

Proposed Amendment to the Preamble of the Rules of Professional Conduct

The Preamble to the North Carolina Rules of Professional Conduct sets forth the values of the legal profession in North Carolina. Upon the recommendation of the Ethics Committee, the council is publishing a proposed amendment to the Preamble that identifies the avoidance of discriminatory conduct while acting in a professional capacity as a fundamental value of the profession. Although the council approved a substantially similar amendment to the Preamble in 2010, the North Carolina Supreme Court did not approve the amendment at that time. The comments of the membership are encouraged and welcomed.

The Ethics Committee is also considering two additional proposed amendments to the Rules of Professional Conduct, including whether Rule 8.4, Misconduct, should be amended to include a provision that is the same or similar to paragraph (g) of ABA Model Rule 8.4, which provides as follows:

It is professional misconduct for a lawyer to:...(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline, or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

A subcommittee of the Ethics Committee will study this question and another ethics subcommittee will study a proposal to include awareness of implicit bias in the description of competency in the comment to Rule 1.1. Comments on these proposals are encouraged.

0.1 Preamble: A Lawyer's Responsibilities

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

[2]

[6] While acting in a professional capacity, a lawyer should not discriminate on the basis of a person's race, gender, national origin, religion, age, disability, sexual orientation, gender identity, marital status, or socioeconomic status. This responsibility of non-discrimination does not limit a lawyer's right to advocate on any issue, nor does this responsibility limit the prerogative of a lawyer to accept, decline, or withdraw from a representation in accordance with these rules.

[6][7] ...

[re-numbering remaining paragraphs]