

MRPC 1.0.2
Applicability of Rules

STATE BAR OF MICHIGAN POSITION
By vote of the Representative Assembly on April 16, 2005

MRPC 1.0.2 should include the following "transition provision" to address the effectiveness of amended or new Rules on existing engagements: "All engagements existing as of the effective date of the amendments shall be controlled by the law in effect at the inception of the engagement, unless otherwise agreed by both the lawyer and the client."

- (a) Yes.
- (b) No.

Synopsis

The Proposed Rules do not provide guidance as to when and how amended or new Rules would become effective. Without a transition provision, an unreasonable burden will be placed on lawyers with multiple-client engagements, as well as lawyers serving as intermediaries.

Supreme Court and ADB Versions

Neither the Supreme Court nor the ADB versions address when and how any amended or new Rules would affect existing engagements.

Additional Transition Provision

There are several examples of the need for such a provision. The Court's proposed MRPC 1.7 would require, as of the effective date, each client in every multiple representation to have received a written confirmation of any conflict waiver/consent. For an estate planner with hundreds of husband-wife estate plans on file in continuing client relationships, this could mean thousands of written confirmations. Present MRPC 2.2 (Intermediary) disappears; current intermediaries are left with no direction as to how to proceed. The deletion of MRPC 2.2 also diminishes the role of lawyers in amicably resolving disputes between clients.

These existing relationships should be allowed to continue, controlled by the law under which they were formed.