

Rule 414. Fiduciaries

If the lawyer for the estate, or a partner, associate or employee of the lawyer for the estate, is also appointed as the individual personal representative of the estate, except where one of them is a family member of the decedent, the administration shall be supervised. In such a case, both the lawyer for the estate and the personal representative must keep separate time records and differentiate the charges for their duties in each capacity. The lawyer should only serve as fiduciary at the unsolicited suggestion of the client and the lawyer must realize that there are legal, ethical and practical problems that must be overcome in order to perform the duties of a fiduciary and lawyer. Supervised administration shall not be required solely because the personal representative of the estate is a lawyer, whether or not the personal representative is related to the decedent, so long as the personal representative, or a partner, associate or employee of the personal representative, is not also retained as the lawyer for the estate.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This recommended change is made to permit family members, who happen to be lawyers, to serve as fiduciaries without automatically subjecting the estate to the burdens of supervised administration. Although supervised administration may be appropriate in individual cases, the Task Force believes that it should not be uniformly imposed on the families of lawyers.