

Virginia State Bar Council To Review Proposed Amendments To Rules 1.2 & 4.2 Of The Rules Of Professional Conduct And Rule 1:5 Of Rules Of Supreme Court Of Virginia

Pursuant to Part Six: Section IV, Paragraph 10(c) of the Rules of the Supreme Court of Virginia, the Virginia State Bar Council, at its meeting on June 16-19, 2005, in Virginia Beach, Virginia, is expected to consider for approval, disapproval, or modification, proposed amendments to Rule 1.2 and 4.2 of the Rules of Professional Conduct and Rule 1:5 of the Rules of the Supreme Court of Virginia by the Special Committee on Access to Legal Services and Standing Committee on Legal Ethics.

In September 2002, the Supreme Court of Virginia requested that the Virginia State Bar form a committee to explore the issue of “unbundling,” or limited representation in Virginia. This request was part of a larger report directed at increasing access to the courts for pro se and lower income litigants. The Virginia State Bar’s Special Committee on Access to Legal Services accepted the charge and formed a subcommittee to consider amendments to the Rules of Professional Conduct that would allow the “unbundling” of legal services; in particular, allowing a lawyer to prepare pleadings for a pro se litigant to file in court. Through the course of its study, the subcommittee held public forums; conducted surveys of service models in Virginia and throughout the country; interviewed individuals who are opposed to as well as those engaged in unbundled representation; sought input from retired judges and prospective clients who could benefit from increased unbundled opportunities; reviewed literature and studies conducted throughout the country; and analyzed existing case law and ethics opinions from the Virginia state and federal systems.

The subcommittee found that self-representation in Virginia courts is rapidly increasing. Pro se litigants who cannot afford to pay a lawyer for full representation throughout all stages of litigation may nonetheless be able to pay for discrete, limited legal services that would assist them in handling their cases in court.

The purpose of the amendments to all three rules (Rules 1.2, 4.2 and Va. S. Ct. R. 1:5) is to permit an attorney to provide discrete task representation to a client when both the client and lawyer have agreed that the lawyer will only perform discrete tasks and the client will perform the remaining tasks. Often a client cannot afford a full representation by a lawyer but wants to have the lawyer provide limited legal assistance. A typical example is the lawyer who is asked to prepare pleadings for a pro se litigant.

The proposed amendments to Rule 1.2 (Scope of Representation) explicate and expand the current provision in the rule allowing the lawyer, with the client’s informed consent, to limit the goals and objectives of the representation in the context of “unbundling” legal services.

The proposed amendments to Rule 4.2 (Communication with Persons Represented by Counsel) address when the lawyer may communicate directly with a pro se litigant who is receiving or has received limited representation by an attorney.

The proposed amendments to Va. S. Ct. R. 1:5 (Counsel) would permit an attorney to sign a pleading that the attorney prepared for a pro se litigant simply to inform the court that the litigant received substantial assistance from the lawyer. However, by signing the pleading to provide that disclosure to the court, the attorney is not deemed to have entered an appearance of record. The amendment is driven in part by ethics opinions and court cases that prohibit an attorney from “ghostwriting pleadings” for a pro se litigant and a countervailing concern that the assisting attorney may be forced to conduct a case in court when the person assisted wants to proceed pro se.

The cornerstone of each of the recommended changes is disclosure to opposing counsel, the court and the client. Attorneys providing these limited representation services will remain responsible for compliance with all existing ethical rules.

Inspection and Comment

The proposed amendments may be inspected at the office of the Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800, between the hours of 9:00 A.M. and 4:30 P.M., Monday through Friday. Copies of the proposed amendments can be obtained from the offices of the Virginia State Bar by contacting the Office of Ethics Counsel at (804) 775-0557, or can be found at the Virginia State Bar’s Web site at <http://www.vsb.org>.

Any individual, business or other entity may file or submit written comments in support of, or in opposition to, the proposed amendment by filing ten copies with Thomas A. Edmonds, the Executive Director of the Virginia State Bar, not later than **May 20, 2005**.

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client’s decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client’s decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client’s decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer may limit the objectives scope of the representation if the client consents after consultation-, during which consultation the lawyer shall include disclosure of the risks and benefits of such limited representation. In any limited representation, the lawyer shall remain bound by all Rules of Professional Conduct.

(c) A lawyer may assist in the preparation of pleadings or other filings in a tribunal on behalf of a pro se litigant. If the lawyer substantially prepares a filing for a tribunal, the lawyer must take reasonable measures to assure that the lawyer’s role is disclosed in writing to the tribunal and to the opposing counsel. If a lawyer substantially prepares a plead-

ing for a pro se litigant, the lawyer must identify him or herself in the pleading as having substantially prepared the pleading for the client to file pro se. All rules and regulations governing competence, due diligence and the requirement that pleadings be meritorious shall apply to the lawyer's conduct in preparing the pleading.

(e d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

(e e) A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.

(e f) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

COMMENT

Scope of Representation

[1] Both lawyer and client have authority and responsibility in the objectives and means of representation. The client has ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by the law and the lawyer's professional obligations. Within those limits, a client also has a right to consult with the lawyer about the means to be used in pursuing those objectives. In that context, a lawyer shall advise the client about the advantages, disadvantages, and availability of dispute resolution processes that might be appropriate in pursuing these objectives. At the same time, a lawyer is not required to pursue objectives or employ means simply because a client may wish that the lawyer do so. A clear distinction between objectives and means sometimes cannot be drawn, and in many cases the client-lawyer relationship partakes of a joint undertaking. In questions of means, the lawyer should assume responsibility for technical and legal tactical issues, but should defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. These Rules do not define the lawyer's scope of authority in litigation.

[2] In a case in which the client appears to be suffering mental disability, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

Independence from Client's Views or Activities

[3] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, a lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

Services Limited in Objectives or Means

[4] The objectives or scope of services provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, a retainer may be for a specifically defined purpose. Representation provided through a legal aid agency may be subject to limitations on the types of cases the agency handles. When a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. The terms upon which representation is undertaken may exclude specific objectives or means. Such limitations may exclude objectives or means that the lawyer regards as repugnant or imprudent.

[5] In nonlitigation matters, it is common for the scope of representation to be limited. In litigation matters, however, limitation of the scope of representation involves special concerns that transcend the interests of the client and the lawyer. Moreover, a limitation on the scope of representation in litigation matters has the potential to significantly prejudice the client unless the nature of the limitation and the risks to the client are carefully explained. When limitations on the scope of representation are being considered, the lawyer must fully advise the client of the difficulties the client may encounter in representing him or herself.

Whenever practical, an agreement to limit the scope of representation shall be memorialized in a written agreement signed by both the attorney and client that sets out the nature and limits on the scope of legal services to be provided. When it is impractical to secure a written agreement (e.g., volunteer hotlines, last-minute/emergency requests for legal assistance, etc.), the lawyer must fully advise the client of the limits on the scope of representation and the legal services to be provided. In either scenario, notice of the scope of the relationship shall be communicated to the client prior to the provision of legal services.

A lawyer may not limit representation to the point where the lawyer does not provide meaningful, competent advice. Such limitation shall not circumvent Rule 1.8(h).

An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and other law. Thus, the client may not be asked to agree to representation so limited in scope as to violate Rule 1.1, or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

Nothing in this Rule is intended to affect or limit the laws and regulations governing professional conduct of lawyers.

Criminal, Fraudulent and Prohibited Transactions

[6] A lawyer is required to give an honest opinion about the actual consequences that appear likely to result from a client's conduct. The fact that a client uses advice in a course of action that is criminal or fraudulent does not, of itself, make a lawyer a party to the course of action. However, a lawyer may not knowingly assist a client in criminal or fraudulent conduct. There is a critical distinction between presenting an analysis of legal aspects of question-

able conduct and recommending the means by which a crime or fraud might be committed with impunity.

[7] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is not permitted to reveal the client's wrongdoing, except where permitted or required by Rule 1.6. However, the lawyer is required to avoid furthering the purpose, for example, by suggesting how it might be concealed. A lawyer shall not continue assisting a client in conduct that the lawyer originally supposes is legally proper but then discovers is criminal or fraudulent. *See* Rule 1.16.

[8] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[9] Paragraph (c) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer should not participate in a sham transaction; for example, a transaction to effectuate criminal or fraudulent escape of tax liability. Paragraph (c) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (c) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities. *See* also Rule 3.4(d).

VIRGINIA CODE COMPARISON

Paragraph (a) has no direct counterpart in the Disciplinary Rules of the *Virginia Code*. EC 7-7 stated: "In certain areas of legal representation not affecting the merits of the cause or substantially prejudicing the rights of a client, a lawyer is entitled to make decisions on his own. But otherwise the authority to make decisions is exclusively that of the client..." EC 7-8 stated that "[I]n the final analysis, however, the . . . decision whether to forego legally available objectives or methods because of nonlegal factors is ultimately for the client. . . . In the event that the client in a nonadjudicatory matter insists upon a course of conduct that is contrary to the judgment and advice of the lawyer but not prohibited by Disciplinary Rules, the lawyer may withdraw from the employment." DR 7-101(A)(1) provided that a lawyer "shall not intentionally . . . [f]ail to seek the lawful objectives of his client through reasonably available means permitted by law A lawyer does not violate this Disciplinary Rule, however, by . . . avoiding offensive tactics..."

With regard to paragraph (b), DR 7-101(B)(1) provided that a lawyer may, "with the express or implied authority of his client, exercise his professional judgment to limit or vary his client's objectives and waive or fail to assert a right or position of his client."

With regard to paragraph (c), DR 7-102(A)(7) provided that a lawyer shall not "counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent." DR 7-102(A)(6) provided that a lawyer shall not "participate in the creation or preservation of evidence when he knows or it is obvious that the

evidence is false." DR 7-105(A) provided that a lawyer shall not "advise his client to disregard a standing rule of a tribunal or a ruling of a tribunal ... but he may take appropriate steps in good faith to test the validity of such rule or ruling." EC 7-5 stated that a lawyer "should never encourage or aid his client to commit criminal acts or counsel his client on how to violate the law and avoid punishment therefor."

Paragraph (d) had no counterpart in the *Virginia Code*.

With regard to paragraph (e), DR 2-108(A)(1) provided that a lawyer shall withdraw from representation if "continuing the representation will result in a course of conduct by the lawyer that is illegal or inconsistent with the Disciplinary Rules." DR 9-101(C) provided that "[a] lawyer shall not state or imply that he is able to influence improperly . . . any tribunal, legislative body or public official."

COMMITTEE COMMENTARY

The Committee adopted this Rule as a more succinct and useful statement regarding the scope of the relationship between a lawyer and the client. However, the Committee moved the language of paragraph (b) of the *ABA Model Rule* to the Comment section styled "Independence from Client's Views or Activities" since it appears more appropriate as a Comment than a Rule. Subsequent paragraphs were redesignated accordingly.

The Committee added the fourth sentence in Comment [1] requiring lawyers to advise clients of dispute resolution processes that might be "appropriate."

In Comment [7], the Committee used the verb "shall" to match the mandatory standard of the *Virginia Code* and these Rules.

Rule 4.2. Communication with Persons Represented by Counsel

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

COMMENT

[1] This Rule does not prohibit communication with a represented person, or an employee or agent of a represented person, concerning matters outside the representation. For example, the existence of a controversy between an organization and a private party, or between two organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Also, parties to a matter may communicate directly with each other and a lawyer having inde-

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pendent justification or legal authorization for communicating with the other party is permitted to do so.

[2] In circumstances where applicable judicial precedent has approved investigative contacts in pre-indictment, non-custodial circumstances, and they are not prohibited by any provision of the United States Constitution or the Virginia Constitution, they should be considered to be authorized by law within the meaning of the Rule. Similarly, communications in civil matters may be considered authorized by law if they have been approved by judicial precedent.

[3] *ABA Model Rule* Comment not adopted.

[4] When opposing counsel has filed a substantial assistance pleading pursuant to Rule 1:5, a lawyer must contact that opposing counsel and ascertain whether the opposing counsel continues to represent the person on whose behalf the pleading was filed. A lawyer who learns that a pro se litigant is being “coached” or receiving advice from another lawyer shall inquire of that lawyer whether the litigant is pro se or represented. If the lawyer is advised that the litigant is pro se, then there shall be no prohibition against communication with the litigant.

[45] In the case of an organization, this Rule prohibits communications by a lawyer for one party concerning the matter in representation with persons in the organization’s “control group” as defined in *Upjohn v. United States*, 449 U.S. 383 (1981) or persons who may be regarded as the “alter ego” of the organization. The “control group” test prohibits *ex parte* communications with any employee of an organization who, because of their status or position, have the authority to bind the corporation. Such employees may only be contacted with the consent of the organization’s counsel, through formal discovery or as authorized by law. An officer or director of an organization is likely a member of that organization’s “control group.” The prohibition does not apply to former employees or agents of the organization, and an attorney may communicate *ex parte* with such former employee or agent even if he or she was a member of the organization’s “control group.” If an agent or employee of the organization is represented in the matter by separate counsel, the consent by that counsel to a communication will be sufficient for purposes of this Rule.

[56] This Rule covers any person, whether or not a party to a formal proceeding, who is represented by counsel concerning the matter in question. Neither the need to protect uncounselled persons against being taken advantage of by opposing counsel nor the importance of preserving the client-attorney relationship is limited to those circumstances where the represented person is a party to an adjudicative or other formal proceeding. The interests sought to be protected by the Rule may equally well be involved when litigation is merely under consideration, even though it has not actually been instituted, and the persons who are potentially parties to the litigation have retained counsel with respect to the matter in dispute.

[56a] Concerns regarding the need to protect uncounselled persons against the wiles of opposing counsel and preserving the attorney-client relationship may also be involved where a person is a target of a criminal investigation, knows this, and has retained counsel to receive advice with respect to the investigation. The

same concerns may be involved where a “third-party” witness furnishes testimony in an investigation or proceeding, and although not a formal party, has decided to retain counsel to receive advice with respect thereto. Such concerns are equally applicable in a non-adjudicatory context, such as a commercial transaction involving a sale, a lease or some other form of contract.

Virginia Code Comparison

This Rule is substantially the same as DR 7-103(A)(1), except for the change of “party” to “person” to emphasize that the prohibition on certain communications with a represented person applies outside the litigation context.

Committee Commentary

The Committee believed that substituting “person” for “party” more accurately reflected the intent of the Rule, as shown in the last sentence of the Comment, and was preferable to the apparent limitation of DR 7-103(A)(1) which referred to “[c]ommunicat[ion] on the subject of the representation with a party”

Rule 1:5 Counsel.

When used in these Rules, the word “counsel” includes a partnership, a professional corporation or an association of members of the Virginia State Bar practicing under a firm name.

When such firm name is signed to a pleading, notice or brief, the name of at least one individual member or associate of such firm must be signed to it. Signatures to briefs and petitions for rehearing may be printed or typed and need not be in handwriting.

Service on one member or associate of such firm shall constitute service on the firm. Service is not required to be made on foreign attorneys.

“Counsel of record” includes a counsel or party who has signed a pleading in the case or who has notified the other parties and the clerk in writing that he appears in the case. Counsel of record shall not withdraw from a case except by leave of court after notice to the client of the time and place of a motion for leave to withdraw.

Counsel of record does not include counsel whose representation of a party is limited to assisting in the preparation of pleadings or documents for the party to file pro se. A counsel may undertake to provide only limited representation to a pro se party in a court proceeding in compliance with Rule 1.2 of the Virginia Rules of Professional Conduct and other ethical requirements. Documents filed by a pro se party that were substantially prepared by counsel who does not appear in the proceeding shall carry the counsel’s name, address, telephone number, bar number and the following statement: “(counsel’s name) substantially prepared this pleading, but does not enter

an appearance in this case.” Counsel shall advise the party that the documents must carry this information. Counsel who substantially prepares a pleading or other document makes the same certifications as if counsel were submitting the pleading, except that counsel may rely upon the *pro se* party’s representation of the facts unless counsel has reason to believe that those representations are false or materially insufficient, in which instance counsel shall make an independent reasonable inquiry into the facts. 

Virginia State Bar Council To Review A Proposed Amendment To Rules 7.4 Of The Rules Of Professional Conduct

Pursuant to Part Six: Section IV, Paragraph 10(c) of the Rules of the Supreme Court of Virginia, the Virginia State Bar Council, at its meeting on June 16-19, 2005, in Virginia Beach, Virginia, is expected to consider for approval, disapproval, or modification, a proposed amendment to Rule 7.4 of the Rules of Professional Conduct by the Standing Committee on Lawyer Advertising and Solicitation.

RULE 7.4

The Standing Committee on Lawyer Advertising and Solicitation is proposing an amendment to Rule 7.4(d) that concerns a lawyer’s ability to advertise certain certifications or accreditations. This amendment incorporates the ABA’s position in the current Model Rules that if an attorney has been certified by an ABA accredited organization, then the attorney can advertise that he is so certified without any disclaimer. This amendment would not apply to attorneys advertising they are strictly members of ABA accredited organizations. The amendment would simply add a further distinction to the current rule, which requires a disclaimer for all certifications that are not recognized by the Supreme Court of Virginia. The amendment comes as a committee response to requests from many of the practicing members who carry these ABA specialty certifications.

In making this recommendation the committee has confirmed that the ABA has a very stringent process of accrediting lawyer specialty certification programs to ensure that the certified lawyers have been evaluated, have demonstrated their substantial involvement in the subject area, received adequate peer review, passed a written examination and are currently in good standing within their state bar. The ABA administers the accreditation process under a set of rules and procedures. The applicant’s organizational capabilities, operational methods and certification standards are reviewed by specially appointed evaluation panels. These panels are comprised of individuals with special knowledge of the substantive specialty and the certification process. The panel reports its findings to the Standing Committee which prepares a recommendation on accreditation for the ABA House of Delegates. The actual granting of accreditation is voted on by the House at its Annual and Midyear meetings. The accreditation

period is five years, after which a program must be re-accredited if it is to retain its standing with the ABA.

Inspection and Comment

The proposed amendment may be inspected at the office of the Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800, between the hours of 9:00 A.M. and 4:30 P.M., Monday through Friday. Copies of the proposed amendment can be obtained from the offices of the Virginia State Bar by contacting the Office of Ethics Counsel at (804) 775-0557, or can be found at the Virginia State Bar’s Web site at <http://www.vsb.org>

Any individual, business or other entity may file or submit written comments in support of, or in opposition to, the proposed amendment by filing ten copies with Thomas A. Edmonds, the Executive Director of the Virginia State Bar, not later than **May 20, 2005**.

RULE 7.4 Communication Of Fields Of Practice And Certification

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, Rule 7.2, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

- (a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation “Patent Attorney” or a substantially similar designation;
- (b) A lawyer engaged in Admiralty practice may use as a designation “Admiralty,” “Proctor in Admiralty” or a substantially similar designation;
- (c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., “certified mediator” or a substantially similar designation;
- (d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that: 1) the lawyer has been certified as a specialist by an organization that is currently accredited by the American Bar Association and the name of the certifying organization is clearly identified in the communication; or 2) that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

COMMENT

[1] This Rule permits a lawyer to indicate areas of practice in communications about the lawyer’s services. If a lawyer practices only in certain fields, or will not accept matters in a specified field or fields, the lawyer is permitted to so indicate. A lawyer is generally permitted to state that the lawyer is a “specialist,” practices a “spe-

cialty,” or “specializes in” particular fields, but such communications are subject to the “false and misleading” standard applied in Rule 7.1 and 7.2 to public communications concerning a lawyer’s services.

[2] However, a lawyer may not communicate that the lawyer has been recognized or certified as a specialist in a particular field of law, except as provided by this Rule. Recognition of specialization in patent matters is a matter of longestablished policy of the Patent and Trademark Office as reflected in paragraph (a). Paragraph (b) recognizes that designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.

[3] Because Virginia has no procedure for approving organizations granting certifications of other specialties, lawyers communicating the fact that they have been certified as specialists in a field of law by a named organization (other than the Supreme Court of Virginia as provided in paragraph (c)) must clearly disclose that there is no procedure in Virginia for approving certifying organizations (paragraph (d)).

VIRGINIA CODE COMPARISON

Rule 7.4(a) and (b) are substantially the same as DR 2-104(A). Paragraph (c) is new, and paragraph (d) follows one of the two options in *ABA Model Rule 7.4(c)*.

COMMITTEE COMMENTARY

The Committee maintained the current DR 2-104(A) approach in the first two paragraphs of this Rule.

Because national organizations are increasingly certifying specialists in different areas of the law, the Committee determined to permit Virginia lawyers to describe such certifications. However, Virginia has no procedure for state approval of such certifications. For this reason, the Committee adopted the alternative *ABA Model Rule 7.4(c)* that requires lawyers communicating certified specializations to make the additional clear disclosure that Virginia has no procedure for approving certifying organizations. This additional disclosure balances Virginia clients’ interest in receiving additional information about lawyers and the need to avoid misleading clients by implying some government-approved certification. At the same time, it was deemed that any certification process implemented by the Supreme Court of Virginia (under (d)) would obviously be reliable, so as to eliminate the necessity for any disclaimer. ☺

Respondent Bound by Submissions to Bar and Must Sign Responses

On March 2, 2005, COLD approved a proposed amendment providing that a Respondent is bound by written submissions to the

bar made by Respondent or Respondent’s counsel. The amendment further requires a Respondent to sign certain submissions.

Part 6, Section IV, Paragraph 13 of the Rules of the Virginia Supreme Court

13. PROCEDURE FOR DISCIPLINING, SUSPENDING, AND DISBARRING ATTORNEYS.

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F. Participation and Disqualification of Counsel in Disciplinary Proceedings

1. Attorney for Respondent

~~A Respondent may be represented by an Attorney at any time with respect to a complaint.~~

a. In a Disciplinary Proceeding or Investigation, a Respondent shall be bound by any written submission by the Respondent or his or her Attorney to the Clerk of the Disciplinary System or Bar Counsel.

b. A Respondent must sign his or her written response to a Complaint, a Charge of Misconduct and a Certification.

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