

STATE OF WEST VIRGINIA

At a regular term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on January 10, 2018, the following order was made and entered:

RE: Request for Public Comment on Proposed Amendments to Rule 1.2 of the Rules of Professional Conduct (Addressing the West Virginia Medical Cannabis Act) 18-Rules-01

On motion by Charles M. Johnson, Esq., Frost Brown Todd, LLC, the Court is considering an amendment to Rule 1.2 of the Rules of Professional Conduct. The proposed amendment submitted by Charles M. Johnson, Esq. is hereby published for a thirty-day public comment period. Comments must be filed in writing with the Clerk of Court on or before **February 16, 2018**.

The proposed additions to the rule are indicated by underscoring to read as follows:

Rules of Professional Conduct

* * *

Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(e) A lawyer may counsel or assist a client regarding conduct expressly permitted under Senate Bill 386, the West Virginia Medical Cannabis Act, authorizing the use of marijuana for medical purposes and any state rules, regulations, orders, policies and

procedures implementing the aforesaid act, as amended. In these circumstances, the lawyer shall advise the client regarding related federal law.

A copy of the proposal as submitted by Charles M. Johnson, Esq. is attached to this order

A True Copy

Attest: //s// Edyth Nash Gaiser
Clerk of Court

