

CHAPTER 481

ATTORNEYS AT LAW

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481.01 BOARD OF LAW EXAMINERS; EXAMINATIONS. The supreme court shall, by rule from time to time, prescribe the qualifications of all applicants for admission to practice law in this state, and shall appoint a state board of law examiners, which shall be charged with the administration of such rules and regulations and with the examination of all applicants for admission to practice law. The board shall consist of not less than three, nor more than seven, attorneys at law, who shall be appointed each for the term of three years and until his successor qualifies. The supreme court may fill any vacancy in the board for the unexpired term and in its discretion may remove any member thereof. The board shall have a seal and shall keep a record of its proceedings, of all applications for admission to practice, and of persons admitted to practice upon its recommendation. At least two times a year the board shall hold examinations and report the result thereof, with its recommendations, to the supreme court. Upon consideration of such report, the supreme court shall enter an order in the case of each person examined, directing the board to reject him or to issue to him a certificate of admission to practice. The board shall have such officers as may, from time to time, be prescribed and designated by the supreme court. The fee for examination shall be fixed, from time to time, by the supreme court, but shall not exceed \$50. Such fees, and any other fees which may be received pursuant to such rules as the supreme court may promulgate governing the practice of law shall be paid to the state treasurer and shall constitute a special fund in the state treasury. The moneys in such fund are appropriated annually to the supreme court for the payment of compensation and expenses of the members of the board of law examiners and for otherwise regulating the practice of law. The moneys in such fund shall never cancel. Payments therefrom shall be made by the state treasurer, upon warrants of the commissioner of finance issued upon vouchers signed by one of the justices of the supreme court. The members of the board shall have such compensation and such allowances for expenses as may, from time to time, be fixed by the supreme court.

[R L s 2278; 1921 c 161 s 1; 1953 c 167 s 1; 1959 c 384 s 1; 1963 c 718 s 1; 1973 c 492 s 14] (5685)

481.02 UNAUTHORIZED PRACTICE OF LAW. Subdivision 1. Prohibitions. It shall be unlawful for any person or association of persons, except members of the bar of Minnesota admitted and licensed to practice as attorneys at law, to appear as attorney or counselor at law in any action or proceeding in any court in this state to maintain, conduct, or defend the same, except in his own behalf as a party thereto in other than a representative capacity, or, by word, sign, letter, or advertisement, to hold out himself or themselves as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor at law, or in furnishing to others the services of a lawyer or lawyers, or, for a fee or any consideration, to give legal advice or counsel, perform for or furnish to another legal services, or, for or without a fee or any consideration, to prepare, directly or through another, for another person, firm, or corporation, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or, for a fee or any consideration, to prepare for another person, firm, or corporation, any other legal document, except as provided in subdivision 3.

Subd. 2. Corporations. No corporation, organized for pecuniary profit, except an attorney's professional corporation organized under chapter 319A, by or through its officers or employees or any one else, shall maintain, conduct, or defend, except in its own behalf when a party litigant, any action or proceeding in any court in this state, or shall, by or through its officers or employees or any one else, give or assume to give legal advice or counsel or perform for or furnish to another person or corporation legal services; or shall, by word, sign, letter, or advertisement, solicit the public or any person to permit it to prepare, or cause to be prepared, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or hold itself out as desiring or willing to prepare any such document, or to give legal advice or legal services relating thereto or to give general legal advice or counsel, or to act as attorney at law or as supplying, or being in a position to supply, the services of a lawyer or lawyers; or shall to any extent engage in, or hold itself out as being engaged in, the business of supplying services of a lawyer or lawyers; or shall cause to be prepared any person's will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or any other legal document, for another person, firm, or corporation, and receive, directly or indirectly, all or a part of the charges for such preparation or any benefits therefrom; or shall itself prepare, directly or through another, any such document for another person, firm, or corporation, except as provided in subdivision 3.

Subd. 3. What permitted. The foregoing shall not prohibit any one from drawing, without charge for so doing, any document to which he, or a person whose employee he is or a firm whereof he is a member or a corporation whose officer or employee he is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will; and shall not prohibit a person from drawing a will for another in an emergency wherein the imminence of death leaves insufficient time to have the same drawn and its execution supervised by a licensed attorney at law; and shall not prohibit any one, acting as broker for the parties or agent of one of the parties to a sale or trade or lease of property or to a loan, from drawing or assisting in drawing, with or without charge therefor, such papers as may be incident to such sale, trade, lease, or loan; and shall not prohibit any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of such policies; and shall not prohibit one such licensed attorney at law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between said corporations; and shall not prohibit any bona fide labor organization from giving legal advice to its members in matters arising out of their employment; and shall not prohibit any person from conferring or cooperating with a licensed attorney at law of another in preparing any legal document, if such attorney is not, directly or indirectly, in the employ of such person or of any person, firm, or corporation represented by such person; and shall not prohibit any licensed attorney at law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or wherein it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing such document shall not exceed the amount paid to and received and retained by such attorney, and such attorney shall not, directly or indirectly, rebate the same to or divide the same with such corporations; and shall not prohibit any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions or any other conveyances except testamentary dispositions and instruments of trust; and shall not prohibit a licensed attorney at law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom he is employed and by whom no compensation is, directly or indirectly, received for such services; and shall not prohibit any person or corporation engaged in the business of making collections from engaging or turning over to an attorney at law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney at law receives the entire compensation for such work;

and shall not prohibit any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers thereto, made by a licensed attorney at law, if no such answer be accompanied or at any time preceded or followed by any charge for such answer, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for such periodical or any one connected with it or suggested by it, directly or indirectly.

Subd. 4. Mortgage foreclosure fees. It shall be unlawful to exact, charge or receive any attorney's fee for the foreclosure of any mortgage, unless the foreclosure is conducted by a licensed attorney at law of Minnesota and unless the full amount charged as attorney's fee is actually paid to and received and retained by such attorney, without being, directly or indirectly, shared with or rebated to any one else; and it shall be unlawful for any such attorney to make any showing that he has received such a fee unless he has received the same or to share with or rebate to any other person, firm, or corporation such fee, or any part thereof, received by him; but such attorney may divide such fee with another licensed attorney at law maintaining his own place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted and has forwarded the case to the attorney conducting such foreclosure.

Subd. 5. Corporate fiduciary agents. It shall be unlawful for any corporation, appearing as executor, administrator, guardian, trustee, or other representative, to do the legal work in any action, probate proceeding or other proceeding in any court in this state, except through a licensed attorney at law of Minnesota maintaining his own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative. No attorney's fee shall be charged or paid or received in any such case, unless actually paid to and received and retained by such an attorney at law maintaining his own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative; and it shall be unlawful for such attorney to represent in any manner that he has received any sum as a fee or compensation unless the same has been actually received by him or, directly or indirectly, to divide with or rebate to any person, firm, or corporation any part of any such fee or consideration received by him in any such case; but such attorney may divide such fee with another licensed attorney at law maintaining his own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or other representative, if such attorney has assisted in performing the services for which the fees are paid, or resides in a place other than that where the action or proceedings are conducted and has forwarded the case to the attorney conducting the action or proceedings.

Subd. 6. Attorneys of other states. Any attorney or counselor at law residing in any other state or territory wherein he has been admitted to practice law, who shall attend any term of the supreme or district court of this state for the purpose of trying or participating in the trial or proceedings of any action or proceedings there pending, may, in the discretion of the court before which he appears in such action or proceeding, be permitted to try, or participate in the trial or proceedings in, such action or proceeding, without being subject to the provisions of this section, other than those set forth in subdivision 2, providing the state in which he is licensed to practice law likewise grants permission to members of the state bar of Minnesota to act as an attorney for a client in such state under the same terms.

Subd. 7. Lay assistance to attorneys. Nothing herein contained shall be construed to prevent a corporation from furnishing to any person lawfully engaged in the practice of law, such information or such clerical service in and about his professional work as, except for the provisions of this section, may be lawful, provided, that at all times the lawyer receiving such information or such services shall maintain full, professional and direct responsibility to his clients for the information and services so received.

Subd. 8. Penalty; injunction. Any person or corporation, or officer or employee thereof, violating any of the foregoing provisions shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished as by statute provided for the punishment of misdemeanors. It shall be the duty of the respective

county attorneys in this state to prosecute violations of this section, and the district courts of this state shall have sole original jurisdiction of any such offense under this section.

In lieu of criminal prosecution above provided for, such county attorney or the attorney general may, in the name of the State of Minnesota, or in the name of the state board of law examiners, proceed by injunction suit against any violator of any of the provisions above set forth to enjoin the doing of any act or acts violating any of said provisions.

[1931 c 114 s 1; 1959 c 476 s 1; 1969 c 9 s 87; 1974 c 406 s 49] (5687-1)

481.03 ATTORNEYS SHALL NOT EMPLOY SOLICITORS. No attorney at law shall, through any runner, agent or person not an attorney at law who is employed by him, solicit a person to employ such attorney to present a claim for damages for personal injuries or for death, or to prosecute an action to enforce such a claim, and no attorney at law shall, directly or indirectly, give a promise to any such person other than an attorney at law any money, fee or commission in consideration of the employment of such attorney by a person having a claim for personal injuries or for death, or soliciting or procuring such person who has such claim to employ such attorney to present such claim or to prosecute an action for the enforcement thereof.

[1929 c. 289 s. 1] (5687-5)

481.04 SOLICITING OF BUSINESS BY PERSONS OTHER THAN ATTORNEYS; PROHIBITION. It shall be unlawful for any person not an attorney at law to solicit for money, fee or commission, in any manner whatsoever, any demand or claim for personal injuries or for death for the purpose of having an action brought thereon for the purpose of settling the same. Nothing in sections 481.03 to 481.05 shall be construed to prevent any bona fide labor organization or any member thereof from advising or securing advice for any member of such organization in regard to his rights.

[1929 c. 289 s. 2] (5687-6)

481.05 VIOLATIONS; PENALTIES. Subdivision 1. Any attorney at law who shall violate section 481.03 shall be guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not more than 90 days.

Subd. 2. Any person who shall violate section 481.04 shall be guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not to exceed 90 days.

[1929 c. 289 s. 3] (5687-7)

481.06 GENERAL DUTIES. Every attorney at law shall:

- (1) Observe and carry out the terms of his oath;
- (2) Maintain the respect due to courts of justice and judicial officers;
- (3) Counsel or maintain such causes only as appear to him legal and just; but he shall not refuse to defend any person accused of a public offense;
- (4) Employ, for the maintenance of causes confided to him, such means only as are consistent with truth, and never seek to mislead the judges by any artifice or false statement of fact or law;
- (5) Keep inviolate the confidences of his client, abstain from offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness, unless the justice of his cause requires it;

(6) Encourage the commencement or continuation of no action or proceeding from motives of passion or interest; nor shall he, for any consideration personal to himself, reject the cause of the defenseless or oppressed.

[R. L. s. 2281] (5688)

481.07 PENALTIES FOR DECEIT OR COLLUSION. An attorney who, with intent to deceive a court or a party to an action or judicial proceeding, is guilty of or consents to any deceit or collusion, shall be guilty of a misdemeanor; and, in addition to the punishment prescribed therefor, he shall be liable to the party injured in treble damages. If he permit any person not his general law partner to begin, prosecute, or defend an action or proceeding in his name, the attorney giving such permission, and every person so using his name, shall forfeit \$50 to the party against whom the action or proceeding is prosecuted or defended, recoverable in a civil action.

[R. L. s. 2282] (5689)

481.071 MISCONDUCT BY ATTORNEYS. Every attorney or counselor at law who shall be guilty of any deceit or collusion, or shall consent thereto, with intent to deceive the court or any party, or who shall delay his client's suit with a view to his own gain, shall be guilty of a misdemeanor and, in addition to the punishment prescribed by law therefor, he shall forfeit to the party injured treble damages, to be recovered in a civil action.

[R. L. s. 4856] (10044)

481.08 AUTHORITY. An attorney may bind his client, at any stage of an action or proceeding, by agreement made in open court or in the presence of the clerk, and entered in the minutes by such clerk, or made in writing and signed by such attorney. During any proceeding or action the attorney may receive money claimed therein by his client, and within two years after judgment, upon payment thereof, may discharge the claim or acknowledge satisfaction of the judgment; but all such authority shall cease upon the substitution of another attorney.

[R. L. s. 2283] (5690)

481.09 PROOF OF AUTHORITY. A court, upon motion and hearing, and when reasonable grounds are shown, may require any attorney to prove his authority to appear and, until such proof is made, may stay all proceedings by him on behalf of the party he assumes to represent. At any stage of the proceedings the court may relieve a party from the consequences of the unauthorized acts of an attorney and, upon motion, may summarily compel such attorney to repair any injury resulting therefrom.

[R. L. s. 2284] (5691)

481.10 CONSULTATION WITH PERSONS RESTRAINED. All officers or persons having in their custody a person restrained of his liberty upon any charge or cause alleged, except in cases where imminent danger of escape exists, shall admit any resident attorney retained by or in behalf of the person restrained, or whom he may desire to consult, to a private interview at the place of custody. Such custodians, upon request of the person restrained, as soon as practicable, and before other proceedings shall be had, shall notify any attorney residing in the county of the request for a consultation with him. Every officer or person who shall violate any provision of this section shall be guilty of a misdemeanor and, in addition to the punishment prescribed therefor shall forfeit \$100 to the person aggrieved, to be recovered in a civil action.

[R. L. s. 2285] (5692)

481.11 CHANGE OF ATTORNEY. The attorney in an action or proceeding may be changed at any time upon his consent, or, by order of the court, upon the application of the client for cause; but no change can be made on application of the client unless the charges of the attorney be paid. When such change is made, written notice of the substitution of a new attorney shall be given to adverse parties; until such notice, they shall recognize the former attorney.

[R. L. s. 2286] (5693)

481.12 DISABILITY; SUBSTITUTION. When the sole attorney of a party to any action or proceeding in any court of record dies, becomes insane, or is removed or suspended, the party for whom he appears shall appoint another attorney within ten days after the disability arises, and give immediate written notice of the substitution to the adverse party. If he fail to make substitution within such time, the adverse party, at least 20 days before taking further proceedings against him, shall give him written notice to appoint another attorney. When, for any reason, the attorney for a party ceases to act, and the party has no known residence within the state, such notice may be served upon the clerk of the court. In case such party fails either to comply with the notice or appear in person within 30 days, he shall not be entitled to notice of subsequent proceedings in the case.

[R. L. s. 2287] (5694)

481.13 LIEN FOR ATTORNEYS' FEES. An attorney has a lien for his compensation whether the agreement therefor be expressed or implied:

- (1) Upon the papers of his client coming into his possession in the course of his employment;
- (2) Upon money in his hands belonging to his client;
- (3) Upon the cause of action from the time of the service of the summons therein, or the commencement of the proceeding, and upon the interest of his client in any money or property involved in or affected by any action or proceeding in

which he may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of such lien claim, as provided in this section;

(4) Upon money or property in the hands of the adverse party to the action or proceeding in which the attorney was employed, from the time such party is given notice of the lien. If the client has an interest in any real or personal property, whether held by any bailee, pledgee, judgment creditor or otherwise, the attorney shall be entitled to a lien upon such property wherever situated, for the value of his services, whether under a special agreement as to compensation or for the reasonable value thereof, and shall also have a lien for any contributions in money or services which the attorney makes for the preservation of the client's interest in the property or for the enhancement of the value thereof. If the client is not a resident of this state, jurisdiction may be had by service of notice of order to show cause without the state or by mailing a copy thereof to the client outside of the state, without the need of further jurisdictional requirements, provided the property itself is within the State of Minnesota;

(5) Upon a judgment, and whether there be a special agreement as to compensation, or whether a lien is claimed for the reasonable value of the services, the lien shall extend to the amount thereof from the time of giving notice of his claim to the judgment debtor, but this lien is subordinate to the rights existing between the parties to the action or proceeding;

(6) The liens provided by clauses (3), (4), and (5) may be established, and the amount thereof determined, by the court, summarily, in the action or proceeding, on the application of the lien claimant or of any person or party interested in the property subject to such lien, on such notice to all parties interested therein as the court may, by order to show cause, prescribe, or such liens may be enforced, and the amount thereof determined, by the court, in an action for equitable relief brought for that purpose.

Judgment shall be entered under the direction of the court, adjudging the amount due and the sale of the property subjected to the lien, or some part thereof, to satisfy said amount, and directing the sheriff to proceed to sell the same according to the provisions of law relating to the sale of real estate on execution, and to make report to the court.

A certified transcript of the judgment shall be delivered to the sheriff, and shall be his authority for making the sale.

If the property so sold is real estate, the same shall be subject to redemption in the manner provided by law for redemption of real property sold on execution.

Such liens shall not affect the right or title of bona fide purchasers or encumbrancers of the property subject thereto, for value and without notice; but a duly verified notice of intention to claim such lien, specifying the property on which the lien is claimed, and the amount thereof, if under express agreement, or, if not, then the reasonable value of the services for which such lien is claimed, filed as herein provided, shall charge subsequent purchasers and encumbrancers of such property with notice of said lien from the time of such filing.

If the lien is claimed on the client's interest in real estate involved in or affected by the action or proceeding, such notice of intention to claim a lien thereon shall be filed in the office of the register of deeds in and for the county within which the same is situated. If the lien is claimed on personal property the notice shall be filed in the same manner as provided by law for the filing of chattel mortgages.

[R. L. s. 2288; 1917 c. 98; 1939 c. 394] (5695)

481.14 REFUSAL TO SURRENDER PROPERTY TO CLIENTS. When an attorney shall refuse to deliver money or papers to a person from or for whom he has received them in the course of his professional employment, he may be required to do so by an order of court. Such order may be granted by the court in which the action was prosecuted, or, if no action was prosecuted, by the district court of the county where he resides, or by the supreme court, and may require him to make delivery within a time specified, or show cause why he should not be punished for contempt. If the attorney claims a lien upon the property, the court may:

(1) As a condition of making the order, require the client to give security, in form and amount as directed, to satisfy the lien when determined in an action; or

(2) Summarily inquire into and determine the facts upon which the lien claim is founded; or

(3) Direct a trial of the controversy by a jury, or refer it, and determine the same upon the verdict or report as in other cases.

[R. L. s. 2289] (5696)

481.15 REMOVAL OR SUSPENSION. Subdivision 1. Causes. An attorney at law may be removed or suspended by the supreme court for any one of the following causes arising after his admission to practice:

(1) Upon his being convicted of a felony, or of a misdemeanor involving moral turpitude, (in either of which cases the record of conviction shall be conclusive evidence). This clause shall not be construed to apply to a conviction for contempt of court;

(2) Upon a showing that he has knowingly signed a frivolous pleading, or been guilty of any deceit or wilful misconduct in his profession;

(3) For wilful disobedience of an order of court requiring him to do or forbear an act connected with or in the course of his profession;

(4) For a wilful violation of his oath, or of any duty imposed upon an attorney by law.

Subd. 2. Proceedings. Proceedings in such cases may be taken by the supreme court on its own motion, for matter within its knowledge, or upon accusation. Accusations may be made to the clerk of the supreme court and shall be investigated, prosecuted, heard and determined in accordance with rules which may be made, from time to time, by the supreme court. The supreme court may refer any accusation to any person, and such person shall have all the powers of a referee under section 546.36; objections to such referee may be filed within ten days of the appointment and shall be heard and determined by the supreme court. The referee shall report the evidence and, if directed by the supreme court, shall make findings thereon. Persons designated by the supreme court under the authority of this section shall be paid their necessary expenses and such compensation as shall be fixed by the supreme court. Officers and witnesses necessarily employed or called by the prosecution shall receive the fees and mileage allowed by law and the supreme court shall fix a reasonable compensation for the reporter. All expenses, fees and compensation herein authorized shall be paid by the state out of any money in the general fund not otherwise appropriated, upon itemized vouchers approved by one of the justices of the supreme court.

[R. L. s. 2290; 1921 c 334 s 1; 1933 c 79; 1969 c 399 s 49; 1973 c 501 s 17] (5697)

481.16 CERTAIN ATTORNEYS NOT TO DEFEND CERTAIN PROSECUTIONS; PENALTY. Every attorney who shall, directly or indirectly, advise in relation to, or aid or promote the defense of, any action or proceeding in any court, the prosecution of which shall be carried on, aided, or promoted by any person as county attorney or other public prosecutor with whom such attorney shall be, directly or indirectly, connected as partner, or who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court as county attorney or other public prosecutor, shall afterwards, directly or indirectly, advise in relation to, or take any part in, the defense thereof, as attorney or otherwise, or who shall take or receive any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatsoever, expressed or implied, having relation to the defense thereof, shall be guilty of a misdemeanor.

[R. L. s. 5181] (10519)

481.17 COUNTY, CITY, AND SCHOOL DISTRICT ATTORNEYS. In all counties in this state having a population of not more than 12,000, the offices of county attorney, city attorney, and school district attorney shall not be deemed incompatible and may be held by the same person.

[1969 c 649 s 1; 1973 c 123 art 5 s 7]