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a. With Linda's financial arrangement with Chiro, she has committed multiple ethical violations. First, an attorney is prohibited from sharing fees with a non-attorney. It is an ethical violation for a non-attorney to become a partner in an attorney's law practice. Each of these is a violation under both ABA and California rules. It is also an ethical violation for an attorney to accept a referral fee from a non-attorney. Even if Chiro had been an attorney, ABA rules would prohibit sharing fees unless the referring attorney's work on the matter is proportional to the fee paid to the referring attorney. California allows payment to attorneys for referring cases, but prohibits referral fees to non-attorneys (a person whose job is to refer cases is called a "runner" or a "capper"). And, even if fee-splitting had been allowed, it would require written consent from the client (ABA rules generally require consent confirmed by the client in writing; California rules require informed written consent [i.e., in a writing showing the consent and signed by the client])

b. As mentioned above, both the ABA and California prohibit an attorney from having a non-attorney as a partner (or having any other type of ownership interest) in a law practice. Additionally, although attorneys are allowed to engage in other businesses in addition to their law practice, they must take care that the business does not conflict with their law practice, or impinge on their duties of competence, diligence, and loyalty to their clients. There is a significant issue regarding Linda's competence--as she is just starting out, she would need to either associate with a more experienced attorney or learn enough about representing personal injury to be competent to properly represent clients. The same is likely also true with Family Law (and maybe more so as there are no facts to indicate that Linda has any experience at all with Family Law).

c. Linda's relationship with Pete also raises ethical issues. It is a violation of both ABA and California law for an attorney to have sexual relations with a current client. It is similarly an ethical violation to have sexual relations with a prospective client (Linda had not yet accepted the case). Once she accepted the case, Linda's distraction also raises questions as to whether she was able to comply with her obligations to competently and diligently represent her client, Pete, as she has sometimes filed papers hurriedly (and presumably not well written) and has narrowly avoided deadlines. It would be a violation if Pete had initiated the relationship, but it is more egregious that Linda has done so..

d. It is also an ethical violation to accept a domestic relations (family law) case on a contingency basis, under both ABA and California rules.

2.

Tom's threat to report Linda to the Bar violates the ethical rule against using a threat of criminal or regulatory action to gain an advantage in a civil case. Under the California rules, Linda is required to report ethical violations to the State Bar (including her own violations). There is no reporting requirement under the ABA rules.

Question #4 Final Word Count = 519

END OF EXAM