



## Earned Upon Receipt Fees – Proposed Rule Change

At the [Board of Governors](#) meeting last Friday, the [BOG](#) approved for referral to the [House of Delegates](#) three [amendments](#) to the [Oregon Rules of Professional Conduct](#):

- ORPC 1.5 and 1.15 relating to fees earned upon receipt
- ORPC 3.4 and 1.2 to prohibit violating or assisting a client to violate court rulings and standing rules
- ORPC 3.3 to clarify the rule of candor

You can read more about the amendments to [ORPC 3.4, 1.2, and 3.3](#) [here](#), beginning at page 75 of the PDF.

## Earned Upon Receipt Fees

The proposed changes to ORPC 1.5 and 1.15 would explicitly require a written fee agreement informing the client:

- The funds will not be deposited into the lawyer trust account; and
- The client may discharge the lawyer at any time and in that event the lawyer may be required to refund all or part of the fee if the services for which the fee was paid have not been completed.

Additionally, ORPC 1.15(c) would be amended to state:

(c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as “earned on receipt,” “nonrefundable” or similar terms and complies with Rule 1.5(c)(3). [Proposed language in bold.]

While existing case law and OSB Formal [Ethics Opinions](#) already support these requirements, [General Counsel](#), [Disciplinary Counsel](#), and the [BOG](#) have found them “elusive to many practitioners.”

The [House of Delegates is scheduled to meet](#) on October 29, 2010. It is not clear at this time whether the proposed amendments to the [ORPCs](#), if adopted, would be effective immediately or at some future date.

### **Mandatory Ethics School**

One other ethics development of note: The bar is moving forward with a proposed Ethics School. Attorneys who are sanctioned or suspended for ethics violations would be required to attend a one-day course of study on ethics issues prior to readmission to the bar. Read more about the proposed Ethics School at page 84 of the [BOG Meeting Agenda](#).

Copyright 2010 Beverly Michaelis

Originally published August 18, 2010 at

[http://oregonlawpracticemanagement.wordpress.com/2010/08/18/earned\\_upon\\_receipt\\_fees/](http://oregonlawpracticemanagement.wordpress.com/2010/08/18/earned_upon_receipt_fees/)