

Codes of conduct for lawyers

Law



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Nevada Ethics and Professional Conduct: Attorneys Nevada is one of only two states in the United States not to adopt the American Bar Association (ABA) Code of Conduct for Attorneys (California is the other) (ABA 2012). This non-compliance is more of a 'legal definition' than an outright 'rebellion' or protest against the ABA. Nevada stipulates specifically in "Nevada Rules of Professional Conduct: Adopted by the Supreme Court of Nevada 2006; amended 2007" the non-acceptance of the ABA preamble and scope but effectually uses the ABA as a 'skeleton guide' unless amended and noted and suggests a future use of the ABA Model for, "...may be consulted for guidance in interpreting and applying the Nevada rules" (Comparison of Rules p. 1 2007). The additions and subtractions of the ABA Model by Nevada might be construed as nominal in numbers but the changes are constant throughout the "Nevada Rules..." and are strikingly unique' in more than one instance.

A specific example of where Nevada departs from the ABA Model is found in Rule 1.6 Confidentiality of Information paragraph (b). The ABA Model explains:

"A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) To prevent reasonably certain death or substantial bodily harm;
- (2) To prevent the client from committing a criminal or fraudulent act in furtherance of which the client has used or is using the lawyer's services, but the lawyer shall, where practicable, first make reasonable effort to persuade the client to take suitable action (ABA Model vis-avis NRPC 2007)

The Nevada Rules differ dramatically from the ABA Model by adding the amendment:

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(c) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent a criminal act that the lawyer believes is likely to result in reasonably certain death or substantial bodily harm. (NRPC 2007)

By comparison, the operative words are, “ A lawyer may reveal information...” in the case of the ABA Model and “ A lawyer shall reveal information...” in the case of the Nevada Code of Conduct. The difference is clear: Nevada puts the responsibility directly on counsel’s shoulders, under an order “ shall”, for responsibility directly related to ineffective action or inaction from counsel when counsel has knowledge that results in the prescribed outcomes of a client’s representation found in paragraph (c). The ABA makes no demonstrative statement to counsel’s responsibility but infers a passionate and ethical response by counsel “ may” without providing for possible responsibility of ineffective action or inaction of client representation.

<http://www.clr.org/Nevada-Rules-of-Professional-Conduct.html>

http://www.law.cornell.edu/ethics/nv/code/NV_CODE.HTM

<http://www.americanbar.org>