

RESOLUTION

RESOLVED, That the Arkansas Access to Justice Commission supports amending the Arkansas Rules of Professional Conduct to include Rule 8.4(g).

THAT on August 8-9, 2016, the American Bar Association amended Rule 8.4: Misconduct, of the Model Rules of Professional Conduct to add section (g), which states as follows:

(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.

The Arkansas Rules of Professional Conduct, Rule 8.4-Misconduct, currently reads as follows:

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official; or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

The members of the Arkansas Access to Justice Commission believe that lawyers have a unique role in in this country as professionals making our society better. Our rules of professional conduct dictate a responsibility that is more than just compliance with the law. As attorneys, with the power that brings, we should exemplify the standard by which all should aspire. Discrimination and harassment continue to be a problem in society and at times within our profession. Existing steps have not been enough to end discrimination and harassment and promote diversity and inclusion. We believe that it is our responsibility to take all steps necessary to eliminate bias in the legal profession and justice system.

We believe that the addition of Rule 8.4(g) is reasonable, limited, and necessary. It will make it clear that it is professional misconduct to harass or discriminate while engaged in conduct related to the practice of law and will not impose an undue burden on lawyers.