

IN THE SUPREME COURT OF FLORIDA

37-88

65,197

IN RE: Amendment Revision and
Restatement of the Integration
Rule of The Florida Bar and the
Bylaws of The Florida Bar

Case No. _____

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GENERAL DESCRIPTION OF REVISION

General Statement

Since the original adoption of the Integration Rule and Bylaws in 1950, both have been repeatedly amended from time to time as the size and activities of the Bar increased. It became apparent to the Board of Governors in 1980 that the piecemeal amendment and growth of the Integration Rule and Bylaws had resulted in numerous actual or potential conflicts. In addition, the Board of Governors determined that the format and the organization of the Integration and Bylaws had become confusing to the members of the Bar. In addition the procedures for amending the Integration Rule and Bylaws were in many instances found to be unduly complex and often time consuming for the court, disruptive of the Bar's activities, and ineffective to accomplish the goals intended.

During this same period of time, the Board of Governors became aware of the limitations which might be based upon an integrated Bar by the provisions of the United States Constitution and the Statutes of the United States of America both as interpreted by the United States Supreme Court and this court. The Board of Governors likewise during this period became more acutely aware of the desires of this court that The Florida Bar direct its efforts to serving the interest of the public by assisting this court in its constitutional mandate to regulate the practice of law. It is the view of the Board of Governors that the Integration Rule and Bylaws adopted in the 1950's and amended frequently over the years did not, in its present form, adequately express the proper limitations on the Bar's activities or properly express the authority and responsibility of the Bar to assist this court in its constitutional functions of regulating the practice of law while at the same time serving the interests of the members of the Bar.

The Bar accordingly adopted a general concept of revision. The revision contemplated revising and restating the present

Integration Rule and Bylaws into several different basically independent documents.

The principal document would be the Rules Regulating The Florida Bar. The rules would be analogous to a constitution of The Florida Bar. It would in broad general terms set forth the power, authority and responsibility of the Bar and include within it the necessary limitations upon those activities. It could only be amended upon the affirmative action of the Supreme Court of Florida.

A second principal document would be the Bylaws of The Florida Bar. These would be analogous to statutes which would more specifically establish the authority and powers and responsibilities of The Florida Bar and amplify the limitations always inherent in the granting of power. The process for amending these bylaws was simplified. Essentially, after adequate notice to the Bar and to the court, amendments adopted by the Board of Governors would become effective automatically unless objected to by the court or by responsible members of the Bar or the public.

The remaining provisions of the old Integration Rule and Bylaws were then divided into separate sets of rules regulating, governing and restricting the various programs of the Bar. By this method of organization, it should be easier for those members of the Bar and the public interested in a particular function of the Bar to find the relevant rules governing the Bar's activities.

These various separate sets of rules are likewise analogist to statutes. The method of amending these rules vary. The most restrictive method requires affirmative action by the court. The least restrictive method allows amendment by the Board of Governors with notice and opportunity to object given to the members of the Bar and the court.

Each document has been assigned a distinct initial number followed by a hyphen, providing a quick and convenient identification of the provisions of each. Detail of the numbering

and organization of the documents is given on the table of contents page of the proposed rule booklet submitted with the petition.

These separate sets of rules are as follows:

(1) The Code of Professional Responsibility--The Board of Governors is presently studying the Model Code of Professional Responsibility as recently adopted by the American Bar Association. If the Bar's study is completed before the court adopts these Proposed Rules Regulating The Florida Bar, the Bar's recommendation with regards to the Model Code of Professional Responsibility will be submitted to the court. If the Bar's study and recommendations have not been completed by the time this court has completed its review of these Proposed Rules Regulating The Florida Bar, then it is the Bar's desire that the present Code of Professional Responsibility be adopted in total in its present form as a part of the opinion adopting these rules.

(2) The Rules of Discipline--These rules govern the investigation and prosecution of violations of the Code of Professional Responsibility.

(3) Rules Regulating Trust Accounts

(4) Rules of Designation and Certification Program

(5) Clients' Security Fund Rules

(6) Lawyer Referral Rule

(7) Group and Prepaid Legal Services Rules

(8) Rules Governing the Investigation and Prosecution of the Unauthorized Practice of Law

These proposed Rules Regulating The Florida Bar, with one exception, include all of the provisions previously incorporated in

the Integration Rule and Bylaws. The one exception are those provisions of the Integration Rule governing the Law School Civil and Criminal Practice Program (art. XVII). At the present time, The Florida Bar does not participate in any way in such a program. It is the view of the Board of Governors that the program should be encompassed as a Rule of Judicial Administration since proper supervision and enforcement of its provisions is realistically with the courts rather than with The Florida Bar.

The Board of Governors also recommends that the adopting opinion by this court include language which will make it clear that the previous opinions of this court interpreting the Integration Rule and Bylaws continue to regulate the activities of The Florida Bar under the New Rules Regulating The Florida Bar unless the new rules, by their amended language, clearly intend a different results. The proposed language to that effect is included in the documents submitted to the court.

RULES REGULATING THE FLORIDA BAR

Although the general content of these basic rules is self-explanatory, the following special explanations apply to certain of the rules.

Rule 1-2 Purpose

This court has repeatedly quoted a portion of the previous Integration Rule and Bylaws and its preamble as expressing the purpose of The Florida Bar. This new rule sets forth that frequently quoted phrase as being the specific purpose of The Bar Florida. The rule accordingly adopts this court's frequently stated opinion regarding that purpose.

Rule 1-4 Board of Governors

The rule essentially restates the authority and responsibility of the Board of Governors, but in accordance with federally mandated guidelines and the restrictions of the United States Constitution it makes it clear that the activities of The Florida Bar are "...subject always to the direction and supervision of the Supreme Court of Florida." The activities of The Florida Bar are therefore clearly designated as state activities and The Florida Bar becomes an arm of the Supreme Court of Florida in fulfilling its constitutional mandate to regulate the practice of law.

Rule 1-8 Programs and Functions

This broad enabling rule charges the Board of Governors with the responsibility of enforcing the Rules of Discipline and the Code of Professional Responsibility. It also makes it clear that the Board of Governors acts as "an arm of the Supreme Court of Florida" in its activities to prohibit the unauthorized practice of law. It authorizes the Board to establish the Board of Certification, Designation and Advertising. It also gives the Board of Governors the authority to administer the Clients' Security Fund.

Rule 1-9

Modifies the Young Lawyers Section membership by including not only all active members under the age of 36 but also all active members, of whatever age, who have not been admitted to the practice of law in any jurisdiction more than five years.

Rule 1-10 Code of Professional Responsibility

This is the provision of the Rules Regulating The Florida Bar that makes it mandatory that the Code of Professional

Responsibility be complied with by all members of The Florida Bar.

Rule 1-11 Bylaws

These are the provisions of the Rules Regulating The Florida Bar which authorize the Bylaws. Rule 1-11.4 makes it clear that this court may at any time amend the Bylaws or modify amendments to the Bylaws adopted by the Board of Governors or order that they not become effective. Thus this court still will have the ultimate authority to direct and control the activities of The Florida Bar, although no affirmative action will be required by the court for Bylaw proposals to become effective.

Rule 1-11.3 sets forth certain minimum requirements for the Bylaws-amending process. Bylaws proposed by the Board of Governors of The Florida Bar become effective automatically, 50 days after proposed Bylaws are filed with the court, unless the court orders otherwise. While the court binds itself to "consider" objections to such amendments, if the court takes no action to delay the effective date of the proposed Bylaws, they become effective automatically.

Rule 1-12 Amendments

While the amending process has been significantly modified, the most significant change is the provision authorizing a petition for revision of or amendment to the Rules Regulating The Florida Bar to be filed by either the Board of Governors or by 50 active members of The Florida Bar, by 50 residents of the State of Florida. The Board of Governors is of the opinion that the people of the State of Florida should have the clear right and opportunity to petition this court to modify or change the Rules Regulating The Florida Bar.

The Board of Governors carefully considered whether or not the Board of Governors should be expanded to include nonlawyer members of the public. The Board considered the volume and scope of its activities and attempted to make a realistic evaluation of the value of participation by laypersons in those activities. The Board feels that nonlawyer participation in the grievance procedures has worked well. The Board feels that nonlawyer participation in the activities of the Unauthorized Practice of Law Committees is necessary and accordingly makes such a proposal with these rules. The committee feels however that nonlawyer participation in the vast majority of the remaining activities of the Board of Governors would be of little benefit to the Bar or the public. In addition the current activities of the Board require the dedication of a substantial amount of time by the various Board members. The Board seriously doubted that it could regularly obtain and maintain the dedicated interest of nonlawyers in participating in the remaining activities of the Board.

At the same time, the Board recognized that the real need exists for a method for the nonlawyer members of the public to seek to change the direction and the activities of The Florida Bar by appropriate lawful means. The Board feels that allowing 50 residents of the State of Florida to petition this court to modify the Rules Regulating The Florida Bar provides the public with a much more realistic and valuable method of participating in the regulation of the practice of law than inclusion of laymembers on its Board of Governors.

BYLAWS OF THE FLORIDA BAR

The Bylaws are essentially self-explanatory, however, the Board of Governors wishes to call to this court's attention the substantive changes which may be of particular interest to the court.

Bylaw 2-1 Seal Emblems and Publicity Symbols

The official seal of The Florida Bar is proposed to be modified by deleting the word "integrated." Although the word has a specific legal meaning understandable to lawyers, it has been and is capable of being misunderstood.

Bylaw 2-1 Supervision by the Supreme Court

It is this provision of the Bylaws which provides the mechanics for the supervision of The Florida Bar by the Supreme Court. It is deemed necessary by the Board of Governors for several reasons. It reinforces the "state action" characteristics of the Bar's activities. It gives the court a reasonable method by which they may monitor the activities of the Bar without having to actively participate in those activities. It provides that the court receive documents which make it possible for the court to reasonably monitor the Bar's activities without causing the court to be flooded with a volume of nonrelevant or unimportant paper. For example, only those reports which have been submitted to the Board of Governors and accepted or adopted by the Board of Governors are furnished to the court. Copies of all rules, policies or procedures actually adopted by the Board are furnished to the court. The minutes of each meeting of the Board of Governors are furnished to the court as well as the minutes of the Executive Committee. Excluded are only those portions of the minutes involving discipline or unauthorized practice of law since the court might subsequently be called upon independently to judge those matters.

Rule 2-3.8 Payment of Dues

In the past a newly-admitted member of the Bar might pay either a full year's dues or six-months dues based upon the happenstance of the date of his admission by the court. When

new members of the Bar were admitted at regular times throughout the year, this procedure was acceptable. Under the current admissions policy, new members of the Bar are admitted every month. It seems appropriate and fair that the new member pay his proportionate share of the dues based upon the month of admission rather than a larger period of time. The proposal in subsection (b) therefore provides that new members will pay dues on the basis of the number of full calendar months remaining in the fiscal year.

Bylaw 2-4 Board of Governors

This bylaw clearly sets forth the authority of the Board of Governors to act as a governing body of The Florida Bar. No new substantive power or authority is granted nor is any deleted. The bylaw consolidates into one bylaw the authority of the Board of Governors and the power to act previously included throughout the Integration Rule and Bylaws.

One significant limitation has been included. Bylaw 2-4.3 provides that any program calling for an expenditure of funds in excess of \$10,000 during any fiscal year, shall not be continued for more than two years unless specifically authorized by these Bylaws or the Rules Regulating The Florida Bar.

The Board of Governors has in the past determined that it had the authority to become involved in programs not specifically authorized by the Integration Rule or Bylaws so long as those programs were deemed by the Board to be within the general purposes of The Florida Bar, and so long as the programs were approved by the Bar's Board of Governors and properly budgeted for and funded. The present Board of Governors of The Florida Bar believe that such authority needs to be restricted. This provision would allow the continuance of such a program, if it involved the expenditure of more than \$10,000 during any fiscal year only if the Bylaws or the

Rules Regulating The Florida Bar are amended to authorize such activity.

The effect of such a provision is to require the Board of Governors to notify the membership by a proposed Bylaw amendment of its intent to continue major programs. The membership is therefore given an opportunity to express its opinion concerning the desirability of the program being continued and the membership's expression can be made not only to the Board of Governors but, to the Supreme Court. The Board of Governors is of the opinion that such a provision will require a more careful detailed study of the advisability of continuing trial programs before funds are committed or expended for the continuance of such programs. Most probably an amendment to add an additional Bar program would involve an amendment of Bylaw 2-4.2(c).

That Bylaw 2-4.2 makes it clear that the activities of the Board of Governors in all cases including the adoption of such new continuing programs is "subject to the continued direction and supervision of the Supreme Court."

The apportionment of the membership of the Board of Governors and the method of nominating and selecting members of the Board of Governors remains essentially the same as at present although there are some minor changes in deadlines and in the method for submitting ballots.

These new Bylaws make specific provisions for the adoption of Standing Board Policies by the Board.

Bylaw 2-4.2(c)(4) is the authority for the Board of Governors and The Florida Bar to engage in legislative activities. It authorizes the Board to establish, maintain and supervise "a program for providing information and advice to the courts and all other branches of government concerning current law and proposed or contemplate changes in the law."

Provisions for adoption of rules and procedures governing the legislative activities of The Florida Bar are set forth in Bylaw 2-10.3, and contemplate restrictions essentially the same as those currently in effect and recently approved by this court. The requirement of a two-thirds vote of the Board of Governors for the adoption of a legislative policy is retained and additional specific voting requirements for actions of the Executive Committee are established. It is contemplated that other rules currently in effect regarding the manner of establishing legislative policy would be retained in essentially their same form.

Bylaw 2-7 Fiscal Management

The rules regarding the formulation of the budget remain essentially unchanged, however this proposal liberalizes the existing Rules by allowing the Board to set the dues. The Board of Governors is given the authority to increase the portion of the dues for the Clients' Security Fund up to 10% over the amount of the preceding year without the approval of the Supreme Court and is authorized to increase the portion of the dues attributable to all other operations of The Florida Bar by the same percentage without the approval of the Supreme Court. Full and complete opportunity is given to the members of the Bar to be heard concerning objections to the budget or to the proposed dues. The final budget and provision for dues is filed with the court. If no action is taken by the court, then the budget and the provision for dues becomes effective automatically. Bylaw 2-2.2 provides that "the Supreme Court may at any time ratify or amend action taken by the Board of Governors under the Rules Regulating The Florida Bar, or order that actions previously taken be rescinded, or otherwise direct the actions and activities of The Florida Bar and its Board of Governors." For this reason, the court would still have the authority to reject any proposed dues increase or any other portion of the budget but in the absence of some affirmative action by the

court, dues increases, if proposed in the proper manner, would become effective automatically without affirmative action of the court.

Bylaw 2-8 Sections

In general, provisions regarding sections remain the same. Since a listing of the sections is included in the Bylaws, it now becomes necessary for the Bylaws to be amended to create a new section.

Sections are given substantial autonomy under these revised Bylaws. The Board of Governors must still approve the Bylaws of the sections. It is the duty of each section to work in cooperation with the Board of Governors and "under its supervision toward accomplishment of the aims and purposes of The Florida Bar and of that section."

There are substantial limitations, however, on the authority of sections to be involved in legislative activities and these are provided in Rule 2-8.5. Since The Florida Bar may engage only in activities that fulfill its purposes, The Florida Bar (and the sections) is limited to being involved in legislation that is significant to the judiciary, the administration of justice, the advancement of the science of jurisprudence or the fundamental legal rights of the public. Sections, however, are also authorized to be involved in legislation which is of significance to the interest of the section itself, its programs or its functions provided "such legislative activities are supported and funded exclusively from voluntary section dues or contributions to the section and not from any funds of The Florida Bar."

In addition, sections are required to establish their own procedures for determining their legislative positions which procedures must be approved by the Board of Governors and, pursuant to policies established by the Board, a section may

be directed to take no legislative action on a subject. Legislative activity of sections must be clearly identified as legislative activity of sections and not that of The Florida Bar.

Thus while sections are generally autonomous in their other activities, their basic operating Bylaws must have been established and approved by the Board and they are substantially restricted in their legislative activities.

Bylaw 2-10 Policies and Rules

Although the Board of Governors has for many years operated under a series of "Standing Board Policies," a provision for such Standing Board Policies is included in these Bylaws for the first time. Limitations on amending Board policies will give such Board policies more strength and greater continuity.

Bylaw 2-10.3 is the bylaw requiring that the adoption of any legislative policy by the Board of Governors requires an affirmative vote of two-thirds of those present at any regular meeting of the Board of Governors, or two-thirds of the Executive Committee. The Bylaw contemplates the adoption of legislative Rules of Procedure and it has presently contemplated that the Board would adopt legislative policies essentially the same as those existing in the past several years and recently approved by the court. While those legislative Rules of Procedure could be changed by the Board of Governors subject to the procedural requirements set forth in Bylaw 2-10.2, without prior approval of the court, the court retains its authority under Bylaw 2-2.2 to "ratify or amend action taken by the Board of Governors... or order that actions previously taken be rescinded or otherwise direct the actions and activities to The Florida Bar and its Board of Governors."

Bylaw 2-10.4 essentially restates the existing procedure whereby the Board of Governors has adopted rules governing the manner in which opinions on professional ethics are issued by The Florida Bar. Amending those rules is accomplished by a procedure outlined in Rule 2-10.5 which contemplates notice to the members of the Bar prior to final consideration by the Board of Governors. Amendment to the Rules would not require approval by the Supreme Court although the court could of course exercise its authority under the previously described Bylaw 2-2.2, if the court disagrees with any amendment.

Bylaw 2-11 Amendments

A substantially revised method of amending the Bylaws is proposed. It requires substantial procedural protections to prevent improvident amendment. In addition to the requirement that proposed amendments be submitted to the Board of Governors in writing, after preliminary adoption of proposed amendment by the Board of Governors, the proposed amendment must be published in The Florida Bar News prior to a second meeting of the Board of Governors. The Board then has a second opportunity to consider the proposed amendment and any objections raised by members of the Bar. The proposed amendment is then filed with the Supreme Court.

Once the proposed amendment is filed with the court, "any member of The Florida Bar" or "any interested person" or "any bar association" may file objections to such proposed amendment with the Supreme Court of Florida. The Board of Governors felt it was imperative that not only members of the Bar, but also voluntary bar associations and any interested member of the public be allowed to file objections with the Supreme Court to any proposed bylaws amendment.

Regardless of whether or not objections are filed, a proposed bylaw amendment would be effective in 30 days unless the

Supreme Court orders otherwise, or unless a petition seeking a review of the proposed amendment signed by 50 members of The Florida Bar is filed with the Supreme Court, or unless the number of objections by members of The Florida Bar total 50 or more. In this event, the effective date of the amendment is delayed an additional 60 days. Thereafter, unless the court has taken action on the petition or the objections, the amendment to the bylaw becomes automatic.

Thus the mere filing of objections does not automatically stay the effective date of proposed bylaws unless the court during the period specified in the bylaw deems the objections to be of sufficient merit to enter its order delaying the effective date of the bylaw.

The new bylaws also provide that if the Board of Governors refuses to adopt a proposed bylaw submitted to the Board of Governors, such refusal may be reviewed by filing a petition in the Supreme Court of Florida within 90 days which petition must be signed by 50 active members of The Florida Bar. The effect of such provision is of course to require proposed bylaws amendments to be submitted first to the Board before they can thereafter be submitted to the court for consideration if the Board refuses to act on the proposal.

Bylaw 2-11.2 also provides a procedure whereby the Bylaws might be amended at a regular or special meeting of The Florida Bar. It is not contemplated that the provisions of this Bylaw 2-11.2, will be used with great frequency, however, they provide a reasonable basis by which the membership may seek to have its will imposed over the opposition of the Board of Governors or seek to have its will imposed because of the lack of activity or action by the Board of Governors. Reasonable limitations are included to prevent precipitous actions and ultimately present the issue to the Supreme Court if those interested deem it necessary.

CODE OF PROFESSIONAL RESPONSIBILITY

Recently, the American Bar Association, after lengthy debate, adopted a recommended Model Code of Professional Responsibility. The Florida Bar through its Board of Governors extensively debated the Model Code during its formulation and debate before the American Bar Association and submitted recommendations and reports to the American Bar Association through the delegates from Florida concerning many provisions of the recommended new Model Code. Now that the recommended new Model Code has been adopted by the American Bar Association, The Florida Bar is engaged in a complete review of the recommended code and it is anticipated that The Florida Bar Board of Governors will be considering and debating substitution of that Model Code to replace all or part of the existing Code of Professional Responsibility.

If The Florida Bar completes its recommendations with regard to the New Model Code of Professional Responsibility before the court has acted on the Proposed Rules Regulating The Florida Bar, then the Bar will seek to have its recommendations substituted in place of the Code of Professional Responsibility. Pending final recommendation by the Board of Governors on the new Code of Professional Responsibility, the Board requests that the court adopt in its present form the existing Code of Professional Responsibility as a part of the Rules Regulating The Florida Bar. The Bar would seek to have the Code provisions renumbered in a manner consistent with the numbering system adopted for the other Rules Regulating The Florida Bar.

PROPOSED RULE OF JUDICIAL ADMINISTRATION REGARDING LAW SCHOOL CIVIL AND CRIMINAL PRACTICE PROGRAM

Traditionally, supervision over law students engaged in the law school civil and criminal practice program has rested with the law students' supervising attorney as defined in the program and with the courts before whom the law students appear. The Florida

Bar regulates lawyers, not law students. In practice, The Florida Bar has not participated in any way in the law school civil and criminal practice program.

The law school civil and criminal practice program is in effect a method of allowing persons to practice law who are not licensed to practice law and therefore not members of The Florida Bar.

The Florida Bar is of the belief therefore that the law school civil and criminal practice program should be a provision of the Rules of Judicial Administration so that it is clear that regulation of activities of these nonlawyer students rests with the court before whom the students appear and with the supervising attorneys, agencies and organizations described in the program.

The only directive in the existing Integration Rule addressed to the Board of Governors requires the Board of Governors to fix standards by which indigency is determined based upon the recommendation of the largest voluntary bar association located in the circuit. It is respectfully requested that this determination should either be made by other standards of law determining indigency or should be made by the circuit judges based upon a majority vote of those circuit judges.

Accordingly, the Bar has submitted a Proposed Rule of Judicial Administration encompassing all the provisions of the law school civil and criminal practice article presently in the Integration Rule and recommends its adoption at the time of the adoption of the Rules Regulating The Florida Bar.

RULES OF DISCIPLINE

The content of the Rules of Discipline has been modified. For the convenience of this court, all important substantive changes and other minor procedural changes are discussed.

Rule 3-1 Preamble

The Preamble is modified to emphasize the Supreme Court's power and duty to prescribe standards of conduct for lawyers and to determine appropriate disciplinary procedures.

Rule 3-2.1(b) Bar Counsel

The definition of Bar counsel is extended to include possible appointment of Florida Bar staff counsel.

Rule 3-3.1 Supreme Court--Disciplinary Agencies

Rule 3-3.1 emphasizes the exclusive jurisdiction of the Supreme Court over the discipline of attorneys admitted to the practice of law in Florida. In order to effect an orderly process, the Board of Governors has included an explanation of proper administration.

The rule grants to the Board of Governors, grievance committees and referees such authority as is necessary to insure the proper disposition of any disciplinary proceeding. Such authority includes the power to compel witnesses to attend hearings, produce documents, and to be deposed.

Rule 3-3.2(a) Board of Governors Function & Procedure

In an effort to protect the interest of lawyers admitted to the practice of law in Florida and the profession, the Board of Governors restricts the filing of formal complaints against a lawyer by The Florida Bar to instances where the accused has been determined guilty of a felony or where a grievance committee or the Board first finds probable cause to believe that the lawyer is guilty of misconduct.

The Board reasons, due to the detailed investigations a lawyer undergoes before being admitted to the practice of law

in Florida, that only proper complaints shall be filed. The procedure will not only protect the individual attorney, but also prevent needless suits and superfluous work and investigation.

Rule 3-3.4(h) Grievance Committee Meetings

Rule 3-3.4(h) is expanded to recommend a monthly meeting of any grievance committee when the committee has one or more pending cases for investigation and report. This is a practical manner in which the process may be more effectively organized and more succinctly dealt with.

Rule 3-4.4 Criminal Misconduct

The Board in Rule 3-4.4 specially notes that the acquittal of an accused in a criminal proceeding or the findings, judgment or decree of a court in civil proceedings is not necessarily binding in disciplinary proceedings. Rule 3-4.2 prescribes that any violation of the Code of Professional Responsibility is a cause for discipline, and the extension of Rule 3-4.4 comports with the prescription. Formerly included in Rule 11.07(4) this portion of Rule 3-4.4 is moved in the interest of continuity.

Rule 3-4.4(a) Determination or Judgment of Guilt

Rule 3-4.4(a) provides that a judgment or determination of guilt which becomes final without appeal or is affirmed on appeal is conclusive proof of the offense charged. Such a conviction will automatically suspend the attorney from membership in The Florida Bar as prescribed in Rules 3-4.4(b) and 3-4.4(c).

Rule 3-4.5 Removal from Judicial Office by the Supreme Court

Under Rule 3-4.5, a removal order issued on the basis of a Judicial Qualifications Commission recommendation may also order the suspension of the judge as an attorney. This new rule emphasizes that judges, as members of The Florida Bar, are subject also to the rules and sanctions of the Bar regardless of their judicial office.

Rule 3-5.0(a) Probation

Rule 3-5.0(a) is broadened to include the words "but are not limited to" in the discussion and listing of the conditions of probation. The addition of this phrase will preclude the argument that the rule is self-encompassing and will permit the Court to establish just conditions of probation for the individual respondent.

Rule 3-5.0(c) Minor Misconduct

In the interest of time and convenience to both the Board and the accused attorney, Rule 3-5.0(c) will permit an attorney to tender in writing to the grievance committee an admission of minor misconduct for a recommendation of a private reprimand.

Rule 3-5.0(c)(1) provides the opportunity for local grievance committees to recommend the manner of administration of a private reprimand. The rule would permit a reprimand to be administered, subject to approval, by the grievance committee.

Rule 3-5.0(e) Suspension

In an effort to further deter lawyer misconduct, Rule 3-5.0(e) is expanded to provide that a suspension for more than 90 days may require passage of the Florida bar examination. Persons suspended for more than three years must pass the Florida bar examination as a condition of

reinstatement. These requirements are deemed necessary by the Board of Governors to strengthen the profession and the standards of membership.

Rule 3-5.0(f) Disbarment

A policy change designed to protect the profession and further deter unethical conduct is prescribed in Rule 3-5.0(f). An attorney disbarred may not, except as otherwise provided in the rules, apply for readmission for a minimum of five years. Currently, the time limitation is three years.

Rule 3-5.0(g) Temporary Suspension and Probation

Rule 3-5.0(g) provides in part that an attorney temporarily suspended is precluded from accepting new cases and may be precluded from representing existing clients during the first thirty days after the issuance of the order. Currently, the rules provide that an attorney shall not be precluded from continued representation of existing clients. The purpose of this change is to allow the court the freedom to exercise its power to discipline attorneys based upon the seriousness of the matter for which temporary suspension occurred. Secondly, the rule change protects the interests of existing clients who may also be affected by the order.

Rule 3-7.1(g) Information Concerning Proceedings

Information concerning the pendency or status of an investigation is confidential. Rule 3-7.1(g) provides certain exceptions to this general rule; however, new to the rule is the proscription that a complainant will not be advised of an admonishment accompanying a finding of no probable cause. The purpose behind this addition is precisely the need to protect the confidences of the accused attorney. An admonishment does not constitute a disciplinary record against an attorney. A finding of no probable cause

effectively dismisses the complaint, and the complainant has no reason or need to know of a possible admonishment directed toward a vindicated lawyer.

Rule 3-7.1(i) Client Security Funds; Access to Confidential Information

Rule 3-7.1(i) will permit the investigating member of the Clients' Security Fund access to confidential information necessary to assist the Clients' Security Fund Committee in preparing recommendations with regard to the validity of applications for relief. This self-explanatory rule is necessary to best effect proper investigation in cases where applications for relief from the fund are filed.

Rule 3-7.2(a) Notification of Felony Conviction

Rule 3-7.2(a)(ii) is an addition to the rules requiring an attorney, as well as the court which determined guilt, to file a copy of the judgment with the Supreme Court within thirty days of such determination. This requirement insures that the Florida Supreme Court and The Florida Bar are notified of conviction. Because the Supreme Court lacks jurisdiction to order a foreign court to notify it when a Florida-licensed attorney is convicted of a felony, the best method of discovery is to require the attorney to notify the court.

Rule 3-7.3(g) Audit Responsibilities of the Accused

Rule 3-7.3(g) grants the accused attorney the absolute right to be present at grievance committee hearings coupled with the opportunity to present evidence to the committee. This extension of the rule will serve the committee function by enabling the committee to make a more knowledgeable determination whether probable cause requiring disciplinary action exists.

Rule 3-7.3(h) Rights of the Complaining Witness

Rule 3-7.3(h) grants to the complainant a conditional right to be present at grievance committee hearings. The deletion of the section of the rule disallowing the right of a complainant to cross examine witnesses by inference gives the complainant, subject to the discretion of the grievance committee chairman, that right. The right of the complainant to be present facilitates the committee in determining probable cause.

Rule 3-7.3(j) Preparation, Forwarding and Review of Grievance Committee Complaints and Records

Rule 3-7.3(j) modifies the internal operations of the grievance system. Under the new rule, unsolved problems with any formal complaint are reviewed by the designated reviewer prior to forwarding to the Board of Governors. The reason behind granting the designated reviewer this and other additional responsibility is the Board's attempt to streamline the disciplinary process without infringing upon the rights of the accused or complainant.

Rule 3-7.3(k) Letter Reports in No Probable Cause Cases

Under Rule 3-7.3(k) letters mailed to the complainant explaining a finding of no probable cause will not include reference of an admonishment. Admonishments will also not be made part of the record. (See discussion of Rule 3-7.3(k) supra.)

Rule 3-7.4 Procedures Before the Board of Governors

Rule 3-7.4 streamlines the process through which grievance committee matters reach the attention of the Board of Governors. The Designated Reviewer of a grievance committee refers matters to the Disciplinary Review Committee which

reports to the Board. (Rule 3-7.4(a)) The Board, on the basis of the report, shall determine a finding of probable cause or no probable cause.

Rule 3-7.6(a) Right of Review

Rule 3-7.6(a)(2) will require the court to review all reports and judgments of referees recommending suspension, disbarment or resignation pending disciplinary proceedings. This rule is added because of the serious consequences associated with the recommendations and the need for further review.

Rule 3-7.6(a)(3) declares reports not recommending suspension, disbarment or resignation pending disciplinary proceedings final if not appealed. The rule relieves the court of the responsibility to review non-public disciplinary matters.

Rule 3-7.7(b) Copy Served Upon Accused

Rule 3-7.7(b) requires the accused attorney to file an answer to a complaint within twenty days after service. Under the current rules the answer is to be filed within ten days.

Rule 3-7.7(b) will comport with the Florida Rules of Civil Procedure.

Rule 3-7.8(a) Before Formal Complaint is Filed

Rule 3-7.8(a) provides that in consent judgments entered into before a formal complaint is filed, the accused may be advised by staff counsel, with the approval of the designated Board reviewer, of the discipline that will be recommended to the referee. The rule permits consideration of a respondent's past disciplinary record and consideration of Board guidelines in discipline. These guidelines consist, at the present time, of the "Red Book" and may, in the future, be a separate document. At present, the American Bar

Association is considering such a document and The Florida Bar will consider it when completed.

Rule 3-7.8(b) After Formal Complaint is Filed

After the formal complaint is filed, the same procedure provided by Rule 3-7.8(a) may be followed.

Rule 3-7.8(e) Authority of Staff Counsel

Rule 3-7.8(e) is reworded to emphasize that staff counsel can not bind the Board to a consent judgment absent Board approval; however, negotiations or recommendations are not prevented. The specificity of the rule will prevent possible future disputes.

Rule 3-7.9 Reinstatement Procedures

Rule 3-7.9(a) requires that a disbarred attorney may not apply for admission to The Florida Bar for at least five years after the date of disbarment. (See discussion Rule 3-5.0(f), supra.)

Rule 3-7.11(a)(1) Petition for Leave to Resign

Included with Rule 3-7.11(a)(1) is the requirement that the petition state whether it is with or without leave to reapply. It is the position of the Board of Governors that a Petition for Leave to Resign will not be approved absent acknowledgment that it is without leave to reapply. This rule is extended to protect the Bar from those individuals who seek to resign in order to avoid disbarment.

Rule 3-7.14

Amendments to the Rules of Discipline must be approved by the Supreme Court. Petition for amendment may be submitted by

the Board of Governors, 50 active members of the Bar or 50 residents of the State of Florida.

RULES REGULATING TRUST ACCOUNTS

The existing Integration Rule 11.02(4), which deals with trust accounts, has been adopted into the Proposed Rules without substantive change. The section has been renumbered: trust accounts are governed by Rule 5 of the Proposed Rules. Integration Rule 11.02(4)(c) is deleted from the Proposed Rules, since this section on trust accounting is only effective until June 30, 1984. The new procedures adopted by the Supreme Court on May 12, 1983 (becoming effective June 30, 1984) have been set forth in Proposed Rule 5.1(c) and (d). Rule 5.1(c), Trust Accounting, has been added. This section states that minimum trust accounting procedures must be followed by all Florida attorneys. Also, the opening phrase of Proposed Rule 5.1(d) is a rewording of a phrase in Rule 11.02(4)(c): "Audits for cause may also be conducted in the following circumstances" has been changed to "The following shall be the cause for The Florida Bar to order an audit of a trust account." In addition, 5.1(d)(1), Failure to File Trust Accounting Certificate, has been added to the list of circumstances in which an audit may be ordered. The remaining provisions pertaining to trust accounts have not been substantively changed.

RULES OF DESIGNATION AND CERTIFICATION PROGRAM

Article XXI of the present Integration Rule and Article XIX and Article XX of the present Bylaws have been combined to form the new Rules of Designation and Certification Program. The proposed rule is substantially the same as the existing rule except for minor changes. The present provision of Article XIX, Section 10 of the Bylaws concerning public notice has been deleted because it is repetitive and is incorporated in Rule 6-1.2 of the new rule. There are no other substantial changes in the new rule.

CLIENTS' SECURITY FUND RULES

Under the proposed rule that portion of Article XVI of the Bylaws entitled "Regulation Client's Security Fund of The Florida Bar" has been deleted. These regulations are internal procedures of the Clients' Security Fund Committee and it is the belief of the Board of Governors that it is not necessary to include them in the new rule. The rules are promulgated by the committee itself (with the approval of the Board of Governors) and are not a necessary part of the new rules. No other substantial changes have been made in regard to the Clients' Security Fund rules except for the amendment of the rule which amendments must be in accordance with provision 2-10.5 of the Bylaws of The Florida Bar.

LAWYER REFERRAL RULE

There are no substantive changes to this rule except for the amendment provision (Rule 7-3.1) which requires all amendments to conform with Rule 2-10.5 of the Bylaws of The Florida Bar.

GROUP AND PREPAID LEGAL SERVICES RULES

The Group and Prepaid Legal Services Rules have been modified but no important substantive changes have been made. For the convenience of the Court the modifications are discussed below.

Rule 9-2.2(a)

Under this rule the Prepaid Legal Service Committee will establish procedures for the submission of legal service plans. This rule replaces Article XIX, Section 3 which does not provide specific procedures for submission.

Rule 9-2.3(a)

This rule is a new addition and provides certain assurances that must be made by the managing attorney of the plan. The purpose of the rule is to insure the protection of the public that may subscribe to the plan.

Rule 9-2.3(b)

This rule concerns the legal service plan description. Additional requirements have been added to the rule in order to better inform participants in the plan of the limits of the plan.

Rule 9-2.4(b)

This rule requires plan attorneys to show proof annually that they have professional liability coverage.

Rule 9-4.1

Amendments to Group and Prepaid Legal Rules must be made in accordance with Rule 2-10.5 of the Bylaws of The Florida Bar.

RULES GOVERNING THE INVESTIGATION AND PROSECUTION OF THE
UNAUTHORIZED PRACTICE OF LAW

Although most of the content of the present Article XVI of the Integration Rule has been incorporated into these proposed rules, there are several substantive changes recommended. Rules 10-1.1, 10-2.1, and 10-8.1 below contain substantive changes which, in the context of state-action immunity, more clearly provide the degree of Court supervision necessary to insulate a state bar's unauthorized practice of law program. Clearly defined court supervision and involvement in the UPL function delegated to The Florida Bar would substantially reduce the risk of antitrust exposure.

In early 1980 the Bar petitioned this court to approve procedures for Court review of ethics and UPL advisory opinions. At that time the Court rejected the proposal providing for its review of advisory opinions. In Re The Florida Bar, 401 So.2d 807 (Fla. 1981). Legal developments in the past several years, however, have clarified the conditions under which state-action immunity from antitrust will be allowed.

Since this court last considered judicial review of UPL advisory opinions, the United States Supreme Court has decided two major antitrust cases involving state-action immunity. In California Retail Liquor Dealers' Association v. Midcal Aluminum, Inc., 445 U.S. 97 (1980), the Court created a two-pronged test requiring that 1) the restraint on trade must be "clearly articulated and affirmatively expressed as state policy;" and 2) that "the policy must be actively supervised by the state itself." Midcal, supra, at 105. In 1982 the Supreme Court gave further explanation of the first prong of the Midcal test, explaining that the state must take a stronger position than "mere neutrality" in its articulation of state policy when a potential restraint on trade is imposed. Community Communications Company v. City of Boulder, 455 U.S. 40 (1982).

In Ronwin v. State Bar of Arizona, 686 F.2d 692 (9 Cir.Ct.App. 1981), the Ninth Circuit applied Midcal and City of Boulder, supra, to the Arizona Bar, stating:

The question remains whether the challenged restraint allegedly fashioned by the Committee was sufficiently "articulated" and "supervised" by the Arizona Supreme Court. Standing alone, the fact that the court established the Committee and selected its members does not affect the reasoning underlying our conclusion that the challenged grading procedure was not clearly articulated and affirmatively expressed as state policy, Midcal's first requirement.

686 F.2d at 697. The issue of state-action immunity for bar association actions is now pending in the United States Supreme Court in Hoover v. Ronwin, Case No. 82-1474, cert. granted, _____ U.S. _____, 103 S.Ct. 2084, _____ L.Ed.2d. _____ (1983), with the California Bar and the National Conference of Bar Examiners appearing as amicus curiae.

The Florida Bar, as an arm of the Supreme Court of Florida, has considerable court supervision; however, it appears from recent case decisions that UPL advisory opinions and enforcement must be clearly attributable to the court instead of to The Florida Bar.

The following explanations pertain to specific rule changes:

Rule 10-1.1, 10-2.1 Standing Committee and Circuit UPL Committees

Under the present rule the president-elect of the Bar appoints standing committee members and the Board appoints circuit UPL committee members. This rule change would result in the court making the actual appointments on advice or nomination from the Board, thereby providing direct court involvement to illustrate the impartiality of unauthorized practice of law committees. Nonlawyer members would also be appointed to the circuit UPL committees, as they are to the Standing Committee on UPL and the circuit grievance committees.

Rule 10-3.1(f) Duty to Furnish Information to Law Enforcement Agencies

As the correlation between UPL and criminal activity has increased, the Bar has received more requests from state and federal law enforcement agencies for information regarding subjects of UPL investigations. The rule would permit the Bar to furnish the relevant confidential information when requested by law enforcement agencies, the Board of Bar Examiners and Florida Bar grievance committees.

Rule 10-6.1(b) Determination of Insolvency

The proposed rule deletes the enumeration of criteria for determining insolvency, as any statutory criteria are subject to change. A respondent still has the opportunity to prove insolvency to the referee.

Rule 10-6.1(j) Court Review

The right of either the respondent or the Bar to file objections to the referee's findings and recommendations in indirect criminal contempt proceedings is an extension of this court's decision in Amendment to Rules of Appellate Procedure, 443 So.2d 972 (Fla.

1983). Without this rule change, the Bar has been estopped from objecting to a referee's findings which may not be supported by the record or applicable law.

The time periods for filing briefs in indirect criminal contempt proceedings have been enlarged in order to provide adequate time for thorough briefing of the issues without the necessity of seeking extensions of time for the currently short time periods.

Rule 10-8.1 Procedures for Issuance of Advisory Opinions on Unauthorized Practice of Law

This rule provides for procedures for the issuance of UPL advisory opinions. The proposed procedures reflect the desire of the UPL Committee and the Board to render the public service of issuing UPL advisory opinions, but to do so within a framework which provides the necessary immunity from antitrust exposure. Unauthorized practice of law advisory opinions, given to the general public by a bar association, are especially suspect as having a potential anticompetitive effect and a chilling restraint on trade. Inasmuch as the requests for UPL advisory opinions are generally confined to a few specific areas, it is not expected that the implementation of these procedures for issuing the advisory opinions would be burdensome for either the Bar or the court. These procedures are patterned after the Model Rules for Advisory Opinions on the Unauthorized Practice of Law approved by the ABA House of Delegates in February 1984. The procedures provide the requisite public notice, due process and court involvement believed necessary to avoid constitutional challenges and antitrust exposure. The Bar believes that the only alternative to the adoption of these rules would be to prohibit the Bar from issuing any unauthorized practice of law opinions.

Rule 10-9.1 Immunity

This rule is intended to provide committee members and Bar staff with immunity from allegations of constitutional deprivations under

42 U.S.C. §1983 and related statutes and tort actions, thus enabling committee members and staff to carry out their duties without threat of litigation.

The Board urges the court's approval of the Rules Governing the Investigation and Prosecution of Unauthorized Practice of Law, so that the public interest served will remain paramount in the UPL function of The Florida Bar.

RECOMMENDED WORDING FOR OPINION ADOPTING
RULES REGULATING THE FLORIDA BAR

In recognition of the fact that any major change such as is contemplated by the Bar's petition carries with it the possibility of the creation of confusion regarding pending matters and the possibility of confusion regarding the applicability of prior opinions of this court, the Board has recommended to the court specific wording for inclusion in the opinion adopting the Rules Regulating The Florida Bar should the court adopt such rules. The recommended wording is included as an attachment to the brief and is consistent with the Board of Governors recommendation regarding those subjects.

Conclusion

The Board of Governors has spent in excess of four years studying and working on the revision of the Integration Rule and Bylaws. It is believed that this revision will serve the interest of the public, the organized Bar, its staff and the individual members of the Bar of the State of Florida. It would assist the court in fulfilling its constitutionally mandated duty to regulate the practice of law and will protect the rights of the citizens of the State of Florida. The Bar urges adoption of the revision.

Respectfully submitted

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RECOMMENDED WORDING FOR INCLUSION IN OPINIONS ADOPTING RULES
REGULATING THE FLORIDA BAR

The Rules Regulating The Florida Bar, the Bylaws of The Florida Bar, the Rules of Discipline, the Code of Professional Responsibility, Rules Regulating Trust Accounts, the Rules of Designation and Certification Program, the Clients' Security Funds Rules, the Lawyer Referral Rule, and the Group and Prepaid Legal Service Rules, the Rules Governing the Investigation of Prosecution and Unauthorized Practice of Law, and Rule of Judicial Administration 2.140 as appended to this opinion are adopted effective 12:01 a.m.

_____, unless otherwise ordered by this court prior thereto to stand instead and in place of the Integration Rule of The Florida Bar, the Bylaws of Florida Bar, and the Code of Professional Responsibility provided, however, that:

(a) Any change in accounting procedures by attorneys made necessary by these rules may be delayed until the end of the fiscal year for the attorney involved, and;

(b) All grievance matters which have reached the stage of being filed with a grievance committee or by petition of the staff counsel on the above date shall proceed thereafter under the Integration Rule and Bylaws currently in effect; and

(c) All proceedings involving the unauthorized practice of law which have reached the stage of being presented to a circuit committee on the above date shall proceed in accordance with the procedures of the Integration Rule and Bylaws currently in effect.

Unless the contrary intent shall clearly appear by reason of the nature of the amendments hereby adopted, previous opinions of this court interpreting the current Integration Rule and Bylaws shall continue to remain controlling.

Rules of Judicial Administration

Rule 2.140 Law School Civil and Criminal Practice Program

(a) Purpose

The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rule is adopted:

(b) Activities

(1) An eligible law student may appear in any court or before any administrative tribunal in this state on behalf of any indigent person if the person on whose behalf he is appearing has indicated in writing his consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance. In such cases the supervising attorney shall be personally present when required by the trial judge who shall determine the extent of the eligible law student's participation in the proceeding.

(2) An eligible law student may also appear in any criminal matter on behalf of the state with the written approval of the prosecuting attorney or his authorized representative and of the supervising lawyer. In such cases the supervising attorney shall be personally present when required by the trial judge who shall determine the extent of the law student's participation in the proceeding.

(3) An eligible law student may also appear in any court or before any administrative tribunal in any civil matter on behalf of the state, state officers, or state agencies, with the written approval of the attorney representing the state, state officer, or state agency. The attorney representing the state, state officer or

state agency shall supervise the law student and shall be personally present when required by the court or administrative tribunal, which shall determine the extent of the law student's participation in the proceeding.

(4) In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

(5) Indigency shall be determined by the circuit judges of each judicial circuit by a majority vote of those circuit judges.

(c) Requirements and Limitations

In order to make an appearance pursuant to this rule, the law student must:

(1) Be duly enrolled in the United States in a law school approved by the American Bar Association.

(2) Have completed legal studies amounting to at least four semesters, or six quarters for which the student has received not less than 48 semester hours or 72 quarter hours of academic credit or the equivalent if the school is on some other basis.

(3) Be certified by the dean of his law school as being of good character and competent legal ability, and as being adequately trained to perform as a legal intern in a law school practice program.

(4) Be introduced to the court in which he is appearing by an attorney admitted to practice in that court.

(5) Neither ask for nor receive any compensation or remuneration of any kind for his services from the person on whose behalf he renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the state

from paying compensation to the eligible law student (nor shall it prevent any agency from making such charges for its services as it may otherwise properly require).

(6) Certify in writing that he has read and is familiar with the Code of Professional Responsibility as adopted by this court and will abide by the provisions thereof.

(d) Certification

The certification of a student by the law school dean:

(1) Shall be filed with the clerk of this court and, unless it is sooner withdrawn, it shall remain in effect until the expiration of 18 months after it is filed.

(2) May be withdrawn by the dean at any time by mailing a notice to that effect to the clerk of this court. It is not necessary that the notice state the cause for withdrawal.

(3) May be terminated by this court at any time without notice or hearing and without any showing of cause. Notice of the termination may be filed with the clerk of the court.

(e) Other Activities

(1) In addition, and eligible law student may engage in other activities, under the general supervision of a member of the Bar of this court, but outside the personal presence of that lawyer, including:

(A) Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer.

(B) Preparation of briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising lawyer.

(C) Except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of this court, assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for post-conviction relief. If there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the court on behalf of such a client must be signed by the attorney of record.

(D) Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If he participated in drafting only a portion of it, that fact may be mentioned.

(2) An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.

(f) Supervision

The member of the Bar under whose supervision an eligible law student does any of the things permitted by this rule shall:

(1) Be a lawyer whose service as a supervising lawyer for this program is approved by the dean of the law school in which the law student is enrolled and who is a member of The Florida Bar in good standing.

(2) Assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.

(3) Assist the student in his preparation to the extent the supervising lawyer considers it necessary.

(g) Miscellaneous

Nothing contained in this rule shall affect the right of any person who is not admitted to the practice of law to do anything that he might lawfully do prior to the adoption of this rule.

(h) Continuation of Practice Program After Completion of the Law School Program or Graduation

(1) A law student who has completed the law school practice program and (1) has had certification withdrawn by the law school dean by reason of completion of the program or (2) has graduated from law school following successful completion of the program, may appear in court pursuant to this rule if the attorney general, a state attorney, a public defender or a supervising attorney of a legal aid organization approved by the Supreme Court:

(A) Files a certification in the same manner and subject to the same limitations as that required to be filed by the law school dean and files a separate certificate of the dean stating that the law student has successfully completed the law school practice program. This certification may be withdrawn in the same manner as provided for the law school dean's withdrawal of his certification. The maximum term of certification for graduates shall be twelve (12) months from graduation.

(B) Further certifies that he will assume the duties and responsibilities of the supervising attorney as provided by other provisions of this rule.

(2) A legal aid organization seeking approval from the Supreme Court for the purposes of this article shall file a petition with the clerk of the court certifying that it is a nonprofit organization and reciting with specificity:

(A) The structure of the organization and whether it accepts funds from its clients;

(B) The major sources of funds used by the organization;

(C) The criteria used to determine potential clients' eligibility for legal services performed by the organization;

(D) The types of legal and nonlegal services performed by the organization;

(E) The names of all members of The Florida Bar who are employed by the organization or who regularly perform legal work for the organization.

Legal aid organizations approved on the effective date of this order need not reapply for approval, but all such organizations are under a continuing duty to notify the court promptly of any significant modification to its structure or source of funds.