



600 W. Van Buren Street
Suite 700
Chicago, IL 60607
www.aprl.net

Phone: (312) 782-4396
Fax (312) 782-4725

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By email: rturner@clarkhill.com

Reginald M. Turner, Esq.
President, American Bar Association

Re: APRL's Proposal for a Revised Model Rule 5.5

Dear President Turner:

On behalf of APRL, an association of over 400 lawyers and law professors advising and representing lawyers in ethics matters, I enclose APRL's proposal for a replacement Model Rule 5.5 to better reflect the way lawyers practice in the 21st Century. Our proposal advocates that a lawyer admitted in any United States jurisdiction should be able to practice law and represent willing clients without regard to the geographic location of the lawyer or the client, without regard to the forum where the services are to be provided, and without regard to which jurisdiction's rules apply at a given moment in time. At the same time, our new Model Rule 5.5 would still preserve judicial authority in each state to regulate who appears in state courts, emphasizes that lawyers must be competent under Rule 1.1 no matter where they are practicing or what kind of legal services they are providing, and ensures that lawyers will be subject to the disciplinary jurisdiction of not only their state of licensure but wherever they practice.

Several years ago, one of my predecessors as President of APRL, George Clark, established a committee focused on the Future of Lawyering. The Future of Lawyering Committee is chaired by two other past presidents of our organization, Jan Jacobowitz and Art Lachman. After several years of hard work and discussions, the first action item from that group is a proposal to replace current ABA Model Rule 5.5 with a new version. That group has also created a very detailed report that discusses the history of the existing rule, how it is rooted in troubling presumptions, and how it is anachronistic in relation to the modern practice of law. In addition to the revised proposed rule itself, I also enclose a copy of that Report of the Future of Lawyering Subcommittee of the Association of Professional Responsibility Lawyers.

In March, APRL's Board voted to adopt the proposed revised rule as APRL's own proposal and authorized the report prepared by a Subcommittee of our Future of Lawyering Committee to be publicly disseminated. We hope to garner support not only within the ABA for this proposal, but also in any states independently willing to consider changes to their own versions of RPC 5.5. I would ask that you help disseminate these materials to the appropriate channels within the ABA.

I thank you for your time, your consideration, and your service to our profession.

Very truly yours,

Brian S. Faughnan
APRL 2021-2022 President
Lewis Thomason, P.C.