

Report of the Work of
The Disciplinary Board of the Supreme Court of Pennsylvania
For the Year 2000

General Statistics

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 **53,816** registered "active" attorneys through December of 2000. 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 2000, **4,562** complaints were filed. An average of **380** complaints were filed monthly. **4,644** complaints were disposed of during the year, of which **3,219** were dismissed as lacking substance. At the start of 2001, **801** active complaints were on hand.

Board Activities

During the year 2000, the Disciplinary Board met six (**6**) times. All of these were two day sessions, combining executive and administrative business. At its executive sessions, the Board adjudicated **45** proceedings involving formal charges. 34 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 **22** 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 **4** matters and a single Board Member conducted a violation of probation hearing in **1** matter. Of the **45** major adjudications, **31** were referred to the Supreme Court, together with the Board's Report and Recommendation for public discipline.

Supreme Court Orders

17 Supreme Court Orders for Disbarment on Consent resulted from verified statements submitted by respondents. **3** Supreme Court Orders reinstated previously suspended attorneys (following hearing on a petition for reinstatement). **No** disbarred attorneys were reinstated in 2000. The Supreme Court denied **2** petitions for reinstatement, **1** denied after having been suspended and **1** denied after having been disbarred.. In addition, **32** 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.

Board Committee Activities

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 Rules Committee published Notices of Proposed Rulemaking in *The Pennsylvania Bulletin* soliciting comments on proposed amendments to the following Rules: §85.13 of the Disciplinary Board Rules and Procedure which would require that pleadings and other documents filed in a disciplinary proceeding be verified by the respondent-attorney; Pa.R.D.E. 218(f)(2) which would provide that an attorney suspended for a term not exceeding one year will be required to file a petition for reinstatement if the formerly admitted attorney has been on inactive status for more than three years or if the order of suspension has been in effect for more than three years; and Pa.R.D.E. 321 - 329 to reflect the experience of the Board with conservatorships over the past several years. As a result of the expenses the Board incurred in a number of conservatorships in the last several years, the 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.

Sale of a Law Practice Committee

In August 2000, an ad hoc committee on the issue of "Sale of a Law Practice" was established to again review the proposed new Rule 1.17 submitted by the Pennsylvania Bar Association and to re-write those portions of the Rule which were not acceptable to the Members of the Board. The re-draft was circulated to the members of the ad hoc Committee in October 2000 and final changes were made at the November 2000 Board Meeting. The final version was voted on by mail ballot and was forwarded to the Supreme Court on March 7, 2001. At the November 2000 Board Meeting, a motion was made seconded and passed unanimously to applaud the efforts of Board Member John E. Iole in the successful passage of new Rule 1.17.

Finance & Pension Committee

In February 2000, the Finance & Pension Committee amended the Budget for Fiscal Year 1999-2000 to reflect a 32% increase in medical insurance premiums as a result of three employees who had catastrophic illnesses in the plan year ending December 31, 1999. The Committee determined to review the current medical benefits package for employees with a view of making changes to offset these increasing costs.

In addition, the Committee obtained and reviewed reports from two outside consultants concerning the Board's investment portfolio. The main concern with PNC's investment strategy is that all investment moneys are currently held in Black Rock funds almost exclusively. The Board believed that its funds should be handled by more than one financial consultant in order to insure that the returns are maximized. As a result of the review of these reports, it was determined that the Board obtain proposals from other investment firms with the goal of using three different firms for the Board's investments.

Finally, the Committee met to review and approve the Budget for Fiscal Year 2000-2001, 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.

Ad Hoc Policy Review Committee

At the November 1999 Board Meeting, an ad hoc Committee was established to review the current personnel policies of the Disciplinary Board to ensure that they are compliant with State and Federal law. In August 2000, the Committee reported to the Board and recommended changes to the following policies: a minor change

to the policy concerning medical care packages for retirees; amendment of the Military Leave policy to reflect changes in the Federal Law; amendments to the Hiring Procedure of the Office of Disciplinary Counsel; amendment to the Sexual Harassment policy to include all types of harassment; and recommended adoption of a new Policy for personal computers and internet access.

Education Committee

The Education Committee developed an all-day program for new Hearing Committee Members, as well as the experienced Members, which was held on August 3, 2000. The morning portion of the program consisted of a mock hearing involving allegations of misconduct by an alcohol-impaired attorney. Dr. Richard Limoges served as guest speaker and played the role of the respondent-attorney's treating psychiatrist. In the afternoon, there were breakout sessions for new and experienced Members. 133 Members were in attendance at the program.

The Education Committee also designed the Program for the Board's Retreat Meeting in the Fall of 2000. The topic was titled *Practice of Law in the 21st Century - What Implications Do We Anticipate For Pennsylvania's System of Attorney Discipline?* Discussed during the Retreat Meeting were how to regulate the sale of a Pennsylvania legal practice, internet issues, issues involved with increased attorney movement between firms; discipline for private conduct; and Rule 208(f) suspensions.

Bridge the Gap Program

The concept of a Bridge the Gap Program originated from a Disciplinary Board Retreat Meeting held in October 1994, where one of the topics for discussion was *Preceptorship-Mentoring Program vs. Practical Business Course*. Following a lengthy debate, the consensus of the Board was that the idea of a practical business course be referred to the Education Committee to draft a proposal to the Supreme Court. By letter dated February 13, 1995, then Board Chair, Philip B. Friedman, wrote to you as our liaison Justice proposing that newly admitted attorneys be required to complete a bridge the gap course during their first year of practice. Within a few days, you telephoned Mr. Friedman and expressed the Court's enthusiastic response to the idea and requested the Board develop a proposal to submit to the Supreme Court.

Over the course of the next several years, the Education Committee drafted a program and proposal to implement the course, obtained information from other states concerning their mandatory courses, met with representatives of the Continuing Legal Education Board and the Board of Law Examiners, and wrote to accredited MCLE providers giving them an opportunity to submit proposals to offer this specialized course and requested that they include the attendance fee, if any, participants would be required to pay to attend the course.

In January 1999, a meeting was held in Justice Russell Nigro's chambers to discuss a proposed bridge the gap program. A Bridge the Gap Committee was established and Disciplinary Board Member Charles J. Cunningham, III, served as our Board's representative on that Committee. After seven years, numerous meetings, and much effort on the part of many individuals, Bridge the Gap is now a reality. In the Spring of 2001, the program was offered at Temple Law School, Dickinson Law School, the University of Pittsburgh Law School, and Widener Law School in Harrisburg.

Hearing Committees

As of December 31, 2000, 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 combined Training Session for new Hearing Committee Members and Refresher Course for experienced Members was held on August 13, 2000 in Hershey.

A Training Session has been scheduled for July 25, 2001 for the new Members to be appointed effective July 1, 2001.

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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Board Members Serving During 2000

M. David Halpern, Esq., Board Chair
Angelo L. Scaricamazza, Jr., Esq., Board Vice-Chair
Duke George, Jr., Esq.
William L. Caroxelli, Esq., Past Board Chair
Thomas J. Elliott, Esq.
John E. Iole, Esq.
Mark C. Schultz, Esq.
Christine L. Donohue, Esq.
Charles J. Cunningham, III, Esq.
John W. Morris, Esq.
Richard W. Stewart, Esq.
*J. Michele Peck
Martin W. Sheerer, Esq.
*C. Eugene McLaughlin
Marvin J. Rudnitsky

*non-lawyer members

Principal Staff Member/Contact Person

Elaine M. Bixler
Executive Director & Secretary
Phone: (717) 731-7073

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.