

STATE OF WEST VIRGINIA

At a Regular Term the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on April 4, 2018, the following order was made and entered:

RE: Adoption of Proposed Amendment to Rule 1.2 of the Rules of Professional Conduct 18-Rules-01

On January 10, 2018, upon motion from Charles M. Johnson, Esq., Frost Brown Todd, LLC, the Court published for comment proposed amendment to Rule 1.2 of the Rules of Professional Conduct. The proposal as submitted was meant to address the West Virginia Medical Cannabis Act of 2017. Comments were received from Rachael L. Fletcher Cipoletti, Chief Lawyer Disciplinary Counsel, Elliot G. Hicks, Esq., Sherri Goodman Reveal, Esq., Carmela Cesare, Esq., Mark Matkovich, Esq., James R. Leach, Esq., Victoria J. Sopranik, Esq., J. Morgan Leach, Esq., Keith W. Hart, Esq., and Aileen Curfman, in support of the proposed amendment. One Comment in opposition to the proposed amendment was filed by Michael T. Chaney, Esq. The Court expresses its gratitude to those for the time taken to file the Comments.

Upon consideration and review of the proposed amendment, together with the comments filed, the Court is of the opinion to and does hereby adopt the following rule amendment, effective immediately. Insertions to the rule are indicated by underscoring, to read as follows:

RULES OF PROFESSIONAL CONDUCT

* * *

Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) 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.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(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) A lawyer may counsel a client regarding West Virginia law and assist the client to engage in conduct that the lawyer reasonably believes is authorized by those laws. If West Virginia law conflicts with federal law, the lawyer shall also advise the client regarding related federal law and its potential consequences.

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A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

