

#2016-009

May 30, 2018  
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

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

Re: David Rardin, NH Bar #16025, Comment Letter Opposing Adoption of Model Rule 8.4(g)

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

Because ABA Model Rule 8.4(g) would operate as a speech code for New Hampshire attorneys, I respectfully request that the Court reject this deeply flawed and rightly criticized black-letter rule, which was recently adopted by the American Bar Association at its 2016 Annual Meeting in San Francisco. The three proposed rules that this Committee is considering for possible adoption are so closely patterned on ABA Model Rule 8.4(g) that they suffer from its same defects and, for that reason, should be rejected.

All three proposed rules would impact the free speech of every New Hampshire lawyer, chilling speech on important public matters. At a time when freedom of speech needs more breathing space, not less, ABA Model Rule 8.4(g) threatens to suffocate attorneys' speech.

Virtually everything a lawyer does is "conduct related to the practice of law", and therefore conduct reached by ABA Model Rule 8.4(g). Included in the rule are dinners, parties, golf outings, conferences, and any other business or social activity that lawyers attend.

Lawyers who live in a free society should rightly insist upon the freedom to speak their thoughts in their social activities, their workplaces, and the public square without fear of losing their license to practice law. Because ABA Model Rule 8.4(g) would drastically curtail lawyers' freedom to express their viewpoints on political, social, religious, and cultural issues, the Court should reject any proposed rule patterned on ABA Model Rule 8.4(g).

I thank the Committee for holding this public comment period and considering these comments.

Respectfully submitted,



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