

## Document: Colo. RPC 1.1

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**CO - Colorado Court Rules PAW ETTOC   Colorado Rules of Civil Procedure   Appendix to  
Chapters 18 to 20   The Colorado Rules of Professional Conduct   Client-Lawyer  
Relationship**

#### Rule 1.1. Competence.

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A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

#### History

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Entire Appendix repealed and readopted April 12, 2007, effective January 1, 2008; Comment [6] amended, and Comment [7] and [8] added, effective April 6, 2016; Comment [6] amended and adopted May 20, 2021, effective July 1, 2021; Comment [8] amended and Comment [9] added, effective January 8, 2026 (Rule Change 2026(02)).

▼ Annotations

#### Commentary

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##### COMMENT

### *Legal Knowledge and Skill*

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.2.

### *Thoroughness and Preparation*

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c).

### *Retaining or Contracting With Other Lawyers*

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. See also Rules 1.2 (allocation of authority), 1.4 (communication with client), 1.5(d) (fee sharing), 1.6 (confidentiality), and 5.5(a) (unauthorized practice of law). The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience, and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[7] When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. See Rule 1.2. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

### *Maintaining Competence*

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in

continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

[9] A lawyer's use of technology, particularly artificial intelligence, can implicate a number of other Rules, including, without limitation, those governing communication (Rule 1.4), reasonable fees (Rule 1.5), preservation of a client's confidential information (Rule 1.6), meritorious claims and defenses (Rule 3.1), candor toward the tribunal (Rule 3.3), responsibilities of a partner or supervisory lawyer (Rule 5.1), responsibilities of a subordinate lawyer (Rule 5.2), responsibilities regarding nonlawyer assistance (Rule 5.3), communications concerning a lawyer's services (Rule 7.1), and bias (Rule 8.4(g)). Reliance on technology does not diminish the lawyer's duty to exercise independent judgment in the representation of a client.

## State Notes

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### ANNOTATION

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#### **II. DISCIPLINARY ACTIONS.**

##### **A. Public Censure.**

##### **B. Suspension.**

##### **C. Disbarment.**

**Law reviews.** For article, "Representing the Debtor: Counsel Beware!", see 23 Colo. Law. 539 (1994). For article, "Enforcing Civility: The Rules of Professional Conduct in Deposition Settings", see 33 Colo. Law. 75 (Mar. 2004). For article, "The Duty of Loyalty and Preparations to Compete", see 34 Colo. Law. 67 (Nov. 2005). For article, "Professionalism and E-Discovery: Considerations Post-Zubulake", see 41 Colo. Law. 65 (June 2012). For article, "The Ethical Preparation of Witnesses", see 42 Colo. Law. 51 (May 2013). For article, "Third-Party Opinion Letters: Limiting the Liability of Opinion Givers", see 42 Colo. Law. 93 (Nov. 2013). For article, "Client-Drafted Engagement Letters and Outside Counsel Policies", see 43 Colo. Law. 33 (Feb. 2014). For article, "Colorado Considers ABA's Ethics 20/20 Project and Amends Rules of Professional Conduct", see 45 Colo. Law. 41 (Nov. 2016). For article, "Attorney-Client Privilege and the Work Product Doctrine: Is Confidentiality Lost in Email?", see 46 Colo. Law. 32 (Nov. 2017). For article, "Ethical Considerations When Using Freelance Legal Services", see 47 Colo. Law. 36 (June 2018). For article, "Online Dispute Resolution -- A Digital Door to Justice or Pandora's Box? Part 3", 49 Colo. Law. 26 (Apr. 2020). For article, "The Duty of Competence in the New Normal", see 50 Colo. Law. 40 (July 2021). For article, "The Legal Ethics of Generative AI -- Part 3", see 52 Colo. Law. 30 (Oct. 2023). For article, "Artificial Intelligence and Professional Conduct Considering the Ethical Implications of Using Electronic Legal Assistants", see 53 Colo. Law. 20 (Jan.-Feb. 2024).

**Annotator's note.** Rule 1.1 is similar to Rule 1.1 as it existed prior to the 2007 repeal and readoption of the Colorado rules of professional conduct. Relevant cases construing that provision have been included in the annotations to this rule.

**Disbarment was appropriate discipline** for attorney who borrowed or otherwise obtained money from elderly and vulnerable client where attorney failed (a) to disclose that the likelihood of repayment was remote and the inadequacy of security purportedly given to secure loans; (b) to provide client with adequate legal documentation to ensure repayment; and (c) to obtain client's consent to possible conflicts of interest. *People v. Schindelar*, 845 P.2d 1146 (Colo. 1993).

**Disbarment and an order for restitution appropriate where** attorney abandoned his clients' legal matters and failed to notify clients of suspension, appropriately wind down practice, and refund unearned fees. *People v. Wake*, 528 P.3d 943 (Colo. O.P.D.J. 2023).

**Duty of competence imposed by this rule violated** by attorney's failure to adequately supervise and monitor non-attorney employee's actions on behalf of clients in bankruptcy proceedings. *People v. Calvert*, 280 P.3d 1269 (Colo. O.P.D.J. 2011).

**One-year and one-day suspension warranted** where respondent failed to serve a cross-claim, failed to respond to several motions, failed to keep client informed, advanced defense that was not warranted by the facts and existing law, and misrepresented to client the basis for the judgment in favor of the opposing party. *People v. Genchi*, 849 P.2d 28 (Colo. 1993).

**Attorney conduct violating this rule in conjunction with other rules sufficient to justify suspension** when violation did not arise from neglect or willingness to take advantage of client's vulnerability and is mitigated by her inexperience in the practice of law, her lack of any prior disciplinary record, the fact that she had already been held in contempt and punished by the district court, and the fact that there is no suggestion of selfish motivation. Attorney's failure to appreciate the serious nature of conduct and the jurisdiction of the hearing board to discipline her is a serious matter meriting a period of suspension and a redetermination of her fitness before being permitted to practice law again. *In re Roose*, 69 P.3d 43 (Colo. 2003).

**Nine-month suspension stayed upon the requirement to pay restitution to clients is justified** when violating this rule in conjunction with other disciplinary rules, particularly given the substantial and continuous incompetence, advancement of meritless claims, and significant financial harm that conduct caused clients. *People v. Bontrager*, 407 P.3d 1235 (Colo. O.P.D.J. 2017).

**Attorney's conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify six-month suspension, stayed upon completion of two-year**

**probationary period.** Attorney neglected to provide competent representation by failing to take action to secure survivor benefits for client. *In re Fisher*, 202 P.3d 1186 (Colo. 2009) (decided under rules in effect prior to 2007 repeal and readoption).

**Forty-five-day suspension warranted where respondent neglected child custody matter** and had a prior public censure, a prior admonishment, and prior suspensions, but where the respondent did not demonstrate a dishonest or selfish motive and exhibited a cooperative attitude and expressions of remorse. *People v. Dowhan*, 951 P.2d 905 (Colo. 1998).

**Attorney's neglect resulting in an untimely filing of an inadequate certificate of review and dismissal of his client's case, combined with fact that certificate contained false statements of material fact that attorney later repeated to an investigative counsel with the office of disciplinary counsel** warranted a 45-day suspension, despite mitigating factors. *People v. Porter*, 980 P.2d 536 (Colo. 1999).

**Neglecting to file response to motion for summary judgment and to return client files upon request was sufficient to result in one-year and one-day suspension.** *People v. Honaker*, 847 P.2d 640 (Colo. 1993).

**Thirty-day suspension warranted** where attorney, with previous history of discipline and experience in practicing law, neglected a civil rights suit by failing to provide an accounting with respect to fees charged and by failing to return unearned fees. *People v. Fritsche*, 849 P.2d 31 (Colo. 1993).

**Stipulated agreement and recommendation of suspension for 30 days based upon conditional admission of misconduct** were warranted for attorney who committed unfair insurance claim settlement practices and tortious conduct in handling insurance investigation of fire claim that he was not competent to handle. *People v. McClung*, 953 P.2d 1282 (Colo. 1998).

**Attorney's inaction over a period of more than two years** and other disciplinary violations warrant suspension for 30 days where there are mitigating factors. *People v. LaSalle*, 848 P.2d 348 (Colo. 1993).

**Thirty-day suspension was appropriate discipline** where attorney advised client to take action in violation of child custody order but failed to warn her of criminal consequences of such action. *People v. Aron*, 962 P.2d 261 (Colo. 1998).

**Public censure warranted where respondent negligently filed an involuntary bankruptcy petition that was ill-advised and without factual or legal basis.** Mitigating factors included

the fact that respondent's mental state was one of negligence rather than knowing misconduct, respondent had not been disciplined before, and respondent cooperated in the discipline action. People v. Moskowitz, 944 P.2d 76 (Colo. 1997).

**Public censure appropriate** where harm suffered by attorney's client was speculative, attorney retracted his misrepresentations and admitted to his client before the institution of disciplinary proceedings that he had done nothing on the client's appeal, attorney had no prior discipline, he made full and free disclosure of his misconduct to the grievance committee, and he expressed remorse for his misconduct. People v. Nelson, 848 P.2d 351 (Colo. 1993).

**Public censure appropriate where attorney failed to review district attorney's file and the transcript of the preliminary hearing before trial.** People v. Bonner, 927 P.2d 836 (Colo. 1996).

**Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify public censure.** People v. Doherty, 908 P.2d 1120 (Colo. 1996); People v. Doherty, 945 P.2d 1380 (Colo. 1997); People v. Kolko, 962 P.2d 979 (Colo. 1998).

**Conduct violating this rule sufficient to justify public censure.** People v. Smith, 847 P.2d 1154 (Colo. 1993).

**Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify suspension.** People v. Hohertz, 926 P.2d 560 (Colo. 1996); People v. Dieters, 935 P.2d 1 (Colo. 1997); People v. Primavera, 942 P.2d 496 (Colo. 1997); In re Tolley, 975 P.2d 1115 (Colo. 1999); People v. Maynard, 238 P.3d 672 (Colo. O.P.D.J. 2009); People v. Cochrane, 296 P.3d 1051 (Colo. O.P.D.J. 2013); People v. Beecher, 350 P.3d 310 (Colo. O.P.D.J. 2015); People v. Al-Haqq, 470 P.3d 885 (Colo. O.P.D.J. 2016); People v. Taggart, 470 P.3d 699 (Colo. O.P.D.J. 2017); People v. Efe, 477 P.3d 807 (Colo. O.P.D.J. 2020); People v. Layton, 494 P.3d 693 (Colo. O.P.D.J. 2021).

**Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment.** People v. Walsh, 880 P.2d 766 (Colo. 1994); People v. Roybal, 949 P.2d 993 (Colo. 1997); People v. Calvert, 280 P.3d 1269 (Colo. O.P.D.J. 2011); People v. Lindley, 349 P.3d 304 (Colo. O.P.D.J. 2015); People v. Palmer, 349 P.3d 312 (Colo. O.P.D.J. 2015); People v. Doherty, 354 P.3d 1150 (Colo. O.P.D.J. 2015); People v. Carlson, 470 P.3d 1016 (Colo. O.P.D.J. 2016); People v. Sarpong, 470 P.3d 1075 (Colo. O.P.D.J. 2017).

**Cases Decided Under Former DR 6-101. Law reviews.** For article, "Criminal Procedure", which discusses Tenth Circuit decisions dealing with effective assistance of counsel, see 61 Den. L.J. 303 (1984). For article, "Third-Party Malpractice Claims Against Real Estate Lawyers", see 13 Colo. Law. 996 (1984).

**License to practice law assures public that** the lawyer who holds the license will perform basic legal tasks honestly and without undue delay, in accordance with the highest standards of professional conduct. *People v. Witt*, 200 Colo. 522, 616 P.2d 139 (1980); *People v. Dixon*, 621 P.2d 322 (Colo. 1981).

**Attorney has burden of proving his own incompetence.** Attorney who is appointed to represent criminal defendant and who believes he is incompetent to handle case has burden of proving his incompetence to the court and if attorney carries the burden, the trial court must decide whether attorney is capable of becoming competent on his own or whether appointment of co-counsel is necessary until attorney becomes competent. *Stern v. County Court*, 773 P.2d 1074 (Colo. 1989).

**Claim of ineffective assistance of counsel by court-appointed attorney is premature before representation has occurred** and, therefore, attorney was not entitled to withdraw from case. *Stern v. County Court*, 773 P.2d 1074 (Colo. 1989).

**Public expects appropriate discipline for misconduct.** The public has a right to expect that one who engages in professional misconduct will be disciplined appropriately. *People v. Witt*, 200 Colo. 522, 616 P.2d 139 (1980); *People v. Dixon*, 621 P.2d 322 (Colo. 1981).

**An attorney's personal problems cannot excuse his negligence or professional misconduct,** for discipline is required not only to punish the attorney but also to protect the public. *People v. Morgan*, 194 Colo. 260, 574 P.2d 79 (1977); *People v. Belina*, 765 P.2d 121 (Colo. 1988).

**The right to effective assistance of counsel is not a right to acquittal.** *Morse v. People*, 180 Colo. 49, 501 P.2d 1328 (1972).

**When cross-examination is permitted by defense counsel on previous felony convictions** that the defendant has suffered without a prior foundation which establishes that defendant had counsel at the time he was convicted, counsel's representation is competent when the defendant brought his prior convictions to the jury's attention and made no claim that he was not represented by counsel. *Steward v. People*, 179 Colo. 31, 498 P.2d 933 (1972).

**Agreeing to have depositions read at trial,** rather than to have forceful live testimony, is a trial strategy decision for counsel. *Morse v. People*, 180 Colo. 49, 501 P.2d 1328 (1972).

**Clients' business simply must be processed in apt time.** People v. Bailey, 180 Colo. 211, 503 P.2d 1023 (1972).

**Lawyer owes obligation to client to act with diligence** in handling his client's legal work and in his representation of his client in court. People v. Bugg, 200 Colo. 512, 616 P.2d 133 (1980); People v. Pooley, 774 P.2d 239 (Colo. 1989).

**An attorney violates his obligations to his client** in not filing suit until almost four years after retained, in not proceeding with the lawsuit during the period thereafter, in not procuring the client's permission to transfer the case to another attorney, and in not supervising its handling by that attorney, all of which actions constitute gross negligence and unprofessional conduct. People v. Zelinger, 179 Colo. 379, 504 P.2d 668 (1972).

**A lawyer's failure to prepare a will for at least eight months after being employed to do so,** especially where client is aged person, is grossly negligent and shows total lack of responsibility. People v. James, 180 Colo. 133, 502 P.2d 1105 (1972).

**Attorney's only preparation for hearing in dissolution of marriage action occurring in car on way to courthouse** constituted handling a legal matter without adequate preparation in violation of this rule. People v. Felker, 770 P.2d 402 (Colo. 1989).

**Attorney violated this rule and C.R.P.C. 8.4(d)** when he prepared and filed child support worksheets that failed to properly reflect the new stipulation concerning custody. People v. Davies, 926 P.2d 572 (Colo. 1996).

**Suspension for one year and one day was warranted for attorney who violated this rule and C.R.P.C. 8.4(d)** by preparing and filing child support worksheets that failed to properly reflect the new stipulation concerning custody and where aggravating factors included a previous disciplinary history and failure to appear in the grievance proceedings. People v. Davies, 926 P.2d 572 (Colo. 1996).

**Attorney violated this rule** by taking no action on client's tort claim and by failing to file client's workers' compensation claim until July, 1985, although retained in 1984 to do so. People v. Felker, 770 P.2d 402 (Colo. 1989).

**Attorney neglected legal matter entrusted to her** by taking no action on client's claim which resulted in claim being barred by the statute of limitations. People v. Felker, 770 P.2d 402 (Colo. 1989).

**Hindsight cannot replace a decision which counsel makes in the heat of trial.** Morse v.

People, 180 Colo. 49, 501 P.2d 1328 (1972).

**There was insufficient evidence to establish incompetence of defense counsel.** Morse v.

People, 180 Colo. 49, 501 P.2d 1328 (1972).

**Conduct found to violate disciplinary rules.** People v. Bugg, 635 P.2d 881 (Colo. 1981); People v. Razatos, 636 P.2d 666 (Colo. 1981); People v. Goss, 646 P.2d 334 (Colo. 1982); People v. Ross, 810 P.2d 659 (Colo. 1991).

**Applied** in People v. Leader, 193 Colo. 402, 567 P.2d 800 (1977); People v. Good, 195 Colo. 177, 576 P.2d 1020 (1978); People v. McMichael, 196 Colo. 128, 586 P.2d 1 (1978); People v. Susman, 196 Colo. 458, 587 P.2d 782 (1978); People v. Cameron, 197 Colo. 330, 595 P.2d 677 (1979); People v. Pacheco, 198 Colo. 455, 608 P.2d 333 (1979); People v. Pacheco, 199 Colo. 108, 608 P.2d 334 (1979); People ex rel. Silverman v. Anderson, 200 Colo. 76, 612 P.2d 94 (1980); People v. Barbour, 199 Colo. 126, 612 P.2d 1082 (1980); People v. Hilgers, 200 Colo. 211, 612 P.2d 1134 (1980); People v. Haddock, 200 Colo. 218, 613 P.2d 335 (1980); People v. Lanza, 200 Colo. 241, 613 P.2d 337 (1980); People v. Meldahl, 200 Colo. 332, 615 P.2d 29 (1980); People v. Dixon, 200 Colo. 520, 616 P.2d 103 (1980); People ex rel. Cortez v. Calvert, 200 Colo. 157, 617 P.2d 797 (1980); People v. Hurst, 200 Colo. 537, 618 P.2d 1113 (1980); People v. Gottsegen, 623 P.2d 878 (Colo. 1981); People v. Dutton, 629 P.2d 103 (Colo. 1981); People v. Wright, 638 P.2d 251 (Colo. 1981); People v. Hebele, 638 P.2d 254 (Colo. 1981); People v. Archuleta, 638 P.2d 255 (Colo. 1981); People v. Gellenthien, 638 P.2d 295 (Colo. 1981); People v. Barbour, 639 P.2d 1065 (Colo. 1982); People v. Whitcomb, 676 P.2d 11 (Colo. 1983); People v. Bollinger, 681 P.2d 950 (Colo. 1984); People v. Underhill, 683 P.2d 349 (Colo. 1984); People v. Simon, 698 P.2d 228 (Colo. 1985); People v. Blanck, 700 P.2d 560 (Colo. 1985); People v. Gerdes, 782 P.2d 2 (Colo. 1989).

## **II. DISCIPLINARY ACTIONS.**

### **A. Public Censure.**

**When a lawyer is negligent in handling estates,** a public reprimand is warranted for his dereliction of duty. People v. Bailey, 180 Colo. 211, 503 P.2d 1023 (1972).

Attorney was negligent in closing two different estates in an untimely manner. Public censure is an appropriate sanction when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client. People v. Gebauer, 821 P.2d 782 (Colo. 1991).

**Undertaking to provide services to clients in areas in which one lacks experience,** which would ordinarily result in a reprimand, warrants a 30-day suspension when coupled with continued neglect after private censure. *People v. Frank*, 752 P.2d 539 (Colo. 1988).

**Delay in handling and closing decedents' estates and failure to properly prepare inheritance tax returns, following prior letters of admonition, justify public censure.**

*People v. Clark*, 681 P.2d 482 (Colo. 1984).

**An attorney's neglect and delay in handling an adoption proceeding,** considered with other circumstances, justified public censure. *People v. Moore*, 681 P.2d 480 (Colo. 1984).

**Neglect of a legal matter ordinarily warranting a letter of admonition by way of reprimand** requires the imposition of public censure when such conduct is repeated after three letters of admonition. *People v. Goodwin*, 782 P.2d 1 (Colo. 1989).

**Evidence sufficient to warrant public reprimand for dereliction of duty.** *People v. Atencio*, 177 Colo. 439, 494 P.2d 837 (1972); *People v. Zelinger*, 179 Colo. 379, 504 P.2d 668 (1972).

**Failure to obtain an order for service by publication, failing to return client phone calls, and failure to set a case for trial** justify public censure. *People v. Barr*, 805 P.2d 440 (Colo. 1991).

**Public censure for failure to promptly distribute proceeds of a settlement** is warranted since respondent's negligence did little or no actual or potential injury to client. *People v. Genchi*, 824 P.2d 815 (Colo. 1992).

**Public censure appropriate** where attorney delayed hiring experts for case, neglected to familiarize himself and comply with the criminal discovery rules, inadequately prepared for trial, and proceeded to trial without knowing whether his own experts' testimony would support his client's defense. *People v. Silvola*, 888 P.2d 244 (Colo. 1995).

**Public censure was appropriate** where attorney's failure to appear at three hearings and to timely return a stipulation violated DR 1-102(A)(5) and, in aggravation, there was a pattern of misconduct. *People v. Cabral*, 888 P.2d 245 (Colo. 1995).

**Public censure justified** where attorney failed to attend to bankruptcy proceeding and scheduled meetings, failed to timely file pleadings and responses, and allowed his paralegal to engage in

unauthorized practice of law. *People v. Fry*, 875 P.2d 222 (Colo. 1994).

**Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify public censure.** *People v. Ashley*, 796 P.2d 962 (Colo. 1990); *People v. Nichols*, 796 P.2d 966 (Colo. 1990); *People v. Taylor*, 799 P.2d 930 (Colo. 1990); *People v. Smith*, 819 P.2d 497 (Colo. 1991); *People v. Odom*, 829 P.2d 855 (Colo. 1992); *People v. Sadler*, 831 P.2d 887 (Colo. 1992); *People v. Fry*, 875 P.2d 222 (Colo. 1994); *People v. O'Donnell*, 955 P.2d 53 (Colo. 1998).

**Conduct violating this rule sufficient to justify public censure.** *People v. Driscoll*, 716 P.2d 1086 (Colo. 1986); *People v. Mayer*, 716 P.2d 1094 (Colo. 1986); *People v. Carpenter*, 731 P.2d 726 (Colo. 1987); *People v. Wilson*, 745 P.2d 248 (Colo. 1987); *People v. Smith*, 757 P.2d 628 (Colo. 1988); *People v. Dowhan*, 759 P.2d 4 (Colo. 1988); *People v. Smith*, 769 P.2d 1078 (Colo. 1989); *People v. Baird*, 772 P.2d 110 (Colo. 1989); *People v. Fieman*, 788 P.2d 830 (Colo. 1990); *People v. Good*, 790 P.2d 331 (Colo. 1990); *People v. Brinn*, 801 P.2d 1195 (Colo. 1990); *People v. Moffitt*, 801 P.2d 1197 (Colo. 1990); *People v. Richardson*, 820 P.2d 1120 (Colo. 1991); *People v. Odom*, 829 P.2d 855 (Colo. 1992).

#### **B. Suspension.**

**The failure for more than five years to record a deed** and to return it and the abstract constitutes gross professional negligence and carelessness warranting a suspension of one year from the practice of law. *People v. James*, 176 Colo. 299, 490 P.2d 291 (1971).

**Where an attorney misrepresents to a client that he has filed a case**, fails for two years to take action on behalf of another client, and, knowing that a hearing had been set on charges against him, deliberately leaves the jurisdiction of the court without making any arrangements with the grievance committee and without arranging for representation, his conduct warrants suspension from the bar. *People v. Kane*, 177 Colo. 378, 494 P.2d 96 (1972).

**Where counsel appears to be totally oblivious to obligations** to render the services for which he is paid, this crass irresponsibility or callous indifference in the handling of a client's affairs is inexcusable under any circumstances and warrants indefinite suspension from the bar. *People v. Van Nocker*, 176 Colo. 354, 490 P.2d 697 (1971).

**Attorney suspended for three years for** repeated neglect and delay in handling legal matters, failure to comply with the directions contained in a letter of admonition, and failure to answer letter

of complaint from the grievance committee constitute a violation of this rule, and, with other offenses of the code of professional responsibility. *People v. Hebenstreit*, 764 P.2d 51 (Colo. 1988).

Suspension of lawyer for three years, which is the longest possible period for suspension, is appropriate where there was extensive pattern of client neglect and intentional deception in client matters over a period of years. Anything less would be too lenient. *People v. Hellewell*, 811 P.2d 386 (Colo. 1991).

Suspension for three years is appropriate where lawyer failed to respond to motions or appear at hearing, resulting in dismissal of clients' bankruptcy proceeding, thereby increasing clients' debts tenfold. The hearing board further found that the attorney engaged in bad faith obstruction of the disciplinary proceedings and refused to acknowledge the wrongful nature of his conduct or the vulnerability of his clients. *People v. Farrant*, 883 P.2d 1 (Colo. 1994).

**Suspension for one year and one day warranted for attorney who "represented" client for a period of 19 months without that person's knowledge or consent**, even asserting a counterclaim on his behalf without talking to him; who did not communicate with him in any manner for an extended period of time and then did not withdraw within a reasonable time after being unable to contact him; and who failed to answer discovery requests, resulting in the entries of default and then a default judgment against him. *People v. Silvola*, 915 P.2d 1281 (Colo. 1996).

**Disbarment not warranted** where there was mitigating evidence concerning attorney's mental and physical disabilities. Instead, the board imposed a three-year suspension with a condition for reinstatement that professional medical evidence be presented that the disabilities do not interfere with the attorney's ability to practice law. *People v. Stewart*, 892 P.2d 875 (Colo. 1995).

**Suspension for three years**, the longest period available, was appropriate in case where violation of this rule and others would otherwise have justified disbarment but mitigating factors included personal and emotional problems, interim rehabilitation, and remorse. *People v. McCaffrey*, 925 P.2d 269 (Colo. 1996).

**Suspension for three years, rather than disbarment, was appropriate** where violation of this rule and others caused serious harm to attorney's clients, but mitigating factors were present, including no previous discipline in 14 years of practice, personal and emotional problems, and cooperation and demonstrated remorse in proceedings. *People v. Henderson*, 967 P.2d 1038 (Colo. 1998).

**Eighteen-month suspension warranted** where attorney failed to notify client of an actual conflict of interest and subsequently neglected a matter, but did so without dishonest or selfish motive. *People v. Watson*, 833 P.2d 50 (Colo. 1992).

**Failure to appear after accepting retainer justifies suspension.** Where, after accepting a

retainer for the defense of an action, an attorney failed to appear or advise his client of the fact that he was not going to appear and thereby prejudiced his client's case, the attorney's conduct violated the code of professional responsibility and C.R.C.P. 241.6. *People v. Southern*, 638 P.2d 787 (Colo. 1982).

**Failure to respond to repeated inquiries from client** and client's parents, failure to monitor client's case in the court system, including failure to respond to calls from the court clerk, and failure to return client's urgent calls after client was arrested and jailed constitutes a pattern of neglect and warrants 30 day suspension. *People v. O'Leary*, 752 P.2d 530 (Colo. 1988).

**Suspension is fitting sanction when lawyer knowingly fails to perform services for a client** and thereby causes injury to such client. *People v. Masson*, 782 P.2d 335 (Colo. 1988).

**Initiation of unnecessary proceeding and legal incompetence warrant suspension.** Where lawyer initiates unnecessary probate proceeding, as well as fails to meet minimum standards of legal competence for corporate and mining law problems which he has undertaken, his professional misconduct warrants suspension from the bar. *People ex rel. Goldberg v. Gordon*, 199 Colo. 296, 607 P.2d 995 (1980).

**Failure to designate record on appeal**, causing nine-month delay in criminal appeal, considered with other violations, justifies suspension. *People v. May*, 745 P.2d 218 (Colo. 1987).

**Suspension is appropriate discipline** given number and severity of instances of misconduct, including pattern of neglect over clients' affairs over lengthy period and in variety of circumstance and misrepresentation in dissolution case to client who wished to remarry concerning the filing of a dissolution petition. Considering misconduct in light of proper mitigating factors, suspension was appropriate. *People v. Griffin*, 764 P.2d 1166 (Colo. 1988).

**There is evidence to warrant indefinite suspension.** *People v. Stewart*, 178 Colo. 352, 497 P.2d 1003 (1972).

**More severe sanction of 90-day suspension rather than public censure appropriate discipline** for attorney who neglected client matter, caused potential injury to client, and engaged in conduct prejudicial to the administration of justice when aggravated by a history of five prior instances of disciplinary offenses for neglect, pattern of misconduct, refusal to acknowledge wrongful nature of conduct, vulnerability of victim, and substantial experience in the practice of law. *People v. Dolan*, 813 P.2d 733 (Colo. 1991).

**Pattern of inaction, including failure to perform adequate research on statute of**

**limitations problem**, violated sections (A)(2) and (A)(3) and other disciplinary rules, justifying six-month suspension. *People v. Barber*, 799 P.2d 936 (Colo. 1990).

**Failing to resolve an inability to proceed on behalf of a client**, neglecting to respond to communications from the grievance committee, failing to fulfill commitments made to the investigator for the disciplinary counsel, and misrepresenting to such investigator the status of the case under investigation is conduct warranting suspension. *People v. Chappell*, 783 P.2d 838 (Colo. 1989).

**Failing to obtain substitute counsel** after accepting a retainer while under suspension constitutes neglect of a legal matter. *People v. Redman*, 819 P.2d 495 (Colo. 1991).

**Failure to file bankruptcy petition** warrants suspension from the practice of law for a period of 90 days. The respondent's misconduct was compounded by his prolonged refusal to respond to his client's inquiries and his failure to inform his client of domicile issues bearing on her desire to obtain a discharge in bankruptcy in Colorado. *People v. Cain*, 791 P.2d 1133 (Colo. 1990).

**Delay in filing bankruptcy petition and failing to file complaint or return retainer warrants six-month suspension.** *People v. Archuleta*, 898 P.2d 1064 (Colo. 1995).

**Suspension for one year and one day warranted** where attorney misrepresented to client that a trial had been scheduled, that continuances and new trial settings had been made, that a settlement had been reached, and where the attorney's previous, similar discipline, was a significant aggravating factor. *People v. Smith*, 888 P.2d 248 (Colo. 1995).

**Suspension for one year and one day warranted for attorney who "represented" client for a period of 19 months without that person's knowledge or consent**, even asserting a counterclaim on his behalf without talking to him; who did not communicate with him in any manner for an extended period of time and then did not withdraw within a reasonable time after being unable to contact him; and who failed to answer discovery requests, resulting in the entries of default and then a default judgment against him. *People v. Silvola*, 915 P.2d 1281 (Colo. 1996).

**Failure to communicate with clients, court, and opposing counsel**, misrepresentation of the status of the proceedings to client, failure to investigate clients' case, failure to attend one hearing and being late for another hearing, and refusing client an accounting and a refund of the unused portion of attorney fee, justifies three-year suspension. *People v. Wilson*, 814 P.2d 791 (Colo. 1991).

**Ninety-day suspension warranted** where attorney neglected client's legal matter, failed to pay

for court reporting services, and showed complete disregard of grievance proceedings. *People v. Whitaker*, 814 P.2d 812 (Colo. 1991).

**Suspension for 90 days is warranted for attorney's continued practice of law during a period of suspension** in view of prior record and substantial experience in practice of law even if attorney incorrectly believed that he had been reinstated. *People v. Dieters*, 883 P.2d 1050 (Colo. 1994).

**Suspension of one year and one day warranted for attorney whose misconduct included neglect of legal matter, failure to seek lawful objectives of client, intentional failure to carry out employment contract resulting in intentional prejudice or damage to client**, and who also pled guilty to class 5 felony of failure to pay employee income tax withheld. *People v. Franks*, 866 P.2d 1375 (Colo. 1994).

**Absent mitigating or aggravating factors, suspension appropriate** when a lawyer knowingly fails to perform services for a client or engages in a pattern of neglect and causes injury or potential injury to a client. *People v. Glaess*, 884 P.2d 722 (Colo. 1994).

**It was appropriate to require an attorney to petition for reinstatement under C.R.C.P. 241.22 (b) to (d)**, even though his period of suspension for violating section (A)(3) did not exceed one year, where the extraordinary number of previous matters in which the attorney was cited for neglect showed the need for a demonstration that he had been rehabilitated. *People v. C De Baca*, 862 P.2d 273 (Colo. 1993).

**Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify suspension.** *People v. Moya*, 793 P.2d 1154 (Colo. 1990); *People v. Creasey*, 793 P.2d 1159 (Colo. 1990); *People v. Schmad*, 793 P.2d 1162 (Colo. 1990); *People v. Baptie*, 796 P.2d 978 (Colo. 1990); *People v. Garrett*, 802 P.2d 1082 (Colo. 1990); *People v. Rhodes*, 803 P.2d 514 (Colo. 1991); *People v. Flores*, 804 P.2d 192 (Colo. 1991); *People v. Crimaldi*, 804 P.2d 863 (Colo. 1991), 854 P.2d 782 (Colo. 1993); *People v. Dunsmoor*, 807 P.2d 561 (Colo. 1991); *People v. Hall*, 810 P.2d 1069 (Colo. 1991); *People v. Koeberle*, 810 P.2d 1072 (Colo. 1991); *People v. Gaimara*, 810 P.2d 1076 (Colo. 1991); *People v. Dash*, 811 P.2d 36 (Colo. 1991); *People v. Honaker*, 814 P.2d 785 (Colo. 1991); *People v. Heilbrunn*, 814 P.2d 819 (Colo. 1991); *People v. Anderson*, 817 P.2d 1035 (Colo. 1991); *People v. Redman*, 819 P.2d 495 (Colo. 1991); *People v. Smith*, 828 P.2d 249 (Colo. 1992); *People v. Hyland*, 830 P.2d 1000 (Colo. 1992); *People v. Smith*, 830 P.2d 1003 (Colo. 1992); *People v. Raubolt*, 831 P.2d 462 (Colo. 1992); *People v. Regan*, 831 P.2d 893 (Colo. 1992); *People v. Southern*, 832 P.2d 946 (Colo. 1992); *People v. Denton*, 839 P.2d 6 (Colo. 1992); *People v. Hindorff*, 860 P.2d 526 (Colo. 1993); *People v. Stevens*, 866 P.2d 1378 (Colo. 1994); *People v. Butler*, 875 P.2d 219 (Colo. 1994); *People v. Cole*, 880 P.2d 158 (Colo. 1994); *People v. Smith*, 880 P.2d 763

(Colo. 1994); *People v. Kardokus*, 881 P.2d 1202 (Colo. 1994); *People v. Johnson*, 881 P.2d 1205 (Colo. 1994); *People v. Pittam*, 889 P.2d 678 (Colo. 1995); *People v. Swan*, 893 P.2d 769 (Colo. 1995); *People v. Banman*, 901 P.2d 469 (Colo. 1995); *People v. Crews*, 901 P.2d 472 (Colo. 1995); *People v. Dickinson*, 903 P.2d 1132 (Colo. 1995); *People v. Davis*, 911 P.2d 45 (Colo. 1996); *People v. Calvert*, 915 P.2d 1310 (Colo. 1996).

**Conduct violating this rule sufficient to justify suspension.** *People v. Yaklich*, 646 P.2d 938 (Colo. 1982); *People v. Pilgrim*, 698 P.2d 1322 (Colo. 1985); *People v. Convery*, 704 P.2d 296 (Colo. 1985); *People v. Foster*, 716 P.2d 1069 (Colo. 1986); *People v. Barnett*, 716 P.2d 1076 (Colo. 1986); *People v. Fleming*, 716 P.2d 1090 (Colo. 1986); *People v. Larson*, 716 P.2d 1093 (Colo. 1986); *People v. McDowell*, 718 P.2d 541 (Colo. 1986); *People v. Yost*, 729 P.2d 348 (Colo. 1986); *People v. Holmes*, 731 P.2d 677 (Colo. 1987); *People v. Turner*, 746 P.2d 49 (Colo. 1987); *People v. Yost*, 752 P.2d 542 (Colo. 1988); *People v. Convery*, 758 P.2d 1338 (Colo. 1988); *People v. Lustig*, 758 P.2d 1342 (Colo. 1988); *People v. Goens*, 770 P.2d 1218 (Colo. 1989); *People v. Dolan*, 771 P.2d 505 (Colo. 1989); *People v. Flores*, 772 P.2d 610 (Colo. App. 1989); *People v. Emeson*, 775 P.2d 1166 (Colo. 1989); *People v. Hodge*, 782 P.2d 25 (Colo. 1989); *People v. Fahrney*, 782 P.2d 743 (Colo. 1989); *People v. Gregory*, 788 P.2d 823 (Colo. 1990); *People v. Bergmann*, 790 P.2d 840 (Colo. 1990); *People v. Hensley-Martin*, 795 P.2d 262 (Colo. 1990); *People v. Stayton*, 798 P.2d 903 (Colo. 1990); *People v. Grossenbach*, 803 P.2d 961 (Colo. 1990); *People v. Creasey*, 811 P.2d 40 (Colo. 1991); *People v. Rhodes*, 814 P.2d 787 (Colo. 1991); *People v. Williams*, 824 P.2d 813 (Colo. 1992); *People v. Watson*, 833 P.2d 50 (Colo. 1992); *People v. Farrant*, 883 P.2d 1 (Colo. 1994); *People v. Singer*, 897 P.2d 798 (Colo. 1995); *People v. Williams*, 915 P.2d 669 (Colo. 1996).

#### **C. Disbarment.**

**Attorney disbarred for continued pattern of conduct involving neglect and misrepresentation** and for failure to cooperate in investigation by grievance committee. *People v. Young*, 673 P.2d 1003 (Colo. 1984); *People v. Johnston*, 759 P.2d 10 (Colo. 1988).

**Failure to file bankruptcy petition for eight months justifies disbarment.** When a lawyer, after being paid for his services, neglects to file a bankruptcy petition for his client for a period of approximately eight months, during which time the client is sued and his wages attached on several occasions, the lawyer's gross neglect and failure to carry out a contract of employment justify disbarment. *People v. McMichael*, 199 Colo. 433, 609 P.2d 633 (1980).

**Failure to timely file** estate tax returns on behalf of personal representative of estate, failure to be adequately prepared for argument at scheduled hearing, failure to file timely notice of alibi, and

failure to notify opposing counsel constitutes continuing pattern of neglect causing risk of serious injury to clients and justifies disbarment. *People v. Stewart*, 752 P.2d 528 (Colo. 1987).

**Failing to commence any action on behalf of a client**, exploiting a client's friendship and trust to extort funds for one's personal use, and failing to cooperate with the grievance committee in its investigation of complaints with respect to such matters is conduct warranting disbarment. *People v. McMahill*, 782 P.2d 336 (Colo. 1989).

**Where an attorney demonstrates an extreme indifference to the welfare of his clients** and the status of their cases and an extreme insensitivity to his professional duties in the face of adverse judgments due to neglect, client complaints, and repeated disciplinary proceedings, disbarment is the appropriate sanction. *People v. Wyman*, 782 P.2d 339 (Colo. 1989).

**Conduct which causes a client serious or potentially serious injury** and demonstrates a complete lack of concern for a client's interests and welfare warrants disbarment. *People v. Lyons*, 762 P.2d 143 (Colo. 1988).

**Continuing to practice law while suspended is conduct justifying disbarment.** *People v. James*, 731 P.2d 698 (Colo. 1987).

**Facts sufficient to justify disbarment of attorney** for failure to comply with registration requirements of C.R.C.P. 227, misappropriation of funds, and improper withdrawal from employment. *People v. Scudder*, 197 Colo. 99, 590 P.2d 493 (1979).

**Total disregard of obligation to protect a client's rights and interests over an extended period of time** in conjunction with the violation of a number of disciplinary rules and an extended prior record of discipline requires most severe sanction of disbarment. *People v. O'Leary*, 783 P.2d 843 (Colo. 1989).

**Attorney's continued practice of law while under an order of suspension**, with no efforts to wind up the legal practice, and the failure to take action to protect the legal interests of the attorney's clients, warrants disbarment. *People v. Wilson*, 832 P.2d 943 (Colo. 1992).

**Disbarment was the proper remedy** where the attorney was afforded multiple opportunities including two suspensions and court ordered rehabilitation and where attorney's conduct demonstrated (a) neglect of legal matters entrusted to him; (b) misrepresentation to the client and the grievance committee; and (c) a pattern of neglect followed by the respondent that had the potential of causing serious injury to his clients. *People v. Susman*, 787 P.2d 1119 (Colo. 1990).

**Disbarment proper remedy** for lawyer who, shortly after admission to bar and continuing for two years, embarked on a course of conduct resulting in ten separate instances of professional misconduct, some of which presented the potential for serious harm to clients and to the administration of justice. *People v. Murray*, 887 P.2d 1016 (Colo. 1994).

**A lawyer's continued practice of law while under an order of suspension**, with no efforts to wind up the legal practice, and failure to take action to protect the legal interests of the lawyer's clients, warrants disbarment. *People v. Wilson*, 832 P.2d 943 (Colo. 1992).

**Pattern of misconduct involving failure to render services**, multiple offenses, and conversion of clients' property sufficient to warrant disbarment. *People v. Vermillion*, 814 P.2d 795 (Colo. 1991).

**Disbarment appropriate** where attorney converted client funds, neglected a legal matter entrusted to him, and had a history of discipline. *People v. Grossenbach*, 814 P.2d 810 (Colo. 1991).

**Disbarment appropriate when attorney neglected numerous legal matters** and engaged in other conduct prejudicial to client and the administration of justice. *People v. Theodore*, 926 P.2d 1237 (Colo. 1996).

**Failure to respond to discovery and motions**, failure to attend case management hearing, and failure to inform client of progress of a civil case is grounds for disbarment. *People v. Hebenstreit*, 823 P.2d 125 (Colo. 1992).

**Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment.** *People v. Ashley*, 817 P.2d 965 (Colo. 1991); *People v. Rouse*, 817 P.2d 967 (Colo. 1991); *People v. Margolin*, 820 P.2d 347 (Colo. 1991); *People v. Koransky*, 824 P.2d 819 (Colo. 1992); *People v. Bradley*, 825 P.2d 475 (Colo. 1992); *People v. Southern*, 832 P.2d 946 (Colo. 1992); *People v. McGrath*, 833 P.2d 731 (Colo. 1992); *People v. Singer*, 955 P.2d 1005 (Colo. 1998).

**Conduct violating this rule sufficient to justify disbarment.** *People v. Kendrick*, 646 P.2d 337 (Colo. 1982); *People v. Dwyer*, 652 P.2d 1074 (Colo. 1982); *People v. Craig*, 653 P.2d 1115 (Colo. 1982); *People v. Golden*, 654 P.2d 853 (Colo. 1982); *People v. Coca*, 716 P.2d 1073 (Colo. 1986); *People v. Quick*, 716 P.2d 1082 (Colo. 1986); *People v. Quintana*, 752 P.2d 1059 (Colo. 1988); *People v. Lovett*, 753 P.2d 205 (Colo. 1988); *People v. Brooks*, 753 P.2d 208 (Colo. 1988); *People v. Turner*, 758 P.2d 1335 (Colo. 1988); *People v. Danker*, 759 P.2d 14 (Colo. 1988); *People v. Score*, 760 P.2d 1111 (Colo. 1988); *People v. Kengle*, 772 P.2d 605 (Colo. 1989); *People v. Murphy*, 778 P.2d 658 (Colo. 1989); *People v. Frank*, 782 P.2d 769 (Colo. 1989); *People v. Johnston*, 782 P.2d 1195 (Colo. 1989); *People v. Dulaney*, 785 P.2d 1302 (Colo. 1990); *People v. Franks*, 791 P.2d 1

(Colo. 1990); People v. Gregory, 797 P.2d 42 (Colo. 1990); People v. Mullison, 829 P.2d 382 (Colo. 1992); People v. Hyland, 830 P.2d 1000 (Colo. 1992).

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