED RESOLUTIONS

Staff recommends that the Working Group adopt the following resolutions:

RESOLVED, that the California Paraprofessional Program Working Group recommends that paraprofessionals be required to open IOLTA accounts and place client funds therein pursuant to the same terms applicable to attorneys.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that that paraprofessionals be permitted to receive continuing education credit for speaking at paraprofessional continuing education courses on terms mirroring those applicable to attorneys, and that paraprofessionals not be permitted to receive continuing education credit for teaching at law schools or paraprofessional schools or for taking unapproved courses.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that paraprofessionals be subject to provisions mirroring those for attorneys set forth in Business & Professions Code sections 6068(i), 6068(j), and 6068(o).

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that the statutory provisions establishing the lawyer-client privilege expressly provide that the privilege applies to communications between paraprofessionals and their clients on the same terms applicable to communications between attorneys and clients.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that the statutory provisions establishing the attorney work product doctrine be extended to apply to the work product of paraprofessionals.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that a specific statute of limitations be established for claims against paraprofessionals for wrongful acts or omissions, other than for actual fraud, arising in the performance of professional services. [POTENTIAL ADDITIONAL RESOLUTION: **FURTHER RESOLVED**, that the California Paraprofessional Program Working Group recommends that claims against paraprofessionals for wrongful acts or omissions arising in the performance of professional services be subject to [the same limitations periods applicable to claims against attorneys] [a statute of limitations that mirrors the statute of limitations applicable to attorneys, except that the one-year period applicable to claims against attorneys shall be two years for claims against paraprofessionals].]

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that a statutory ban on running and capping by and for paraprofessionals mirroring the provisions for attorneys set forth in Business & Professions Code sections 6151 – 6154 be enacted.

FURTHER RESOLVED, that the California Paraprofessional Program Working Group recommends that a statutory provision be enacted providing that when a paraprofessional fails to enter into a written agreement with a client that complies with Rule 1.5.2 of the Rules of Professional Conduct for Licensed Paraprofessionals, the paraprofessional's agreement with the client shall be voidable at the option of the client, with the paraprofessional entitled to collect a reasonable fee.

ATTACHMENTS

A. Parallel Provisions For Attorneys

PARALLEL ATTORNEY PROVISIONS

Open Issue	Attorney Provisions
A. IOLTA Statute	<p>Bus. & Prof. Code § 6210. Legislative findings; purpose The Legislature finds that, due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons, especially underserved client groups, such as the elderly, the disabled, juveniles, and non-English-speaking persons, do not adequately meet the needs of these persons. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons, and to initiate new programs that will provide services to them. The Legislature finds that the use of funds collected by the State Bar pursuant to this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government. The Legislature further finds that the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and the improvement of the administration of justice.</p> <p>Bus. & Prof. Code § 6211. Establishment by attorney of IOLTA account; interest and dividends earned to be paid to State Bar; other accounts not prohibited; rules of professional conduct; authority of Supreme Court or State Bar not affected (a) An attorney or law firm that, in the course of the practice of law, receives or disburses trust funds shall establish and maintain an IOLTA account in which the attorney or law firm shall deposit or invest all client deposits or funds that are nominal in amount or are on deposit or invested for a short period of time. All such client funds may be deposited or invested in a single unsegregated account. The interest and dividends earned on all those accounts shall be paid to the State Bar of California to be used for the purposes set forth in this article. (b) Nothing in this article shall be construed to prohibit an attorney or law firm from establishing one or more interest bearing bank trust deposit accounts or dividend-paying trust investment accounts as may be permitted by the Supreme Court, with the interest or dividends earned on the accounts payable to clients for trust funds not deposited or invested in accordance with subdivision (a). (c) With the approval of the Supreme Court, the State Bar may formulate and enforce rules of professional conduct pertaining to the use by attorneys or law firms of an IOLTA account for unsegregated client funds pursuant to this article.</p>

	<p>(d) Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar or as modifying the statutes and rules governing the conduct of licensees of the State Bar.</p> <p>Bus. & Prof. Code § 6212. Establishment by attorney of IOLTA account; amount of interest; remittance to State Bar; reporting of IOLTA account compliance and other information; statements and reports</p> <p>An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:</p> <p>(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney's or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.</p> <p>(b) Except as provided in subdivision (f), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing in this article shall preclude an eligible institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.</p> <p>(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to the State Bar. Fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the attorney or law firm maintaining the IOLTA account. Fees and charges shall not be assessed against or</p>
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	<p>deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions do not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Chapter 422 of the Statutes of 2007 or in making investment products available to IOLTA members.</p> <p>(d) The attorney or law firm shall report IOLTA account compliance and all other IOLTA account information required by the State Bar in the manner specified by the State Bar.</p> <p>(e) The eligible institution shall be directed to do all of the following:</p> <p>(1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.</p> <p>(2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for which the remittance is sent, for each account the rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.</p> <p>(3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.</p> <p>(f) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA-eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other requirements applicable to the investment product. If the eligible institution elects to pay that higher interest rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product.</p> <p>Bus. & Prof. Code § 6213. Definitions</p> <p>As used in this article:</p> <p>(a) “Qualified legal services project” means either of the following:</p> <p>(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.</p> <p>(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).</p>
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	<p>(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.</p> <p>(B) The program shall have quality control procedures approved by the State Bar of California.</p> <p>(b) “Qualified support center” means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.</p> <p>(c) “Recipient” means a qualified legal services project or support center receiving financial assistance under this article.</p> <p>(d) “Indigent person” means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project that provides free services of attorneys in private practice without compensation, “indigent person” also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.</p> <p>(e) “Fee generating case” means a case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:</p> <p>(1) The recipient has determined that free referral is not possible because of any of the following reasons:</p> <p>(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.</p> <p>(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.</p> <p>(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.</p> <p>(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.</p>
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	<p>(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.</p> <p>(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.</p> <p>(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.</p> <p>(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).</p> <p>(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).</p> <p>(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).</p> <p>(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.</p> <p>(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:</p> <ol style="list-style-type: none"> (1) An interest-bearing checking account. (2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money market fund. (3) An investment product authorized by California Supreme Court rule or order. <p>A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).</p> <p>(k) "Eligible institution" means either of the following:</p>
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	<p>(1) A bank, savings and loan, or other financial institution regulated by a federal or state agency that pays interest or dividends in the IOLTA account and carries deposit insurance from an agency of the federal government.</p> <p>(2) Any other type of financial institution authorized by the California Supreme Court.</p> <p>Bus. & Prof. Code § 6214. Qualified legal service projects</p> <p>(a) Projects meeting the requirements of subdivision (a) of Section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older American Act funds shall be presumed qualified legal services projects for the purpose of this article.</p> <p>(b) Projects meeting the requirements of subdivision (a) of Section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:</p> <p>(1) They receive cash funds from other sources in the amount of at least twenty thousand dollars (\$20,000) per year to support free legal representation to indigent persons.</p> <p>(2) They have demonstrated community support for the operation of a viable ongoing program.</p> <p>(3) They provide one or both of the following special services:</p> <p>(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.</p> <p>(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups.</p> <p>Bus. & Prof. Code § 6214.5. Qualified legal services projects; eligibility for distributions of funds</p> <p>A law school program that meets the definition of a “qualified legal services project” as defined in paragraph (2) of subdivision (a) of Section 6213, and that applied to the State Bar for funding under this article not later than February 17, 1984, shall be deemed eligible for all distributions of funds made under Section 6216.</p> <p>Bus. & Prof. Code § 6215. Qualified support centers</p> <p>(a) Support centers satisfying the qualifications specified in subdivision (b) of Section 6213 which were operating an office and providing services in California on December 31, 1980, shall be presumed to be qualified support centers for the purposes of this article.</p>
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	<p>(b) Support centers not qualifying under the presumption specified in subdivision (a) may qualify as a support center by meeting both of the following additional criteria:</p> <p>(1) Meeting quality control standards established by the State Bar.</p> <p>(2) Being deemed to be of special need by a majority of the qualified legal services projects.</p> <p>Bus. & Prof. Code § 6216. Distribution of funds</p> <p>The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:</p> <p>(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefor.</p> <p>(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.</p> <p>(1)(A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.</p> <p>(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to</p>
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	<p>the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.</p> <p>(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.</p> <p>(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.</p> <p>Bus. & Prof. Code § 6217. Maintenance of quality services, professional standards, attorney-client privilege; funds to be expended in accordance with article; interference with attorney prohibited</p> <p>With respect to the provision of legal assistance under this article, each recipient shall ensure all of the following:</p> <p>(a) The maintenance of quality service and professional standards.</p> <p>(b) The expenditure of funds received in accordance with the provisions of this article.</p> <p>(c) The preservation of the attorney-client privilege in any case, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to indigent persons.</p> <p>(d) That no one shall interfere with any attorney funded in whole or in part by this article in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility and this chapter.</p> <p>Bus. & Prof. Code § 6218. Eligibility for services; establishment of guidelines; funds to be expended in accordance with article</p> <p>All legal services projects and support centers receiving funds pursuant to this article shall adopt financial eligibility guidelines for indigent persons.</p>
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	<p>(a) Qualified legal services programs shall ensure that funds appropriated pursuant to this article shall be used solely to defray the costs of providing legal services to indigent persons or for such other purposes as set forth in this article.</p> <p>(b) Funds received pursuant to this article by support centers shall only be used to provide services to qualified legal services projects as defined in subdivision (a) of Section 6213 which are used pursuant to a plan as required by subdivision (c) of Section 6216, or as permitted by Section 6219.</p> <p>Bus. & Prof. Code § 6219. Provision of work opportunities and scholarships for disadvantaged law students Qualified legal services projects and support centers may use funds provided under this article to provide work opportunities with pay, and where feasible, scholarships for disadvantaged law students to help defray their law school expenses.</p> <p>Bus. & Prof. Code § 6220. Private attorneys providing legal services without charge; support center services Attorneys in private practice who are providing legal services without charge to indigent persons shall not be disqualified from receiving the services of the qualified support centers.</p> <p>Bus. & Prof. Code § 6221. Services for indigent members of disadvantaged and underserved groups Qualified legal services projects shall make significant efforts to utilize 20 percent of the funds allocated under this article for increasing the availability of services to the elderly, the disabled, juveniles, or other indigent persons who are members of disadvantaged and underserved groups within their service area.</p> <p>Bus. & Prof. Code § 6222. Recipients of funds to submit annual financial statements; information included in annual report of State Bar receipts and expenditures A recipient of funds allocated pursuant to this article annually shall submit a financial statement to the State Bar, including an audit of the funds by a certified public accountant or a fiscal review approved by the State Bar, a report demonstrating the programs on which they were expended, a report on the recipient's compliance with the requirements of Section 6217, and progress in meeting the service expansion requirements of Section 6221. The Board of Trustees of the State Bar shall include a report of receipts of funds under this article, expenditures for administrative costs, and disbursements of the funds, on a county-by-county basis, in the annual report of State Bar receipts and expenditures required pursuant to Section 6145.</p>
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	<p>Bus. & Prof. Code § 6223. Expenditure of funds; prohibitions No funds allocated by the State Bar pursuant to this article shall be used for any of the following purposes:</p> <ul style="list-style-type: none"> (a) The provision of legal assistance with respect to any fee generating case, except in accordance with guidelines which shall be promulgated by the State Bar. (b) The provision of legal assistance with respect to any criminal proceeding. (c) The provision of legal assistance, except to indigent persons or except to provide support services to qualified legal services projects as defined by this article. <p>Bus. & Prof. Code § 6224. State bar; powers; determination of qualifications to receive funds; denial of funds; termination; procedures The State Bar shall have the power to determine that an applicant for funding is not qualified to receive funding, to deny future funding, or to terminate existing funding because the recipient is not operating in compliance with the requirements or restrictions of this article. A denial of an application for funding or for future funding or an action by the State Bar to terminate an existing grant of funds under this article shall not become final until the applicant or recipient has been afforded reasonable notice and an opportunity for a timely and fair hearing. Pending final determination of any hearing held with reference to termination of funding, financial assistance shall be continued at its existing level on a month-to-month basis. Hearings for denial shall be conducted by an impartial hearing officer whose decision shall be final. The hearing officer shall render a decision no later than 30 days after the conclusion of the hearing. Specific procedures governing the conduct of the hearings of this section shall be determined by the State Bar pursuant to Section 6225.</p> <p>Bus. & Prof. Code § 6225. Implementation of article; adoption of rules and regulations; procedures The Board of Trustees of the State Bar shall adopt the regulations and procedures necessary to implement this article and to ensure that the funds allocated herein are utilized to provide civil legal services to indigent persons, especially underserved client groups such as but not limited to the elderly, the disabled, juveniles, and non-English-speaking persons. In adopting the regulations the Board of Trustees shall comply with the following procedures:</p>
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	<p>(a) The board shall publish a preliminary draft of the regulations and procedures, which shall be distributed, together with notice of the hearings required by subdivision (b), to commercial banking institutions, to licensees of the State Bar, and to potential recipients of funds.</p> <p>(b) The board shall hold at least two public hearings, one in southern California and one in northern California where affected and interested parties shall be afforded an opportunity to present oral and written testimony regarding the proposed regulations and procedures.</p> <p>Bus. & Prof. Code § 6226. Implementation of article; resolution The program authorized by this article shall become operative only upon the adoption of a resolution by the Board of Trustees of the State Bar stating that regulations have been adopted pursuant to Section 6225 which conform the program to all applicable tax and banking statutes, regulations, and rulings.</p> <p>Bus. & Prof. Code § 6227. Credit of state not pledged Nothing in this article shall create an obligation or pledge of the credit of the State of California or of the State Bar of California. Claims arising by reason of acts done pursuant to this article shall be limited to the moneys generated hereunder.</p> <p>Bus. & Prof. Code § 6228. Severability If any provision of this article or the application thereof to any group or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.</p>
B. MCLE Provisions	<p>State Bar Rule 2.81 Speaking</p> <p>A licensee may claim participatory MCLE credit for speaking at an approved MCLE activity.</p> <p>(A) A principal speaker, who is responsible for preparing and delivering a program or class and its related materials, may claim</p> <p>(1) actual speaking time multiplied by four for the first presentation; or</p>

	<p>(2) actual speaking time only for each time a presentation is repeated without significant change.</p> <p>(B) A panelist may claim</p> <p>(1) either of the following for the first panel presentation: (a) scheduled individual speaking time multiplied by four, plus the actual time spent in attendance at the remainder of the presentation; or (b) when times have not been scheduled for individual speakers, an equal share of the total time for all speakers multiplied by four plus the actual time spent in attendance at the remainder of the presentation.</p> <p>(2) actual speaking time only for each time a presentation is repeated without significant change.</p> <p>(C) A licensee who introduces speakers or serves as a moderator may claim only the MCLE credit available to any attendee.</p> <p>State Bar Rule 2.82 Teaching</p> <p>A licensee may claim participatory MCLE credit for teaching a law school course.</p> <p>(A) A licensee assigned to teach a course may claim no more than the credit hours granted by the law school multiplied by twelve or actual speaking time for required MCLE in legal ethics, elimination of bias, or competence issues.</p> <p>(B) A guest lecturer or substitute teacher may claim</p> <p>(1) actual speaking time multiplied by four for the first presentation; or</p> <p>(2) actual speaking time only for each time a presentation is repeated without significant change.</p> <p>State Bar Rule 2.86 Licensee credit request</p>
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	<p>A licensee may apply for MCLE credit for an educational activity directly relevant to the licensee’s practice but not otherwise approved if the activity substantially meets State Bar standards. The application must be submitted with the appropriate fee.</p>
<p>C. Duties to Cooperate in Discipline Proceedings, Update Licensee Records, and Self-Report Adverse Events</p>	<p>Bus. & Prof. Code § 6068(i) “It is the duty of an attorney to ... cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against himself or herself. However, this subdivision shall not be construed to deprive an attorney of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require an attorney to cooperate with a request that requires him or her to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the attorney's practice. Any exercise by an attorney of any constitutional or statutory privilege shall not be used against the attorney in a regulatory or disciplinary proceeding against him or her.”</p> <p>Bus. & Prof. Code § 6068(j) “It is the duty of an attorney to ... comply with the requirements of Section 6002.1.”¹</p> <p>Bus. & Prof. Code § 6068(o) “It is the duty of an attorney to ... report to the State Bar, in writing, within 30 days of the time the attorney has knowledge of any of the following: (1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity. (2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.</p>

¹ The referenced section enumerates contact and practice information that attorneys must keep up-to-date with the State Bar. It is anticipated that specific requirements for paralegals will be developed based on operational needs.

	<p>(3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).</p> <p>(4) The bringing of an indictment or information charging a felony against the attorney.</p> <p>(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.</p> <p>(6) The imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.</p> <p>(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.</p> <p>(8) As used in this subdivision, “against the attorney” includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.</p> <p>(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.</p> <p>(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline.</p>
D. Attorney-Client Privilege	<p>Evid. Code § 912. Waiver of privilege</p> <p>(a) Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege) ... is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has legal standing and the opportunity to claim the privilege.</p>

	<p>(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege)... a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege....</p> <p>(c) A disclosure that is itself privileged is not a waiver of any privilege.</p> <p>A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), ..., when disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer... was consulted, is not a waiver of the privilege.</p> <p>Evid. Code § 917. Presumption that certain communications are confidential; privileged character of electronic communications</p> <p>(a) If a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of the lawyer-client... relationship, the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.</p> <p>(b) A communication between persons in a relationship listed in subdivision (a) does not lose its privileged character for the sole reason that it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication.</p> <p>(c) (c) For purposes of this section, “electronic” has the same meaning provided in Section 1633.2 of the Civil Code.</p> <p>Evid. Code § 950. Lawyer As used in this article, “lawyer” means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.</p> <p>Evid. Code § 951. Client As used in this article, “client” means a person who, directly or through an authorized representative, consults a lawyer for the purpose of retaining the lawyer or securing legal service or advice from him in his professional capacity, and includes an incompetent (a) who himself so consults the lawyer or (b) whose guardian or conservator so consults the lawyer in behalf of the incompetent.</p>
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	<p>Evid. Code § 952. Confidential communication between client and lawyer</p> <p>As used in this article, “confidential communication between client and lawyer” means information transmitted between a client and his or her lawyer in the course of that relationship and in confidence by a means which, so far as the client is aware, discloses the information to no third persons other than those who are present to further the interest of the client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the lawyer is consulted, and includes a legal opinion formed and the advice given by the lawyer in the course of that relationship.</p> <p>Evid. Code § 954. Lawyer-client privilege</p> <p>Subject to Section 912 and except as otherwise provided in this article, the client, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between client and lawyer if the privilege is claimed by:</p> <ul style="list-style-type: none"> (a) The holder of the privilege; (b) A person who is authorized to claim the privilege by the holder of the privilege; or (c) The person who was the lawyer at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he is otherwise instructed by a person authorized to permit disclosure. <p>The relationship of attorney and client shall exist between a law corporation as defined in Article 10 (commencing with Section 6160) of Chapter 4 of Division 3 of the Business and Professions Code and the persons to whom it renders professional services, as well as between such persons and members of the State Bar employed by such corporation to render services to such persons. The word “persons” as used in this subdivision includes partnerships, corporations, limited liability companies, associations and other groups and entities.</p> <p>Evid. Code § 955. When lawyer required to claim privilege</p>
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	<p>The lawyer who received or made a communication subject to the privilege under this article shall claim the privilege whenever he is present when the communication is sought to be disclosed and is authorized to claim the privilege under subdivision (c) of Section 954.</p> <p>Evid. Code § 956. Exception: Crime or fraud; applicability to legal services for lawful cannabis-related activities (a) There is no privilege under this article if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.</p> <p>This exception to the privilege granted by this article shall not apply to legal services rendered in compliance with state and local laws on medicinal cannabis or adult-use cannabis, and confidential communications provided for the purpose of rendering those services are confidential communications between client and lawyer, as defined in Section 952, provided the lawyer also advises the client on conflicts with respect to federal law.</p> <p>Evid. Code § 956.5. Exception: Prevention of criminal act likely to result in death or substantial bodily harm There is no privilege under this article if the lawyer reasonably believes that disclosure of any confidential communication relating to representation of a client is necessary to prevent a criminal act that the lawyer reasonably believes is likely to result in the death of, or substantial bodily harm to, an individual.</p> <p>Evid. Code § 958. Exception: Breach of duty arising out of lawyer-client relationship There is no privilege under this article as to a communication relevant to an issue of breach, by the lawyer or by the client, of a duty arising out of the lawyer-client relationship.</p> <p>Evid. Code § 959. Exception: Lawyer as attesting witness There is no privilege under this article as to a communication relevant to an issue concerning the intention or competence of a client executing an attested document of which the lawyer is an attesting witness, or concerning the execution or attestation of such a document.</p> <p>Evid. Code § 962. Exception: Joint clients Where two or more clients have retained or consulted a lawyer upon a matter of common interest, none of them, nor the successor in interest of any of them, may claim a privilege under this article as to a communication made in the</p>
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	<p>course of that relationship when such communication is offered in a civil proceeding between one of such clients (or his successor in interest) and another of such clients (or his successor in interest).</p>
<p>E. Attorney Work Product Doctrine</p>	<p>Civ. Proc. Code § 2018.010. “Client” defined For purposes of this chapter, “client” means a “client” as defined in Section 951 of the Evidence Code.</p> <p>Civ. Proc. Code § 2018.020. Policy of the state</p> <p>It is the policy of the state to do both of the following:</p> <ul style="list-style-type: none"> (a) Preserve the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of those cases. (b) Prevent attorneys from taking undue advantage of their adversary's industry and efforts. <p>Civ. Proc. Code § 2018.030. Writings and written documentation</p> <ul style="list-style-type: none"> (a) A writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances. (b) The work product of an attorney, other than a writing described in subdivision (a), is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice. <p>Civ. Proc. Code § 2018.040. Restatement of existing law This chapter is intended to be a restatement of existing law relating to protection of work product. It is not intended to expand or reduce the extent to which work product is discoverable under existing law in any action.</p> <p>Civ. Proc. Code § 2018.050. Participation in crime or fraud Notwithstanding Section 2018.040, when a lawyer is suspected of knowingly participating in a crime or fraud, there is no protection of work product under this chapter in any official investigation by a law enforcement agency or proceeding or</p>

	<p>action brought by a public prosecutor in the name of the people of the State of California if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud.</p> <p>Civ. Proc. Code § 2018.060. In camera hearings Nothing in this chapter is intended to limit an attorney's ability to request an in camera hearing as provided for in <i>People v. Superior Court (Laff)</i> (2001) 25 Cal.4th 703.1</p> <p>Civ. Proc. Code § 2018.070. Disciplinary proceedings</p> <ul style="list-style-type: none"> (a) The State Bar may discover the work product of an attorney against whom disciplinary charges are pending when it is relevant to issues of breach of duty by the lawyer and requisite client approval has been granted. (b) Where requested and for good cause, discovery under this section shall be subject to a protective order to ensure the confidentiality of the work product except for its use by the State Bar in disciplinary investigations and its consideration under seal in State Bar Court proceedings. (c) For purposes of this chapter, whenever a client has initiated a complaint against an attorney, the requisite client approval shall be deemed to have been granted. <p>Civ. Proc. Code § 2018.080. Breach of duty; actions against attorney by client or former client</p> <p>In an action between an attorney and a client or a former client of the attorney, no work product privilege under this chapter exists if the work product is relevant to an issue of breach by the attorney of a duty to the client arising out of the attorney-client relationship.</p>
F. Statute of Limitations	<p>Civ. Proc. Code § 340.6. Attorneys; wrongful professional act or omission; tolling of period</p> <ul style="list-style-type: none"> (a) An action against an attorney for a wrongful act or omission, other than for actual fraud, arising in the performance of professional services shall be commenced within one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the facts constituting the wrongful act or omission, or four years from the date of the wrongful act or omission, whichever occurs first. If the plaintiff is required to establish the plaintiff's factual innocence for an underlying criminal charge as an element of the plaintiff's claim,

	<p>the action shall be commenced within two years after the plaintiff achieves postconviction exoneration in the form of a final judicial disposition of the criminal case. Except for a claim for which the plaintiff is required to establish the plaintiff's factual innocence, the time for commencement of legal action shall not exceed four years except that the period shall be tolled during the time that any of the following exist:</p> <p>(1) The plaintiff has not sustained actual injury.</p> <p>(2) The attorney continues to represent the plaintiff regarding the specific subject matter in which the alleged wrongful act or omission occurred.</p> <p>(3) The attorney willfully conceals the facts constituting the wrongful act or omission when those facts are known to the attorney, except that this subdivision shall toll only the four-year limitation.</p> <p>(4) The plaintiff is under a legal or physical disability that restricts the plaintiff's ability to commence legal action.</p> <p>(5) A dispute between the lawyer and client concerning fees, costs, or both is pending resolution under Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code. As used in this paragraph, "pending" means from the date a request for arbitration is filed until 30 days after receipt of notice of the award of the arbitrators, or receipt of notice that the arbitration is otherwise terminated, whichever occurs first.</p> <p>(b) In an action based upon an instrument in writing, the effective date of which depends upon some act or event of the future, the period of limitations provided for by this section shall commence to run upon the occurrence of that act or event.</p>
G. Complaints Alleging Civil Conspiracy Between Attorneys and Clients	<p>Civ. Code § 1714.10. Attorney client civil conspiracy; proof and court determination prior to pleading; defense; limitations; appeal</p> <p>(a) No cause of action against an attorney for a civil conspiracy with his or her client arising from any attempt to contest or compromise a claim or dispute, and which is based upon the attorney's representation of the client, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes the claim for civil conspiracy to be filed after the court determines that the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action. The court may allow the filing of a pleading claiming liability based upon such a civil conspiracy following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order</p>

	<p>service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading, and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.</p> <p>(b) Failure to obtain a court order where required by subdivision (a) shall be a defense to any action for civil conspiracy filed in violation thereof. The defense shall be raised by the attorney charged with civil conspiracy upon that attorney's first appearance by demurrer, motion to strike, or such other motion or application as may be appropriate. Failure to timely raise the defense shall constitute a waiver thereof.</p> <p>(c) This section shall not apply to a cause of action against an attorney for a civil conspiracy with his or her client, where (1) the attorney has an independent legal duty to the plaintiff, or (2) the attorney's acts go beyond the performance of a professional duty to serve the client and involve a conspiracy to violate a legal duty in furtherance of the attorney's financial gain.</p> <p>(d) This section establishes a special proceeding of a civil nature. Any order made under subdivision (a), (b), or (c) which determines the rights of a petitioner or an attorney against whom a pleading has been or is proposed to be filed, shall be appealable as a final judgment in a civil action.</p> <p>(e) Subdivision (d) does not constitute a change in, but is declaratory of, the existing law.</p>
H. Running and Capping	<p>Bus. & Prof. Code § 6151.</p> <p>As used in this article:</p> <p>(a) A runner or capper is any person, firm, association or corporation acting for consideration in any manner or in any capacity as an agent for an attorney at law or law firm, whether the attorney or any member of the law firm is admitted in California or any other jurisdiction, in the solicitation or procurement of business for the attorney at law or law firm as provided in this article.</p> <p>(b) An agent is one who represents another in dealings with one or more third persons.</p> <p>Bus. & Prof. Code § 6152.</p>

	<p>(a) It is unlawful for:</p> <p>(1) Any person, in an individual capacity or in a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any attorneys or to solicit any business for any attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.</p> <p>(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).</p> <p>(b) A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to the claim and primarily for treatment of the injury, is presumed fraudulent if the release is executed within 15 days after the commencement of confinement or prior to release from confinement, whichever occurs first.</p> <p>(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where that recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.</p> <p>(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether those persons are in custody or otherwise.</p> <p>Bus. & Prof. § 6153</p> <p>Any person, firm, partnership, association, or corporation violating subdivision (a) of Section 6152 is punishable, upon a first conviction, by imprisonment in a county jail for not more than one year or by a fine not exceeding fifteen thousand dollars (\$15,000), or by both that imprisonment and fine. Upon a second or subsequent conviction, a person, firm, partnership, association, or corporation is punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years, or by a fine not exceeding fifteen thousand dollars (\$15,000), or by both that imprisonment and fine.</p> <p>Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of the provisions of this article, shall forfeit the right to his office and employment in addition to any other penalty provided in this article.</p>
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	<p>Bus. & Prof. Code § 6154.</p> <p>(a) Any contract for professional services secured by any attorney at law or law firm in this state through the services of a runner or capper is void. In any action against any attorney or law firm under the Unfair Practices Act, Chapter 4 (commencing with Section 17000) of Division 7, or Chapter 5 (commencing with Section 17200) of Division 7, any judgment shall include an order divesting the attorney or law firm of any fees and other compensation received pursuant to any such void contract. Those fees and compensation shall be recoverable as additional civil penalties under Chapter 4 (commencing with Section 17000) or Chapter 5 (commencing with Section 17200) of Division 7.</p> <p>(b) Notwithstanding Section 17206 or any other provision of law, any fees recovered pursuant to subdivision (a) in an action involving professional services related to the provision of workers' compensation shall be allocated as follows: if the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the State General Fund, and one-half of the penalty collected shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund; if the action is brought by a district attorney, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half of the penalty collected shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund; if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half of the penalty collected shall be paid to the Workers' Compensation Fraud Account in the Insurance Fund. Moneys deposited into the Workers' Compensation Fraud Account pursuant to this subdivision shall be used in the investigation and prosecution of workers' compensation fraud, as appropriated by the Legislature.</p>
<p>I. Voidability of Fee Agreements for Failure to Comply With Rule 1.5.2 of Professional Conduct for Licensed Paraprofessionals</p>	<p>Bus. & Prof. Code § 6147. Contingency fee contracts; duplicate copy; contents; effect of noncompliance; recovery of workers' compensation benefits</p> <p>(a) An attorney who contracts to represent a client on a contingency fee basis shall, at the time the contract is entered into, provide a duplicate copy of the contract, signed by both the attorney and the client, or the client's guardian or representative, to the plaintiff, or to the client's guardian or representative. The contract shall be in writing and shall include, but is not limited to, all of the following:</p> <p>(1) A statement of the contingency fee rate that the client and attorney have agreed upon.</p> <p>(2) A statement as to how disbursements and costs incurred in connection with the prosecution or settlement of the claim will affect the contingency fee and the client's recovery.</p>

	<p>(3) A statement as to what extent, if any, the client could be required to pay any compensation to the attorney for related matters that arise out of their relationship not covered by their contingency fee contract. This may include any amounts collected for the plaintiff by the attorney.</p> <p>(4) Unless the claim is subject to the provisions of Section 6146, a statement that the fee is not set by law but is negotiable between attorney and client.</p> <p>(5) If the claim is subject to the provisions of Section 6146, a statement that the rates set forth in that section are the maximum limits for the contingency fee agreement, and that the attorney and client may negotiate a lower rate.</p> <p>(b) Failure to comply with any provision of this section renders the agreement voidable at the option of the plaintiff, and the attorney shall thereupon be entitled to collect a reasonable fee.</p> <p>(c) This section shall not apply to contingency fee contracts for the recovery of workers' compensation benefits.</p> <p>(d) This section shall become operative on January 1, 2000.</p> <p>Bus. & Prof. Code § 6148. Contracts for services in cases not coming within § 6147; bills rendered by attorney; contents; failure to comply</p> <p>(a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a client, including attorney fees, will exceed one thousand dollars (\$1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client, or the client's guardian or representative, to the client or to the client's guardian or representative. The written contract shall contain all of the following:</p> <p>(1) Any basis of compensation including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to the case.</p> <p>(2) The general nature of the legal services to be provided to the client.</p> <p>(3) The respective responsibilities of the attorney and the client as to the performance of the contract.</p> <p>(b) All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs. Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses. Upon request by the client, the attorney shall provide a bill to the client no later than 10 days following the request unless the attorney has provided a bill to the client within 31 days prior to the request, in which case the attorney may provide a bill to the client no later than 31 days following the date the most recent bill was</p>
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	<p>provided. The client is entitled to make similar requests at intervals of no less than 30 days following the initial request. In providing responses to client requests for billing information, the attorney may use billing data that is currently effective on the date of the request, or, if any fees or costs to that date cannot be accurately determined, they shall be described and estimated.</p> <p>(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the client, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.</p> <p>(d) This section shall not apply to any of the following:</p> <p>(1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client or where a writing is otherwise impractical.</p> <p>(2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the client.</p> <p>(3) If the client knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.</p> <p>(4) If the client is a corporation.</p> <p>(e) This section applies prospectively only to fee agreements following its operative date.</p> <p>(f) This section shall become operative on January 1, 2000</p>
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