

**MAMA Annual Meeting
October 11, 2018
Crowne Plaza Lansing West Hotel
Lansing, MI**

**MUNICIPAL ATTORNEYS AND
THE MICHIGAN RULES OF PROFESSIONAL CONDUCT
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The Michigan Constitution of 1963 in Article VII, Section 1, vests all judicial power of the state in one court of justice including the supreme court. Section 5 requires that the supreme court adopt general rules to establish, modify, amend and simplify the practice and procedure in all courts of the state.

The Supreme Court established the State Bar of Michigan (SBM) in 1935 by rule making authority. The State Bar of Michigan is a body corporate and its By-Laws provide among other things:

- a. The State Bar of Michigan is an association of the members of the bar of this state, organized and existing as a public body corporate pursuant to powers of the Supreme Court over the bar of the state.
- b. Those persons who are licensed to practice law in this state shall constitute the membership of the State Bar of Michigan.
- c. A person engaged in the practice of law in Michigan must be an active member of the State Bar.

A state statute requires a license to practice law in Michigan. MCL 600.916 Unauthorized practice of law – Michigan attorney must be licensed

Attorneys are admitted to the bar by a court of record, upon a certificate of qualification from the Board of Law Examiners of the SBM. They are then officers of the court.

Michigan attorneys are required to follow the Michigan Rules of Professional Conduct (MRPC). Rule 1(b) provides that failure to comply with the rules is grounds for discipline.

The SMB was originally charged with attorney discipline. This was changed by the Supreme Court with Chapter 9 of the Michigan Court Rules of 1985. The discipline power was bifurcated and the office of Attorney Grievance Commission (AGC) was created to investigate and prosecute attorney misconduct and the Attorney Discipline Board (ADB) was created to adjudicate claims of attorney misconduct and impose discipline, including disbarment. The ADB appoints Hearing Panels for each county to hear the cases. Proceedings are similar to a bench trial.

If a person has a complaint against an attorney, the Rules provide for the filing of a Request for Investigation against an attorney with the AGC. The AGC investigates and if the case has merit, files a complaint with the ADB. The ADB then refers the matter to a hearing panel that holds a hearing and determines if the case has merit and if misconduct has been proven. If misconduct is found, the hearing panel imposes discipline. The order of the hearing panel may be appealed to the ADB and the appeal decision to the Supreme Court.

Municipal Attorneys are not immune from complaints, although such complaints are rare. Some common complaints are:

- No written contract with client
- File not documented
- Attorney led client to high expectations
- Sloppy work
- Attempting work when not qualified
- Not answering telephone calls
- Over billing
- Not communicating billing beforehand
- Neglect of the matter
- Borrowing client funds
- Conflict of interest
- Conviction of a crime

The top three categories of complaints are for 1) criminal law, 2) domestic relations, and 3) probate law.

Some practice tips:

1. An ounce of prevention -have written contract, return telephone calls, etc.
2. Take any Request for Investigation seriously.
3. Read chapter 9 of the Court Rules.
4. File the response timely. Failure to respond is misconduct.
 - a. Always be truthful and respectful in answer and pleadings.
5. If the case may have merit, hire an attorney. This is vital.
6. If a complaint is filed, hire an attorney.
7. Make sure the answer is timely. Failure to file on time is misconduct.
8. Duty to report –
 - a. MRPC 8.5 requires an attorney to report another attorney or judge for significant violation of the rules.
 - b. Duty of CA acting as city prosecutor to report misconduct
 - c. Duty of any attorney to report misconduct
9. Insurance – some malpractice policies have attorney grievance coverage