client's approval).
• The need to obtain the client's informed consent before disclosing confidential information to an outside lawyer or nonlawyer is discussed in the chapter Disclosure: Informed Consent and Implied Authorization behind the Confidentiality tab.

Offers and Proffers

A lawyer must tell the client about any settlement offers or plea bargains. Comment [2] to Model Rule 1.4 (and, in many jurisdictions, the black letter of the rule itself) specifies that "a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer." See Burton v. Mottoles, 835 A.2d 998, 20 Law. Man. Prof. Conduct 47 (Conn. 2003) (plaintiff's lawyer did not tell client of defendants' offer to waive fees already awarded them as well as any claim for future fees if plaintiff would withdraw lawsuit); In re Steele, 868 A.2d 146 (D.C. 2005) (did not tell client of scheduled settlement conference and defendant's initial settlement offer); In re Heisler, 941 So. 2d 20 (La. 2006) (did not tell client of settlement offer); Connecticut Ethics Op. 2011-01 (2011) (must tell client of settlement offer conditioned on terms remaining confidential); Virginia Ethics Op. 1854 (2010) (criminal defense lawyer must tell client of plea offer conditioned on defendant not learning of prosecution witness's identity, but whether lawyer must disclose witness's identity to client in order for client to make informed decision about accepting plea offer is "fact-specific").

The lawyer may not use an agreement that lets him bypass the duty to communicate about settlements. See Ohio Sup. Ct. Ethics Op. 2010-6; 26 Law. Man. Prof. Conduct 640 (2010) (absent demonstrable exigency lawyer may not use contingent-
fee agreement giving him power of attorney for whatever he deems necessary in the case, including agreeing to settle). For further discussion see the chapter Scope of Relationship behind the Lawyer-Client Relationship tab.

Lawyer Error

If a lawyer believes he has made a big enough mistake, Rule 1.4 may require him to tell the client. See Minnesota Formal Ethics Op. 21, 25 Law. Man. Prof. Conduct 646 (2000) (if lawyer knows his conduct could reasonably support client's claim for malpractice, and if claim materially affects client's interest, lawyer must tell client about it); North Carolina Ethics Op. 2015-4, 31 Law. Man. Prof. Conduct 490 (2015) (lawyer must promptly tell client if error materially prejudices client's interests or could constitute malpractice, but must not advise as to whether it does constitute malpractice; lawyer may not move to correct error based on excusable neglect without first consulting client); cf. Leonard v. Dorsey & Whitney, 553 F.3d 608, 24 Law. Man. Prof. Conduct 48 (8th Cir. 2008) (failure to disclose potential malpractice claim may have violated Rule 1.4 but did not constitute breach of fiduciary duty).

According to ABA Ethics Op. 08-458, 24 Law. Man. Prof. Conduct 616 (2008), Rule 1.4 does not require a lawyer to tell a client that he has consulted with an ethics lawyer about the client's matter: "Normally, there would be no need to explain that a conclusion as to the ethical propriety of a course of conduct was based on consultation within the firm or with an expert outside the firm." But the conclusions may need to be communicated to the client, the opinion continues. If ethics counsel believes the lawyer would be violating the ethics rules by assisting in the client's proposed course of action, Rule 1.4(a)(6) requires the lawyer to consult with the client about it, and Rule 1.4(b) requires the lawyer to explain the consequences, including the possibility that the firm may have to withdraw. Id.