

Agenda

Supreme Court's Advisory Committee on the Rules of Professional Conduct

June 6, 2023

4:00 to 6:00 p.m.

In-person at the Utah Law and Justice Center with [Zoom](#) available

Welcome; fond farewell to departing members Simon Cantarero, Joni Jones, and Phil Lowry; approval of minutes.	Tab 1	Simón Cantarero, Chair, presiding, and Nancy Sylvester, staff
Discussion/Action: Rule 1.2(d) (cannabis advising): <ul style="list-style-type: none">The Court prefers the narrower version of the rule that is specific to cannabis laws.Asked for a comment to explain.Subcommittee added several versions of a proposed comment.	Tab 2	Austin Riter, J.D. Lauritzen, Hannah Follender
Discussion/Action: Rule 7.1: Review comments and subcommittee recommendations. <ul style="list-style-type: none">Subcommittee recommends a more focused rule that could survive a constitutional challenge.Some comments mentioned rules that passed constitutional muster in Florida after review by the US Supreme Court. See highlighted case, attached (<i>Fla. Bar v. Went For It, Inc.</i>, 515 U.S. 618, 620-21, 115 S. Ct. 2371, 2374, 132 L. Ed. 2d 541 (1995))Subcommittee refined Florida language.	Tab 3	Robert Gibbons (subcommittee chair), Mark Hales, Julie Nelson, Billy Walker, and Gary Sackett.
Discussion/Action: Rule 8.4(c): The universe of investigative activities attorneys may undertake. <ul style="list-style-type: none">Resubmitted rule to the Supreme Court for comment recirculation.Court requested additional research/less vague language.	Email handout	Joni Jones

Meetings are in-person at the Utah Law and Justice Center and are generally held on the 1st Tuesday of the month from 4 to 6 p.m.

2023 Meeting Schedule: ●January 3●February 7●March 7●April 11●May 9●June 6●August 1●
●September 5●October 3● November 7●December 5●

<http://www.utcourts.gov/committees/RulesPC/>

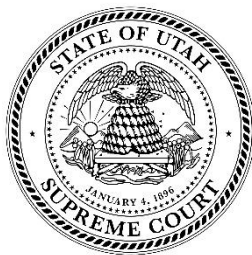
<p>Projects in the pipeline:</p> <ul style="list-style-type: none"> • Referral fees and fee sharing (Rules 1.0, 1.5, 5.4(b), 5.8): Subcommittee will continue to refine rules, making sure to also address sandbox entities/professionals who may fee share. Rule 5.8 should start with a general rule about fee sharing. Definitions need to be refined and better coordinated. Comment that addresses kickback statute should be generalized. • Rules 8.4 and 14-301: Assigned to Judicial Council's Fairness and Accountability Committee (historical memo attached to August materials). 		<p>--</p>
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Tab 1



Utah Supreme Court's Advisory Committee on the Rules of Professional Conduct

[Draft] Meeting Minutes
May 9, 2023

Utah Law and Justice Center & Zoom
16:00 Mountain Time

J. Simon Cantarero, Chair

Attendees:

J. Simon Cantarero, Chair
Cory Talbot, Vice Chair
Jurhee Rice
Joni J. Jones
Gary Sackett
Alyson McAllister
Robert Gibbons
Mark Hales
Hon. Trent Nelson
Hon. Amy Oliver
Ian Quiel
Julie J. Nelson
Phillip Lowry
Adam Bondy
Dane Thorley
Hon. M. Alex Natt, Recording
Secretary

Excused: Billy Walker, Hon. Mike
Edwards, Austin Riter, Hon. James
Gardner, Christine Greenwood, Scotti
Hill.

Staff:

Nancy Sylvester

Guests:

Nick Stiles, Jacqueline Carlton

1. Welcome and approval of the April 11, 2023 meeting minutes (Chair Cantarero)

Chair Cantarero recognized the existence of a quorum, called the meeting to order at 16:04.

Chair Cantarero asked the committee if everyone had an opportunity to review the minutes from the April 11 meeting. Ms. McAllister moved to approve the minutes; Judge Oliver seconded. The Motion passed by acclamation.

2. Rule 7.1 (Mr. Gibbons)

The Chair asked Mr. Gibbons to update the Committee on the advertising rules. Mr. Gibbons referenced a Florida rule that survived Constitutional muster in *Fla. Bar v. Went for it, Inc.* The Florida case put a moratorium on personal injury cases alone. The Committee's recommendation was to reject the current version of the Rule and instead craft a focused rule similar to Florida's which limits solicitations within 30 days of the injury. The Committee recommended keeping 7.1(b).

Ms. McAllister suggested that recommendation would not alone address the concerns of the Supreme Court and Legislature in that not only written solicitations must be addressed but personal solicitations and telephone calls as well.

A question arose whether this rule would apply to probate attorneys and/or criminal defense attorneys as they can solicit clients in distress as well.

The Chair will ask the subcommittee to re-draft the Rule limiting the rule in scope and timing. Further the Chair appointed Judge Edwards and Jurhee Rice to the subcommittee to help in the next steps.

3. Referral Fees/Fee Sharing (McAllister)

Ms. McAllister presented an update of the subcommittee's attempt to further refine the rules. Significant discussion regarding the effect of the sandbox entities/professionals on a proposed rule was had.

Rule 1.0 was discussed. The definition of "legal fees" in proposed section (j) was discussed. It was reported that the public often calls the OPC to ask for a definition of legal fees. The Committee discussed the proposed definition and Ms. McAllister suggested she shorten the proposed definition and return the same to the Committee for its consideration.

After significant discussion the Chair asked the Committee to continue their good work and added Mr. Talbot and Ms. Nelson to the subcommittee for next steps.

Chair Cantarero referred to Rule 5.8 should start with a general rule about fee sharing. The Chair and Mr. Sackett advised not to cite to statutes in the rules. It was discussed that it is intended in essence as a practice pointer to alert attorneys

to serious criminal penalties associated with violations of the rule. It was suggested that rather than citing a particular code provision (which can be changed at each legislative session) rather state that “attorneys should be familiar with state laws governing referral fees” or words to that effect.

June 6 is the next meeting of the Committee.

The meeting adjourned at 5:15 pm.

Tab 2

1 **Rule 7.1. Communications Concerning a Lawyer's Services.**

2 Effective:

3 (a) A lawyer shall not make a false or misleading communication about the lawyer or the
4 lawyer's services. A communication is false or misleading if it:

5 (1) contains a material misrepresentation of fact or law, or omits a fact necessary to make the
6 statement considered as a whole not materially misleading;

7 (2) is likely to create an unjustified or unreasonable expectation about results the lawyer can
8 achieve or has achieved; or

9 (3) contains a testimonial or endorsement that violates any portion of this Rule.

10 (b) A lawyer shall not interact with a prospective client in a manner that involves coercion,
11 duress, or harassment.

12 ~~(c) Personal injury, accident, wrongful death, or disaster. A lawyer shall not engage in a~~
13 ~~communication with, send or knowingly permit to be sent, a communication to make any attempt~~
14 ~~to communicate with a prospective client, for the purpose of obtaining professional employment;~~
15 ~~(1) if the communication concerns an action for personal injury or wrongful death, or otherwise~~
16 ~~relates to an accident or disaster involving the person to whom the communication is addressed~~
17 ~~or a relative of that person, unless:~~

18 ~~(1) unless the injury, accident, death, or disaster occurred more than 30 days prior to the~~
19 ~~communication; or~~

20 ~~(2) the prospective client is a close friend, relative, or former client of the lawyer, or where~~
21 ~~the communication is made at the request of a third party who is a close friend or relative of~~
22 ~~the prospective client.~~

23 ~~(d) Accepting referrals. A lawyer shall not accept referrals from a lawyer referral service unless~~
24 ~~the service's communication with the public and prospective clients is done in a manner that~~
25 ~~would not violate engages in no communication with the public and in no direct contact with~~
26 ~~prospective clients in a manner that would violate the Rules of Professional Conduct if the~~
27 ~~communication or contact were made by the lawyer.~~

28
29 ~~(e) Direct solicitation of a potential client by a lawyer is prohibited. Direct solicitation means any~~
30 ~~form of written or oral communication done for the purpose of obtaining professional~~
31 ~~employment, including:~~

Commented [GG51]: Section (a) and (b) do not have headings. I would leave these out of (c) and (d) unless something is added in (a) and (b) for consistency.

Commented [JAR2]: I don't know about saying "make any attempt." I think that is too vague. I have noticed in other states they say a lawyer shall not contact, or send, a written or electronic communication to a prospective client for the purpose of obtaining employment if the written or electronic communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or relative of that person, unless the accident or disaster occurred more than [30] days prior to the mailing of the communication. You have basically all of this in your edits-I am just thinking maybe we simplify it and say a lawyer shall not contact. I apologize as I am coming into this at the end and maybe you already discussed this. If that is the case-ignore me and continue on with what you have.

Commented [GG53]: "to obtain" (2 words instead of 5 lawyer's words)

Commented [GG54]: What does "otherwise" mean here? What follows is a new category that is off-limits. Also, what is a "disaster" in this context, and does any "accident," no matter how small, preclude a communication?

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Commented [RG5]: Do we need to define "close friend"? I remember that being a question that came up previously.

Commented [GG56R5]: I like Jurhee's suggestion on this.

Commented [JAR7]: Maybe say such contact is permissible where the contact is with: (1) another lawyer, (2) someone with whom the lawyer has a family relationship, close personal relationship, or a prior business relationship, (3) a business organization or a "person who routinely uses for business purposes the type of legal services" the lawyer offers to provide, or (4) a "not for profit organization or governmental body." Again, I don't know if you have already discussed this and if so-just ignore. I think a close friend is fine but it may be better to say a close personal relationship-instead of friend.

- 32 ~~(1) in-person contact;~~
- 33 ~~(2) telephone call;~~
- 34 ~~(3) text;~~
- 35 ~~(4) email;~~
- 36 ~~(5) fax, or~~
- 37 ~~(6) any other electronic communication;~~
- 38 ~~(d) Paragraph (c) does not apply where the prospective client is a close friend, relative, or former~~
- 39 ~~client of the lawyer, or where the contact is made at the request of a third party who is a close~~
- 40 ~~friend or relative of the prospective client;~~
- 41 ~~(e) General advertising materials sent by mail or email that are clearly identified as advertising~~
- 42 ~~materials are not prohibited by this rule;~~

43

44

45 **Comments**

46 [1] This Rule governs all communications about a lawyer's services. Whatever means are used to
47 make known a lawyer's services, statements about them must be truthful.

48 [2] Truthful statements that are misleading are also prohibited by this Rule. A truthful statement
49 is misleading if it omits a fact necessary to make the lawyer's communication considered as a
50 whole not materially misleading. A truthful statement is also misleading if there is a substantial
51 likelihood that it will lead a reasonable person to formulate a specific conclusion about the
52 lawyer or the lawyer's services for which there is no reasonable factual foundation.

53 [3] By way of example, this Rule permits the following, so long as they are not false or
54 misleading: public dissemination of information concerning a lawyer's name or firm name,
55 address, email address, website, and telephone number; the kinds of services the lawyer will
56 undertake; the basis on which the lawyer's fees are determined, including prices for specific
57 services and payment and credit arrangements; the use of actors or dramatizations to portray the
58 lawyer, law firm, client, or events; the courts or jurisdictions where the lawyer is permitted to
59 practice, and other information that might invite the attention of those seeking legal assistance.

60 [4] An advertisement that truthfully reports a lawyer's achievements on behalf of clients or
61 former clients may be misleading if presented so as to lead a reasonable person to form an
62 unjustified expectation that the same results could be obtained for other clients in similar matters

63 without reference to the specific factual and legal circumstances of each client's case. Similarly,
64 an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other
65 lawyers may be misleading if presented with such specificity as would lead a reasonable person
66 to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer
67 or qualifying language may preclude a finding that a statement is likely to create unjustified
68 expectations or otherwise mislead the public.

69 [5] A lawyer can communicate practice areas and can state that he or she "specializes" in a field
70 based on experience, training, and education, subject to the "false or misleading" standard set
71 forth in this Rule. A lawyer shall not state or imply that the lawyer is certified as a specialist in a
72 particular field unless the lawyer has been certified as a specialist by an objective entity and the
73 name of the entity is clearly identified in the communication.

74 [6] In order to avoid coercion, duress, or harassment, a lawyer should proceed with caution when
75 initiating contact with someone in need of legal services, especially when the contact is "live,"
76 whether that be in-person, face-to-face, live telephone and other real-time visual or auditory
77 person-to-person communications, where the person is subject to a direct personal encounter
78 without time for reflection.

79 [7] Firm names, letterhead and professional designations are communications concerning a
80 lawyer's services. A firm may be designated by the names of all or some of its current members,
81 by the names of deceased or retired members where there has been a succession in the firm's
82 identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be
83 designated by a distinctive website address, social media username or comparable professional
84 designation that is not misleading. A law firm name or designation is misleading if it implies a
85 connection with a government agency, with a deceased lawyer who was not a former member of
86 the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or
87 with a public or charitable legal services organization. If a firm uses a trade name that includes a
88 geographical name such as "Springfield Legal Clinic," an express statement explaining that it is
89 not a public legal aid organization may be required to avoid a misleading implication.

90 [8] A law firm with offices in more than one jurisdiction may use the same name or other
91 professional designation in each jurisdiction.

92 [9] Lawyers may not imply or hold themselves out as practicing together in one firm when they
93 are not a firm, as defined in Rule 1.0(d), because to do so would be false and misleading.

94 [10] It is misleading to use the name of a lawyer holding public office in the name of a law firm,
95 or in communications on the law firm's behalf, during any substantial period in which the lawyer
96 is not practicing with the firm. A firm may continue to use in its firm name the name of a lawyer
97 who is serving in Utah's part-time legislature as long as that lawyer is still associated with the
98 firm.

99 [11] See Rules 5.3 (duties of lawyers and law firms with respect to the conduct of non-lawyers);
100 Rule 8.4(a) (duty to avoid violating the Rules through the acts of another); and Rule 8.4(e)
101 (prohibition against stating or implying an ability to influence improperly a government agency
102 or official or to achieve results by means that violate the Rules of Professional Conduct or other
103 law).

104 [12] This Rule differs from the ABA Model Rule. Additional changes have been made to the
105 comments ~~and it incorporates language previously found in Rule 7.3, which was repealed in~~
106 ~~2020, and language from the Florida attorney advertising rules has also been incorporated at~~
107 ~~paragraphs (c) and (d). The Supreme Court in *Fla. Bar v. Went For It, Inc.*, 515 U.S. 618, 620–~~
108 ~~21, 115 S. Ct. 2371, 2374, 132 L. Ed. 2d 541 (1995), found that the rule language at issue passed~~
109 ~~constitutional muster in proscribing solicitation—for a brief time period—in certain sensitive~~
110 ~~situations.~~

111

Commented [GGS8]: This should come out entirely. With one possible exception, the Rules and comments do not refer to case law. There is no reason to say anything other than the rule differs from the Model Rules.

Commented [JAR9]: Why do we reference Florida instead of saying something like "Additional changes have been made to the rules and comments in accordance with other state advertising rules." Unless we are going to directly quote Florida's advertising rules instead of using their rules as a means of adjusting our Utah advertising rules, I don't see why we would specify Florida over other states. I looked at a few states and saw similar language as we have used. If this has already been decided and is a non-issue that is fine. I was just curious about the reference here in the comments.

Tab 3

1 **Rule 1.2. Scope of representation and allocation of authority between client and**
2 **lawyer. Licensed paralegal practitioner notice to be displayed.**

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

11 (b) A lawyer's representation of a client, including representation by appointment, does
12 not constitute an endorsement of the client's political, economic, social or moral views
13 or activities.

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

16 (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the
17 lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal
18 consequences of any proposed course of conduct with a client and may counsel or assist
19 a client to make a good faith effort to determine the validity, scope, meaning or
20 application of the law. A lawyer may also counsel a client regarding the validity, scope,
21 and meaning of Utah's cannabis statutes and may assist a client in conduct that the
22 lawyer reasonably believes is permitted by these statutes and related rules, regulations,
23 orders, and ordinances. In these circumstances, the lawyer must also advise the client
24 regarding the potential consequences of the client's conduct under related federal law
25 and policy.

26 (e) A licensed paralegal practitioner shall conspicuously display in the licensed
27 paralegal practitioner's office a notice that shall be at least 12 by 20 inches with boldface
28 type or print with each character at least one inch in height and width that contains a

29 statement that the licensed paralegal practitioner is not a lawyer licensed to provide
30 legal services without limitation.

31

32 **Comment**

33 **Allocation of Authority between Client and Lawyer**

34 [1] Paragraph (a) confers upon the client the ultimate authority to determine the
35 purposes to be served by legal representation, within the limits imposed by law and the
36 lawyer's professional obligations. The decisions specified in paragraph (a), such as
37 whether to settle a civil matter, must also be made by the client. See [Rule 1.4\(a\)\(1\)](#) for
38 the lawyer's duty to communicate with the client about such decisions. With respect to
39 the means by which the client's objectives are to be pursued, the lawyer shall consult
40 with the client as required by [Rule 1.4\(a\)\(2\)](#) and may take such action as is impliedly
41 authorized to carry out the representation.

42 [2] On occasion, however, a lawyer and a client may disagree about the means to be
43 used to accomplish the client's objectives. Clients normally defer to the special
44 knowledge and skill of their lawyer with respect to the means to be used to accomplish
45 their objectives, particularly with respect to technical, legal and tactical matters.
46 Conversely, lawyers usually defer to the client regarding such questions as the expense
47 to be incurred and concern for third persons who might be adversely affected. Because
48 of the varied nature of the matters about which a lawyer and client might disagree and
49 because the actions in question may implicate the interests of a tribunal or other
50 persons, this Rule does not prescribe how such disagreements are to be resolved. Other
51 law, however, may be applicable and should be consulted by the lawyer. The lawyer
52 should also consult with the client and seek a mutually acceptable resolution of the
53 disagreement. If such efforts are unavailing and the lawyer has a fundamental
54 disagreement with the client, the lawyer may withdraw from the representation.
55 See [Rule 1.16\(b\)\(4\)](#). Conversely, the client may resolve the disagreement by discharging
56 the lawyer. See [Rule 1.16\(a\)\(3\)](#).

57 [3] At the outset of a representation, the client may authorize the lawyer to take specific
58 action on the client's behalf without further consultation. Absent a material change in
59 circumstances and subject to [Rule 1.4](#), a lawyer may rely on such an advance
60 authorization. The client may, however, revoke such authority at any time.

61 [4] In a case in which the client appears to be suffering diminished capacity, the
62 lawyer's duty to abide by the client's decisions is to be guided by reference to [Rule 1.14](#).

63 **Independence from Client's Views or Activities**

64 [5] Legal representation should not be denied to people who are unable to afford legal
65 services or whose cause is controversial or the subject of popular disapproval. By the
66 same token, representing a client does not constitute approval of the client's views or
67 activities.

68 **Agreements Limiting Scope of Representation**

69 [6] The scope of services to be provided by a lawyer may be limited by agreement with
70 the client or by the terms under which the lawyer's services are made available to the
71 client. When a lawyer has been retained by an insurer to represent an insured, for
72 example, the representation may be limited to matters related to the insurance coverage.
73 A limited representation may be appropriate because the client has limited objectives
74 for the representation. In addition, the terms upon which representation is undertaken
75 may exclude specific means that might otherwise be used to accomplish the client's
76 objectives. Such limitations may exclude actions that the client thinks are too costly or
77 that the lawyer regards as repugnant or imprudent.

78 [7] Although this Rule affords the lawyer and client substantial latitude to limit the
79 representation, the limitation must be reasonable under the circumstances. If, for
80 example, a client's objective is limited to securing general information about the law the
81 client needs in order to handle a common and typically uncomplicated legal problem,
82 the lawyer and client may agree that the lawyer's services will be limited to a brief
83 telephone consultation. Such a limitation, however, would not be reasonable if the time

84 allotted were not sufficient to yield advice upon which the client could rely. Although
85 an agreement for a limited representation does not exempt a lawyer from the duty to
86 provide competent representation, the limitation is a factor to be considered when
87 determining the legal knowledge, skill, thoroughness and preparation reasonably
88 necessary for the representation. See [Rule 1.1](#).

89 [8] All agreements concerning a lawyer's representation of a client must accord with the
90 Rules of Professional Conduct and other law. See, e.g., [Rules 1.1](#), [1.8](#) and [5.6](#).

91 **Criminal, Fraudulent and Prohibited Transactions**

92 [9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to
93 commit a crime or fraud. This prohibition, however, does not preclude the lawyer from
94 giving an honest opinion about the actual consequences that appear likely to result from
95 a client's conduct. Nor does the fact that a client uses advice in a course of action that is
96 criminal or fraudulent of itself make a lawyer a party to the course of action. There is a
97 critical distinction between presenting an analysis of legal aspects of questionable
98 conduct and recommending the means by which a crime or fraud might be committed
99 with impunity.

100 [10] When the client's course of action has already begun and is continuing, the lawyer's
101 responsibility is especially delicate. The lawyer is required to avoid assisting the client,
102 for example, by drafting or delivering documents that the lawyer knows are fraudulent
103 or by suggesting how the wrongdoing might be concealed. A lawyer may not continue
104 assisting a client in conduct that the lawyer originally supposed was legally proper but
105 then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the
106 representation of the client in the matter. See [Rule 1.16\(a\)](#). In some cases, withdrawal
107 alone might be insufficient. It may be necessary for the lawyer to give notice of the fact
108 of withdrawal and to disaffirm any opinion, document, affirmation or the like. See [Rule](#)
109 [4.1](#).

110 [11] Where the client is a fiduciary, the lawyer may be charged with special obligations
111 in dealings with a beneficiary.

112 [12] Paragraph (d) applies whether or not the defrauded party is a party to the
113 transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal
114 or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a
115 criminal defense incident to a general retainer for legal services to a lawful enterprise.
116 The last clause of paragraph (d) recognizes that determining the validity or
117 interpretation of a statute or regulation may require a course of action involving
118 disobedience of the statute or regulation or of the interpretation placed upon it by
119 governmental authorities.

120 [12a] [EXPLANATORY NOTE – TO REVISE] The proposed revisions to paragraph (d)
121 reflect an approach whereby attorneys can both advise and assist cannabis businesses. If
122 the Utah Legislature has decided that cannabis companies can conduct medical
123 marijuana business in Utah, then, in our subcommittee’s view, Utah lawyers need to be
124 able not only to advise such businesses on the law but also actively assist them with
125 organizing and operating their businesses, including such matters as establishing and
126 licensing businesses that meet the requirements of the statutes, adopting operating
127 policies and procedures, and representing clients in state court and state agency
128 proceedings regarding compliance with the statutes and licensing and certification
129 issues. Such assistance is necessary to the practical functioning of the businesses, which
130 are not illegal, whereas the intent of Rule 1.2 is to prohibit lawyers from assisting with
131 criminal activity like money laundering. If lawyers can only advise but not assist, then
132 both cannabis lawyers and cannabis business are hamstrung in their ability to take
133 practical action steps to enforce the rights provided by the statutes and comply with the
134 obligations required by the statutes.

135 Comment to Illinois’ Rule 1.2 (edited for Utah): Paragraph (d) was amended to address
136 the dilemma facing a lawyer in Utah after the voter Initiative Proposition 2 was
137 approved in November 2018 following some amendments made by lawmakers as part

138 of a special session and as set forth in H.B. 3001 (2018 Third Special Session of the Utah
139 Legislature). The Utah Medical Cannabis Act expressly permits the cultivation,
140 distribution, and use of cannabis for medical purposes under the conditions stated in
141 the Act. Conduct permitted by the Act may be prohibited by the federal Controlled
142 Substances Act, 21 U.S.C. §§801 - 904 and other law. The conflict between state and
143 federal law makes it particularly important to allow a lawyer to provide legal advice
144 and assistance to a client seeking to engage in conduct permitted by Utah law. In
145 providing such advice and assistance, a lawyer shall also advise the client about related
146 federal law and policy.

147 Comment to Virginia's Rule 1.2 (edited for Utah): Paragraph (d) addresses the dilemma
148 facing a lawyer whose client wishes to engage in conduct that is permitted by
149 applicable Utah state medical cannabis laws but is prohibited by federal cannabis laws.
150 The conflict between stateUtah and federal cannabis laws makes it particularly
151 important to allow a lawyer to provide legal advice and assistance to a client seeking to
152 engage in conduct permitted by stateUtah law, such as medical cannabis production
153 and pharmacy retail services. In providing such advice and assistance, a lawyer shall
154 also advise the client about related federal law and policy. Paragraph (d) applies, but is
155 not limited in its application, to any conflict between state and federal cannabis laws.

156 [13] If a lawyer comes to know or reasonably should know that a client expects
157 assistance not permitted by the Rules of Professional Conduct or other law or if the
158 lawyer intends to act contrary to the client's instructions, the lawyer must consult with
159 the client regarding the limitations on the lawyer's conduct. See [Rule 1.4\(a\)\(5\)](#).

160 [14] Lawyers are encouraged to advise their clients that their representations are guided
161 by the Utah Standards of Professionalism and Civility and to provide a copy to their
162 clients.

163 [14a] This rule differs from the ABA Model Rule, ~~by adding section (e) which requires~~
164 ~~licensed paralegal practitioners to post a conspicuous notice of their limited licensure~~
165 ~~status.~~