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ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO RPC 1.16—DECLINING OR  
TERMINATING REPRESENTATION

DATED at Olympia, Washington this 5th day of June, 2025.

For the Court

  
CHIEF JUSTICE

## GR 9 COVER SHEET

### Suggested Amendments RULES OF PROFESSIONAL CONDUCT (RPC) Rule 1.16(a) and accompanying Comments [1] and [2]

Submitted by the Washington State Bar Association

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**A. Name of Proponent:**

Washington State Bar Association

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**C. Purpose:** These suggested amendments are based on recommendations and adoptions the American Bar Association (ABA) made to amend the text and comments to ABA Model Rule 1.16 in August 2023. The ABA Model Rule amendments focus on the duty to inquire about a prospective or current client's objectives so that the lawyer will not inadvertently be drawn into a circumstance where the client is using the lawyer's services to commit a crime or fraud.

Following the adoption of the ABA amendments the WSBA Executive Director asked the WSBA Committee on Professional Ethics (CPE) to review the Model Rule amendments and to make a recommendation to the WSBA Board of Governors on whether the Rule should be amended to conform to the new Model Rule 1.16. The CPE

recommended the adoption of the amendments, and the Board of Governors approved the recommendation in January 2025.

These suggested amendments to RPC 1.16(a) and accompanying Comments 1 and 2 as submitted are intended to clarify a lawyer's duty to inquire into client objectives when considering taking on a representation and to decline or withdraw from a representation when the lawyer learns a client is using or plans to use the lawyer's services to commit or further a crime or fraud.

The suggested amendments provide guidelines for inquiries that lawyers ordinarily should and usually do undertake when evaluating new or continuing work. Lawyers who find themselves representing clients in illegal activities or financial fraud must be attuned to and appropriately vet clients before taking them on. Furthermore, under RPC 1.2(d) a lawyer "shall not counsel a client to engage, or assist a client, in conduct the lawyer knows is criminal or fraudulent ...". The suggested amendments closely align with the appropriate initial and ongoing inquiry lawyers should already perform as a matter of prudent practice that is consistent with the RPC. A deeper discussion of the analysis can be found in the GR 9 Supporting Material, namely Appendix A to GR 9 Cover Sheet: General Background.

**D. Hearing:** A hearing is not requested.

**E. Expedited Consideration:** Expedited consideration is not requested.

**F. Supporting Material:**

- Appendix A: General Background

**SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT**  
**RULE 1.16(a) and accompanying COMMENTS [1] and [2]**

**RPC 1.16 DECLINING OR TERMINATING REPRESENTATION**

**(a)** A lawyer shall inquire into and assess the facts and circumstances of each representation to determine whether the lawyer may accept or continue the representation. Except as stated in paragraph (c), a lawyer shall not represent a client or, where the representation has commenced, shall, notwithstanding RCW 2.44.040, withdraw from the representation of a client if:

**(1)-(3)** [Unchanged.]

**(4)** the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, despite the lawyer's discussion pursuant to Rules 1.2(d) and 1.4(a)(5) regarding the limitations on the lawyer assisting with the proposed conduct.

**(b)-(d)** [Unchanged.]

**Comment**

**[1]** Paragraph (a) imposes an obligation on a lawyer to inquire into and assess the facts and circumstances of the representation before accepting it. The obligation imposed by Paragraph (a) continues throughout the representation. A change in the facts and circumstances relating to the representation may trigger a lawyer's need to make further inquiry and assessment. For example, a client traditionally uses a lawyer to acquire local real estate through the use of domestic limited liability companies, with financing from a local bank. The same client then asks the lawyer to create a multi-tier corporate structure, formed in another state to acquire property in a third jurisdiction, and requests to route the transaction's funding through the lawyer's trust account. Another example is when, during the course of a representation, a new party is named or a new entity becomes involved. A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion. Ordinarily, a representation in a matter is completed when the

**SUGGESTED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT**  
**RULE 1.16(a) and accompanying COMMENTS [1] and [2]**

1 agreed-upon assistance has been concluded. See Rules 1.1, 1.2(c) and 6.5. See also Rule 1.3,  
2 Comment [4].

3 **Mandatory Withdrawal**

4 **[2]** A lawyer ordinarily must decline or withdraw from representation if the client demands  
5 that the lawyer engage in conduct that is illegal or violates the Rules of Professional Conduct  
6 or other law. The lawyer is not obliged to decline or withdraw simply because the  
7 client suggests such a course of conduct; a client may make such a suggestion in the hope  
8 that a lawyer will not be constrained by a professional obligation. Under paragraph (a)(4),  
9 the lawyer's inquiry into and assessment of the facts and circumstances will be informed by  
10 the risk that the client or prospective client seeks to use or persists in using the lawyer's  
11 services to commit or further a crime or fraud. This analysis means that the required level of a  
12 lawyer's inquiry and assessment will vary for each client or prospective client, depending  
13 on the nature of the risk posed by each situation. Factors to be considered in determining the  
14 level of risk may include: (i) the identity of the client, such as whether the client is a  
15 natural person or an entity and, if an entity, the beneficial owners of that entity, (ii) the  
16 lawyer's experience and familiarity with the client, (iii) the nature of the requested legal  
17 services, (iv) the relevant jurisdictions involved in the representation (for example, whether a  
18 jurisdiction is considered at high risk for money laundering or terrorist financing), and (v)  
19 the identities of those depositing into or receiving funds from the lawyer's client trust account,  
20 or any other accounts in which client funds are held. For further guidance assessing  
21 risk, see, e.g., as amended or updated, Financial Action Task Force Guidance for a Risk-  
22 Based Approach for Legal Professionals, the ABA Voluntary Good Practices Guidance  
23 for Lawyers to Detect and Combat Money Laundering and Terrorist Financing, A  
24 Lawyer's Guide to Detecting and Preventing Money Laundering (a collaborative publication  
25 of the International Bar Association, the American Bar Association and the Council of

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Bars and Law Societies of Europe), the Organization for Economic Cooperation and  
Development (OECD) Due Diligence Guidance for Responsible Business Conduct,  
and the U.S. Department of Treasury Specially Designated Nationals and Blocked Persons  
List.

**[3] – [10]** [Unchanged.]