

RPC Update

By: Brett Purtzer, Dec 2006

Effective September 1, 2006, the Rules for Professional Conduct (RPC) were substantially revised. Additionally, ongoing discussions continue surrounding RPC 1.5 relating to earned and flat fees. The position our office advocates is that since a written fee agreement is a contractual relationship, when there is a meeting of the minds and consideration is given, the fee agreement, i.e., contract, should be binding as long as the lawyer upholds the responsibility to the client. A task force appointed by the Board of Governors is currently studying the issue, and the next meeting is scheduled for October 26, 2006. We will keep you abreast of any changes or interpretations to this rule.

With respect to the revised RPCs, the sections most affected are those dealing with the client-lawyer relationship and conflicts of interest (RPC 1.7, 1.8, 1.9, 1.10). Additionally, some new sections have been added, including RPC 1.17 (sales of a law practice), RPC 1.18 (a lawyer's duties to a prospective client), and RPC 2.4 (a lawyer's duties in serving as a third-party neutral). Because of the numerous changes in these areas, everyone should review the new rules to see what effect they may have in your practice.

One of the areas I have been involved with because of an ongoing matter is what constitutes a "client." Many of us represent married individuals or juveniles, yet the designation of "client" is limited by the lawyer-client relationship. When you have dealings with a married "client" make certain that when you act, it is on behalf of a client, as opposed to a marital community. If you do not, you may find yourself on the receiving end of a WSBA disciplinary complaint. Because the work you do for a client may be materially different than your relationship with the marital community, review the rules so that you can avoid problems in this area of potential conflict.

Part of our practice at The Law Offices of Monte E. Hester includes representing lawyers with ethics issues in disciplinary proceedings. We welcome your questions or comments and stand ready to assist in any Washington State Bar Association related matter.

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