

**Rule 1.1 [3-110] Competence**  
**(Commission's Proposed Rule Adopted on November 13 – 14, 2015 – Clean Version)**

- (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.
- (b) For purposes of this Rule, “competence” in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably\* necessary for the performance of such service.
- (c) If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes\* to be competent, (ii) acquiring sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes\* to be competent.
- (d) In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required if referral to, or association or consultation with, another lawyer would be impractical. Assistance in an emergency must be limited to that reasonably\* necessary in the circumstances.

**Comment**

[1] This Rule addresses only a lawyer's responsibility for his or her own professional competence. See Rules 5.1 and 5.3 with respect to a lawyer's disciplinary responsibility for supervising subordinate lawyers and nonlawyers.

[2] See Rule 1.3 with respect to a lawyer's duty to act with reasonable\* diligence.

**Proposed Rule 1.1 [3-110] Competence  
Synopsis of Public Comments**

**TOTAL = XX**    **A = X**  
**D = X**  
**M = X**  
**NI = X**

No.	Commenter/Signatory	Comment on Behalf of Group?	A/D/M/NI <sup>1</sup>	Rule Section or Cmt.	Comment	RRC Response
2016-32b	Law Professors (Zitrin)	Yes	A	1.1	We are gratified to see the inclusion of a separate rule on diligence along with a definition of diligence. Moreover, the commission has corrected the overly narrow standard required for a violation of MR 1.1 by adding the phrase "gross negligence" to the rule itself and eliminating the comment to MR 1.1 regarding "a single act of negligent conduct..."	No response required.

<sup>1</sup> A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED