

[date], 2016

Ms. Audrey Hollins
Office of Professional Competence, Planning and Development
State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Re: Proposed Rule of Professional Conduct 1.0 [1-100]
Purpose and Function of the Rules of Professional Conduct

Dear Ms. Hollins:

The Professional Responsibility and Ethics Committee of the Los Angeles County Bar Association (“PREC”) appreciates the opportunity to comment on the draft rules of conduct (the “Proposed Rules”) proposed by the State Bar’s Commission for the Revision of the Rules of Professional Conduct (the “Rules Revision Commission”). Please see our letter dated [date], 2016, describing PREC and praising the efforts of the Rules Revision Commission.

PREC believes that the language of Comment [2] of Proposed Rule 1.0 [Purpose and Function of the Rules of Professional Conduct (current Rule 1-100)], which states, in pertinent part, that “a violation of a rule can occur when a lawyer is not practicing law or acting in a professional capacity” is overly broad and does not apply to all the rules. For example, Proposed Rules 7.1 [Communications Concerning A Lawyer’s Services], 7.2 [Advertising] and 7.3 [Solicitation of Clients] may apply to services provided by lawyers outside of the practice of law. As a result, PREC recommends that the quoted language be revised to read “a violation of *some* rules *may* occur even when a lawyer is not practicing law or acting in a professional capacity.”

In addition, we note that at the Rules Revision Commission’s January 22, 2016 meeting, the Commission determined that a proposed California version of ABA Model Rule 6.1 [Voluntary Pro Bono Publico Service] should not be adopted, and instead encouraged the drafting committee for that rule to (among other things) consider adding a new comment to Proposed Rule 1.0 emphasizing the importance of voluntary pro bono service. We understand that, in response, the drafting committee on May 19, 2016 proposed the following new Comment [5] to Proposed Rule 1.0, which Comment was approved by the Commission on June 3, 2016:

“[5] The disciplinary standards created by these Rules are not intended to address all aspects of a lawyer's professional obligations. A lawyer, as a member of the legal profession, is a representative and advisor of clients, an officer of the legal system and a public citizen having special responsibilities for the quality of justice. A lawyer should be aware of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons* who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers are encouraged to devote professional time and resources and use civic influence to ensure equal access to the system of justice for those who because of economic or social barriers cannot afford or secure adequate legal counsel. In meeting this responsibility, every lawyer should aspire to render at least fifty hours of pro bono

publico legal services per year. In fulfilling this responsibility, the lawyer should provide a substantial* majority of such hours to indigent individuals or to nonprofit organizations with a primary purpose of providing services to the poor or on behalf of the poor or disadvantaged. See Business and Professions Code § 6073 (financial support for programs providing pro bono legal services).”

While PREC continues to support the goals and aspirations encompassed in Model Rule 6.1, PREC believes that the above Comment [5] to Proposed Rule 1.0 clearly articulates the obligations of each lawyer to be aware of the needs for pro bono legal services and encourages members of the bar to devote at least 50 hours to pro bono legal services. For that reason, PREC strongly supports the adoption of the above Comment [5] to Proposed Rule 1.0.

Thank you again for the opportunity to comment on the Proposed Rules.

Very Truly Yours,