

Final

**Rhode Island Supreme Court  
Ethics Advisory Panel Op. 2016-09  
Issued November 3, 2016**

FACTS

The inquiring attorney was asked by Husband to represent him in an imminent divorce action. The inquiring attorney states that he/she previously drafted financial and healthcare powers of attorney for Wife's parents in which Wife was designated as the successor attorney-in-fact and the alternate health care agent. The inquiring attorney states that he/she has never performed legal work for Wife. Husband and Wife also own and operate a pet care facility, which the inquiring attorney previously used to care for his/her dog.

ISSUE PRESENTED

The inquiring attorney seeks the Panel's opinion about whether representing Husband in a divorce action against Wife presents a conflict of interest.

OPINION

The inquiring attorney's drafting of financial and healthcare powers of attorney for Wife's parents in which Wife is designated the successor attorney-in-fact and alternate healthcare agent, does not present a conflict of interest in the inquiring attorney's representation of Husband in a divorce action against Wife.

REASONING

The inquiring attorney has never performed legal work for Wife, and therefore Wife is not a former client to whom the inquiring attorney owes obligations under the Rules of Professional Conduct. The inquiring attorney's former clients were Wife's parents. To them, the inquiring attorney owes obligations under the Rules, including obligations of confidentiality and loyalty under Rule 1.6 (Confidentiality of information) and Rule 1.9 (Duties to former client). In the event the inquiring attorney learned information about Wife during and relative to the representation of her parents, the inquiring attorney is prohibited from revealing it under paragraph (c)(2) of Rule 1.9 which states:

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter: \*\*\*

(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

The Panel does not believe that the inquiring attorney's previous business relationship with Husband and Wife's pet care facility presents a conflict of interests.

The Panel concludes that the inquiring attorney's drafting of financial and healthcare powers of attorney for Wife's parents in which Wife is designated the successor attorney-in-fact and alternate healthcare agent, does not present a conflict of interest in the inquiring attorney's representation of Husband in a divorce action against Wife.