

From: [Sherri L. Miscio](#)
To: [Sherri L. Miscio](#)
Subject: Public input for Rule Change 37(20)l
Date: Tuesday, March 26, 2024 11:23:45 AM

From: Laurie Ortolano <laurieortolano@gmail.com>
Sent: Wednesday, March 20, 2024 2:43 PM
To: RulesComment <RulesComment@courts.state.nh.us>
Cc: External Mark Cornell <mcornell@nhattyreg.org>; External Brian Moushegian <bmoushegian@nhattyreg.org>; External Sara Greene <sgreene@nhattyreg.org>; Laura Colquhoun
Subject: Public input for Rule Change 37(20)l

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Dear Committee Members,

This letter offers compliments and criticisms of the rule change proposed for the Confidentiality terms required when a grievant files a complaint against an Attorney.

I thank the committee for striking the language in 37(20)l, I accept the changes made to (20)l:

(l) *Duty of Participants*: All participants in the proceedings shall conduct themselves so as to maintain the confidentiality mandated by this rule. Nothing in this section prevents **[participants]** ~~a grievant~~ from disclosing publicly **[the fact that a grievance, referral, or complaint has been filed,]** the underlying conduct of an attorney which **[forms the basis of the grievance, referral, or complaint]** ~~he or she believes violates the rules of professional conduct or is otherwise inappropriate, [or the attorney's response to the allegations in the grievance, referral, or complaint, except for those portions of such filings otherwise confidential pursuant to Rule 37(20)].~~ The immunity from civil liability provided by section (7) does not apply to such disclosures. ~~This section does prohibit a grievant, however, from disclosing publicly the fact that a grievance or complaint against the attorney about the conduct had been filed with the attorney discipline system pending the grievance or complaint becoming public in accordance with the provisions of this section.~~

However, I am concerned that it doesn't completely correct the confidentiality situation because there has been no modification to 37(20)m:

(m) *Violation of Duty of Confidentiality*: Any violation of the duty of confidentiality imposed by section (20) may result in action of the professional conduct committee at the request of the non-violating party or on its own motion. That action may consist of opening the file and the proceedings earlier than would have been the case under section (20), terminating the proceedings with or without public comment, or such other action as the professional conduct committee deems appropriate in the circumstances.

Perhaps the Committee should review the language in section m and consider striking the violation. Under no circumstances should a complaint be terminated for disclosure.

This rule change comes too late to affect the problems that have gone on with corporation attorneys for the city of Nashua. I have filed multiple complaints against two City lawyers and have always taken the position that I am entitled to publicly disclose my complaints. I strongly believe that the Supreme Court ruling to gag and silence citizens filing the complaints is unconstitutional. Why do attorneys or judges deserve a higher level of protection than doctors, dentists, chiropractors, psychologists, etc.? Complaints filed to the OPLC. do not require the complainant to maintain confidentiality. In surrounding states, Boards of Overseers do not have confidentiality provisions required of citizens who file complaints.

[Redacted – remainder of email concerns/Laurie Ortolano’s particular proceedings in the Attorney Discipline System]

Sincerely,
Laurie Ortolano