

OPINION NO. 24Confidentiality of Information

Rule 1.6(a), Minnesota Rules of Professional Conduct (Minn. R. Prof. Cond. Rule 1.6(a)), generally prohibits a lawyer from knowingly revealing information relating to the representation of a client. Contained within the subsections of Minn. R. Prof. Cond. Rule 1.6(b), however, are eleven enumerated exceptions to that general prohibition. Amongst those exceptions is Minn. R. Prof. Cond. Rule 1.6(b)(8), which permits a lawyer to reveal information relating to the representation of a client provided:

[T]he lawyer reasonably believes the disclosure is necessary to establish a claim or defense on behalf of the lawyer in an actual or potential controversy between the lawyer and the client, to establish a defense in a civil, criminal, or disciplinary proceeding against the lawyer based upon conduct in which the client was involved, or to respond in any proceeding to allegations by the client concerning the lawyer's representation of the client

When responding to comments, negative or otherwise, posted on the internet (or any other public forum) concerning the lawyer's representation of a client, Minn. R. Prof. Cond. Rule 1.6(b)(8) does not permit the lawyer to reveal information relating to the representation of a client.

Lawyers are cautioned that, when responding to comments posted on the internet or other public forum which are critical of the lawyer's work, professionalism, or other conduct, any such response should be restrained and should not, under Minn. R. Prof. Cond. Rule 1.6(b)(8), reveal information subject to Minn. R. Prof. Cond. Rule 1.6(a).

Adopted: September 30, 2016.