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March 21, 1983

PERSONAL AND CONFIDENTIAL

Mr. Wayne O. Tschimperle
Clerk
Minnesota Supreme Court
230 State Capitol
St. Paul MN 55155

A-8

Re: In Re Petition to Amend Rule 20, Minnesota
Rules on Lawyers Professional Responsibility

Dear Mr. Tschimperle:

I enclose the original and eight copies of our petition in the above matter. The copies are for distribution to the justices, except for Justice Todd who has received a copy by separate letter.

Very truly yours,

Michael Hoover
Michael J. Hoover
Director

MJH:ea
Enclosures

3-22 -- Copies distributed

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MICHAEL J. HOOVER
DIRECTOR

March 21, 1983

PERSONAL AND CONFIDENTIAL

C
Honorable John J. Todd
Associate Justice
Supreme Court of Minnesota
State Capitol
St. Paul, MN 55155

Re: In Re Petition to Amend Rule 20, Minnesota
Rules on Lawyers Professional Responsibility

O
Dear Judge Todd:

I am enclosing a copy of a petition by the Board and the Director to amend Rule 20, Minnesota Rules on Lawyers Professional Responsibility.

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Part of the changes are merely clean-up amendments to make Rule 20 consistent with the other amendments approved by the court last July. The proposed amendments, however, also provide for the expunction of files relating to dismissed complaints. This issue is of significant concern to the bar and was the subject of a recent amendment to the ABA Standards on Lawyer Discipline and Disability Proceedings.

Y
In accordance with past practice, I request that the court set a date for hearing with advance publication of the hearing date to the bar giving interested parties an opportunity to be heard.

Very truly yours,

Michael J. Hoover
Director

MJH:ea

Enclosure

cc: Clerk, Supreme Court
Robert Henson

STATE OF MINNESOTA
IN SUPREME COURT

In re Petition to Amend Rule
20, Minnesota Rules on Lawyers
Professional Responsibility

PETITION

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Lawyers Professional Responsibility Board and the Director of Lawyers Professional Responsibility hereby petition the court to amend, effective immediately, Rule 20, Minnesota Rules on Lawyers Professional Responsibility, to read as follows:

RULE 20. CONFIDENTIALITY; EXPUNCTION

(a) General rule. The files, records, and proceedings of the District Committees, the Board, and the Director, as they may relate to or arise out of any complaint or charge of unprofessional conduct against or investigation of a lawyer, shall be deemed confidential and shall not be disclosed, except:

(1) As between the Committees, Board, and Director in furtherance of their duties;

(2) In proceedings before a referee or this Court under these Rules 10 through 18;

(3) As between the Director and a lawyer admission or disciplinary authority of another jurisdiction in which the lawyer affected is admitted to practice or seeks to practice;

(4) Upon request of the lawyer affected;

(5) Where permitted by this Court; or

(6) Where required or permitted by these Rules.

(b) Special matters. The following may be disclosed by the

Director:

(1) The fact that a matter is or is not being investigated or considered by the Committee, Director, or Panel;

(2) The fact that the Director has either determined that discipline is not warranted, or issued an admonition; applicable, that a warning was given under Rule 8(e)(2);

(3) The Panel's disposition under these Rules; Rule 9(d) or (e);

(4) The Director's determination under Rule 17(a); or
The fact that stipulated probation has been approved
under Rule 8(c)(3);

(5) The Panel's disposition upon a matter submitted to it under Rule 17(b);

(c) Referee or Court proceedings. Except as ordered by the referee or this Court, the files, records, and proceedings before a referee or this Court under these Rules 10 through 18 are not confidential.

(d) Expunction of Records. The Director shall expunge records relating to dismissed complaints as follows:

(1) All records or other evidence of the existence of a dismissed complaint shall be destroyed five years after the dismissal, except that the Director shall keep a docket showing the names of each respondent and complainant, the

final disposition, and the date all records relating to the matter were expunged;

(2) Effect of expunction. After a file has been expunged, any Director response to an inquiry requiring a reference to the matter shall state that it was dismissed and that any other record the Director may have had of such matter has been expunged. The respondent may answer any inquiry requiring a reference to an expunged matter by stating that the complaint was dismissed and thereafter expunged.

(3) Retention of records. Upon application to a Panel by the Director, for good cause shown and with notice to the respondent and opportunity to be heard, records which should otherwise be expunged under this rule may be retained for such additional time not exceeding five years as the Panel deems appropriate. The Director may, for good cause shown and with notice to the respondent and opportunity to be

heard, seek a further extension of the period for which
retention of the records is authorized whenever a previous
application has been granted for the maximum period (five
years) permitted hereunder.

LAWYERS PROFESSIONAL RESPONSIBILITY
BOARD

Dated: March 13, 1983 By Robert F. Henson
Robert F. Henson, Chairman
Attorney No. 44271

The Director of Lawyers Professional Responsibility hereby
joins in the above petition.

Dated: March 14, 1983 Michael J. Hoover
Michael J. Hoover
Director of Lawyers Professional
Responsibility
Attorney No. 47053
444 Lafayette Road - 4th Floor
St. Paul, MN 55101
(612) 296-3952