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CHAPTER 7

RULES OF PROBATE PROCEDURE

Rule 7.6 Reports of delinquent inventories or reports.

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7.6(4) The Iowa Supreme Court Attorney Disciplinary Board, as a commission of the supreme court pursuant to Iowa Ct. R. 35.2, shall communicate with each attorney licensed to practice law in Iowa whose name appears on the list transmitted to the board pursuant to rule 7.6(3). If the board determines there is reasonable cause to believe an attorney for a fiduciary has violated Iowa Rule of Professional Conduct 32:1.3 or 32:3.2 for failure to file a required inventory or report within 60 days after receiving notice of delinquency, or within an extension of time for a specified period granted by order, the board shall initiate appropriate disciplinary action. The board chairperson shall include the number of attorneys investigated and complaints initiated and processed pursuant to this rule, a synopsis of each such complaint, and the disposition thereof, in the annual board report to the supreme court required by Iowa Ct. R. 35.25 ~~35.23~~.

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CHAPTER 31

ADMISSION TO THE BAR

Rule 31.9 Moral character and fitness.

31.9(2) The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

a. Procedure. The child support recovery unit (the unit) shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.20(1) ~~35.19(1)~~, except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney’s license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application.

All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.20(2) ~~35.19(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

31.9(3) The Iowa supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the College Student Aid Commission.

a. Procedure. The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.21(1) ~~35.20(1)~~, except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney’s license.

1 *b. District court hearing.* Upon receipt of an application for hearing from the
2 applicant, the clerk of district court shall schedule a hearing to be held within
3 30 days of the date of filing of the application. All matters pertaining to the
4 hearing shall be governed by Iowa Ct. R. 35.21(2) ~~35.20(2)~~.

5 *c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of
6 noncompliance is filed, the supreme court shall curtail any proceedings
7 pursuant to the certificate of noncompliance, or, if necessary, shall
8 immediately take such steps as are necessary to issue a license to the
9 applicant if the applicant is otherwise eligible under rules of the court.

10 **31.9(4)** The supreme court may refuse to issue a license to practice law to
11 an applicant for admission to the bar by examination or on motion who
12 defaults on an obligation owed to or collected by the centralized collection unit
13 of the department of revenue (the unit).

14 *a. Procedure.* The unit shall file any certificate of noncompliance which
15 involves an applicant with the clerk of the supreme court. The procedure,
16 including notice to the applicant, shall be governed by Iowa Ct. R. 35.22(1)
17 ~~35.21(1)~~, except that the notice shall refer to a refusal to issue a license to
18 practice law to the applicant instead of a suspension of the attorney's license.

19 *b. District court hearing.* Upon receipt of an application for hearing from the
20 applicant, the clerk of the district court shall schedule a hearing to be held
21 within 30 days of the date of filing of the application. All matters pertaining to
22 the hearing shall be governed by Iowa Ct. R. 35.22(2) ~~35.21(2)~~.

23 *c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of
24 noncompliance is filed, the supreme court shall curtail any proceedings
25 pursuant to the certificate of noncompliance, or, if necessary, shall
26 immediately take such steps as are necessary to issue a license to the
27 applicant if the applicant is otherwise eligible under rules of the supreme court.

28 *d. Sharing information.* Notwithstanding the provisions of any other rule or
29 statute concerning the confidentiality of records, the clerk of the supreme court
30 and the director of the office of professional regulation are authorized to share
31 information with the unit for the sole purpose of allowing the unit to identify
32 applicants subject to enforcement under Iowa Code chapter 272D.

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CHAPTER 32

IOWA RULES OF PROFESSIONAL CONDUCT

Rule 32:1.3: DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment

. . .

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. See Iowa Ct. Rs. 35.17(6) ~~35.16(6)~~, 35.18 ~~35.17~~ (where reasonable necessity exists, the local chief judge shall appoint a lawyer to serve as trustee to inventory files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons of a deceased, suspended, or disabled lawyer).

Rule 32:8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW

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Comment

Disciplinary Authority

[1] It is longstanding law that the conduct of a lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa. Extension of the disciplinary authority of Iowa to other lawyers who provide or offer to provide legal services in Iowa is for the protection of the citizens of Iowa. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this rule. See Iowa Ct. R. 35.19 ~~35.18~~. A lawyer who is subject to Iowa's disciplinary authority under rule 32:8.5(a) appoints the Clerk of the Supreme Court of Iowa to receive service of process with respect to Iowa disciplinary matters. The fact that the lawyer is subject to the disciplinary authority of Iowa may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

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CHAPTER 34

**RULES OF PROCEDURE OF THE IOWA SUPREME COURT
ATTORNEY DISCIPLINARY BOARD**

Rule 34.4 Procedure

34.4(1) Upon receiving a complaint, the assistant director for attorney discipline shall evaluate all information coming to his or her attention from the complaint or from any other sources alleging lawyer misconduct or incapacity. The assistant director shall have the authority to decline to open an investigation of a complaint if the information, if true, would not constitute misconduct or incapacity, or if the complaint is facially frivolous, stale, lacking in adequate factual detail, duplicative, outside the board’s jurisdiction, or does not otherwise reasonably warrant investigation. The board may adopt policies to guide the assistant director in the exercise of this authority.

34.4(2) ~~T~~he board shall make a record indicating the date filed, the name and address of the complainant, the name and address of the respondent lawyer, and a brief statement of the charges made. This record ultimately shall show the final disposition of the matter when it is completed.

34.4(3) 34.4(2) The board shall keep all files in permanent form and confidential, unless otherwise provided or directed in writing by the chair of the board, or the chair’s designee, for disciplinary purposes or by a specific rule of the supreme court. All such files shall be available for examination and reproduction, by the designated officer or agent of the Client Security Commission, pursuant to proceedings under chapter 39 of the Iowa Court Rules.

Any such files, except for the work product of staff counsel, investigators, or administrators of the board, shall be provided to the respondent within a reasonable time upon the respondent’s request. For purposes of this rule, “work product” does not include a written statement signed or otherwise adopted or approved by the person making it or a contemporaneous and substantially verbatim transcript or recording of a person’s oral statement.

34.4(4) A complaint declined pursuant to this rule shall not be deemed a complaint for any purpose. A complaint declined pursuant to this rule shall not be docketed under rule 34.4(2), nor shall it be reported or disclosed by the board or the respondent to any person or authority for any reason.

Rule 34.5 Board procedure. Upon receipt of any complaint, the board shall notify the complainant in writing that the complaint has been received and will be acted upon or that pursuant to rule 34.4(1) no action will be taken.

Rule 34.6 Notification of respondent - response.

34.6(1) The board shall forward to the respondent a copy of the complaint and copies of chapters 34 and 35 of the Iowa Court Rules. However, if the

1 complaint is declined pursuant to rule 34.4(1), the board shall not notify the
2 respondent and no response shall be required.

3 . . .

4 **Rule 34.7 Failure to respond—notice—effect.**

5 **34.7(1)** *Failure to respond—separate ethical violation.* If after 20 days no
6 response has been received, the respondent shall be notified by restricted
7 certified mail that unless a response is made within 10 days from receipt of
8 notice, the board may file a complaint with the Grievance Commission of the
9 Supreme Court of Iowa for failure to respond, and concerning all or any portion
10 of the matter about which the original complaint was made. If service cannot
11 be obtained by restricted certified mail, the board may serve the notice on the
12 clerk of the supreme court who is appointed to receive service on behalf of
13 lawyers subject to Iowa’s disciplinary authority. Iowa R. Prof’l Conduct 32:8.5
14 cmt. [1]. Service upon the clerk of the supreme court is deemed to be receipt of
15 the notice by the respondent.

16 **Rule 34.23. Forms.**

17 **Rule 34.23 – Form 1. Iowa Supreme Court Attorney Disciplinary Board**
18 **Complaint Form**

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1 **THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD**

2 **Complaint Form**

3 (Complete a separate form for each lawyer you are complaining about)

4
5 **1. Your name:** _____

6 Street Address: _____

7 City: _____ State: _____ Zip: _____

8 Telephone: Home _____ ; Cell _____ ; Business _____

9
10 **2. Name of Lawyer you are complaining about:** _____

11 Street Address: _____

12 City: _____ State: _____ Zip: _____ Telephone: _____

13
14 **3. Did you hire the lawyer (yes or no)?** _____ **If yes, when was the lawyer hired ?** _____

15 **If no, what is your connection to the lawyer?** _____

16
17 **4. If your complaint is about a lawsuit or court case, answer the following:**

18 **a. Name of court (examples: Iowa District Court for Polk County; United States District Court**
19 **for Northern District of Iowa)** _____

20 **b. Case title (examples: Smith vs. Jones; State vs. Doe)** _____

21 **c. Case no.** _____

22
23 **5. Type or write neatly on one or more separate sheets of paper a detailed factual statement of what the**
24 **lawyer did or did not do that you are complaining about. Return the sheet(s) with this form. Write on**
25 **only one side of the complaint form and the additional sheets of paper.** Please attach copies of
26 documents that prove or help to explain your complaint, such as fee agreements, letters, checks, receipts,
27 itemized billings, and court papers. **Do not send original documents, only copies, as we are not**
28 **able to return your documents to you.**

29
30 **IN FILING THIS COMPLAINT, THE UNDERSIGNED HEREBY WAIVES**
31 **CONFIDENTIALITY AND ATTORNEY-CLIENT PRIVILEGE, IF ANY, BETWEEN**
32 **COMPLAINANT AND THE ABOVE NAMED ATTORNEY. THIS WAIVER ALLOWS THE**
33 **ATTORNEY TO DISCLOSE YOUR CONFIDENTIAL INFORMATION TO THE EXTENT**
34 **REASONABLY NECESSARY TO RESPOND TO THE COMPLAINT.**

35
36 **I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the allegations of this**
37 **complaint are true and correct.**

38
39 Date _____

Signature _____

40
41 **Send the completed form to:** Iowa Supreme Court Attorney Disciplinary Board
42 Judicial Branch Building
43 1111 East Court Avenue
44 Des Moines, IA 50319
45 Telephone: (515) 725-8017

1 THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD COMPLAINT FORM

2
3 I, _____, residing at _____
4 (Complainant)
5 _____, in the City of _____, State
6 of
7 _____, Zip Code _____, Telephone Number (_____) _____
8 _____ hereby complain that _____, whose address is _____
9 _____ (Name of Attorney)
10 _____, has violated the rules of ethics and conduct of the legal profession in that:

11 (Here explain the basis for the complaint.)

12 (Additional pages may be attached if necessary.)

13
14
15
16 IN FILING THIS COMPLAINT, THE UNDERSIGNED HEREBY WAIVES
17 THE ATTORNEY CLIENT PRIVILEGE BETWEEN COMPLAINANT AND
18 THE ABOVE NAMED ATTORNEY.

19
20 _____ I certify under penalty of perjury and pursuant to the laws of the state of Iowa that
21 _____ the preceding is true and correct.

22
23 Date: _____ Signature _____

24
25 _____ This form to be filed with the Iowa Supreme Court Attorney Disciplinary
26 _____ Board:

27
28 _____ Iowa Supreme Court Attorney Disciplinary Board
29 _____ Judicial Branch Building
30 _____ 1111 East Court Avenue
31 _____ Des Moines, Iowa 50319
32 _____ Telephone: (515) 725-8017
33

1 **CHAPTER 35**

2 **ATTORNEY DISCIPLINE, DISABILITY, AND REINSTATEMENT**

3 **Rule 35.8 Subpoenas.** The commission shall have subpoena power on behalf
4 of the board and the attorney against whom a complaint has been filed to
5 compel the appearance of persons or the production of documents during
6 discovery and the final hearing. Any attack on the validity of a subpoena shall
7 be heard or determined by the chair of the commission, or the president or any
8 member of a division to which a complaint has been referred. Any resulting
9 order is not appealable prior to entry of the final ruling, report, or
10 recommendation of the commission. Disobedience of the commission's
11 subpoena shall be punishable as contempt in the district court in and for the
12 county where the hearing is to be held. A contempt proceeding will not be a
13 matter of public record. The clerk of the grievance commission must issue a
14 subpoena, signed but otherwise in blank, to a party who requests it. That
15 party must complete it for service. An attorney licensed or otherwise
16 authorized to practice law in Iowa also may issue and sign a subpoena as an
17 officer of the court.

18 ~~The clerk of the district court of the county in which any disciplinary hearing is~~
19 ~~to be held shall issue subpoenas of all kinds upon request of the grievance~~
20 ~~commission, the complainant, or the attorney against whom a complaint has~~
21 ~~been filed.—Any member of the grievance commission is hereby empowered to~~
22 ~~administer oaths or affirmations to all witnesses and shall cause such~~
23 ~~testimony to be officially reported by a court reporter.—The grievance~~
24 ~~commission shall report to the supreme court the failure or refusal of any~~
25 ~~person to attend or testify in response to any subpoena or any ruling of said~~
26 ~~commission.~~

27 (new rule)

28 **Rule 35.9 Stipulated Submissions.** The parties may stipulate and agree to
29 waive formal hearing and submit the complaint to the commission for its
30 decision on the basis of a written stipulation approved by the parties and filed
31 with the clerk of the commission. The commission may consider the complaint
32 on the basis of the stipulation, or refuse to accept the stipulation and proceed
33 with a formal hearing, or accept the stipulation but conduct a limited hearing
34 to elucidate such additional evidence as it may deem necessary to facilitate
35 informed consideration of the complaint. A stipulation under this rule must be
36 submitted not less than 15 days before the date set for hearing. A stipulation
37 submitted pursuant to this rule may include a statement regarding the proposed
38 discipline, including additional or alternative sanctions as provided in rule 35.10.
39 The commission must consider the statement of proposed discipline, but is not
40 limited by the statement and may recommend greater or lesser discipline,
41 including additional or alternative sanctions. A stipulation submitted pursuant
42 to this rule must include:

- 1 **35.9(1)** a statement of the relevant facts;
2 **35.9(2)** a separate statement of conclusions of law as to the stipulated
3 violations;
4 **35.9(3)** a separate description of matters in mitigation and aggravating
5 circumstances;
6 **35.9(4)** a stipulation as to all exhibits;
7 **35.9(5)** a waiver of the formal hearing, the parties' agreement to submit the
8 matter on the basis of the stipulation, and agreement to closure of the record
9 unless the commission directs further proceedings.
10

11 **Rule 35.10 35.9 Decision.** At the conclusion of a hearing upon any complaint
12 against an attorney, the grievance commission may permit a reasonable time
13 for the parties to file post-hearing briefs and arguments. The commission shall
14 dismiss the complaint, issue a private admonition, or recommend to the
15 supreme court that the attorney be reprimanded or the attorney's license to
16 practice law be suspended or revoked. If the grievance commission
17 recommends a reprimand or suspension or revocation of the attorney's license,
18 it shall file with the supreme court its written findings of fact, conclusions of
19 law, and recommendations. As part of its report, the commission may
20 recommend additional or alternative sanctions such as restitution, costs,
21 practice limitations, appointment of a trustee or receiver, passage of a bar
22 examination or the Multistate Professional Responsibility Examination,
23 attendance at continuing legal education courses, or other measures consistent
24 with the purposes of attorney discipline.

25 A copy of the commission's report shall be filed with the Client Security
26 Commission. The disposition or report of the grievance commission shall be
27 made or filed with the supreme court within 30 days of the date set for the
28 filing of the last responsive brief and argument. If the commission cannot
29 reasonably make its determination or file its report within such time limit, the
30 division president may file a request for an extension of time with the clerk of
31 the commission prior to the expiration of the applicable 30 day period. The
32 clerk shall serve a copy of the request on the chair of the commission and the
33 parties. The chair of the commission shall file a written decision on the
34 extension request with the clerk, who shall serve a copy on all parties. ~~it shall~~
35 report that fact and the reasons therefor to the parties and the clerk of the
36 supreme court. If the division fails to file its decision or a request for an
37 extension of time within 30 days of the date set for the filing of the last
38 responsive brief and argument, the clerk shall promptly notify the director of
39 the office of professional regulation of the failure. Any determination or report
40 of the commission need only be concurred in by a majority of the
41 commissioners sitting. Any commissioner has the right to file with the
42 supreme court a dissent from the majority determination or report. Such
43 matter shall then stand for final disposition in the supreme court. If the
44 grievance commission dismisses the complaint or issues a private admonition,
45 no report shall be made to the supreme court, except as provided in rule 35.25

1 35.24; however, the grievance commission shall, within ten days of its
2 determination, serve a copy of its determination or report on the complainant
3 and the attorney concerned as provided in chapter 36 of the Iowa Court Rules.
4 If no appeal is applied for by the complainant within ten days after such
5 service, the grievance commission's determination shall be final. Any report of
6 reprimand or recommendations for license suspension or revocation shall be a
7 public document upon its filing with the clerk of the supreme court.

8
9 (old rules 35.10 through 35.15 are renumbered)

10
11 **Rule 35.11 ~~35.10~~ Disposition by the supreme court.**

12 **35.11(1) ~~35.10(1)~~** Any report filed by the grievance commission with the
13 supreme court shall be served upon the complainant and the attorney
14 concerned as provided by chapter 36 of the Iowa Court Rules. Such report
15 shall be entitled in the name of the complainant versus the accused attorney as
16 the respondent. Within 14 days after a report is filed with the clerk of the
17 supreme court, the clerk of the grievance commission shall transmit to the
18 clerk of the supreme court the entire record made before the commission. If no
19 appeal is taken or application for permission to appeal is filed within the ten
20 day period provided in rule 35.12 ~~35.11~~, the supreme court shall proceed to
21 review de novo the record made before the commission and determine the
22 matter without oral argument or further notice to the parties. Upon such
23 review de novo the supreme court may impose a lesser or greater sanction than
24 the discipline recommended by the grievance commission.

25 **35.11(2) ~~35.10(2)~~** The supreme court may revoke or suspend the license of
26 an attorney admitted to practice in Iowa upon any of the following grounds:
27 conviction of a felony, conviction of a misdemeanor involving moral turpitude,
28 violation of any provision of the Iowa Rules of Professional Conduct, or any
29 cause now or hereafter provided by statute or these rules.

30
31 **Rule 35.12 ~~35.11~~ Appeal.**

32
33 **35.12(1) ~~35.11(1)~~** The respondent may appeal from the report or
34 recommendation filed by the grievance commission pursuant to rule 35.10
35 ~~35.9~~ to the supreme court. The respondent's notice of appeal must be filed
36 with the clerk of the grievance commission within ten days after service of the
37 report or recommendation on the respondent. The respondent shall serve a
38 copy of the notice of appeal on the complainant or its counsel pursuant to Iowa
39 R. App. P. 6.701. Promptly after filing the notice of appeal with the clerk of the
40 grievance commission, the respondent shall mail or deliver a copy of the notice
41 to the clerk of the supreme court.

42 **35.12(2) ~~35.11(2)~~** The complainant may apply to the supreme court for
43 permission to appeal from a determination, ruling, report, or recommendation
44 of the grievance commission. The application shall be filed within ten days
45 after service of the determination, ruling, report, or recommendation on the

1 complainant. The supreme court may grant such appeal in a manner similar
2 to the granting of interlocutory appeals in civil cases under the Iowa Rules of
3 Appellate Procedure. The filing fee and the docket fee shall be waived upon the
4 complainant's written request.

5 **35.12(3) 35.11(3)** An appeal of the grievance commission's dismissal of a
6 complaint or of the grievance commission's decision to issue a private
7 admonition shall remain confidential. In making such application, and in any
8 subsequent briefs, the complainant shall refer to the respondent as "Attorney
9 Doe No. (insert grievance commission number)," instead of using the
10 respondent's name. All references to the respondent during oral arguments
11 shall be to "Attorney Doe." In the event the supreme court reverses or modifies
12 the report of the grievance commission, such court order of reversal or
13 modification shall become a public record.

14 **35.12(4) 35.11(4)** After a notice of appeal is filed or permission to appeal is
15 granted, the appeal shall proceed pursuant to the Iowa Rules of Appellate
16 Procedure to the full extent those rules are not inconsistent with this rule.
17 Appellant shall cause the appeal to be docketed within ten days after the filing
18 of the notice of appeal or the order granting permission to appeal. The matter
19 shall be docketed under the title given to the action before the grievance
20 commission with the appellant identified as such pursuant to Iowa R. App. P.
21 6.12(1) unless otherwise required by rule 35.12(3) ~~35.11(3)~~. The abbreviated
22 time limits specified in Iowa R. App. P. 6.17 shall apply. Extensions of time
23 shall not be granted except upon a verified showing of the most unusual and
24 compelling circumstances. Review shall be de novo. If a respondent's appeal is
25 dismissed for lack of prosecution pursuant to Iowa R. App. P. 6.19 or for any
26 other reason, the supreme court shall proceed to review and decide the matter
27 pursuant to rule 35.11 ~~35.10~~ as if no appeal had been taken.

28
29 **Rule 35.13 ~~35.12~~ Suspension.**

30
31 **35.13(1) 35.12(1)** In the event the supreme court suspends an attorney's
32 license to practice law, such suspension shall continue for the minimum time
33 specified in such order and until the supreme court has approved the
34 attorney's written application for reinstatement. In the order of suspension or
35 by order at any time before reinstatement, the supreme court may require the
36 suspended attorney to meet reasonable conditions for reinstatement including,
37 but not limited to, passing the Multistate Professional Responsibility
38 Examination.

39 **35.13(2) 35.12(2)** An attorney whose license has been suspended for a
40 period not exceeding 60 days shall not be required to file an application for
41 reinstatement, and the court shall order reinstatement of the attorney's license
42 on the day after the suspension period has expired, subject to the following
43 exceptions. The Iowa Supreme Court Attorney Disciplinary Board may file and
44 serve within the suspension period an objection to the automatic reinstatement
45 of the attorney. The filing of an objection shall stay the automatic
46 reinstatement until ordered otherwise by the court. If the board files an

1 objection, the court shall set the matter for hearing and the clerk shall enter
2 written notice in conformance with rule ~~35.14~~ ~~35.13~~, except that the court may
3 waive the requirement of a 60-day waiting period prior to the hearing date.
4 Automatic reinstatement shall not be ordered until all costs assessed under
5 rule ~~35.27~~ ~~35.26~~ have been paid.

6 **~~35.13(3)~~ ~~35.12(3)~~** Any attorney suspended shall refrain, during such
7 suspension, from all facets of the ordinary law practice including, but not
8 limited to, the examination of abstracts; consummation of real estate
9 transactions; preparation of legal briefs, deeds, buy and sell agreements,
10 contracts, wills, and tax returns; and acting as a fiduciary. Such suspended
11 attorney may, however, act as a fiduciary for the estate, including a
12 conservatorship or guardianship, of any person related to the suspended
13 attorney within the second degree of affinity or consanguinity.

14 **~~35.13(4)~~ ~~35.12(4)~~** Nothing in this rule shall preclude an attorney, law firm,
15 or professional association from employing a suspended attorney to perform
16 such services only as may be ethically performed by laypersons employed in
17 attorneys' offices, under all of the following conditions:

18 a. Notice of employment, together with a full job description, shall be
19 provided to the board before employment commences.

20 b. Informational reports, verified by the employer and employee, shall be
21 submitted quarterly to the board. Such reports shall contain a certification
22 that no aspect of the employee's work has involved the unauthorized practice of
23 law.

24 c. A suspended attorney shall not have direct or personal association with
25 any client and shall not disburse or otherwise handle funds or property of a
26 client.

27
28 **Rule ~~35.14~~ ~~35.13~~ Procedure on application for reinstatement.** Any person
29 whose certificate to practice law in this state was suspended may apply for
30 reinstatement subject to the following rules:

31
32 **~~35.14(1)~~ ~~35.13(1)~~** Application.

33 a. A proceeding for reinstatement to the practice of law in Iowa must be
34 commenced by a written application to the supreme court filed with the clerk of
35 the supreme court not more than 60 days prior to expiration of the suspension
36 period.

37 b. The application shall state the date of the applicant's original admission,
38 the date and duration of suspension, and that the applicant has complied in all
39 respects with the orders and judgment of the supreme court relating to the
40 suspension.

41 c. The application shall be verified by the oath of the applicant as to the
42 truth of the statements made in the application.

43 d. The applicant shall also submit to the supreme court satisfactory proof
44 that the applicant, at the time of the application, is of good moral character
45 and in all respects worthy of the right to practice law. The application shall be
46 accompanied by the recommendation of at least three reputable attorneys

1 currently practicing law in the judicial district in which the applicant then lives
2 and has lived at least one year prior to filing the application. If the applicant
3 does not reside in the district in which the applicant lived at the time of the
4 suspension, the applicant shall also file a recommendation from three
5 reputable attorneys currently practicing law in the district where the applicant
6 resided at the time of suspension. The required recommendations shall not be
7 from judges or magistrates.

8 e. The applicant shall also submit satisfactory proof that the applicant, at
9 the time of the application, has filed all reports, paid all fees, and completed all
10 continuing legal education required by the provisions of chapters 39, 41 and 42
11 of the Iowa Court Rules.

12 **35.14(2) 35.13(2)** Procedure. Upon filing of such application and
13 recommendations with the clerk of the supreme court, the clerk shall give
14 written notice thereof to all of the following:

15 a. The attorney general.

16 b. The county attorney where the applicant resides.

17 c. The county attorney where the applicant resided at the time of
18 suspension.

19 d. The chair of the Iowa Board of Law Examiners.

20 e. The assistant director for attorney discipline of the office of professional
21 regulation.

22 f. Each judge of the district in which the applicant resided at the time of
23 suspension.

24 g. The president of a local bar association where the applicant resides.

25 h. The president of a local bar association where the applicant resided when
26 the certificate was suspended.

27 i. The president of the Iowa State Bar Association.

28 **35.14(3) 35.13(3)** Written statements. Such persons, after receipt of the
29 notice and before the date fixed for hearing, may submit to the clerk of the
30 supreme court written statements of fact and comments regarding the current
31 fitness of the applicant to practice law. Such notice shall contain the date of
32 the suspension, the date of filing the application, and the date of hearing
33 thereon fixed by the supreme court, which shall in no case be less than 60
34 days after the filing of such application for reinstatement.

35 **35.14(4) 35.13(4)** Notice of witnesses and exhibits. At least 14 days prior
36 to the scheduled hearing date, the applicant and the Iowa Supreme Court
37 Attorney Disciplinary Board shall provide notice to the court and the opposing
38 party of the names and expected testimony of any witnesses they intend to
39 produce and shall file and serve copies of any exhibits they intend to introduce
40 at the hearing. The opposing party may provide notice of any rebuttal
41 witnesses or exhibits no later than 7 days prior to the scheduled hearing date.
42 These deadlines shall be waived by the court only upon good cause shown.

43 **35.14(5) 35.13(5)** Hearing. The reinstatement hearing shall be held at the
44 time and place designated by the court. The applicant shall bear the burden of
45 demonstrating that the applicant is of good moral character, is fit to practice
46 law, and has complied in all respects with the terms of the order or judgment of

1 suspension. The hearing shall be public unless the court orders otherwise
2 upon motion of a party. The hearing shall be informal and the strict rules of
3 evidence shall not apply. The court may impose reasonable time limits on the
4 length of the hearing.

5 **35.14(6) 35.13(6)** Decision. The court shall render its decision as soon as
6 practicable after the hearing. The supreme court may require the person to
7 meet reasonable conditions for reinstatement including, but not limited to,
8 passing the Multistate Professional Responsibility Examination.

9 **35.14(7) 35.13(7)** Denial of reinstatement for failure to comply with a
10 support order. An attorney who fails to comply with a support order may be
11 denied reinstatement of the attorney's license to practice law in Iowa.

12 a. Procedure. The child support recovery unit (the unit) shall file any
13 certificate of noncompliance which involves an attorney with the clerk of the
14 supreme court. The procedure, including notice to the attorney, shall be
15 governed by rule 35.20(1) ~~35.19(1)~~, except that the notice shall refer to a
16 refusal to reinstate an attorney's license to practice law instead of a suspension
17 of the attorney's license.

18 b. District court hearing. Upon receipt of an application for hearing by the
19 attorney, the clerk of district court shall schedule a hearing to be held within
20 30 days of the date of filing of the application. All matters pertaining to the
21 hearing shall be governed by rule 35.20(2) ~~35.19(2)~~.

22 c. Noncompliance certificate withdrawn. If a withdrawal of certificate of
23 noncompliance is filed, the supreme court shall curtail any proceedings
24 pursuant to the certificate of noncompliance or, if necessary, shall immediately
25 reinstate the attorney's license to practice law if the attorney is otherwise
26 eligible for reinstatement.

27 d. Sharing information. Notwithstanding the provisions of any other rule or
28 statute concerning the confidentiality of records, the clerk of the supreme court
29 and the director of the office of professional regulation are authorized to share
30 information with the unit for the sole purpose of allowing the unit to identify
31 licensees subject to enforcement under Iowa Code chapter 252J or 598.

32 **35.14(8) 35.13(8)** Denial of reinstatement for default on student loan
33 obligation. An attorney who defaults on an obligation owed to or collected by
34 the College Student Aid Commission may be denied reinstatement of the
35 attorney's license to practice law in Iowa.

36 a. Procedure. The College Student Aid Commission (the commission) shall
37 file any certificate of noncompliance which involves an attorney with the clerk
38 of the supreme court. The procedure, including notice to the attorney, shall be
39 governed by rule 35.21(1) ~~35.20(1)~~, except that the notice shall refer to a
40 refusal to reinstate an attorney's license to practice law instead of a suspension
41 of the attorney's license.

42 b. District court hearing. Upon receipt of an application for hearing by the
43 attorney, the clerk of district court shall schedule a hearing to be held within
44 30 days of the date of filing of the application. All matters pertaining to the
45 hearing shall be governed by rule 35.21(2) ~~35.20(2)~~.

1 c. Noncompliance certificate withdrawn. If a withdrawal of certificate of
2 noncompliance is filed, the supreme court shall curtail any proceedings
3 pursuant to the certificate of noncompliance or, if necessary, shall immediately
4 reinstate the attorney's license to practice law if the attorney is otherwise
5 eligible for reinstatement.

6 **35.14(9) 35.13(9)** Denial of reinstatement for failure to comply with an
7 obligation owed to or collected by the centralized collection unit of the
8 department of revenue. An attorney who defaults on an obligation owed to or
9 collected by the centralized collection unit of the department of revenue (the
10 unit) may be denied reinstatement of the attorney's license to practice law in
11 Iowa.

12 a. Procedure. The unit shall file any certificate of noncompliance which
13 involves an attorney with the clerk of the supreme court. The procedure,
14 including notice to the attorney, shall be governed by rule 35.22(1) ~~35.21(1)~~,
15 except that the notice shall refer to a refusal to reinstate an attorney's license
16 to practice law instead of a suspension of the attorney's license.

17 b. District court hearing. Upon receipt of an application for hearing by the
18 attorney, the clerk of the district court shall schedule a hearing to be held
19 within 30 days of the date of filing of the application. All matters pertaining to
20 the hearing shall be governed by rule 35.22(2) ~~35.21(2)~~.

21 c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of
22 noncompliance is filed, the supreme court shall curtail any proceedings
23 pursuant to the certificate of noncompliance or, if necessary, shall immediately
24 reinstate the attorney's license to practice law if the attorney is otherwise
25 eligible for reinstatement.

26
27 **Rule 35.15 ~~35.14~~ Conviction of a crime.**

28
29 **35.15(1) 35.14(1)** Upon receipt by the supreme court of satisfactory
30 evidence that an attorney had pled guilty or nolo contendere to, or has been
31 convicted of, a crime which would be grounds for license suspension or
32 revocation, such attorney may be temporarily suspended from the practice of
33 law by the supreme court regardless of the pendency of an appeal. Not less
34 than 20 days prior to the effective date of such suspension, the attorney
35 concerned shall be notified, in writing directed by restricted certified mail to the
36 last address as shown by the records accessible to the supreme court, that the
37 attorney has a right to appear before one or more justices of the supreme court
38 at a specified time and at a designated place to show cause why such
39 suspension should not take place. Any hearing so held shall be informal and
40 the strict rules of evidence shall not apply. The decision rendered may simply
41 state the conclusion and decision of the participating justice or justices and
42 may be orally delivered to the attorney at the close of the hearing or sent to the
43 attorney in written form at a later time.

44 **35.15(2) 35.14(2)** Any attorney suspended pursuant to this rule shall
45 refrain, during such suspension, from all facets of the ordinary law practice
46 including, but not limited to, the examination of abstracts; consummation of

1 real estate transactions; preparation of legal briefs, deeds, buy and sell
2 agreements, contracts, wills and tax returns; and acting as a fiduciary. Such
3 suspended attorney may, however, act as a fiduciary for the estate, including a
4 conservatorship or guardianship, of any person related to the suspended
5 attorney within the second degree of affinity or consanguinity.

6 **35.15(3) 35.14(3)** For good cause shown, the supreme court may set aside
7 an order temporarily suspending an attorney from the practice of law as
8 provided above upon application by such attorney and a hearing in accordance
9 with rule 35.14 ~~35.13~~, but such reinstatement shall neither terminate a
10 pending disciplinary proceeding nor bar later proceedings against the attorney.

11 **35.15(4) 35.14(4)** An attorney temporarily suspended under the provisions
12 of this rule shall be promptly reinstated upon the filing of sufficient evidence
13 disclosing the underlying conviction of a crime has been finally reversed or set
14 aside, but such reinstatement shall neither terminate a pending disciplinary
15 proceeding nor bar later proceedings against the attorney.

16 **35.15(5) 35.14(5)** The clerk of any court in this state in which an attorney
17 has pled guilty or nolo contendere to, or been convicted of, a crime as set forth
18 above shall, within ten days, transmit a certified record of the proceedings to
19 the clerk of the supreme court.

20 **Rule 35.16 35.15 Suspension or Disbarment on consent.**

21
22 **35.16(1) 35.15(1)** An attorney subject to investigation or a pending
23 proceeding involving allegations of misconduct subject to disciplinary action
24 may acquiesce to suspension or disbarment, but only by delivering to the
25 grievance commission an affidavit stating the attorney consents to suspension
26 of not more than a specific duration or disbarment and indicating the following:

27 a. The consent is freely and voluntarily given absent any coercion or duress,
28 with full recognition of all implications attendant upon such consent.

29 b. The attorney is aware of a pending investigation or proceeding involving
30 allegations that there exist grounds for discipline, the nature of which shall be
31 specifically set forth.

32 c. The attorney acknowledges the material facts so alleged are true.

33 d. In the event proceedings were instituted upon the matters under
34 investigation, or if existent proceedings were pursued, the attorney could not
35 successfully defend against same.

36 e. The facts admitted in the affidavit would probably result in the
37 suspension or revocation of the attorney's license to practice law.

38 f. Any matters in mitigation or aggravation.

39 g. Consent to any alternative or additional sanctions as provided in rule
40 35.10.

41 **35.16(2) 35.15(2)** The Iowa Supreme Court Attorney Disciplinary Board
42 shall file a response to the affidavit, indicating whether it believes the
43 misconduct admitted in the affidavit would probably result in suspension or
44 revocation of the attorney's license to practice law and citing any legal
45 authorities supporting its conclusion.

1 **35.16(3) 35.15(3)** Upon receipt of such affidavit and response, the grievance
2 commission shall cause the same to be filed with the clerk of the supreme
3 court. The supreme court shall enter an order suspending the attorney's
4 license to practice for a period no greater than the duration consented to, or
5 disbarring the attorney on consent, unless it determines the misconduct
6 admitted in the affidavit is insufficient to support the discipline to which the
7 attorney has consented. a revocation of the attorney's license. The court may
8 also order any of the alternative or additional sanctions to which the
9 respondent has consented. If the court determines the affidavit ~~is insufficient~~
10 ~~does not set forth facts that support imposition of the discipline to which the~~
11 ~~attorney has consented,~~ it may either enter an order allowing the parties to
12 supplement the affidavit or an order declining to accept the affidavit. An order
13 declining to accept the affidavit shall not bar further disciplinary proceedings
14 against the attorney, nor shall it preclude the court from imposing any
15 sanction warranted by the attorney's conduct upon review of a grievance
16 commission determination.

17 **35.16(4) 35.15(4)** Any order suspending or disbarring an attorney on
18 consent shall be a matter of public record. If an order of suspension or
19 disbarment is entered, the affidavit and response shall be publicly disclosed.
20 Otherwise, However, the affidavit and response required above shall not be
21 publicly disclosed or made available for use in any other proceeding except
22 upon order of the supreme court.

23
24 (old rules 35.16 through 35.27 are renumbered)

25
26 **Rule 35.17 ~~35.16~~ Disability suspension.**

27 **35.17(1) 35.16(1)** In the event an attorney shall at any time in any
28 jurisdiction be duly adjudicated a mentally incapacitated person, or an
29 alcoholic, or a drug addict, or shall be committed to an institution or hospital
30 for treatment thereof, the clerk of any court in Iowa in which any such
31 adjudication or commitment is entered shall, within ten days, certify same to
32 the clerk of the supreme court.

33 **35.17(2) 35.16(2)** Upon the filing of any such certificate or a like certificate
34 from another jurisdiction or upon determination by the supreme court
35 pursuant to a sworn application on behalf of a local bar association or the Iowa
36 Supreme Court Attorney Disciplinary Board that an attorney is not discharging
37 professional responsibilities due to disability, incapacity, abandonment of
38 practice, or disappearance, the supreme court may enter an order suspending
39 the attorney's license to practice law in this state until further order of the
40 court. Not less than 20 days prior to the effective date of such suspension, the
41 attorney or the attorney's guardian and the director of the institution or
42 hospital to which the attorney has been committed, if any, shall be notified, in
43 writing directed by restricted certified mail to the last address as shown by the
44 records accessible to the supreme court, that the attorney has a right to appear
45 before one or more justices of the supreme court at a specified time and place

1 and show cause why such suspension should not take place. Upon a showing
2 of exigent circumstances, emergency or other compelling cause, the supreme
3 court may reduce or waive the 20-day period and the effective date of action
4 above referred to. Any hearing shall be informal and the strict rules of
5 evidence shall not apply. The decision rendered may simply state the
6 conclusion and decision of the participating justice or justices and may be
7 orally delivered to the attorney at the close of the hearing or sent to the
8 attorney in written form at a later time. A copy of such suspension order shall
9 be given to the suspended attorney, or to the attorney's guardian and the
10 director of the institution or hospital to which such suspended attorney has
11 been committed, if any, by restricted mail or personal service as the supreme
12 court may direct.

13 **35.17(3) 35.16(3)** Upon the voluntary retirement of an Iowa judicial officer
14 for disability under Iowa Code section 602.9112 or upon the involuntary
15 retirement of an Iowa judicial officer for disability under Iowa Code section
16 602.2106(3)(a), the supreme court may enter an order suspending the retired
17 judicial officer's license to practice law in this state in the event the underlying
18 disability prevents the discharge of professional responsibilities of a lawyer.
19 The suspension shall be effective until further order of the court. A copy of
20 such suspension order shall be given to the suspended attorney, or to the
21 attorney's guardian and the director of the institution or hospital to which such
22 suspended attorney has been committed, if any, by restricted mail or personal
23 service as the supreme court may direct.

24 **35.17(4) 35.16(4)** Any attorney suspended pursuant to this rule shall
25 refrain, during such suspension, from all facets of the ordinary law practice
26 including, but not limited to, the examination of abstracts; consummation of
27 real estate transactions; preparation of legal briefs, deeds, buy and sell
28 agreements, contracts, wills and tax returns; and acting as a fiduciary. Such
29 suspended attorney may, however, act as a fiduciary for the estate, including a
30 conservatorship or guardianship, of any person related to the suspended
31 attorney within the second degree of affinity or consanguinity.

32 **35.17(5) 35.16(5)** No attorney suspended due to disability under this rule
33 may engage in the practice of law in this state until reinstated by order of the
34 supreme court.

35 **35.17(6) 35.16(6)** Upon being notified of the suspension of the attorney, the
36 chief judge in the judicial district in which the attorney practiced shall appoint
37 a lawyer or lawyers to serve as trustee to inventory the files, sequester client
38 funds, and take any other appropriate action to protect the interests of the
39 clients and other affected persons. Such appointment shall be subject to
40 confirmation by the supreme court. The appointed lawyer shall serve as a
41 special member of the Iowa Supreme Court Attorney Disciplinary Board and as
42 a commissioner of the supreme court for the purposes of the appointment.
43 While acting as a trustee, the trustee shall not serve as a lawyer for the clients
44 of the disabled lawyer and other affected persons. Neither shall the trustee
45 examine any papers or acquire any information concerning real or potential
46 conflicts with the trustee's clients. Should any such information be acquired

1 inadvertently, the trustee shall, as to such matters, protect the privacy
2 interests of the disabled lawyer's clients by prompt recusal or refusal of
3 employment. The trustee may seek reasonable fees and reimbursement of
4 costs of the trust from the suspended attorney. If reasonable efforts to collect
5 such fees and costs are unsuccessful, the trustee may submit a claim for
6 payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client
7 Security Commission, in the exercise of its sole discretion, shall determine the
8 merits of the claim and the amount of any payment from the fund. When the
9 suspended attorney is reinstated to practice law in this state, or all pending
10 representation of clients has been completed, or the purposes of the trust have
11 been accomplished, the trustee may apply to the appointing chief judge for an
12 order terminating the trust.

13 **35.17(7) 35.16(7)** Any attorney so suspended shall be entitled to apply for
14 reinstatement to active status once each year or at such shorter intervals as
15 the supreme court may provide. An attorney suspended due to disability may
16 be reinstated by the supreme court upon a showing, by clear and convincing
17 evidence, that the attorney's disability has been removed and the attorney is
18 fully qualified to resume the practice of law. Upon the attorney's filing of an
19 application for reinstatement, the supreme court may take or direct any action
20 deemed necessary or proper to determine whether such suspended attorney's
21 disability has been removed, including an examination of the applicant by such
22 qualified medical experts as the supreme court shall designate. In its
23 discretion the supreme court may direct that the expenses of such an
24 examination be paid by the attorney.

25 **35.17(8) 35.16(8)** The filing of an application for reinstatement to active
26 status by an attorney suspended due to disability shall constitute a waiver of
27 any doctor-patient privilege with regard to any treatment of the attorney during
28 the period of the disability. The attorney shall also set forth in the application
29 for reinstatement the name of every psychiatrist, psychologist, physician and
30 hospital or any other institution by whom or in which the petitioning attorney
31 has been examined or treated since the disability suspension and shall also
32 furnish to the supreme court written consent that any such psychiatrist,
33 psychologist, physician and hospital or other institution may divulge any
34 information and records requested by the supreme court or any court-
35 appointed medical experts.

36 **35.17(9) 35.16(9)** Where an attorney has been suspended due to disability
37 and thereafter the attorney is judicially held to be competent or cured, the
38 supreme court may dispense with further evidence regarding removal of the
39 disability and may order reinstatement to active status upon such terms as are
40 deemed reasonable.

41
42 **Rule 35.18 35.17** Death or suspension of practicing attorney. Upon a sworn
43 application on behalf of a local bar association or the Iowa Supreme Court
44 Attorney Disciplinary Board showing that a practicing attorney has died or
45 been suspended or disbarred from the practice of law and a reasonable
46 necessity exists, the chief judge in the judicial district in which the attorney

1 practiced shall appoint a lawyer or lawyers to serve as trustee to inventory the
2 files, sequester client funds, and take any other appropriate action to protect
3 the interests of the clients and other affected persons. Such appointment shall
4 be subject to confirmation by the supreme court. The appointed lawyer shall
5 serve as a special member of the Iowa Supreme Court Attorney Disciplinary
6 Board as a commissioner of the supreme court for the purposes of the
7 appointment. While acting as a trustee, the trustee shall not serve as a lawyer
8 for the clients of the disabled lawyer and other affected persons. Neither shall
9 the trustee examine any papers or acquire any information concerning real or
10 potential conflicts with the trustee's clients. Should any such information be
11 acquired inadvertently, the trustee shall, as to such matters, protect the
12 privacy interests of the disabled lawyer's clients by prompt recusal or refusal of
13 employment. The trustee may seek reasonable fees and reimbursement of
14 costs of the trust from the deceased attorney's estate or the attorney whose
15 license to practice law has been suspended or revoked. If reasonable efforts to
16 collect such fees and costs are unsuccessful, the trustee may submit a claim
17 for payment from the Clients' Security Trust Fund of the Bar of Iowa. The
18 Client Security Commission, in the exercise of its sole discretion, shall
19 determine the merits of the claim and the amount of any payment from the
20 fund. When all pending representation of clients has been completed or the
21 purposes of the trust have been accomplished, the trustee may apply to the
22 appointing chief judge for an order terminating the trust.

23

24 **Rule 35.19 ~~35.18~~ Reciprocal discipline.**

25

26 **35.19(1) ~~35.18(1)~~** Any attorney admitted to practice in this state, upon
27 being subjected to professional disciplinary action in another jurisdiction or in
28 any federal court, shall promptly advise the Iowa Supreme Court Attorney
29 Disciplinary Board, in writing, of such action. Upon being informed that an
30 attorney admitted to practice in this state has been subjected to discipline in
31 another jurisdiction or any federal court, the board shall obtain a certified copy
32 of such disciplinary order and file it in the office of the clerk of the supreme
33 court.

34 **35.19(2) ~~35.18(2)~~** Upon receipt of a certified copy of an order disclosing an
35 attorney admitted to practice in this state has been disciplined in another
36 jurisdiction or any federal court, the supreme court shall promptly give notice
37 thereof by restricted certified mail or personal service directed to such attorney
38 containing: a copy of the disciplinary order from the other jurisdiction or
39 federal court, and an order directing that such disciplined attorney file in the
40 supreme court, within 30 days after receipt of the notice, any objection that
41 imposition of identical discipline in this state would be too severe or otherwise
42 unwarranted, giving specific reasons. A like notice shall be sent, by ordinary
43 mail, to the board, which shall have the right to object on the ground that the
44 imposition of identical discipline in this state would be too lenient or otherwise
45 unwarranted. If either party so objects, the matter shall be set for hearing
46 before three or more justices of the supreme court and the parties notified by

1 restricted certified mail at least ten days prior to the date set. At such hearing
2 a certified copy of the testimony, transcripts, exhibits, affidavits and other
3 matters introduced into evidence in such jurisdiction or federal court shall be
4 admitted into evidence as well as any findings of fact, conclusions of law,
5 decision and orders. Any such findings of fact shall be conclusive and not
6 subject to readjudication. Thereafter, the supreme court shall enter such
7 findings, conclusions and orders that it deems appropriate.

8 **35.19(3) 35.18(3)** If neither party objects within 30 days from service of the
9 notice, the supreme court may impose the identical discipline, unless the court
10 finds that on the face of the record upon which the discipline is predicated it
11 clearly appears that any of the following exist:

12 a. The disciplinary procedure was so lacking in notice and opportunity to be
13 heard as to constitute a deprivation of due process.

14 b. There was such infirmity of proof establishing misconduct as to give rise to
15 the clear conviction that the supreme court could not, conscientiously, accept
16 as final the conclusion on that subject.

17 c. The misconduct established warrants substantially different discipline in
18 this state.

19 **35.19(4) 35.18(4)** If the supreme court determines that any such factors
20 exist, it may enter an appropriate order. Rule 35.14 ~~35.13~~ shall apply to any
21 subsequent reinstatement or reduction or stay of discipline.

22
23 **Rule 35.20 35.19 Suspension of attorney's license for failure to comply**
24 **with a support order.** An attorney who fails to comply with a support order
25 may be subject to a suspension of the attorney's license to practice law in Iowa.

26
27 **35.20(1) 35.19(1)** Procedure. The child support recovery unit (the unit)
28 shall file any certificate of noncompliance with a support order which involves
29 an attorney with the supreme court by filing the certificate with the office of
30 professional regulation of the supreme court at 1111 E. Court Ave., Des
31 Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the
32 director of the office of professional regulation of the supreme court shall issue
33 a notice to the attorney. The following rules shall apply and shall be recited in
34 the notice:

35 a. The attorney's license to practice law will be suspended unless the
36 attorney causes the unit to file a withdrawal of certificate of noncompliance
37 within 30 days of the date of issuance of the notice.

38 b. The attorney may challenge the supreme court's action under this rule
39 only by filing an application for hearing with the district court in the county in
40 which the underlying support order is filed.

41 c. The application for hearing must be filed with the district court clerk
42 within 30 days of the date of issuance of the notice, and copies of the
43 application must be provided to the unit and the office of professional
44 regulation of the supreme court by regular mail.

45 d. The filing of the application shall automatically stay the supreme court's
46 action on the certificate of noncompliance.

1 e. The provisions of this rule shall prevail over those of any other statute or
2 rule to the extent they may conflict.

3 **35.20(2) 35.19(2)** District court hearing.

4 a. Upon receipt of an application for hearing by the attorney, the clerk of the
5 district court shall schedule a hearing to be held within 30 days of the date of
6 filing of the application. The clerk shall mail copies of the order setting hearing
7 to the obligor, the unit, and the office of professional regulation of the supreme
8 court.

9 b. Prior to the hearing, the district court shall receive a certified copy of the
10 unit's written decision and certificate of noncompliance from the unit and a
11 certified copy of the notice from the office of professional regulation of the
12 supreme court.

13 c. If the attorney fails to appear at the scheduled hearing, the automatic
14 stay of the supreme court's action on the certificate of noncompliance shall be
15 lifted.

16 d. The district court's scope of review shall be limited to determining if there
17 has been a mistake of fact relating to the attorney's support delinquency. The
18 court shall not consider visitation or custody issues, and shall not modify the
19 support order.

20 e. If the district court concludes the unit erred in issuing the certificate of
21 noncompliance or in refusing to issue a withdrawal of certificate of
22 noncompliance, the court shall order the unit to file a withdrawal of certificate
23 of noncompliance with the office of professional regulation of the supreme
24 court.

25 **35.20(3) 35.19(3)** Noncompliance certificate withdrawn. If a withdrawal of
26 certificate of noncompliance is filed, the supreme court shall curtail any
27 proceedings pursuant to the certificate of noncompliance or, if necessary, shall
28 immediately reinstate the attorney's license to practice law if the attorney is
29 otherwise eligible under rules of the court.

30 **35.20(4) 35.19(4)** Sharing information. Notwithstanding the provisions of
31 any other rule or statute concerning the confidentiality of records, the director
32 of the office of professional regulation of the supreme court is authorized to
33 share information with the unit for the sole purpose of allowing the unit to
34 identify licensees subject to enforcement under Iowa Code chapter 252J or
35 598.

36
37 **Rule 35.21 35.20** Suspension of attorney's license for failure to comply with
38 an obligation owed to or collected by the College Student Aid Commission. An
39 attorney who defaults on an obligation owed to or collected by the College
40 Student Aid Commission may be subject to a suspension of the attorney's
41 license to practice law in Iowa.

42
43 **35.21(1) 35.20(1)** Procedure. The College Student Aid Commission (the
44 commission) shall file any certificate of noncompliance which involves an
45 attorney with the supreme court by filing the certificate with the office of
46 professional regulation of the supreme court at 1111 E. Court Ave., Des

1 Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the
2 director of the office of professional regulation of the supreme court shall issue
3 a notice to the attorney. The following rules shall apply and shall be recited in
4 the notice:

5 a. The attorney's license to practice law will be suspended unless the
6 attorney causes the commission to file a withdrawal of certificate of
7 noncompliance within 30 days of the date of issuance of the notice.

8 b. The attorney must contact the commission to schedule a conference or to
9 otherwise obtain a withdrawal of the certificate of noncompliance.

10 c. The attorney may challenge the supreme court's action under this rule
11 only by filing an application for hearing with the district court in the attorney's
12 county of residence.

13 d. The application for hearing must be filed with the district court clerk
14 within 30 days of the date of issuance of the notice, and copies of the
15 application must be provided to the commission and the office of professional
16 regulation of the supreme court by regular mail.

17 e. The filing of the application shall automatically stay the supreme court's
18 action on the certificate of noncompliance.

19 f. The provisions of this rule shall prevail over those of any other statute or
20 rule to the extent they may conflict.

21 **35.21(2) ~~35.20(2)~~** District court hearing.

22 a. Upon receipt of an application for hearing by the attorney, the clerk of
23 district court shall schedule a hearing to be held within 30 days of the date of
24 filing of the application. The clerk shall mail copies of the order setting hearing
25 to the attorney, the commission, and the office of professional regulation of the
26 supreme court.

27 b. Prior to the hearing, the district court shall receive a certified copy of the
28 commission's written decision and certificate of noncompliance from the
29 commission and a certified copy of the notice from the office of professional
30 regulation of the supreme court.

31 c. If the attorney fails to appear at the scheduled hearing, the automatic
32 stay of the supreme court's action on the certificate of noncompliance shall be
33 lifted.

34 d. The district court's scope of review shall be limited to determining if there
35 has been a mistake of fact relating to the attorney's delinquency.

36 e. If the district court concludes the commission erred in issuing the
37 certificate of noncompliance or in refusing to issue a withdrawal of the
38 certificate of noncompliance, the court shall order the commission to file a
39 withdrawal of the certificate of noncompliance with the office of professional
40 regulation of the supreme court.

41 **35.21(3) ~~35.20(3)~~** Noncompliance certificate withdrawn. If a withdrawal of
42 certificate of noncompliance is filed, the supreme court shall curtail any
43 proceedings pursuant to the certificate of noncompliance or, if necessary, shall
44 immediately reinstate the attorney's license to practice law if the attorney is
45 otherwise eligible under rules of the court.

46

1 **Rule 35.22 ~~35.21~~ Suspension of attorney's license for failure to comply**
2 **with an obligation owed to or collected by the centralized collection unit**
3 **of the department of revenue.**

4
5 **35.22(1) ~~35.21(1)~~ Procedure.** The centralized collection unit of the
6 department of revenue (the unit) shall file any certificate of noncompliance
7 which involves an attorney with the supreme court by filing the certificate with
8 the office of professional regulation of the supreme court at 1111 E. Court Ave.,
9 Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the
10 director of the office of professional regulation of the supreme court shall issue
11 a notice to the attorney. The following rules shall apply and shall be recited in
12 the notice:

13 a. The attorney's license to practice law will be suspended unless the
14 attorney causes the unit to file a withdrawal of the certificate of noncompliance
15 within 30 days of the date of issuance of the notice.

16 b. The attorney must contact the unit to schedule a conference or to
17 otherwise obtain a withdrawal of the certificate of noncompliance.

18 c. The attorney may challenge the supreme court's action under this rule
19 only by filing an application for hearing with the district court in the county
20 where the majority of the liability was incurred.

21 d. The application for hearing must be filed with the clerk of the district
22 court within 30 days of the date of issuance of the notice, and copies of the
23 application must be provided to the unit and the office of professional
24 regulation of the supreme court by regular mail.

25 e. The filing of the application shall automatically stay the supreme court's
26 action on the certificate of noncompliance.

27 f. The provisions of this rule shall prevail over those of any other statute or
28 rule to the extent they may conflict.

29 **35.22(2) ~~35.21(2)~~ District court hearing.**

30 a. Upon receipt of an application for hearing by the attorney, the clerk of the
31 district court shall schedule a hearing to be held within 30 days of the date of
32 filing of the application. The clerk shall mail copies of the order setting hearing
33 to the attorney, the unit, and the office of professional regulation of the
34 supreme court.

35 b. Prior to the hearing, the district court shall receive a certified copy of the
36 unit's written decision and certificate of noncompliance from the unit and a
37 certified copy of the notice from the office of professional regulation of the
38 supreme court.

39 c. If the attorney fails to appear at the scheduled hearing, the automatic
40 stay of the supreme court's action on the certificate of noncompliance shall be
41 lifted.

42 d. The district court's scope of review shall be limited to demonstration of
43 the amount of the liability owed or the identity of the person.

44 e. If the district court concludes the unit erred in issuing the certificate of
45 noncompliance or in refusing to issue a withdrawal of the certificate of
46 noncompliance, the court shall order the unit to file a withdrawal of the

1 certificate of noncompliance with the office of professional regulation of the
2 supreme court.

3 **35.22(3) 35.21(3)** Noncompliance certificate withdrawn. If a withdrawal of
4 the certificate of noncompliance is filed, the supreme court shall curtail any
5 proceedings pursuant to the certificate of noncompliance or, if necessary, shall
6 immediately reinstate the attorney's license to practice law if the attorney is
7 otherwise eligible under rules of the court.

8 **35.22(4) 35.21(4)** Sharing information. Notwithstanding the provisions of
9 any other rule or statute concerning the confidentiality of records, the director
10 of the office of professional regulation of the supreme court is authorized to
11 share information with the unit for the sole purpose of allowing the unit to
12 identify licensees subject to enforcement under Iowa Code chapter 272D.

13
14 **Rule 35.23 35.22 Notification of clients and counsel.**

15
16 **35.23(1) 35.22(1)** In every case in which a respondent is ordered to be
17 disbarred or suspended, the respondent shall do all of the following:

18 a. Within 15 days notify in writing the respondent's clients in all pending
19 matters to seek legal advice elsewhere, calling attention to any urgency in
20 seeking the substitution of another lawyer.

21 b. Within 15 days deliver to all clients being represented in pending matters
22 any papers or other property to which they are entitled or notify them and any
23 co-counsel of a suitable time and place where the papers and other property
24 may be obtained, calling attention to any urgency for obtaining the papers or
25 other property.

26 c. Within 30 days refund any part of any fees paid in advance that have not
27 been earned.

28 d. Within 15 days notify opposing counsel in pending litigation or, in the
29 absence of such counsel the adverse parties, of the respondent's disbarment or
30 suspension and consequent disqualification to act as a lawyer after the
31 effective date of such discipline or transfer to disability inactive status.

32 e. Within 15 days file with the court, agency, or tribunal before which the
33 litigation is pending a copy of the notice to opposing counsel or adverse parties.

34 f. Keep and maintain records of the steps taken to accomplish the foregoing.

35 g. Within 30 days file with the Iowa Supreme Court Attorney Disciplinary
36 Board copies of the notices sent pursuant to the requirements of this rule and
37 proof of complete performance of the requirements, and this shall be a
38 condition for application for readmission to practice.

39 **35.23(2) 35.22(2)** The times set forth in **35.23(1)(c) 35.22(1)(e)** and **35.23(1)(g)**
40 **35.22(1)(g)** of this rule shall be reduced to 15 days for respondents who are
41 exempted from filing an application for reinstatement under rule **35.13 35.12**.

42
43 **Rule 35.24 35.23 Immunity.**

1 **35.24(1) ~~35.23(1)~~** Complaints submitted to the grievance commission or
2 the disciplinary board, or testimony with respect thereto, shall be privileged
3 and no lawsuit predicated thereon may be instituted.

4 **35.24(2) ~~35.23(2)~~** Claims against members of the grievance commission,
5 the disciplinary board, and the director, assistant directors, and the staff of the
6 office of professional regulation are subject to the Iowa Tort Claims Act set
7 forth in Iowa Code chapter 669.

8 **35.24(3) ~~35.23(3)~~** A true copy of any complaint against a member of the
9 grievance commission or the disciplinary board involving alleged violations of
10 an attorney's oath of office or of the Iowa Rules of Professional Conduct and
11 laws of the United States or state of Iowa shall be promptly forwarded to the
12 chief justice of the supreme court.

13
14 **Rule 35.25 ~~35.24~~ Reports.** The chair of the grievance commission and the
15 chair of the disciplinary board shall, on February 1 of each year, submit to the
16 supreme court a consolidated report of the number of complaints received and
17 processed during the prior calendar year, a synopsis of each such complaint,
18 and the disposition thereof. The name of the attorney charged and the name of
19 the complainant shall be omitted, but a synopsis of the charges made and a
20 report of disposition shall be included.

21
22 **Rule 35.26 ~~35.25~~ Effective dates.** These rules shall have prospective and
23 retrospective application to all alleged violations, complaints, hearings, and
24 dispositions thereof on which a hearing has not actually been commenced
25 before the grievance commission prior to the effective date of these rules.

26
27 **Rule 35.27 ~~35.26~~ Costs.**

28
29 **35.27(1) ~~35.26(1)~~** In the event that an order of revocation, suspension, or
30 public reprimand results from formal charges of misconduct, the supreme
31 court shall assess against the respondent attorney the costs of the proceeding.
32 For the purposes of this rule, costs shall include those expenses normally
33 taxed as costs in state civil actions pursuant to the provisions of Iowa Code
34 chapter 625.

35 **35.27(2) ~~35.26(2)~~** Within 30 days of the filing of the commission report, the
36 commission shall serve the complainant and the respondent with a bill of costs
37 and file the bill with the clerk of the supreme court. An appeal does not
38 obviate this requirement. The complainant and the respondent shall have ten
39 days from the date of service to file written objections with the supreme court
40 and the clerk of the grievance commission. Any objections filed shall be
41 considered by the president of the grievance commission division or the
42 president's designee. The president or the designee shall rule on the objections
43 within ten days. The ruling and objections shall be considered by the supreme
44 court upon disposition of the matter under rule 35.11 ~~35.10~~ or 35.12 ~~35.11~~.
45 Additional costs associated with an appeal shall be taxed by the clerk as in
46 other civil actions.

1 **35.27(3) 35.26(3)** In its final decision, the supreme court shall order the
2 respondent to pay restitution to the complainant for such costs as the supreme
3 court may approve. A suspended or disbarred attorney may not file an
4 application for reinstatement or readmission until the amount of such
5 restitution for costs assessed under this rule has been fully paid, or waived by
6 the supreme court.

7
8 **Rule 35.28 35.27 Rules.** The grievance commission and the disciplinary
9 board shall each adopt reasonable rules prescribing the procedure to be
10 followed in all disciplinary proceedings before each such body, which rules
11 shall be subject to approval by the supreme court.

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CHAPTER 36

RULES OF THE GRIEVANCE COMMISSION

Rule 36.10 Subpoenas — Oaths. ~~The chair of the commission, or the president or any member of a division to which a complaint has been referred, or any attorney against whom a complaint has been filed, may request the clerk of the district court of the county in which any disciplinary hearing is held to issue subpoenas of every kind in all matters pending before the commission or division thereof, and the clerk shall issue same. Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter.~~ Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter.

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CHAPTER 39

CLIENT SECURITY COMMISSION

Rule 39.9 Claims

39.9(1) The commission shall consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state acting either as an attorney or fiduciary, provided that all of the following are established:

a. Said conduct was engaged in while the attorney was a practicing member of the bar of this state and the claim arises out of the practice of law in this state. For purposes of this rule, a practicing member of the bar of this state is:

(1) a member of the bar of Iowa whose license is active and in good standing at the time of the dishonest conduct giving rise to the claim, or

(2) a member of the bar of Iowa whose license has been suspended and whom the client reasonably believes to be licensed, active, and in good standing at the time of the dishonest conduct giving rise to the claim. If the lawyer has been suspended more than six months prior to the time of the dishonest conduct giving rise to the claim, it shall be presumed that the client was unreasonable in believing that the lawyer was licensed, active, and in good standing at the time of the dishonest conduct.

The commission shall not consider any claim resulting from conduct engaged in after an attorney's license to practice in Iowa has been revoked.

. . .

Rule 39.15 Denial of reinstatement for failure to comply with certain obligations.

39.15(1) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule ~~35.22~~ 35.21.

39.15(2) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule ~~35.21~~ 35.20.

39.15(3) *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with a support order. The procedure shall be governed by rule ~~35.20~~ 35.19.

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CHAPTER 41

CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.3 Continuing legal education requirement

. . .

41.3(2) The 15 hours required by rule 41.3(1) shall include a minimum of 3 ~~2~~ hours, every two calendar years, devoted exclusively to the area of legal ethics. Excess hours of education devoted to legal ethics can be carried over for purposes of the annual 15-hour requirement under rule 41.3(1) but cannot be carried over beyond the two-year period for special legal ethics requirement under this rule.

. . .

Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.

41.11(1) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.* The supreme court may deny a lawyer’s application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule 35.22 ~~35.21~~.

41.11(2) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer’s application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule 35.21 ~~35.20~~.

41.11(3) *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny a lawyer’s application for reinstatement under rule 41.7 or 41.10 for failure to comply with a support order. The procedure shall be governed by rule 35.20 ~~35.19~~.

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CHAPTER 42

**REGULATIONS OF THE COMMISSION ON
CONTINUING LEGAL EDUCATION**

Rule 42.1 Definitions

For the purpose of these regulations, the following definitions shall apply:

. . .

“Legal ethics” shall mean a separate, designated, and dedicated session of instruction:

- referring to and based on the disciplinary rules or ethical considerations of the ethics or professional responsibility code for lawyers in the jurisdiction where the instruction is presented; or
- designed to help attorneys detect, prevent, or respond to substance abuse or mental illness that impairs professional competence. The instruction must focus on issues in the legal profession and in the practice of law, and not issues of substance abuse or mental health in general.

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CHAPTER 45

CLIENT TRUST ACCOUNT RULES

- Rule 45.1 Requirement for client trust account
- Rule 45.2 Action required upon receiving funds, accounting, and records
- Rule 45.3 Type of accounts and institutions where trust accounts must be established
- Rule 45.4 Pooled interest-bearing trust account
- Rule 45.5 Definition of “allowable monthly service charges”
- Rule 45.6 Lawyer certification
- Rule 45.7 Advance fee and expense payments
- Ryle 45.8 General retainer
- Rule 45.9 Special retainer
- Rule 45.10 Flat fee

Rule 45.2 Action required upon receiving funds, accounting and records.

45.2(1) *Authority to endorse or sign client’s name.* Upon receipt of funds or other property in which a client or third person has an interest, a lawyer shall not endorse or sign the client’s name on any check, draft, security, or evidence of encumbrance or transfer of ownership of realty or personalty, or any other document without the client’s prior express authority. A lawyer signing an instrument in a representative capacity shall so indicate by initials or signature.

~~**45.2(2)** *Maintaining records, providing Aaccounting, and returning funds or property. A lawyer shall maintain complete records of all funds, securities, and other properties of a client coming into the lawyer’s possession and regularly account to the client for them.* Except as stated in this chapter or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and shall promptly render a full accounting regarding such property. Books and records relating to funds or property of clients shall be preserved for at least six years after completion of the employment to which they relate.~~

45.2(3) Maintaining records.

a. A lawyer who practices in this jurisdiction shall maintain current financial records as provided in these rules and required by Iowa Rule of Prof. Conduct 32:1.15, and shall retain the following records for a period of six years after termination of the representation:

(1) receipt and disbursement journals containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee and purpose of each disbursement;

1 (2) ledger records for all client trust accounts showing, for each separate
2 trust client or beneficiary, the source of all funds deposited, the names of all
3 persons for whom the funds are or were held, the amount of such funds, the
4 descriptions and amounts of charges or withdrawals, and the names of all
5 persons or entities to whom such funds were disbursed;

6 (3) copies of retainer and compensation agreements with clients as
7 required by Iowa Rule of Prof. Conduct 32:1.5;

8 (4) copies of accountings to clients or third persons showing the
9 disbursement of funds to them or on their behalf;

10 (5) copies of bills for legal fees and expenses rendered to clients;

11 (6) copies of records showing disbursements on behalf of clients;

12 (7) the physical or electronic equivalents of all checkbook registers, bank
13 statements, records of deposit, pre-numbered canceled checks, and substitute
14 checks provided by a financial institution;

15 (8) records of all electronic transfers from client trust accounts, including
16 the name of the person authorizing transfer, the date of transfer, the name of
17 the recipient and confirmation from the financial institution of the trust
18 account number from which money is withdrawn and the date and time the
19 transfer was completed;

20 (9) copies of monthly trial balances and monthly reconciliations of the
21 client trust accounts maintained by the lawyer, and

22 (10) copies of those portions of client files that are reasonably related to
23 client trust account transactions.

24 b. With respect to trust accounts required by Iowa Rule of Prof. Conduct
25 32:1.15:

26 (1) only a lawyer admitted to practice law in this jurisdiction or a person
27 under the direct supervision of the lawyer shall be an authorized signatory or
28 authorize transfers from a client trust account;

29 (2) receipts shall be deposited intact and records of deposit should be
30 sufficiently detailed to identify each item; and

31 (3) withdrawals shall be made only by check payable to a named payee
32 and not to cash, or by authorized bank transfer.

33 c. Records required by this rule may be maintained by electronic,
34 photographic, computer or other media provided that they otherwise comply
35 with these rules and that printed copies can be produced. These records shall
36 be accessible to the lawyer.

37 d. Upon dissolution of a law firm or of any legal professional corporation,
38 the partners shall make reasonable arrangements for the maintenance of the
39 records specified in this rule.

40 e. Upon the sale of a law practice, the seller shall make appropriate
41 arrangements for the maintenance of the records specified in this rule.

42