

WSBA NWSidebar

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New Advisory Opinion on “Virtual Offices”

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The WSBA Committee on Professional Ethics recently released an advisory opinion surveying regulatory and risk management issues for lawyers practicing in “virtual offices.” This emerging practice form can range from a solo working from home to an entire firm that does not have a traditional “brick and mortar” location. Virtual offices typically rely instead on electronic resources—such as cloud-based email, file and billing systems.

The new advisory opinion—No. 201601—examines both topics unique to virtual offices and those common to all practices but from the perspective of not having a traditional location.

On the former, Advisory Opinion 201601 focuses on two questions of particular relevance to virtual office practitioners: (1) whether a physical office address is required? and (2) what address must be used in marketing? The opinion concludes that although the WSBA bylaws require a lawyer to furnish the WSBA with a “principal office address,” that “address does not need to be a physical address.” Instead, a lawyer can use a post office box or the equivalent. Similarly, although RPC 7.2(c) requires that advertisements include an “office address,” the opinion finds that the “‘office address’ may be the address the

lawyer uses to receive mail and/or deliveries.” Again, therefore, a post office box or the equivalent satisfies the rule.

On the latter, Advisory Opinion 201601 discusses the duties of supervision and confidentiality in the virtual office context. The opinion counsels that because lawyers and staff are typically not all in the same physical location with a virtual office, supervision can be more challenging and often must be approached on a more systematic basis than when the lawyers and staff involved are literally across the hall from each other. With confidentiality, Advisory Opinion 201601 recognizes that virtual offices often use cloud-based systems for access that are not location-dependent and cross-references this topic to Advisory Opinion 2215 (2012)—which addresses cloud-computing generally. Both opinions are available on the WSBA web site.

ABOUT THE AUTHOR

Mark J. Fucile of Fucile & Reising LLP handles professional responsibility, regulatory and attorney-client privilege issues for lawyers, law firms and corporate and governmental legal departments throughout the Northwest. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark is also a former member of the Oregon State Bar Legal Ethics Committee and is a current member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the monthly Ethics Focus column for the Multnomah (Portland) Bar’s *Multnomah Lawyer*, the quarterly Ethics & the Law column for the WSBA *NWLawyer* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is a contributing author/editor for the current editions of the OSB

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