

**PROPOSED AMENDMENTS TO
THE OHIO RULES OF PROFESSIONAL CONDUCT**

Comments Requested: The Supreme Court of Ohio will accept public comments until September 18, 2016, on the following proposed amendments to the Ohio Rules of Professional Conduct.

Comments on the proposed amendments should be submitted in writing to: John VanNorman, Senior Policy and Research Counsel, Supreme Court of Ohio, 65 South Front Street, 7th Floor, Columbus, Ohio 43215-3431, or john.vannorman@sc.ohio.gov not later than September 18, 2016. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

46 [11] Where the client is a fiduciary, the lawyer may be charged with special obligations
47 in dealings with a beneficiary.
48

49 [12] Division (d)(1) applies whether or not the defrauded party is a party to the
50 transaction. Hence, a lawyer must not participate in a transaction to effectuate illegal or fraudulent
51 avoidance of tax liability. Division (d)(1) does not preclude undertaking a criminal defense
52 incident to a general retainer for legal services to a lawful enterprise. The last clause of division
53 (d)(1) recognizes that determining the validity or interpretation of a statute or regulation may
54 require a course of action involving disobedience of the statute or regulation or of the interpretation
55 placed upon it by governmental authorities.
56

57 [13] If a lawyer comes to know or reasonably should know that a client expects
58 assistance not permitted by the Ohio Rules of Professional Conduct or other law or if the lawyer
59 intends to act contrary to the client's instructions, the lawyer must consult with the client regarding
60 the limitations on the lawyer's conduct. See Rule 1.4(a)(5).
61

62 **Comparison to former Ohio Code of Professional Responsibility**

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64 Rule 1.2 replaces several provisions within Canon 7 of the Code of Professional
65 Responsibility.
66

67 The first sentence of Rule 1.2(a) generally corresponds to EC 7-7 and makes what
68 previously was advisory into a rule. The second sentence of Rule 1.2(a) states explicitly what is
69 implied by EC 7-7. The third sentence of Rule 1.2(a) corresponds generally to DR 7-101(A)(1)
70 and EC 7-10. Rule 1.2(a)(1) and (2) correspond to several sentences in EC 7-7.
71

72 Rule 1.2(c) does not correspond to any Disciplinary Rule or Ethical Consideration.
73

74 The first sentence of Rule 1.2(d)(1) corresponds to DR 7-102(A)(7). The second sentence
75 of Rule 1.2(d)(1) is similar to EC 7-4.
76

77 Rule 1.2(e) is the same as DR 7-105 except for the addition of the prohibition against
78 threatening "professional misconduct allegations."
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80 **Comparison to ABA Model Rules of Professional Conduct**

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82 Rule 1.2(a) is modified slightly from the Model Rule 1.2(a) by the inclusion of the third
83 sentence, which does not exist in the Model Rules.
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85 Model Rule 1.2(b) has been moved to Comment [5] of Rule 1.2 because the provision is
86 more appropriately addressed in a comment rather than a black-letter rule.
87

88 Rule 1.2(c) differs from Model Rule 1.2(c) in that it requires only that the limitation be
89 communicated to the client, preferably in writing. The Model Rule requires that the client give
90 informed consent to the limitation.
91

92 Rule 1.2(d)(1) is similar to Model Rule 1.2(d) but differs in two aspects. The Model Rule
93 language “criminal” was changed to “illegal” in Rule 1.2(d)(1), and Model Rule 1.2(d) was split
94 into two sentences in 1.2(d)(1).

95

96 Rule 1.2(d)(2) does not exist in the Model Rules.

97

98 Rule 1.2(e) does not exist in the Model Rules.