

CONFERENCE OF CHIEF JUSTICES

Resolution 4

In Support of Proactive Management-Based Ethical Lawyer Regulation

WHEREAS, the highest court of appellate jurisdiction in each state and territory possesses the authority to regulate the legal profession; and

WHEREAS, the current lawyer regulatory system is primarily reactive and prosecutorial in nature, reacting to complaints through the disciplinary process; and

WHEREAS, Proactive Management-Based Regulation (PMBR) offers a systematic approach to lawyer regulation that moves away from a primarily prosecutorial focus towards guiding principles fostering a prevention approach to help lawyers and law firms develop ethical infrastructures to improve the delivery of legal services and client relations; and

WHEREAS, PMBR seeks to help lawyers avoid misconduct and complaints to the lawyer disciplinary authorities and to enhance the provision of competent and cost-effective legal services; and

WHEREAS, PMBR does not represent one system or a one-size-fits-all approach, instead the programs can be tailored to meet the needs and interests of a given jurisdiction; and

WHEREAS, PMBR operates separately from the disciplinary process and under PMBR programs the regulators and the regulated do not have an adversarial relationship, but rather one where the parties work together to help lawyers come into compliance with the PMBR program; and

WHEREAS, PMBR often is referred to as principled, proactive, and proportionate regulation which is risk focused, self-assessment-based and aimed at protecting the public as well as assisting lawyers;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices encourages its members to study Proactive Management-Based Regulation Programs to enable lawyers and law firms to develop and maintain ethical infrastructures that help prevent violations of applicable rules of professional conduct.

Adopted as proposed by the CCJ Committee on Professionalism and Competence of the Bar at the 2019 Annual Meeting on July 31, 2019.