

#2016-009



May 30, 2018

via email to: [rulescomment@courts.state.nh.us](mailto:rulescomment@courts.state.nh.us)

Chief Justice Robert J. Lynn, Chairperson  
New Hampshire Supreme Court  
Advisory Committee on Rules  
One Charles Doe Drive  
Concord, NH 03301

Attn: Ms. Carolyn Koegler, Secretary

Re: Opposition to Adoption of Model Rule 8.4(g)

Dear Chief Justice Lynn and members of the Advisory Committee on Rules:

I am writing to express my strong opposition to adoption of this model rule. I urge the Court's careful consideration of the well-researched opposition expressed by the Christian Legal Society in its letter of May 25, 2108. Equally importantly, my opposition is informed by my personal experience from (a) 40+ years as a practicing New Hampshire attorney and (b) consistent involvement in not-for-profit activities including past service as the President of the New Hampshire Bar Association.

Of even greater importance on the personal side as my wife and I have lived, raised our family, and provided professional services to other NH residents, has been my involvement in teaching and other ministry leadership in New Hampshire as well as service to various national organizations (e.g. trustee of Gordon Conwell Theological Seminary and Executive Director & CEO of the Christian Legal Society). Those experiences have brought to my attention case after case where facially benign language such as that contained in Model Rule 8.4(g) has been deployed to crush the spirit of professionals as it either chilled their free expression or, with seemingly increasing frequency, has been used by governmental or quasi-governmental authorities to restrict the ability of individuals to serve others in ways consistent with their faith.

Sadly, we now abide in a culture in which extremists from the right and the left are increasingly strident in tactics to suppress the liberties of others. Model Rule 8.4(g) is a classic example of a tool purportedly designed to defend against oppression which readily can be turned into an offensive weapon to suppress the liberty of others. This is not the New Hampshire way. In my view, Model Rule 8.4(g) should not become part of New Hampshire jurisprudence.

Thank you for your kind consideration of this letter.

Very truly yours,

A handwritten signature in black ink that reads 'Fred L. Potter'.

Fred L. Potter

FLP/hv