



Amended Rules of Professional Conduct

**3rd Annual Continuing Professional Development Event
October 24, 2014**

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PART I

Rules and Ethics:
Why Do They Matter?



Rules and Ethics: Why Do They Matter?

- Ethics
- Integrity

Rules and Ethics con't

- All about integrity
- New rule added on integrity – Rule 2.1-1



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PART II

The Amended Rules: Purpose of the Amendments



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The Amended Rules: Purpose

Why were the rules of professional
conduct amended?



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PART III

Noteworthy Changes

Noteworthy Changes

- Highlights of the amended rules
- New definitions – “client”, “consent” and “conflict of interest”



Noteworthy Changes

...cont'd

“Client” means a person who:

- (a) consults a lawyer and on whose behalf the lawyer renders or agrees to render legal services; or
- (b) having consulted the lawyer, *reasonably* concludes that the lawyer has agreed to render legal services on their behalf

and includes a client of the law firm of which the lawyer is a partner or associate, whether or not the lawyer handles the client's work

Noteworthy Changes

...cont'd

“Conflict of interest” means the existence of a substantial risk that a lawyer’s loyalty to or representing of a client would be materially and adversely affected by the lawyer’s own interest or the lawyer’s duties to another client, a former client or a third person. The risk must be more than a mere possibility; there must be a genuine, serious risk to the duty of loyalty or to client representation from the retainer.

Noteworthy Changes

...cont'd

- New conflict of interest rules related to testamentary instruments and gifts
- Rules 3.4-37 and 3.4-38

Noteworthy Changes

...cont'd

- “Consent” means fully informed and voluntary consent after disclosure
 - (a) in writing, provided that, where more than one person consents, each signs the same or a separate document recording the consent, or
 - (b) orally, provided that each person consenting receives a separate written communication recording their consent as soon as practicable



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PART IV

Impacts on In-house Counsel



Impacts on In-house Counsel

...cont'd

- To whom are the duties owed?
- Client of the in-house lawyer is the corporation, not a director, officer or employee
- Rule 3.2-3



Impacts on In-house Counsel

...cont'd

- Biggest challenge is to avoid conflict of interest
- Rule 3.4-1



Impacts on In-house Counsel

...cont'd

- Need to avoid conflict of interest has not changed
- Specific things to avoid



Impacts on In-house Counsel

...cont'd

- Issues of competency
- Rule 3.1-2



Impacts on In-house Counsel

...cont'd

- Consent
- Rule 3.4-2



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PART V

Reporting Responsibilities

Reporting Responsibilities

- Rule 3.2-7 establishes the basic rule for all lawyers
- Rule 3.2-8 designed specifically for in-house lawyers

Reporting Responsibilities

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- Rule 3.2-8
- Rule 3.7-7





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Questions

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