

Report of the Work of
The Disciplinary Board of the Supreme Court of Pennsylvania
For the Year 1999

The attorney population has increased dramatically since The Disciplinary Board was created by the Supreme Court in 1972. The number of registered attorneys for the 1972-1973 Fiscal Year was **13,057** as compared to **52,735** registered "active" attorneys through December of 1999. The increase in the number of attorneys has been attributed to the increase in the number of complaints filed with the Board. During the year 1999, **4,565** complaints were filed. An average of **380** complaints were filed monthly. **4,639** complaints were disposed of during the year, of which **3,139** were dismissed as lacking substance. At the start of 2000, **883** active complaints were on hand.

Board Meetings - **7** meetings were held during the year of which all were two day meetings. The meetings combined executive and administrative business. At its executive sessions, the Board adjudicated **43** proceedings involving formal charges. **27** matters were disposed of by three member panels of Board Members who reviewed hearing committee members' recommendations for a Private Reprimand (Rule 208(a)(5) Pa.R.D.E.); and **42** respondents appeared before the Board to receive Private Reprimands. In addition to the regularly scheduled meetings, three member panel of Board Members heard oral argument presented before them in **1** matter. Of the **43** major adjudications, **28** were referred to the Supreme Court, together with the Board's Report and Recommendation for public discipline. **19** Supreme Court Orders for Disbarment on Consent resulted from verified statements submitted by respondents. **19** Supreme Court Orders reinstated previously disbarred or suspended attorneys (following hearing on petition for reinstatement). The Supreme Court denied **4** petitions for reinstatement. In addition, **26** petitions for reinstatement to active status after being inactive more than three years, with no discipline being involved, were granted by the Supreme Court. A tabulation of the disciplinary actions taken since the beginning of the Board's operations in 1972 is set forth on the attached sheet.

Rules Committee - The Rules Committee met and considered amendments to various Pennsylvania Rules of Professional Conduct, Pennsylvania Rules of Disciplinary Enforcement and Disciplinary Board Rules and Procedures.

The Committee drafted a new Rule 217(j), Pa.R.D.E. which would limit the law-related activities a disbarred or suspended attorney could engage in. The Board believes that it is beneficial for persons who may seek reinstatement to be able to maintain their

contact with the law because one of the requirements for reinstatement is that a formerly admitted attorney demonstrate competency and learning in law. At the same time, however, the Board is concerned that formerly admitted attorneys not engage in acts constituting the practice of law. In addition, the Board is concerned that formerly admitted attorneys not encounter clients and other parties under circumstances that could lead to the mistaken impression that the formerly admitted attorney is still admitted to practice. This Rule was published for comment and was forwarded to the Supreme Court.

The Committee also reviewed Rules 321 through 329 of the Pa.R.D.E. and is in the process of recommending a number of changes in the rules relating to conservators appointed to protect the interests of clients of absent attorneys. The changes being proposed reflect the experience of the Board with conservatorships under the existing Rules over the past several years. As a result of the expenses the Board incurred in this extraordinary conservatorship and the rising costs of other conservatorships, these amendments also address the issue of compensation and expenses of conservators which include provisions for payment of the compensation at reasonable intervals and at the same hourly rate as court appointed counsel in the judicial district where the conservator was appointed. The Board recently published a Notice of Proposed Rulemaking concerning these amendments. Comments were due by April 14, 2000 and the proposed amendments should be forwarded to the Supreme Court in the near future.

Two other Notices of Proposed Rulemaking were also recently published for comment and will be further addressed by the Rules Committee in the year 2000.

Finance & Pension Committee - In the Spring and Summer of 1999, the Finance & Pension Committee met with the Auditors to review the three year projection prepared by them, the Y2K audit and the draft audit for Fiscal Year 1998-1999.

In addition, the Committee met with the Investment Officers from PNC Bank in Camp Hill to review the quarterly investment reports concerning the general assets of the Board and to make changes to the balanced portfolio, as recommended by the Investment Officers. In the Summer of 1999, the Committee also met with the Investment Officers from PNC Bank in Pittsburgh to review the pension plan performance for year ending June 30, 1999.

Finally, the Committee met to review and approve the Budget for Fiscal Year 1999-2000, monitored the monthly financial reports prepared by the Office of the Secretary, and made recommendations to the Board concerning ways to limit spending and avoid unnecessary expenses.

Education Committee - The Education Committee redesigned the program for the August 1999 training session for new Hearing Committee Members to include a mock hearing to illustrate the procedures used in conducting hearings in the disciplinary system. The new format received very favorable comments from those who participated in the program.

The Education Committee also designed the Program for the Board's Retreat Meeting in the Fall of 1999. The topic was *Multidisciplinary Practice*. Five guest speakers addressed the issues presented by the Report and Recommendation of the Commission on Multidisciplinary Practice which was presented to the ABA House of Delegates at the Annual Meeting in August 1999. The House of Delegates declined to change the rules until further study demonstrates that such practices would further the public interest without sacrificing lawyer independence and loyalty. The Commission will conduct additional hearings around the country and hope to present a new report to the House of Delegates next July. Although the vote has been postponed, the emergence of multidisciplinary practices is undoubtedly one of the most significant and controversial issues facing the legal profession today.

The District of Columbia is the only jurisdiction in the United States which has modified Rule 5.4 to permit partnership and fee sharing with non-lawyers, although even that rule would not permit the type of multidisciplinary practice offered by some of the Big-5 firms outside the United States. The D.C. rule does not give blanket approval to a multidisciplinary practice. It restricts lawyer and non-lawyer partnerships and the sharing of legal fees to organizations that provide legal services to clients.

Bridge the Gap Committee - Charles J. Cunningham, III, one of the Members of the Education Committee is working with Justice Nigro and designated Members from the Board of Law Examiners and the Continuing Legal Education Board in implementing the Bridge the Gap program which is scheduled to be effective for applicants taking the July 2001 bar examination. Periodic reports are provided to the full Board on the design of program subject materials, anticipated budget, testing of applicants, and selection of instructors.

Hearing Committees - In February 1999, the Board approved the establishment of three (3) additional Hearing Committees to serve in the District II area (eastern Pennsylvania). As of December 31, 1999, there were **177** regular hearing committee members and **24** alternate members appointed by the Disciplinary Board who serve on a pro bono basis to conduct hearings.

As was mentioned in the report on the Education Committee, a Training Session for New Hearing Committee Members was held on August 19, 1999 in Hershey. 55 New Members appointed in 1998 and 1999 participated in the program.

A combined Training Session for New Members and Refresher Course for current Members is scheduled for August 3, 2000 in Hershey.

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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CITATION OF AUTHORITY AND DEFINITION OF BOARD'S FUNCTION

Rule 103. Pennsylvania Rules of Disciplinary Enforcement.

The Supreme Court declares that it has inherent and exclusive power to supervise the conduct of attorneys who are its officers and in furtherance thereof promulgates these rules.

(Power is reasserted in Section 10(c) of Article V of the Constitution of Pennsylvania.)

Rule 205(a). Pennsylvania Rules of Disciplinary Enforcement.

The Supreme Court shall appoint a board to be known as "The Disciplinary Board of the Supreme Court of Pennsylvania" which shall be composed of fourteen (14) members of the Bar of this Commonwealth and two (2) non-lawyer electors. One of the members shall be designed by the Court as Chair and another as Vice-Chair.

Rule 205(c). Pennsylvania Rules of Disciplinary Enforcement.

The Board shall have the power and duty:

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

(2) To appoint a Secretary, a Chief Disciplinary Counsel, and such assistant disciplinary counsel and staff as may from time to time be required to properly perform the functions prescribed by these rules.

THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA
Calendar Years

	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Disciplinary Cases:																	
1. Informal Admonition	37	55	95	81	96	102	121	98	113	156	137	125	123	101	110	106	123
2. Private Reprimand	0	7	8	9	7	4	5	5	4	6	9	21	19	27	17	25	31
3. Probation	0	0	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0
4. Public Censure	0	2	5	8	10	7	6	1	1	2	6	1	3	2	3	0	2
5. Suspension	3	12	12	8	10	13	17	8	17	12	7	7	16	5	10	17	17
6. Disbarment	3	4	6	5	13	6	12	12	21	33	24	21	16	29	23	32	18
Total Disciplinary Actions	43	80	126	111	138	143	161	124	156	209	183	175	177	164	163	180	191
Reinstatement Cases:																	
1. Granted	1	2	2	3	3	4	2	6	42	21	22	25	21	17	24	34	27
2. Denied	1	2	2	0	0	3	1	5	4	0	0	2	0	2	1	1	0

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Disciplinary Cases:											
1. Informal Admonition	98	115	82	85	75	74	70	106	88	48	2,620
2. Private Reprimand	26	46	42	30	41	48	31	46	43	26	593
3. Probation	1	1	7	5	5	7	3	8	5	7	52
4. Public Censure	1	4	1	0	1	6	3	3	7	4	89
5. Suspension	18	10	20	12	23	26	37	33	24	23*	417
6. Disbarment	26	27	38	20	32	35	41	40	33	29 ^o	599
Total Disciplinary Actions	170	203	190	152	177	196	185	236	200	137	4,370
Reinstatement Cases:											
1. Granted	34	35	27	29	24	44	31	35	33	45‡	593
2. Denied	1	0	1	1	0	1	0	2	1	4‡	35

* This figure does not include 9 temporary suspensions (Rule 214 Pa.R.D.E.) and 3 temporary suspensions (Rule 208(f) Pa.R.D.E.)

^o This figure includes 19 disbarments on consent (Rule 215 Pa.R.D.E.)

‡ This figure includes 26 reinstatements to active status after being inactive three years or more and who have never been suspended or disbarred; 17 reinstatements after having been suspended and 2 reinstatements after having been disbarred.

‡ This figure includes 2 reinstatements denied after having been suspended and 2 reinstatements denied after having been disbarred.