

STATE OF MINNESOTA

IN SUPREME COURT

C9-81-1206

OFFICE OF  
APPELLATE COURTS

MAR 10 2006

FILED

**ORDER FOR HEARING TO CONSIDER PROPOSED  
AMENDMENTS TO THE MINNESOTA RULES FOR  
REGISTRATION OF ATTORNEYS**

IT IS HEREBY ORDERED that a hearing be held before this Court in Courtroom 300 of the Minnesota Supreme Court, Minnesota Judicial Center, on May 23, 2006 at 9:00 a.m., to consider the petition of the Minnesota State Bar Association and the petition of the Clerk of Appellate Courts, the Board of Law Examiners, Board of Continuing Legal Education, and Office of Lawyers Professional Responsibility to amend the Minnesota Rules for Registration of Attorneys. Copies of the petitions and proposed amendments are annexed to this order.

IT IS FURTHER ORDERED that:

1. All persons, including members of the Bench and Bar, desiring to present written statements concerning the subject matter of this hearing, but who do not wish to make an oral presentation at the hearing, shall file 12 copies of such statement with Frederick Grittner, Clerk of the Appellate Courts, 305 Judicial Center, 25 Dr. Rev. Martin Luther King Jr. Boulevard, St. Paul, Minnesota 55155, on or before May 15, 2006, and
2. All persons desiring to make an oral presentation at the hearing shall file 12 copies of the material to be so presented with the Clerk of the Appellate Courts together with 12 copies of a request to make an oral presentation. Such statements and requests shall be filed on or before May 15, 2006.

Dated: March 9<sup>TH</sup> 2006

BY THE COURT:



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Russell A. Anderson  
Chief Justice

**STATE OF MINNESOTA  
IN SUPREME COURT  
NO. C9-81-1206**

In re:

Amendment to Minnesota Rules  
for Registration of Attorneys

**PETITION OF MINNESOTA STATE BAR ASSOCIATION**

TO THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:

Petitioner Minnesota State Bar Association (“MSBA”) respectfully asks this Court to adopt a new Rule 10 as part of its Rules of the Supreme Court for the Registration of Attorneys (“Registration Rules”). In support of this Petition, the MSBA would show the following:

1. Petitioner MSBA is a not-for-profit corporation of attorneys admitted to practice law before this Court and the lower courts throughout the State of Minnesota.
2. This Honorable Court has the exclusive and inherent power and duty to administer justice and to adopt rules of practice and procedure before the courts of this state and to establish the standards for regulating the legal profession and to establish mandatory ethical standards for the conduct of lawyers and judges. This power has been expressly recognized by the Minnesota Legislature. *See* MINN. STAT. § 480.05 (2004).
3. This Court adopted its Rules of the Supreme Court for the Registration of Attorneys on August 4, 1970, and has thereafter amended those rules from time to time.

4. In August 2004, the American Bar Association (“ABA”) adopted a Model Court Rule on Insurance Disclosure. The model rule was sponsored by the ABA Standing Committee on Client Protection. The ABA Committee’s report on the ABA model rule is attached hereto as Exhibit A. This report is also available at: [http://www.abanet.org/cpr/clientpro/malprac\\_disc\\_report.pdf](http://www.abanet.org/cpr/clientpro/malprac_disc_report.pdf). The Court may also find informative a chart prepared by the ABA showing the status of adoption of the ABA model rule in the various states; that chart may be found at: [http://www.abanet.org/cpr/clientpro/malprac\\_disc\\_chart.pdf](http://www.abanet.org/cpr/clientpro/malprac_disc_chart.pdf).

5. A joint subcommittee comprising five members of the Minnesota Lawyers Professional Responsibility Board Rules Committee and four members of the MSBA Rules of Professional Conduct Committee met several times to discuss the ABA model rule and reported its conclusion that the MSBA Rules of Professional Conduct Committee should propose to the MSBA Assembly that Minnesota should adopt a similar rule. A copy of the MSBA’s report is attached to this petition as Exhibit B.

6. At its meeting on June 17, 2005, the MSBA Assembly, after first amending the report by adding the word “substantial” before the last word of proposed Rule 10(A), adopted the MSBA Committee’s report, and approved a formal petition to this Court to adopt a rule to address disclosure of professional liability insurance.

7. The MSBA believes that Minnesota should adopt a rule requiring lawyers who represent private clients to report annually whether they carry professional liability insurance. The rule provides that this information shall be made available to the public by the Supreme Court, preferably on its web site. This information will be useful to

consumers of legal services in selecting an attorney. The MSBA recognizes that there are limitations to the usefulness of the information and believes that the public should also be informed of these limitations.

8. The MSBA believes that the required disclosure should be part of the attorney registration renewal form and that it is desirable to have the reporting form track the language of the rule and to keep the form as simple as possible. The form will also ask each attorney to identify his or her primary professional liability carrier in order to assist any verification of the form's information that may become necessary.

9. The MSBA also recommends that the Supreme Court should make the professional liability insurance information available to the public on its website together with an explanation that will make the information meaningful to potential clients. The website would indicate the limitations of professional liability insurance, explain the reasons why an attorney might not carry such insurance, and encourage potential clients to ask an attorney about malpractice insurance before engaging the attorney. The MSBA also believes that Supreme Court may wish to include links to other sites useful to a potential client seeking representation, such as sites for attorney referral services, pro bono legal service programs, the Office of Lawyers Professional Responsibility, and the Attorney General's Office.

10. Accordingly, the MSBA requests that this Court adopt a new Rule 10 as set forth below (because the rule is entirely new, no redlining is included):

1 **RULE 10. REPORTING PROFESSIONAL**  
2 **LIABILITY INSURANCE COVERAGE**  
3

4 A. Each lawyer admitted to the active practice of law shall certify to  
5 the Minnesota Supreme Court on the annual attorney registration form (1)  
6 whether the lawyer represents private clients; (2) if the lawyer represents  
7 private clients, whether the lawyer is currently covered by professional  
8 liability insurance; and (3) whether the lawyer intends to maintain  
9 insurance during the next twelve months. Each lawyer admitted to the  
10 active practice of law in this jurisdiction who reports being covered by  
11 professional liability insurance shall identify the primary carrier and shall  
12 notify the Minnesota Supreme Court Attorney Registration clerk in writing  
13 within 30 days if the insurance policy providing coverage lapses, is no  
14 longer in effect, or terminates for any reason, unless the policy is renewed  
15 or replaced without substantial interruption.

16 B. The Minnesota Supreme Court shall prescribe the form of  
17 certification. Notwithstanding anything to the contrary in Rule 9 of these  
18 rules, the information submitted pursuant to this rule will be made  
19 available to the public by such means as may be designated by the  
20 Minnesota Supreme Court.

21 C. Any lawyer admitted to the active practice of law who fails to  
22 comply with this rule by the date that the lawyer's registration fee is due  
23 may be suspended from the practice of law until such time as the lawyer  
24 complies. Supplying false information in response to this rule shall subject  
25 the lawyer to appropriate disciplinary action.

11. The MSBA further requests that the court confirm compliance with the rule by  
requiring registering lawyers to provide information in the following form:

26 **Do you represent private clients?\*** \_\_\_yes; \_\_\_no.

27 If so, are you covered by professional liability insurance? \_\_\_yes  
28 (Carrier \_\_\_\_\_); \_\_\_no.

29 If so, do you intend to maintain professional liability insurance during the  
30 next twelve months? \_\_\_yes; \_\_\_no.

31 \* For the purpose of this question, the clients of government lawyers and in-house  
32 counsel are not private clients.

12. Petitioner MSBA recommends that Supreme Court make available, as a part of its information about licensed attorneys, the information reported on the reporting form, together with explanatory language such as the following or other appropriate language:

33       **Does Your Lawyer Have Insurance?**

34       Many lawyers have malpractice insurance. It covers claims that a client  
35       was harmed by the lawyer's mistake. Lawyers are not required to have this  
36       insurance. Each year, lawyers in private practice must tell the Supreme  
37       Court if they have this insurance. Even if a lawyer buys this insurance,  
38       some claims are not covered. You should know these facts about lawyers'  
39       insurance:

40               1. Most malpractice policies cover only claims made during the  
41       policy term. You probably have car insurance. It covers you for accidents  
42       when the policy is in effect, even if the claim is made years later.  
43       Malpractice policies are different. If a client makes a claim after the policy  
44       ends, the claim is not covered. This is true even if the policy was in force  
45       when the claim arose or the loss happened.

46               2. Malpractice policies have limits and exclusions that may be  
47       important to you. Malpractice policies limit the amount paid on a single  
48       claim and on all claims made during the policy term. They may not cover  
49       some kinds of legal work. A lawyer who has insurance covering tax law  
50       may not be covered handling a divorce case.

51               3. Malpractice policies do not cover criminal acts. These policies  
52       cover only negligence. Negligence means failure to use ordinary care.  
53       This kind of insurance will not cover theft of money or property. Losses  
54       caused by dishonest lawyers may be covered by the Minnesota Client  
55       Security Board. Find out more at  
56       <http://www.courts.state.mn.us/csb/csb.html>.

57               4. The Court does not check on insurance policies. Lawyers report  
58       on their own policies. The Court does not check these reports. But a  
59       lawyer who makes a false report can be disciplined.

60               5. A lawyer may have a good reason for not having this insurance.  
61       If you have questions about a lawyer's insurance, ask the lawyer directly.  
62       The lawyer may be able to tell you why he or she does not carry insurance.

63 If the lawyer has insurance, ask if it covers the kind of work the lawyer will  
64 be doing for you.

For the foregoing reasons, Petitioner respectfully requests that the Court amend  
the Minnesota Rules of Professional Conduct by adopting proposed Rule 10.

Dated: July \_\_\_\_, 2005.

Respectfully submitted,

MINNESOTA STATE BAR ASSOCIATION

By \_\_\_\_\_  
Susan M. Holden (#189844)  
Its President

MASLON EDELMAN BORMAN & BRAND, LLP

By \_\_\_\_\_  
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3300 Wells Fargo Center  
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ATTORNEYS FOR PETITIONER  
MINNESOTA STATE BAR ASSOCIATION

## REPORT

Continuity of judicial regulation of the legal profession depends on action taken by the profession itself.  
*Robert B. McKay, 1990*

The ABA Standing Committee on Client Protection (“the Committee”) recommends that the American Bar Association adopt the *Model Court Rule on Insurance Disclosure* (“the Model Court Rule”).

### OVERVIEW

The ABA *Model Court Rule on Insurance Disclosure* requires lawyers to disclose on their annual registration statements whether they maintain professional liability insurance. The purpose of the Rule is to provide a potential client with access to relevant information related to a lawyer’s representation in order to make an informed decision about whether to retain a particular lawyer. The intended benefit of the Model Court Rule is to facilitate the client’s ability to determine whether a lawyer is insured. While the Model Court Rule does not require a lawyer to disclose directly to clients whether insurance is maintained or to maintain professional liability insurance, it does impose a modest annual reporting requirement on the lawyer. The information reported by lawyers will be made available by such means as designated by the highest court in the jurisdiction. While this information could be sought during the initial retention process, many clients are unsophisticated and may be reluctant to raise such issues.

Paragraph A of the Model Court Rule requires a lawyer to disclose on the annual registration statement whether professional liability insurance is maintained. Excluded from the Rule’s reporting requirement are those lawyers who are not engaged in the active practice of law and those who are engaged in the practice of law as full-time government lawyers or as counsel employed by an organizational client and do not represent clients outside that capacity. A lawyer who is employed to represent an organization on an ongoing basis generally represents a knowledgeable and sophisticated client. Additionally, organizational or governmental clients may have their own professional liability insurance policies.

Finally, Paragraph A places an affirmative duty upon lawyers to notify the highest court whenever the insurance policy covering the lawyer’s conduct lapses or is terminated. This ensures that the information reported to the highest court is accurate during the entire reporting period.

Paragraph B of the Model Court Rule requires lawyers to certify to the accuracy of the information reported. Paragraph B also requires that the information submitted by lawyers will be made available by such means as designated by the highest court. For example, in Nebraska and Virginia, information regarding a lawyer’s professional liability insurance is made available to a potential client if the client telephones the bar association and requests it. The information can also be accessed on the bars’ websites (See, [www.vsb.org](http://www.vsb.org), under the headings Public Information, Attorney Records Search, Attorneys without Malpractice Insurance). It was reported to the Committee that this Virginia Bar website receives 1250 visits per month.

Paragraph C of the Model Court Rule clarifies that failure or refusal to provide the required information would result in a lawyer's administrative suspension from the practice of law until such time as the lawyer complies with the Model Court Rule. The Committee is not recommending that a court amend its current Rules of Professional Conduct. Failure or refusal to make the required disclosure would, therefore, not be considered a disciplinary offense. Nevertheless, providing *false* information in response to the Model Court Rule would subject the lawyer to appropriate disciplinary action, pursuant to ABA *Model Rules of Professional Conduct*, Rule 8.4(c), that prohibits, "conduct involving dishonesty, fraud, deceit or misrepresentation."

## **INSURANCE REPORTING REQUIREMENTS IN UNITED STATES JURISDICTIONS**

To date, ten jurisdictions have addressed the issue of reporting the maintenance of professional liability insurance. The highest courts in five jurisdictions, Delaware, Nebraska, North Carolina, Michigan and Virginia, require lawyers to disclose on their annual registration statements whether they maintain professional liability insurance. The Committee's proposed Model Court Rule is patterned after the reporting requirements in these jurisdictions.

The highest courts in four other jurisdictions, Alaska, New Hampshire, Ohio and South Dakota, have amended their Rules of Professional Conduct to require lawyers to disclose directly to their clients whether they maintain professional liability insurance. The Rule in South Dakota, effective January 1, 1999, is the most comprehensive.<sup>1</sup>

In addition, the Oregon Supreme Court, while not having a disclosure rule *per se*, mandates professional liability insurance as a condition precedent to practicing law.

## **EXISTING ABA POLICIES**

On three previous occasions, the American Bar Association has adopted policies requiring lawyers in some circumstances to maintain professional liability insurance. In August 1989, the ABA House of Delegates adopted *Minimum Quality Standards* for lawyer referral services. The minimum standards were adopted as client protection measures. One of the standards is that participating lawyers maintain malpractice insurance coverage.

In August 1992, the ABA House of Delegates adopted *Model Supreme Court Rules Governing Lawyer Referral And Information Services*. Rule 4 of the *Model Rules* requires that in order for a lawyer to participate in the service, the lawyer shall maintain in force a policy of errors and

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<sup>1</sup> Rule 1.4 of the South Dakota Rules of Professional Conduct requires South Dakota lawyers to promptly disclose to their clients if they do not maintain professional liability insurance with limits of at least \$100,000, or if during the course of the representation, the insurance policy lapses or is terminated, lawyers shall disclose to their clients by including a component of the lawyers' letterhead, using the following specific language, either that: (1) "This lawyer is not covered by professional liability insurance;" or (2) "This firm is not covered by professional liability insurance." The required disclosure is to be included in every written communication with clients. Rule 7.5 (Firm Names and Letterheads) of the South Dakota Rules of Professional Conduct provides that the disclosure *shall be in black ink with type no smaller than the type used for showing the individual lawyer's names*

omissions insurance, or provide proof of financial responsibility, in an amount at least equal to the minimum established by the Committee that oversees the service. The Comment to Model Rule 4 states that the intent of the insurance requirement is to ensure that, in the event errors are made by the participating lawyer, the client has redress through the lawyer's policy of insurance. The requirement is contained in the *ABA Minimum Quality Standards* for lawyer referral services (*See above.*). The Comment notes, that only by requiring such insurance, or a showing of financial responsibility, can a client best be protected. In states where lawyer referral services are not immune from lawsuits for negligent referral, this requirement will help protect the lawyer referral service from such suits; in states where such immunity exists, it ensures that a client may find redress against the principal negligent party, the lawyer.

In August 1993, the ABA House of Delegates adopted the *ABA Model Rule for the Licensing of Legal Consultants*. The Model Rule sets forth the requirements for a foreign lawyer to practice law as a foreign legal consultant in the United States on a permanent basis. The Model Rule requires that foreign legal consultants maintain professional liability insurance.

#### **THE PROPOSED MODEL COURT RULE ON INSURANCE DISCLOSURE**

The Model Court Rule properly places the burden for reporting the maintenance of insurance on the lawyer. Potential clients should not be required to inquire of a lawyer if professional liability insurance is maintained. Many unsophisticated clients either assume that a lawyer is required to provide malpractice insurance or do not even think to inquire if they lawyer is covered.<sup>2</sup> The proposed Model Court Rule would provide potential clients with the ability to independently determine whether a lawyer maintains professional liability insurance. The Model Court Rule is a balanced standard that allows potential clients to obtain relevant information about a lawyer if they initiate an inquiry, while placing a modest annual reporting requirement on lawyers.

Lawyers in the United States, except in Oregon, are not required to maintain professional liability insurance. While clients have the right to hire lawyers who do not maintain professional liability insurance, those who do so will likely have no avenue of financial redress if the lawyer commits an act of negligence. Lawyer disciplinary proceedings primarily offer prospective protection to the public. They either remove lawyers from practice or seek to change the lawyers' future conduct. Protection of clients already harmed is minimal. While lawyer-respondents are sometimes ordered to pay restitution in disciplinary cases, in many jurisdictions the failure of lawyers to make restitution ordered in disciplinary proceedings will not bar subsequent readmission to practice. Clients can also seek restitution from client protection funds when dishonest conduct is involved. Client protection funds are an innovation of the legal profession unmatched by any other profession. Unfortunately, the ability of client protection funds to compensate clients is limited. Restitution is generally available only when a lawyer has misappropriated client funds. Legal malpractice claims are the only manner by which clients can seek redress for acts of negligence. Prospective clients should have the right to decide

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<sup>2</sup> A Minnesota lawyer reported to the Committee that based upon his experience in handling legal malpractice actions since 1996, it is a foregone conclusion that every consumer of legal services in the State of Minnesota presumes that the lawyer they hire is insured. He further stated that it is also a given that virtually none of the consumers of legal services ever ask or receive any confirmation as to the insurance status of their lawyer at the time of retention.

whether they want to hire lawyers who do not maintain liability insurance. The Model Court Rule offers the prospective client the ability to make an informed decision.

Lawyers who lack insurance are not immune from malpractice liability. Claims against uninsured lawyers are often abandoned, precisely because there is no available insurance. Plaintiff's counsel know that in evaluating whether to file such a claim, a threshold issue is whether the lawyer is insured. If the claim for damages is modest, many plaintiff's legal malpractice lawyers will elect not to file suit because the risk that any judgment will prove to be uncollectible, in light of how difficult these claims are in other respects, simply makes such claims not worth pursuing. The data on malpractice claims reported by the ABA Standing Committee on Lawyers' Professional Liability is incomplete since potential claims not pursued due to a lack of insurance are not factored.<sup>3</sup>

Malpractice insurance is not a panacea for injuries caused by lawyer negligence. Nevertheless, whether a lawyer maintains professional liability insurance is a material fact that potential clients should have a right to know in retaining counsel. Professional liability insurance does ensure that a client *may* find financial redress against the principal negligent party, their lawyer. The proposed Model Court Rule provides the public with access to relevant information; it does not mandate that lawyers maintain malpractice insurance. The Model Court Rule incorporates a provision requiring an entity designated by the highest court to make the reported information available to the public. The information would presumably be available by telephone, or preferably, by Internet access.

The bar or the lawyer regulatory agency should also inform the public of the limits on the usefulness of this information, e.g., that most policies are "claims made" policies and that policies generally do not cover dishonesty or other intentional acts. Given the nature of claims-made coverage, it is possible that the insurance policy a lawyer has in place at the time when a prospective client is likely to inquire about it, may have lapsed at the time a claim for legal malpractice is made. Most lawyers will probably purchase "tail" coverage to protect themselves from this situation but the public should be made aware of the unique nature of professional liability insurance. The Committee was advised that the experience in Alaska has been that most lawyers who have malpractice insurance today will most likely have it in the future and that, therefore, the value of making the information available to the public outweighed its potential to be misleading by the fact that the policy had lapsed by the time a claim was made.

The Committee recommends that each jurisdiction adopting the Model Court Rule decide if it wants to include, in its version of the Rule, minimum limits of professional liability coverage. Alaska, New Hampshire and Ohio require lawyers to disclose to their clients if the lawyer does not maintain a policy with limits of at least \$100,000 per claim and \$300,000 annual aggregate.<sup>4</sup>

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<sup>3</sup> Data has been collected on legal malpractice claims from the National Association of Bar-Related Insurance Companies and commercial insurers for the period January 1, 1996 through December 31, 1999. During that period, there were reported to be 36,844 legal malpractice claims nationally. This data did not cover the entire lawyer population: a significant percentage of practicing lawyers have no malpractice coverage and not all U.S. malpractice insurers provided data. *Profile of Legal Malpractice Claims, 1996-1999*, American Bar Association, Standing Committee on Lawyers' Professional Liability.

<sup>4</sup> Alaska Court Rules, Rule 1.4 (c), Alaska Rules of Professional Conduct; Rule 1.17, New Hampshire Rules of Professional Conduct; and Ohio Rules of Court, Code of Professional Responsibility, DR 1-104.

South Dakota requires its lawyers to disclose to their clients if the lawyer does not maintain a policy with limits of at least \$100,000.<sup>5</sup> The Committee was also advised that a professional liability insurance policy with limits of liability of \$200,000/600,000 is the smallest policy limit now offered by Minnesota Lawyers Mutual, the largest legal malpractice insurer in Minnesota.<sup>6</sup>

## **CONCLUSION**

The *Model Court Rule on Insurance Disclosure* would reduce potential public harm by giving consumers of legal services an opportunity to decline to hire a lawyer who does not maintain professional liability insurance. Under this Model Court Rule, a lawyer would inform the highest court in the jurisdiction, or designated entity, whether insurance is maintained. The court would make this information available to the public. During the reporting year, if the policy is terminated or modified, the lawyer would be required to inform the court. The ultimate decision whether or not to maintain professional liability insurance remains with lawyers.

Robert D. Welden, Chair  
Standing Committee on Client Protection  
August 2004

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<sup>5</sup> South Dakota Rules of Professional Conduct, Rule 1.4.

<sup>6</sup> Letter dated February 27, 2004, to the Committee from the Minnesota State Bar Association Rules of Professional Conduct Committee.

"No resolution presented herein reflects the policy of the Minnesota State Bar Association until approved by the Assembly. Informational reports, comments, and supporting data are not approved by their acceptance for filing and do not become part of the policy of the Minnesota State Bar Association unless specifically approved by the Assembly."

**Report and Recommendation to the MSBA**  
**Regarding the Reporting of Professional Liability Insurance Coverage**  
**MSBA Rules of Professional Conduct Committee**  
**April 20, 2005**

**RECOMMENDATIONS**

RESOLVED that the Minnesota State Bar Association petition the Minnesota Supreme Court to adopt proposed Rule 10 of the Minnesota Rules on Registration of Attorneys in the form attached hereto and recommend to the Court that it adopt the proposed reporting form that follows the proposed rule and that it make the information available to the public with explanatory language such as that described below or other appropriate language.

**REPORT**

In August 2004, the ABA adopted a Model Court Rule on Insurance Disclosure. The model rule was sponsored by the ABA Standing Committee on Client Protection.

A joint subcommittee consisting of the five members of the Lawyers Professional Responsibility Board Rules Committee and four members of the MSBA Rules of Professional Conduct Committee met several times to discuss the ABA model rule and reported its conclusion that the MSBA Rules of Professional Conduct Committee should propose to the Assembly that Minnesota should adopt a similar rule.

**Proposed Rule 10.** The committee believes that Minnesota should adopt a rule requiring lawyers who represent private clients to report annually whether they carry professional liability insurance. The rule provides that this information shall be made available to the public by the Supreme Court, preferably on its web site. The committee believes that this information will be useful to consumers of legal services in selecting an attorney. The committee recognizes that there are limitations to the usefulness of the information and believes that the public should be informed of these limitations.

**Reporting Form.** The committee believes that the required disclosure should be part of the attorney registration renewal form. The Committee believes it is desirable to have the reporting form track the language of the rule and to keep the form as simple as possible. The form will also ask each attorney to identify his or her primary

**EXHIBIT B**

professional liability carrier in order to assist any verification of the form's information that may become necessary.

**Making Information Available to the Public.** The committee recommends that the Supreme Court should make the professional liability insurance information available to the public on its website together with an explanation that will make the information meaningful to potential clients. The website would indicate the limitations of professional liability insurance, explain the reasons why an attorney might not carry such insurance, and encourage potential clients to ask an attorney about malpractice insurance before engaging the attorney. The Supreme Court might wish to include links to other sites useful to a potential client seeking representation, such as sites for attorney referral services, pro bono legal service programs, the Office of Lawyers Professional Responsibility, and the Attorney General's Office.

## PROPOSED RULE

### RULE 10. REPORTING PROFESSIONAL LIABILITY INSURANCE COVERAGE

- A. Each lawyer admitted to the active practice of law shall certify to the Minnesota Supreme Court on the annual attorney registration form (1) whether the lawyer represents private clients; (2) if the lawyer represents private clients, whether the lawyer is currently covered by professional liability insurance; and (3) whether the lawyer intends to maintain insurance during the next twelve months. Each lawyer admitted to the active practice of law in this jurisdiction who reports being covered by professional liability insurance shall identify the primary carrier and shall notify the Minnesota Supreme Court Attorney Registration clerk in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without substantial interruption.

B. The Minnesota Supreme Court shall prescribe the form of certification.

Notwithstanding anything to the contrary in Rule 9 of these rules, the information submitted pursuant to this rule will be made available to the public by such means as may be designated by the Minnesota Supreme Court.

C. Any lawyer admitted to the active practice of law who fails to comply with this rule by the date that the lawyer's registration fee is due may be suspended from the practice of law until such time as the lawyer complies. Supplying false information in response to this rule shall subject the lawyer to appropriate disciplinary action.

**Reporting Form.** The MSBA further recommends to the Supreme Court the following language as a form that might be used to establish compliance with the proposed rule:

Do you represent private clients?\*  yes;  no.

If so, are you covered by professional liability insurance?  yes (Carrier \_\_\_\_\_);  no.

If so, do you intend to maintain professional liability insurance during the next twelve months?  yes;  no.

\* For the purpose of this question, the clients of government lawyers and in-house counsel are not private clients

**Proposed Means for Making Information Available to the Public.** The MSBA recommends that Supreme Court make available, as a part of its information about licensed attorneys, the information reported on the reporting form, together with explanatory language such as the following or other appropriate language:

#### **Does Your Lawyer Have Insurance?**

Many lawyers have malpractice insurance. It covers claims that a client was harmed by the lawyer's mistake. Lawyers are not required to have this insurance. Each year, lawyers in private practice must tell the Supreme Court if they have this insurance. Even if a lawyer buys this

insurance, some claims are not covered. You should know these facts about lawyers' insurance:

1. **Most malpractice policies cover only claims made during the policy term.** You probably have car insurance. It covers you for accidents when the policy is in effect, even if the claim is made years later. Malpractice policies are different. If a client makes a claim after the policy ends, the claim is not covered. This is true even if the policy was in force when the claim arose or the loss happened.

2. **Malpractice policies have limits and exclusions that may be important to you.** Malpractice policies limit the amount paid on a single claim and on all claims made during the policy term. They may not cover some kinds of legal work. A lawyer who has insurance covering tax law may not be covered handling a divorce case.

3. **Malpractice policies do not cover criminal acts.** These policies cover only negligence. Negligence means failure to use ordinary care. This kind of insurance will not cover theft of money or property. Losses caused by dishonest lawyers may be covered by the Minnesota Client Security Board. Find out more at <http://www.courts.state.mn.us/csb/csb.html>.

4. **The Court does not check on insurance policies.** Lawyers report on their own policies. The Court does not check these reports. But a lawyer who makes a false report can be disciplined.

5. **A lawyer may have a good reason for not having this insurance.** If you have questions about a lawyer's insurance, ask the lawyer directly. The lawyer may be able to tell you why he or she does not carry insurance. If the lawyer has insurance, ask if it covers the kind of work the lawyer will be doing for you.

## ANALYSIS

The proposed rule generally follows the ABA Model Court Rule on Insurance Disclosure. The following shows how the proposed Minnesota rule 10 varies from the ABA model rule:

A. Each lawyer admitted to the active practice of law shall certify to the ~~[highest court of the jurisdiction]~~ on or before ~~[December 31 of each year]~~; Minnesota Supreme Court on the annual attorney registration form (1) whether the lawyer ~~is engaged in the private practice of law~~ represents private clients; (2) ~~if engaged in the private practice of law if the lawyer represents private clients~~, whether the lawyer is currently covered by professional liability insurance; and (3) whether the lawyer intends to maintain insurance during the next twelve months period of time the lawyer is engaged in the private practice of law; and 4) whether the lawyer is exempt from the provisions of this Rule because the lawyer is engaged in the practice of law as a full-time government lawyer or is counsel employed by an organizational client and does not represent clients outside that capacity. Each lawyer admitted to the active practice of law in this jurisdiction who reports being covered by professional liability insurance shall identify the primary carrier and shall notify the ~~[highest court of the jurisdiction]~~ Minnesota Supreme Court Attorney Registration clerk in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without interruption.

B. The foregoing shall be certified by each lawyer admitted to the active practice of law in this jurisdiction in such form as may be prescribed by the ~~[highest court of the jurisdiction]~~. The Minnesota Supreme Court shall prescribe the form of certification. Notwithstanding anything to the contrary in Rule 9 of these rules, the information submitted pursuant to this rule will be made available to the public by such means as may be designated by the [highest court of the jurisdiction] Minnesota Supreme Court.

C. Any lawyer admitted to the active practice of law who fails to comply with this rule by the date that the lawyer's registration fee is due in a timely fashion, as defined by the [highest court of the jurisdiction] may be suspended from the practice of law until such time as the lawyer complies. Supplying false information in response to this rule shall subject the lawyer to appropriate disciplinary action.

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The proposed explanatory language that the Court may wish to include on its website has a Flesch-Kinkaid Readability Grade Level of 7.8, which means that a person with 7.8 years of education should be able to read and comprehend it. The Flesch test measures readability by creating a score that factors in word length, words per sentence, sentences per paragraph, and percentage of sentences using the passive voice. Minnesota law requires that materials prepared for public distribution by the Department of Health and the Department of Human Services be written at the seventh

grade level as measured by the Flesch test. *See* Minn. Stat. §§ 144.056, 256.016 (2004). The committee concluded that the proposed explanatory language should meet that standard, although the substance is similar to that in language proposed by the ABA Client Protection Committee (which scores 9.3 on the Flesch scale) and the North Carolina Bar Association (which scores 12.0 on the Flesch scale).

Respectfully submitted,

MSBA Rules of Professional Conduct Committee  
Kenneth F. Kirwin, Chair

FILE NO. C9-81-1206

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition to Amend the Minnesota  
Rules on Registration of Attorneys

PETITION OF THE CLERK OF THE APPELLATE COURTS  
TO AMEND THE MINNESOTA RULES ON REGISTRATION OF ATTORNEYS

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OFFICE OF  
APPELLATE COURTS

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FILED

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition to Amend the Minnesota  
Rules on Registration of Attorneys.  
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**PETITION OF THE CLERK  
OF THE APPELLATE COURTS  
TO AMEND THE MINNESOTA  
RULES ON REGISTRATION  
OF ATTORNEYS**

TO: THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE  
STATE OF MINNESOTA:

Petitioner Clerk of the Appellate Courts (Clerk), joined by the Director of the Minnesota Board of Law Examiners (BLE) and the Board of Continuing Legal Education (CLE) and the Acting Director of the Office of Lawyers Professional Responsibility (OLPR), respectfully petitions this Court to amend the Rules on Registration of Attorneys as set forth below.

In support of this petition, petitioner would show the following:

1. This Court has the exclusive and inherent power and duty to administer justice and adopt rules of practice and procedure before the courts of this state, to establish standards for regulating the legal profession, and to establish standards for the admittance of lawyers admitted to practice in this state. This power has been expressly recognized by the Legislature. *See* Minn. Stat. § 480.05.

2. This Court adopted the Rules on Registration of Attorneys (the "Rules") to establish standards for the annual registration of lawyers licensed

in the State of Minnesota to practice law. The Rules have been amended from time-to-time.

3. Petitioner is responsible for the administration of the annual registration of lawyers.

4. In the fall of 2002 petitioner and directors of the BLE, CLE and the OLPR established a committee to study the Rules and recommend appropriate amendments to the Rules.

5. Petitioner and representatives of the BLE, CLE and OLPR have reviewed the Rules with the intention of updating terminology, making the Rules consistent with software upgrades in the Clerk's database, and allowing lawyers to remain in good standing while choosing to be on inactive status and pay a reduced annual registration fee.

6. The proposed Rules contain the principal changes set forth below.

7. A definitions section has been added to identify and clarify important terminology.

8. Currently, the Rules provide that the processing of annual registrations is done by the Clerk of the Appellate Courts. The proposed Rules refer to these functions of the Clerk as functions of a Lawyer Registration Office. This office will remain located in the Clerk's office.

9. The proposed Rules expressly define and state the criteria for a lawyer to be on "active," "inactive" or "non-compliant" status.

10. The proposed Rules permit lawyers to elect to be on "inactive" status and still remain in good standing. Currently, only lawyers who are disabled or retired may be on inactive status. These lawyers remain in good

standing and do not pay an annual registration fee. However, the proposed Rules allow all lawyers in good standing to elect to be on inactive status, pay a reduced fee and remain in good standing.

11. Retired status is amended to include, among other provisions, a requirement that the lawyer be at least 62 years of age and in good standing.

12. Disability status is amended to include, among other provisions, a requirement that the lawyer be in good standing.

13. The proposed Rules allow lawyers and judges electing retired status or disability status to file a one-time affidavit.

14. The newly created inactive status has a proposed fee of \$179, which is allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$83 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$50 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

15. Currently, lawyers who neither reside nor practice in Minnesota may pay a registration fee of \$107 and are on inactive status. Under the proposed Rules, both in-state and out-of-state lawyers who wish to be on inactive status will pay a registration fee of \$179.

16. The proposed Rules allow the Lawyer Registration Office to charge \$25 to issue a certificate of good standing. This fee is designed to allow

the Lawyer Registration Office to recoup costs of providing this documentation. The proposed Rules also increase the late penalty from \$50 to \$75. The late penalty has not changed since July 1, 1990.

17. All other current fees, and allocation of fees, remain the same.

18. Currently, out-of-state lawyers can choose non-resident status and pay less than half the fee of active status lawyers who reside in Minnesota. The proposed Rules eliminate fee distinctions based on residence.

19. The proposed Rules clarify that a lawyer shall be automatically suspended for failing to comply with all registration requirements, including but not limited to payment of the annual registration fee. This suspension is automatic and does not require a due process hearing.

20. Reinstatement of the suspended lawyer will continue to be handled administratively, without requiring an order of the Court, upon payment of the required fee and compliance with all other required conditions.

21. The proposed inactive statuses may have an impact on revenue, but the precise impact is unknown at this time. Therefore, petitioner intends, together with the directors of the BLE, CLE and OLPR to review the revenue impact after one year of implementation and determine what, if any, modifications may be necessary.

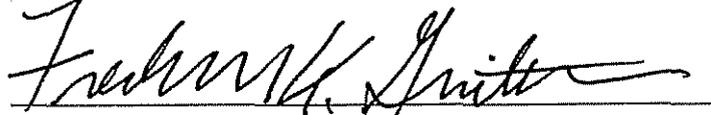
22. A proposed effective date for these proposed Rules is October 1, 2006.

For the foregoing reasons, petitioner respectfully requests that the Court amend the Rules on Registration of Attorneys as set forth in and as attached to

this petition as Appendix A. (Attached as Appendix B is a redlined version of the proposed Rules.)

Dated: MARCH 7, 2006.

Respectfully submitted,



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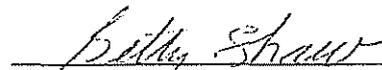
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## The Minnesota Rules on Lawyer Registration

### PREAMBLE

Admission to the bar of the State of Minnesota, disciplinary proceedings, and continuing legal education for members of the legal profession shall be conducted in accordance with rules promulgated by this court.

### RULE 1. DEFINITIONS

A. “Active Status” means a lawyer or judge who (i) has paid the applicable required lawyer registration fee for the current year, (ii) is in compliance with the requirements of the Minnesota State Board of Continuing Legal Education or of continuing judicial education, (iii) is not disbarred, suspended or on permanent disability status pursuant to Rule 28 of the Rules on Lawyers Professional Responsibility, and (iv) is in compliance with Rule 1.15(i), Minnesota Rules of Professional Conduct (MRPC). A lawyer or judge on active status is in good standing and is authorized to practice law in this state.

B. “Inactive Status” means a lawyer or judge who has elected to be on inactive status pursuant to Rule 2C1, 2C2, 2C3 or 2C4 of these Rules and who meets the criteria set forth in subparts (ii) through (iv) in the definition of Active Status, above. A lawyer or judge on inactive status is in good standing but is not authorized to practice law in this state.

C. “Judge” means any judicial officer, referee or other hearing officer employed in the judicial branch of the State of Minnesota.

D. “Lawyer” means a person admitted to practice law in this state pursuant to the Rules for Admission to the Bar.

E. “Lawyer Registration Statement” means a document prepared by the Lawyer Registration Office that informs a lawyer or judge of the lawyer registration fee

due and on which the lawyer or judge can certify the lawyer or judge's status and compliance with Rule 1.15(i), MRPC.

F. **"Non-Compliant Status"** means a lawyer or judge who has not met all the criteria to be on Active Status or Inactive Status. A lawyer or judge who is on non-compliant status is not in good standing and is not authorized to practice law in this state.

## **RULE 2. REGISTRATION FEE**

### **A. Required Fee.**

In order to defray the expenses of examinations and investigation for admission to the bar and disciplinary proceedings, to defray expenses of administering continuing legal education, to provide an adequate client security fund, to help fund legal services programs and to help fund a lawyers assistance program, each lawyer admitted to practice law in this state and each judge must pay to the Lawyer Registration Office an annual registration fee.

### **B. Active Status.**

Each lawyer and judge must pay an annual registration fee of \$218 or such lesser sum as is set forth in the following sections.

#### **1. Active Status - Income Less Than \$25,000.**

A lawyer or judge on active status who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$193.

#### **2. Active Status - Lawyers on Fulltime Military Duty.**

A lawyer or judge on fulltime duty in the armed forces of the United States shall pay an annual registration fee of \$107.

**3. Active Status - Lawyers on Fulltime Military Duty - Income Less Than \$25,000.**

A lawyer or judge on fulltime duty in the armed forces of the United States who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year, shall pay an annual registration fee of \$82.

**4. Active Status - Lawyers Admitted Fewer Than Three Years.**

A lawyer or judge who has been admitted to practice law in Minnesota or in any other jurisdiction fewer than three years shall pay an annual registration fee of \$97.

**5. Active Status - Lawyers Admitted Fewer Than Three Years - Income Less Than \$25,000.**

A lawyer or judge who has been admitted to practice law in Minnesota or in any other jurisdiction fewer than three years who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year shall pay an annual registration fee of \$84.50.

**C. Inactive Statuses.**

**1. Inactive Status - Out-of-State.**

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that (i) the lawyer is a permanent resident of a state other than Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state and (iv) is not engaged in the practice of law in this state, shall pay an annual registration fee of \$179.

**2. Inactive Status - Minnesota.**

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer (i) is a resident of the State of Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in

this state and (iv) is not engaged in the practice of law in this state, shall pay an annual registration fee of \$179.

**3. Inactive - Retired Status.**

A lawyer or judge who files with the Lawyer Registration Office a Retirement Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, (iv) is at least 62 years of age and (v) is retired from any gainful employment, is exempt from payment of any registration fee during the period of the lawyer's or judge's retirement. A Retirement Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C5 of this Rule.

**4. Permanent Disability Status.**

A lawyer or judge who files with the Lawyer Registration Office a Disability Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state and (iv) is totally disabled, is exempt from payment of any registration fee during the period of the lawyer's or judge's disability. A Disability Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C5 of this Rule.

**5. Transfer from Inactive Status to Active Status.**

A lawyer or judge who is on inactive status must, prior to practicing law or assuming judicial responsibilities, (i) promptly notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay the applicable registration fee, (iv) complete all continuing legal education (CLE) requirements and be transferred to CLE active status, and (v) comply with Rule 1.15(i), MRPC.

**D. Allocation of Fees.**

Fees paid pursuant to this rule are allocated according to the following schedule:

- (1) Payments of \$218 are allocated as follows:
  - \$18 to the State Board of Law Examiners;
  - \$8 to the State Board of Continuing Legal Education;
  - \$122 to the Lawyers Professional Responsibility Board;
  - \$12 to the Client Security Fund;
  - \$50 to the Legal Services Advisory Committee; and
  - \$8 to the Lawyer Trust Account Board for a lawyers assistance program.
  
- (2) Payments of \$193 are allocated as follows:
  - \$18 to the State Board of Law Examiners;
  - \$8 to the State Board of Continuing Legal Education;
  - \$122 to the Lawyers Professional Responsibility Board;
  - \$12 to the Client Security Fund;
  - \$25 to the Legal Services Advisory Committee; and
  - \$8 to the Lawyer Trust Account Board for a lawyers assistance program.
  
- (3) Payments of \$179 are allocated as follows:
  - \$18 to the State Board of Law Examiners;
  - \$8 to the State Board of Continuing Legal Education;
  - \$83 to the Lawyers Professional Responsibility Board;
  - \$12 to the Client Security Fund;
  - \$50 to the Legal Services Advisory Committee; and
  - \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

- (4) Payments of \$107 are allocated as follows:
- \$18 to the State Board of Law Examiners;
  - \$7 to the State Board of Continuing Legal Education;
  - \$24 to the Lawyers Professional Responsibility Board;
  - \$50 to the Legal Services Advisory Committee; and
  - \$8 to the Lawyer Trust Account Board for a lawyers assistance program.
- (5) Payments of \$82 are allocated as follows:
- \$18 to the State Board of Law Examiners;
  - \$7 to the State Board of Continuing Legal Education;
  - \$24 to the Lawyers Professional Responsibility Board;
  - \$25 to the Legal Services Advisory Committee; and
  - \$8 to the Lawyer Trust Account Board for a lawyers assistance program.
- (6) Payments of \$97 are allocated as follows:
- \$18 to the State Board of Law Examiners;
  - \$8 to the State Board of Continuing Legal Education;
  - \$26 to the Lawyers Professional Responsibility Board;
  - \$12 to the Client Security Fund;
  - \$25 to the Legal Services Advisory Committee; and
  - \$8 to the Lawyer Trust Account Board for a lawyers assistance program.
- (7) Payments of \$84.50 are allocated as follows:
- \$18 to the State Board of Law Examiners;
  - \$8 to the State Board of Continuing Legal Education;
  - \$26 to the Lawyers Professional Responsibility Board;
  - \$12 to the Client Security Fund;

- \$12.50 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

**E. Due Date.**

Fees under this Rule are due and payable on or before the first day of January, April, July or October of each year as requested by the Lawyer Registration Office.

**F. Notification of Fee Due.**

The Lawyer Registration Office must, annually one month prior to the date due, mail a lawyer registration statement to each lawyer and judge then in good standing except those who have elected inactive retired status pursuant to section C3, above, or inactive disability status pursuant to section C4, above. A lawyer registration statement must be mailed to the lawyer's or judge's address on file with the Lawyer Registration Office. Failure to receive a Lawyer Registration notice shall not excuse payment of the fee.

**G. Obligation to Notify of Address Change.**

Every lawyer or judge must immediately notify the Lawyer Registration Office of any change of address.

**H. Penalty for Failure to Comply - Non-Compliant Status - Administrative Suspension.**

A lawyer or judge who fails to meet all of the criteria to be on either active or inactive status is placed on non-compliant status and the right to practice law in this state is automatically suspended. A lawyer or judge on non-compliant status is not in good standing. A lawyer or judge on non-compliant status must not practice law in this state, must not hold out himself or herself as authorized to practice or in any manner represent that he or she is qualified or authorized to practice law while on non-compliant status. Any lawyer or judge who violates this rule is subject to all the penalties and remedies provided by law for the unauthorized practice of law in the

State of Minnesota. It is the duty of each judge to enjoin persons who are not on active status from appearing and practicing law in that judge's court.

**I. Reinstatement.**

A lawyer or judge who is on non-compliant status, who seeks to be reinstated to active status or inactive status, must (i) notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay all delinquent registration fees, (iv) pay the applicable registration fee for the current year, (v) pay a late penalty of \$75, (vi) complete all CLE requirements and be transferred to CLE active status, and (vii) comply with Rule 1.15(i), MRPC. The Lawyer Registration Office may, in hardship cases, waive payment of delinquent lawyer registration fees and late penalties. All late penalty payments are allocated to the Lawyer Registration Office to defray registration costs.

**RULE 3. LICENSE**

A. Upon payment of the lawyer registration fee, the Lawyer Registration Office must issue and mail to the lawyer or judge a license card showing the license status of the lawyer or judge.

B. Upon request and the payment of a fee of \$25, the Lawyer Registration Office must provide to any lawyer or judge a certificate of active status and good standing, provided the lawyer or judge is entitled to the same.

**RULE 4. SPECIAL FUND**

All money collected from applicants for admission to the bar or as an annual registration fee or as payment for a certificate of active status and good standing as provided herein shall be deposited in a special fund, as desired by this court, and shall be disbursed therefrom only upon vouchers signed by a member of this court.

## **RULE 5. NONRESIDENT COUNSEL**

Nothing herein shall prevent any court in this state from granting special permission to nonresident counsel to appear and participate in a particular action or proceeding in association with an authorized lawyer of this state.

## **RULE 6. [RESERVED FOR FUTURE USE]**

## **RULE 7. ACCESS TO LAWYER REGISTRATION RECORDS**

Lawyer registration records are accessible only as provided in this rule.

**A. Public Inquiry Concerning Specific Lawyer.** Upon inquiry, the Lawyer Registration Office may disclose to the public the name, address, admission date, continuing legal education category, current status, and license number of a registered lawyer or judge, provided that each inquiry and disclosure is limited to a single registered lawyer or judge.

**B. Publicly Available List.** The Lawyer Registration Office may also disclose to the public a complete list of the name, city, and zip code of all registered lawyers and judges.

**C. Lists Available to Continuing Legal Education Providers and the Courts.** Upon written request and payment of the required fee, the Lawyer Registration Office may disclose to a bona fide continuing legal education business a complete list of the name, address, admission date, continuing legal education category, current status, and license number of all registered lawyers and judges. The Lawyer Registration Office may also disclose the same information to a court or judicial district solely for use in updating mailing addresses of lawyers and judges to be included in a judicial evaluation program.

**D. Trust Account Information.** Trust account information submitted by lawyers and judges as part of the lawyer registration process is not accessible to the public except as provided in the Rules of Lawyer Trust Account Board.

## The Minnesota Rules on Lawyer Registration

### RULE 1. PROMULGATION OF RULES PREAMBLE

Admission to the bar of the State of Minnesota, disciplinary proceedings, and continuing legal education for members of the legal profession shall be conducted in accordance ~~to~~ with rules promulgated by this court.

### RULE 1. DEFINITIONS

A. “Active Status” means a lawyer or judge who (i) has paid the applicable required lawyer registration fee for the current year, (ii) is in compliance with the requirements of the Minnesota State Board of Continuing Legal Education or of continuing judicial education, (iii) is not disbarred, suspended or on permanent disability status pursuant to Rule 28 of the Rules on Lawyers Professional Responsibility, and (iv) is in compliance with Rule 1.15(i), Minnesota Rules of Professional Conduct (MRPC). A lawyer or judge on active status is in good standing and is authorized to practice law in this state.

B. “Inactive Status” means a lawyer or judge who has elected to be on inactive status pursuant to Rule 2C1, 2C2, 2C3 or 2C4 of these Rules and who meets the criteria set forth in subparts (ii) through (iv) in the definition of Active Status, above. A lawyer or judge on inactive status is in good standing but is not authorized to practice law in this state.

C. “Judge” means any judicial officer, referee or other hearing officer employed in the judicial branch of the State of Minnesota.

D. “Lawyer” means a person admitted to practice law in this state pursuant to the Rules for Admission to the Bar.

E. “Lawyer Registration Statement” means a document prepared by the Lawyer Registration Office that informs a lawyer or judge of the lawyer registration fee

due and on which the lawyer or judge can certify the lawyer or judge's status and compliance with Rule 1.15(i), MRPC.

F. "Non-Compliant Status" means a lawyer or judge who has not met all the criteria to be on Active Status or Inactive Status. A lawyer or judge who is on non-compliant status is not in good standing and is not authorized to practice law in this state.

## RULE 2. REGISTRATION FEE

### A. Required Fee.

~~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, to defray expenses of administering continuing legal education, to provide an adequate client security fund, to help fund legal services programs and to help fund a lawyers assistance program, each attorney lawyer 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 each judge shall hereinafter annually must pay to the clerk of the appellate courts a registration fee in the sum of Two Hundred Eighteen Dollars (\$218) or in such lesser sum as the court may annually hereafter determine~~ Lawyer Registration Office an annual registration fee.

~~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:~~

~~\$18 to the State Board of Law Examiners~~

~~\$8 to the State Board of Continuing Legal Education~~

~~\$122 to the Lawyers Professional Responsibility Board~~

~~\$12 to the Minnesota Client Security Fund~~

~~\$50 to the Legal Services Advisory Committee~~

~~\$8 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) per year, shall pay a registration fee in the sum of One Hundred Ninety Dollars (\$193). The allocation to the Legal Services Advisory Committee shall be reduced by Twenty five Dollars (\$25).~~

~~B. The following attorneys and judges shall pay an annual registration fee of One Hundred Seven Dollars (\$107):~~

~~(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 active duty in the armed forces of the United States.~~

~~The One Hundred Seven Dollars (\$107) so received shall be allocated as follows:~~

~~\$18 to the State Board of Law Examiners~~

~~\$7 to the State Board of Continuing Legal Education~~

~~\$24 to the Lawyers Professional Responsibility Board~~

~~\$50 to the Legal Services Advisory Committee~~

~~\$8 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) per year, shall pay a registration fee in the sum of Eighty two Dollars (\$82). The allocation to the Legal Services Advisory Committee shall be reduced by Twenty five Dollars (\$25).~~

**B. Active Status.**

Each lawyer and judge must pay an annual registration fee of \$218 or such lesser sum as is set forth in the following sections.

~~C. — Any attorney who has not been admitted to practice for more than three years shall pay an annual registration fee of Ninety seven Dollars (\$97).~~

~~The Ninety seven dollars (\$97) so received shall be allocated as follows:~~

~~\$18 to the State Board of Law Examiners~~

~~\$8 to the State Board of Continuing Legal Education~~

~~\$26 to the Lawyers Professional Responsibility Board~~

~~\$12 to the Client Security Fund~~

~~\$25 to the Legal Services Advisory Committee~~

~~\$8 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) per year, shall pay a registration fee in the sum of Eighty four Dollars and fifty cents (\$84.50).~~

~~The allocation to the Legal Services Advisory Committee shall be reduced by Twelve Dollars and fifty cents (\$12.50).~~

**1. Active Status - Income Less Than \$25,000.**

A lawyer or judge on active status who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year must pay an annual registration fee of \$193.

~~D. — 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.~~

**2. Active Status - Lawyers on Fulltime Military Duty.**

A lawyer or judge on fulltime duty in the armed forces of the United States shall pay an annual registration fee of \$107.

~~E. Any judge who is retired from any gainful employment or permanently disabled, who no longer serves on the bench or practices law, and who files annually with the clerk of the appellate courts 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. A judge claiming retired or permanently disabled status who subsequently resumes service on the bench or the 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.~~

**3. Active Status - Lawyers on Fulltime Military Duty - Income Less Than \$25,000.**

A lawyer or judge on fulltime duty in the armed forces of the United States who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year, shall pay an annual registration fee of \$82.

**4. Active Status - Lawyers Admitted Fewer Than Three Years.**

A lawyer or judge who has been admitted to practice law in Minnesota or in any other jurisdiction fewer than three years shall pay an annual registration fee of \$97.

**5. Active Status - Lawyers Admitted Fewer Than Three Years - Income Less Than \$25,000.**

A lawyer or judge who has been admitted to practice law in Minnesota or in any other jurisdiction fewer than three years who certifies that the lawyer's or judge's gross income from all sources, excluding the income of a spouse, is less than \$25,000 per year shall pay an annual registration fee of \$84.50.

C. Inactive Statuses.

1. Inactive Status - Out-of-State.

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that (i) the lawyer is a permanent resident of a state other than Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state and (iv) is not engaged in the practice of law in this state, shall pay an annual registration fee of \$179.

2. Inactive Status - Minnesota.

A lawyer who files with the Lawyer Registration Office on or before the date the lawyer's registration fee is due an affidavit stating that the lawyer (i) is a resident of the State of Minnesota, (ii) is currently in good standing, (iii) does not hold judicial office in this state and (iv) is not engaged in the practice of law in this state, shall pay an annual registration fee of \$179.

3. Inactive - Retired Status.

A lawyer or judge who files with the Lawyer Registration Office a Retirement Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state, (iv) is at least 62 years of age and (v) is retired from any gainful employment, is exempt from payment of any registration fee during the period of the lawyer's or judge's retirement. A Retirement Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C5 of this Rule.

4. Permanent Disability Status.

A lawyer or judge who files with the Lawyer Registration Office a Disability Affidavit stating that the lawyer or judge (i) is currently on active or inactive status, (ii) does not hold judicial office in this state, (iii) is not engaged in the practice of law in this state and (iv) is totally disabled, is exempt from payment of any registration fee

during the period of the lawyer's or judge's disability. A Disability Affidavit, once filed, is effective for each succeeding year unless the lawyer or judge transfers to active status pursuant to section C5 of this Rule.

**5. Transfer from Inactive Status to Active Status.**

A lawyer or judge who is on inactive status must, prior to practicing law or assuming judicial responsibilities, (i) promptly notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay the applicable registration fee, (iv) complete all continuing legal education (CLE) requirements and be transferred to CLE active status, and (v) comply with Rule 1.15(i), MRPC.

**D. Allocation of Fees.**

Fees paid pursuant to this rule are allocated according to the following schedule:

(1) Payments of \$218 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$122 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$50 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

(2) Payments of \$193 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$122 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$25 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

(3) Payments of \$179 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$83 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$50 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

(4) Payments of \$107 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$7 to the State Board of Continuing Legal Education;
- \$24 to the Lawyers Professional Responsibility Board;
- \$50 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

(5) Payments of \$82 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$7 to the State Board of Continuing Legal Education;
- \$24 to the Lawyers Professional Responsibility Board;
- \$25 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

(6) Payments of \$97 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$26 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;

- \$25 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

(7) Payments of \$84.50 are allocated as follows:

- \$18 to the State Board of Law Examiners;
- \$8 to the State Board of Continuing Legal Education;
- \$26 to the Lawyers Professional Responsibility Board;
- \$12 to the Client Security Fund;
- \$12.50 to the Legal Services Advisory Committee; and
- \$8 to the Lawyer Trust Account Board for a lawyers assistance program.

E. Due Date.

Fees under this Rule are due and payable on or before the first day of January, April, July or October of each year as requested by the Lawyer Registration Office.

**RULE 3. PENALTY FOR NONPAYMENT OF FEE**

~~Upon failure to pay such fee, the right to practice law in this state shall be automatically suspended, and no individual shall be authorized to practice law in this state or to in any manner hold himself out as qualified or authorized to practice law while in default in the payment of such registration fee. Any individual who shall violate this rule shall be subject to all the penalties and remedies provided by law for the unauthorized practice of law in the State of Minnesota. It shall be the duty of each member of the judiciary to enjoin persons from appearing and practicing in his court whose failure to register has come to the attention of such court.~~

## **RULE 4. NOTICE**

### **F. Notification of Fee Due.**

~~Annually one month prior to due date, t~~The Clerk of the Appellate Courts Lawyer Registration Office shall mail must, annually one month prior to the date due, mail a lawyer registration statement to each individual lawyer and judge then authorized to practice law, in good standing except those who have elected inactive retired status pursuant to section C3, above, or inactive disability status pursuant to section C4, above who has not paid such registration fee, at his last known address, a statement showing the amount of the registration fee required for the next ensuing year. A lawyer registration statement must be mailed to the lawyer's or judge's address on file with the Lawyer Registration Office. Failure to receive such a Lawyer Registration notice shall not excuse payment of such the fee.

### **G. Obligation to Notify of Address Change.**

~~Every attorney at law~~ lawyer or judge shall must immediately notify the clerk of this court Lawyer Registration Office of any change of address.

### **H. Penalty for Failure to Comply - Non-Compliant Status - Administrative Suspension.**

A lawyer or judge who fails to meet all of the criteria to be on either active or inactive status is placed on non-compliant status and the right to practice law in this state is automatically suspended. A lawyer or judge on non-compliant status is not in good standing. A lawyer or judge on non-compliant status must not practice law in this state, must not hold out himself or herself as authorized to practice or in any manner represent that he or she is qualified or authorized to practice law while on non-compliant status. Any lawyer or judge who violates this rule is subject to all the penalties and remedies provided by law for the unauthorized practice of law in the State of Minnesota. It is the duty of each judge to enjoin persons who are not on active status from appearing and practicing law in that judge's court.

## **RULE 5. REINSTATEMENT**

### **I. Reinstatement.**

~~The right to practice law may~~ A lawyer or judge who is on non-compliant status, who seeks to be reinstated by the court after suspension upon application and upon the to active status or inactive status, must (i) notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) payment of all delinquent registration fees and, (iv) pay the applicable registration fee for the current year, (v) pay a additional late penalty sum of Fifty (\$50.0075), (vi) complete all CLE requirements and be transferred to CLE active status, and (vii) comply with Rule 1.15(i), MRPC. This court The Lawyer Registration Office may, in hardship cases, waive payment of delinquent lawyer registration fees and late penalties. All late penalty payments shall be are allocated to an attorney registration account the Lawyer Registration Office to defray the registration costs.

## **RULE 63. CERTIFICATE LICENSE**

A. Upon payment of the lawyer registration fee, the Clerk of the Appellate Courts Lawyer Registration Office shall must issue and deliver mail to the person paying the same lawyer or judge a certificate license card in such form as may be provided by this court, showing that such individual is an attorney at law in good standing and authorized to practice in the State of Minnesota the license status of the lawyer or judge.

B. Upon request and the payment of a fee of \$25, the Lawyer Registration Office must provide to any lawyer or judge a certificate of active status and good standing, provided the lawyer or judge is entitled to the same.

## **RULE 74. SPECIAL FUND**

All money collected from applicants for admission to the bar or as an annual registration fee or as payment for a certificate of active status and good standing as

provided herein shall be deposited by the clerk in a special fund, as desired by this court, and shall be disbursed therefrom only upon vouchers signed by a member of this court.

#### **RULE 85. NONRESIDENT COUNSEL**

Nothing herein shall prevent any court in this state from granting special permission to nonresident counsel to appear and participate in a particular action or proceeding in association with an authorized ~~attorney~~ lawyer of this state.

#### **RULE 6. [RESERVED FOR FUTURE USE]**

#### **RULE 97. ACCESS TO ~~ATTORNEY~~ LAWYER REGISTRATION RECORDS**

~~Attorney~~ Lawyer registration records shall be are accessible only as provided in this rule.

A. **Public Inquiry Concerning Specific ~~Attorney~~ Lawyer.** Upon inquiry, the Clerk of the Appellate Courts Lawyer Registration Office may disclose to the public the name, address, admission date, continuing legal education category, current status, and license number of a registered ~~attorney~~ lawyer or judge, provided that each inquiry and disclosure is limited to a single registered ~~attorney~~ lawyer or judge.

B. **Publicly Available List.** The Clerk Lawyer Registration Office may also disclose to the public a complete list of the name, city, and zip code of all registered ~~attorneys~~ lawyers and judges.

C. **Lists Available to Continuing Legal Education Providers and the Courts.** Upon written request and payment of the required fee, the Clerk Lawyer Registration Office may disclose to a bona fide continuing legal education business a complete list of the name, address, admission date, continuing legal education category, current status, and license number of all registered ~~attorneys~~ lawyers and judges. The Clerk Lawyer Registration Office may also disclose the same information to a court or judicial district

solely for use in updating mailing addresses of ~~attorneys~~ lawyers and judges to be included in a judicial evaluation program.

**D. Trust Account Information.** Trust account information submitted by ~~attorneys~~ lawyers and judges as part of the ~~attorney~~ lawyer registration process is not accessible to the public except as provided in the Rules of Lawyer Trust Account Board.



OFFICE OF  
APPELLATE COURTS

MAY 17 2006

FILED

May 12, 2006

**Minnesota  
State Bar  
Association**

600 Nicollet Mall  
Suite 380  
Minneapolis, MN 55402-1039

[www.mnbar.org](http://www.mnbar.org)

*Telephone*  
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*National*  
1-800-882-MSBA  
*Fax*  
612-333-4927

*President*  
Susan M. Holden  
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*President-Elect*  
Patrick J. Kelly  
St. Paul

*Treasurer*  
Brian Melendez  
Minneapolis

*Secretary*  
Michael J. Ford  
St. Cloud

Tim Groshens  
*Executive Director*

Frederick K. Grittner  
Clerk of the Appellate Courts  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-6102

RE: Petition of the Minnesota State Bar Association  
Court File No. C9-81-1206

Dear Mr. Grittner:

The Minnesota State Bar Association (MSBA) respectfully requests that Kenneth Kirwin be allowed to make an oral presentation on the substance of the MSBA petition requesting the Court adopt a new Rule 10 requiring lawyers who represent private clients to report annually whether they carry professional liability insurance.

At this time, we do not anticipate that MSBA President Susan Holden will request time for an oral presentation.

Best Regards,

Nancy Mischel  
Legal Issues Director  
612.278.6331

JUN 9 2006

FILED

**LYNNE A. TORGERSON**

ATTORNEY AT LAW  
12 SOUTH SIXTH STREET  
SUITE 1053 PLYMOUTH BUILDING  
MINNEAPOLIS, MINNESOTA 55402  
TELEPHONE: (612) 339-5073

June 7, 2006

Mr. Frederick K. Grittner  
Minnesota Supreme Court  
Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, Minnesota 55155

Re: Opposition to Proposed Rule Requiring Disclosure  
of Whether or Not a Lawyer Has Malpractice Insurance

Dear Minnesota Supreme Court Justices:

I am writing in regard to the proposed rule to require lawyers to disclose yearly whether or not they carry malpractice insurance.

I would request that you not promulgate such a rule.

First, the enactment of any rule should have a very good reason behind it. This rule does not. There is no good reason to require a lawyer to disclose whether or not they carry malpractice insurance. How is that relevant to anything?

Second, it is private. It is not the government's, nor the public's, nor the client's right to know whether or not a lawyer carries malpractice insurance or not.

Third, why even draw a client's attention to such a matter. It would be bad policy. Why suggest to client the idea of suing their lawyer? If you bring up and tell a client that a lawyer does or does not carry malpractice insurance, you are planting the idea of litigation against that lawyer in their mind. Why would anyone ever want to do that?

I really do not think that this is even a difficult question. No such rule should be promulgated.

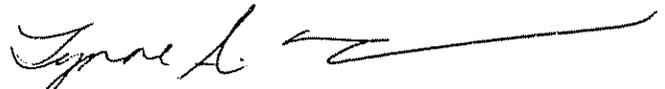
I read about the proposed amendment today in the Minnesota Lawyer. I did not attend any public hearing because I was not aware of any such hearing. I presume that probably thousands of

other lawyers like me also were not aware of any said hearing.

For something as serious as this, perhaps a better way to deal with this issue is to send out a letter to each registered lawyer at their registered address and have each lawyer express their position on this issue, rather than have it dealt with when extremely large numbers of the bar are completely unaware of the proposed rule.

Thank you for your time and consideration in this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lynne A. Torgerson", with a long horizontal flourish extending to the right.

Lynne A. Torgerson, Esq.

Barbara J. Runchey, *President*  
Oscar J. Sorlie Jr., *Secretary*  
Tyrone P. Bujold  
Iris Cornelius, Ph.D.  
Hon. Raymond R. Krause  
Kathleen M. Mahoney  
Vivian Mason  
Hon. Rosanne Nathanson  
Timothy Y. Wong



THE SUPREME COURT OF MINNESOTA  
BOARD OF LAW EXAMINERS

Gallier Plaza, Suite 201  
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St. Paul, Minnesota 55101  
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(651) 297-1196 Fax  
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www.ble.state.mn.us  
TTY Users - 1-800-627-3529  
Ask For 297-1857  
Margaret Fuller Corneille, Esq.  
Director

May 3, 2006

Mr. Fred Grittner  
Clerk of Appellate Courts  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

OFFICE OF  
APPELLATE COURTS

MAY - 3 2006

FILED

Re: Comments Concerning Petition of Minnesota State Bar Association to  
Amendment to Minnesota Rules for Registration of Attorneys, C9-81-1206

Dear Mr. Grittner:

The undersigned Director of the Office of Lawyers Professional Responsibility, the Director of the Boards of Law Examiners and the Board of Continuing Legal Education, as well as the Clerk of the Appellate Courts, join in submitting this comment on the Minnesota State Bar Association (MSBA) Petition to the Supreme Court, filed on July 29, 2005. The MSBA petition proposed to amend the Minnesota Rules for Registration of Attorneys to include a new rule that requires all lawyers to report on their annual Attorney Registration statement whether or not they carry professional liability insurance and the name of the primary insurance carrier.

The undersigned filed a petition on March 7, 2006, proposing a comprehensive revision of the Rules of Registration of Attorneys. The proposed amendments update terminology, provide a definition section, and include a new inactive status. The proposed amendments also reorganize and renumber the rules set.

This comment is non-substantive in that it addresses only the formatting of the MSBA proposed rule for public disclosure of professional liability insurance. If the Supreme Court determines to adopt the proposed rule requiring annual reporting of professional liability insurance coverage, we propose certain modifications to the proposed rule that would integrate it into the proposed comprehensive Attorney Registration rules revision as described in our March 7, 2006, petition and would renumber the reporting rule as Rule 6.

The following sections of the Rules of the Supreme Court on Lawyer Registration should be amended to include references to compliance with Rule 6, reporting professional liability insurance:

## RULE 1 DEFINITIONS

A. **“Active Status”** means a lawyer or judge who (i) has paid the applicable required lawyer registration fee for the current year, (ii) is in compliance with the requirements of the Minnesota State Board of Continuing Legal Education or of continuing judicial education, (iii) is not disbarred, suspended or on permanent disability status pursuant to Rule 28 of the Rules on Lawyers Professional Responsibility, and (iv) is in compliance with Rule 1.15(i), Minnesota Rules of Professional Conduct (MRPC), and (v) is in compliance with Rule 6 of these Rules. A lawyer or judge on active status shall be in good standing and is authorized to practice law in this state.

B. **“Inactive Status”** means a lawyer or judge who has elected to be on inactive status pursuant to Rule 2C1, 2C2, 2C3 or 2C4 of these Rules and who meets the criteria set forth in subparts (ii) through (iv) in the definition of Active Status, above. A lawyer or judge on inactive status shall be in good standing but is not authorized to practice law in this state.

E. **“Lawyer Registration Statement”** means a document prepared by the Lawyer Registration Office that informs a lawyer or judge of the lawyer registration fee due and on which the lawyer or judge can certify the lawyer or judge’s status and compliance with Rule 1.15(i), MRPC, and Rule 6 of these rules.

\* \* \* \* \*

G. **“Private Client.”** For the purpose of reporting professional liability insurance coverage, the term "private client" excludes the clients of government lawyers and house counsel.

## RULE 2 REGISTRATION FEE

### C. INACTIVE STATUSES

#### 5. **Transfer from Inactive Status to Active Status.**

A lawyer or judge who is on inactive status shall, prior to practicing law or assuming judicial responsibilities, (i) promptly notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay the applicable registration fee, (iv) complete all continuing legal education (CLE) requirements and be transferred to CLE active status, ~~and~~ (v) comply with Rule 1.15(i), MRPC, and (vi) comply with Rule 6 of these Rules.

**I. Reinstatement.**

A lawyer or judge who is on non-compliant status, who seeks to be reinstated to active status or inactive status, shall (i) notify the Lawyer Registration Office, (ii) complete a lawyer registration statement, (iii) pay all delinquent registration fees, (iv) pay the applicable registration fee for the current year, (v) pay a late penalty of \$75, (vi) complete all CLE requirements and be transferred to CLE active status, and (vii) comply with Rule 1.15(i), MRPC, and (viii) comply with Rule 10 of these Rules. The Lawyer Registration Office may, in hardship cases, waive payment of delinquent lawyer registration fees and late penalties. All late penalty payments shall be allocated to the Lawyer Registration Office to defray registration costs.

**RULE 6. ANNUAL REPORTING OF PROFESSIONAL LIABILITY INSURANCE COVERAGE**

Each lawyer on active status must certify on the lawyer registration statement:

- (1) whether the lawyer represents private clients;
- (2) if the lawyer represents private clients, whether the lawyer is currently covered by professional liability insurance;
- (3) if the lawyer is covered by professional liability insurance, the name of the primary carrier; and
- (4) whether the lawyer intends to maintain insurance during the next twelve months. Each lawyer on active status must notify the Lawyer Registration Office in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without substantial interruption.

**RULE 9. ACCESS TO LAWYER REGISTRATION RECORDS**

Lawyer registration records shall be accessible only as provided in this rule.

A. Public Inquiry Concerning Specific Lawyer. Upon inquiry, the Lawyer Registration Office may disclose to the public the name, address, admission date, continuing legal education category, current status, professional liability insurance coverage information submitted under Rule 6 of these Rules, and

Mr. Fred Grittner  
May 3, 2006  
Page 4

license number of a registered lawyer, provided that each inquiry and disclosure is limited to a single registered lawyer.

In the event the Court determines not to adopt the rule requiring disclosure of professional liability insurance coverage, the amendments to the Attorney Registration Rules as proposed in the petition of the Board Directors' and Clerk of Court's March 7, 2006, petition should be adopted as proposed.

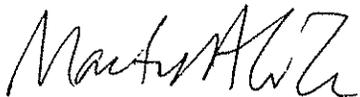
Thank you for your consideration. Please contact me at (651) 201-2706 if you have questions.

Very truly yours,

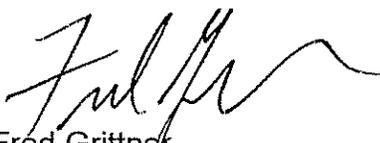


Margaret Fuller Corneille  
Director

MINNESOTA BOARD OF LAW EXAMINERS  
MINNESOTA BOARD OF CONTINUING LEGAL EDUCATION  
Attorney No. 179334



Martin A. Cole  
Director  
OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY  
1500 Landmark Towers  
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Attorney No. 0148416



Fred Grittner  
CLERK OF APPELLATE COURTS  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155  
Attorney No. 37953

cc: Ken Kerwin, MSBA Rules of Professional Conduct Committee

Mr. Fred Grittner  
May 3, 2006  
Page 5

bcc: Tim Burke