



Dear Ethics Lawyer™

The Legal Ethics Project. Supporting professionalism with information.

Q: Dear Ethics Lawyer,

I am a partner who has just been appointed a practice group leader in a large law firm. This appointment is a nice recognition of status in the firm and will also give me some cachet in my marketing to potential clients. But does this come with any enhanced ethical responsibilities? I have about 25 lawyers in my group, running the full gamut from brand new associates to the most experienced partners.

A: As is often the case, the answer is to a certain extent is that “it depends,” but it is likely that you now have additional responsibilities under Model Rule 5.1. Rule 5.1(a) provides that a law firm partner and a lawyer “who individually or together with other lawyers possesses comparable managerial authority in a law firm” is obligated to “make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.” Comment 2 to the Rule ties this obligation to internal policies and procedures to reasonably assure compliance, including but not limited to those concerning prevention and handling of conflicts of interest, compliance with deadlines in pending matters, accounting for client funds and property, and supervision of inexperienced lawyers. To that list, one could add many other things relating to compliance with the Model Rules, including policies relating to impaired lawyers, multi-jurisdictional practice, confidentiality of client information and others.

Rule 5.1(b) further emphasizes that a lawyer with direct supervisory authority over another lawyer shall make reasonable efforts to ensure the other lawyer complies with the Rules of Professional Conduct. 5.1(c) makes a lawyer directly responsible for a violation of the Rules by another lawyer if that lawyer orders or ratifies the conduct, or if in a supervisory position knows of the conduct and fails to take reasonable remedial action to avoid or mitigate its consequences.

Therefore, as both a partner and practice group leader, you are obligated to make sure your firm has in place an array of policies and procedures to prevent various types of rule violations, and a supervisory structure that pays attention to lawyers who may have gone astray. In most law firms, first line responsibility for policies and procedures is divided and allocated among different actors: Board of Directors, Managing Partners or Chairs, Firm Counsel, Staff Leadership, such as those in IT, Accounting, HR, Licensing and CLE compliance, in a way

that does not require each individual partner or practice leader to review every item, unless the person becomes aware of an issue.

But, to return to your question, whether becoming a practice leader in your firm requires more ethical responsibility than you already had as a partner depends upon expectations in your firm as to what a practice leader is responsible for. Is it strictly a marketing group with no supervisory responsibility, or has the firm's obligation to supervise its lawyers and reasonably make sure they are complying with Rules of Professional Conduct been allocated to the practice group level? Do you have a supervision or reporting responsibility concerning the members of your group?

If these responsibilities are not those of someone else in the firm, then it could well be yours as a person who presumably sees the performance of your practice group constituents on a regular basis. Are your practice group members competent? Are they communicating with clients? Are there other issues with their performance? While the Rule does not suggest that you have to approve or even know about everything they do, it does suggest that you should regularly check in with any lawyers you have supervisory responsibility for, and if you have reason to suspect there are issues, it is clear that you must act to prevent or mitigate consequences.

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About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 134 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to mark.hinderks@stinson.com.

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.