

STATE OF MINNESOTA

IN SUPREME COURT

C9-81-1206

C8-84-1650

C4-91-1728

**ORDER AMENDING THE RULES
OF THE SUPREME COURT FOR
REGISTRATION OF ATTORNEYS AND
THE RULES OF PROFESSIONAL CONDUCT**

The Minnesota State Bar Association and Lawyers Concerned for Lawyers filed a joint petition to amend the Rules of the Supreme Court for Registration of Attorneys and the Rules of Professional Conduct, and

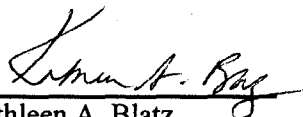
The Minnesota Supreme Court held a hearing on these proposed amendments on December 15, 1999, and

The court has reviewed the proposed amendments and is fully advised in the premises,
NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The attached amendments to the Rules of the Supreme Court for Registration of Attorneys and the Rules of Professional Conduct are adopted, prescribed and promulgated to be effective July 1, 2000.
2. The inclusion of comments to the amended rules is made for convenience and does not reflect court approval of the comments made therein.

Dated: April 18, 2000

BY THE COURT:



Kathleen A. Blatz
Chief Justice

OFFICE OF
APPELLATE COURTS

APR 13 2000

FILED

**THE RULES OF THE SUPREME COURT FOR
REGISTRATION OF ATTORNEYS**

RULE 2. REGISTRATION FEE

A. In order to defray the expenses of examinations and investigation for admission to the bar and disciplinary proceedings, over and above the amount paid by applicants for such admission, with exception hereafter enumerated, each attorney admitted to practice law in this state and those members of the judiciary who are required to be admitted to practice as a prerequisite to holding office shall hereinafter annually pay to the clerk of the appellate courts a registration fee in the sum of ~~Two Hundred and Seven Dollars (\$207.00)~~ Two Hundred and Fifteen (\$215.00) or in such lesser sum as the court may annually hereafter determine.

Such fee, or portion thereof, shall be paid on or before the first day of January, April, July or October of each year as requested by the clerk of the appellate courts. All sums so received shall be allocated as follows:

\$20.00 to the State Board of Law Examiners

\$10.00 to the State Board of Continuing Legal Education

\$110.00 to the Lawyers Professional Responsibility Board

\$17.00 to the Minnesota Client Security Fund

\$50.00 to the Legal Services Advisory Committee

\$8.00 to the Lawyer Trust Account Board for a lawyers assistance program.

An attorney who certifies that his or her gross income from all sources, excluding the income of a spouse, is less than Twenty-five Thousand Dollars (\$25,000.00) per year, shall pay a registration fee in the sum of ~~One Hundred Eighty-two Dollars (\$182.00)~~ One Hundred Ninety Dollars (\$190.00). The allocation to the Legal Services Advisory Committee shall be reduced by Twenty-Five Dollars (\$25.00),

B. The following attorneys and judges shall pay an annual registration fee of ~~One Hundred and One Dollars (\$101.00)~~ One Hundred Nine Dollars (\$109.00):

- (a) Any attorney or judge whose permanent residence is outside the State of Minnesota and who does not practice law within the state;

(b) Any attorney while on duty in the armed forces of the United States.

The ~~One Hundred and One Dollars (\$101.00)~~ One Hundred Nine Dollars (\$109.00) so received shall be allocated as follows:

\$20.00 to the State Board of Law Examiners

\$7.00 to the State Board of Continuing Legal Education

\$24.00 to the Lawyers Professional Responsibility Board

\$50.00 to the Legal Services Advisory Committee

\$8.00 to the Lawyer Trust Account Board for a lawyers assistance program.

An attorney who certifies that his or her gross income from all sources, excluding the income of a spouse, is less than Twenty-five Thousand Dollars (\$25,000.00) per year, shall pay a registration fee in the sum of ~~Seventy-six Dollars (\$76.00)~~ Eighty-four Dollars (\$84.00). The allocation to the Legal Services Advisory Committee shall be reduced by Twenty-Five Dollars (\$25.00).

C. Any attorney who has not been admitted to practice for more than three years shall pay an annual registration fee of ~~Ninety-six Dollars (\$96.00)~~ One Hundred and Four Dollars (\$104.00).

The ~~Ninety-six Dollars (\$96.00)~~ One Hundred and Four Dollars (\$104.00) so received shall be allocated as follows:

\$20.00 to the State Board of Law Examiners

\$10.00 to the State Board of Continuing Legal Education

\$24.00 to the Lawyers Professional Responsibility Board

\$17.00 to the Client Security Fund

\$25.00 to the Legal Services Advisory Committee

\$8.00 to the Lawyer Trust Account Board for a lawyers assistance program.

An attorney who certifies that his or her gross income from all sources, excluding the income of a spouse, is less than Twenty-five Thousand Dollars (\$25,000.00) per year,

shall pay a registration fee in the sum of ~~Eighty-three dollars and fifty cents (\$83.50)~~ Ninety-one Dollars and fifty cents (\$91.50). The allocation to the Legal Services Advisory Committee shall be reduced by Twelve Dollars and fifty cents (\$12.50).

Any attorney who is retired from any gainful employment or permanently disabled, or who files annually with the clerk of the appellate courts an affidavit that he or she is so retired or disabled and not engaged in the practice of law, shall be placed in a fee-exempt category and shall remain in good standing. An attorney claiming retired or permanently disabled status who subsequently resumes active practice of law shall promptly file notice of such change of status with the clerk of the appellate courts and pay the annual registration fee.

RULES OF PROFESSIONAL CONDUCT

RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the Office of Lawyers Professional Responsibility.

(b) A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the Board on Judicial Standards.

(c) This Rule does not require disclosure of information that Rule 1.6 requires or allows a lawyer to keep confidential or information gained by a lawyer or judge while participating in a lawyers assistance program or other program providing assistance, support or counseling to lawyers who are chemically dependent or have mental disorders.

Comment: ~~1991~~ 2000

Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated

violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

A report about misconduct is not required where it would involve violation of Rule 1.6. However, a lawyer should encourage a client to consent to disclosure where prosecution would not substantially prejudice the client's interests. See the comment to Rule 1.6.

If a lawyer were obliged to report every violation of the Rules, the failure to report any violation would itself be a professional offense. Such a requirement existed in many jurisdictions but proved to be unenforceable. This Rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of the Rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware. A report should be made to the bar disciplinary agency unless some other agency, such as a peer review agency, is more appropriate in the circumstances. Similar considerations apply to the reporting of judicial misconduct.

The duty to report professional misconduct does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the rules applicable to the client-lawyer relationship.

~~While a lawyer is forbidden to report, without client consent, the serious misconduct of another lawyer when he or she learns of that misconduct through a privileged attorney-client communication, the lawyer may, in his or her discretion, disclose client secrets in order to report. See Rule 1.6(b)(6) and the accompanying Comment.~~

Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in a bona fide lawyers assistance program or other program that provides assistance, support or counseling to lawyers, including lawyers and judges who may be impaired due to chemical abuse or dependency, behavioral addictions, depression or other mental disorders. In that circumstance, providing for the confidentiality of information obtained by a lawyer-participant encourages lawyers and judges to participate and seek treatment through such programs. Conversely, without such confidentiality, lawyers and judges may hesitate to seek assistance, which may then result in additional harm to themselves, their clients, and the public. The Rule therefore exempts lawyers participating in such programs from the reporting obligation of paragraphs (a) and (b) with respect to information they acquire while participating. A lawyer exempted from mandatory reporting under part (c) of the Rule may nevertheless report misconduct in the lawyer's discretion, particularly if the impaired lawyer or judge indicates an intent to engage in future illegal activity, for example, the conversion of client funds. See the comments to Rule 1.6.