

Order

Michigan Supreme Court
Lansing, Michigan

April 22, 2019

Bridget M. McCormack,
Chief Justice

ADM File No. 2018-11

David F. Viviano,
Chief Justice Pro Tem

Proposed Amendments of Rules
1.1 and 1.6 of the Michigan Rules
of Professional Conduct

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

On order of the Court, this is to advise that the Court is considering amendments of Rules 1.1 and 1.6 of the Michigan Rules of Professional Conduct. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 1.1 Competence

[Rule unchanged.]

Comments:

Legal Knowledge and Skill. [Unchanged.]

Thoroughness and Preparation. [Unchanged.]

Maintaining Competence. To maintain the requisite knowledge and skill, a lawyer should engage in continuing study and education, including the knowledge and skills regarding developing technology that are reasonably necessary to provide competent representation for the client in a particular matter. If a system of peer review has been established, the lawyer should consider making use of it in appropriate circumstances.

Rule 1.6 Confidentiality of Information

[Rule unchanged.]

Comments: [Current language unchanged; proposed new language would be a new comment at the end of the comments section.]

Confidentiality of Information. When transmitting a communication that contains confidential and/or privileged information relating to the representation of a client, the lawyer should take reasonable measures and act competently so that the confidential and/or privileged client information will not be revealed to unintended third parties. Such reasonable measures should reflect the lawyer's adequate knowledge and understanding of the technology used to transmit the confidential and/or privileged client information.

Staff comment: The proposed amendments of the comments of MRPC 1.1 and MRPC 1.6 address a lawyer's obligation to maintain competence in relevant technology and ensure reasonable efforts to maintain confidentiality of documents.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2019, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2018-11. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 22, 2019

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk