



# THE STATE BAR OF CALIFORNIA

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Date: October 27, 2015

To: Justice Lee Edmon, Chair, and the Members of the Commission for the Revision of the Rules of Professional Conduct

From: Jayne Kim, Chief Trial Counsel, Office of Chief Trial Counsel

Subject: OCTC's comment on the Rules of Professional Conduct for November 2015 meeting

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### I.

#### OPENING COMMENT

The following comments address the rules to be considered at the Commission's November 2015 meeting. As requested by the Commission, OCTC will submit additional comments on the rules as the revision process progresses.

**II.**  
**POINTS FOR CONSIDERATION**

**A. Rule 1-310: Forming a Partnership with a Non-Lawyer, Rule 1-320: Financial Arrangements with Non-Layers and Model Rule 5.4: Professional Independence**

1. (See OCTC’s comment of August 28, 2015.)<sup>1</sup>

**[TEXT OMITTED]**

**C. Rule 1-600: Legal Service Programs**

1. Rule 1-600 should be retained as currently written. (See OCTC’s comment of August 28, 2015.)

**[TEXT OMITTED]**

**III.**  
**CLOSING COMMENT**

OCTC appreciates the opportunity to participate in the Commission’s evaluation of the Rules of Professional Conduct and remains available to assist as requested.

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<sup>1</sup> See **September 2, 2015 OCTC Memo to Commission:**

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**E. Rules 1-310, 1-320, 1-600: Professional Independence [Model Rule 5.4]**

1. Rules 1-310, 1-320, and 1-600 should be retained, rather than adopting Model Rule 5.4. The California rules provide greater clarity than the Model Rule and there is extensive case law interpreting them.
2. Rule 1-320 should not be revised to permit the payment of court-awarded legal fees to a non-profit organization that employed, retained, or recommended the lawyer unless the revision ensures that the lawyer’s independence and loyalty to the client is maintained and the client is advised and consents to any potential conflict created by the arrangement between the lawyer and the non-profit organization.

See also **April 20, 2015 OCTC (Kim) Memo to Chair & RRC:**

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**F. Rule 1-310: Forming a Partnership with a Non-Lawyer**

Rule 1-310 should be expanded to prohibit not just partnerships with non-lawyers, but any association, incorporation or organization with non-lawyers where the activities include the practice of law unless the activity is permitted by law.