



NEW JERSEY STATE BAR ASSOCIATION

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Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Comments on Cybersecurity/Technology Proposals
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625-0037

RE: Cybersecurity/Technology Proposals

Dear Judge Grant:

Thank you for the opportunity for the New Jersey State Bar Association (NJSBA) to submit comments on proposals to (1) add a continuing legal education (CLE) requirement in technology-related subjects, and (2) add a comment to the Rules of Professional Conduct (RPCs) on maintaining technical competence. The NJSBA supports the first proposal, and has concerns about the second.

The NJSBA agrees it is important for attorneys to keep up to date with current technology. We support the addition of a CLE credit requirement in technology, as recommended by the NJSBA Task Force on AI and the Law. Our members note that technology is typically included as part of most existing CLE programs, so fulfilling the requirement should not be unreasonably burdensome, and ensuring a minimum understanding will be beneficial.

The NJSBA is concerned about adding a comment to RPC 1.1. to address technology, and urges the Court to not adopt the proposal. The proposed language, which states that an attorney's competence obligation requires keeping abreast of the "benefits and risks associated with relevant technology," is vague and unnecessary. As written, the language is likely to lead to inconsistent application resulting in unintended repercussions and unwarranted disciplinary exposure for attorneys acting in good faith in navigating evolving technology. This is especially concerning since this would be the only comment to RPC 1.1, giving the appearance of a heightened importance placed on this aspect of competency. The NJSBA believes the existing language in RPC 1.1 sufficiently outlines an attorney's obligation to competently handle a matter and, like all other aspects of competence, no specific further comments regarding technology are needed.

Again, the NJSBA appreciates the opportunity to submit these comments and thanks the Judiciary for its consideration.

Sincerely,



William H. Mergner, Jr., Esq.
President

cc: Christine A. Amalfe, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director