

FILED

August 23, 2023

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8043

**ORDER APPOINTING ADVISORY COMMITTEE ON
THE RULES ON LAWYERS PROFESSIONAL RESPONSIBILITY**

In an order filed today, we addressed the recommendations made by the Standing Committee on Professional Regulation of the American Bar Association (ABA) regarding Minnesota's lawyer discipline system, which are found in a report filed on September 28, 2022. *Order Regarding the Rept. & Recommendations of the Am. Bar Ass'n Standing Comm. On Prof'l Regul. on the Minn. Lawyer Discipline Sys.*, Nos. ADM10-8042, ADM10-8043 (Minn. filed Aug. 23, 2023). We adopted many of the recommendations made in the ABA's report, noting that in doing so amendments to the Rules on Lawyers Professional Responsibility are needed to implement those decisions.

Given the extent of the likely amendments, we have concluded that the collaborative process of committee deliberations and decisions, based on the input of a broad range of voices from the Minnesota bar, will be useful. Among the more significant recommendations that the ABA made, which had unanimous support in the public comments and which we have adopted, is to create a diversion program to address matters involving less serious misconduct. Such a program can benefit lawyers and clients, would make more efficient use of existing system resources, and could draw from a wider range of programs and tools. All of these objectives are in the public interest and promote

transparency and accountability in our regulation of the bar. Further, other states have successfully implemented diversion programs. *See, e.g.*, Ariz. Sup. Ct. R. 56; Colo. R. Civ. P. 242.17; R. Regulating Fla. Bar 3-5.3 (Practice and Professionalism Enhancement Program); Okla. Stat. tit. 5, ch. 1, app. 1-A, § 5.1 (2022). Thus, in addition to developing proposed amendments to address some of the adopted recommendations, the committee is tasked with developing a recommended format or structure and recommended rules for a diversion program, drawing upon the work of other states in this area.

In addition, the Lawyers Professional Responsibility Board filed a petition with proposed rule amendments, on which we deferred action until we had addressed the ABA's report. *In re Petition to Amend the Rules on Lawyers Prof'l Resp.*, No. ADM10-8042 (Minn. filed Feb. 28, 2023). We ask the committee to also address the proposed amendments in this petition.

Finally, while we do not believe that a wholesale revision of the rules is necessary, there may be housekeeping amendments that, for efficiency and clarity purposes, should be made now.

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

IT IS HEREBY ORDERED THAT:

1. The Advisory Committee on the Rules of Lawyers Professional Responsibility is established. The committee shall review the ABA's report, our order addressing the recommendations from that report, and shall develop and propose rule amendments consistent with the directions we have provided in the order and memorandum filed August 23, 2023.

2. The committee shall establish a sub-committee, drawn from among committee members, to make recommendations on the format, structure, rules, and implementation schedule for a diversion program. The diversion program should be designed to permit isolated instances of non-serious misconduct to be addressed through alternatives to discipline. The sub-committee will report its recommendations for consideration by the full committee.

3. The petition filed by the Lawyers Professional Responsibility Board on February 17, 2023, is referred to the committee for its review and recommendations.

4. The following persons are appointed as members of the Advisory Committee:

The Honorable Lucinda Jesson, judge of the Minnesota Court of Appeals;

Susan Humiston, Director of the Office of Lawyers Professional Responsibility (or her designee); and

Benjamin Butler, chair of the Lawyers Professional Responsibility Board (or his designee).

Judge Jesson shall serve as chair of the committee.

5. The Minnesota State Bar Association may nominate one member to serve on the committee, with the name of that nominee submitted to the Clerk of the Appellate Courts on or before September 15, 2023.

6. Up to seven additional members will be appointed to the committee. Persons interested in serving on the Advisory Committee must submit a letter of interest, resume,

and if applicable, confirmation of an active Minnesota attorney license to the Clerk of the Appellate Courts on or before September 15, 2023.

7. Sarah Novak, State Court Administration, and Rita Coyle DeMeules, Minneapolis, Minnesota, shall serve as staff attorneys for the committee.

8. The committee must hold its first meeting on or before October 16, 2023, and must file its report, with recommendations for rule amendments and a proposed diversion program, on or before June 30, 2024.

Dated: August 23, 2023

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lorie S. Gildea". The signature is written in a cursive, flowing style.

Lorie S. Gildea
Chief Justice