

January 2007

8. CHAPTER 12, RULE 6: WHETHER RULE OVERRULED BY WORKERS COMPENSATION ACT AMENDMENT

A lawyer asked whether a recent amendment of the *Workers Compensation Act* (section 94.1 of the *Workers' Compensation Act*) permitting non-lawyers to appear as counsel on workers compensation issues, including appearances before the Workers Compensation Appeal Tribunal, permits paralegals employed by lawyers to appear on these matters without being accompanied by a supervising lawyer, given the requirements of Chapter 12, Rule 6 of the *Professional Conduct Handbook*.

In the Committee's opinion, section 94.1 of the *Workers' Compensation Act* has made the representation of workers in workers compensation cases a matter that is no longer a function that is "reserved to lawyers" within the meaning of Chapter 12, Rule 6. In particular, the Committee agreed that Rule 6(a)(i) and 6(a)(ii) do not apply to a paralegal in these circumstances. It follows that lawyers may now permit their paralegals to appear on workers compensation matters without being accompanied by a supervising lawyer. The Committee emphasized, however, that the balance of the language in Rule 6 continues to apply and that lawyers must be vigilant to ensure that they and their paralegals comply with those sections. The Committee was of the view that Rule 6(c) presents an especially challenging problem for lawyers whose paralegals will be appearing in workers compensation hearings unaccompanied by a lawyer and will require lawyers to prepare their paralegals very carefully for such appearances.