

FILED

November 18, 2016

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM 10-8043

**IN RE PETITION TO AMEND THE RULES
ON LAWYERS PROFESSIONAL RESPONSIBILITY****O R D E R**

On April 18, 2016, the Lawyers Professional Responsibility Board filed a petition proposing amendments to Rule 18, Rules on Lawyers Professional Responsibility (RLPR), to include procedures for proceedings held after a panel makes a recommendation on a petition for reinstatement to the practice of law. *See* Rule 18(c), RLPR (stating a panel may “conduct a hearing” and “shall make its recommendation” on a reinstatement petition). The Board’s petition noted the contrast between Rule 14(e), RLPR, which “provides detailed guidance to the parties about how to proceed” after a referee makes a recommendation on a petition for discipline, versus Rule 18, RLPR, which “contains no guidance” for post-panel proceedings on a petition for reinstatement. We opened a public comment period on the Board’s proposed amendments and received two written comments.

The first, from the Minnesota State Bar Association, supported the petition and the proposed amendments. The second, from attorney Eric Cooperstein, supported the petition and the proposed amendments with one exception. Cooperstein proposed that the deadline to order a transcript of the panel hearing in a reinstatement proceeding be 30 days after the panel’s recommendation is served on the petitioner, rather than 10 days as proposed in the Board’s petition. Cooperstein contends that the attorney requesting reinstatement needs

more time to decide whether to order a transcript and that differences between discipline and reinstatement proceedings justify a difference in the deadline to order a transcripts.

We have considered the Board's petition, the proposed amendments, and the written comments. The concerns Cooperstein identifies with respect to the deadline for ordering a transcript were fully considered by the court. The Board's objective in proposing amendments to Rule 18 was to obtain consistency with the current procedures for discipline proceedings, which we conclude is important both for clarity and to assist attorneys who practice in this area. We also believe that there are other ways to ensure that attorneys are fully aware of the deadline for ordering a transcript in reinstatement proceedings.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition to amend the Rules on Lawyers Professional Responsibility be, and the same is, granted. The Rules are amended as shown in the attachment to this order. The Rules as amended are prescribed and promulgated to be effective as of January 1, 2017, and shall apply to all proceedings pending on, or filed on or after, that date.

Dated: November 18, 2016

BY THE COURT



Lorie S. Gildea
Chief Justice

Amendments to the Rules on Lawyers Professional Responsibility

[Note: In the following amendments, deletions are indicated by a line drawn through the words, and additions are indicated by a line drawn under the words.]

Rule 18. Reinstatement

* * *

(c) **Recommendation.** The Panel may conduct a hearing and shall make its findings of fact, conclusions, and recommendations. The recommendation shall be served upon the petitioner and filed with this Court. Unless the petitioner or Director, within ten days of the date of service, orders a transcript and so notifies this Court, the findings of fact and conclusions shall be conclusive. If either the petitioner or the Director so orders a transcript, then none of the findings of fact or conclusions shall be conclusive, and either party may challenge any findings of fact or conclusions. A party ordering a transcript shall, within ten days of the date the transcript is ordered, file with the clerk of the appellate courts a certificate as to transcript signed by the court reporter. The certificate shall contain the date on which the transcript was ordered, the estimated completion date (which shall not exceed 30 days from the date the transcript was ordered), and a statement that satisfactory financial arrangements have been made for the transcription. A party ordering a transcript shall order and pay for an original transcript for the Court plus two copies, one for the petitioner and one for the Director. A party ordering a transcript shall specify in the initial brief to the Court the Panel's findings of fact, conclusions, and recommendations that are disputed.

(d) **Hearing Before Court.** There shall be a hearing before this Court on the petition unless otherwise ordered by this Court. Should this Court determine further consideration on the petition is necessary, this Court may appoint a referee. If a referee is appointed, and the same procedure shall be followed as under Rule 14, except subdivision (f) will not apply.