

**MARK D. ATTORRI, ESQ.**  
**111 Amherst Street**  
**Manchester, NH 03101**

June 1, 2018

**DELIVERED BY HAND**

N.H. Supreme Court  
Advisory Committee on Rules  
1 Charles Doe Drive  
Concord, NH 03301

**Re: Proposed Professional Conduct Rule 8.4(g)**

To the Members of the Committee:

I am writing in response to the Committee's invitation to comment on various proposals to add a new Rule 8.4(g) to the New Hampshire Rules of Professional Conduct. I am very concerned by these proposals and respectfully ask the Committee *not* to recommend them to the Court.

First, it does not appear to me that there is any genuine need for such a rule. I have practiced law in New Hampshire for more than twenty-five years and I am not aware of any threat to the integrity of our profession from members of the Bar engaging in discriminatory conduct that is not already sanctionable under the existing rules. Absent some demonstrated need to expand the coverage of the rules, it would seem to me that the proposals are really an effort to enlist the Court's backing on one side of the ongoing, public debate over issues of gender and sexuality. To put it plainly, unless there is a concrete, existing problem that needs to be addressed, the proposals would appear to be a matter of ideological posturing, something in which I do not believe either the Committee or the Court should engage.

Second, I am troubled by the effect the proposed rules would have on the free speech rights of attorneys. Because of prevailing social attitudes regarding matters such as gender and sexuality, it is already the case that a Bar member wishing to speak on these issues must be very careful about what he or she says. Adding yet another level of deterrence — namely, the risk of professional sanctions — might well convince many lawyers not to speak about them at all. Lawyers who do *not* engage in this kind of self-censorship could reasonably fear accusations or charges of professional misconduct for making casual, off-handed remarks that inadvertently give offense to others. In my opinion, these adverse effects on free speech greatly outweigh any benefit the proposed rules might possibly have.

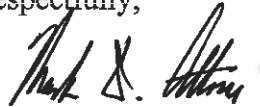
New Hampshire Supreme Court  
Advisory Committee on Rules  
June 1, 2018  
Page Two

Finally, I share in the concerns that have been submitted by my colleagues in the New Hampshire Catholic Lawyers Guild about the implications of the proposed rules for the expression and exercise of religious beliefs. To their comments I would add only that it troubles me greatly to think that, before sharing my religious convictions in the company of other attorneys, I would even have to consider the possibility that doing so might violate the rules of my profession.

For reasons such as these I believe it would be inadvisable for the Committee to endorse any version of the proposed rule.

Thank you for you considering my comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark D. Attorri". The signature is written in a cursive style with a small flourish at the end.

Mark D. Attorri  
N.H. Bar No. 9268