

984

HJ

AK

BAR

ASSN

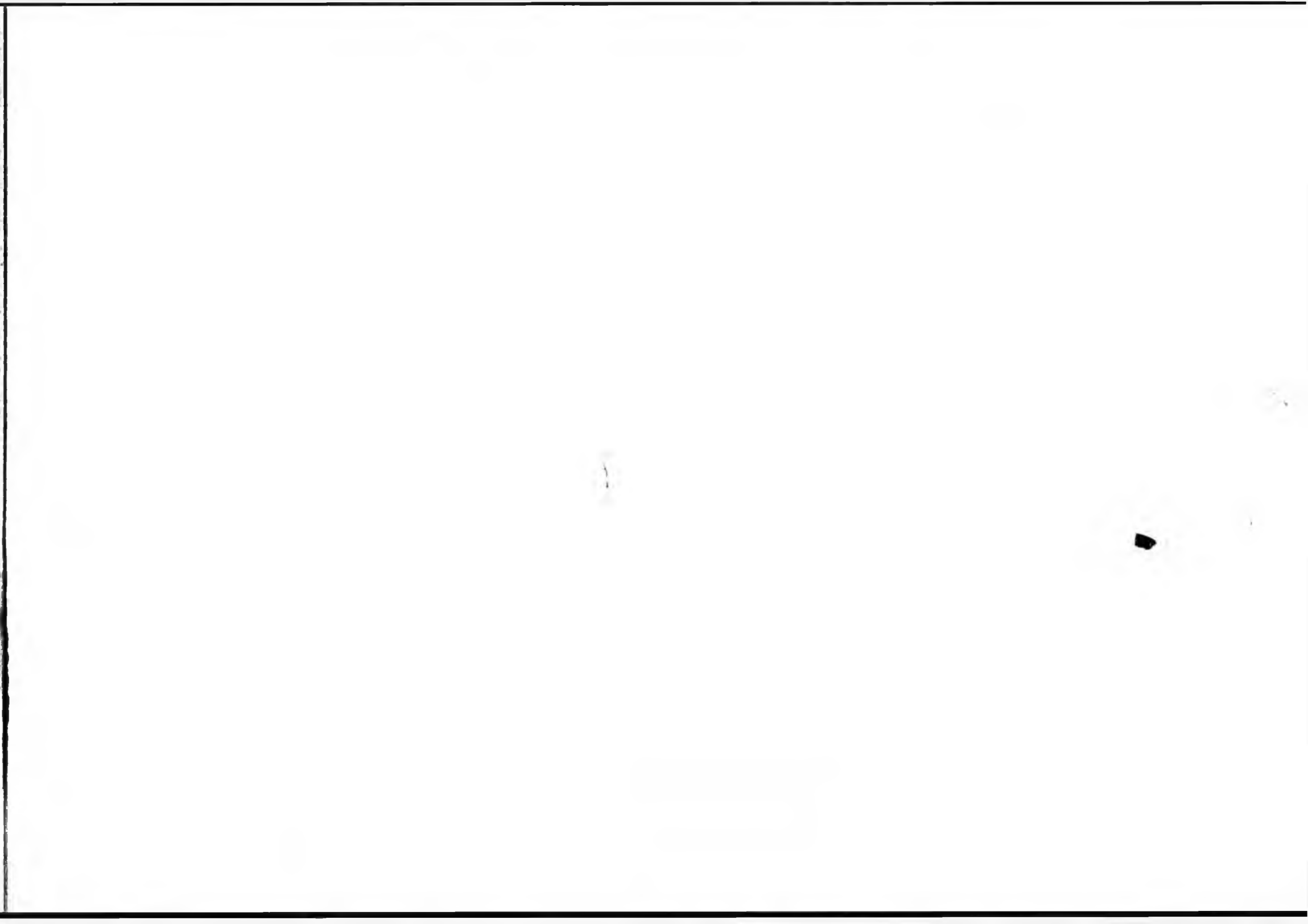
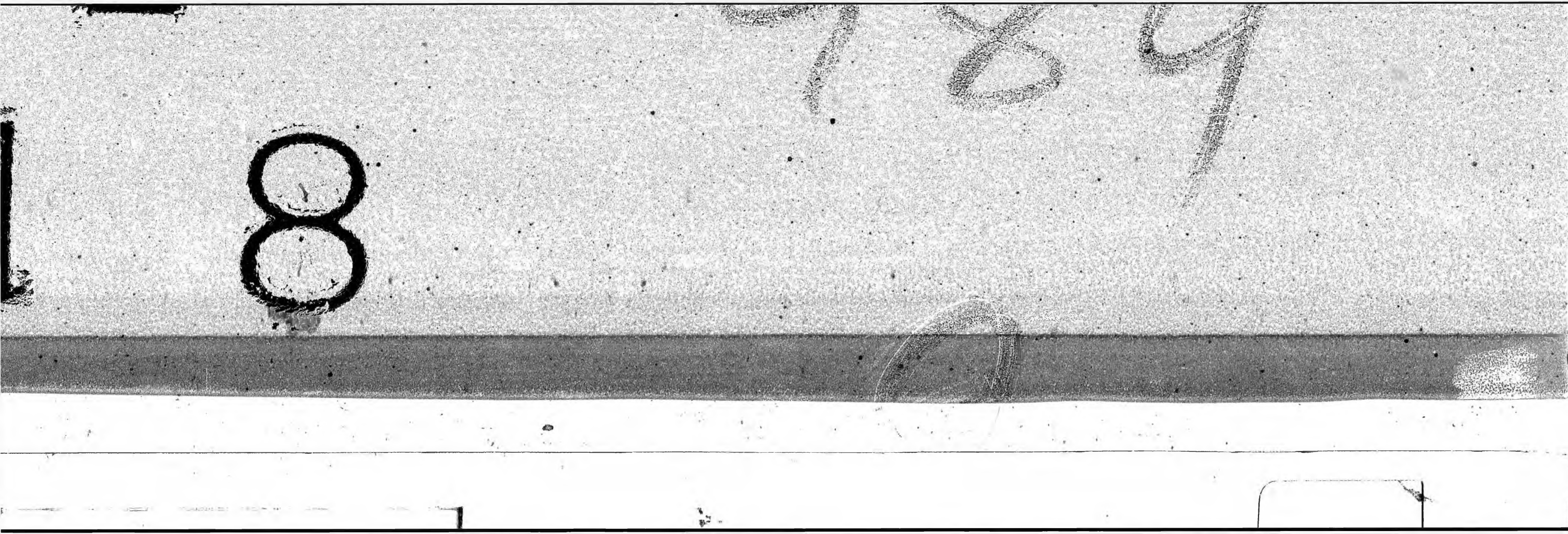
SUNSET

REVIEW

FILES

NO.

7 and



THERESA NANGLE OBERMEYER  
3000 Dartmouth Drive  
Anchorage, Alaska 99504  
(907)278-9759 Home

#### PERSONAL INFORMATION

Birth date July 25, 1945  
Health Excellent  
Marital Status Married, no dependents

#### EDUCATIONAL BACKGROUND

St. Louis University, Ph.D., 1975, Urban Education  
Dissertation: "The St. Louis Comprehensive Drug Treatment Center:  
A Case Study, 1974"  
St. Louis University, M.Ed., 1970  
Maryville College, B.A., 1967, Major: Political Science, Minors: History,  
English, and Education

#### EMPLOYMENT HISTORY

1978-1979 Director-Student Services  
ANCHORAGE COMMUNITY COLLEGE  
2533 Providence Drive  
Anchorage, Alaska 99504

Responsible for over a \$400,000 budget with supervision of ten members  
of the Anchorage Community College Federation of Teachers including  
Counseling Center and Adult Literacy Laboratory with support staff  
Direct involvement with high school visitation for recruitment efforts  
and active coordination with high school counselors  
Chairperson of Women's Program Committee which involves curriculum  
matters, conferences, Luncheon Forums, and re-entry efforts  
Involvement in Registration and Admissions efforts on campus  
Sponsor of Phi Theta Kappa, national honor society for community college  
students  
Grant proposals under the Women's Education Equity Act, American  
Association of Women in Community and Junior Colleges to prepare  
women for business management and ownership, and Alaska State  
Displaced Homemakers  
Involvement and organization of campus student activities program and  
student government  
Authorization of all Tuition Waiver Awards for scholarships through  
Division of Financial Aids  
Development of Financial Aids, Placement, and Veterans Affairs Offices  
Coordination with Alaska Native and Indian Student Organizations  
Campus Committees including Admissions and Standards, weekly Administra-  
tors Meetings, Policy Advisory Council participation, Denali Grant  
support, Faculty Association, Instructional Services Committee, etc.  
Active civic responsibility and visibility in community  
Development of procedures for separation of Anchorage Community College  
and University of Alaska, Anchorage in Student Services functions

1973-1978 ST. LOUIS COMMUNITY COLLEGE  
AT FLORISSANT VALLEY  
3400 Pershall Road  
Florissant, Missouri 63135

1978 Community Services Specialist

Participation in organizing, developing, promoting, and carrying out courses through the Office of Community Services  
Development of seminars and institutes for special interest groups and courses  
Involvement in setting up diverse scheduling for courses of mass mailings to community residents three times yearly  
Coordination of all Women's Programs, courses for women, Welcome to Women, faculty hiring, Women's Day, etc.  
Organization of programs for Senior Adults including tuition reduction in certain courses, Lecture Series, and extensive community outreach  
Involvement with faculty hiring, reservation of facilities, and programming for about seven off-campus locations  
Liaison with the Consumer Education on Wheels which is the campus vehicle out in the community at various shopping centers as a teaching tool for consumerism  
Planning of budgets for all offerings through the Office of Community Services

1973-1978 Assistant Director-Student Activities

Maintenance and management of the Student Center including capital item improvement and reservation of facilities  
Administration of a \$75,000 activities budget, \$49,000 college budget, and about \$22,000 work-study budget  
Supervision of five staff and fifteen work-study students in the Student Center  
Lectures, films, programs, student travel, orientation, Christmas Party for Underprivileged, Family Fun Festival, etc.  
Advisor and budgeting liaison for twenty clubs and Student Association  
Organization of leadership retreats and numerous workshops each year  
Publication of Student Handbook, Procedures Manual, Yearbook, brochures, pamphlets, Bi-State Bus Schedules, etc.  
United Way Chairperson, 1976 and 1977  
Teacher of Citizenship and College Governance each semester  
Training of student volunteers to all college committees  
Mississippi River Festival committee each year  
Active involvement with Administrators Association of the Junior College District  
Member of Student Services Committee, Student Center Committee, College-wide Activity Budget, Affirmative Action Committee, and other college committees  
Organization and consistent input into the Missouri Association of Community and Junior College Student Governments; presenter at each conference held twice yearly  
North Central Accreditation participation and on Steering Committee for five year Master Plan  
Active in women's programs including President of Women Aware

1972-1973

LOYOLA COLLEGE  
Baltimore, Maryland  
Assistant Dean of Students, Director  
of Programming and Volunteer Service

Maintenance of the Student Center  
Administration of a \$15,00 activities budget  
Responsible for five staff in office of the Dean of Students  
Major conferences on volunteerism and women  
Residence Hall staffing and administration  
Director of Office of Volunteer Service involving two staff and about  
100 students, Project Director for a \$19,000 grant on drug abuse  
Teacher of January Term course, "Experiment: Washington, D.C." through  
Political Science Department  
Orientation, programs, student discounts on tickets, publication of  
brochures, Student Handbook, Yearbook, etc.

1971-1972

MAPLEWOOD-RICHMOND HEIGHTS JUNIOR HIGH  
Maplewood, Missouri  
Teacher of Social Studies

1970-1971

MERAMEC COMMUNITY COLLEGE  
Kirkwood, Missouri  
Instructor of Sociology

1969-1970

LINDENWOOD COLLEGES  
St. Charles, Missouri  
Director of Student Activities

Summer 1968

BI-STATE REGIONAL MEDICAL PROGRAM  
St. Louis, Missouri  
Supervisor of ten staff on medical survey

Summer 1966

FEDERAL HOME LOAN BANK BOARD  
Washington, D.C.  
Docket Section Coordination

Summer 1965

MISSOURI STATE EMPLOYMENT,  
YOUTH OPPORTUNITY CENTER  
St. Louis, Missouri  
Interviewer of job applicants

#### HONORS

Publication of article on "Women's Programs at Florissant Valley, 1978"  
through American Association of Community and Junior Colleges  
Project Jordan, Study Group to the Middle East sponsored by the League  
for Innovation and Phoenix College, Office of Education Program,  
Summer, 1977, published article of Palestinian Refugee Camps  
Administrator of the Year, St. Louis Community College at Florissant  
Valley, 1975, 1978  
Project India, Study Group to India sponsored by League for Innovation  
and Cuyahoga Community College, Fulbright Program, Summer, 1974,  
published article on the local panchayat  
Title I Grant through the University of Maryland and Loyola College,  
Project Director, 1972-1973  
National Defense Education Act, Title VC Scholarship, St. Louis University  
Graduate School, January 1968-August 1970

#### PROFESSIONAL ORGANIZATIONS

Higher Education Coordinating Council, Student Activities Directors  
National Association of Student Personnel Administrators, Region IV  
West: Membership Committee and Steering Committee; presented  
paper on College Governance Course at National Conference, 1976  
Missouri Association of Community and Junior Colleges: Student Activities  
Committee, Secretary-Treasurer, Administrators Section  
American Association of Women in Community and Junior Colleges: Regional  
Representative  
Association of College Unions International, presented paper on Student  
Leadership at Regional Conference, 1978  
American Association of University Women  
Missouri College Personnel Association  
Missouri Association for Adult Continuing Education  
Community College Administrators Association, University of Alaska  
Alaska Women Administrators

#### CIVIC MEMBERSHIPS

League of Women Voters  
Daughters of the American Revolution  
Alumni organizations of institutitons attended  
Common Cause  
Active in local political organization  
Experiment in International Living  
Equal Rights Amendment Coalition  
Women's Resource Center  
Anchorage Arts Council  
World Affairs Council and Forum 49  
New Democratic Coalition  
American Society of Public Administration: Membership Chairperson  
Alaska Jaycees  
Business and Professional Women: North to the Future  
Chamber of Commerce  
Native Women's Organization of Alaska  
Anchorage Fine Arts Museum Association  
Valley Hospital Association  
Anchorage Women's Club  
Anchorage Municipality Health Commission, Behavioral Health Committee  
Women for Political Action  
National Organization of Women  
American Civil Liberties Union

#### OTHER

Missouri Real Estate Broker, 1975 to present  
Alaska Real Estate Broker, 1979 to present

#### REFERENCES available upon request at:

Career Planning and Placement  
St. Louis University  
221 North Grand  
St. Louis, Missouri 63103

## BACKGROUND

1. Hired on October 2, 1978 at Anchorage Community College of University of Alaska  
Title and Rank: Director of Student Services  
Administrative Unit: Community, Student Services  
Nature of Proposed Duties: Assistant to Dean of Students, Dr. Roger Worsley  
Term: October 2, 1978-June 30, 1979  
Contracts all state: Permanent, full-time  
Original letter of appointment says "...the terms of your continuing employment..."  
Employee Appointment Proposals show 10/2/78-6/30/00  
Never apprised of entrance into Bargaining Unit or Tenure
2. Job description changed about seven major times including:
  - a. Original advertising for the position stated: "...coordination of student services..."
  - b. Letter of October 2 stated: "...major responsibility high school recruitment..."
  - c. Deletion of responsibility with Adult Literacy Laboratory after one week
  - d. Direct supervision of the Counseling Center as of October 23, 1978
  - e. November 6 inclusion of Orientation, Placement, and Financial Aid
  - f. Hay Study dated November 15 stated percentages of time as follows:  
student leadership groups 15%, grant proposals 5%, staff in Counseling Center 10%, testing arrangements 5%, Women's Program Committee 10%, coordination and policy proposals within student services 15%, attendance at administrative meetings 10%, involvement in community activities 10%, signed by supervisor, Dr. Roger Worsley on November 19, 1978 but not discussed mutually with subordinate, Dr. Obermeyer
  - g. Change in relationship with the Counseling Center again on January 15, 1979 when Dr. Worsley put "lead counselor" in charge of Counseling Center, although under the ACCFT contract terms counselors cannot supervise one another
3. Supervisor moved office three times during the period from October 2 to January 12
4. Told all along doing an excellent job, so purchased home the day prior to "firing" which shows how unexpected it was
5. On January 17, 1979 Dr. Worsley went around the A Bldg. and told many secretaries and administrators in the hallways: "...I am firing her...;" Dr. Worsley had never once mentioned any possible problem with job performance until that day when he told innumerable staff and ruined Dr. Obermeyer's reputation and credibility with the staff
6. Dr. Worsley was called that afternoon to solicit why he told this to many staff and he stated: "...I didn't tell you to write grants or join civic organizations..."
7. Immediate appeals made to Acting President Ed Cordova, who was Acting President from May, 1978 until August, 1979, and Chancellor Patrick O'Rourke but neither man did anything; never once since all of this happened did either Mr. Cordova or Chancellor O'Rourke even so much as call a meeting between Dr. Worsley and Dr. Obermeyer to try to resolve the problems
8. Termination notice received on February 6, 1979 from Acting President Ed Cordova; appealed under Board of Regents Policies within 10 days for hearing but to date have still been denied due process
9. Locked out of office on June 30 with no reasons given; treated as criminal when tried to get belongings

LEGAL ISSUES

Theresa Nangle Obermeyer  
January 15, 1980

1. Due process
  - a. Locked out of office by Edward Cordova on June 30, 1979 even though not granted a hearing prior to termination which under the statutes of the State of Alaska is required; have been appealing to obtain due process since February 16, 1979
  - b. Major issue of selection of Hearing Officer which is supposed to be mutually agreed upon as per Federal Mediation and Conciliation Service and American Arbitration Association, but two Hearing Officers unilaterally appointed
    1. Mr. William Erwin, Attorney at Law, appointed on July 31 and finally withdrew on August 13, the date of the first hearing, because of a direct conflict of interest
    2. Mr. Robert Flint appointed on August 15 but waited until September 11 to set a date of September 24; then he ruled a continuance
    3. Dr. Obermeyer filed a complaint with the Alaska Bar Association that afternoon for the manner in which these attorneys had acted, especially the University Counsel and Assistant to the President for Personnel Relations, Dr. Thomas Gruenig
    4. Next hearing set for October 29 but dispute as to location so not held but Mr. Flint ruled "dismissal with prejudice"
2. Property and liberty
  - a. No reasons for termination given; not evaluated prior to or after notice
  - b. No references given so impossible for Dr. Obermeyer to find other employment; she has a file full of rejections
  - c. Transfer not explored even though many requests and currently there are five administrative openings at Anchorage Community College
  - d. Chancellor O'Rourke told Dr. Obermeyer on July 3 that he was firing her because: "...You talked to elected officials. I must have gotten about four calls about you after the University Budget Hearings in April..."; Dr. Obermeyer has never made any public statements on this matter
3. Arbitrary, capricious, and unreasonable decision-making
  - a. Told all along doing an excellent job
  - b. Never told of any problem areas or given adequate time to improve
  - c. Only in position for two and a half months but fired for six months; waste of the taxpayers money and if terminated for cause should have been fired immediately; incredibly short time in position before fired
  - d. Five administrators at ACC and UAA hired in October, 1978; all paid moving expenses to Anchorage from the Lower 48 and four others paid as of June 30, 1979 to leave the State of Alaska
4. Sex discrimination
  - a. Original interview prejudiced; at least one male got a two day interview and expenses paid while Dr. Obermeyer had half hour interview and paid her own way for interview
  - b. Placement on salary schedule discriminatory
  - c. Every male in division given constant transfers but Dr. Obermeyer fired
  - d. Applied for President of ACC in April, 1979 and even though had the qualifications not considered for position and rejected out of hand
  - e. Complaints filed with Equal Employment Opportunity Commission, Department of Labor, Office of Civil Rights, Human Rights Commission since April, 1979 but none have made a determination to date
5. On December 17, 1979 Dr. Edwin Biggerstaff, ACC President hired August, 1979 fired Dr. Jon Baker for "misconduct;" Dr. Obermeyer was told by Dr. Baker prior to November 1, 1978: "...I gave him an Associates Degree for an engine..." Dr. Obermeyer told the chain of command about this immediately; they did nothing and then fired her presumably because of "negative feelings" in her area of responsibility, the Counseling Center; Dr. Baker had been a counselor in charge of Testing reporting to Dr. Obermeyer

RECEIVED

COMPLAINT AND  
REQUEST FOR INVESTIGATION

SEP 24 1979

ALASKA BAR  
ASSOCIATION

of ~~Thomas B. Gruenig, Floyd V. Smith, Robert B. Flint~~  
a Member of the State Bar of Alaska

TO THE ALASKA BAR ASSOCIATION:

I, Dr. Theresa Nangle Obermeyer  
(Type, or print your full name)

complain about the above named attorney and state  
that he or she:

1. Maintains his or her address at

LOW  
(Street and Number, City, village, town)  
Alaska. Telephone No. \_\_\_\_\_

2. Has committed acts of misconduct as set  
forth in the Statement below.

I, therefore, request that such misconduct be  
investigated by the State Bar Counsel.

Date: September 24, 19 79

(Signature) Theresa Nangle Obermeyer

(Address) 3000 Dartmouth Drive  
Anchorage, Alaska 99504

(Telephone) (907) 278-9759

INSTRUCTIONS:

- a. Please type or hand letter all information except signature
- b. Under "Statement" state all circumstances as to the conduct of the attorney, in chronological order. Attach additional sheets if necessary.
- c. Specify exactly what the attorney did which you believe to have been misconduct.
- d. Please return original of this form and attachment to:  
  
Alaska Bar Association, Box 279,  
Anchorage, AK 99510
- e. An additional copy should be retained by person signing this form.

STATEMENT

1. Thomas B. Gruenig  
University Counsel  
University of Alaska  
Fairbanks, Alaska 99701  
(907) 479-7211

2. Floyd V. Smith  
310 K Street, #704  
Anchorage, Alaska  
(907) 276-5294

3. Robert B. Flint  
645 C Street  
Anchorage, Alaska  
(907) 276-6401

His complaint centers around the handling of the grievance of Dr. Theresa Nangle Obermeyer by the University Counsel of the University of Alaska, Dr. Thomas B. Gruenig. Dr. Gruenig has made a travesty of Dr. Obermeyer's rights under the United States Constitution and the laws of the State of Alaska. Dr. Obermeyer has been appealing under Board of Regents Policies since February 16, 1979 in an attempt to be granted due process. Her complaints are sex discrimination, no reasons given for termination as of June 10, 1979, and inability to even get a hearing, much less a fair and equitable one. Dr. Obermeyer was illegally locked out of her office on June 10, 1979. She has appealed to every state and federal agency and to many advocacy groups, but has received very little help and/or support. The agencies she has filed complaints with include the State Ombudsman, the Commission for Human Rights, Equal Employment Opportunity Commission, Department of Labor, Office of Civil Rights, Labor Relations Agency, Attorney General's Office, the Public Defender, General Mediation and Conciliation Service, American Arbitration Association, Personnel Board, etc. The advocacy groups she has gone to are the Alaska Organization for Women, Anchorage Association of Women Lawyers, and the Civil Liberties Union, etc.

The specific charges involve the fact that a member of the Bar of the State of Alaska in the name of Dr. Thomas B. Gruenig has made a mockery of Dr. Obermeyer's attempts to resolve this situation through established channels.

OVER

Dr. Obermeyer has been sending Dr. Gruenig certified letters since April 6, 1979 to obtain timely due process that has effected her livelihood, career, and reputation.

The University of Alaska originally hired Mr. William Erwin as Hearing Officer for her grievance on July 31, 1979 unilaterally with Mr. Floyd V. Smith representing the University for this proceeding. The hearing was set two days prior to its being held on August 13, 1979. At that time Mr. Erwin withdrew as Hearing Officer because of a direct conflict of interest. His brother, Mr. Robert Erwin, is Mr. Floyd V. Smith's law partner. Then on August 15, another Hearing Officer, Mr. Robert Flint, was unilaterally appointed. Mr. Flint, per Dr. Obermeyer's requests for a decision in the matter immediately or a withdrawal, procrastinated and finally sent Dr. Obermeyer notification of the hearing on September 13. The hearing was held on September 24 at which time Mr. Flint ruled a continuance. Dr. Obermeyer feels that these attorneys are intentionally attempting to thwart her constant requests to exhaust her legal remedies in order that she can file suit. These men are members of the Bar of the State of Alaska and must have graduated from law school so they should know the law in this instance.

Dr. Obermeyer feels very strongly that Mr. Smith and Mr. Flint are only continuing this sham because they are each being paid in excess of \$100.00 an hour. Dr. Obermeyer thinks that Dr. Gruenig's lack of good faith and continuance of involvement of other attorneys in this matter is cause for his disbarment from the Bar Association of the State of Alaska. She states here that Dr. Gruenig has been the direct cause of her legal problems against the University of Alaska.

cc: Mr. Edward Rasmuson  
Dr. Jay Barton  
Dr. Thomas Gruenig  
Mr. William Erwin  
Mr. Floyd V. Smith  
Mr. Robert Flint  
Mr. Frank Flavin

28

DRAFT COMMITTEE REPORT ON ALASKA BAR ASSOCIATION

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the Alaska Bar Association. By letter of July 31, 1979 the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

The Alaska Bar Association has taken the position "that it is not a State agency, and that it is not subject to the Sunset review process." The Association refused the Legislative Auditor access to <sup>some</sup> all of its records; therefore, no performance audit has been conducted.

On November 7, 1979 the Committee requested information on 87 points; by letter of January 30, 1980 and a 71-page booklet, The Alaska Bar Association, February 1980, the Association answered of the questions posed. Some questions were not answered "for reasons of privacy and because of limitations on its own authority as regards the confidentiality of the Association's discipline and grievance files" and others because "the Association has not kept those records -- until very recently -- in a manner which would make the retrieval of those statistics feasible."

In addition to receiving testimony during interim hearings, the Committee held hearings in Juneau. Also, two teleconference hearings were held to obtain testimony from Anchorage, Fairbanks, Kodiak, Valdez, Ketchikan, Sitka and Nome. Written testimony was received from persons, and oral testimony from

. Witnesses included

president, president-elect, two former presidents, and three members of the present Board of Governors of the Association; the Ombudsman, and a number of attorneys.

The Alaska Supreme Court has delegated to the Association the responsibility for admissions and discipline, and by statute the Association may propose court rules or rule changes. All attorneys practicing in Alaska are required to be members of the Association, and to pay dues (now \$180.00 per year). Statutory authority is AS 08.08.010 - 250, commonly called the Integrated Bar Act, and some members of the Bar seem to feel that authority also resides in the inherent power of the Alaska Supreme Court.

The Committee found that the Association is conducting a number of worthwhile activities. Unfortunately, it is not clear that most of these are benefiting the general public, as opposed to Association members. (If, as it claims, the Association is not a State agency, it would be under no obligation to benefit the general public.)

In some ways one of the most disturbing revelations was the extent to which attorneys form a closed corporation. The Association comprises all attorneys in the State, only its members may practice law, it is in charge of admissions to the Bar and of discipline of its members, it nominates the three attorneys who sit on the Judicial Council, which in turn sends judgeship nominees to the Governor, judges must themselves be attorneys, the Association furnishes nine members of the Board of Directors of Alaska Legal Services Corporation. Only in the disciplinary hearing and attorney

fee review committees is there any lay presence. There seems to be at present no provision for the exercise of supervisory responsibility by the elected representatives of the people.

When, after completion of testimony, the Committee began its deliberations, the diversity of opinion was clearly evident. Apparently no one believed that the Alaska Bar Association should be extended for the maximum four years. Some members wanted to treat attorneys like other professionals, with a board to handle admissions and discipline; others preferred to make the Supreme Court directly responsible for those functions; and a third group preferred a short extension together with appropriate statute changes. The last viewpoint was finally adopted.

In compliance with AS 44.66.050(d), the Committee finds that:

- (1) The Alaska Bar Association is intended to address the need for admission and discipline of attorneys in the State. *in order to assure adequate legal services in Alaska to general public*
- (2) The objectives are to upgrade the Bar in terms of education, competence, and professionalism of its members, and to perform some services for the general public.
- (3) There are no other programs having similar or conflicting objectives.
- (4) The responsibilities could be turned over to the Supreme Court or to a professional board in the Division of

Occupational Licensing. The Committee has considered these alternatives but believes that they are not feasible at this time. *(File) the letter read from Court.*

- (5) The Association could not be eliminated unless some other agency were responsible for the functions.
- (6) The extension of the Association for one year will permit time for a more thorough review and there is no duplication of other efforts.
- (7) Information which would improve the performance of the Association is included in other portions of this report or in legislation to be introduced by the House Judiciary Committee.

The House Judiciary Committee finds that:

- (1) The Alaska Bar Association should be extended until June 30, 1981.
- (2) Statutory changes are needed in the public interest. The Committee will propose a bill incorporating these changes. *(Should we highlight the Statute - Para - no).*

Rule 1 Committee of Law Examiners - contract with professional testers.

Rule 2 Eligibility for Examination

BOARD OF GOVERNORS  
ALASKA BAR ASSOCIATION

OFFICERS

DONNA C. WILLARD  
PRESIDENT  
ANCHORAGE

WILLIAM B. ROZELL  
PRESIDENT ELECT  
JUNEAU

JONATHAN H. LINK  
VICE PRESIDENT  
FAIRBANKS

EDWARD G. KING  
SECRETARY  
KETCHIKAN

P. O. BOX 279  
ANCHORAGE, ALASKA 99510  
AREA CODE 907/272-7469

WILLIAM GARRISON, BAR COUNSEL

BOARD MEMBERS

ALBERT H. BRANSON  
STANLEY T. FISCHER  
KAREN L. HUNT  
ELIZABETH P. KENNEDY  
EDWARD G. KING  
JONATHAN H. LINK  
WILLIAM B. ROZELL  
RICHARD D. SAVELL  
DONNA C. WILLARD

January 30, 1980

The Honorable Charles H. Parr  
Chairman  
House of Representatives'  
Committee on Judiciary  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Representative Parr:

The attached pages are submitted by the Alaska Bar Association in response to the House Judiciary Committee's lengthy request of November 7, 1979. The questions have been answered to the best of the Association's ability, not withstanding those questions about which the Board of Governors of the Association cannot, for reasons of privacy and because of limitations on its own authority as regards the confidentiality of the Association's discipline and grievance files, provide your Committee with the requested information. In addition, some of the data requested cannot be provided because the Association has not kept those records -- until very recently -- in a manner which would make the retrieval of those statistics feasible. Unfortunately, the Association has only limited staff resources, and complying with several of your requests is wholly impractical in terms of the number of staff hours necessary to compile the desired data.

Nevertheless, whenever remotely possible, the Board of Governors has instructed its staff to provide your Committee with the information requested. Hopefully, the attached material answers a majority of the House Judiciary Committee's questions, and provides the members of your Committee with sufficient information regarding the Association to begin understanding the wide-ranging activities of the Alaska Bar. In addition, you should know that the Board of Governors of the Association is preparing a booklet for dissemination to the members of your committee. The booklet attempts to lay out, in concise terms, the general functions of

Representative Charles Parr  
January 30, 1980  
Page 2

the Bar Association, including a description of the various committees of the Bar and, particularly, the full scope of the Association's disciplinary proceedings and fee arbitration and conciliation panels. This booklet should do much to clarify the impact of the Association's work.

The Alaska Bar Association, in responding to this request of the House Judiciary Committee, wishes to make it clear, however, that it has provided the enclosed data as a matter of comity, but with express reservations of rights. It remains the position of the Alaska Bar Association that it is not a State agency, and that it is not subject to the Sunset review process. Therefore, provision of these materials is not to be construed as a waiver of the jurisdictional issues or any other defense which the Association must have with respect to the applicability of those statutes concerned with Sunset review.

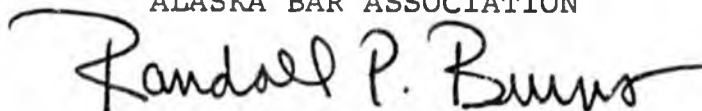
As your Committee can appreciate, the Association, like everything else in Alaska, experienced rapid and substantial growth during the past ten (10) years. For example, the number of attorneys in Alaska practically doubled in the last five (5) years. It was only during the closing years of the Seventies that the Association was financially able to fully organize and take a leading role in recording the activities of the legal profession, a profession whose major goals -- on behalf of the citizens of this State -- are to facilitate the administration of justice and to cultivate and advance the science of jurisprudence. The Association's attorney and judicial members are well aware of the importance of these goals to a maturing Alaska, and the Alaska Bar Association has worked hard in recent years to improve the legal profession in Alaska. The work it has done is beginning to have positive impact and, as the Association continues, it will strive to maintain the requisite records that reflect the growth and change. While the significant contributions made by individual members of the Association to the welfare and well-being of the State are well-known, it is ironic that at the present time, when it would so obviously be to its benefit to have kept more detailed records, the Alaska Bar Association is unable to freely and systematically document the challenges faced by, and the achievements of, the legal profession as a whole.

Representative Charles Parr  
January 30, 1980  
Page 3

If the Association can be of additional assistance, please contact us. I look forward to assisting your Committee in its work.

Sincerely,

ALASKA BAR ASSOCIATION

A handwritten signature in cursive script that reads "Randall P. Burns". The signature is written in dark ink and is positioned above the typed name and title.

Randall P. Burns  
Executive Director

wj

Enclosures

LAW OFFICES OF

MARY A. NORDALE  
1919 LATHROP STREET, DRAWER 33  
FAIRBANKS, ALASKA 99701

(907) 456-6903  
(907) 452-2930

MARY A. NORDALE  
~~XXXXXXXXXXXX~~  
Deborah L. Medlar

February 14, 1980

Representative Charles H. Parr  
Chairman, Judiciary Committee  
House of Representatives  
Pouch V  
Juneau, Alaska 99801

RE: Sunset of Alaska Bar Association

Dear Charlie:

It doesn't look as if I'll get a chance to attend the teleconference hearing on the sunset legislation. Therefore, I'd like to add my two-bits now.

Unless something pretty marvelous happens, it is my opinion that the bar association should fall under the sunset provisions. The situation as it exists now serves no one well, the general public, the members of the bar or the judiciary.

Under existing law, the bar association performs several public functions: admissions, discipline, and provides appointees to the Judicial Council and to the Judicial Qualification Commission. The appointees to those bodies are elected by the bar, not appointed by the Governor. The Board of Governors, which has responsibility for admissions and discipline is elected by the bar, not appointed and, of course, as to all such persons, no legislature confirmation process applies.

The judicial branch promulgates rules for the procedures to be followed by the bar in admissions and discipline, but if you look at some of the cases the court has decided, especially In re Sullivan, you find that the Supreme Court prefers to set its own standards for admission. The same can be said for the discipline cases as well.

Because the existing statute is inadequate, no one - not the public, the bar or the court - has a well-defined and respected role to play in the so-called integrated bar. In fact, since there is only partial integration, no one can play a clear-cut role.

This ill-defined system has promoted a disinterest in bar matters on the part of the members. In fact, all of the decision-making functions of the bar are vested in the Board of Governors and while the annual conventions may be entertaining, they accomplish nothing by way of giving members even a small voice in management of an association to which they must belong by law.

Charles H. Parr  
Page Two  
February 14, 1980

There are a number of ways of avoiding disintegration. Frankly, I should prefer to have an integrated bar, but I see no way of accomplishing it without a change of mind and heart, as well as statute. Until both bar association and the Supreme Court fully understand the concept of an integrated bar, it appears to me that no integration should be the course pursued.

As you know, many jurisdictions have gone to the integrated bar concept. It was done in Alaska because of the fact that in territorial days, with the carpetbagger judges empowered to admit and discipline, favoritism and political preference was the rule and the courts were abusive of the bar and the public. The idea of an integrated bar was a good one then and it still is except that the existing statute is insufficient for complete integration. As a consequence, the court retains a lingering belief that it ought to have the power it asserted in 1964 and decisions such as In re Sullivan are the result.

In an effort to protect itself, the bar association and in particular, the Board of Governors, has taken what I consider to be highly irresponsible positions and I see no cure for the impasse between bench and bar unless the partially integrated bar is abolished. Then the court would have unfettered authority to admit and discipline and would be stuck with the results. Also, the bar association members may awaken to their responsibilities. Even if they didn't, they would have become members of a private professional association without public responsibilities and could do whatever they wanted to do.

Although the members presently pay a high fee for the privilege of belonging to a partially integrated bar, thereby saving the taxpayers some money, the state contributes to the discipline function which has become wholly unaccountable, an unacceptable situation.

I may be recommending a cure worse than the disease, but unless the cure is new legislation fully integrating the bar, it is a cure which must be endured. The court views with dismay, if not horror, the prospect of assuming the admissions and discipline functions, as well they may. They are unpleasant but essential duties and involve a lot of time and money. It would require the creation of another bureaucracy in the court system and greatly increase costs. But we cannot tolerate much longer the existing system. It is breaking down and because of this, both bench and bar are losing sight of their responsibilities. A "disintegration" of the bar will place the responsibility for admissions and discipline in the court. It will be clearcut, precise, defined and apparent. It would work.

A fully integrated bar would also work, but only if the members of the bar are shocked into acting as they should have been acting for the past three or four years. One would assume that the older, more respected

Charles H. Parr  
Page Three  
February 14, 1980

and experienced members would be candidates for the Board of Governors. They are not. Neither, by the way, are they candidates for the bench. One sees the younger, less experienced, less mature attorneys assuming the leadership positions in both bench and bar. The reasons are generally the same and I, for one, believe that the public has forced this condition to arise and now must deal with it. It's about time all of us faced the issues and I believe that the most effective way of allocating responsibility is to "disintegrate" the bar.

It must be understood that if the bar is "disintegrated", the public has to assume the responsibilities now borne by the bar. The record in Alaska of the regulation of professions has been dismal and is a disgrace, but we have made that record and the sunset review is, I think, an important process in reawakening the public to what it wants and to make it possible for the public to make informed choices.

I hope that in the process of your deliberations you will be able to state a political philosophy of government which will lead to good regulation for the future, not merely on allocation of blame to a few for what we have all done or allowed to be done.

I am firmly convinced that in Alaska, government and government leaders clearly represent the wishes of the public. People, if given a free choice as we have in this state, generally choose leaders who reflect their own concepts. The relationship between voter and elected official is relatively easy to detect. It is not so easy to detect such a relationship when it comes to appointed officials, but it is there if you look for it.

As a consequence, in establishing or abolishing regulatory bodies, a stated philosophy and purpose is vital if in the long run those bodies are to perform objectively the truly regulatory functions. We cannot abandon equal protection and due process in the course of satisfying a temporary political whim.

I don't envy you your task. You are dealing with functions which are vital to good government. If one recalls the desperate desire for some control over their lives which Alaskans had in territorial days, one understands much of the extensive regulatory scheme which we have perpetuated. Now, with statehood an apparent fact, the problem becomes much deeper and more truly integral to our lives. I wish you luck and much success and if I can be of assistance, I should be glad to help.

Sincerely yours,

LAW OFFICES OF MARY A. NORDALE

Mary A. Nordale



*Copies for all members  
Parratto*

MEMO

Date: February 29, 1980  
To: Representative Charlie Parr, Chairman  
House Judiciary Committee  
From: Frank Flavin, Ombudsman *FMF*  
Subject: Alaska Bar Association, Sunset

I believe the following requirements would greatly improve the public accountability of the ABA:

1. Establishment of a grievance panel consisting of seven members; three attorneys appointed by the ABA, three lay workers and one attorney appointed by someone other than the Bar;
2. Establishment of grievance procedures pursuant to the administrative procedures act;
3. Coverage of non-litigation activities of attorneys by Consumer Protection; and
4. Legislative Audit and ombudsman jurisdiction over ABA activities.

KENAI PENINSULA BAR ASSOCIATION

P. O. BOX 397

KENAI, ALASKA 99611

TELEPHONE 283-7564

February 19, 1980

Honorable Charles Parr  
House of Representatives  
House Judiciary Committee  
State of Alaska  
Pouch Y  
Juneau, Alaska 99811

Dear Mr. Parr:

Enclosed please find a Resolution of the Kenai Peninsula Bar Association in which the Bar Association has voted that the legislature should "sunset" the Alaska Bar Association. The reasons for the association's action are enumerated in the attached Resolution.

I should point out that there was dissent in our local bar association with regard to whether or not the Alaska Bar Association should cease to exist. Thomas Wardell specifically wishes it to be known that he does not concur and would support the continuance of the Alaska Bar Association and would try to resolve any differences with the existing entity.

As President of the Kenai Peninsula Bar Association I feel that our relations with the Alaska Bar Association have been very good. I would like to point out that the Alaska Bar Association has "reached out" to the Kenai Peninsula Bar Association to improve relations and services to our members here on the Kenai Peninsula. The following are examples of such efforts. Namely, I, the President, have been invited to attend each and every Board of Governors meeting; the opinions of our association have been sought on numerous issues which are before the Alaska Bar Association, representatives of the Alaska Bar Association including the President, the board members and, respectively, the bar counsel have volunteered to visit the Kenai Peninsula to address our members; the Alaska Bar Association has initiated a video tape program to allow Kenai attorneys to view Alaska Bar Association Continuing Legal Education seminars which are presented elsewhere in the state which has enabled our members to continue in their professional education without incurring the great costs of travel.

Honorable Charles Parr  
February 19, 1980  
Page 2

It is also my personal conviction that the many activities of the bar association such as bush justice, the publication of a legal newspaper, the extensive work by committees on changes in the substantive of law, the self regulation of professional ethics and fee arbitration are highly useful functions and benefit the populace of the State of Alaska.

I have personally viewed the fee arbitration process first hand. I was highly impressed by the degree of impartial objectivity on the part of the prosecutor and the fee arbitration panel and was personally very impressed by the quality of the legal opinion and decision which was issued.

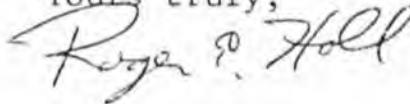
It is my personal conviction that the legislature should carefully weigh whether or not problems within the Alaska Bar Association are real and if so, can they be corrected by some means other than to "sunset" the Alaska Bar Association.

The two areas that I am dissatisfied with are the bar exam admissions procedure with regard to review of marginal exam results. It has been the experience of some local bar applicants that the bar association will not grant a review of a paper which has a score of 69 where a score of 70 is mandatory to pass the exam. I believe that applicants should show a substantial ability to pass the Alaska Bar exam but I also believe that we do not need to "protect" the business of members of the bar from new admittees and I believe that fair procedures should be adopted by the Alaska Bar Association.

Another area of great consternation to many of the attorneys is the winter meetings in such places as Hawaii and Mexico. Holding these meetings in far off location bars the general members of the bar association from attending these important functions. Most young lawyers simply cannot afford to expend thousands of dollars on such an occasion.

I trust these comments will be of interest to you. Scheduled court appointments preclude me from appearing at the teleconference hearing before the House Judiciary Committee

Yours truly,



ROGER E. HOLL  
Attorney at Law

REH:aj

## RESOLUTION

WHEREAS, the continued existence of the Alaska Bar Association is being considered by the Alaska State Legislature under the provisions of the "Sunset Law"; and

WHEREAS, this topic was discussed at length by the membership of the Kenai Peninsula Bar Association, consuming at least two weekly meetings; and

WHEREAS, the Kenai Peninsula Bar Association members agreed that the Alaska Bar Association has failed to adequately deliver to the members of the bar and to the members of the public the services that it was designed to render, as follows:

1. The dues collected from the membership are too high for the services rendered and are used ineffectively.

2. The Alaska Bar Association does not effectively or fairly administer the Alaska Bar Association admissions procedure.

3. The Alaska Bar Association does not effectively or efficiently examine disciplinary complaints.

4. The Alaska Bar Association fee arbitration procedure does not effectively resolve fee disputes.

5. The meetings of the Alaska Bar Association are often not accessible to the general membership in that some major meetings are held outside the State of Alaska.

6. The cost of continuing legal education is becoming increasingly prohibitive in so far as those meetings which are held outside of the State of Alaska.

7. The funds allocated by the State of Alaska to the Alaska Bar Association could be used more effectively for other purposes.

8. The Alaska Supreme Court can and should handle the administration of services, the admissions procedure before the Courts of Alaska, the disciplinary complaints and other functions now handled by the Alaska Bar Association.

BE IT RESOLVED THEREFORE, for these and other reasons that the Legislature of the State of Alaska "sunset" the Alaska Bar Association and that the Alaska Supreme Court assume the functions of the Alaska Bar Association.

Thomas Wardell voted against this resolution and wishes that fact to be known.

DATED: At Kenai, Alaska this 19 day of February, 1980.



Roger E. Holl, President  
Kenai Peninsula Bar Association

20

DRAFT COMMITTEE REPORT ON ALASKA BAR ASSOCIATION

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the Alaska Bar Association. By letter of July 31, 1979 the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

The Alaska Bar Association has taken the position "that it is not a State agency, and that it is not subject to the Sunset review process." The Association refused the Legislative Auditor access to all of its records; therefore, no performance audit has been conducted.

On November 7, 1979 the Committee requested information on 87 points; by letter of January 30, 1980 and a 71-page booklet, The Alaska Bar Association, February 1980, the Association answered of the questions posed. Some questions were not answered "for reasons of privacy and because of limitations on its own authority as regards the confidentiality of the Association's discipline and grievance files" and others because "the Association has not kept those records -- until very recently -- in a manner which would make the retrieval of those statistics feasible."

In addition to receiving testimony during interim hearings, the Committee held hearings in Juneau. Also, two teleconference hearings were held to obtain testimony from Anchorage, Fairbanks, Kodiak, Valdez, Ketchikan, Sitka and Nome. Written testimony was received from persons, and oral testimony from

Witnesses included

president, president-elect, two former presidents, and three members of the present Board of Governors of the Association; the Ombudsman, and a number of attorneys.

The Alaska Supreme Court has delegated to the Association the responsibility for admissions and discipline, and by statute the Association may propose court rules or rule changes. All attorneys practicing in Alaska are required to be members of the Association, and to pay dues (now \$180.00 per year). Statutory authority is AS 08.08.010 - 250, commonly called the Integrated Bar Act, and some members of the Bar seem to feel that authority also resides in the inherent power of the Alaska Supreme Court.

The Committee found that the Association is conducting a number of worthwhile activities. Unfortunately, it is not clear that most of these are benefiting the general public, as opposed to Association members. (If, as it claims, the Association is not a State agency, it would be under no obligation to benefit the general public.)

In some ways one of the most disturbing revelations was the extent to which attorneys form a closed corporation. The Association comprises all attorneys in the State, only its members may practice law, it is in charge of admissions to the Bar and of discipline of its members, it nominates the three attorneys who sit on the Judicial Council, which in turn sends judgeship nominees to the Governor, judges must themselves be attorneys, the Association furnishes nine members of the Board of Directors of Alaska Legal Services Corporation. Only in the disciplinary hearing and attorney

fee review committees is there any lay presence. There seems to be at present no provision for the exercise of supervisory responsibility by the elected representatives of the people.

When, after completion of testimony, the Committee began its deliberations, the diversity of opinion was clearly evident. Apparently no one believed that the Alaska Bar Association should be extended for the maximum four years. Some members wanted to treat attorneys like other professionals, with a board to handle admissions and discipline; others preferred to make the Supreme Court directly responsible for those functions; and a third group preferred a short extension together with appropriate statute changes. The last viewpoint was finally adopted.

In compliance with AS 44.66.050(d), the Committee finds that:

- (1) The Alaska Bar Association is intended to address the need for admission and discipline of attorneys in the State.
- (2) The objectives are to upgrade the Bar in terms of education, competence, and professionalism of its members, and to perform some services for the general public.
- (3) There are no other programs having similar or conflicting objectives.
- (4) The responsibilities could be turned over to the Supreme Court or to a professional board in the Division of

Occupational Licensing. The Committee has considered these alternatives but believes that they are not feasible at this time.

- (5) The Association could not be eliminated unless some other agency were responsible for the functions.
- (6) The extension of the Association for one year will permit time for a more thorough review and there is no duplication of other efforts.
- (7) Information which would improve the performance of the Association is included in other portions of this report or in legislation to be introduced by the House Judiciary Committee.

The House Judiciary Committee finds that:

- (1) The Alaska Bar Association should be extended until June 30, 1981.
- (2) Statutory changes are needed in the public interest. The Committee will propose a bill incorporating these changes.

# APA Grievance Panel

Colo

all arbitration, fee dispute

## COSTS #

44.62.360-550 are appropriate, but would need to compare the rights and procedures provided to individuals in those sections with what individuals are now entitled to under the Bar Rules

Instead of hearing officer - insert a panel section.

see arbitrator  
Council  
Don't go to Board

Instead of Superior Court Review need to insert Supreme Court Review

Additionally would need to insert a section providing for the ranges of discipline - i.e., private reprimand / public reprimand / suspension, disbarment.

Current system - local disciplinary panel; to Bd. of Governors; to Supreme Court. (Denver review)

*included*

*\$412,000  
\$26,000*

2. A major defect in the administration of the Alaska examination is that it is prepared and graded by persons who, while skilled attorneys, are amateurs in testing. Professionalism is needed in both the preparation and grading of the examination to ensure that the examination will score persons only on relevant factors. The training of the preparers and graders should be financed by the income derived each year from the administration of the bar examination (\$16,000 anticipated in 1980).

*check figures from budget*

3. There appears to be no discrimination against women in the Alaska Bar Association. Alaska has one of the highest percentages of women lawyers in the United States and, specifically, the highest percentage of women on its Board of Governors. In fact, the president of the Alaska Bar Association is a woman.

4. Although no apparent preference for non-minorities is shown, there is a disparity in the numbers of minorities versus non-minorities in the Alaska Bar Association. Ethnic minorities are poorly represented in the Alaska Bar Association. Present membership from these ethnic groups is as follows:

Alaska Native	<u>5</u>
Black	<u>4</u>
Asian-American	<u>2</u>
Hispanic	<u>1</u>

To the best of our knowledge, 12 Native people have been admitted to the Alaska Bar since Statehood. The only reliable statistics available are those reflecting current membership. Because the problem of low representation of minorities in the Alaska Bar Association has not been addressed adequately in the past, reasons for this situation cannot be determined at this time.

The Judiciary Committee recognizes that the percentage of minorities failing the Alaska bar exam, compared with the percentage of non-minority persons failing, is disproportionate, high. The Committee believes that this disparity may be caused in part by cultural factors.

The Committee does not believe that the Alaska Bar Association intends to discriminate against minorities. The Committee commends the Board of Governors' Legal Educational Opportunities Committee for its work in gathering statistics regarding minorities in the Alaska Bar Association. The Committee urges the Board of Governors to continue this work so that accurate minority pass rates may be established.

5. The Committee urges the Board of Governors to develop a program which will speak to the statistics reflecting minority representation in the Alaska Bar Association and the apparently low percentage of minority and non-minority individuals who pass the bar exam.
6. The Committee urges the Board of Governors to be aware of the disparity in minority participation in the bar and to direct its Committee of Bar Examiners to continually scrutinize the preparation and grading of the examination for possible cultural biases.
7. The Committee urges the Board of Governors to look into establishing some other criteria for evaluating an individual's competency to practice law in the state.

*motion  
to delete  
motion  
failed*

*to persons making  
gets a 60-65 senior member of law firm  
state competent then let the person in the  
Bar.*

(b) Of the elected members, one shall be elected by and from among the members of the association resident in the first judicial district; two shall be elected by and from among the members of the association resident in the third judicial district; one shall be elected by and from among the members of the association resident in the combined area of the second and fourth judicial districts; and two shall be at large from the entire state.

(c) Members of the Board of Governors shall hold office for three years and until their successors are elected or appointed.

(d) Two members of the Board of Governors shall be elected annually under bylaws and regulations promulgated by the board. One member of the Board of Governors shall be appointed by the governor annually.

Sec. 08.08.050. ELECTION OF BOARD OFFICERS. The active members of the Alaska Bar Association shall elect annually by a majority vote the association's officers from the membership of the Board of Governors.

Sec. 08.08.060. VACANCIES ON THE BOARD. A vacancy affecting an elected membership position on the board shall be filled by appointment by the remaining board members until the next annual election. A vacancy affecting an appointed membership position on the board shall be filled by an appointment by the governor.

Sec. 08.08.070. MEETINGS OF THE BOARD. All meetings of the Board of Governors of the Alaska Bar shall be in compliance with AS 44.62.310 et. seq. Reasonable notice to the general public shall be provided. Furthermore all meetings shall take place within the geographical boundaries of this state.

Sec. 08.08.080. POWERS OF THE BOARD. (a) Except as may be otherwise provided in the statutes or Alaska Bar Rules, the board may adopt reasonable provisions:

- (1) concerning membership and classification of membership in the Alaska Bar;
- (2) providing for employees of the Alaska Bar, the time, place and method of their selection, and their respective powers, duties, terms of office, and compensation;
- (3) concerning annual and special meetings;
- (4) concerning the collection, deposit, investment, and disbursement of membership, admission or licensing fees, penalties, and all other funds;

- (5) providing for the maintenance of the register of each attorney admitted to practice as an attorney at law in the courts of this state;
- (6) providing for the organization and government of local subdivisions of the Alaska Bar;
- (7) providing for continuing legal education and certification of continuing legal education programs;
- (8) providing for the specialization of attorneys admitted to practice as an attorney at law in the courts of the state;
- (9) providing for all other matters affecting in any way the organization and functioning of the Alaska Bar.

(b) The board may:

- (1) approve and recommend to the state supreme court additional rules for promulgation by the court including rules concerning admission, discipline, licensing and continuing legal education;
- (2) adopt reasonable bylaws and regulations consistent with the statutes and Alaska Bar Rules;
- (3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;
- (4) fix the annual membership fee for active, inactive, judicial, and honorary members.

Sec. 03.08.040. ANNUAL REPORT TO LEGISLATURE. The Board of Governors shall report annually to the Chairmen of the Senate and House Judiciary Committees of the Alaska State Legislature on all matters concerning admissions, discipline, and disbarment proceedings, except for those matters defined as confidential by court rule. Furthermore this report shall address any modification, repeal or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal, or addition to the Alaska Bar Rules.

Sec. 08.08.090. POWER OF THE ALASKA BAR TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

Sec. 08.08.100. ADMINSTRATIVE PROCEDURE ACT.

Sec. 08.08.110. LICENSE FEES. The fee for <sup>the</sup> initial issuance and the annual renewal of a license to practice law shall be \$25.00. License fees are due and payable to the Alaska Bar. Nonpayment of license fees shall result in the loss of the privilege to practice law. An individual who loses his privilege to practice law for nonpayment of license fees may be reinstated by the Alaska Bar in accordance with the bylaws and regulations of the Alaska Bar and in accordance with the Alaska Bar Rules.

*Copy to BAR/PAG*

*BAR Rule 61*

*Minn.*

CHAPTER 481  
ATTORNEYS AT LAW

Sec.		Sec.	
481.01	Board of law examiners; examinations.	481.10	Consultation with persons restrained.
481.02	Unauthorized practice of law.	481.11	Change of attorney.
481.03	Attorneys shall not employ solicitors.	481.12	Disability; substitution.
481.04	Soliciting of business by persons other than attorneys; prohibition.	481.13	Lien for attorneys' fees.
481.05	Violations, penalties.	481.14	Refusal to surrender property to clients.
481.06	General duties.	481.15	Removal or suspension.
481.07	Penalties for deceit or collusion.	481.16	Certain attorneys not to defend certain prosecutions; penalty.
481.071	Misconduct by attorney.	481.17	County, city, and school district attorneys.
481.08	Authority.		
481.09	Proof of authority.		

**481.01 BOARD OF LAW EXAMINERS; EXAMINATIONS.** The supreme court shall, by rule from time to time, prescribe the qualifications of all applicants for admission to practice law in this state, and shall appoint a board of law examiners, which shall be charged with the administration of such rules and regulations and with the examination of all applicants for admission to practice law. The board shall consist of not less than three, nor more than seven, attorneys at law, who shall be appointed each for the term of three years and until his successor qualifies. The supreme court may fill any vacancy in the board for the unexpired term and in its discretion may remove any member thereof. The board shall have a seal and shall keep a record of its proceedings, of all applications for admission to practice, and of persons admitted to practice upon its recommendation. At least two times a year the board shall hold examinations and report the result thereof, with its recommendations, to the supreme court. Upon consideration of such report, the supreme court shall enter an order in the case of each person examined, directing the board to reject him or to issue to him a certificate of admission to practice. The board shall have such officers as may, from time to time, be prescribed and designated by the supreme court. The fee for examination shall be fixed, from time to time, by the supreme court, but shall not exceed \$50. Such fees, and any other fees which may be received pursuant to such rules as the supreme court may promulgate governing the practice of law shall be paid to the state treasurer and shall constitute a special fund in the state treasury. The moneys in such fund are appropriated annually to the supreme court for the payment of compensation and expenses of the members of the board of law examiners and for otherwise regulating the practice of law. The moneys in such fund shall never cancel. Payments therefrom shall be made by the state treasurer, upon warrants of the commissioner of finance issued upon vouchers signed by one of the justices of the supreme court. The members of the board shall have such compensation and such allowances for expenses as may, from time to time, be fixed by the supreme court.

[ *RL s 2278; 1921 c 161 s 1; 1953 c 167 s 1; 1959 c 384 s 1; 1963 c 718 s 1; 1973 c 492 s 14; 1976 c 149 s 57* ] (5685)

**481.02 UNAUTHORIZED PRACTICE OF LAW.** Subdivision 1. Prohibitions. It shall be unlawful for any person or association of persons, except members of the bar of Minnesota admitted and licensed to practice as attorneys at law, to appear as attorney or counselor at law in any action or proceeding in any court in this state to maintain, conduct, or defend the same, except in his own behalf as a party thereto in other than a representative capacity, or, by word, sign, letter, or advertisement, to hold out himself or themselves as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor at law, or in furnishing to others the services of a lawyer or lawyers, or, for a fee or any consideration, to give legal advice or counsel, perform for or furnish to another legal services, or, for or without a fee or any consideration, to prepare, directly or through another, for another person, firm, or corporation, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or, for a fee or any consideration, to prepare for another person, firm, or corporation, any other legal document, except as provided in subdivision 3.

Subd. 2. Corporations. No corporation, organized for pecuniary profit, except an attorney's professional corporation organized under chapter 319A, by or through its officers or employees or any one else, shall maintain, conduct, or defend, except in its own behalf when a party litigant, any action or proceeding in any court in this

state, or shall, by or through its officers or employees or any one else, give or assume to give legal advice or counsel or perform for or furnish to another person or corporation legal services; or shall, by word, sign, letter, or advertisement, solicit the public or any person to permit it to prepare, or cause to be prepared, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or hold itself out as desiring or willing to prepare any such document, or to give legal advice or legal services relating thereto or to give general legal advice or counsel, or to act as attorney at law or as supplying, or being in a position to supply, the services of a lawyer or lawyers; or shall to any extent engage in, or hold itself out as being engaged in, the business of supplying services of a lawyer or lawyers; or shall cause to be prepared any person's will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or any other legal document, for another person, firm, or corporation, and receive, directly or indirectly, all or a part of the charges for such preparation or any benefits therefrom; or shall itself prepare, directly or through another, any such document for another person, firm, or corporation, except as provided in subdivision 3.

**Subd. 3. What permitted.** The foregoing shall not prohibit any one from drawing, without charge for so doing, any document to which he, or a person whose employee he is or a firm whereof he is a member or a corporation whose officer or employee he is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will; and shall not prohibit a person from drawing a will for another in an emergency wherein the imminence of death leaves insufficient time to have the same drawn and its execution supervised by a licensed attorney at law; and shall not prohibit any one, acting as broker for the parties or agent of one of the parties to a sale or trade or lease of property or to a loan, from drawing or assisting in drawing, with or without charge therefor, such papers as may be incident to such sale, trade, lease, or loan; and shall not prohibit any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of such policies; and shall not prohibit one such licensed attorney at law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between said corporations; and shall not prohibit any bona fide labor organization from giving legal advice to its members in matters arising out of their employment; and shall not prohibit any person from conferring or cooperating with a licensed attorney at law of another in preparing any legal document, if such attorney is not, directly or indirectly, in the employ of such person or of any person, firm, or corporation represented by such person; and shall not prohibit any licensed attorney at law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or wherein it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing such document shall not exceed the amount paid to and received and retained by such attorney, and such attorney shall not, directly or indirectly, rebate the same to or divide the same with such corporations; and shall not prohibit any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions or any other conveyances except testamentary dispositions and instruments of trust; and shall not prohibit a licensed attorney at law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom he is employed and by whom no compensation is, directly or indirectly, received for such services; and shall not prohibit any person or corporation engaged in the business of making collections from engaging or turning over to an attorney at law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney at law receives the entire compensation for such work; and shall not prohibit any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers thereto, made by a licensed attorney at law, if no such answer be accompanied or at any time preceded or followed by any charge for such answer, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for such periodical or any one connected with it or suggested by it, directly or indirectly.

Subd. 4. **Mortgage foreclosure fees.** It shall be unlawful to exact, charge or receive any attorney's fee for the foreclosure of any mortgage, unless the foreclosure is conducted by a licensed attorney at law of Minnesota and unless the full amount charged as attorney's fee is actually paid to and received and retained by such attorney, without being, directly or indirectly, shared with or rebated to any one else; and it shall be unlawful for any such attorney to make any showing that he has received such a fee unless he has received the same or to share with or rebate to any other person, firm, or corporation such fee, or any part thereof, received by him; but such attorney may divide such fee with another licensed attorney at law maintaining his own place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted and has forwarded the case to the attorney conducting such foreclosure.

Subd. 5. **Corporate fiduciary agents.** It shall be unlawful for any corporation, appearing as executor, administrator, guardian, trustee, or other representative, to do the legal work in any action, probate proceeding or other proceeding in any court in this state, except through a licensed attorney at law of Minnesota maintaining his own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative. No attorney's fee shall be charged or paid or received in any such case, unless actually paid to and received and retained by such an attorney at law maintaining his own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative; and it shall be unlawful for such attorney to represent in any manner that he has received any sum as a fee or compensation unless the same has been actually received by him or, directly or indirectly, to divide with or rebate to any person, firm, or corporation any part of any such fee or consideration received by him in any such case; but such attorney may divide such fee with another licensed attorney at law maintaining his own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or other representative, if such attorney has assisted in performing the services for which the fees are paid, or resides in a place other than that where the action or proceedings are conducted and has forwarded the case to the attorney conducting the action or proceedings.

Subd. 6. **Attorneys of other states.** Any attorney or counselor at law residing in any other state or territory wherein he has been admitted to practice law, who shall attend any term of the supreme or district court of this state for the purpose of trying or participating in the trial or proceedings of any action or proceedings there pending, may, in the discretion of the court before which he appears in such action or proceeding, be permitted to try, or participate in the trial or proceedings in, such action or proceeding, without being subject to the provisions of this section, other than those set forth in subdivision 2, providing the state in which he is licensed to practice law likewise grants permission to members of the state bar of Minnesota to act as an attorney for a client in such state under the same terms.

Subd. 7. **Lay assistance to attorneys.** Nothing herein contained shall be construed to prevent a corporation from furnishing to any person lawfully engaged in the practice of law, such information or such clerical service in and about his professional work as, except for the provisions of this section, may be lawful, provided, that at all times the lawyer receiving such information or such services shall maintain full, professional and direct responsibility to his clients for the information and services so received.

Subd. 8. **Penalty; injunction.** Any person or corporation, or officer or employee thereof, violating any of the foregoing provisions shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished as by statute provided for the punishment of misdemeanors. It shall be the duty of the respective county attorneys in this state to prosecute violations of this section, and the district courts of this state shall have sole original jurisdiction of any such offense under this section.

In lieu of criminal prosecution above provided for, such county attorney or the attorney general may, in the name of the state of Minnesota, or in the name of the state board of law examiners, proceed by injunction suit against any violator of any of the provisions above set forth to enjoin the doing of any act or acts violating any of said provisions.

[ 1931 c 114 s 1; 1959 c 476 s 1; 1969 c 9 s 87, 1974 c 406 s 49 ] (5687-1)

**481.03 ATTORNEYS SHALL NOT EMPLOY SOLICITORS.** No attorney at law shall, through any runner, agent or person not an attorney at law who is employed by him, solicit a person to employ such attorney to present a claim for damages for personal injuries or for death, or to prosecute an action to enforce such a claim, and no attorney at law shall, directly or indirectly, give a promise to any such person other than an attorney at law any money, fee or commission in consideration of the employment of such attorney by a person having a claim for personal injuries or for death, or soliciting or procuring such person who has such claim to employ such attorney to present such claim or to prosecute an action for the enforcement thereof.

[ 1929 c 289 s 1 ] (5687-5)

**481.04 SOLICITING OF BUSINESS BY PERSONS OTHER THAN ATTORNEYS; PROHIBITION.** It shall be unlawful for any person not an attorney at law to solicit for money, fee or commission, in any manner whatsoever, any demand or claim for personal injuries or for death for the purpose of having an action brought thereon for the purpose of settling the same. Nothing in sections 481.03 to 481.05 shall be construed to prevent any bona fide labor organization or any member thereof from advising or securing advice for any member of such organization in regard to his rights.

[ 1929 c 289 s 2 ] (5687-6)

**481.05 VIOLATIONS; PENALTIES.** Subdivision 1. Any attorney at law who shall violate section 481.03 shall be guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not more than 90 days.

Subd. 2. Any person who shall violate section 481.04 shall be guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not to exceed 90 days.

[ 1929 c 289 s 3 ] (5687-7)

**481.06 GENERAL DUTIES.** Every attorney at law shall:

- (1) Observe and carry out the terms of his oath;
- (2) Maintain the respect due to courts of justice and judicial officers;
- (3) Counsel or maintain such causes only as appear to him legal and just; but he shall not refuse to defend any person accused of a public offense;
- (4) Employ, for the maintenance of causes confided to him, such means only as are consistent with truth, and never seek to mislead the judges by any artifice or false statement of fact or law;

(5) Keep inviolate the confidences of his client, abstain from offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness, unless the justice of his cause requires it;

(6) Encourage the commencement or continuation of no action or proceeding from motives of passion or interest; nor shall he, for any consideration personal to himself, reject the cause of the defenseless or oppressed.

[ RL s 2281 ] (5688)

**481.07 PENALTIES FOR DECEIT OR COLLUSION.** An attorney who, with intent to deceive a court or a party to an action or judicial proceeding, is guilty of or consents to any deceit or collusion, shall be guilty of a misdemeanor; and, in addition to the punishment prescribed therefor, he shall be liable to the party injured in treble damages. If he permit any person not his general law partner to begin, prosecute, or defend an action or proceeding in his name, the attorney giving such permission, and every person so using his name, shall forfeit \$50 to the party against whom the action or proceeding is prosecuted or defended, recoverable in a civil action.

[ RL s 2282 ] (5689)

**481.071 MISCONDUCT BY ATTORNEYS.** Every attorney or counselor at law who shall be guilty of any deceit or collusion, or shall consent thereto, with intent to deceive the court or any party, or who shall delay his client's suit with a view to his own gain, shall be guilty of a misdemeanor and, in addition to the punishment prescribed by law therefor, he shall forfeit to the party injured treble damages, to be recovered in a civil action.

[ RL s 4856 ] (10041)

**481.08 AUTHORITY.** An attorney may bind his client, at any stage of an action or proceeding, by agreement made in open court or in the presence of the clerk, and entered in the minutes by such clerk, or made in writing and signed by such attorney. During any proceeding or action the attorney may receive money claimed therein by his client, and within two years after judgment, upon payment thereof, may discharge the claim or acknowledge satisfaction of the judgment; but all such authority shall cease upon the substitution of another attorney.

[ *RL s 2283* ] (5690)

**481.09 PROOF OF AUTHORITY.** A court, upon motion and hearing, and when reasonable grounds are shown, may require any attorney to prove his authority to appear and, until such proof is made, may stay all proceedings by him on behalf of the party he assumes to represent. At any stage of the proceedings the court may relieve a party from the consequences of the unauthorized acts of an attorney and, upon motion, may summarily compel such attorney to repair any injury resulting therefrom.

[ *RL s 2284* ] (5691)

**481.10 CONSULTATION WITH PERSONS RESTRAINED.** All officers or persons having in their custody a person restrained of his liberty upon any charge or cause alleged, except in cases where imminent danger of escape exists, shall admit any resident attorney retained by or in behalf of the person restrained, or whom he may desire to consult, to a private interview at the place of custody. Such custodians, upon request of the person restrained, as soon as practicable, and before other proceedings shall be had, shall notify any attorney residing in the county of the request for a consultation with him. Every officer or person who shall violate any provision of this section shall be guilty of a misdemeanor and, in addition to the punishment prescribed therefor shall forfeit \$100 to the person aggrieved, to be recovered in a civil action.

[ *RL s 2285* ] (5692)

**481.11 CHANGE OF ATTORNEY.** The attorney in a civil action or proceeding may be changed at any time. When such change is made, written notice of the substitution of a new attorney shall be given to adverse parties; until such notice, they shall recognize the former attorney.

[ *RL s 2286; 1976 c 304 s 1* ] (5693)

**481.12 DISABILITY; SUBSTITUTION.** When the sole attorney of a party to any action or proceeding in any court of record dies, becomes insane, or is removed or suspended, the party for whom he appears shall appoint another attorney within ten days after the disability arises, and give immediate written notice of the substitution to the adverse party. If he fail to make substitution within such time, the adverse party, at least 20 days before taking further proceedings against him, shall give him written notice to appoint another attorney. When, for any reason, the attorney for a party ceases to act, and the party has no known residence within the state, such notice may be served upon the clerk of the court. In case such party fails either to comply with the notice or appear in person within 30 days, he shall not be entitled to notice of subsequent proceedings in the case.

[ *RL s 2287* ] (5694)

**481.13 LIEN FOR ATTORNEYS' FEES.** An attorney has a lien for his compensation whether the agreement therefor be expressed or implied:

(1) Upon the cause of action from the time of the service of the summons therein, or the commencement of the proceeding, and upon the interest of his client in any money or property involved in or affected by any action or proceeding in which he may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of such lien claim, as provided in this section;

(2) Upon a judgment, and whether there be a special agreement as to compensation, or whether a lien is claimed for the reasonable value of the services, the lien shall extend to the amount thereof from the time of giving notice of his claim to the judgment debtor, but this lien is subordinate to the rights existing between the parties to the action or proceeding;

(3) The liens provided by clauses (1) and (2) may be established, and the amount thereof determined, by the court, summarily, in the action or proceeding, on the application of the lien claimant or of any person or party interested in the property subject to such lien, on such notice to all parties interested therein as the court may, by order to show cause, prescribe, or such liens may be enforced, and the amount thereof determined, by the court, in an action for equitable relief brought for that purpose.

Judgment shall be entered under the direction of the court, adjudging the amount due.

(4) If the lien is claimed on the client's interest in real estate involved in or affected by the action or proceeding, such notice of intention to claim a lien thereon shall be filed in the office of the county recorder or registrar of titles, where appropriate, and therein noted on the certificate or certificates of title affected, in and for the county within which the same is situated. If the lien is claimed on the client's interest in personal property involved in or affected by the action or proceeding, the notice shall be filed in the same manner as provided by law for the filing of a security interest.

{ *RL s 2288; 1917 c 98; 1939 c 394; 1976 c 181 s 2; 1976 c 304 s 2* } (5695)

**481.14 REFUSAL TO SURRENDER PROPERTY TO CLIENTS.** When an attorney shall refuse to deliver money or papers to a person from or for whom he has received them in the course of his professional employment, he may be required to do so, upon petition, by an order of court. Such order may be granted by the court in which the action was prosecuted, or, if no action was prosecuted, by the district court of the county where he resides, or by the supreme court, and may require him to make delivery within a time specified, or show cause why he should not be punished for contempt. In the event an attorney shall retain money of a client under a claim of right, including a claim for fees and expenses, the court shall determine the amount, if any, due such attorney, and shall order that any surplus amount remaining after deduction thereof be surrendered to the client.

{ *RL s 2289; 1976 c 304 s 3* } (5696)

**481.15 REMOVAL OR SUSPENSION.** Subdivision 1. Causes. An attorney at law may be removed or suspended by the supreme court for any one of the following causes arising after his admission to practice:

(1) Upon his being convicted of a felony, or of a misdemeanor involving moral turpitude, (in either of which cases the record of conviction shall be conclusive evidence). This clause shall not be construed to apply to a conviction for contempt of court;

(2) Upon a showing that he has knowingly signed a frivolous pleading, or been guilty of any deceit or wilful misconduct in his profession;

(3) For wilful disobedience of an order of court requiring him to do or forbear an act connected with or in the course of his profession,

(4) For a wilful violation of his oath, or of any duty imposed upon an attorney by law.

Subd. 2. Proceedings. Proceedings in such cases may be taken by the supreme court on its own motion, for matter within its knowledge, or upon accusation. Accusations may be made to the clerk of the supreme court and shall be investigated, prosecuted, heard and determined in accordance with rules which may be made, from time to time, by the supreme court. The supreme court may refer any accusation to any person, and such person shall have all the powers of a referee under the rules of civil procedure; objections to such referee may be filed within ten days of the appointment and shall be heard and determined by the supreme court. The referee shall report the evidence and, if directed by the supreme court, shall make findings thereon. Persons designated by the supreme court under the authority of this section shall be paid their necessary expenses and such compensation as shall be fixed by the supreme court. Officers and witnesses necessarily employed or called by the prosecution shall receive the fees and mileage allowed by law and the supreme court shall fix a reasonable compensation for the reporter. All expenses, fees and compensation herein authorized shall be paid upon itemized vouchers approved by one of the justices of the supreme court.

Subd. 3. Notice to attorney general. The administrative director of the state board of professional responsibility shall notify the attorney general of each complaint made to him directly or reported to him by a district ethics committee. The administrative director and each district ethics committee shall inform each complainant that if he is not satisfied with the disposition made by them, he may take his complaint to the attorney general. The attorney general may investigate accusations of dishonesty, fraud, or professional misconduct made against attorneys, and may petition the state board of professional responsibility for the disbarment, suspension, or reprimand of the attorney complained against whenever, in the opinion of the attorney general, the action is necessary to protect the public of this state. The attorney general may appeal the decision of the state board of professional responsibility to the supreme court. The accusation and all proceedings thereon shall remain private within the meaning of section 15.162, subdivision 5a, except as necessary to support a petition for disciplinary action.

[ *RL s 2290; 1921 c 334 s 1; 1933 c 79; 1969 c 399 s 49; 1973 c 501 s 17; 1976 c 239 s 118; 1976 c 304 s 4; 1977 c 403 s 11* ] (5697)

**481.16 CERTAIN ATTORNEYS NOT TO DEFEND CERTAIN PROSECUTIONS; PENALTY.** Every attorney who shall, directly or indirectly, advise in relation to, or aid or promote the defense of, any action or proceeding in any court, the prosecution of which shall be carried on, aided, or promoted by any person as county attorney or other public prosecutor with whom such attorney shall be, directly or indirectly, connected as partner, or who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court as county attorney or other public prosecutor, shall afterwards, directly or indirectly, advise in relation to, or take any part in, the defense thereof, as attorney or otherwise, or who shall take or receive any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatsoever, expressed or implied, having relation to the defense thereof, shall be guilty of a misdemeanor.

[ *RL s 5181* ] (10519)

**481.17 COUNTY, CITY, AND SCHOOL DISTRICT ATTORNEYS.** In all counties in this state having a population of not more than 12,000, the offices of county attorney, city attorney, and school district attorney shall not be deemed incompatible and may be held by the same person.

[ *1969 c 649 s 1; 1973 c 123 art 5 s 7* ]

Iowa

court December 26, 1973, are hereby adopted. Done this 4th day of January 1974.]

**Sec. 7. Copy of application for reinstatement.** An attorney who has been summarily suspended under this Rule 121.3 must file an application with the clerk of the supreme court for reinstatement and a copy of said application shall be forwarded to the assistant court administrator and to the Committee on Professional Ethics and Conduct of The Iowa State Bar Association at least ten days prior to any action upon the application. [Regulation Order, October 28, 1976]

**Sec. 8. Organizations which recommend, furnish or pay for legal services—regulations.**

(a) A bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries is referred to as "the organization."

(b) The organization shall be developed, administered and operated so as to prevent:

(1) A third party from interfering with or controlling the performance of duties of lawyers, and

(2) A third party receiving any part of the consideration paid to lawyers for furnishing legal services, and

(3) All publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting the purpose and activities of the organization or the nature and extent of the benefits pursuant to the arrangement or both without any identification of the lawyers rendering or to render legal service; provided that all such publicizing and soliciting activities are in good faith engaged in solely for the purpose of developing, administering or operating the arrangement, and not for the purpose of soliciting business for any specific lawyer.

(4) Nothing in this rule shall prohibit a statement in response to individual inquiries as to the identity of the lawyer or lawyers rendering or to render services giving the name or names, addresses, and telephone number of such lawyer or lawyers.

(c) The organization shall permit any member or beneficiary to obtain legal services independently of the arrangement, from any attorney of his choice.

(d) The annual report of the organization shall be filed with the Client Security and Attorney Disciplinary Commission on or before September 1, 1977 and thereafter on or before July 1 of each year, on a form approved by the commission. If it appears from such annual report or any other source that the organization is not operating in accordance with the rules of the Iowa Supreme Court and these regulations, such facts shall be reported to the Iowa Supreme Court for such action as the court may deem appropriate. [Approved by Supreme Court June 28, 1977]

Court Rule 122 Reserved.

**Court Rule 123 Continuing legal education of the members of the bar of Iowa.**

**123.1 Purpose.**

Only by continuing their legal education throughout their period of the practice of law can attorneys

fulfill their obligation competently to serve their clients. Failure to do so shall be grounds for disciplinary action by this court. This rule establishes minimum requirements for such continuing legal education and the means by which the requirements shall be enforced.

**123.2 Continuing legal education commission.**

There is hereby established a commission on continuing legal education consisting of twelve members. This court shall appoint to the commission ten resident members of this state who are currently licensed to practice law in the state of Iowa, and two residents of this state who are not lawyers. This court shall designate from among the members of the commission a chairman who shall serve as such at the pleasure of the court. Of the members first appointed to the commission four shall serve a term of three years, four shall serve a term of four years and four shall serve a term of five years. Members thereafter appointed, except for those appointed to fill unexpired terms, shall be appointed for a term of three years. No member shall serve more than two consecutive complete terms as a member of the commission. This court shall adopt rules and regulations governing the operations and activities of the commission.

The commission shall have the following duties:

(a) To exercise general supervisory authority over the administration of this rule.

(b) To accredit sponsors of courses, programs and other educational activities which will satisfy the educational requirements of this rule or in the event that the sponsor is not accredited the commission shall accredit courses, programs and other educational activities which will satisfy the educational requirements of this rule; all being subject to continuous review by the commission.

(c) To foster and encourage the offering of such courses, programs and educational activities.

(d) To submit to the court proposed rules and regulations\* not inconsistent with this rule to govern the operations and activities of the commission.

\*See Regulations following this rule 123

(e) Subject to the approval of this court, to employ such persons as it deems necessary for the proper administration of this rule.

(f) To report at least annually to the court concerning its activities and, from time to time, to make recommendations to the court concerning this rule and the enforcement thereof; to present an annual budget and a recommended annual fee\* for costs of administering this rule.

\*The fee for 1979 is \$5. Court order July 6, 1978

(g) To report promptly to the court concerning any violation of this rule by any member of the bar of this state.

Members of the commission shall not be compensated but shall be reimbursed for expenses incurred by them in the performance of their duties on vouchers approved by this court.

Referred to in continuing education, sec. 4

**123.3 Continuing legal education requirement.**

Commencing January 1, 1976, each attorney admitted to practice in this state shall complete a minimum of fifteen hours of legal education accredited by the commission, during each calendar year. The commission is authorized, pursuant to guidelines established by the court, to determine the number of hours for which credit will be given for particular courses, programs or other legal education activities. Under rules to be promulgated by the court, an attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than fifteen hours of accredited education during any one calendar year. [Amended by Court Order December 6, 1978]

Referred to in Court Rule 123.4, continuing education, sec. 2  
Amendment effective December 31, 1978

**123.4 Annual fee and report by attorneys to commission.**

(a) On or before March 1 of each year, commencing March 1, 1976, each attorney admitted to practice in this state shall pay to the commission a prescribed fee for costs of administering this rule.

(b) On or before March 1 of each year, commencing March 1, 1977, each attorney admitted to practice in this state shall make a written report to the commission, in such form as the commission shall prescribe, concerning his or her completion of accredited legal education during the preceding calendar year; provided, however, that an attorney shall not be required to comply with this subparagraph (b) nor comply with the continuing legal education requirement set forth in 123.3 for the year during which he or she was admitted to practice. Each annual report shall be accompanied by proof satisfactory to the commission that he or she has met the requirements for continuing legal education for the calendar year for which such report is made.

Referred to in Court Rule 123.5, continuing education, sec. 11

**123.5 Penalty for failure to satisfy continuing legal education requirements.**

(a) Any attorney who fails to comply with the provisions of rule 123.4 or who files a report showing on its face that he or she has failed to complete the required number of hours of continuing legal education may have his or her right to practice law suspended by this court, provided that at least thirty days prior to such suspension, notice of such delinquency has been served upon him or her in the manner provided for the service of original notices in R.C.P. 56.1 or has been forwarded to him or her by registered certified mail, return receipt requested, addressed to him or her at his or her last known address. Such person shall be given the opportunity during said thirty days to file in duplicate in the office of the clerk of this court an affidavit disclosing facts demonstrating his or her noncompliance was not willful and tendering such documents and sums which, if accepted, would cure the delinquency, or to file in the office of clerk of this court a request for hearing to show cause why his or her license to practice law should not be suspended. A hearing shall be granted if requested. If, after hearing, or failure to cure the

delinquency by satisfactory affidavit and compliance, such person is suspended, he or she shall be notified thereof by either of the two methods above provided for notice of delinquency.

Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including but not limited to the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns.

(b) In addition, any attorney who willfully fails to comply with this rule 123 may be subject to disciplinary action as provided in court rule 118, upon report filed by the commission with the committee on professional ethics and conduct.

(c) For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports. [Amended by Court Order November 21, 1977; December 6, 1978]

Referred to in continuing education, sec. 10

**123.6 Confidentiality.**

Unless otherwise directed by this court, the files, records and proceedings of the commission, as they relate to or arise out of any failure of any attorney to satisfy the requirements of this rule, shall be deemed confidential and shall not be disclosed, except in furtherance of its duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this rule.

**123.7 Inactive practitioners.**

A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in rule 121.3(i)(3),\* upon application to the commission, may be granted a waiver of compliance with this rule and obtain a certificate of exemption. No person holding such certificate of exemption shall practice law in this state until reinstated. This court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not theretofore been entitled to practice law in this state for any period of time subsequent to their admission to the bar.

\*See portion of Rule 121.3(i)(3) at end of these court rules

**123.8 Application of this rule.**

This rule shall apply to every person licensed to practice law in the state of Iowa. [Court Order April 9, 1975; amended by Court Order August 28, 1975]

REGULATIONS OF THE COMMISSION ON  
CONTINUING LEGAL EDUCATION

(See Court Rule 121.2 (d) as amended Dec. 6, 1978)

**Section 1. Definitions.** For the purpose of these regulations, the following definitions shall apply:

(a) An "attorney" shall mean any person licensed to practice law in the state of Iowa.

*Clerkshep program no standard - so wont use.*

TO: File on recodification of Integrated Bar Act.

BY: Berck

DATE: March 6, 1980

RE: Issues to be considered in recodification of statutes pursuant to sunset review.

- 1. eliminate mandatory membership. *est register, because fees by statute*
- 2. require "testing professionals" to design the Alaska portion of the Bar Exam; also involve professions in grading. *check P&P Rules*
- 3. specify that no state funds will be provided unless the legislative auditor and the ombudsman is given jurisdiction to review the association's records. *use BAR - put it. rep. yourself.*
- 4. establish a statutory definition of the practice of law. (design the definition so that a licensed attorney is not required for minor matters.) *use power of law, not ABA model*
- 5. include non-attorneys on the Board of Governors (Rep. Brown suggested that one lay person be put on the board; in order to restore public confidence in the legal profession the committee may wish to go beyond the token lay person who would undoubtedly be swamped by the lawyer members.)
- 6. amend AS 44.62.310, the public meeting law, to specifically include the bar association. Furthermore, all meetings of the board of govts. should be restricted to Alaska. *need 10/11*
- 7. admissions procedures-ABA approved law school graduate-do we want to continue this; \* the Assn will not grant a review of a paper which has a score of (69) *Mich*
- 8. establishment of a grievance panel consisting of seven members; three attorneys appointed by the Assn., three lay members and one attorney appointed by someone other than the Assn. *Tommon*

*(See stuff before Assn last summer)*

*15 hours - carry two yrs - carry over if 50% to next two year period. RUSA ATG concerns.*

9. *Continuing Legal Education - make this a duty?*

10. Specialization - advertising - make this a duty?

*APA - P&S + bylaws*



Sec. 08.08.150. CONTINUING LEGAL EDUCATION REQUIREMENT. Commencing January 1, 1981, each attorney admitted to practice in this state shall complete a minimum of fifteen hours of legal education accredited by the Alaska Bar, during each calendar year. The Alaska Bar is authorized to determine the number of hours for which credit will be given for particular courses, programs or other legal education activities. An attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than fifteen hours of accredited education during any one calendar year.

Sec. 08.08.160. CONTINUING LEGAL EDUCATION REPORT BY ATTORNEYS. On or before March 1 of each year, commencing March 1, 1982, each attorney admitted to practice in this state shall make a written report to the Alaska Bar, in such form as the Alaska Bar shall prescribe, concerning his completion of ~~the x legal~~ accredited legal education during the preceeding calendar year. However an attorney shall not be required to comply with this section or section 150 for the year during which he was admitted to practice. Each annual report shall be accompanied by proof satisfactory to the Alaska Bar that he has met the requirements for continuing legal education for the calendar year for which such report is made.

Sec. 08.08.170. PENALTY FOR FAILURE TO SATISFY CONTINUING LEGAL EDUCATION REQUIREMENTS. Any attorney who fails to comply with the provisions of .160 or who files a report showing on its face that he has failed to complete the required number of hours of continuing legal education may have his right to practice law suspended, provided that at least thirty days prior to such suspension, notice of such delinquency has been served upon him. Such person shall be given the opportunity during the 30 day period to file with the Alaska Bar an affidavit disclosing facts demonstrating his noncompliance and tendering documents which if accepted would cure the delinquency or to file with the Alaska Bar a request for a hearing to show cause why his license to

practice law should not be suspended. A hearing shall be granted if requested. If after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, such person is suspended..

(b) Any attorney who wilfully ~~violates~~ fails to comply with this rule may be subject to disciplinary action.

(c) For good cause shown, the Alaska Bar may in individual cases involving hardship or extenuating circumstance) grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports.

Calif. Stat.

**Rule 1-100**

**PROFESSIONAL CONDUCT**

under an automobile insurance policy, represents both the insured and the insurer and owes to both a high duty of care imposed by statute (Bus. & Prof. Code, § 6068) and the rules governing professional conduct (Rules of Prof. Conduct, 52 Cal. 2d 893-899), and, insofar as the insured is concerned, the attorney owes him the same obligations of good faith and fidelity as if he had retained the attorney personally, *Lysick v Walcom*

(1968) 258 CA2d 136, 65 Cal Rptr 406, 28 ALR3d 368.

**5. Discipline Generally**

Penalty imposed on attorney at law for professional misconduct is not only to punish individual, but to protect public, legal profession and court. *Moura v State Bar* (1941) 18 C2d 31, 112 P2d 629.

**Rule 1-101. Maintaining Integrity and Competence of the Legal Profession**

A member of the State Bar shall not further the application for admission to practice law of another person known by him to be unqualified in respect to character, education, or other relevant attribute. This rule shall not prevent a member from serving as counsel of record for an applicant for admission to practice in proceedings related to such admission.

**Origin:** ABA Code DR 1-101. ["ABA Code DR" indicates reference to a Disciplinary Rule of the American Bar Association Code of Professional Responsibility (1970).]

**Collateral References:**

*Law Review Articles:*

A better way to keep lawyers competent. (1975) 61 ABAJ 574.

**Rule 2-101. General Prohibition Against Solicitation of Professional Employment**

A member of the State Bar shall not solicit professional employment by advertisement or otherwise. Conduct permitted by Rules 2-102 through 2-106 shall not be deemed solicitation within the meaning of this rule.

**Origin:** Former Rule 2, Section a.

**Cross References:**

Unlawful solicitation: B & P C §§ 6150-6154.

Offense of barratry: Pen C § 158.

Offense of advertising to procure divorce: Pen C § 159a.

**Collateral References:**

7 Cal Jur 3d Attorneys at Law §§ 12, 82, 84, 86.

7 Am Jur 2d Attorneys at Law §§ 38, 40-43.

*Law Review Articles:*

CRLA controversy and the future of legal services; unwarranted charge that CRLA unethically solicited clients and stirred litigation. 24 Hast LJ 615.

Lawyer discipline and professional standards in California; restrictions on advertising. 24 Hast LJ 700.

Ambulance chasing in bankruptcy. 5 LA Bar B 245.

that in one matter, within five minutes after an alleged "capper" had left an injured person's hospital room, the attorney appeared with a retainer agreement form, a medical release form, and a form requesting a police report, and that in another matter, the attorney angrily complained to another alleged "capper," while both were in the hospital room of an accident victim who had just refused to sign a retainer agreement, "I thought she was ready to sign the papers." *Younger v State Bar* (1974) 12 C3d 274, 113 Cal Rptr 829, 522 P2d 5.

#### 11. Punishment

In determining extent to which attorney should be punished for violating rule, controlling question is not whether any harm resulted to particular clients from attorney's handling of their affairs after he had obtained contracts of employment. *Higgins v State Bar* (1956) 46 C2d 241, 293 P2d 455.

#### 12. —Public Reprimand

Where extent of petitioner's participation in enterprise of his associates in soliciting personal injury cases was not made clear by findings, record warranted no greater punishment than public reprimand. *Remington v State Bar* (1933) 218 C 446, 23 P2d 510.

#### 13. —Suspension

Where evidence showed violations of this rule and Rule Three, but no violation of duty of attorney to his client, three months' suspension was sufficient punishment. *Fish v State Bar* (1931) 214 C 215, 4 P2d 937.

Where petitioner admitted that there was solicitation of business, and that he had knowledge of it, disciplinary recommendation was justified, but was modified so as to provide for suspension of his license for three months only. *Sawyer v State Bar* (1934) 220 C 702, 32 P2d 369.

Recommended period of suspension for one year for unprofessional conduct in soliciting professional employment from prisoner awaiting trial on charge of robbery was reduced to three months where it was shown that accused attorney interviewed prisoner as result of activities of client but did not communicate with prisoner's attorney before advising him. *Ewell v State Bar* (1934) 2 C2d 209, 40 P2d 264.

Evidence showing that petitioner personally and

through agent solicited professional employment authorized his suspension for four months. *McCue v State Bar* (1935) 4 C2d 79, 47 P2d 268.

Where it appeared, among other things, that petitioner had been engaged in solicitation of business, recommendation that he be suspended for three years was approved. *Johnson v State Bar* (1935) 4 C2d 744, 52 P2d 928.

Evidence that petitioner solicited professional employment and employed others for that purpose authorized his suspension for six months. *Roth v State Bar* (1937) 8 C2d 656, 67 P2d 337.

Suspension for six months is appropriate where attorney's conduct in obtaining contracts of professional employment constitutes intentional and flagrant violation of this rule. *Higgins v State Bar* (1956) 46 C2d 241, 293 P2d 455.

A six-month suspension, as recommended by a local committee of the Disciplinary Board of the State Bar, was proper discipline for an attorney for soliciting professional employment in violation of Rules of Professional Conduct, rules 2, 3, even though the board had recommended a nine-month suspension, where the board's recommendation was based on a finding, not made by its committee, that a common plan, scheme and modus operandi in use of "cappers" was established in three counts as to which no finding of truth of the allegations was made, as well as in four counts whose allegations were found to be true, where a finding that allegations of the three counts were true would be necessary to support the board's finding, and where the Supreme Court was hesitant to make the needed finding on the record and in the face of the committee's determination that those allegations were not true. *Younger v State Bar* (1974) 12 C3d 274, 113 Cal Rptr 829, 522 P2d 5.

#### 14. —Disbarment

Punishment recommended by Board of Governors in disciplinary proceeding against attorney, namely, disbarment, was not excessive where board had previously imposed public reproof on attorney for unprofessional conduct connected with "solicitation" activities of same person involved in present proceedings, and where attorney had also made false representations to federal judge. *Best v State Bar* (1962) 57 C2d 633, 21 Cal Rptr 589, 371 P2d 325.

### Rule 2-102. Publicity in General

(A) A member of the State Bar shall not prepare, cause to be prepared, use or participate in the use of, any form of public communication that contains professionally self-laudatory statements calculated to attract lay clients; as used herein, "public communica-

tion" includes, but is not limited to, communications by means of television, radio, motion picture, newspaper, magazine, or book.

(B) A member of the State Bar shall not publicize himself, his partner, or any other attorney, lawyer or counselor at law as a member of the State Bar through newspaper or magazine advertisements, radio or television announcements, display advertisements in city or telephone directories, or other means of commercial publicity, nor shall he authorize or permit others to do so in his behalf except as permitted under Rules 2-103 and 2-104. This does not prohibit the following limited and dignified identification of a member of the State Bar as a member as well as by name so long as such identification is not primarily directed to attracting lay clients:

- (1) In political advertisements.
- (2) In public communications when the name and profession of a member of the State Bar are required or authorized by law or are reasonably pertinent for a purpose other than the attraction of potential clients.
- (3) In routine reports and announcements of a bona fide business, civic, professional, or political organization in which he serves as a director or officer.
- (4) In and on legal documents prepared by him.

Nothing herein shall be deemed to prevent the publication in a customary and appropriate manner of articles, books, treatises or other public communications or of dignified advertisements thereof so long as neither such public communications nor the advertisement thereof are primarily directed to attracting lay clients.

(C) Except as provided in these rules, a member of the State Bar shall not solicit professional employment by compensating or giving any thing of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for publicity, of himself or any other attorney.

**Origin:**

- (a) Former Rule 2, Section a.
- (b) ABA Code DR 2-101.

**Collateral References:**

7 Cal Jur 3d Attorneys at Law § 84.

**Law Review Articles:**

Legal Ethics and Professionalism Symposium. (1975) 12 San Diego LR 245.

Bar restrictions on dissemination of information about legal services. (1974) 22 UCLA LR 483.

Lawyer specialty certification: The monopoly game. (1975) 61 ABAJ 42.

**Rule 2-103. Professional Notices, Letterheads, Offices and Law Lists**

(A) A member of the State Bar or firm of which he is a member shall

not use professional cards, professional announcement cards, office signs, letterheads, telephone directory listings, law lists, legal directory listings or similar professional notices or devices except that the following may be used if they are in modest and dignified form:

(1) A professional card of a member of the State Bar identifying him by name as a lawyer and giving his addresses, telephone number and the name of his law firm. A professional card of a law firm may also give the names of members and associates. Such cards may be used for identification but may not be published in periodicals, magazines, newspapers, or other media, notwithstanding that the card omits the designation "Attorney at law" or similar designation.

(2) A brief professional announcement card stating new or changed associations or addresses, change of firm name, or similar matters, pertaining to the professional office of a member of the State Bar or firm of which he is a member which may be mailed to lawyers, clients, former clients, personal friends and relatives. It shall not state biographical data except to the extent reasonably necessary to identify the members of the State Bar or to explain the change in his association, but it may state the immediate past professional, governmental or military position of the member of the State Bar. It may give the names and dates of predecessor firms in a continuing line of succession. It shall not state the nature of the practice, except as permitted under Rule 2-106. However, professional announcement cards, as described in this subsection, which are sent only to other lawyers, may contain a notation that the practice of the sender is limited to one or more fields of the law.

(3) A sign on or near the door of the office and in the building directory identifying the law office. The sign shall not state the nature of the practice, except as permitted under Rule 2-106.

(4) A letterhead of a member of the State Bar identifying him by name and as a lawyer and giving his addresses, telephone numbers, the name of his law firm, associates and any information permitted under Rule 2-106. A letterhead of a law firm may also give the names of members and associates and names and dates relating to deceased and retired members. A member of the State Bar may be designated "Of Counsel" on a letterhead if he has a continuing relationship with a lawyer or a law firm, other than as a full-time partner, or associate. A member of the State Bar or firm of which he is a member may be designated as "General Counsel" or by similar professional reference on stationery of a client if he or the firm devotes a substantial amount of professional time in the representation of that client; provided the member of the State Bar uses such letterhead only for correspondence relating to the professional representation of the client he represents as general counsel unless the member performs no legal services for anyone other than the client he represents as general counsel. The

letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

(5) A listing of the office of a member of the State Bar or firm of which he is a member in the alphabetical and classified sections of the telephone directory or directories for the geographical area or areas in which the member of the State Bar resides or maintains offices or regularly practices law and in the community directory or guide for one or more cities or counties in which the member of the State Bar resides or maintains offices or regularly practices law; but the listing may give only the name of the member of the State Bar or firm of which he is a member, the fact he is a member of the State Bar, addresses and telephone numbers. The listing shall not be in distinctive form or type. A law firm may have a listing in the firm name separate from that of its members and associates. The listing in the classified section shall not be under a heading or classification other than "Attorneys" or "Lawyers". Headings or classifications or information descriptive of specialty practice are permitted only to the extent and in the manner authorized by Rule 2-106. The phrase "telephone directory" as used in these rules means a directory which is issued by a telephone company only as an adjunct to the business of selling telephone service. The phrase "community directory or guide" as used in this rule is not limited to official directories published by or on behalf of a city or county, may be a directory published for profit, but must purport to list, without charge, all active members of the State Bar who reside or maintain offices or regularly practice law in the geographical area served by the directory. A telephone directory or community directory or guide may consist entirely of a classified section.

(6) A listing in a law list or legal directory certified by the American Bar Association or by the State Bar of California as being in compliance with appropriate rules and standards. The published data may include only the following: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the member of the State Bar or firm of which he is a member concentrates; a statement that practice is limited to one or more fields of law; a statement that the members of the State Bar or firm of which he is a member specializes in a particular field of law or law practice but only if authorized under Rule 2-106; date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public and quasi-public offices; military service; posts of professional honor; legal authorship; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; memberships and offices in legal fraternities and legal societies;

memberships in professional associations and societies; names and addresses of professional references, and, with their consent, names of clients regularly represented.

A law list is every list of attorneys at law, legal directory or instrumentality maintained or published primarily for the purpose of circulating or presenting the names of attorneys at law as probably available for professional employment.

(7) A listing of a member of the State Bar identifying him by name and as a lawyer and giving his addresses and telephone numbers, either alphabetically or under a single classification used to designate "attorneys" or "lawyers" in a membership roster, register, directory, or other membership list of a service club, charitable organization, fraternity, school alumni association, business, professional or trade association of which he is a member if the list is published for the information of and distribution to the organization's members, identifies as lawyers all members who are members of the State Bar, is not in distinctive type or form as to particular names, and is published without any special charge required to be paid for the listing.

(B) A member of the State Bar in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or any name other than a firm or corporate name containing the name of one or more of the lawyers in the firm, except that the name of a professional corporation shall contain the words "professional corporation" or wording or abbreviations denoting corporate existence, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

(C) *[Withdrawn by the State Bar for further consideration prior to Supreme Court approval.]*

(D) A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead under (A)(4) of this rule and in listings permissible under (A)(6) of this rule make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions. However, the firm name may be used on its letterhead under (A)(4) of this rule and in listings permitted under (A)(6) of this rule so long as (1) each person occupying each office of the firm located in California who shall hold himself out as a member or associate of such firm shall be an active member of the State Bar and (2) each person holding himself out as a member of the firm shall be a bona fide partner in such firm, with a bona fide share in the profits, liabilities and professional responsibilities thereof and (3) at least one

person occupying each office of the firm located in California shall be such a bona fide partner and an active member of the State Bar.

(E) A member of the State Bar who is engaged both in the practice of law and another profession or business shall not so indicate on his letterhead, office sign, or professional card, nor shall he identify himself as a member of the State Bar in any publication in connection with his other profession or business.

**Origin:**

(a) Former Rule 2, Sections b and d.

(b) ABA Code DR 2-102.

**Collateral References:**

7 Cal Jur 3d Attorneys at Law §§ 15, 84, 85.

**Law Review Articles:**

Office stationery letterheads, business cards, announcement cards, and advertising in legal periodicals. 41 LA Bar B 509.

Legal advertising and the public interest. (1975) 50 LA Bar B 209.

Bar restrictions on dissemination of information about legal services. (1974) 22 UCLA LR 483.

Lawyer specialty certification: The monopoly game. (1975) 61 ABAJ 42.

**Rule 2-104. Recommendation of Professional Employment**

(A) A member of the State Bar shall not recommend employment, as a private practitioner, of himself, his partner or associate to a non-lawyer who has not sought his advice regarding employment of a member of the State Bar.

(B) Except as permitted under Rule 2-104(C), a member of the State Bar shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client.

(C) The participation of a member of the State Bar in a lawyer reference service established, sponsored, supervised and operated in conformity with the Minimum Standards for a Lawyer Reference Service in California, as adopted and as from time to time amended by the Board of Governors is not, of itself, a violation of these Rules of Professional Conduct provided the name of such member of the State Bar is not publicized. Nothing in this rule shall prohibit a representative of such lawyer reference service from identifying a member of the State Bar who is participating in that service, and stating the address and telephone number of such member, in connection with the making of a requested reference in conformity with the said Minimum Standards.

(D) The furnishing of legal services by a member of the State Bar pursuant to an arrangement for the provision of such services to the individual member of a group, as herein defined, at the request of

such group, is not of itself in violation of these Rules of Professional Conduct if the arrangement:

(1) permits any member of the group to obtain legal services independently of the arrangement from any attorney of his choice,

(2) is so administered and operated as to prevent

(a) such group, its agents or any member thereof from interfering with or controlling the performance of the duties of such member of the State Bar to his client,

(b) such group, its agents or any member thereof from directly or indirectly deriving a profit from or receiving any part of the consideration paid to the member of the State Bar for the rendering of legal services thereunder,

(c) unlicensed persons from practicing law thereunder, and

(d) all publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting forth the purposes and activities of the group or the nature and extent of the legal services or both, without any identification of the member or members of the State Bar rendering or to render such services.

Nothing in this rule shall prohibit a statement in response to individual inquiries as to the identity of the member or members of the State Bar rendering or to render the services giving the name or names, addresses and telephone numbers of such member or members.

As used in this rule, a group means a professional association, trade association, labor union or other non-profit organization or combination of persons, incorporated or otherwise and including employees of a single employer, whose primary purposes and activities are other than the rendering of legal services.

A member of the State Bar furnishing legal services pursuant to an arrangement for the provision thereof shall advise the State Bar thereof within 60 days after entering into the same. Thereafter he shall advise the State Bar, on forms provided by it, of the following matters: the name of the group, its address, whether it is incorporated, its primary purposes and activities, the number of its members and a general description of the types of legal services offered pursuant to the arrangement. Annually on January 31, he shall report to the State Bar, on forms provided by it, any changes in such matters; and the number of members of the group to whom legal services were rendered during the calendar year. Each report filed pursuant hereto and the information contained therein, except the name and address of the group, the fact that it has an arrangement for the provision of legal services and the names of members of the State Bar providing such services shall be confidential.

(E) Section a. The furnishing of legal services by a member of the State Bar pursuant to an arrangement for pre-paid legal services or

other plan for defraying the costs of professional services of attorneys, is not of itself in violation of these Rules of Professional Conduct, if:

(1) the arrangement was established by or at the request of a group defined in Rule 2-104(D) of these rules for the individual members of the group and otherwise complies with Rule 2-104(D); or

(2) the arrangement is developed, administered and operated by a non-profit organization, incorporated or otherwise and

(a) permits any client to obtain legal services independently of the arrangement, from any attorney of his choice; and

(b) is so developed, administered and operated that

(i) the panel of attorneys furnishing legal services thereunder consists of at least 20% or 1000 of the active members of the State Bar engaged in private practice and maintaining their principal offices in the geographical area served by the arrangement, whichever is the lesser number, but in no event less than 15 such active members; and

(ii) the panel of attorneys furnishing the legal services thereunder is open to any active member of the State Bar engaged in practice in the geographical area served by the arrangement, provided that a panel of attorneys which is open to all of the members of a local bar association is deemed to comply with this requirement if membership in that bar association is open to any active member of the State Bar engaged in practice in said geographical area, and

(iii) the client shall have the right to select any attorney on the panel to perform the legal services provided that the attorney consents to perform the legal services, and

(iv) any referral of a client to an attorney or attorneys on the panel of attorneys furnishing legal services under the arrangement shall be at the request of the client and in a manner consistent with those provisions of the "Minimum Standards for a Lawyer Reference Service in California" respecting the making of referrals; and

(c) Is so developed, administered and operated as to prevent

(i) a third party from interfering with or controlling the performance of duties of the member of the State Bar to his client, and

(ii) a third party from receiving any part of the consideration paid to the member of the State Bar for furnishing legal services thereunder except as permitted by Rules 2-108 and 3-102 of these rules, and

(iii) unlicensed persons from practicing law thereunder, and

(iv) all publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting forth the purposes and activities of the non-profit organization or the nature and extent of the benefits pursuant to the arrangement or both, without any identification of the member or members of the State Bar rendering or to render legal services; provided that all such publiciz-

ing and soliciting activities are in good faith engaged in solely for the purpose of developing, administering or operating the arrangement, and not for the purpose of soliciting business for, or for the self-aggrandizement of, any specific member or members of the State Bar; provided further that all publicizing and soliciting activities concerning the arrangement, except publicizing activities directed at persons entitled to receive legal services under the arrangement, shall terminate at such time as the total number of persons entitled to receive legal services under all arrangements of which the State Bar is advised pursuant to Rule 2-104(D) of these rules is equivalent to the total number of persons entitled to receive legal services under all arrangements reported to the State Bar pursuant to Section b.1.(b) of this Rule 2-104(E). For the purposes of this subsection (c)(iv) "persons" shall not include those who are eligible to receive legal services solely be reason of being a spouse or dependent family member.

Once the requirements of Section a.2.(b)(i) of this Rule 2-104(E) have been satisfied, nothing in this rule shall prohibit a statement in response to individual inquires as to the identity of the member or members of the State Bar rendering or to render the services giving the name or names, addresses, and telephone numbers of such member or members.

As used in this section, "geographical area" means any one of the following: (1) the state; (2) one or more municipal court judicial districts; (3) any combination of one or more municipal court judicial districts together with one or more counties; (4) one or more counties; (5) one or more of the superior court districts in a county of 5,000,000 or more persons according to the latest federal census.

Section b. Subject to the provisions of Section c. of this Rule 2-104(E), a member of the State Bar who has agreed to furnish legal services pursuant to an arrangement for pre-paid legal services or other plan for defraying the costs of professional services of attorneys, shall

(1) Within 60 days after entering into such agreement, file a notice thereof with the State Bar, and thereafter file with the State Bar, on the report forms provided by it and within 60 days after receiving such forms, the following under either (a) or (b), as applicable:

(a) If an arrangement was established by or at the request of a group pursuant to Section a.1. of this Rule 2-104(E);

(i) the name and office address of the group, the number of its members, its primary purposes and activities, and a copy of any agreement the member of the State Bar has entered into with the group respecting the arrangement;

(ii) if a person or entity other than the group itself is administering the arrangement, the name and office address of such person or entity,

whether such person or entity is incorporated, a copy of any agreement the member of the State Bar has entered into with such person or entity respecting the arrangement, and a copy of any agreement such person or entity has entered into with the group respecting the arrangement; and

(iii) a description of the methods and procedures under the agreement, if any, (A) whereby a client who is entitled to benefits under the arrangement may, upon request, be referred to an attorney or attorneys on the panel of attorneys furnishing legal services under the arrangement, (B) for periodically obtaining from those being served by the arrangement their comments, evaluations and recommendations respecting the operation of and furnishing of legal services under the arrangement, and (C) for resolution of client grievances.

(b) If the arrangement is developed, administered and operated by a non-profit organization pursuant to Section a.2. of this Rule 2-104(E):

(i) the name and office address of the non-profit organization and, if incorporated, a copy of its articles of incorporation and by-laws;

(ii) the geographical area served by the arrangement;

(iii) a copy of any agreement between the member of the State Bar and the non-profit organization respecting the arrangement;

(iv) the name and office address of any group being served by the arrangement, the number of its members, its primary purposes and activities, and a copy of any agreement the member of the State Bar or the non-profit organization, or both, has entered into with the group respecting the arrangement;

(v) if individuals, as distinguished from members of a group, are being served by the arrangement, then the number of such individuals and a copy of each form of agreement entered into between the non-profit organization and such individuals respecting the arrangement; and

(vi) a description of the methods and procedures under the arrangement, if any, as required under 1.(a)(iii) of this section.

(2) Annually thereafter, by January 31, file with the State Bar, on the report forms provided by it, the following: the number of persons to whom he rendered legal services during the preceding calendar year pursuant to the arrangement, and the types of such services; and the changes, if any, in the information or documents he filed with the State Bar under either 1.(a) or 1.(b) or this Section b.

Section c. Any notice, information or documents required to be filed by a member of the State Bar pursuant to Section b. of this Rule 2-104(E) need not be filed by such member personally if, within the time periods specified in that section, such notice, information or documents are filed on his behalf by either: (1) the group's officer, agent, or employee having primary responsibility for the arrangement established pursuant to Section a.1. of this Rule 2-104(E), or if such

arrangement is being administered by a person or entity other than the group, by such person or entity; or (2) the non-profit organization administering the arrangement pursuant to Section a.2. of this Rule 2-104(E).

When such notice, information or documents are so filed on behalf of two or more members of the State Bar for any one arrangement, they shall be consolidated where possible in a single notice or reporting form and documents already on file may be incorporated by reference so long as there are no changes therein.

Section 3. Any notice, information or documents received by the State Bar pursuant to Sections b. or c. of this Rule 2-104(E) shall be public, whether or not also received by the State Bar pursuant to Rule 2-104(D) of these rules.

(F) The participation of a member of the State Bar in a legal aid plan or program for the furnishing of services to indigents or pursuant to the plan or program of a non-profit organization formed for charitable or other public purposes which furnishes legal services to persons only in respect of their civic or political or constitutional rights and not otherwise in furtherance of such charitable or other public purposes of such organization, and the publicizing of such plans or programs are not, of themselves, violations of these Rules of Professional Conduct provided the name of such member of the State Bar is not publicized. Nothing in this rule shall prohibit a representative of such a plan or program from stating in response to inquiries as to the identity of such member of the State Bar such member's name, address and telephone number.

(G) A member of the State Bar shall not accept employment when he knows or should know that the person who seeks his services does so as a result of conduct prohibited under this rule.

**Origin:**

- (a) Former Rules 2, 3, 20, 21, 21a and 23.
- (b) ABA Code DR 2-103.

**Cross References:**

Census as ordered for judicial districts: Gov C § 26203.  
Classification of counties: Gov C §§ 28020 et seq.  
Population of judicial districts: Gov C § 71043.

**Collateral References:**

7 Cal Jur 3d Attorneys at Law §§ 12, 82, 86, 87.  
Federal census generally: 13 USCS §§ 131 et seq.

**Law Review Articles:**

Lawyer discipline and professional standards in California; restrictions on advertising. 24 Hast LJ 700.  
Propriety of lawyer's employing layman to negotiate settlements in personal injury cases. 40 LA Bar B 246.  
California law firm partnership's inclusion in its firm name name of lawyer not locally admitted as ethically improper. 41 LA Bar B 467.

- Legal advertising and the public interest. (1975) 50 LA Bar B 209.  
 Legal Ethics and Professionalism Symposium. (1975) 12 San Diego LR 245.  
 Ethical Problems in Connection with the Delivery of Legal Services. (1975) 12 San Diego LR 336.  
 Ban against union's lawyer referral plan. 3 Stan LR 549.  
 An indigent's right to the attorney of his choice. (1974) 27 Stan LR 73.  
 Federal roles in lawyer reform. (1975) 27 Stan LR 333.  
 Consumerism and the delivery of legal services. (1974) 49 St BJ 256.  
 Bar restrictions on dissemination of information about legal services. (1974) 22 UCLA LR 483.  
 Views on prepaid legal services plans. 60 ABAJ 791.  
 Tax, antitrust, and insurance considerations in prepaid legal services plans. 60 ABAJ 797.  
 Legal service obligation to the public; affirmative service or tithing enforced by sanctions and disciplinary procedures. (1974) 60 ABAJ 916.  
 A new idea for a public interest law institution; prepaid group legal service. (1974) 60 ABAJ 1252.  
 Public interest law: Should lawyers pick up the tab? (1975) 61 ABAJ 453.

*Annotations:*

- Power to enjoin attorney from prosecuting actions secured through chasers and runners. 14 ALR2d 740.  
 Attorney's splitting fees with other attorney or layman as grounds for disciplinary proceeding. 6 ALR3d 1446.

## NOTES OF DECISIONS

Attorneys who agreed under plan with union to render its members service at reduced rate in contemplation of large volume of business resulting from union's recommendation of their employment violated rule [former Rule 2]. *Hildebrand v State Bar* (1950) 36 C2d 504, 225 P2d 508.

Even if there were some illegality of a fee sharing agreement between a county bar association and attorneys, that required the attorneys to forward one-third of a fee earned from legal business that originated with the bar association's lawyer reference service, in that the agreement constituted fee splitting with an unlicensed person or remunerating such person for obtaining professional employment contrary to former rules 2 and 3 of the Rules of Professional Conduct of the State Bar of

California, in an action, by cross complaint, by the bar association against the attorneys to recover the referral fee, the arrangement did not compel the bar associations' loss or permit the attorneys to retain the forwarding fee, where the parties were not in *puri delicto*, in the sense that the attorneys raised a defense applicable to them but not to the bar association; the attorneys would be unjustly enriched by denying the bar association recovery; and the forfeiture resulting from the refusal to enforce the contract would be harsh in proportion to the character and extent of illegality, and public policy did not require nonenforcement as a means of protection against the policy underlying the Rules of Professional Conduct. *Emmons, Williams, Mires & Leech v State Bar* (1970) 6 CA3d 565, 86 Cal Rptr 367.

**Rule 2-105. Advising Inquirers Through the Media On Specific Legal Problems and Advising the Commencement, Prosecution, or Defense of a Case**

(A) A member of the State Bar shall not advise inquirers or render opinions to them through or in connection with a newspaper, radio or other publicity medium of any kind in respect to their specific legal problems, whether or not such attorney shall be compensated for his services.

(B) A member of the State Bar shall not advise the commencement, prosecution or defense of a case unless he has been consulted in

reference thereto, except when his relation to a party or to the subject matter is such as to make it proper for him to do so.

Origin: Former Rules 18 and 10.

**Collateral References:**

7 Cal Jur 3d Attorneys at Law §§ 82, 84.

**Cross References:**

Offense of barratry: Pen C § 158.

**Collateral References:**

7 Am Jur 2d Attorneys at Law §§ 40-42.

**Law Review Articles:**

Lawyer discipline and professional standards in California; restrictions on advertising. 24 Hast LJ 700.

Lawyer's addressing lay groups on legal subjects, or participating in public forum. 40 LA Bar B 198.

Unethical conduct by lawyer's participation in commercially sponsored radio program where he is identified as lawyer or answers legal questions. 42 LA Bar B 223.

Bar restrictions on dissemination of information about legal services. (1974) 22 UCLA LR 483.

**NOTES OF DECISIONS**

Advising commencement of personal injury actions without having been consulted in reference thereto by plaintiffs in actions was violation of this rule [former Rule 10]. *Smallberg v State Bar* (1931) 212 C 113, 297 P 916.

Attorney who commenced actions on personal injury claims without being consulted by claimants, his employment being result of activities of claim adjustment association, was guilty of violating this rule [former Rule 10]. *Howe v State Bar* (1931) 212 C 222, 298 P 25.

Finding as to violation of this rule [former Rule 10] could not be sustained, where stipulation made was not broad enough, in absence of other evidence, to support such finding. *Irving v State Bar*

(1931) 213 C 81, 1 P2d 2.

Where evidence showed unquestionably and without conflict violation of this rule [former Rule 10], it was not to be reviewed on appeal. *Dudney v State Bar* (1931) 214 C 238, 4 P2d 770.

Agreement between attorney and auditor as to measure of their respective compensations from trust fund for their services in reorganizing bankrupt corporation did not contravene prohibition against attorney's advising prosecution of case unless he has been consulted in reference thereto, where attorney's initial connection with bankruptcy proceeding arose from suggestion made by referee that attorney contact auditor. *Turnbull v Wilhelm* (1942) 52 CA2d 597, 126 P2d 966.

**Rule 2-106. Specialization**

A member of the State Bar shall not hold himself out publicly as a specialist except as follows:

(1) A member of the State Bar admitted to practice before the United States Patent Office may use the designation "Patents", "Patent Attorney", or "Patent Lawyer", or any combination of those terms, on his letterhead and office sign. A member of the State Bar engaged in the trademark practice may use the designation "Trademarks", "Trademark Attorney", or "Trademark Lawyer", or any combination of those terms, on his letterhead and office sign.

(2) A member of the State Bar may permit his name to be listed in lawyer reference service offices according to the fields of law in which he will accept referrals and in such manner as is proper under the standards which the Board of Governors may from time to time promulgate.

(3) A member of the State Bar available to act as a consultant to or as an associate of other members of the State Bar may distribute to other members of the State Bar and publish in legal journals circulated or distributed primarily to members of the State Bar a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to members of the State Bar more frequently than once in a calendar year, but it may be published periodically in such legal journals.

(4) A member of the State Bar who holds a current certificate as a specialist issued by the California Board of Legal Specialization pursuant to a plan for specialization approved by the Board of Governors may include the words "Certified Specialist" followed by the word or words describing the field of specialization as the same appear on said certificate in the following:

(a) a listing in the classified section of a telephone directory or directories as defined in Rule 2-103(A)(5) of these rules, for the geographical area or areas in which the member of the State Bar resides or maintains offices.

(b) a listing in a legal directory or law list as defined in Rule 2-103(A)(6).

(c) a brief dignified notice that he is rendering a specialized legal service to be circulated among lawyers only.

Further, in any listings described in (a), (b) and (c) above the words "California Board of Legal Specialization" shall follow the words "Certified Specialist" and the word or words describing the field of specialization as the same appear on said certificate.

Further provided such listings or notices described above comply with Rules 2-101 through 2-105.

A member of the State Bar shall not state on his professional cards or letterheads or on his office signs that he has been issued a certificate by the California Board of Legal Specialization.

**Origin:**

(a) Former Rule 2, Sections b and d.

(b) ABA Code DR 2-105.

**Collateral References:**

7 Cal Jur 3d Attorneys at Law § 84.

provided by the committee, and shall be deemed filed only upon receipt in substantially complete form. The application shall be completed in strict compliance with the instructions therein. If it is not so completed, the application shall be returned to the applicant for completion, and upon re-submission to the committee an additional filing fee of \$10.00 shall be paid.

An application of a general applicant shall be filed not sooner than the first day of the sixth full month preceding the first day of the General Bar Examination for which application is being made and not later than the first business day of the third full month preceding the first day of such examination.

In the case of a general applicant applying for the first time to take the General Bar Examination in this state, the filing fee for an application shall be \$190.00 if, prior to the filing of such application, the applicant has been admitted to practice law in any other jurisdiction and shall be \$140.00 if such applicant has not been so admitted. The filing fee for all other general applicants shall be \$100.00.

In the event an application is filed late, an additional late filing fee of \$25.00 shall be paid if filed not later than fourteen days after the last day for filing a timely application, and a late filing fee of \$100.00 shall be paid if filed thereafter; provided, however, that no application shall be accepted for late filing unless such application is received at the committee's office not later than the fortieth day preceding the first day of the examination for which application is being made, or if such day falls on a Saturday, Sunday or holiday, the next business day.

If a general applicant withdraws his application he shall be refunded \$25.00. Any notice of withdrawal to be effective shall be in writing and shall actually be received in the office of the committee wherein the applicant has applied not later than the next to the last business day prior to the General Bar Examination applied for. An applicant shall not be entitled to any refund if he merely fails to take the examination without having withdrawn his application in accordance herewith.

If a general applicant is unable to take the General Bar Examination because of active duty as a member of the armed forces, his entire filing fee (exclusive of any late filing fee) shall be refunded and, in computing the fee for any future application from such applicant, the prior filing of an application for which the entire filing fee was subsequently refunded shall be disregarded.

#### Rule IX. Legal Education

**Section 91.** The legal educational qualifications required of every general applicant in addition to compliance with the provisions of Rule VI hereof are—either

(1) Graduation from an accredited law school requiring either substantially the full time of its students for at least three years, or a part only of the time of its students for at least four years and the completion of a course of study in law school of not less than 1200 hours of study in residence extending over a period of not less than ninety weeks for full-time students, or not less than one hundred and twenty weeks for part-time students. To receive credit for any semester, quarter or other academic period, a full-time student must be enrolled in a schedule requiring a minimum of ten hours of credit a week and must receive credit for at least nine hours and a part-time student must be enrolled in a schedule requiring a minimum of eight hours of credit a week and must receive credit for at least eight hours. If, in any semester, quarter or other academic period a student is not enrolled in, or fails to receive credit for the minimum number of hours specified in this sub-section, he may receive only proportionate credit for study in residence for that academic period in the ratio that the hours enrolled or in which credit was received, as the case may be, bear to the minimum specified.

(2) The study of law diligently and in good faith for at least four years, which study shall be by one or more of the following methods:

(a) In a law school that is authorized to confer professional degrees and, requires classroom attendance of its students for a minimum of 270 hours a year, and either is accredited under Rule XVIII hereof or complies with the provisions of Rule XIX hereof.

To receive credit for one year's study an applicant shall have received passing grades in courses for which classroom attendance was required for a minimum of 270 hours extending over a period of not less than one academic year and encompassing not less than two semesters of 15 weeks each, or three quarters of 10 weeks each during each of which the applicant received passing grades in courses requiring classroom attendance for a minimum of 90 hours per semester or 60 hours per quarter. No more than one year's credit shall be given for studies accomplished during any twelve-month period except that an applicant who completed courses entitling him to one year's credit during a normal academic year and continued his studies during a following summer session beginning less than twelve months after the beginning of such prior academic year may receive credit towards completion of the following year's requirements for study completed during such summer session and that an applicant who, for good cause, was permitted to pursue a course of study requiring less than 270 but not less than 180 hours classroom attendance during his second or subsequent year of study and thereafter completed courses requiring in excess of 300 hours classroom attendance during a twelve-month period, upon the recommendation of the school in which such study was completed, will be given credit for such excess, not to exceed 60 hours from any such subsequent year, toward fulfillment of the requirement for such earlier year. If a law school permits or requires participation in a clinical program, the time spent in such program does not constitute classroom attendance. If a student, because of enrollment in a clinical program, has less than 270 hours of classroom attendance in any twelve-month period, he may, subject

to the limitations set forth in prior twelve-month period, student in any carry-forward program, multiplied by the classroom credit. In no even any carry-forward period or from any base period is 90 credit from any semester is quarter system, the maximum 10 hours, and from the same

(b) In a law office in this State California who is, and for the practice of law; or in the chambers of this State. A student who is in law in such office or chambers weeks each year. The attorney's personal supervision to the student each month on the work done with the student that is utilized by the student, and the examinations herein required shall accompany the semi-annual student is studying law shall begin. The initial report shall be a law study and to conduct the judge every six months, setting office or chambers during regular supervision each week, the names of other persons studied, the names of other persons judge, and such other information

(c) By instruction in law from hereof and requiring 864 hours

To receive credit for one year's applicant shall have received 1 and study during a period of 1

To receive credit for one-half applicant shall have received 1 and study during a period of 1

(d) An applicant who commences Section 52 hereof prior to January has studied law diligently and years.

**Section 92.** Duplicated credit in courses or materials, either in study.

**Section 93.** A person who is not credit for any law study until therefrom; nor shall he receive examination or becoming entitled particular case the committee of

#### Rule X. Moral Character

**Section 101.** (a) Every applicant proving that he or she is possessed of qualities of honesty, fairness, courage of the state and the nation and

(b) Section 6064.1 of the Business "No person who advocates the force, violence or other unconstitutional license to practice law."

In applying Section 6064.1, the who is engaged in a course of intended to and is reasonably a

to the limitations set forth in this subsection, receive "carry-forward" classroom attendance credit in such period, called the "carry-forward period", for any excess over 270 hours of classroom attendance in a prior twelve-month period, called the "base period". The maximum carry-forward credit allowed the student in any carry-forward period may not exceed the number of units allowed for the clinical program, multiplied by the number of class hours normally required by the school for a unit of classroom credit. In no event may the total carry-forward credit allowed the student exceed 90 hours in any carry-forward period or 120 hours during his entire law study. The maximum carry-forward credit from any base period is 90 hours. If the school is on a semester system, the maximum carry-forward credit from any semester is 15 hours and from any summer session is 60 hours. If the school is on a quarter system, the maximum carry-forward credit from any quarter, other than the summer quarter, is 10 hours, and from the summer quarter is 60 hours.

(b) In a law office in this State and under the personal supervision of a member of The State Bar of California who is, and for at least five years last past continuously has been engaged in the active practice of law; or in the chambers and under the personal supervision of a judge of a court of record of this State. A student who is pursuing his course of study in a law office or judge's chambers shall study law in such office or chambers during regular business hours at least 18 hours each week for at least 48 weeks each year. The attorney or judge in whose office or chambers the student is studying law shall give personal supervision to the student for at least 5 hours each week, and shall examine him at least once each month on the work done the previous month. "Personal supervision" refers to time actually spent with the student that is utilized primarily for the exposition and discussion of the law, the recitation of cases by the student, and the critical analysis of written assignments submitted by the student. The examinations herein required to be given the student shall be written, and the questions and answers shall accompany the semi-annual report hereinafter referred to. The attorney or judge under whom the student is studying law shall file an initial report with the committee within 30 days after such study begins. The initial report shall contain an undertaking by the attorney or judge to supervise the student's law study and to conduct the required examinations. Thereafter a report shall be filed by the attorney or judge every six months, setting forth the number of hours the student studied law each week in his law office or chambers during regular business hours, the number of hours the attorney or judge devoted to supervision each week, the page or chapter numbers and the titles of the books and other materials studied, the names of other students, if any, whose law study is being supervised by the attorney or judge, and such other information as the committee may require.

(c) By instruction in law from a correspondence law school complying with the provisions of Rule XIX hereof and requiring 864 hours of preparation and study per year for four years.

To receive credit for one year's study by instruction in law from a correspondence law school an applicant shall have received passing grades in courses requiring not less than 864 hours of preparation and study during a period of not less than 48 consecutive weeks nor more than one year.

To receive credit for one-half year's study by instruction in law from a correspondence law school an applicant shall have received passing grades in courses requiring not less than 432 hours of preparation and study during a period of not less than 24 nor more than 26 consecutive weeks.

(d) An applicant who commenced the study of law and registered with the committee as provided by Section 52 hereof prior to January 1, 1954, shall qualify under this subsection (2) by filing proof that he has studied law diligently and in good faith for an aggregate of 3,456 hours over a period of at least four years.

**Section 92.** Duplicated credit shall not be granted for repetition of the same, or substantially the same courses or materials, either in the same, or different schools, or by the same or different methods of study.

**Section 93.** A person who is required to take the first-year law students' examination shall not receive credit for any law study until he has passed such examination or become entitled to exemption therefrom; nor shall he receive credit for more than one year of law study as of the date of passing such examination or becoming entitled to exemption therefrom, unless upon petition and for good cause in a particular case the committee decides that additional credit should be given.

#### **Rule X. Moral Character**

**Section 101.** (a) Every applicant shall be of good moral character. The applicant shall have the burden of proving that he or she is possessed of good moral character. The term "good moral character" includes qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, of the laws of the state and the nation and respect for the rights of other and for the judicial process.

(b) Section 6064.1 of the Business and Professions Code provides as follows:

"No person who advocates the overthrow of the government of the United States or of this State by force, violence or other unconstitutional means, shall be certified to the Supreme Court for admission and a license to practice law."

In applying Section 6064.1, the committee will interpret the phrase "person who advocates" to mean one who is engaged in a course of conduct, including but without limitation the use of language, which is intended to and is reasonably and ordinarily calculated to incite persons to action as speedily as the

(5) providing for the maintenance of a register of each attorney admitted to practice as an attorney at law in the courts of the state;

(6) providing for the organization and government of local subdivisions of the Alaska Bar;

(7) providing for all other matters affecting in any way the organization and functioning of the Alaska Bar.

(b) The board may

(1) approve and recommend to the state supreme court additional rules for promulgation by the court including rules concerning admission and discipline;

(2) adopt reasonable bylaws and regulations consistent with the statutes and Alaska Bar Rules;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) fix the annual membership fee for active, inactive, judicial, and honorary members.

Sec. 08.08.080. ANNUAL REPORT OF LEGISLATURE. The Board of Governors shall report annually to the Chairmen of the Senate and House Judiciary Committees of the Alaska State Legislature on all matters concerning admissions, discipline and disbarment proceedings, except for those matters defined as confidential by court rule. Furthermore this report shall address any amendment or addition to the bylaws and regulations of the Alaska Bar as well as any amendment or addition or proposed amendment or addition to the Alaska Bar Rules.

Sec. 08.08.090. POWER OF THE ALASKA BAR TO MAKE OR CHANGE BYLAWS AND REGULATIONS. Any bylaw or regulation adopted by the Board of Governors may be modified or rescinded, or a new bylaw or regulation may be adopted, by a vote of two a

Spec. CLE  
Specialization

Chapter 2

KENAI PENINSULA BAR ASSOCIATION

P. O. BOX 397  
KENAI, ALASKA 99811  
TELEPHONE 283-7564

February 19, 1980

Honorable Charles Parr  
House of Representatives  
House Judiciary Committee  
State of Alaska  
Pouch Y  
Juneau, Alaska 99811

Dear Mr. Parr:

Enclosed please find a Resolution of the Kenai Peninsula Bar Association in which the Bar Association has voted that the legislature should "sunset" the Alaska Bar Association. The reasons for the association's action are enumerated in the attached Resolution.

I should point out that there was dissent in our local bar association with regard to whether or not the Alaska Bar Association should cease to exist. Thomas Wardell specifically wishes it to be known that he does not concur and would support the continuance of the Alaska Bar Association and would try to resolve any differences with the existing entity.

As President of the Kenai Peninsula Bar Association I feel that our relations with the Alaska Bar Association have been very good. I would like to point out that the Alaska Bar Association has "reached out" to the Kenai Peninsula Bar Association to improve relations and services to our members here on the Kenai Peninsula. The following are examples of such efforts. Namely, I, the President, have been invited to attend each and every Board of Governors meeting; the opinions of our association have been sought on numerous issues which are before the Alaska Bar Association, representatives of the Alaska Bar Association including the President, the board members and, respectively, the bar counsel have volunteered to visit the Kenai Peninsula to address our members; the Alaska Bar Association has initiated a video tape program to allow Kenai attorneys to view Alaska Bar Association Continuing Legal Education seminars which are presented elsewhere in the state which has enabled our members to continue in their professional education without incurring the great costs of travel.

Honorable Charles Parr  
February 19, 1980  
Page 2

It is also my personal conviction that the many activities of the bar association such as bush justice, the publication of a legal newspaper, the extensive work by committees on changes in the substantive of law, the self regulation of professional ethics and fee arbitration are highly useful functions and benefit the populace of the State of Alaska.

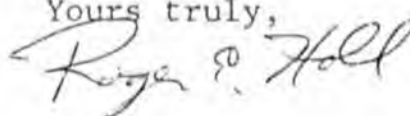
I have personally viewed the fee arbitration process first hand. I was highly impressed by the degree of impartial objectivity on the part of the prosecutor and the fee arbitration panel and was personally very impressed by the quality of the legal opinion and decision which was issued.

It is my personal conviction that the legislature should carefully weigh whether or not problems within the Alaska Bar Association are real and if so, can they be corrected by some means other than to "sunset" the Alaska Bar Association.

The two areas that I am dissatisfied with are the bar exam admissions procedure with regard to review of marginal exam results. It has been the experience of some local bar applicants that the bar association will not grant a review of a paper which has a score of 69 where a score of 70 is mandatory to pass the exam. I believe that applicants should show a substantial ability to pass the Alaska Bar exam but I also believe that we do not need to "protect" the business of members of the bar from new admittees and I believe that fair procedures should be adopted by the Alaska Bar Association.

Another area of great consternation to many of the attorneys is the winter meetings in such places as Hawaii and Mexico. Holding these meetings in far off location bars the general members of the bar association from attending these important functions. Most young lawyers simply cannot afford to expend thousands of dollars on such an occasion.

I trust these comments will be of interest to you. Scheduled court appointments preclude me from appearing at the teleconference hearing before the House Judiciary Committee

Yours truly,  


ROGER E. HOLL  
Attorney at Law

REH:aj

## RESOLUTION

WHEREAS, the continued existence of the Alaska Bar Association is being considered by the Alaska State Legislature under the provisions of the "Sunset Law"; and

WHEREAS, this topic was discussed at length by the membership of the Kenai Peninsula Bar Association, consuming at least two weekly meetings; and

WHEREAS, the Kenai Peninsula Bar Association members agreed that the Alaska Bar Association has failed to adequately deliver to the members of the bar and to the members of the public the services that it was designed to render, as follows:

1. The dues collected from the membership are too high for the services rendered and are used ineffectively.
2. The Alaska Bar Association does not effectively or fairly administer the Alaska Bar Association admissions procedure.
3. The Alaska Bar Association does not effectively or efficiently examine disciplinary complaints.
4. The Alaska Bar Association fee arbitration procedure does not effectively resolve fee disputes.
5. The meetings of the Alaska Bar Association are often not accessible to the general membership in that some major meetings are held outside the State of Alaska.
6. The cost of continuing legal education is becoming increasingly prohibitive in so far as those meetings which are held outside of the State of Alaska.
7. The funds allocated by the State of Alaska to the Alaska Bar Association could be used more effectively for other purposes.
8. The Alaska Supreme Court can and should handle the administration of services, the admissions procedure before the Courts of Alaska, the disciplinary complaints and other functions now handled by the Alaska Bar Association.

BE IT RESOLVED THEREFORE, for these and other reasons that the Legislature of the State of Alaska "sunset" the Alaska Bar Association and that the Alaska Supreme Court assume the functions of the Alaska Bar Association.

Thomas Wardell voted against this resolution and wishes that fact to be known.

DATED: At Kenai, Alaska this 19 day of February, 1980.



Roger E. Holl, President  
Kenai Peninsula Bar Association

Would like to request  
a list of bar assoc  
related issues (important  
ones, anyway, that have  
been brought up as testified  
to us upon which written  
comments have been received  
during the course of  
Jud Com. sessions of CABA  
to include as well  
any other important questions,  
whether or not they have  
yet been raised. A simple  
list is ok.

A. J. Lane

41  
29  
35  
105

37  
39  
55  
131

29  
39  
28  
56  
152

$\frac{18}{26}$   
27  
29  
24  
80

3rd  
~~107~~  
36  
41  
29  
35  
~~127~~  
37  
~~162~~  
~~162~~  
55  
~~29~~  
~~39~~  
~~28~~  
56

~~115~~  
~~135~~ 71  
127 40  
129  
~~115~~  
~~120~~  
~~144~~  
124

1 member for each  
100 row  
1st. 2 | 2  
Fourth + 1.5 | 2  
2nd | 4  
3rd. 9

107  
124 2  
109 2  
111  
105  
131  
152  
80  
919

125  
43  
23  
191 1st

1st members from 1st  
3rd members from 3rd.  
1st members from  
Combined second & fourth

84 Fourth  
32  
34  
150

12 Second

3rd 10019  
919



# ombudsman

MEMO

Date: February 29, 1980  
To: Representative Charlie Parr, Chairman  
House Judiciary Committee  
From: Frank Flavin, Ombudsman *FMF*  
Subject: Alaska Bar Association, Sunset

I believe the following requirements would greatly improve the public accountability of the ABA:

1. Establishment of a grievance panel consisting of seven members; three attorneys appointed by the ABA, three lay workers and one attorney appointed by someone other than the Bar;  
*Seven*
2. Establishment of grievance procedures pursuant to the administrative procedures act;
3. Coverage of non-litigation activities of attorneys by Consumer Protection; and
4. Legislative Audit and ombudsman jurisdiction over ABA activities.

*parag A / 5 /  
minutes /*

#6 -  
1 yr. -

mandatory memo - YD

bar exam - prof preparing & grading (see list)

- grievance mech

no state funds incl. Or Leg budget | |  
Revenue part | |

act of practice of law - | |

1 (not require attorney for moment)

Title 12 b2 and c in the Outside | |

Jan review on Fed v. State

All of Frouth's subject. 1-4.

Project -  
uninitiated

NON-  
INTEGRATED  
BAR ASSOC.

#8

Non-integrated Bar Association-----STATUS-----

7/16/79

Requested Research to determine the mechanisms whereby non-integrated states handle admissions and discipline. Want specifics, ie, statutes, court rules, etc. Am really only interested in those states that give those duties to the supreme court, since Alaska constitution would seem to only permit the supreme court to be such a vehicle.

Said research task was given to D. Bradley upon the demise of the Research Division.

Need: to get Bradley to issue a legal opinion on the constitutionality of the Legislature de-integrating the bar and shifting the admission and discipline functions to the AK. Supreme Court. Bart Rozell raised this issue at the Bar Convention.

Bradley out of town this date. Will be back on Wednesday, July 18.

7/18/79

Conversation with Bradley. Deadline given for work request = Aug. 15. Told him to feel free to make comments as well as provide statutory references for nonintegrated bar states methods for handling discipline & admission functions. Told him also to consider Mr. Rozell's contention that it would be unconstitutional for legislature to de-integrate the Alaska Bar Assn.

7/20/79

- Requested following info. from AK. Bar Assn. office:
- ① Copy of all resolutions and the vote, ie, passed/failed.
  - ② # of people that attended meeting
  - ③ Current Admission/examination fee.

7/27/79

1300 lawyers in Assn.

Note to file:

10/2/79

Mr. Wilkerson of Leg. Audit called this date and stated that he had received my report on integrated/non-integrated bar associations. He said that he found it very interesting. He stated that Leg. Audit is still having difficulties in auditing the Ak. Bar Assn. and for that reason may simply let them go into termination. He promised to send me an article from Reader's Digest on disciplinary proceedings for lawyers.

Note to File

Conversation with Judith P., Interim Staff reporting on Court System Budget.  
7/25/79

Budgetary Item in Court System Budget re: Bar Association.

1978- \$58.6 dispersements  
1979- \$36.7 dispersements  
1980- \$51.0 allocation

Listed as contactual for contested bar admissions; atty discipline;  
original applications to court.

-----

Conversation with Bruce Horowitz

7/25/79

The case against the Bar Assn. has been argued before Supreme Court and Mr. Horowitz is awaiting a decision. Main issue=whether Bar Assn. comes under the Public Meeting law requirements. The trial judge, Judge Rolland held that it was not. J. Rolland did not give detailed reasons for his decision, but ruled from the bench. J. Rolland stated that since Bar in the Bar Act is not under the APA for purposes of establishing Bylaws and regs, it is not subject to the public meeting law.

Fairbanks Daily News-Miner  
7-14-79

## Supreme Court upholds censure of Sitka lawyer

JUNEAU (AP)—The public censure of a Sitka lawyer by the Alaska Bar Association has been upheld by the state Supreme Court.

The court ruled Friday that it agreed with the findings of the bar's Board of Governors, acting as a disciplinary panel, against Donald L. Craddick.

The bar had recommended censure of Craddick for what it said was an incident of threatening criminal prosecution to gain advantage in a civil matter, two cases of taking on clients in a direct conflict of interest against other clients and failure to maintain confidence with a client.

The complaints date back to the early 1970s, but Donna Willard, president of the Alaska Bar Association, says steps have been taken to speed up the bar's disciplinary work.

One of the complaints against Craddick was filed in late 1972 and the latest was lodged in 1974. The state bar's decision on the case went to the Supreme Court for a finding about six months ago.

Craddick is still in practice, a spokesman for the state Supreme Court said Friday.

**NORTHWEST  
INVESTIGATIVE SERVICES**

- A full range of professional services statewide at reasonable rates.

P.O. BOX 74008  
FAIRBANKS, AK. 99707  
907-452-7574  
LICENSED and BONDED





# THE BANKRUPTCY REFORM ACT OF 1978

SEPTEMBER 8, 1979

ANCHORAGE

ANCHORAGE WESTWARD HILTON  
ALASKA ROOM

---

Sponsored By

THE CONTINUING LEGAL EDUCATION  
COMMITTEE

ALASKA BAR ASSOCIATION

---

## SCOPE AND PURPOSE

On October 1, 1979, the Bankruptcy Reform Act of 1978, representing the first major change in bankruptcy law in 40 years, becomes effective. The new Act dramatically alters the Substantive, procedural and administrative aspects of the rights and obligations of debtors and creditors. Among other important features, the new Act creates a new court structure with dramatically expanded jurisdiction and unites business reorganizations under one chapter which requires different procedures depending upon the sophistication of the debtor.

This one day seminar presents an overview of the Bankruptcy Reform Act -- including comparisons with the present Code -- approximately one month before the effective date of the new Act's major provisions.

## FACULTY

**GERALD K. SMITH** - A partner in the Phoenix, Arizona law firm of Lewis & Roca, Mr. Smith is a Root-Tilden Scholar and graduate of the New York University School of Law. A member of the National Bankruptcy Conference and the Commercial Bankruptcy Committee of the American Bar Association, he is also Deputy Director of the Commission on the Bankruptcy Laws of the United States and is a contributing editor of Volume 12 of the COLLIER ON BANKRUPTCY.

**LAWRENCE P. KING** - Charles Seligson Professor of Law at New York University School of Law and a counsel of Wachtell, Lipton, Rosen & Katz, New York. Professor King is Editor-in-Chief of COLLIER ON BANKRUPTCY and co-author of Duesenberg & King, SALES AND BULK TRANSFERS UNDER THE UNIFORM COMMERCIAL CODE. Among other activities, he is the Reporter for the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States; is a member of the National Bankruptcy Conference and Chairman of its Committee on Legislation; and is a past consultant to the Commission on the Bankruptcy Laws of the United States.

**DILLION E. JACKSON** - A partner in the Bellevue, Washington law firm of Keller, Jacobson, Hole, Jackson & Wentz, where his practice has focused on consumer and business bankruptcy matters. A member of the ABA's Litigation Section and a number of State and Local Bar Sections concerned with bankruptcy matters, Mr. Jackson has been a frequent speaker at State and National programs on creditor-debtor matters, including the recent series on seminars on the Bankruptcy Reform Act of 1978 sponsored by the Practising Law Institute.

---

## COURSE CREDIT

This course has been approved by the Alaska Bar Association for 6.00 hours of credit toward continuing legal education.

## PROGRAM SCHEDULE

8:15 - 9:00 a.m.	REGISTRANT CHECK-IN AND DISTRIBUTION OF MATERIALS
9:00 - 9:05 a.m.	INTRODUCTORY REMARKS
9:05 - 9:20 a.m.	JURISDICTION AND APPEALS
9:20 - 9:25 a.m.	ELIGIBILITY AND AMENABILITY
9:25 - 9:55 a.m.	PROPERTY OF THE ESTATE AND EXEMPTIONS, INCLUDING COMPARISON OF STATE AND FEDERAL ALTERNATIVES
9:55 - 10:10 a.m.	DISCHARGE; DISCHARGABILITY OF DEBTS AND REAFFIRMATION

Non integrated BAR  
STATES: 51

32

Arkansas	Maine
Calo	Maryland
Conn	MASS.
Del	Mich
Hawaii	MINN.
ILL	N.J.
Indiana	NY
Iowa	Ohio
KANSAS	Penn.
Vermont	Tenn
	<hr/>
	20

31

4/7 States with non-integrated  
Bar Assocs. re: admission  
procedure and requirements  
and disciplinary avenues  
against attorneys.

AMER. BAR ASSOC.  
(312) 947-3930

H. L. Hughes  
PO Box 582  
Fairbanks, Alaska 99701

