

Registry of Settlement Planners Board (RSP Board) **Standards of Professional Conduct for RSP Members**

Preamble: Responsibilities of Members of the Registry of Settlement Planners

The RSP Board is a non-profit organization established to administer the Registered Settlement Planner (RSP) mark. A primary purpose of the RSP Board is to help ensure that settlement planning advice and services are delivered by competent ethical settlement planners. The RSP Board promotes the value of settlement planning and advances the settlement planning profession through education and promotion of high standards of conduct by settlement planners.

A settlement planner is a representative of a person participating in the design, negotiation and implementation of a settlement or satisfaction of a judgment for the benefit of a person claiming a legal entitlement to an award of damages or other compensation. A settlement planner may represent a plaintiff, a defendant, an insurer, a guardian *ad litem*, an heir of a claimant, an attorney or another person participating in the settlement process. Such a person is the planner's client.

Settlement planners may provide advice and other services to their clients concerning claim valuation, negotiation strategy, the determination of rated ages based on impaired life expectancy, life care planning for catastrophically injured claimants, allocation of proceeds, taxable and non-taxable periodic payments, structured settlements, attorney fee structures, Medicaid preservation through qualifying trusts, Medicare set-aside arrangements, investments, irrevocable trusts, assessment of a plan's financial risk, and estate liquidity for tax planning.

These Rules apply to each member while engaged in settlement planning without regard to the nature of the client. Settlement planners may limit the scope of planning service they provide to a client. These Standards of Professional Conduct are subscribed to by RSP members as a condition of joining and maintaining good standing in this organization. Compliance with these Rules depends upon voluntary adherence and, secondarily, upon reinforcement by peer and public opinion. A settlement planner is also guided by personal conscience. Membership in this organization, including display of its logo, is intended in part to convey to others that the member is committed to the high standards of conduct specified in these Rules.

Rule 1: Terminology

(a) **Claimant** denotes a person seeking or entitled to compensation for damages from an obligor. A claimant may be a minor, incapacitated adult or estate of a decedent, represented by a guardian, conservator, personal representative or person of other title.

(b) **Confidential information** denotes information that is not generally available to others and that a reasonable person would not want to be made available to others without his or her informed consent, such as medical data, information about financial status, eligibility for public assistance such as Medicaid, or Social Security and credit card numbers, information about personal relationships, and information protected by the Health Insurance Portability & Accounting Act of 1996 (HIPAA).

(c) **Informed consent** denotes agreement by a person to a proposed course of conduct after the settlement planner has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

(d) **Reasonable** denotes, when used in reference to the conduct or judgment of a settlement planner, the judgment or conduct of a prudent and competent settlement planner.

(e) **Reasonably should know or believe** denotes that which a prudent and competent settlement planner would ascertain or conclude about a matter after reasonable inquiry.

(f) **Settlement planner or planner** denotes a representative who provides advice and other services to a person participating in the design, negotiation or implementation of a settlement or satisfaction of judgment for the benefit of a person claiming a legal entitlement to an award of damages or other compensation. A settlement planner may represent a plaintiff, a defendant, an insurer, a guardian *ad litem*, an heir of a claimant, an attorney or another person participating in the settlement process.

Rule 2: Competent, Diligent and Prompt Service

A settlement planner shall provide competent, diligent, and prompt service to the planner's client. Competent settlement planning service requires the settlement planner to act with the knowledge, skill, thoroughness and preparation reasonably necessary to accomplish the client's objectives.

Rule 3: Communication with the Client

(a) Prior to or within a reasonable time after commencing service as a settlement planner, the settlement planner shall inform the client, preferably in writing, of the scope of the services the settlement planner will provide to the client and those other settlement planning services the settlement planner knows, or reasonably should know, are needed by the client but will not be provided by the settlement planner.

(b) A settlement planner shall keep a client reasonably informed about the status of the planning process and promptly comply with reasonable requests for information.

(c) A settlement planner shall explain matters relating to a settlement to the extent reasonably necessary to permit the client to make informed decisions regarding the settlement.

Rule 4: Confidentiality

(a) A settlement planner shall not disclose, use to the client's disadvantage, or use to the advantage of the planner or a third person, confidential information obtained in the course of or as the result of the planner's provision of services to the client, unless: the client gives informed consent, the disclosure is required by the law, or the disclosure is impliedly authorized by the client.

(b) A settlement planner shall act competently to prevent inadvertent or unauthorized disclosure of client information protected by paragraph (a), including providing for secure storage or destruction of such information during and subsequent to the provision of services to the client.

(c) A settlement planner shall make reasonable efforts to have in effect measures giving reasonable assurance that the planners' employees will comply with the duty of confidentiality imposed upon the planner by this Rule.

Rule 5: Conflict of Interest and Loyalty

(a) Except as provided in paragraph (b), a settlement planner shall not provide planning services to a client if there is a substantial likelihood that the planner's services will be materially limited by the personal interests of the planner, or the interests of another client the planner is representing in the matter, or has previously represented in the matter, or a substantially related matter.

(b) Notwithstanding the existence of a conflict of interest as specified in paragraph (a), a planner may provide planning services to a client if:

(1) the planner reasonably believes that he/she may impartially, competently, diligently, and fairly provide the necessary planning services; and

(2) each affected client gives informed consent confirmed in writing.

(c) A settlement planner shall make and implement only recommendations that are appropriate for the client and consistent with the client's objectives.

Rule 6: Allocation of Authority

A settlement planner must ascertain and abide by the client's settlement objectives. The planner must consult with the client or the client's lawyer as to the means by which these objectives are to be pursued, and abide by the instructions, if any, provided by the client or the client's lawyer.

Rule 7: Fees and Other Compensation

(a) A settlement planner shall not charge a client an unreasonably high fee for settlement planning services or a fee prohibited by applicable law.

(b) A settlement planner shall disclose the nature and source of any compensation for settlement planning services from a source other than the settlement planner's client.

Rule 8: Limitation of Liability

A settlement planner shall not enter into an agreement with a client limiting the planner's personal liability to the client for negligence or violation of law in connection with the planner's provision of settlement services.

Rule 9: Marketing Settlement Planning Services

A settlement planner shall not make false or misleading statements about the planner, the services the planner is offering, the planner's compensation, or other matters related to settlement planning.