

December 19, 2007

ADM File No. 2005-41

Adoption of Rule 19
of the Rules Concerning
the State Bar of Michigan

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following new Rule 19 of the Rules Concerning the State Bar of Michigan is adopted, effective January 1, 2008.

Rule 19 Confidentiality of State Bar Records

- Sec. 1. Except as provided below, in Rule 15, or as otherwise provided by law, records maintained by the state bar are open to the public pursuant to the State Bar of Michigan Access to Information Policy.
- Sec. 2. Records and information of the Client Protection Fund, Ethics Program, Lawyers and Judges Assistance Program, Practice Management Resource Center Program, and Unauthorized Practice of Law Program that contain identifying information about a person who uses, is a participant in, is subject to, or who inquires about participation in, any of these programs, are confidential and are not subject to disclosure, discovery, or production, except as provided in section (3) and (4).
- Sec. 3. Records and information made confidential under section (1) or (2) shall be disclosed:
- (a) pursuant to a court order;
 - (b) to a law enforcement agency in response to a lawfully issued subpoena or search warrant, or;
 - (c) to the attorney grievance commission or attorney discipline board in connection with an investigation or hearing conducted by the commission or board, or sanction imposed by the board.

Sec. 4. Records and information made confidential under section (1) or (2) may be disclosed:

- (a) upon request of the state bar and approval by the Michigan Supreme Court where the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, or
- (b) at the discretion of the state bar, upon written permission of all persons who would be identified by the requested information.

Staff Comment: This new rule was submitted for consideration to the Supreme Court by the State Bar of Michigan to clarify and set out the rules regarding confidentiality of documents and records of the bar. This rule requires that internal information that contains identifying information, including information that relates to the Client Protection Fund, the Ethics Program, the Lawyers and Judges Assistance Program, the Practice Management Resource Center Program, and the Unauthorized Practice of Law Program, be confidential. However, records and documents must be disclosed pursuant to a court order, to a law enforcement agency that submits a warrant or subpoena, or to the Attorney Grievance Commission and Attorney Discipline Board. Confidential information may be disclosed if the public interest in disclosure outweighs the public interest in nondisclosure, or at the discretion of the SBM, with the approval of all persons who would be identified by the requested information.

The staff comment is not an authoritative construction by the Court.