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Be Cautious When Talking with Prospective Clients

When speaking with prospective clients, be alert to the possibility of conflicting duties. A lawyer’s duty of confidentiality can begin before an attorney-client relationship begins. If a would-be client imparts confidential information to you when seeking legal advice, your knowledge of that confidential information may preclude your representation of a new or existing client in the same or related matter. Some steps you can take to reduce the risk that you will have to withdraw or decline a matter (or that you will be the recipient of a claim or bar grievance) because of confidences imparted by a prospective client are: 1) identify conflicts of interest before receiving confidential information; 2) instruct the prospective client not to disclose confidential information at least until the conflicts check has been completed; and 3) when practicable, obtain the prospective client’s consent that any information provided (confidential or otherwise) will not preclude you from representing any other client.