

**THE STATE BAR OF CALIFORNIA  
STANDING COMMITTEE ON  
PROFESSIONAL RESPONSIBILITY AND CONDUCT  
FORMAL OPINION NO. 2012-184**

**ISSUE:** May an attorney maintain a virtual law office practice (“VLO”) and still comply with her ethical obligations, if the communications with the client, and storage of and access to all information about the client’s matter, are all conducted solely through the internet using the secure computer servers of a third-party vendor (i.e., “cloud computing”)?

**DIGEST:** As it pertains to the use of technology, the Business and Professions Code and the Rules of Professional Conduct do not impose greater or different duties upon a VLO practitioner operating in the cloud than they do upon an attorney practicing in a traditional law office. While an attorney may maintain a VLO in the cloud where communications with the client, and storage of and access to all information about the client’s matter, are conducted solely via the internet using a third-party’s secure servers, Attorney may be required to take additional steps to confirm that she is fulfilling her ethical obligations due to distinct issues raised by the hypothetical VLO and its operation. Failure of Attorney to comply with all ethical obligations relevant to these issues will preclude the operation of a VLO in the cloud as described herein.

**AUTHORITIES  
INTERPRETED:**

Rules 1-100, 1-300, 1-310, 3-100, 3-110, 3-310, 3-400, 3-500, 3-700, and 4-200 of the Rules of Professional Conduct of the State Bar of California.<sup>1/</sup>

Business and Professions Code section 6068, subdivisions (e), (m), and (n).

Business and Professions Code sections 6125, 6126, 6127, 6147, and 6148.

California Rules of Court, Rules 3.35-3.37 and 5.70-5.71.<sup>2/</sup>

**STATEMENT OF FACTS**

Attorney, a California licensed solo practitioner with a general law practice, wishes to establish a virtual law office (VLO).<sup>3/</sup> Attorney’s target clients are low and moderate-income individuals who have access to the internet, looking for legal assistance in business transactions, family law, and probate law.

In her VLO, Attorney intends to communicate with her clients through a secure internet portal created on her website, and to both store, and access, all information regarding client matters through that portal. The information on the secure internet portal will be password protected and encrypted. Attorney intends to assign a separate password to each client after that client has registered and signed Attorney’s standard engagement letter so that a particular client can access information relating to his or her matter only. Attorney plans not to communicate with her clients by phone, e-mail or in person, but to limit communications solely to the internet portal through a function that allows attorney and client to send communications directly to each other within the internet portal.

Attorney asks whether her contemplated VLO practice would satisfy all applicable ethics rules.

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<sup>1/</sup> Unless otherwise noted, all rule references are to the Rules of Professional Conduct of the State Bar of California.

<sup>2/</sup> Rules 5.70-5.71 repealed effective January 1, 2013 is revised and renumbered as Rule 5.425 adopted effective January 1, 2013.

<sup>3/</sup> For a general discussion of virtual law practice, see Stephanie L. Kimbro, ABA Law Practice Management Section, “Virtual Law Practice” (2010) (ISBN 978-1-60442-828-5).

## DISCUSSION

As a result of ever increasing innovations in technology, the world has moved significantly toward internet communications – through email, chats, blogs, social networking sites, and message boards. The legal services industry has not been untouched by these innovations and the use of technology, including the internet, is becoming more common, and even necessary, in the provision of legal services. Consistent with this trend, and with the benefits of convenience, flexibility, and cost reduction, the provision of legal services via a VLO has started to emerge as an increasingly viable vehicle in which to deliver accessible and affordable legal services to the general public.

The VLO, also variously known as Digital Law, Online Law, eLawyering and Lawfirm 2.0, may take many different forms. For the purposes of this opinion, “VLO” shall refer to the delivery of, and payment for,<sup>4/</sup> legal services exclusively, or nearly exclusively, through the law firm’s portal on a website, where all of the processing, communication, software utilization, and computing will be internet-based. In the hypothetical VLO discussed in this opinion, a client’s communication with the law firm, as well as his access to the legal services provided, is supplied by the firm through a secure internet portal provided by a third-party internet-based vendor, accessible by the client with a unique user name and access code specific to the client’s particular matter only. The lawyer and client may not ever physically meet or even speak on a telephone.

The Committee recognizes that although VLOs exist and operate only through the use of relatively new technology, the use of such technology itself is not unique to this VLO; rather, many lawyers operating in traditional non-VLOs utilize some or many aspects of this same technology. The California Business and Professions Code and the Rules of Professional Conduct do not impose greater or different duties upon a VLO practitioner than they do upon a traditional non-VLO practitioner as it pertains to the use of technology. This opinion focuses on issues that the Committee believes are particularly implicated by the VLO’s cloud-based nature described herein, although many of the same issues may arise in any law practice.<sup>5/</sup> For a fuller discussion on the analysis that the Committee believes an attorney should undertake when considering use of a particular form of technology, we refer the reader to California State Bar Formal Opinion No. 2010-179.

### **1. Attorney’s Duty of Confidentiality in Our Hypothetical VLO Is the Same as That of an Attorney in a Traditional Non-VLO, But Requires Some Specific Due Diligence.**

A lawyer has a duty to “maintain inviolate the confidence, and at every peril to himself or herself, preserve the secrets of his or her client.” (Bus. & Prof. Code, § 6068(e)(1)). With certain limited exceptions, the client’s confidential information may not be revealed absent the informed written consent of the client. (Rule 3-100(A); Cal. State Bar Formal Opn. No. 2010-179.)

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<sup>4/</sup> Attorneys accepting credit card payment should consult Cal. State Bar Formal Opn. No. 2007-172.

<sup>5/</sup> The Committee recognizes that the fact situation presented in this opinion may raise an issue regarding the unauthorized practice of law – particularly where prospective clients from anywhere in the country (or, indeed, the world) easily may contact Attorney through her internet site. Rule 1-300(A) states that “[a] member shall not aid any person or entity in the unauthorized practice of law.” However, this opinion is not intended to address or opine on the issue of the unauthorized practice of law. Regarding activities undertaken by an individual who is not an active member of the California State Bar, members should consider Business and Professions Code sections 6125-6127. Members should also consider rule 1-300 (Unauthorized Practice of Law) and rule 1-310 (Forming a Partnership with a Non-Lawyer). Regarding what constitutes the practice of law in California, members should consider the following cases: *Farnham v. State Bar* (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]; *Bluestein v. State Bar* (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175]; *Baron v. City of Los Angeles* (1970) 2 Cal.3d 535 [86 Cal.Rptr. 673]; *Crawford v. State Bar* (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746]; *People v. Merchants Protective Corporation* (1922) 189 Cal. 531, 535; *Birbrower, Montalbano, Condon & Frank v. Superior Ct.* (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 304]; *People v. Landlords Professional Services* (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]; and *People v. Sipper* (1943) 61 Cal.App.2d Supp. 844 [142 P.2d 960]. Members of the State Bar of California should also consider how their VLO services might implicate rules and regulations regarding the unauthorized practice of law of other jurisdictions outside of California, if applicable.

In California State Bar Formal Opinion No. 2010-179, this Committee discussed the ethical confidentiality and competency concerns of a practitioner using technology in providing legal services, and the considerations an attorney should take into account when determining what reasonable steps would be necessary to comply with those obligations. While those obligations are the same for attorneys using technology both in a VLO and a traditional non-VLO,<sup>6/</sup> due to the *wholly outsourced* internet-based nature of our hypothetical VLO, special considerations are implicated which require specific due diligence on the part of our VLO practitioner.

This is because even though Attorney in this hypothetical is choosing an outside vendor, the fact of the outsourcing does not change Attorney's obligation to take reasonable steps to protect and secure the client's information. (Cal. State Bar Formal Opn. No. 2010-179; *see also* American Bar Association (ABA) Formal Opn. No. 08-451.)<sup>7/</sup> Attorney's compliance with her duty of confidentiality requires that she exercise reasonable due diligence both in the selection, and then in the continued use, of the VLO vendor. Attorney should determine that the VLO vendor selected by her employs policies and procedures that at a minimum equal what Attorney herself would do on her own to comply with her duty of confidentiality.<sup>8/</sup> This Committee has recognized that while Attorney is not required to become a technology expert in order to comply with her duty of confidentiality and competence, Attorney does owe her clients a duty to have a basic understanding of the protections afforded by the technology she uses in her practice. If Attorney lacks the necessary competence to assess the security of the technology, she must seek additional information, or consult with someone who possesses the necessary knowledge, such as an information technology consultant. (Rule 3-110(C); Cal. State Bar Formal Opn. No. 2010-179.) Only after Attorney takes these reasonable steps to understand the basic technology available and how it will work in this hypothetical VLO, and determines that her duty of confidentiality and competence can be met in the contemplated VLO, may Attorney proceed. Factors to consider when selecting a VLO vendor may include:

- A. *Credentials of vendor.* ABA Formal Opn. No. 08-451; New York State Bar Assoc. Opinion 842.
- B. *Data Security.* Cal. State Bar Formal Opn. No. 2010-179; ABA Formal Opn. No. 08-451, ABA Formal Opn. No. 95-398; eLawyering Task Force, Law Practice Management Section, "Suggested Minimum Requirements for Law Firms Delivering Legal Services Online" (2009); New York State Bar Assoc. Opinion 842; Penn. Bar Assoc. Formal Opinions 2010-200 and 2011-200.

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<sup>6/</sup> Similarly, while this opinion addresses a VLO that exists only in a "cloud" setting – that is, on the internet, through a third-party vendor, where the services are provided wholly through and on the internet – the Committee understands that it is possible to have a VLO that can be accessed in a technology-based, but non-"cloud" setting. The special considerations discussed in this section of this opinion may not necessarily apply to such VLOs. A member must consider the specific circumstances of his or her VLO, particularly where information is hosted and by whom, to determine whether these considerations apply.

<sup>7/</sup> The ABA Model Rules are not binding in California but may be used for guidance by lawyers where there is no direct California authority and the ABA Model Rules do not conflict with California policy. *City & County of San Francisco v. Cobra Solutions, Inc.* (2006) 38 Cal.4th 839, 852. Thus, in the absence of related California authority, we may look to the Model Rules, and the ABA Formal Opinions interpreting them, as well as the ethics opinions of other jurisdictions or bar associations for guidance. (Rule 1-100(A) (ethics opinions and rules and standards promulgated by other jurisdictions and bar associations may also be considered); *State Compensation Ins. Fund v. WPS, Inc.* (1999) 70 Cal.App.4th 644, 656 [82 Cal.Rptr.2d 799].)

<sup>8/</sup> Even apart from a VLO and the use of technology, attorneys have a duty to take reasonable precautions to protect their client's confidential information. (Rule 3-100(A); Cal. State Bar Formal Opn. No. 2010-179.) For example, an attorney who keeps files both in paper form and on an internet server may employ the most up-to-date security precautions for his server, but then fail to lock the door to his office, thereby allowing anyone to come in and rifle through his clients' paper files. The duties an attorney assumes when he operates exclusively in the cloud are no different than the lawyer who exclusively prefers paper files – both must act competently and take reasonable steps to preserve their client's confidences. All that changes in a VLO is the steps the attorneys must take to meet this competence and confidentiality requirement.

- C. *Vendor's Transmission of the Client's Information in the Cloud Across Jurisdictional Boundaries or Other Third-Party Servers.*<sup>9/</sup> ABA Formal Opn. No. 08-451; Navetta and Forsheit, Information Law Group, Legal Implications of Cloud Computing (2009) series, parts 1, 2, and 3.
- D. *Attorney's Ability to Supervise Vendor.* ABA Formal Opn. No. 08-451.
- E. *Terms of Service of Contract with Vendor.* Rules Prof. Conduct, rules 3-100 and 3-700.

Even after Attorney satisfies herself that the security of the technology employed by the VLO provider is adequate to comply with her ethical obligations, Attorney should conduct periodic reassessments of all of these factors to confirm that the VLO vendor's services and systems remain at the level for which she initially contracted, and that changes in the vendor's business environment or management have not negatively affected its adequacy.<sup>10/</sup>

Finally, Attorney should consider whether her ethical obligations require that she make appropriate disclosures and obtain the client's consent to the fact that an outside vendor is providing the technological base of Attorney's law firm, and that, as a result, the outside vendor will be receiving and exclusively storing the client's confidential information. (ABA Formal Opn. No. 08-451; see also Cal. State Bar Formal Opn. No. 2010-179.) In that regard, compare California State Bar Formal Opinion No. 1971-25 (use of outside data processing center without client's consent for bookkeeping, billing, accounting, and statistical purposes, if such information includes client secrets and confidences, would violate section 6068(e)) with Los Angeles County Bar Assn. Formal Opn. No. 374 (1978) (concluding that, in most circumstances, if protective conditions are observed, disclosure of client's secrets and confidences to a central data processor would not violate section 6068(e) and would be the same as disclosures to non-lawyer office employees).

In our hypothetical facts, Attorney's proposed VLO is password protected and encrypted, and each specific client will only be allowed access to his own matter. Assuming attorney has taken reasonable steps to determine that her duty of confidentiality and competence can be met, given the current standards of technology and security, such protections likely are sufficient in today's business environment. As technologies change, however, security standards also may change. Attorney, either directly or with the assistance of consultants, should keep abreast of the most current standards so that she can evaluate whether the measures taken by her firm's VLO provider to protect client confidentiality have not become outdated.

**2. The Online-Based Nature of Communication and Delivery of Legal Services Inherent in this VLO Raises Distinct Concerns As It Pertains to Attorney's Fulfillment of Her Duty of Competence.**

Just as the duty to maintain a client's confidences is one of the cornerstones of an attorney's duty of competence (rule 3-110), so too is the attorney's ability to effectively communicate with a client a prerequisite to affording competent counsel. (Rule 3-500; see also *Calvert v. State Bar* (1991) 54 Cal.3d 765, 782 [1 Cal.Rptr.2d 684] ("Adequate communication with clients is an integral part of competent professional performance as an attorney."))

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<sup>9/</sup> Data stored and traveling in the cloud potentially travels across numerous jurisdictional boundaries, including international boundaries, as a matter of course. In some instances, the data may be designed from the outset to be stored on servers located outside of the United States. Third-party vendors may also subcontract out their work. When selecting and contracting with her VLO vendor, Attorney should address and minimize exposure of the client to legal issues triggered by both the international movement, and/or storage, of information in the cloud, and the potential subcontracting out of the vendor's services to unknown third-party vendors, which may impact confidentiality, without the prior written consent of Attorney and affected clients.

<sup>10/</sup> In the event Attorney determines that the third-party vendor fails to meet the confidentiality standards that Attorney believes necessary for her VLO to comply with her ethical responsibilities relating to information storage, Attorney may consider alternative situations to store the client information at issue, in a non-cloud-based setup, as long as the non-cloud based setup, as it relates to information storage and access to that stored information, each independently comply with Attorney's duty of confidentiality as discussed herein, and as set forth in California State Bar Formal Opinion No. 2010-179.

In our VLO, all services and communications are conducted wholly through the VLO portal on the internet, without any physical meeting, and without any one-on-one contact even by phone. While the Committee believes that such an internet-only, attorney-client relationship, under the right circumstances, can meet all of Attorney's ethical obligations, such an internet-only structure does raise distinct ethics issues as it pertains to communications and competency.

First, Attorney must take reasonable steps to set up her client intake system in such a way that she is receiving from the prospective client sufficient information to determine if she can provide the prospective legal services at issue.<sup>11/</sup> As an initial matter, Attorney should obtain sufficient information to conclude that the client in fact is the actual prospective client, or an authorized representative of the client, as opposed to someone acting without authority. Although an attorney in a non-VLO has this same obligation, the lack of face-to-face or even phone communication with the client in our hypothetical VLO may hinder Attorney's ability to make this determination, thereby potentially necessitating extra measures of assurance. Whether Attorney must take additional steps to confirm the prospective client's identity will depend on the circumstances of the representation and initial communications, and the information Attorney obtains from the prospective client.<sup>12/</sup>

Second, Attorney's intake procedures also must include her receipt of sufficient information to make the initial determination of whether she can perform the requested legal services competently in a VLO at all,<sup>13/</sup> or at least receipt of sufficient detailed information to determine whether the circumstances are such that further investigation is needed. *Butler v. State Bar* (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499].

Third, once Attorney determines that she has sufficient information to determine that she can provide the legal services at issue, on any matter which requires client understanding, Attorney must take reasonable steps to ensure that the client comprehends the legal concepts involved and the advice given, irrespective of the mode of communication used, so that the client is in a position to make an informed decision. (Cal. State Bar Formal Opn. No. 1984-77.) Attorney is not truly "communicating" with the client if the client does not understand what Attorney is saying – whether because of a language barrier or simply a lack of understanding of the legal concepts being discussed. This would be the case whether Attorney is communicating with the client in person, on the phone, by letter, or over the internet. In this hypothetical VLO, however, it may be more difficult for Attorney to form a reasonable belief that the client understands her, as Attorney will be without nonverbal cues (such as body language, eye contact, etc.) or even verbal clues (such as voice inflections or hesitations). Thus, Attorney may need to take additional reasonable steps to permit her to form a reasonable belief that she truly is "communicating" with her client.

In California State Bar Formal Opinion No. 1984-77, this Committee addressed the issue of client comprehension if an attorney has reason to doubt it, and specific steps that an attorney should take where the client does not speak the same language, or does so in a limited fashion. The opinion advises that an attorney providing services in a traditional law office to a client with little or no ability to communicate in English may need to communicate in the

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<sup>11/</sup> Attorney's obligations on intake are the same as the usual obligations of a non-VLO on intake. See, e.g., Rules Prof. Conduct, rule 3-310 (conflicts of interest); Bus. & Prof. Code, §§ 6147, 6148 (engagement letters).

<sup>12/</sup> See for example, [Ethics Alert: Internet Scams Targeting Attorneys](http://ethics.calbar.ca.gov/LinkClick.aspx?fileticket=z8N90vbh088%3d&tabid=834) (January 2011) The State Bar of California Committee on Professional Responsibility and Conduct <<http://ethics.calbar.ca.gov/LinkClick.aspx?fileticket=z8N90vbh088%3d&tabid=834>> (as of May 23, 2012).

<sup>13/</sup> The Committee recognizes that certain legal practices may be amenable to this type of VLO, while others likely are not. By way of example only, an attorney may be able to competently draft a simple will or provide tax advice over the internet without speaking with the client, but it is less likely that she can defend the client in litigation in this same manner. Still further, even within practice areas, or within specific matters, there are differing levels of complexity that can alter the permissibility of using the VLO for delivery of the services. This opinion does not define specifically what practices can or cannot work under this type of cloud-based VLO. Instead, attorneys are cautioned that they should make an individual matter-by-matter analysis as to whether they can fulfill their duty to act competently in a VLO, first, as to the type of matter involved generally, and, second, as to the specific aspects of that given matter. Only when the answer to both inquiries is affirmative may Attorney proceed under a cloud-based VLO as described herein.

client's particular language or dialect, or use a skilled interpreter. Attorney must likewise confirm that the client has sufficient skills in the language being used by Attorney. Written internet-based communications between Attorney and the client may demonstrate the client's understanding. However, a third party may be communicating on behalf of a client who does not understand the language in question or is not literate in that language. Attorney may wish to take further steps to confirm the client's level of comprehension.

Fourth, once Attorney begins the representation, she must keep the client reasonably informed about significant developments relating to the representation, including promptly complying with reasonable requests for information and copies of significant documents. (Bus. & Prof. Code, § 6068(m) & (n); rule 3-500.) To the extent Attorney's process for informing the client is merely posting the information in the internet portal, Attorney must take reasonable steps to determine that the client in fact is receiving the information in a timely manner. Attorney also may wish to emphasize to the client throughout the representation the importance of checking into the portal regularly to get updates, and to establish an alternative method of communication in the event the portal does not work effectively to reach the client in a timely manner. If Attorney is not reasonably convinced that she is effectively and timely communicating with the client in the hypothetical VLO, and that the client understands what is being communicated, then Attorney may not proceed with the VLO representation as contemplated.

Fifth, given that individuals have varied understanding of technology and how to use it, attorneys using a VLO must have a reasonable basis to believe that the client has sufficient access to technology and the ability necessary to communicate through Attorney's web-based portal, just as the non-VLO attorney must have a reasonable basis to believe that the client can understand her on the phone, read and understand her written correspondence, or otherwise have an ability to communicate with her.

Sixth, if after her initial intake, Attorney concludes that she cannot competently deliver legal services to the client through this VLO, Attorney must decline to undertake that representation within this VLO context. (Rule 3-110.) If legal services already have commenced when Attorney determines she cannot competently continue to deliver legal services to the client through this VLO, Attorney must cease further representation through this VLO. (Rule 3-700.)<sup>14/</sup> In that circumstance, Attorney may choose instead to undertake or continue the prospective legal services in a traditional non-VLO, if she has the proper traditional non-VLO structure to do so, and if the traditional methods of delivering legal services cure the problems of competency raised by this VLO. At a minimum, even if Attorney determines that she should withdraw, consistent with rule 3-700, she must continue to competently provide legal services to the client until such withdrawal is both ethically permissible and complete. Such continued representation must include non-VLO services, such as telephone or in-person communications, if such services are reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client. (Rule 3-700(A)(2).)

Alternatively, in the situation where competency problems arise due to the complexity of the legal matter at issue, if narrowing the scope of legal services to be provided in the VLO would be permissible and also cure those competency problems, Attorney may do so and proceed through the VLO. In this circumstance, the material change in scope of representation must be communicated to and accepted by the client and Attorney. (See ABA Formal Opn. No. 11-458.)<sup>15/</sup> Before undertaking a limited scope representation, Attorney should consider the various restrictions on such representations.<sup>16/</sup> Even under a permissible limited scope representation, Attorney should still

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<sup>14/</sup> Rule 3-700(D) requires that, upon termination of the attorney-client employment, subject to any protective order or nondisclosure agreement, an attorney shall promptly release to the client, at the request of the client, all of the client papers and property. In our VLO, all the data is electronic and should be in a format to which Attorney has, by contract with the third-party vendor, already arranged for access – both for her and for the client – even after Attorney terminates the relationship with the third-party vendor for that particular matter. Upon client request, Attorney must release to the client the electronic versions of *all* papers and property in question, at Attorney's expense, after first stripping each document of any and all metadata that contains confidential information belonging to other clients. (Cal. State Bar Formal Opn. No. 2007-174.)

<sup>15/</sup> In narrowing the scope of representation, Attorney must satisfy herself that the fee arrangements with the client remains reasonable and continues to comply with Rule 4-200, and if not, make the necessary adjustments with the client.

<sup>16/</sup> See Cal. Rules of Court, Rules 3.35-3.37 (limited scope representation in general civil cases); ABA Model Rule 1.2(c) and Comments (6)-(8) (lawyer may limit scope of representation provided limitation is reasonable and the

advise the client (a) what services are not being undertaken; (b) what services still will need to be done, including advice that there may be other remedies that Attorney will not investigate or pursue; (c) what risks to the client, if any, could result from the limitation of the scope of representation; and (d) that other counsel should be consulted as to those matters not undertaken by the present counsel. (*Nichols v. Keller* (1993) 15 Cal.App.4th 1672, 1683-1684 [19 Cal.Rptr.2d 601] (“even when a retention is expressly limited, the attorney may still have a duty to alert the client to legal problems which are reasonably apparent, even though they fall outside the scope of the retention”); ABA Model Rule 1.2(c).)

Finally, in all law offices, including this hypothetical VLO, attorneys have a duty to supervise subordinate attorneys, and non-attorney employees or agents. (Rule 3-110 (discussion par. 1); *Crane v. State Bar* (1981) 30 Cal.3d 117, 123 [177 Cal.Rptr. 670] (rejecting contention that attorney’s rules violations were “precipitated by members of his staff”); *Henderson v. Pacific Gas & Electric Co.* (2010) 187 Cal.App.4th 215, 218 [113 Cal.Rptr.3d 692] (“Although an attorney cannot be held responsible for every detail of office procedure, it is an attorney’s responsibility to supervise the work of his or her staff members.”); see also ABA Model Rule 5.1.) In our hypothetical VLO, supervision can be a challenge if Attorney and her various subordinate attorneys and employees operate out of several different physical locations. Whatever method Attorney chooses to comply with her duty to supervise, Attorney must take reasonable measures to ascertain that everyone under her supervision is complying with the Rules of Professional Conduct, including the duties of confidentiality and competence, notwithstanding any physical separation.

## CONCLUSION

The Business and Professions Code and the Rules of Professional Conduct do not impose greater or different duties upon a VLO practitioner operating in the cloud than they do upon attorneys practicing in a traditional non-VLO. While Attorney may maintain a VLO in the cloud, Attorney may be required to take additional steps to confirm that she is reasonably addressing ethical concerns raised by issues distinct to this type of VLO. Failure by Attorney to comply with her ethical obligations relevant to these issues will preclude the operation of a VLO in the cloud as described.

This opinion is issued by the Standing Committee on Professional Responsibility and Conduct of the State Bar of California. It is advisory only. It is not binding upon the courts, the State Bar of California, its Board of Governors, any persons, or tribunals charged with regulatory responsibilities, or any member of the State Bar.

*[Publisher’s Note: Internet resources cited in this opinion were last accessed by staff on May 23, 2012. Copies of these resources are on file with the State Bar’s Office of Professional Competence.]*

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client gives informed consent); see also *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 520 (“limited” appearance of counsel in immigration proceedings prohibited by federal regulations); Cal. Rules of Court, Rules 5.70-5.71 repealed effective January 1, 2013, revised and renumbered as Rule 5.425 adopted effective January 1, 2013 (limited scope representation in family law cases); rule 3-400 (discussion).