

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE PROPOSED)	NOTICE OF SPECIAL
ADOPTION TO THE APPENDIX OF)	RULES HEARING
SDCL CHAPTER 16-17 RELATING TO)	
THE BY LAWS OF THE STATE BAR OF)	NO. 136
SOUTH DAKOTA)	
IN THE MATTER OF THE PROPOSED)	
AMENDMENT OF SDCL 16-18-34.4.)	
IN THE MATTER OF THE PROPOSED)	
AMENDMENT TO APPENDIX A. OF SDCL)	
CHAPTER 16-18. RELATING TO SOUTH)	
DAKOTA RULES OF PROFESSIONAL)	
CONDUCT RULE 8.3. REPORTING)	
PROFESSIONAL MISCONDUCT)	

Petition for the amendment of existing sections of the South Dakota Codified Laws and the adoption of new rules having been filed with the Court, and the Court having determined that the proposed amendments and adoption of new rules should be noticed for hearing, now therefore

NOTICE IS HEREBY GIVEN THAT ON November 7, 2017, at 11:00 A.M., C.T., at the Courtroom of the Supreme Court in the Capitol Building, Pierre, South Dakota, the Court will consider the following:

1. Proposed Adoptions to the Appendix of SDCL
CHAPTER 16-17.

THE STATE BAR OF SOUTH DAKOTA
BY-LAWS OF

THE STATE BAR OF SOUTH DAKOTA

Section 34. Electronic Communications: Electronic communications, records and signatures may be used in connection with all matters contemplated by the Bylaws except to the extent prohibited by law. The Bar Commissioners may use and rely upon

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electronic communications for all notices, waivers, consents and action for all matters contemplated by the Bylaws. Meetings and action held with less than required notice may be held upon unanimous consent. Once unanimous consent is made, the Board of Bar Commissioners may act upon majority vote. A vote on the merits is deemed to be a waiver of notice requirement.

Section 35. Board Action (with less than required notice):

Meetings of the Board of Bar Commissioners held with less than required notice may be held upon unanimous consent of the commission. Once unanimous consent is obtained, the commission may act upon majority vote of the commissioners present at the meeting. A vote on the merits is deemed to be a waiver of the notice requirement.

Section 36. Action without a Meeting: Any action required by law or required by these bylaws to be taken at a meeting of the Board of Bar Commissioners, or any action which may be taken at a meeting of the commissioners may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the commissioners. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any Articles or document, whether or not filed with the secretary of state of South Dakota.

Section 37. Conflict of Interest: It shall be a duty of a Bar Commissioner to timely advise the commission of any conflict of interest. Upon notice of conflict of interest and any explanation thereof, the commission may, by majority vote, exercise any of the following options:

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- a. Require the commissioner to recuse on the conflicted matter;
 - b. Authorize the commissioner to opine on the merits of the matter but refrain from voting;
 - c. Waive the conflict and authorize the commissioner to vote;
 - d. Such other action deemed appropriate and consistent with director fiduciary duties.
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2. Proposed Amendment to SDCL 16-18-34.4. Certain individuals disqualified. The following persons shall not serve as a legal assistant in the State of South Dakota except upon application to and approval of the Supreme Court:

- (1) Any person convicted of a felony;
 - (2) Any person disbarred or suspended from the practice of law in any jurisdiction;
 - (3) Any person placed on ~~disability~~ medical inactive status under § 16-19-48 or 16-19-92;
 - (4) Any person placed on temporary suspension from the practice of law under § 16-19-35.1.
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3. Proposed Amendment of Appendix A. to SDCL Chapter 16-18.

SOUTH DAKOTA RULES OF PROFESSIONAL CONDUCT

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.3. Reporting Professional Misconduct

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

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(b) A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

~~(c) This rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program. Paragraphs (a) and (b) shall not apply to information obtained by a lawyer or judge as a member of a committee, organization or related group established or approved by the State Bar or the Supreme Court to assist lawyers, judges or law students with a medical condition as defined in SDCL §16-19-48, including the name of any individual in contact with the member and sources of information or information obtained therefrom. Any such information shall be deemed privileged on the same basis as provided by law between attorney and client.~~

~~(d) A member of an entity described in Paragraph (c) shall not be required to treat as confidential communications that cause him or her to believe a person intends or contemplates causing harm to himself, herself or a reasonably identifiable person and that disclosure of the communications to the potential victim or individuals or entities reasonably believed to be able to assist in preventing the harm. The names, identities, and treatment of persons seeking assistance of the South Dakota Lawyers Concerned for Lawyers, Inc., or an approved lawyers assistance program, relating to alcohol abuse or chemical dependency shall be kept confidential by members of South Dakota Lawyers Concerned for Lawyers, Inc., who are so contacted.~~

Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments and

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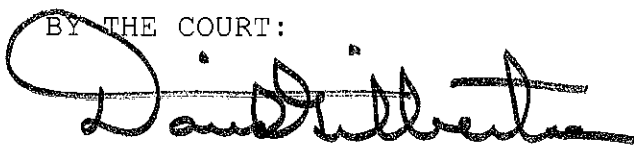
adoptions shall be reduced to writing and the original and two copies thereof filed with the clerk of the Supreme Court no later than October 17, 2017.

Subsequent to the hearing, the Court may reject or adopt the proposed amendments or adoptions or any rule germane to the subject thereof.

Notice of this hearing shall be made to the members of the State Bar by electronic mail notification, by posting notice at the Unified Judicial System's website at <http://www.ujs.sd.gov/> or the State Bar of South Dakota's website at <http://www.sdbar.org/>.

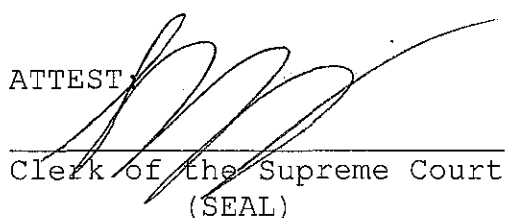
DATED at Pierre, South Dakota this 25th day of September, 2017.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST



Clerk of the Supreme Court
(SEAL)

**SUPREME COURT
STATE OF SOUTH DAKOTA
FILED**

SEP 25 2017



Clerk