

**NO. C8-84-1650**  
**STATE OF MINNESOTA**  
**IN SUPREME COURT**

In re:

Amendment to Rules of Professional Conduct

**SUPPLEMENTAL AND AMENDED PETITION**  
**OF MINNESOTA STATE BAR ASSOCIATION**

TO THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:

Petitioner Minnesota State Bar Association (“MSBA”) respectfully submits this Supplemental and Amended Petition to supplement its Petition for Amendment of the Minnesota Rules of Professional Conduct.

1. By Petition dated September 19, 2003, Petitioner MSBA requested that this Court amend the Minnesota Rules of Professional Conduct. That Petition is pending before the Court.

2. In the September 19 Petition, Petitioner reported that it was engaged in ongoing review of the rules and, in particular, that it was considering whether to make further recommendations relating to the ABA’s August 2003 amendments to Model Rules 1.6 and 1.13. See Petition ¶ 11, at 4.

3. That review, as well as a re-examination of Rule 7.4 prompted by the Office of Lawyers Professional Responsibility, culminated in a Report to the MSBA Board of Governors that recommended that further modifications be made in the Rules of Professional Conduct (“MSBA Committee Report”). That report is attached to this Supplemental and Amended Petition as Exhibit A. The rationale for each of the modifications proposed in this Supplemental and Amended Petition is set forth in the MSBA Committee Report.

4. On December 5, 2003, the MSBA Board of Governors met and approved the recommendations made in the MSBA Committee Report and authorized the filing of this Supplemental and Amended Petition.

5. Petitioner MSBA believes the further modifications to the rules are appropriate and should be made as part of the comprehensive changes proposed in the September 2003 Petition.

6. Accordingly, Petitioner requests that the Court replace the requested language of proposed Rule 1.6(b)(4) so it reads as follows (all marking of the changes recommended in this Supplemental Report compare the recommended language to the language proposed in the September 2003 Petition):

1           (4) the lawyer reasonably believes the disclosure is necessary to prevent the  
2           commission of a fraud that is reasonably certain to result in substantial injury to  
3           the financial interests or property of another and in furtherance of which the client  
4           has used or is using the lawyer's services or to prevent the commission of a crime.

7. Petitioner requests that the Court modify the requested language of proposed Rule 1.13 and its Comments to read as follows:

5   **RULE 1.13: ORGANIZATION AS CLIENT**

6  
7   (a) A lawyer employed or retained by an organization represents the organization acting through  
8   its duly authorized constituents.

9  
10   (b) If a lawyer for an organization knows that an officer, employee or other person associated  
11   with the organization is engaged in action, intends to act or refuses to act in a matter related to  
12   the representation that is a violation of a legal obligation to the organization, or a violation of law  
13   ~~which~~ that reasonably might be imputed to the organization, and that is likely to result in  
14   substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in  
15   the best interest of the organization. ~~In determining how to proceed, the lawyer shall give due~~  
16   ~~consideration to the seriousness of the violation and its consequences, the scope and nature of the~~  
17   ~~lawyer's representation, the responsibility in the organization and the apparent motivation of the~~  
18   ~~person involved, the policies of the organization concerning such matters and any other relevant~~  
19   ~~considerations. Any measures taken shall be designed to minimize disruption of the organization~~  
20   ~~and the risk of revealing information relating to the representation to persons outside the~~  
21   ~~organization. Such measures may include among others:~~

22   ~~(1) asking for reconsideration of the matter;~~

23 ~~(2) advising that a separate legal opinion on the matter be sought for presentation to appropriate~~  
24 ~~authority in the organization; and~~

25 ~~(3) referring~~

26 Unless the lawyer reasonably believes that it is not necessary in the best interest of the  
27 organization to do so, the lawyer shall refer the matter to higher authority in the organization,  
28 including, if warranted by the seriousness of the matter, referral circumstances to the highest  
29 authority that can act on behalf of the organization as determined by applicable law.

30  
31 (c) If, despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can  
32 act on behalf of the organization insists upon or fails to address in a timely and appropriate  
33 manner an action, or a refusal to act, that is clearly a violation of law, a violation of law appears  
34 likely, the lawyer may resign in accordance with Rule 1.16 and may disclose information in  
35 conformance with Rule 1.6.

36  
37 (d) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's  
38 actions taken pursuant to paragraph (b) or (c), or who withdraws under circumstances that  
39 require or permit the lawyer to take action under either of those paragraphs, shall proceed as the  
40 lawyer reasonably believes necessary to assure that the organization's highest authority is  
41 informed of the lawyer's discharge or withdrawal.

42  
43 ~~(d)~~ (e) In dealing with an organization's directors, officers, employees, members, shareholders or  
44 other constituents, a lawyer shall explain the identity of the client when the lawyer knows or  
45 reasonably should know that the organization's interests are adverse to those of the constituents  
46 with whom the lawyer is dealing.

47  
48 ~~(e)~~ (f) A lawyer representing an organization may also represent any of its directors, officers,  
49 employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If  
50 the organization's consent to the dual representation is required by Rule 1.7, the consent shall be  
51 given by an appropriate official of the organization other than the individual who is to be  
52 represented, or by the shareholders.

### 53 54 Comment

#### 55 **The Entity as the Client**

56  
57 [1] An organizational client is a legal entity, but it cannot act except through its  
58 officers, directors, employees, shareholders and other constituents. Officers,  
59 directors, employees and shareholders are the constituents of the corporate  
60 organizational client. The duties defined in this Comment apply equally to  
61 unincorporated associations. "Other constituents" as used in this Comment  
62 means the positions equivalent to officers, directors, employees and  
63 shareholders held by persons acting for organizational clients that are not  
64 corporations.  
65

66  
67 [2] When one of the constituents of an organizational client communicates with  
68 the organization's lawyer in that person's organizational capacity, the  
69 communication is protected by Rule 1.6. Thus, by way of example, if an  
70 organizational client requests its lawyer to investigate allegations of  
71 wrongdoing, interviews made in the course of that investigation between the

72 lawyer and the client's employees or other constituents are covered by Rule 1.6.  
73 This does not mean, however, that constituents of an organizational client are  
74 the clients of the lawyer. The lawyer may not disclose to such constituents  
75 information relating to the representation except for disclosures explicitly or  
76 impliedly authorized by the organizational client in order to carry out the  
77 representation or as otherwise permitted by Rule 1.6.  
78

79 [3] When constituents of the organization make decisions for it, the decisions  
80 ordinarily must be accepted by the lawyer even if their utility or prudence is  
81 doubtful. Decisions concerning policy and operations, including ones entailing  
82 serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear,  
83 however, that different considerations arise when the lawyer knows that the  
84 organization is likely to may be substantially injured by action of an officer or  
85 other constituent that violates a legal obligation to the organization or is in  
86 violation of law that might be imputed to the organization the lawyer must  
87 proceed as is reasonably necessary in the best interest of the organization. As  
88 defined in Rule 1.0(f), knowledge can be inferred from circumstances, and a  
89 lawyer cannot ignore the obvious. In such a circumstance, it may be reasonably  
90 necessary for the lawyer to ask the constituent to reconsider the matter. If that  
91 fails, or if the matter is of sufficient seriousness and importance to the  
92 organization, it may be reasonably necessary for the lawyer to take steps to have  
93 the matter reviewed by a higher authority in the organization. The stated policy  
94 of the organization may define circumstances and prescribe channels for such  
95 review, and a lawyer should encourage the formulation of such a policy. Even in  
96 the absence of organization policy, however, the lawyer may have an obligation  
97 to refer a matter to higher authority, depending on the seriousness of the matter  
98 and whether the constituent in question has apparent motives to act at variance  
99 with the organization's interest. Review by the chief executive officer or by the  
100 board of directors may be required when the matter is of importance  
101 commensurate with their authority. At some point it may be useful or essential  
102 to obtain an independent legal opinion.  
103

104 [4] In determining how to proceed under paragraph (b), the lawyer should give  
105 due consideration to the seriousness of the violation and its consequences, the  
106 responsibility in the organization and the apparent motivation of the person  
107 involved, the policies of the organization concerning such matters, and any other  
108 relevant considerations. Ordinarily, referral to a higher authority would be  
109 necessary. In some circumstances, however, it may be appropriate for the lawyer  
110 to ask the constituent to reconsider the matter; for example, if the circumstances  
111 involve a constituent's innocent misunderstanding of law and subsequent  
112 acceptance of the lawyer's advice, the lawyer may reasonably conclude that the  
113 best interest of the organization does not require that the matter be referred to  
114 higher authority. If a constituent persists in conduct contrary to the lawyer's  
115 advice, it will be necessary for the lawyer to take steps to have the matter  
116 reviewed by a higher authority in the organization. If the matter is of sufficient  
117 seriousness and importance or urgency to the organization, referral to higher  
118 authority in the organization may be necessary even if the lawyer has not  
119 communicated with the constituent. Any measures taken should, to the extent  
120 practicable, minimize the risk of revealing information relating to the  
121 representation to persons outside the organization. Even in circumstances where  
122 a lawyer is not obligated by Rule 1.13 to proceed, a lawyer may bring to the  
123 attention of an organizational client, including its highest authority, matters that  
124 the lawyer reasonably believes to be of sufficient importance to warrant doing so  
125 in the best interest of the organization.  
126

127 [5] Paragraph (b) also makes clear that when it is reasonably necessary to enable  
128 the organization to address the matter in a timely and appropriate manner, the  
129 lawyer must refer the matter to higher authority, including, if warranted by the  
130 circumstances, the highest authority that can act on behalf of the organization  
131 under applicable law. The organization's highest authority to whom a matter  
132 may be referred ordinarily will be the board of directors or similar governing  
133 body. However, applicable law may prescribe that under certain conditions the  
134 highest authority reposes elsewhere, for example, in the independent directors of  
135 a corporation.

### 136 **Relation to Other Rules**

137  
138  
139 ~~[5]~~ [6] The authority and responsibility provided in this Rule are concurrent with  
140 the authority and responsibility provided in other Rules. In particular, this Rule  
141 does not limit or expand the lawyer's responsibility under Rules 1.8, 1.16, 3.3 or  
142 4.1. ~~If the lawyer's services are being used by an organization to further a crime~~  
143 ~~or fraud by the organization, Rule 1.2(d) can be applicable.~~ Paragraph (c) of this  
144 Rule does not modify, restrict, or limit the provisions of Rule 1.6(b). Under  
145 paragraph (c), the lawyer may reveal confidential information only when the  
146 organization's highest authority insists upon or fails to address threatened or  
147 ongoing action that is clearly a violation of law. If the lawyer's services are  
148 being used by an organization to further a crime or fraud by the organization,  
149 Rule 1.6(b) may permit the lawyer to disclose confidential information. In such  
150 circumstances Rule 1.2(d) may also be applicable, in which event, withdrawal  
151 from the representation under Rule 1.16(a)(1) may be required.

152  
153 [7] A lawyer who reasonably believes that he or she has been discharged  
154 because of the lawyer's actions taken pursuant to paragraph (b) or (c), or who  
155 withdraws in circumstances that require or permit the lawyer to take action  
156 under either of these paragraphs, must proceed as the lawyer reasonably believes  
157 necessary to assure that the organization's highest authority is informed of the  
158 lawyer's discharge or withdrawal.

### 159 **Government Agency**

160  
161  
162 ~~[6]~~ [8] The duty defined in this Rule applies to governmental organizations.  
163 Defining precisely the identity of the client and prescribing the resulting  
164 obligations of such lawyers may be more difficult in the government context and  
165 is a matter beyond the scope of these Rules. See Scope [18]. Although in some  
166 circumstances the client may be a specific agency, it may also be a branch of  
167 government, such as the executive branch, or the government as a whole. For  
168 example, if the action or failure to act involves the head of a bureau, either the  
169 department of which the bureau is a part or the relevant branch of government  
170 may be the client for purposes of this Rule. Moreover, in a matter involving the  
171 conduct of government officials, a government lawyer may have authority under  
172 applicable law to question such conduct more extensively than that of a lawyer  
173 for a private organization in similar circumstances. Thus, when the client is a  
174 governmental organization, a different balance may be appropriate between  
175 maintaining confidentiality and assuring that the wrongful act is prevented or  
176 rectified, for public business is involved. In addition, duties of lawyers  
177 employed by the government or lawyers in military service may be defined by  
178 statutes and regulation. This Rule does not limit that authority. See Scope.

### 179 **Clarifying the Lawyer's Role**

182 [7] [9] There are times when the organization's interest may be or become  
183 adverse to those of one or more of its constituents. In such circumstances the  
184 lawyer should advise any constituent, whose interest the lawyer finds adverse to  
185 that of the organization of the conflict or potential conflict of interest, that the  
186 lawyer cannot represent such constituent, and that such person may wish to  
187 obtain independent representation. Care must be taken to assure that the  
188 individual understands that, when there is such adversity of interest, the lawyer  
189 for the organization cannot provide legal representation for that constituent  
190 individual, and that discussions between the lawyer for the organization and the  
191 individual may not be privileged.

193 [8] [10] Whether such a warning should be given by the lawyer for the  
194 organization to any constituent individual may turn on the facts of each case.  
195 Dual Representation

197 [9] [11] Paragraph (e) (f) recognizes that a lawyer for an organization may also  
198 represent a principal officer or major shareholder.

200 **Derivative Actions**

201  
202 [10] [12] Under generally prevailing law, the shareholders or members of a  
203 corporation may bring suit to compel the directors to perform their legal  
204 obligations in the supervision of the organization. Members of unincorporated  
205 associations have essentially the same right. Such an action may be brought  
206 nominally by the organization, but usually is, in fact, a legal controversy over  
207 management of the organization.

208  
209 [11] [13] The question can arise whether counsel for the organization may  
210 defend such an action. The proposition that the organization is the lawyer's  
211 client does not alone resolve the issue. Most derivative actions are a normal  
212 incident of an organization's affairs, to be defended by the organization's lawyer  
213 like any other suit. However, if the claim involves serious charges of  
214 wrongdoing by those in control of the organization, a conflict may arise between  
215 the lawyer's duty to the organization and the lawyer's relationship with the  
216 board. In those circumstances, Rule 1.7 governs who should represent the  
217 directors and the organization.

8. Petitioner requests that the Court amend Rule 7.4's title, subsection (d), and its

Comments [3] and [4] to read as follows:

218 **RULE 7.4: COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION**  
219 **CERTIFICATION**

220 \* \* \*

221  
222  
223 (d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field  
224 of law, unless:

225 ~~(1) the lawyer is certified as a specialist by an organization that is approved by an appropriate~~  
226 ~~state authority or that is accredited by the American Bar Association; and~~

227 ~~(2) the name of the certifying organization is clearly identified in the communication; and:~~

228 (1) such certification is granted by an organization that is accredited by the Minnesota Board of  
229 Legal Certification; or  
230 (2) if such certification is granted by an organization that is not accredited by the Minnesota  
231 Board of Legal Certification, the absence of accreditation is clearly stated in the communication,  
232 and in any advertising subject to Rule 7.2, such statement appears in the same sentence that  
233 communicates the certification.

234  
235 **Comment**

236 \* \* \*

237  
238 [3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a  
239 specialist in a field of law if such certification is granted by an organization  
240 approved by an appropriate state authority or accredited by the American Bar  
241 Association or another organization, such as a state bar association, that is  
242 approved by the state authority to accredit organizations that certify lawyers as  
243 specialists that has been accredited by the Board of Legal Certification.  
244 Certification signifies that an objective entity has recognized an advanced  
245 degree of knowledge and experience in the specialty area greater than is  
246 suggested by general licensure to practice law. Certifying organizations may be  
247 expected to apply standards of experience, knowledge and proficiency to insure  
248 that a lawyer's recognition as a specialist is meaningful and reliable. In order to  
249 insure that consumers can obtain access to useful information about an  
250 organization granting certification, the name of the certifying organization must  
251 be included in any communication regarding the certification.

252  
253 [4] Lawyers may also be certified as specialists by organizations that either  
254 have not yet been accredited to grant such certification or have been  
255 disapproved. In such instances, the consumer may be misled as to the  
256 significance of the lawyer's status as a certified specialist. The Rule therefore  
257 requires that a lawyer who chooses to communicate recognition by such an  
258 organization also clearly state the absence or denial of the organization's  
259 authority to grant such certification. Because lawyer advertising through public  
260 media and written or recorded communications invites the greatest danger of  
261 misleading consumers, the absence or denial of the organization's authority to  
262 grant certification must be clearly stated in such advertising in the same sentence  
263 that communicates the certification.

9. The American Bar Association has continued to follow the progress of its Ethics 2000 initiative, and has maintains a website that is identified in the ABA Report attached hereto as Exhibit B. A Table of Status of State Review of Professional Conduct Rules, from the ABA, is attached hereto as Exhibit C.

Based upon the foregoing authorities, Petitioner MSBA requests that its proposed modifications to Rules and Comments as set forth in paragraphs 6, 7 & 8, above be adopted as

part of the comprehensive amendments to the Minnesota Rules of Professional Conduct requested in Petitioner's September 19, 2003, Petition in this matter.

Dated: January \_\_, 2004.

Respectfully submitted,

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September 2003

As of September 30, 2003, 49 states and the District of Columbia have committees reviewing their professional conduct rules in light of the Ethics 2000 changes to the ABA Model Rules of Professional Conduct. Contact information and status updates can be found at [http://www.abanet.org/cpr/jclr/jclr\\_home.html](http://www.abanet.org/cpr/jclr/jclr_home.html).

To date, 18 states have published reports from committees reviewing the changes to the Model Rules adopted by the ABA House of Delegates based on the recommendations of the Ethics 2000 Commission. (AZ, AR, DE, FL, IN, IA, LA, MD, MI, MN, MT, NJ, NC, OR, PA, SC, SD, VA) Of those states, four have adopted new rules: NC, effective 3/1/03; DE, effective 7/1/03; AZ, effective 12/1/03; and NJ, effective 9/10/03.

This paper provides a comparison of the state proposed rules or newly adopted rules with the ABA Model Rules in several important areas.

#### Rule 1.0: Terminology

17 states, all except VA, have proposed rules that are substantially similar to the MR. Variations in the 17 states include definitions of additional terms and some changes to defined terms.

Of the 17, all except FL have followed the new format of the Model Rules, changing the former Terminology Section into a Rule. All except IA have included the new term, “informed consent.” IA retained “consents after disclosure” but uses as its definition the same language used in the Model Rules to define “informed consent.”

VA has retained the old Model Rule with some variation.

#### Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer

Of the 18 states, all except IA and VA have proposed changes substantially similar to new paragraphs (a), allocation of authority, and (c), limitation of scope, in the Model Rules. NC does not require the client to give informed consent in (c).

Two states, IA and VA, follow the old Model Rule.

#### Rule 1.4: Communication

13 states have proposed rules that are the same as new paragraph (a). Three others are substantially similar but slightly different: MD does not include (a)(2); NJ does not include (a)(1) or (a)(2); and MI adds as (a)(6) a requirement that the lawyer promptly notify the client of all settlement offers, case evaluations or plea bargains. AZ adds a new paragraph requiring a lawyer to inform the client of proffered plea agreements.

Two states, IA and VA, follow the old Model Rule.

#### Rule 1.5: Fees

14 states follow the amendments in paragraph (a) of the Model Rule. Of those, 3 states, ND, OR and PA use the same factors as the Model Rules but have different introductory language. The most common variation is to use the phrase “illegal or clearly excessive” rather than “unreasonable.” Three additional states (IA, NJ and VA) include the same list of factors found in paragraph (a) but retained the old Model Rule language in the introduction.

FL’s rule is significantly different from the Model Rule.

16 states have followed the Model Rule changes in paragraph (b). Four of those, AZ, MT, NJ and SC, require fee agreements to be in writing. NC deleted any reference to changes in the basis or rate, and IA added a provision that changes in the basis or rate should be communicated *preferably in writing*.

Two states, PA and VA, follow the old Model Rule language in paragraph (b). One, PA, requires fee agreements to be in writing.

One state, OR, has no provision similar to paragraph (b).

13 states follow the Model Rules changes in paragraph (c). FL's rule is substantively similar but significantly more detailed. Three states, IA, PA and VA, follow the old Model Rule. One state, OR, has no provision similar to paragraph (c).

#### Rule 1.7: Conflict of Interest: Current Clients

All 18 states have followed the new format and essentially the new language of Rule 1.7. IN requires the writing to be signed by the client. PA does not require the consent to be confirmed in writing. VA replaces "informed consent, confirmed in writing" with "consents after consultation." FL, NJ and SC add provisions relating to common representation. IA and OR add provisions regarding related lawyers. IA also adds a provision related to dissolution of marriage proceedings.

#### Rule 1.8(j): Prohibition regarding sexual relationships with clients

13 states have proposed adding new Model Rule 1.8(j) or an equivalent rule regarding sexual relationships with clients. Of those, three, IA, MN and OR, added additional provisions in (j). Five states, FL, LA, MD, MI and VA, did not add this provision.

#### Rule 1.10: Imputation of Conflicts of Interest: General Rule

All of the states except VA added the new exception in 1.10(a) regarding imputation of personal interest conflicts.

11 of the 18 states, AZ, DE, IA, MD, MI, MN, MT, NJ, NC, OR and PA, include screening provisions in Rule 1.10. These vary in several respects but most require some kind of notice and most require that the lawyer be apportioned no part of the fee from the representation. MN, NC and OR do not include provisions relating to the apportionment of the fee. IA and MD do not include a provision relating to notice.

#### Rule 1.18: Duties to Prospective Clients

All states except FL and VA proposed adding this new Rule. PA is still reviewing the rule. Nine states, AR, DE, IN, LA, MD (no notice required), MI, MN, SD and SC (without the screening option, essentially follow the new Model Rule; while 6 states, AZ, IA, MT, NC (without the limitation on apportionment of fees), OR (without the limitation on apportionment of fees), and NJ, follow the earlier Ethics 2000 version of the Rule. The earlier version did not include the provision in (d)(2) requiring the lawyer to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client.

Rule 2.4: Lawyer Serving as Third-Party Neutral

All states except VA proposed adding this new Rule. Only two vary the language from the new Model Rule. MT adds a reference to “settlement masters” in paragraph (a), and requires in paragraph (b) that all parties be informed of the lawyer’s focused role. OR’s rule only refers to mediators and includes more detail regarding permissible activities of the mediator.

Rule 4.2: Communication with Person Represented by Counsel

14 states added “or court order” to their rule. Four states, AZ, AR, FL and VA, did not.

Only AZ has retained the term “party” in the text of the rule.

7 of the 18 states, FL, IA, LA, MD, NJ, NC and OR, have added additional provisions in Rule 4.2.

Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs

All states except FL proposed adding this new Rule.

## STATUS OF STATE REVIEW OF PROFESSIONAL CONDUCT RULES

| I.   | State        | Committee<br>Reviewing<br>Rules | Committee<br>Issued<br>Report | Supreme<br>Court<br>Approved<br>Rule<br>Amend-<br>ments | Notes  |
|------|--------------|---------------------------------|-------------------------------|---|--|
| II.  | Alabama      | X                               |                               |   | State Bar Committee on Disciplinary Rules and Enforcement conducting review.   |
| III. | Alaska       | X                               |                               |   | Bar Association Rules of Professional Conduct Committee conducting review.   |
| IV.  | Arizona      |                                 |                               | X   | Effective 12/1/03<br><a href="http://www.supreme.state.az.us/media/pdf/test%20ule%2042%20%2043.pdf">http://www.supreme.state.az.us/media/pdf/test%20ule%2042%20%2043.pdf</a>                         |
| V.   | Arkansas     |                                 | X                             |   | Supreme Court considering State Bar Professional Ethics Committee report.<br><a href="http://www.arkbar.com/whats_new/new_model_rules.html">http://www.arkbar.com/whats_new/new_model_rules.html</a> |
| a    | A. Californi | X                               |                               |   | State Bar Commission for the Revision of the Rules of Professional Conduct conducting review.  |
| VI.  | Colorado     | X                               |                               |   | State Bar Ethics Committee conducting review.  |
| VII. | Connecticut  | X                               |                               |   | Bar Association Committee on Professional Ethics conducting review.  |
|      | A. Delaware  |                                 |                               | X   | Effective 7/1/03<br><a href="http://courts.state.de.us/supreme/pdf/FinalDLRPCclean.pdf">http://courts.state.de.us/supreme/pdf/FinalDLRPCclean.pdf</a>  |

|                  |   |   |  |  |
|------------------|---|---|--|--|
| <b>D.C.</b>      | X |   |  | Rules of Professional Conduct Review Committee conducting review.  |
| <b>Florida</b>   |   | X |  | Report of the State Bar Special Committee to Review the ABA Model Rules out for public comment.<br><a href="http://www.flabar.org/tfbtemplates.nsf/newwebsite?openframeset&amp;frame=content&amp;src=/tfb/TFBComm.nsf/840090c16eedaf0085256b61000928dc/b08fd9c0754b9f6c85256cf700577362?OpenDocument">http://www.flabar.org/tfbtemplates.nsf/newwebsite?openframeset&amp;frame=content&amp;src=/tfb/TFBComm.nsf/840090c16eedaf0085256b61000928dc/b08fd9c0754b9f6c85256cf700577362?OpenDocument</a> |
| <b>Georgia</b>   |   |   |  | No review  |
| <b>Hawaii</b>    | X |   |  | Disciplinary Board of Supreme Court Ethics 2000 Committee conducting review.   |
| <b>Idaho</b>     | X |   |  | State Bar Ethics 2000 Committee conducting review. Updates at <a href="http://www2.state.id.us/isb/">http://www2.state.id.us/isb/</a>  |
| <b>Illinois</b>  | X |   |  | Supreme Court Professional Responsibility Committee and State Bar Ethics 2000 Committee conducting simultaneous reviews.   |
| <b>Indiana</b>   |   | X |  | State Bar Ethics 2000 Task Force has issued report.<br><a href="http://www.inbar.org/content/news/article.asp?art=200">http://www.inbar.org/content/news/article.asp?art=200</a>   |
| <b>Iowa</b>      |   | X |  | Supreme Court is considering report of Rules of Professional Conduct Drafting Committee.<br><a href="http://cartwright.drake.edu/gregory.sisk/IowaEthicsRulesDrafting.html">http://cartwright.drake.edu/gregory.sisk/IowaEthicsRulesDrafting.html</a>  |
| <b>Kansas</b>    |   | X |  | State Bar Ethics 2000 Review Task Force has issued report.   |
| <b>Kentucky</b>  | X |   |  | State Bar Ethics Committee conducting review.  |
| <b>Louisiana</b> |   | X |  | Supreme Court is considering State Bar report.<br><a href="http://216.116.171.141/ethics2000/">http://216.116.171.141/ethics2000/</a>  |
| <b>Maine</b>     | X |   |  | Supreme Court Advisory Committee on the Rules of Professional Responsibility conducting review.  |
| <b>Maryland</b>  |   | X |  | Court of Appeals Ethics 2002 Committee has issued draft for public comment.<br><a href="http://www.courts.state.md.us/lawyersropc.html">http://www.courts.state.md.us/lawyersropc.html</a>   |

|    |                     |   |   |  |  |
|----|---------------------|---|---|--|--|
| s  | VIII. Massachusetts | X |   |  | Supreme Court Standing Committee on Rules of Professional Conduct conducting review.   |
|    | A. Michigan         |   | X |  | State Bar Ethics Committee has issued report to be considered by the Representative Assembly of the State Bar.<br><a href="http://www.michbar.org">http://www.michbar.org</a>  |
| a  | B. Minnesota        |   | X |  | Supreme Court is considering State Bar Task Force report.<br><a href="http://www2.mnbar.org/committees/task-force-aba-rules/report.htm">http://www2.mnbar.org/committees/task-force-aba-rules/report.htm</a>   |
| pi | C. Mississippi      | X |   |  | State Bar Committee conducting review. Supreme Court approved changes to Rules 7.1, 7.2 and 8.5.<br><a href="http://www.mssc.state.ms.us/news/sn104819.pdf">http://www.mssc.state.ms.us/news/sn104819.pdf</a>  |
|    | D. Missouri         | X |   |  | Bar Special Committee conducting review.   |
|    | E. Montana          |   | X |  | State Bar Ethics Committee has issued report to be considered by the Board of Trustees.<br><a href="http://www.montanabar.org/manuals/ethicsrulechanges/introduction.html">http://www.montanabar.org/manuals/ethicsrulechanges/introduction.html</a> |
|    | F. Nebraska         | X |   |  | Subcommittee of State Bar Ethics Committee is conducting review.   |
|    | G. Nevada           | X |   |  | State Bar Ethics 2000 Committee conducting review.   |
|    | H. New Hampshire    | X |   |  | Bar Association Ethics Committee conducting review.  |

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| I. New Jersey     |   |   | X | Supreme Court has issued revised Rules of Profession Conduct. Effective 1/1/04.<br><a href="http://www.judiciary.state.nj.us/notices/reports/admin-deter-rpcs.pdf">http://www.judiciary.state.nj.us/notices/reports/admin-deter-rpcs.pdf</a> |
| J. New Mexico     | X |   |   | Supreme Court Code of Professional Conduct Committee conducting review.  |
| K. New York       | X |   |   | State Bar Association Committee on Standards of Attorney Conduct conducting review.  |
| L. North Carolina |   |   | X | Effective 3/1/03<br><a href="http://www.ncbar.com/home/proposed_rules.asp">http://www.ncbar.com/home/proposed_rules.asp</a>  |
| M. North Dakota   | X |   |   | Supreme Court and State Bar Association Joint Committee on Attorney Standards conducting review.   |
| N. Ohio           | X |   |   | Supreme Court Task Force conducting review.  |
| O. Oklahoma       | X |   |   | Rules of Professional Conduct Committee conducting review.   |
| P. Oregon         |   | X |   | State Bar House of Delegates approved proposed changes. Now under consideration by Supreme Court.<br><a href="http://www.osbar.org/rulesregs/ProposedORPC15Jan03.htm">http://www.osbar.org/rulesregs/ProposedORPC15Jan03.htm</a>             |
| IX. Pennsylvania  |   | X |   | Bar Association House of Delegates has approved amendments to be considered by the Supreme Court.  |

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| X.     | Rhode Island   | X |   |   | Supreme Court Committee conducting review.   |
| XI.    | South Carolina |   | X |   | Supreme Court Rules Commission conducting review.<br><br>State Bar Committee submitted report for Supreme Court review.<br><a href="http://www.sctbar.org/pdf/ethics2000.pdf">http://www.sctbar.org/pdf/ethics2000.pdf</a> |
| XII.   | South Dakota   |   |   | X | Supreme Court approved revisions to Rules of Professional Responsibility. Effective 1/1/04.<br><a href="http://www.sdbar.org/members/Default.htm">http://www.sdbar.org/members/Default.htm</a>                             |
| XIII.  | Tennessee      | X |   |   | State Bar Ethics Committee reviewing Ethics 2000 amendments. Tennessee switched to Model Rules format effective 3/1/03.<br><a href="http://www.tba.org/ethics2002.html">http://www.tba.org/ethics2002.html</a>             |
| XIV.   | Texas          | X |   |   | State Bar Disciplinary Rules of Professional Conduct Committee conducting review.  |
| XV.    | Utah           | X |   |   | Supreme Court Advisory Committee on Rules of Professional Conduct conducting review.   |
| XVI.   | Vermont        | X |   |   | Subcommittee of the Vermont Supreme Court's Advisory Committee on Rules of Civil Procedure is conducting review.   |
| XVII.  | Virginia       |   | X |   | Supreme Court reviewing Ethics Committee recommendations.  |
| XVIII. | Washington     | X |   |   | State Bar Ethics 2000 Task Force conducting review.  |
| XIX.   | West Virginia  | X |   |   | State Bar Committee conducting review.   |
| XX.    | Wisconsin      | X |   |   | State Supreme Court Ethics 2000 Committee conducting review.   |
| XXI.   | Wyoming        | X |   |   | State Bar Select Committee for Review of Disciplinary Functions conducting review.   |

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