

**THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK  
COMMITTEE ON PROFESSIONAL ETHICS**

**COMMITTEE NOTE: This Opinion replaces Opinion 2014-2 (2014).**

**Formal Opinion 2019-2: USE OF A VIRTUAL LAW OFFICE BY NEW YORK ATTORNEYS**

**TOPIC:** Identifying a virtual law office in attorney advertising and on business cards, letterheads and websites.

**DIGEST:** A New York lawyer may use the street address of a virtual law office (“VLO”) located in New York as the lawyer’s “principal law office address” for the purposes of Rule 7.1(h) of the New York Rules of Professional Conduct (the “New York Rules” or the “Rules”), provided the VLO qualifies as an office for the transaction of law business under New York’s Judiciary Law. In addition, a New York lawyer may use the address of a VLO as the lawyer’s office address on business cards, letterhead and law firm website. A New York lawyer who uses a VLO must also comply with other New York Rules, including Rules 1.4, 1.6, 5.1, 5.3, 8.4(a) and 8.4(c).

**RULES: 1.4, 1.6, 5.1, 5.3, 7.1(h), 7.5(a)(1), 7.5(a)(4), 8.4(a), 8.4(c)**

**QUESTIONS:**

1. Is a New York lawyer permitted to use the street address of a VLO located in New York State as a “principal law office address” for purposes of Rule 7.1(h), even though most of the lawyer’s work is done at another location?
2. Is a New York lawyer permitted to use the street address of a VLO on business cards, letterhead, and law firm website?

**OPINION**

A New York lawyer (the “Lawyer”) is considering becoming a solo practitioner and plans to do most of her work at her home. The Lawyer does not intend to maintain a traditional “law office” insofar as she will not have a dedicated office space, other than her home, that only she can access. Instead, she plans to use a VLO in New York State, as defined below, to meet with clients, hold “office hours,” receive mail, or otherwise be present and available at various times. For privacy and security reasons, she does not wish to identify her home address as her business address. She would like to use the address of the VLO as her “principal office address” for purposes of advertising her legal services under Rule 7.1(h). She would also like to use the VLO address on her letterhead, business cards and law firm website.

A VLO, as it is used in this opinion, refers to a facility that offers business services and meeting and work spaces to lawyers on an “as needed” basis. Although arrangements may vary, VLO’s typically provide private or semi-private work spaces, conference rooms, telephones, fax,

printers, photocopy machines, and mail-drop services in exchange for a monthly fee.<sup>1</sup> Unlike a traditional office setting, a VLO will not provide the lawyer with dedicated office space and, instead, the lawyer will share all space and amenities with other VLO subscribers.<sup>2</sup>

This Committee previously addressed a lawyer’s use of a VLO in NYCBA Formal Op. 2014-2 (2014) (“Opinion 2014-2”). Opinion 2014-2 concluded that a lawyer could list a VLO on advertisements in order to comply with Rule 7.1(h). In its reasoning, the opinion referred to the evolving jurisprudence regarding Judiciary Law § 470 (“Section 470”), which requires nonresident lawyers admitted in New York to maintain “an office for the transaction of a law business” within New York State.<sup>3</sup> We anticipated that the courts would not require New York lawyers to maintain a physical law office in the state in order to practice here. After we issued that opinion, the New York Court of Appeals and the United States Court of Appeals held that Section 470 requires lawyers admitted in New York but who reside in another state to maintain a physical law office within New York State.<sup>4</sup> Although we adhere to much of our earlier reasoning, we withdraw Opinion 2014-2 and substitute this one to account for the subsequent court opinions interpreting Section 470.

**I. Is a New York Lawyer Permitted to Use the Street Address of a VLO Located in New York State as a “Principal Law Office Address” for the Purposes of Rule 7.1(h)?**

New York Rule 7.1 sets restrictions on advertisements disseminated by lawyers or law firms.<sup>5</sup> One of those restrictions is stated in Rule 7.1(h): “All advertisements shall include the . . . *principal law office address* . . . of the lawyer or law firm whose services are being offered” (emphasis added). Comment [17] to Rule 7.1 adds: “A law firm that has no office it considers its principal office may comply with paragraph (h) by listing one or more offices where a substantial amount of the law firm’s work is performed.” As the text of Rule 7.1(h) and Comment [17] make clear, compliance with the rule turns on whether the lawyer is properly listing a “principal law office.” As discussed below, whether a VLO can be listed as a “principal law office” implicitly turns in part on whether a VLO, as described in this Opinion,

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<sup>1</sup> We note that the New York City Bar Association offers its members a VLO service meeting this general description. See <https://www.nycbar.org/member-and-career-services/small-law-firm-overview/virtual-law-office>. (All websites cited in this opinion were last visited on February 26<sup>th</sup>, 2019.)

<sup>2</sup> A VLO as it is used in this opinion should be distinguished from a “Virtual Law Practice,” which typically has no physical address and operates primarily over the Internet. Virtual Law Practice is also known by terms such as “Digital Law, Online Law, [and] eLawyering.” See, e.g., Cal. Op 2012-184 at 2. Although a Virtual Law Practice might make use of the facilities of a VLO to conduct business, this opinion does not address the ethical issues associated with operating a Virtual Law Practice.

<sup>3</sup> Section 470 provides “Attorneys having offices in this state may reside in adjoining state. A person, regularly admitted to practice as an attorney and counsellor, in the courts of record of this state, whose office for the transaction of law business is within the state, may practice as such attorney or counsellor, although he resides in an adjoining state.”

<sup>4</sup> *Schoenefeld v. New York*, 25 N.Y.3d 22 (2015).

<sup>5</sup> An “Advertisement” is defined as “any public or private communication made by or on behalf of a lawyer or law firm about that lawyer or law firm’s services, the primary purpose of which is for the retention of the lawyer or law firm. It does not include communications to existing clients or other lawyers.” Rule 1.0(a).

qualifies as a law office under Section 470. Assuming a VLO qualifies as a law office under New York law, a question of law on which we cannot opine, a VLO may be listed as a “principal law office” in order to comply with Rule 7.1(h).

**a. The “Principal Law Office” Requirement in Rule 7.1(h)**

We begin our analysis by noting that the phrases “law office” and “principal law office address,” for purposes of Rule 7.1(h), are not defined in the New York Rules. In a series of ethics opinions, the New York State Bar Association (“NYSBA”) recognized that the definition of a “principal law office” in Rule 7.1 is an evolving concept and that Rule 7.1(h), by itself, may not require New York lawyers to maintain a physical office. *Compare* NYSBA Ethics Op. 756 (2002) (Rule 7.1(h) requires “a physical street address at which the principal office of the firm or lawyer offering legal services is located and to which mail, express deliveries and other communications can be addressed”);<sup>6</sup> NYSBA Ethics Op. 964 (2013) (concluding that a “mail drop” does not qualify as a “principal law office address” for the purposes of Rule 7.1(h)), *with* NYSBA Ethics Op. 1025 (2014) (modifying Opinions 756 and 964 and concluding that “[i]n light of [recent developments in the law], we no longer believe that Rule 7.1(h) – a rule that on its face regulates only advertising – provides an independent basis for requiring a physical office.”).

As explained in Opinion 964, the intent of Rule 7.1(h) is to require all lawyer advertisements to “disclose the address of an office where the lawyers were present and available for contact, and where personal service or delivery of legal papers could be effected.”<sup>7</sup> Opinion 1025 recognized that a VLO may, in certain circumstances, accomplish these goals.

**b. Judiciary Law 470’s Physical Office Requirement**

As noted, Section 470 requires New York-admitted lawyers who reside outside the state to maintain an office in New York for the “transaction of law business.” When we issued Opinion 2014-2, the question of whether Section 470 required nonresident New York lawyers to maintain a *physical* law office was *sub judice* before the courts. Since then, however, the New York Court of Appeals has held that Section 470 does, in fact, require nonresident New York-admitted lawyers to maintain a physical law office within the state and the United States Court of Appeals upheld the constitutionality of this mandate.<sup>8</sup> This had not been a foregone conclusion, and it

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<sup>6</sup> NYSBA Ethics Op. 756 pre-dates the adoption of the New York Rules, which became effective in 2009, replacing the New York Code of Professional Responsibility (the “Code”). However, the language of Rule 7.1(h) is identical to the corresponding Code provision. Consequently, prior interpretations of this provision remain relevant.

<sup>7</sup> By contrast, Opinion 964 concluded that business cards and letterhead do not need to list a physical street address, unless they are used for advertising purposes. Business cards and letterhead are governed primarily by Rule 7.5. An attorney may list a “mailbox service address” on business cards or letterhead that are not used for advertising purposes, provided they are not deceptive. NYSBA Ethics Op. 964. For example, “a mailing address that is in a community other than the one in which the lawyer’s physical office is located, or that appears to be a physical address when it is in fact only a mail drop, could be misleading if not adequately explained.” This aspect of the opinion is relevant to the inquiring lawyer’s second question, discussed further below.

<sup>8</sup> *Schoenefeld v. New York*, 25 N.Y.3d 22 (2015) and *Schoenefeld v. New York*, 821 F.3d 273 (2d Cir. 2016).

caught some lawyers by surprise.<sup>9</sup> The New York Court of Appeals has now made clear that Section 470 “requires nonresident attorneys to maintain a physical office in New York.”<sup>10</sup>

Opinion 2014-2 found that the evolving jurisprudence concerning Section 470 supported its conclusion that Rule 7.1(h) permits using a VLO as one’s principal law office address.<sup>11</sup> In light of the courts’ clarification of Section 470, we withdraw Opinion 2014-2 and reexamine the question it addressed.

We note that Rule 7.1(h) and Section 470 regulate two different activities – Rule 7.1(h) is intended to regulate all advertising by New York admitted lawyers, regardless of their physical location, while Section 470 is directed at a subset of New York-admitted lawyers who reside outside the state. Although these rules serve different purposes, both require a lawyer to maintain an office for the practice of law. In addition, the policy rationales behind both rules are similar.<sup>12</sup> We therefore see no reason to interpret the phrase “law office” as used in Rule 7.1(h) differently from how courts interpret the term “office for the transaction of law business” in Section 470, especially given that the required offices serve a similar function and the same state judiciary that interpreted Section 470 to require a physical law office also adopted the Rules. We therefore conclude that any “law office” listed on attorney advertising in accordance with Rule 7.1(h) must qualify as a law office under Section 470.

We express no opinion on whether the VLO described in this Opinion meets the minimum standards for a “law office” in New York. That is a question of law beyond our jurisdiction and must be interpreted in accordance with the growing body of case law on the topic.<sup>13</sup> We note, however, that a VLO as described in this Opinion includes a physical facility at which a lawyer may meet with clients and receive service of process. As discussed below, assuming the VLO qualifies under Section 470, it may be identified as a lawyer’s “principal law office” under Rule 7.1(h).

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<sup>9</sup> Critics of Section 470 maintained that requiring New York lawyers to maintain a physical office within the state constrains a client’s ability to choose counsel and makes legal services less affordable. In its decision certifying the question to the New York Court of Appeals concerning whether the statute required lawyers to maintain a physical office, the Second Circuit noted, “it appears that Section 470 discriminates against nonresident attorneys with respect to their fundamental right to practice law in the state and, by virtue of that fact, its limitations on non-resident attorneys implicate the Privileges and Immunities Clause.” 748 F.3d 464, 469 (2d Cir. 2014). Also, on January 18, 2019, the New York State Bar Association’s House of Delegates passed a resolution calling for the repeal of Judiciary Law 470. In the event Section 470 is amended or repealed, we may revisit this Opinion once again.

<sup>10</sup> *Id.* at 22

<sup>11</sup> The state bar’s Opinion 1025, cited above, similarly anticipated that the courts would not require that out-of-state lawyers admitted to practice law in New York maintain a physical law office in the state.

<sup>12</sup> NYSBA Ethics Op. 756 (noting that “[t]he requirement of a street address in lawyer advertising . . . serves the same purposes as Judiciary Law § 470,” such as “to ensure that attorneys practicing in this state are amenable to contact by their clients, adversaries and other interested parties” and to facilitate “personal service or delivery of legal papers and other correspondence”).

<sup>13</sup> *E.g.*, *Lichtenstein v. Emerson*, 251 A.D.2d 64 (1st Dep’t 1998); *Rosenstein v. Ernstoff*, 176 A.D. 2d 686 (1st Dep’t 1991); *Matter of Haas*, 237 A.D.2d 729 (3d Dep’t 1997); *Chupak v. Gomez*, No. 151348/14, 2016 N.Y. Slip Op. 30051(U) (Sup. Ct. N.Y. Cty. Jan. 8, 2016).

**c. Using a VLO Address as a Principal Office Address Is Consistent with the Policies Underlying Rule 7.1(h)**

Ethics opinions discussing Rule 7.1(h) identify several purposes served by the principal office address requirement, including that: (1) disclosure of a physical address “should facilitate a prospective client’s ability to make an intelligent selection of a lawyer”; (2) a physical location enables members of the public or clients to meet with the lawyer, contact the lawyer by mail, and serve legal papers; and (3) the absence of an address “could be misleading by suggesting a physical proximity to the recipient that does not in fact exist” or “the ability to serve in jurisdictions in which the advertising firm or lawyer is not qualified to practice.”<sup>14</sup>

Each of these purposes can be advanced by the use of a VLO. First, the fact that a lawyer uses a VLO may itself be a relevant factor in selecting or rejecting a particular lawyer. For example, a prospective client who understands that the lawyer’s address is a VLO may conclude that the lawyer can provide greater value due to lower overhead and other efficiencies. In addition, clients who are technologically savvy and who themselves may use similar facilities for their own businesses may be more comfortable with a lawyer who understands how those business models work. On the other hand, use of a VLO may be less appealing to clients who prefer their lawyers to work in more traditional office environments.

Second, the VLO – as defined herein – provides a physical location for clients or members of the public to contact, meet with or serve legal papers on the lawyer. In view of the saturation of our society with mobile devices enabling voice and electronic communications as well as the numerous other communication options that emerging technologies have made available, the concern that a client might not be able to contact a lawyer simply because the lawyer does not have a traditional brick-and-mortar law office is less compelling than in the past. In fact, a lawyer who uses a VLO may be at least as accessible as a lawyer who rents a dedicated physical office space. Imposing an inflexible requirement on lawyers to maintain a traditional brick-and-mortar office does not necessarily provide enhanced protection to clients or the public. As detailed above, however, we recognize that a VLO must still adhere to the relevant legal requirements for law offices.<sup>15</sup>

Third, the use of a VLO address in advertising is not inherently misleading. Given the prevalence of alternative work arrangements (telecommuting, work-sharing, office-sharing, etc.), the general public would not necessarily assume that a physical street address is equivalent to a traditional, single-purpose, brick-and-mortar office. Nor would one reasonably assume that a lawyer is always present and available to meet at the address provided in the lawyer’s advertising. As discussed further below, however, all lawyers (including those using VLOs) should take care not to mislead the public as to the nature of their office arrangements, accessibility, or availability for meetings.

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<sup>14</sup> NYSBA Ethics Op. 756

<sup>15</sup> §I.b., *supra*.

**d. Use of a VLO Address Is Consistent with the Evolution of Modern Law Practice**

Courts and enforcement authorities increasingly recognize that the economic and technological conditions of modern law practice justify some flexibility in practice arrangements. One example involves an attorney who was a member in good standing of the D.C. bar and was employed by a D.C. law firm, but resided in Cambridge, Massachusetts.<sup>16</sup> When the attorney applied to renew her membership in the Maryland bar, she identified the address of her D.C. law office as her “principal office.”<sup>17</sup> The attorney’s mail and phone calls went to the D.C. office. She met with clients in the D.C. office. However, she spent most of her time working from home in Cambridge or from an office space in Boston. The Chair of the Disciplinary and Admissions Committee of the District Court of Maryland denied her application, based on a Maryland rule that required her to be “a member in good standing of the highest court of any state (or the District of Columbia) in which [she] maintains [her] principal law office . . . .”<sup>18</sup> The District Court disagreed and granted the attorney’s application to renew her membership in the Maryland Bar. The court concluded that her D.C. office met the requirements of Maryland’s “principal law office” rule, even though she was physically located in Massachusetts when performing many legal tasks. Said the court:

In recent years, the concept of a “principal law office” has evolved somewhat as a result of significant advances in technology which provide an attorney with the flexibility to carry out a variety of activities at different locations and under varying circumstances. The term does not necessarily mean continuous physical presence but, at a minimum, it requires some physical presence sufficient to assure accountability of the attorney to clients and to the court.<sup>19</sup>

Several years ago, New Jersey studied whether to permit VLOs, and in 2013 changed its rules to allow them. These developments are instructive. Prior to 2013, a New Jersey court rule required that “a New Jersey attorney maintain a *bona fide* office for the practice of law.”<sup>20</sup> N.J. Ethics Op. 718 interpreted the “*bona fide* office” requirement to mean a fixed specific full-time physical location where “clients are met, files are kept, the telephone is answered, mail is received and the attorney or a responsible person acting on the attorney’s behalf can be reached in person and by telephone during normal business hours to answer questions posed by the courts, clients or adversaries and to ensure that competent advice from the attorney can be obtained within a reasonable period of time.”<sup>21</sup> By contrast, a VLO “refers to a type of time-

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<sup>16</sup> *In re Application of Carlton*, 708 F. Supp. 2d 524 (D. Md. 2010).

<sup>17</sup> *Id.* at 525

<sup>18</sup> *Id.* at 524-25

<sup>19</sup> *Id.* at 526

<sup>20</sup> N.J. Eth. Op. 718, N.J. Eth. Op. 41, 2010 WL 1829019, at \*1 (2010) (“N.J. Ethics Op. 718”) (quoting former R. 1:21-1(a)).

<sup>21</sup> *Id.*

share arrangement whereby one leases the right to reserve space in an office building on an hourly or daily basis.”<sup>22</sup> The opinion continued:

[A]n attorney’s use of a “virtual office” is by appointment only. The office building ordinarily has a receptionist with a list of all lessees who directs visitors to the appropriate room at the appointed time. Depending on the terms of the lease, the receptionist may also receive and forward mail addressed to lessees or receive and forward telephone calls to lessees.<sup>23</sup>

N.J. Op. 718 concluded that such an office was not a “*bona fide* office” because, *inter alia*, “the attorney generally is not present during normal business hours but will only be present when he or she has reserved the space” and “the receptionist at a ‘virtual office’ does not qualify as a ‘responsible person acting on the attorney’s behalf’ who can ‘answer questions posed by the courts, clients or adversaries.’”<sup>24</sup>

In the wake of N.J. Op. 718, the Court amended Rule 1:21-1(a) to eliminate the *bona fide* office requirement and to permit the use of a VLO. Rule 1:21-1(a) now provides:

An attorney need not maintain a fixed physical location for the practice of law, but must structure his or her practice in such a manner as to assure, as set forth in RPC 1.4, prompt and reliable communication with and accessibility by clients, other counsel, and judicial and administrative tribunals before which the attorney may practice, provided that an attorney must designate one or more fixed physical locations where client files and the attorney’s business and financial records may be inspected on short notice by duly authorized regulatory authorities, where mail or hand-deliveries may be made and promptly received, and where process may be served on the attorney for all actions, including disciplinary actions, that may arise out of the practice of law and activities related thereto.<sup>25</sup>

In contrast to New Jersey’s former *bona fide* office rule, New York’s Rule 7.1(h) merely requires a lawyer to designate a “principal law office address” in advertising – a requirement that has been expanded to mean a “physical street address” through the interpretation of various ethics opinions. Rule 7.1(h) does not, in our view, impose a requirement to maintain a “*bona fide*” office as that term was formerly used in New Jersey although, as detailed above, the “law office” must meet the minimum standards as defined by New York law. To engraft a more burdensome “*bona fide* office” requirement onto New York Rule 7.1(h) via an interpretation of “physical street address” (which is itself an interpretation of Rule 7.1(h)) is not justified. Such a requirement would unnecessarily burden busy solo practitioners who spend most days in court and may have no full-time support staff.

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> The amended New Jersey rule can be found at: <https://www.njcourts.gov/attorneys/assets/rules/r1-21.pdf> (last visited February 21, 2019).

Finally, economic conditions in the legal world and technological developments weigh against interpreting the Rules to create obstacles to the use of VLOs as long as the interests of clients, the courts, and the legal system are protected. Economic conditions and technological advances justify giving lawyers flexibility. Online research eliminates the need for a physical library. By using an Internet connection, a laptop computer, a mobile phone, and other devices, a lawyer can communicate easily with colleagues, clients, and adversaries from any location, at any time. An interpretation of the Rules should ideally accommodate these technological developments.<sup>26</sup>

## **II. Is a New York Lawyer Permitted to Use the Street Address of a VLO on Letterhead, Business Cards and the Law Firm Website?**

A related question is whether the lawyer may use the VLO address on her letterhead, business cards and law firm website. As noted above, NYSBA Ethics Op. 964 concluded that business cards and letterhead do not need to list a physical street address, unless they are used for advertising purposes. Even when business cards and letterhead are not used for advertising purposes, however, they must not be deceptive or misleading.<sup>27</sup> As with all attorney communications, any information contained on an attorney's website, letterhead and business cards must be truthful.

As discussed above, in our view the use of a VLO address is not inherently misleading. Accordingly, we conclude that a lawyer may use a VLO address on letterhead and business cards, so long as the use is not misleading under the circumstances. The same conclusion applies to the law firm website.

## **III. Additional Ethical Considerations When Using a VLO**

Although we believe that the use of VLOs is permissible in appropriate circumstances, we recognize that they carry with them certain challenges that may not be present in a traditional law firm office. Attorneys who elect to use VLOs should be mindful of these challenges and should not allow them to become obstacles to fulfilling their ethical obligations. We believe that attorneys should pay particular attention to the following ethical concerns when using a VLO.<sup>28</sup>

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<sup>26</sup> See generally Jordana Hausman, *Who's Afraid of the Virtual Lawyers? The Role of Legal Ethics in the Growth and Regulation of Virtual Law Offices*, 25 Geo. J. Legal Eth. 575 (Summer 2012).

<sup>27</sup> Rule 8.4(c) (providing that a "lawyer or law firm shall not . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation").

<sup>28</sup> Other ethics opinions from outside New York State highlight the broad range of ethics issues that may be raised by the use of VLOs and other nontraditional office arrangements. See, e.g., Pennsylvania Bar Committee on Legal Ethics and Professional Responsibility Formal Opinion 2010-200 ("Pa. Ethics Op. 2010-200") (applying the following rules to Pennsylvania lawyers who maintain virtual law offices: Pa. Rules 1.4 (Communication), 1.14 (Clients with Diminished Capacity), 1.6 (Confidentiality of Information), 1.18 (Duties to Prospective Clients), 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers), 7.1 (Communications Concerning a Lawyer's Services), 7.2 (Advertising) and 7.5 (Firm Names and Letterheads)); California State Bar Standing Committee on Professional Responsibility and Conduct Formal Opinion 2012-184 ("Cal. Ethics Op. 2012-184"), 2012 WL 3182985 (applying the following California rules to VLOs: Cal. Rules 1-100, 1-300 (unauthorized practice of law), 3-100 (Confidentiality), 3-110 (Competence), 3-310 (Conflicts), and 3-500 (Communication)); North Carolina State

**a. Supervision of Subordinate Lawyers and Nonlawyers**

Under Rules 5.1 and 5.3, law firms and lawyers are responsible for supervising the conduct of subordinate lawyers and nonlawyers and ensuring that their conduct complies with the Rules. These obligations apply to attorneys who use VLOs.<sup>29</sup> Given the differences between a VLO and a traditional law office, however, it may be more challenging for lawyers who use VLOs to comply with their supervisory obligations. As explained in Cal. Op. 2012-184, “supervision [in the context of a VLO] can be a challenge if Attorney and her various subordinate attorneys and employees operate out of several different physical locations.”<sup>30</sup> Furthermore, as a practical matter, lawyers have less control over the conduct of VLO personnel than they would over their own direct employees in a conventional physical law firm office. Thus, lawyers who use VLOs may need to take additional precautions to ensure that they are fulfilling their supervisory obligations. Notwithstanding the differences between VLOs and traditional law firms, the “[a]ttorney 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.”<sup>31</sup>

**b. Confidentiality**

Rule 1.6(a) prohibits a lawyer from “knowingly revealing confidential information,” absent informed consent or other exception. In addition, Rule 1.6(c) provides that a “lawyer shall exercise reasonable care to prevent the lawyer’s employees, associates and others whose services are utilized by the lawyer from disclosing or using confidential information of a client.” As observed in NYSBA Op. 794 (2006):

[I]n opinions addressing office sharing among separate law firms or lawyers in solo practice ... [w]e and others have found that, depending on the facts and circumstances of a particular situation, [the confidentiality Rules] may prevent lawyers who practice separately but share office space from representing clients with differing interests. Under these opinions, with appropriate safeguards, and assuming that the arrangement is not misleading to prospective and actual clients, the sharing of merely the same leasehold, a library, an electronic research account, restrooms, a central phone system with individual lines, or a common receptionist is not sufficient, alone or in combination, to merge lawyers

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Bar Formal Ethics Opinion 2005-10 “*Virtual Law Practice and Unbundled Legal Services*” (“N.C. Ethics Op. 2005-10”) (approved January 2006), 2006 WL 980309, at \*1 (identifying “key concerns”); Illinois State Bar Opinion 12-09 “*Unauthorized Practice of Law; Multijurisdictional Practice; Law Firms*,” 2012 WL 979607, at \*3 (“The advent of the virtual law office, or online legal practice, has raised several ethical challenges” which “should be analyzed under the framework of the Rules of Professional Conduct.”) (citation omitted). Issues arising under statutes, regulations, court rules and other laws and rules may also need to be considered.

<sup>29</sup> Cal. Op. 2012-184, 2012 WL 3182985, at \*7 (noting that “in all law offices, including this hypothetical VLO, attorneys have a duty to supervise subordinate attorneys, and non-attorney employees or agents”).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at \*7.

in separate practices into one. Acceptance of these organizations presupposes, however, that the confidences and secrets of the clients of each separate practice will not be shared or appear to be subject to sharing with lawyers working on a conflicting matter.<sup>32</sup>

A lawyer who uses the shared services and office space of a VLO to perform legal services and to meet with clients, witnesses, or other third parties must take reasonable steps to ensure that she does not expose or put the client's confidential information at risk. This should include, as appropriate, training and educating staff at the VLO on these obligations.<sup>33</sup>

**c. Communication**

Rule 1.4 requires lawyers to communicate with clients and keep them apprised of the status of their legal matters. Lawyers who use VLOs must be particularly mindful of these ethical obligations, given that the lawyers may frequently be away from the physical location that serves as their business address. Lawyers who use VLOs should also take steps to ensure that they are available to meet with and communicate with their clients and respond promptly to their requests for information.

**d. Personal Delivery and Acceptance of Service**

Finally, because a significant concern underlying Section 470 and Rule 7.1(h) is the availability of an address for purposes of personal delivery and acceptance of service of process, a lawyer using the VLO's services also should provide for personal delivery and acceptance of service. This can be done either by: (i) identifying an agent for these purposes or (ii) arranging for the VLO to accept service of process on the attorney's behalf. Where a VLO is authorized to accept service of process, the attorney must ensure that the VLO communicates with the attorney concerning the receipt of any materials with sufficient promptness to meet all professional and ethical requirements.

**CONCLUSION**

A New York lawyer may designate the street address of a VLO as the "principal law office address" for the purposes of Rule 7.1(h) provided the VLO qualifies as an office for the transaction of law business under the Judiciary Law. In addition, the lawyer may use the VLO address on business cards, letterhead and law firm website. A New York lawyer who uses a VLO must also comply with all other ethical obligations, including duties under Rules 1.4, 1.6, 5.1, 5.3, 7.1(a), 7.1(h), 7.5(a)(4), 8.4(a) and 8.4(c).

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<sup>32</sup> See also NYSBA Ethics Op. 939 (2012) (independent lawyers sharing office space may share computer for client-related information if they exercise reasonable care to assure that confidential information is not disclosed).

<sup>33</sup> Rule 5.3(a) (requiring lawyers to supervise the work on nonlawyers).