ELC 3.2
CONFIDENTIAL DISCIPLINARY INFORMATION

(a) Scope of Confidentiality. All disciplinary materials that are not public information as defined in rule 3.1(b) are confidential, and are held by the Association under the authority of the Supreme Court, including but not limited to materials submitted to a review committee under rule 8.9 or information protected by rule 3.3(b), rule 5.4(b), rule 5.1(c)(3), a protective order under rule 3.2(e), rule 3.2(b), court order, or other applicable law (e.g., medical records, police reports, etc.).

(b) Restriction on Release of Client Information. Notwithstanding any other provision of this title, no information identified or known to the Association to constitute client information that a lawyer would be required to keep confidential under RPC 1.6 may be released under rule 3.4(c) - (i) unless the client consents, including implied consent under rule 5.1(b).

(c) Investigative Confidentiality. During the course of an investigation or proceeding, the Chief Disciplinary Counsel may direct that otherwise public information be kept confidential if necessary to further the purposes of the investigation. At the conclusion of the proceeding, those materials become public information unless subject to a protective order.

(d) Discipline Under Prior Rules. Discipline imposed under prior rules of this state that was confidential when imposed remains confidential. A record of confidential discipline may be kept confidential during proceedings under these rules, or in connection with a stipulation under rule 9.1, through a protective order under section (e).

(e) Protective Orders. To protect a compelling interest of a grievant, witness, third party, respondent lawyer, or other participant in an investigation, on motion and for good cause shown, the Board Chair, the chair of a review committee to which a matter is assigned, or a hearing officer to whom a matter is assigned may issue a protective order prohibiting the disclosure or release of specific information, documents, or pleadings, and direct that the proceedings be conducted so as to implement the order. Filing a motion for a protective order stays the provisions of this title as to any matter sought to be kept confidential until five days after a ruling is served on the

parties. The Board reviews decisions granting or denying a protective order if either the respondent lawyer or disciplinary counsel requests a review within five days of service of the decision. On review, the Board may affirm, reverse, or modify the protective order. The Board's decision is not subject to further review. A request for review by the Board stays the provisions of this title as to any matter sought to be kept confidential in that request, and the request itself is confidential until a ruling is issued.

(f) Wrongful Disclosure or Release. Disclosure or release, except as permitted by these rules, by any person involved with an investigation or proceeding, either as the Association's officer or agent (including, but not limited to, its staff, members of the Board of Governors, the Disciplinary Board, a review committee, hearing panels, hearing officers, disciplinary counsel, adjunct investigative counsel, a lawyer appointed under rule 7.7, or any other individual acting under authority of these rules) of any information about a pending or completed investigation or proceeding, except as permitted by these rules, may subject that person to an action for contempt of the Supreme Court. If the person is a lawyer, wrongful disclosure or release may also be grounds for discipline.

[Adopted effective October 1, 2002.]