

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

1. IN RE: TENNESSEE RULES OF PROFESSIONAL CONDUCT

No. M2003-00354-SC-OT-RL - Filed April 29, 2003

ORDER

On January 31, 2003, the Tennessee Bar Association (“TBA”) filed a “Petition for Reconsideration or Clarification” concerning certain provisions of the Rules of Professional Conduct. In Section 4 of Part C of the Petition, the TBA proposed adding the following new Comment to RPC 4.1:

[6] If, after the conclusion of a matter in which a lawyer has represented a client, the lawyer learns that the client has perpetrated a crime or fraud during the course of the lawyer’s representation, the lawyer may not reveal the crime or fraud, except as may be required by Rule 1.6(c). *See e.g.* RPC 1.6(c)(1) (requiring disclosure to ‘prevent reasonably certain death or substantial bodily harm.’).

In a separate order filed simultaneously with this order, the Court granted the petition and amended certain provisions of the Rules of Professional Conduct. The Court, however, did not adopt proposed Comment [6] to RPC 4.1; because the proposed Comment is a substantive change in the Rules, and because the TBA’s petition does not present a detailed discussion of the proposal, the Court concludes that a supplemental brief should be filed by the TBA.

Accordingly, the TBA shall file a supplemental brief within thirty (30) days of the date of this order. The supplemental brief shall address more fully the reason(s) for adopting proposed Comment [6] to RPC 4.1. In addition, assuming arguendo that such a Comment should be adopted, the supplemental brief also shall address the question of whether proposed Comment [6] should be expanded to include disclosures permitted by Rule 1.6(b)(2) and (b)(3).

IT IS SO ORDERED.

PER CURIAM