

ADM File No. 2003-62
Proposed Adoption of New Michigan Rules of Professional Conduct

STATE BAR OF MICHIGAN POSITION
By vote of the Representative Assembly on April 16, 2005

Should a revised version of the Proposed New Michigan Rules of Professional Conduct, after consideration of comments submitted to the Supreme Court prior to the June 1, 2005 comment period, be published by the Court for more comment?

- (a) Yes
- (b) No

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Synopsis

In 2003, the Ethics Committee submitted to the Supreme Court proposed New Michigan Rules of Professional Conduct. These proposed rules constituted a major rewrite of the existing MRPC, using language from the ABA Model Rules rather than Michigan's existing Rules. On December 4, 2003, the Assembly made recommendations to the Court and specifically noted that "it is an ineffective body for deliberating the specific verbiage of so lengthy and complex a series of Rules, particularly in the limited time available." The Assembly recognizes that it is the final policy making body for the State Bar of Michigan; it is not a drafting consortium. On July 2, 2004, the Supreme Court published Proposed New MRPC for comment (ADM File No. 2003-62).

The Assembly requested two extensions of the comment period. The first extension was to enable the Assembly to debate the Proposed Rules and Proposed Standards for Imposing Lawyer Sanctions at its January 22, 2005 meeting. The second extension was due to blizzard conditions which prevented the Assembly from its January debate.

The Assembly has responsibly and aggressively sought additional input on the Rules. An internet discussion board was created to economically and efficiently gather commentary from lawyers across the state. A panel of MRPC/MSILS experts was established and seven panel discussions were successfully coordinated with local bar associations around the state (in Detroit, Rochester, Flint, Ann Arbor, Lansing, Grand Rapids and Kalamazoo), with record attendance at each, to educate lawyers about the proposed changes in the Rules and Standards. Notes from the panel discussions, a red-lined version of the Rules (comparing the proposed rules to our existing rules) along with numerous other resource materials, were posted on the Assembly's website for easy access. Articles were published in the Bar Journal and legal newspapers. State Bar Sections and Committees were summoned to provide additional analysis and commentary.

Despite the Assembly's numerous recommendations to the Court regarding substantive and key issues within the Rules and Standards, there remain significant drafting issues associated with such a major rewrite of our rules. Publication of a revised version for further analysis and comment, after having considered substantive comments submitted to the Court thus far, would allow a more thorough and comprehensive rewrite of Michigan's rules. Other states have similarly approached this redrafting process, providing Sections, Committees and Task Forces the necessary time and opportunity to contribute in the crafting of a comprehensive product. Michigan has historically been viewed as a leader in the area of ethic rules. Additional time would ensure Michigan's prestige in this area.