

IN THE SUPREME COURT OF PENNSYLVANIA

Eastern District

In re: Supreme Court Rules Docket No. 1
Attorneys and Counsellors
Rules of Disciplinary No. 21
Enforcement

O R D E R

AND NOW, March 21, 1972, pursuant to Article V,
Section 10 (c) of the Constitution of Pennsylvania, it is
Ordered and Decreed that:

The Rules of Disciplinary Enforcement, attached
hereto, are hereby adopted and promulgated by the Supreme
Court of Pennsylvania, effective as set forth in Rule 17-25.

BY THE COURT,

/s/ Benjamin R. Jones
Chief Justice

*(Mr. Justice Manderino dissents to Rule 17-5(a), insofar as it does not provide
for any non-members of the bar as members of the Disciplinary Board.)*

INDEX TO RULES OF DISCIPLINARY ENFORCEMENT

Preamble Page 1

A. MISCONDUCT

Rule 17-1	- Jurisdiction	2
Rule 17-2	- Disciplinary Districts	3
Rule 17-3	- Grounds for Discipline	4
Rule 17-4	- Types of Discipline	4
Rule 17-5	- The Disciplinary Board of the Supreme Court of Pennsylvania	5
Rule 17-6	- Hearing Committees	8
Rule 17-7	- Disciplinary Counsel	9
Rule 17-8	- Procedure	10
Rule 17-9	- Immunity	14
Rule 17-10	- Refusal of Complainant to Proceed, Compromise, Etc.	15
Rule 17-11	- Matters Involving Related Pending Civil or Criminal Litigation	15
Rule 17-12	- Substituted Service	16
Rule 17-13	- Subpoena Power, Depositions and Related Matters	16
Rule 17-14	- Attorneys Convicted of Crimes	19
Rule 17-15	- Resignations by Attorneys Under Disciplinary Investigation	21
Rule 17-16	- Reciprocal Discipline	22
Rule 17-17	- Disbarred or Suspended Attorneys	24
Rule 17-18	- Reinstatement	27
Rule 17-19	- Periodic Assessment of Attorneys	29

B. DISABILITY

Rule 17-20	- Proceedings Where an Attorney is Declared to be Incompetent or is Alleged to be Incapacitated	33
Rule 17-21	- Appointment of Counsel to Protect Clients' Interests When Attorney Disappears, Dies or is Transferred to Inactive Status Because of Disability	37

C. MISCELLANEOUS PROVISIONS

Rule 17-22	- Expenses	38
Rule 17-23	- Confidentiality	39
Rule 17-24	- Acts of Assembly Suspended and Court Rules Rescinded	40
Rule 17-25	- Effective Dates	43

RULES
OF
DISCIPLINARY ENFORCEMENT

Preamble

The Supreme Court declares that it has inherent and exclusive power to supervise the conduct of attorneys who are its officers (which power is reasserted in Section 10 (c) of Article V of the Constitution of Pennsylvania) and in furtherance thereof promulgates the following Rules which shall supersede all other court rules and statutes pertaining to disciplinary enforcement heretofore promulgated:

A

MISCONDUCT

Rule 17-1

Jurisdiction

Any attorney admitted to practice law in this Commonwealth or any attorney specially admitted by a court of this Commonwealth for a particular proceeding is subject to the exclusive disciplinary jurisdiction of the Supreme Court and The Board hereinafter established.

Nothing herein contained shall be construed to deny to any other court such powers as are necessary for that court to maintain control over proceedings conducted before it, such as the power of contempt, nor to prohibit bar associations from censuring, suspending or expelling their members from membership in the association.

Rule 17-2

Disciplinary Districts

Disciplinary jurisdiction in this Commonwealth shall be divided into the following Districts:

- (a) District I--the County of Philadelphia.
- (b) District II--the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton and Schuylkill.
- (c) District III--the counties of Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York.
- (d) District IV--the counties of Allegheny, Armstrong, Beaver, Bedford, Butler, Blair, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland.

The Disciplinary District which shall have jurisdiction over an attorney shall be any District in which he maintains an office or the District in which the conduct under investigation occurred.

Rule 17-3

Grounds for Discipline

Acts or omissions by an attorney, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility of the American Bar Association, as from time to time in effect in Pennsylvania, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

Rule 17-4

Types of Discipline

Misconduct shall be grounds for:

- (a) Disbarment by the Supreme Court; or
- (b) Suspension by the Supreme Court for a period not exceeding five years; or
- (c) Public censure by the Supreme Court; or

- (d) Private reprimand by The Disciplinary Board of the Supreme Court of Pennsylvania; or
- (e) Private informal admonition by Disciplinary Counsel.

Rule 17-5

The Disciplinary Board of the Supreme Court of Pennsylvania

(a) The Supreme Court shall appoint a board to be known as "The Disciplinary Board of the Supreme Court of Pennsylvania" (hereinafter referred to as "The Board") which shall consist of nine members of the bar of this ^{Court} ~~Commonwealth~~, one of whom shall be designated by the Court as Chairman and another as Vice-Chairman.

(b) When The Board is first selected, three of its members shall be appointed for a term of one year, three for a term of two years and three for a term of three years. All terms thereafter shall be for two years, and no member shall serve for more than four years or two consecutive two-year terms, except the initial appointees for a three-year term who may serve for five years if reappointed. The Board shall act only with the concurrence of not less than five members. Five members shall constitute a quorum. The terms of members shall commence on April 1.

(c) The Board shall have the power and duty:

(1) To consider and investigate the conduct of any attorney and may initiate any such investigation on its own motion or may undertake the same upon complaint by any person.

(2) To appoint a Chief Disciplinary Counsel, and such Assistant Disciplinary Counsel and staff as may from time to time be required to properly perform the functions hereinafter prescribed. The Chief Disciplinary Counsel and Assistant Disciplinary Counsel are hereinafter referred to as "Counsel".

(3) To appoint three or more hearing committees within each Disciplinary District. Each committee shall consist of three members of the bar of this ^{Court} ~~Commonwealth~~ who maintain an office for the practice of law within that District.

(4) To assign, through its Chairman, formal charges to a hearing committee. The reviewing member of a hearing committee who has passed upon Disciplinary Counsel's recommended disposition of the matter shall be ineligible to serve on the hearing panel.

(5) To review the findings and recommendations

of hearing committees with respect to formal charges and to prepare and forward its own findings and recommendations, together with the record of the proceeding before the hearing committee, to the Supreme Court which shall review such findings and recommendations on the basis of the record and shall enter an appropriate order disposing of the proceeding.

(6) To assign periodically the members of hearing committees within each Disciplinary District to review and approve or modify recommendations by Counsel for dismissals, informal admonitions and institution of formal charges.

(7) To review, upon application by Counsel, a determination by a reviewing hearing committee member that a matter should be concluded by dismissal or by private informal admonition without the institution of formal charges before a hearing committee.

(8) To privately reprimand attorneys for misconduct.

(9) To adopt rules of procedure not inconsistent with these Rules.

The Board shall, to the extent it deems feasible, consult with officers of local bar associations in the

counties affected concerning any appointment which it is herein authorized to make.

Rule 17-6

Hearing Committees

(a) When a hearing committee is first selected, one of its members shall be appointed for a term of one year, another member for a term of two years and the third member for a term of three years. The Board shall designate the chairman for the committee. Thereafter all regular terms shall be three years and no member shall serve for more than two consecutive three-year terms. A member whose term has expired may continue to serve until the conclusion of any formal hearing commenced before him prior to the expiration of his term. A member who has served two consecutive three-year terms may be reappointed after the expiration of one year. The committee shall act only with the concurrence of a majority of its members. Two members shall constitute a quorum. The terms of members shall commence on July 1.

(b) Hearing committees shall have the power and duty:

(1) To conduct hearings into formal charges

of misconduct upon assignment by the Chairman of The Board (see Rule 17-5 (c) (4)).

(2) To submit their findings and recommendations, together with the record of the hearing, to The Board.

(3) To review, by the member assigned, and approve or modify recommendations by Counsel for dismissals, informal admonitions and institution of formal charges.

Rule 17-7

Disciplinary Counsel

(a) Counsel shall not be permitted to engage in private practice except that the Board may agree to a reasonable period of transition after appointment.

(b) Counsel shall have the power and duty:

(1) To investigate all matters involving alleged misconduct called to his attention whether by complaint or otherwise.

(2) To dispose of all matters (subject to review by a member of a hearing committee) involving alleged misconduct by dismissal, informal admonition or the prosecution of formal charges before a hearing committee. Except

in matters requiring dismissal because the complaint is frivolous on its face or falls outside the Board's jurisdiction, no disposition shall be recommended or undertaken by Counsel until the accused attorney shall have been afforded the opportunity to state his position with respect to the allegations against him.

(3) To prosecute all disciplinary proceedings before hearing committees, The Board and the Supreme Court.

(4) To appear at hearings conducted with respect to motions for reinstatement by suspended or disbarred attorneys, to cross-examine witnesses testifying in support of the motion and to marshal available evidence, if any, in opposition thereto.

(5) To maintain permanent records of all matters processed and the disposition thereof.

Rule 17-8

Procedure

(a) Investigation

All investigations, whether upon complaint or otherwise, shall be initiated and conducted by Counsel. Upon

the conclusion of an investigation, Counsel may dismiss, informally admonish the attorney concerned or recommend the prosecution of formal charges before a hearing committee. The recommended disposition shall be reviewed by a member of a hearing committee in the appropriate Disciplinary District who may approve or modify. Counsel may appeal a dismissal or informal admonition directed by a hearing committee member to The Board which may, in its discretion, affirm the dismissal or informal admonition or direct that a formal proceeding be instituted before a hearing committee in the appropriate Disciplinary District and assign it to a hearing committee for that purpose. A respondent-attorney shall not be entitled to appeal an informal admonition by counsel but he may demand as of right that a formal proceeding be instituted against him before a hearing committee in the appropriate Disciplinary District. In the event of such demand, the admonition shall be vacated and the matter disposed of in the same manner as any other formal hearing instituted before a hearing committee.

(b) Formal Hearing

Formal disciplinary proceedings before a hearing committee shall be instituted by filing with The Board a petition setting forth with specificity the charges

of misconduct. A copy of the petition shall be personally served upon the respondent-attorney. The respondent-attorney shall be required to serve his answer upon Counsel and to file the original thereof with The Board within 20 days after the service thereof. In the event the respondent-attorney fails to file an answer, the charges shall be deemed at issue. Following the service of the answer, if there are any issues of fact raised by the pleadings or if the respondent-attorney requests the opportunity to be heard in mitigation, the matter shall be assigned to a hearing committee and Counsel shall serve a notice of hearing upon the respondent-attorney, or his counsel, indicating the date and place of the hearing at least 15 days in advance thereof. The notice of hearing shall advise the respondent-attorney that he is entitled to be represented by counsel, to cross-examine witnesses and to present evidence in his own behalf.

At the conclusion of the hearing, the hearing committee shall in every case submit a report to The Board no later than 60 days after the conclusion of the hearing and submission of briefs, if any, containing its findings and recommendations, together with a record of the proceedings before it. Charges before a hearing committee shall be prosecuted by counsel.

(c) Review by Board and Supreme Court

Upon receipt of a report and recommendation from a hearing committee, The Board shall set the dates for submission of briefs and for oral argument before The Board or a panel of at least three of its members designated by the Chairman. If neither the respondent-attorney nor Counsel objects to the findings and recommendations of the hearing committee, oral argument and submission of briefs may be waived by stipulation, subject to approval by The Board. The Board shall either affirm or modify the recommendation of the hearing committee within 60 days after the conclusion of oral argument or the waiver thereof. In the event that The Board determines that a proceeding should be dismissed, it shall instruct Counsel to so notify the respondent-attorney. In the event that The Board determines that the proceeding should be concluded by private reprimand, it shall arrange through Counsel to have the respondent-attorney appear before it and the Chairman shall deliver the reprimand. In the event that The Board shall determine that the matter should be concluded by public censure, suspension, disbarment, or by private reprimand in cases where the respondent-attorney is unwilling to have the matter concluded by private reprimand, it shall

submit its findings and recommendations, together with the entire record, to the Chief Justice. The Supreme Court shall review the record and enter an appropriate order. Proceedings before The Board shall be prosecuted by Counsel. Proceedings, if any, before the Court shall be conducted by Counsel.

Rule 17-9

Immunity

Complaints submitted to The Board or Counsel shall be confidential. Members of The Board, members of hearing committees, Counsel and staff shall be immune from suit for any conduct in the course of their official duties.

Complaints against members of The Board involving alleged violations of the Code of Professional Responsibility shall be submitted directly to the Supreme Court. Complaints against hearing committee members or Counsel involving alleged violations of the Code of Professional Responsibility shall be submitted directly to The Board.

Rule 17-10

Refusal of Complainant to Proceed, Compromise, Etc.

Neither unwillingness or neglect of the complainant to sign a complaint or to prosecute a charge, nor settlement, compromise or restitution, shall, in itself, justify abatement of an investigation into the conduct of an attorney.

Rule 17-11

Matters Involving Related Pending Civil or Criminal Litigation

Processing of complaints involving material allegations which are substantially similar to the material allegations of pending criminal or civil litigation shall not be deferred unless The Board in its discretion, for good cause shown, authorizes such deferment. In the event a deferment of disciplinary investigation or proceeding is authorized by The Board as the result of pending related litigation, the respondent-attorney shall make all reasonable efforts to obtain the prompt trial and disposition of such pending litigation. In the event the respondent-attorney fails to take reasonable steps to assure prompt disposition of the litigation, the investigation and subsequent disciplinary proceedings

indicated shall be conducted promptly.

The acquittal of the respondent-attorney on criminal charges or a verdict or judgment in his favor in a civil litigation involving substantially similar material allegations shall not in and of itself justify abatement of a disciplinary investigation predicated upon the same material allegations.

Rule 17-12

Substituted Service

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration statement filed by him in accordance with Rule 17-19 (e).

Rule 17-13

Subpoena Power, Depositions and Related Matters

At any stage of an investigation, both Counsel and a respondent-attorney shall have the right to summon witnesses

before a hearing committee and require production of records before the same by issuance of subpoenas.

Said subpoenas shall be obtained by filing with the Prothonotary in the district of the Supreme Court where the subpoena is to be returnable a statement calling for the issuance of the subpoena. On the same day that this statement is filed with the Prothonotary, the party seeking the subpoena shall send by registered mail a copy of said statement to either Counsel or the respondent-attorney as the case may be. Upon the filing of the statement, the Prothonotary shall forthwith issue the subpoena and it shall be served in the regular way.

Said subpoenas shall clearly indicate on their face that the subpoenas are issued in connection with a confidential investigation under these rules, and that it is regarded as contempt of the Supreme Court or grounds for discipline under these rules for a person subpoenaed to in any way breach the confidentiality of the investigation. It shall not be regarded as a breach of confidentiality for a person subpoenaed to consult with an attorney.

All participants in the proceeding shall conduct themselves so as to maintain the confidentiality of the

proceeding.

Any attack on the validity of a subpoena so issued shall be heard and determined by the hearing committee.

Witnesses before hearing committees shall be examined under oath or affirmation.

With the approval of the hearing committee, testimony may be taken by deposition or by commission if the witness is not subject to service of subpoena or is unable to attend or testify at the hearing because of age, illness or other infirmity. A complete record of the testimony so taken shall be made and preserved.

The Subpoena and Deposition procedures shall be subject to the protective requirements of confidentiality provided in Rule 17-23.

Any rule or rules of the Supreme Court or any statute or statutes providing for discovery are not applicable in this type of proceeding, which proceeding shall be governed by these rules alone.

Rule 17-14

Attorneys Convicted of Crimes

(a) Upon the filing with the Supreme Court of a certified copy of an order demonstrating that an attorney has been convicted of a crime which is punishable by imprisonment for one year or upward in this or any other jurisdiction, excluding violations of the Motor Vehicle Code, the Court may enter an order immediately suspending the attorney, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, pending final disposition of a disciplinary proceeding to be commenced upon such conviction.

(b) A certificate of a conviction of an attorney for such a crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against him based upon the conviction.

(c) Upon the receipt of a certificate of conviction of an attorney for such a crime, the Court shall, in addition to any order of suspension it may enter in accordance with the provisions of (a) above, also refer the matter to The Board for the institution of a formal proceeding before a hearing committee in the appropriate Disciplinary District in which

the sole issue to be determined shall be the extent of the final discipline to be imposed, provided that a disciplinary proceeding so instituted will not be brought to hearing until all appeals from the conviction are concluded.

(d) Upon receipt of a certificate of a conviction of any attorney for a crime other than a crime referred to in (a) above, the Court shall take such action as it deems warranted, including the institution of a formal proceeding before a hearing committee in the appropriate Disciplinary District. The Court may in its discretion make no reference with respect to convictions for minor offenses.

(e) An attorney suspended under the provisions of (a) above will be reinstated immediately upon the filing with the Court of a certificate demonstrating that the underlying conviction for such a crime has been reversed, but the reinstatement will not terminate any formal proceeding then pending against the attorney.

(f) The clerk of courts of any court within the Commonwealth in which an attorney is convicted of any crime shall within ten days of said conviction transmit a certificate thereof to the Supreme Court.

(g) Upon being advised that an attorney has been

convicted of a crime within this Commonwealth, Counsel shall determine whether the clerk of courts of the court where the conviction occurred has forwarded a certificate to this Court in accordance with the provisions of (f) above. If the certificate has not been forwarded by the clerk or if the conviction occurred in another jurisdiction, it shall be the responsibility of Counsel to obtain a certificate of the conviction and to transmit it to this Court.

Rule 17-15

Resignations by Attorneys Under Disciplinary Investigation

(a) An attorney who is the subject of an investigation into allegations of misconduct on his part may submit his resignation, but only by delivering to The Board an affidavit stating that he desires to resign and that:

(1) his resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting his resignation;

(2) he is aware that there is a presently pending investigation into allegations that he has been guilty of misconduct the nature of which he shall specifically set

forth;

(3) he acknowledges that the material facts upon which the complaint is predicated are true; and

(4) he submits his resignation because he knows that if charges were predicated upon the misconduct under investigation he could not successfully defend himself against them.

(b) Upon receipt of the required affidavit, The Board shall file it with the Supreme Court and the Court shall enter an order disbarring the attorney on consent.

(c) The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of (a) above shall not be publicly disclosed or made available for use in any other proceeding except upon order of the Supreme Court.

Rule 17-16

Reciprocal Discipline

(a) Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined in another jurisdiction, the Supreme Court shall forthwith issue a notice directed to

the respondent-attorney containing: (1) a copy of said order from the other jurisdiction; and (2) an order directing that the respondent-attorney inform the Court within 30 days from service of the notice, of any claim by the respondent-attorney that the imposition of the identical discipline in this Commonwealth would be unwarranted, and the reasons therefor. Counsel shall cause this notice to be personally served upon the respondent-attorney.

(b) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in the Commonwealth shall be deferred until such stay expires.

(c) Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (a) above, the Supreme Court shall impose the identical discipline unless Counsel or the respondent-attorney demonstrates, or the Court finds that upon the face of the record upon which the discipline is predicated it clearly appears (1) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or (2) there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court could not consistently with its duty accept as final the conclusion

on that subject; or (3) that the imposition of the same discipline would result in grave injustice; or (4) that the misconduct established has been held to warrant substantially different discipline in this Commonwealth. Where the Court determines that any of said elements exist, the Court shall enter such other order as it deems appropriate.

(d) In all other respects, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Commonwealth.

Rule 17-17

Disbarred or Suspended Attorneys

(a) A disbarred or suspended attorney shall promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of his disbarment or suspension and his consequent inability to act as an attorney after the effective date of his disbarment or suspension and shall advise said clients to seek

legal advice elsewhere.

(b) A disbarred or suspended attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, each of his clients who is involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of his disbarment or suspension and consequent inability to act as an attorney after the effective date of his disbarment or suspension. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in his place.

In the event the client does not obtain substitute counsel before the effective date of the disbarment or suspension, it shall be the responsibility of the disbarred or suspended attorney to move in the court or agency in which the proceeding is pending for leave to withdraw.

The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the disbarred or suspended attorney.

(c) Orders imposing suspension or disbarment shall be effective 30 days after entry. The disbarred or suspended attorney, after entry of the disbarment or suspension order,

shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date he may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(d) Within ten days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney shall file with this Court an affidavit showing: (1) that he has fully complied with the provision of the order and with these Rules; (2) all other state, federal and administrative jurisdictions to which he is admitted to practice; and (3) that he has served a copy of such affidavit upon Counsel. Such affidavit shall also set forth the residence or other address of the disbarred or suspended attorney where communications may thereafter be directed to him.

(e) The Board shall cause a notice of the suspension or disbarment to be published in the legal journal and a newspaper of general circulation in the county in which the disciplined attorney maintained his practice.

(f) The Board shall promptly transmit a certified copy of the order of suspension or disbarment to the President

Judge of the Court of Common Pleas in the judicial district in which the disciplined attorney maintained his practice. The President Judge shall make such further order as he deems necessary to fully protect the rights of the clients of the suspended or disbarred attorney.

(g) A disbarred or suspended attorney shall keep and maintain records of the various steps taken by him under these Rules so that, upon any subsequent proceeding instituted by or against him, proof of compliance with these Rules and with the disbarment or suspension order will be available. Proof of compliance with these Rules shall be a condition precedent to any petition for reinstatement.

Rule 17-18

Reinstatement

(a) No attorney suspended or disbarred may resume practice until reinstated by order of the Supreme Court except as provided in Rule 17-19.

(b) A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(c) Petitions for reinstatement by disbarred or suspended attorneys shall be filed with this Court and served upon The Board at least 60 days prior to the return date thereof. Upon receipt of the petition The Board shall refer the petition to a hearing committee in the Disciplinary District in which the respondent-attorney maintained an office at the time of his disbarment or suspension. The hearing committee shall promptly schedule a hearing at which the respondent-attorney shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in law required for admission to practice law in this Commonwealth and that his resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. At the conclusion of the hearing, the hearing committee shall promptly file a report containing its findings and recommendations and transmit same, together with the record, to The Board. The Board shall review the report of the hearing committee and the record and shall file its own findings and recommendations with the Supreme Court, together with the record, on or before the return date of the motion for reinstatement. The motion

shall be placed upon the Argument List for the next session of the Court commencing not less than 30 days after the return date of the motion.

(d) In all proceedings upon a petition for reinstatement, cross-examination of the respondent-attorney's witnesses and the submission of evidence, if any, in opposition to the petition shall be conducted by Counsel.

(e) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and processing of a petition for reinstatement be paid by the respondent-attorney.

Rule 17-19

Periodic Assessment of Attorneys

(a) Every attorney admitted to practice in any court of this Commonwealth shall pay an annual fee of \$25.00. The annual fee shall be collected under the supervision of the Court Administrator of Pennsylvania, hereinafter referred to as "Court Administrator", who shall send and receive, or cause to be sent and received the notices and statements provided for hereafter. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these Rules, and for such other purposes as The Board shall,

with the approval of this Court, from time to time determine.

(b) Judges shall be exempt for such time as they serve in office.

(c) Any attorney who fails to timely pay the fee required under (a) above shall be summarily suspended, provided a notice of delinquency has been forwarded to him by ~~return receipt requested,~~ certified mail, addressed to his last known business address at least 30 days prior to such suspension, unless he shall have been excused on grounds of financial hardship pursuant to procedures to be established by The Board. *

(d) Any attorney suspended under the provisions of (c) above shall be reinstated without further order upon payment of all arrears due from the date of his last payment to the date of his request for reinstatement.

(e) To facilitate the collection of the annual fee provided for in (a) above, all persons required by this Rule to pay an annual fee shall, on or before July 1 of every year, commencing July 1, 1972, file a statement, on a form prescribed by the Court Administrator, setting forth his date of admission to the Supreme Court or, if not admitted in this Court, the dates of admission and courts to which he is admitted, his current residence and office addresses and such other information as the Court Administrator may from time to time direct.

In addition to such statement, every attorney shall file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons first becoming subject to these Rules by admission after July 1, 1972 shall file the statement required by this Rule at the time of admission, but no annual fee shall be payable until the 1st day of July next following such admission.

(f) Within 20 days of the receipt of a statement or supplement thereto filed by an attorney in accordance with the provisions of (e) above, receipt thereof shall be acknowledged, on a form prescribed by the Court Administrator, in order to enable the attorney on request to demonstrate compliance with the requirement of (a) and (e) above. The certificate issued shall distinguish between attorneys admitted to this Court and attorneys not admitted to this Court but admitted to another court of this Commonwealth.

(g) Any attorney who fails to file the statement or supplement thereto in accordance with the requirements of (e) above shall be summarily suspended until he shall have complied therewith, whereupon he shall be reinstated without further order. *

(h) An attorney who has retired or is not engaged in practice shall file a notice in writing that he desires to assume inactive status and discontinue the practice of law. Upon the filing of such notice, the attorney shall no longer be eligible to practice law but shall continue to file the statement required by this Rule for six years thereafter in order that he can be located in the event complaints are made about his conduct while he was engaged in practice. The attorney, however, will be relieved from the payment of the fee imposed by this Rule upon active practitioners.

(i) Upon the filing of a notice to assume inactive status, an attorney shall be removed from the roll of those classified as active until and unless he requests and is granted reinstatement to the active rolls. Reinstatement shall be granted, unless the attorney is subject to an outstanding order of suspension or disbarment, upon the payment of any assessment in effect for the year the request is made and any arrears accumulated prior to transfer to inactive status.

B

DISABILITY

Rule 17-20

Proceedings Where an Attorney is Declared to Be Incompetent
or is Alleged to be Incapacitated

(a) Where an attorney has been judicially declared incompetent or involuntarily committed on the grounds of incompetency or disability, the Supreme Court, upon proper proof of the fact, shall enter an order transferring such attorney to inactive status effective immediately and for an indefinite period until the further order of the Court. A copy of such order shall be served upon such attorney, his guardian, and/or the director of the institution to which he has been committed in such manner as the Court may direct.

(b) Whenever The Board shall petition this Court to determine whether an attorney is incapacitated from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants, the Court may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical

experts as the Court shall designate. If, upon due consideration of the matter, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order transferring him to inactive status on the ground of such disability for an indefinite period and until the further order of the Court. Any pending disciplinary proceeding against the attorney shall be held in abeyance.

The Court shall provide for such notice to the respondent-attorney of proceedings in the matter as it deems proper and advisable and may appoint an attorney to represent the respondent if he is without adequate representation.

(c) If, during the course of a disciplinary proceeding, the respondent contends that he is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which makes it impossible for the respondent to adequately defend himself, the Court thereupon shall enter an order immediately transferring the respondent to inactive status until a determination is made of the respondent's capacity to continue to practice law in a proceeding instituted in accordance with the provisions of (b) above.

If the Court shall determine that the respondent is not incapacitated from practicing law, it shall take such

action as it deems proper and advisable including a direction for the resumption of the disciplinary proceeding against the respondent.

(d) The Board shall cause a notice of transfer to inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the disabled attorney maintained his practice.

(e) The Board shall promptly transmit a certified copy of the order of transfer to inactive status to the President Judge of the Court of Common Pleas of the judicial district in which the disabled attorney maintained his practice and shall request such action under the provision of Rule 17-21 as may be indicated in order to protect the interests of the disabled attorney and his client.

(f) No attorney transferred to inactive status under the provisions of this Rule may resume active status until reinstated by order of this Court. Any attorney transferred to inactive status under the provisions of this Rule shall be entitled to apply for reinstatement to active status once a year or at such shorter intervals as the Court may direct in the order transferring the respondent to inactive status or any modification thereof. Such application shall be granted by the Court upon a showing by clear and convincing

evidence that the attorney's disability has been removed and he is fit to resume the practice of law. Upon such application, the Court may take or direct such action as it deems necessary or proper to a determination of whether the attorney's disability has been removed including a direction for an examination of the attorney by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the attorney.

Where an attorney has been transferred to inactive status by an order in accordance with the provisions of (a) above and, thereafter, in proceedings duly taken, he has been judicially declared to be competent, this Court may dispense with further evidence that his disability has been removed and may direct his reinstatement to active status upon such terms as are deemed proper and advisable.

(g) In a proceeding seeking a transfer to inactive status under this Rule, the burden of proof shall rest with the petitioner. In a proceeding seeking an order of reinstatement to active status under this Rule, the burden of proof shall rest with the respondent-attorney.

(h) The filing of an application for reinstatement to active status by an attorney transferred to inactive status

because of disability shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of the attorney during the period of his disability. The attorney shall be required to disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the attorney has been examined or treated since his transfer to inactive status and he shall furnish to this Court written consent to each to divulge such information and records as requested by court appointed medical experts.

Rule 17-21

Appointment of Counsel to Protect Clients' Interests When Attorney Disappears, Dies or is Transferred to Inactive Status Because of Disability

(a) Whenever an attorney has been transferred to inactive status because of incapacity or disability, or disappears or dies, and no partner, executor or other responsible party capable of conducting the attorney's affairs is known to exist, the President Judge of the appropriate Court of Common Pleas, upon proper proof of the fact, shall appoint an attorney or attorneys to inventory the files of the inactive,

disappeared, or deceased attorney and to take such action as seems indicated to protect the interests of the inactive, disappeared or deceased attorney and his clients.

(b) Any attorney so appointed shall not be permitted to disclose any information contained in any files so inventoried without the consent of the client to whom such file relates except as necessary to carry out the order of the court which appointed the attorney to make such inventory.

C

MISCELLANEOUS PROVISIONS

Rule 17-22

Expenses

The salaries of Counsel and staff, their expenses, administrative costs, and the expenses of the members of The Board and of hearing committees shall be paid by The Board out of the funds collected under the provisions of Rule 17-19. The Board shall annually obtain an independent audit by a Certified Public Accountant of the funds entrusted to it and their disposition and shall file a copy of such audit with this Court.

Rule 17-23

Confidentiality

All proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential until and unless the Supreme Court enters its order for the imposition of public discipline or the respondent-attorney requests that the matter be public or the investigation is predicated upon a conviction of the respondent-attorney for a crime or, in matters involving alleged disability, the Court enters an order transferring the respondent-attorney to inactive status pursuant to Rule 17-20. This provision shall not be construed to deny access to relevant information to authorized agencies investigating the qualifications of judicial candidates, or to other jurisdictions investigating qualifications for admission to practice or to law enforcement agencies investigating qualifications for government employment. In addition, The Board shall transmit notice of all public discipline imposed by the Supreme Court, or transfer to inactive status due to disability, to the National Discipline Data Bank maintained by the American Bar Association.

Rule 17-24

Acts of Assembly Suspended and Court Rules Rescinded

(a) The following Acts of Assembly are suspended to the extent hereinafter set forth:

(1) Clause (6) of Section 202 of the Act of July 31, 1970, No. 223, 17 P.S. §211.202 (6), absolutely.

Note: This clause relates to Supreme Court jurisdiction over appeals from suspension, disbarment and other disciplinary orders in the courts of common pleas.

(2) Section 17 of the Act of May 5, 1911, P.L. 198, 17 P.S. §649 insofar as it relates to suspension or exclusion of attorneys.

Note: This section authorizes the former County Court of Allegheny County to suspend or exclude attorneys from further appearance in that court.

(3) Section 73 of the Act of April 14, 1834, P.L. 333, 17 P.S. §1661, absolutely.

Note: This section provides for the suspension, removal or discipline of attorneys who shall misbehave in office.

(4) Section 74 of the Act of April 14, 1834, P.L. 333, 17 P.S. §1662, absolutely.

Note: This section provides for the disbarment of an attorney who retains money belonging to a client after demand.

(5) The Act of May 19, 1879, P.L. 66, (No. 73), §§1663-64, absolutely.

Note: This act provides for Supreme Court review of proceedings in lower courts relating to unprofessional conduct of attorneys.

(6) The Act of June 4, 1919, P.L. 384, 17 P.S. §§1665-67, absolutely.

Note: This act provides for the issuance of subpoenas upon the application of state or local committees investigating charges against the conduct of attorneys.

(7) Section 2 of the Act of May 8, 1909, P.L. 475 (No. 266), 17 P.S. §1668, absolutely.

Note: This section provides that disbarment or suspension of an attorney by the Supreme Court shall operate as a disbarment or suspension of such attorney in every other court of this Commonwealth.

(b) The following Acts of Assembly are suspended insofar as they are inconsistent with these Rules, to the extent of such inconsistency:

(1) Section 68 of the Act of April 14, 1834,
P.L. 333, 17 P.S. §1602.

Note: This section authorizes the courts of record of this Commonwealth to fix qualifications for the practice of law.

(2) Section 12 of the Act of June 24, 1895,
P.L. 212, 17 P.S. §1604.

Note: This section authorizes the Superior Court to fix qualifications for the practice of law before that Court.

(3) Section 1 of the Act of May 8, 1909,
P.L. 475 (No. 266), 17 P.S. §1605.

Note: This section provides for review of qualifications of attorneys-at-law by local examining boards.

(4) All Acts or parts of Acts inconsistent with the Rules of Disciplinary Enforcement of the Supreme Court of Pennsylvania, to the extent of such inconsistency.

(c) From and after the ultimate effective date of these Rules, Rule 17 of the Supreme Court of Pennsylvania, as well as rules pertaining to discipline of attorneys of any other court within the Commonwealth are rescinded.

Rule 17-25

Effective Dates

The provisions of these Rules insofar as they pertain to the establishment and organization of the new disciplinary system and the registration and assessment of attorneys shall take effect immediately. In all other respects, these Rules shall become effective on ^{Nov. 1, 1972} ~~July 1, 1972~~, and any disciplinary investigation pending on that date shall be transferred to The Board provided that any case then pending with respect to which a formal hearing has been commenced shall be concluded under the procedure existing prior to the effective date of these Rules. These Rules shall not apply to any special judicial investigation in existence at the time of the adoption of these Rules, which, together with any disciplinary proceedings arising therefrom, shall be concluded under the procedure established for the conduct of such investigation.

* (c) Any attorney who fails to timely pay the fee required under (a) above shall be summarily suspended, provided a notice of delinquency has been forwarded to him by certified mail, return receipt requested, addressed to his last known address at least 30 days prior to such suspension, unless he shall have been excused on grounds of financial hardship pursuant to procedures to be established by the Board.." (amended as of January 18,1973)

"(g) Any attorney who fails to file the statement or supplement thereto in accordance with the requirements of (e) above shall be summarily suspended, provided a notice of delinquency has been forwarded to him by certified mail, return receipt requested,. addressed to his last known business address at least 30 days prior to such suspension, until he shall have complied therewith, whereupon he shall be reinstated without further order." (amended as of January 18, 1973)