

## PROFESSIONAL RULES

### Lawyers Professional Responsibility Board Opinions

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#### TEXT OF OPINIONS

*[For text of Opinions 1 and 2, see M.S. 2002, Volume 15]*

#### OPINION NO. 3

Adopted: November 20, 1972.  
Repealed: October 25, 2002.

#### Comment

*Opinion No. 3 was adopted in 1972 and prohibited part-time judges from practicing law in the court in which the part-time judge serves. The opinion also extended the disqualification to the part-time judge's law partners and associates.*

*Over the past decade, amendments to the Code of Judicial Conduct codified and clarified the application of the part-time judge disqualification. See e.g., Section C of the Application of the Code of Judicial Conduct and its related comment.*

*In addition, Rule 1.10 of the Rules of Professional Conduct delineates the types of conflicts that are imputed to other members of a law firm. With the evolution of substantive ethics rules that more comprehensively address the issue, Opinion No. 3 became obsolete, thus necessitating its repeal.*

#### OPINION NO. 4

Adopted: October 12, 1973.  
Amended: December 4, 1987.  
Repealed: October 25, 2002.

#### Comment

*Adopted in 1973, Opinion No. 4 addressed a lawyer's withdrawal from representation for nonpayment of fees. The opinion contained res ipsa loquitur or switching burden of proof provision that placed higher burden of proof upon lawyers who failed to enter into written fee agreements with clients. Specifically, the opinion required lawyers without written fee agreements to justify their withdrawal for nonpayment of fees by proving the client's noncompliance with the oral fee arrangement by a standard of clear and convincing evidence.*

*The switching burden of proof provision, although laudable for its encouragement to use written fee agreements, has little, if any basis in the Rules of Professional Conduct. Without a sufficient nexus to the substantive ethics rules, this requirement appeared to be a*

regulation that went beyond that authorized by the Supreme Court, especially in light of the Panel File No. 99-42 decision.

[For text of Opinions 5 to 9, see M.S. 2002, Volume 15]

### OPINION NO. 10

#### Debt Collection Procedures

Adopted: June 22, 1977.  
Amended: December 4, 1987.  
Repealed: October 25, 2002.

#### Comment

The comprehensive set of guidelines contained in Opinion No. 10 was intended to keep a clear demarcation between the activities of law firm and nonlayer debt collection agencies. The opinion was premised upon the notion that blurring the distinction between law firms and collection agencies could lead to abuse of debtors and adversely reflect upon the legal profession.

Since the opinion was adopted in 1977, federal and state consumer protection laws, including most notably the Fair Debt Collection Practices Act (FDCPA), have encompassed and far exceeded the regulation of collection activities proscribed by the Lawyers Board opinion.

Within the past several years, federal court rulings have made it clear that the FDCPA applies not only to collection agencies, but also lawyers. Like Opinion No. 3, this opinion became obsolete due to the evolution of more comprehensive substantive law regulations.

[For text of Opinions 11 to 13, see M.S. 2002, Volume 15]

### OPINION NO. 14

#### Attorney Liens on Client Homesteads

Adopted: June 15, 1990.  
Repealed: April 4, 2003.

#### Comment

Opinion No. 14 was adopted in 1990 and governed the assertion of a statutory attorney lien against a client's homestead.

The opinion was repealed due to statutory changes in the homestead exemption amount (Minnesota Statutes, section 510.02 limiting the exemption to \$200,000), uncertainty in the law about waiver of homestead exemptions (*Peterson v. Hinz*, 605 N.W.2d 743 (Minn. Ct. App. 1986)) and amendments in 2002 to the Minnesota Attorney Lien Statute (Minnesota Statutes, section 481.13 (2002)).

Lawyers who see the need to file attorney liens against real property should carefully review the recently amended attorney lien statute (Minnesota Statutes, section 481.13 (2002)). Recent changes include time limits for filing attorney liens, a notice to the property owner requirement, and the automatic expiration of attorney liens that are not pursued within one year of filing.

[For text of Opinion 15, see M.S. 2002, Volume 15]

**OPINION NO. 16****Interest and Late Charges on Attorneys Fees**

Adopted: March 26, 1993.  
Repealed: October 25, 2002.

**Comment**

*Opinion No. 16 created a safe harbor from lawyer discipline prosecution for de minimis violations of Truth-in-Lending (TIL) violations associated with interest assessed by lawyers on past due legal fees.*

*In short, lawyers who charged 6 percent or less without disclosure in a written fee agreement, or 8 percent or less disclosed in a written fee agreement, were exempt from lawyer discipline for noncompliance with TIL disclosure requirements under the opinion. Attorneys who charged interest outside of the opinion's guidelines remained subject to lawyer discipline prosecution for TIL disclosure violations.*

*Opinion No. 16's connection to the Rules of Professional Conduct was the reasonable fee requirements of Rule 1.5(a). The opinion postulated that the fee charged was unreasonable if the interest charged was usurious or in violation of TIL because required disclosures were not made. However, the opinion's safe harbor provision, which used the rate of interest charged to draw the line between de minimis and significant TIL violations, was based upon prosecutorial discretion standards and did not originate from any authority in the Rules of Professional Conduct.*

*[For text of Opinions 17 to 19, see M.S. 2002, Volume 15]*

## Rules for Admission to the Bar

Effective August 18, 1998

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### TEXT OF RULES

*[For text of Rule 1 to Rule 10, see M.S. 2002, Volume 15]*

#### Rule 11. Fees

**A. General.** All application fees required under these rules shall be paid by certified check, money order or bank draft payable to the Board. All other fees and charges may be paid by personal check or money order. The applicable fee is determined as of the date of filing of a complete application under Rule 4.

**B. Fee for Examination, Not Previously Admitted.** An applicant taking the examination for the first time and filing on or before October 15 for the February examination, or on or before March 15 for the July examination, shall submit a fee of \$400. An application for the examination submitted after the timely filing date but on or before December 1 for the February examination, or on or before May 1 for the July examination, shall include a fee of \$550.

**C. Fee for Examination, Prior Admission.** An applicant licensed to practice in another jurisdiction more than six months prior to the date of the Minnesota examination and filing timely, shall submit a fee of \$750. An application for examination submitted after the timely filing date but on or before December 1 for the February examination, or on or before May 1 for the July examination, shall include a fee of \$900. An applicant licensed to practice in another jurisdiction less than six months prior to the date of the Minnesota examination, shall comply with paragraph B of this Rule.

**D. Repeat Examinations.** An applicant who previously has been unsuccessful on the examination and is filing on or before December 1 for the February examination, or on or before May 1 for the July examination, shall include a fee of \$400 and comply with Rule 4(C)(5).

**E. Fee for Admission Without Examination.** An applicant for admission without examination shall submit a fee of \$750. An applicant for admission pursuant to Rule 9 shall submit a fee of \$950.

**F. Fee for Temporary License for Legal Services Program Practice.** A fee in the amount of \$75 must accompany an application for Temporary License pursuant to Rule

8. Payment of an additional fee, as required by Rule 11(B), will qualify applicants under Rule 6. Payment of an additional fee, as required by Rule 11(C), will qualify applicants under Rule 7(A) or 7(B).

**G. Transfer of Rule 8 Application to Rule 6 or Rule 7 Application.** Documents submitted in support of a Rule 8 (Temporary License for Legal Services Programs) application for license may, upon the written request of applicant, constitute application pursuant to Rule 6 (Admission by Examination) or Rule 7 (Admission Without Examination) of these Rules, provided additional fees required by Rule 11 are submitted.

**H. Refunds of Fees.** A refund in the amount of \$125 will be made in the following circumstances:

(1) When an applicant for the bar examination advises the Board in writing at least four days prior to an examination of the applicant's desire to withdraw the application;

(2) When an applicant for the bar examination is denied permission to take an examination due to failure to provide a certificate of graduation required by Rule 4(C)(2)(a).

No other requests for refund will be granted.

**I. Carry-over of Fees.**

(1) **Ineligible Rule 7 Applicants.** The fee of an applicant declared ineligible under Rule 7 (Admission Without Examination) shall be applied to an examination held within the succeeding 15 months at the written request of the applicant received within 30 days of notice of the denial. No other transfers of fees, other than those provided for in the following paragraph, shall be granted.

(2) **Medical Emergencies.** An applicant who is unable to sit for the examination due to a medical emergency and who notifies the Board prior to the examination, may request carry-over of the application fee to the next examination. Such requests must be made in writing and be accompanied by written documentation of the medical emergency.

**J. Transfer of Examination Scores.** A request for transfer of scores pursuant to Rule 6(H) shall include a fee of \$25. A score report may be obtained by submitting payment of \$25 to the National Conference of Bar Examiners.

**K. Copies of Examination Answers.** An unsuccessful applicant will receive copies of the applicant's essay answers upon written request to the Board accompanied by a fee of \$20 and submitted within 60 days of the release of the examination results.

**L. Other Fees.** The Board may require an applicant to bear the expense of obtaining reports or other information necessary for the Board's investigation. The Board may charge reasonable fees for collection and publication of any information permitted to be released. For matters not covered in these Rules, the Director may set reasonable fees which reflect the administrative costs associated with the service.

**M. Fees for Advisory Opinions.** An application filed for the purpose of receiving an advisory opinion from the Board must be accompanied by a fee in the amount of \$100.

(Amended effective January 1, 2003.)

*[For text of Rule 12 to Rule 17, see M.S. 2002, Volume 15]*

# Rules of the Supreme Court for Registration of Attorneys

Adopted August 4, 1970

With amendments received through August 8, 2003

## TABLE OF HEADNOTES

### Rule

2. Registration Fee
9. Access to Attorney Registration Records

## TEXT OF RULES

*[For text of Rule 1, see M.S. 2002, Volume 15]*

### Rule 2. Registration Fee

A. In order to defray the expenses of examinations and investigation for admission to the bar and disciplinary proceedings, over and above the amount paid by applicants for such admission, with exception hereinafter enumerated, each attorney admitted to practice law in this state and those members of the judiciary who are required to be admitted to practice as a prerequisite to holding office shall hereinafter annually pay to the clerk of the appellate courts a registration fee in the sum of Two Hundred Eighteen Dollars (\$218) or in such lesser sum as the court may annually hereafter determine.

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

All sums so received shall be allocated as follows:

\$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-three 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 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).

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).

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.

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.

(Amended August 12, 1980; amended May 18, 1982, effective for payments due after July 1, 1982; amended February 10, 1983; amended January 13, 1984; amended July 25, 1984, effective for payments due after October 1, 1984; amended April 7, 1987, effective for payments due after July 1, 1988; amended November 14, 1990, effective for payments due on or after July 1, 1991; amended April 15, 1992, effective for payments due between July 1, 1992 and June 30, 1993; effective for payments due on and after July 1, 1993; amended effective December 3, 1993; amended June 13, 1996, effective for licenses due for renewal on October 1, 1996, and for new licenses issued on or after October 1, 1996; amended February 5, 1997, effective for licenses due for renewal on July 1, 1997, and for new licenses issued on or after July 1, 1997; amended effective August 6, 1997, for licenses being renewed on or after August 6, 1997, and for new licenses issued on or after August 6, 1997, the allocation of fees set by Supreme Court Order C9-81-1206 shall continue in effect until June 30, 1998; allocation continued until further order of the Court by Supreme Court order dated May 20, 1999; amended effective for registration fees due July 1, 2000; amended effective for registration fees due on and after July 1, 2003; amended effective for registration fees due July 1, 2003.)

*[For text of Rule 3 to Rule 8, see M.S. 2002, Volume 15]*

#### **Rule 9. Access to Attorney Registration Records**

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

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

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

C. **Lists Available to Continuing Legal Education Providers and the Courts.** Upon written request and payment of the required fee, the Clerk 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. The Clerk may also disclose the same information to a court or judicial district solely for use in updating mailing addresses of attorneys to be included in a judicial evaluation program.

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

(Added February 13, 1986; amended effective July 1, 2001; amended effective August 5, 2003.)