

2006 Membership

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Louis N. Teti, Esq.
Donald E. Wright, Jr., Esq.

Staff

Joseph W. Farrell, *Executive Director*

- * Term as chair expired 4-1-06
- ** Appointed chair 4-1-06
- + Appointed vice chair 4-1-06

Legal Authorization

Pa. Constitution, Article V, § 10(c)
Rule 103, Pa. Rules of Disciplinary Enforcement
Rule 205(a), Pa. Rules of Disciplinary Enforcement
Rule 205(c), Pa. Rules of Disciplinary Enforcement

About the Board

The Disciplinary Board was created by the Supreme Court in 1972 to consider and investigate the conduct of any person subject to the Pennsylvania Rules of Disciplinary Enforcement (Pa.R.D.E.) continued...

Disciplinary Board of the Supreme Court

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Such persons include:

- any attorney admitted to practice law in Pennsylvania
- any attorney from another jurisdiction specially admitted to the bar of the Supreme Court for a particular proceeding
- any disbarred, suspended or inactive attorney, with respect to violation of any rules committed prior to disbarment, suspension or transfer to inactivity
- any jurist with respect to any violation of rules committed prior to taking office, if the Judicial Conduct Board declines jurisdiction
- any attorney who resumes practice of law with respect to any nonjudicial acts performed while in office as a jurist.

Investigations may be initiated by the Disciplinary Board on its own motion or upon complaint from another person. (See Pa.R.D.E. Rules 103, 205(a) and 205 (c)(1)(2).)

2006 Statistics	
Attorneys	58,269
Change from 2005	2.39%
Complaints filed with board	4,767
Change from 2005	1.08%
Pending at start of 2006	1,024
Complaints disposed of	4,908
Total complaints resulting in discipline	305
Total pending at end of 2006	1,092

Table 3.8.1

2006 Activities

Statistics for 2006 can be found in Table 3.8.1 above.

The board met seven times in 2006. The results of the executive sessions can be found in Table 3.8.2 on page 60. A tabulation of the disciplinary actions taken since the beginning of the board’s operations in 1972 is set forth on Table 3.8.3 on page 62.

Comparisons of cumulative actions taken and actions taken in 2006 can be found in Chart 3.8.4 on page 64.

Rules Committee

The following rules changes were approved by either the board or the Supreme Court or became effective in 2006:

Order No. 63 Amending the board’s Rules of Organization and Procedure to make **conforming changes** to reflect adoption of amendments to Pa.R.D.E. 104, 208, 209, 213, 215 and 402. Effective 2-25-06.

Order No. 64 Amending the board’s Rules of Organization and Procedure to establish **time limits** for the filing and service of motions and answers and the scheduling of a hearing before a Hearing Committee member to hear a challenge to a subpoena. Effective 4-1-06.

Pa.R.D.E. 203 and 204: Provides that making a **material misrepresentation** of fact or deliberately failing to disclose a material fact in connection with a bar application is grounds for discipline, and for revocation of an attorney’s admission as a type of discipline in cases involving bar application omissions or misrepresentations. Adopted 3-21-06, effective 4-8-06.

Pa.R.D.E. 214(g): Expands the Court’s authority on actions it may take in cases involving **conviction of an attorney** for a crime other than a serious crime. Adopted 3-28-06, effective 4-15-06.

Order No. 65 Amends the board’s Rules of Organization and Procedure to make **conforming changes** to reflect adoption of amendments to Pa.R.D.E. 208(h), 219(g) and 219(i). Effective 5-20-06.

Pa.R.D.E. 208(g): Assesses an **administrative fee** of \$250 in cases where discipline, other than an informal admonition, is imposed. Adopted 6-28-06, effective 7-15-06.

Order No. 66 Amending the board's Rules of Organization and Procedure to make **conforming** changes to reflect adoption of amendments to Pa.R.D.E. 203(b), 204(a), 208(g) and 214(g). Effective 12-2-06.

Pa.R.D.E. 217(j): Replaces the words "employment" and "employed" with the words "engagement" and "engaged" and clarifies that **formerly admitted attorneys and supervising attorneys** are required to file notices of engagement with the Disciplinary Board and notify the board upon termination of the engagement. Amended 12-11-06, effective 12-23-06 to persons becoming formerly admitted attorneys on or after that date and 1-22-07 to persons who were already formerly admitted attorneys as of 12-23-06.

The following proposals were published for comment in 2006:

Rule of Disciplinary Enforcement 208(g): Amendment to impose an **administrative fee** to be paid by respondent-attorneys in cases resulting in the imposition of any form of discipline more serious than an informal admonition.

§91.3 of the Rules of Organization and Procedure: Amendment to clarify issues concerning **subpoenas**, including providing procedures for service of out-of-state lawyers and for moving to quash subpoenas.

Pennsylvania Bar Admission Rules and the Rules of Disciplinary Enforcement: Amendments relating to misstatements or omissions in **licensure applications**.

Rule of Professional Conduct 1.15 and Rule of Disciplinary Enforcement 221: Amendments relating to **safekeeping property and "Funds of Clients and Third Persons. Mandatory Overdraft Notification."**

Rule of Disciplinary Enforcement 402: Amendment relating to **confidentiality of disciplinary proceedings**.

Education Committee

The Education Committee designed the program for the board's retreat meeting in July 2006. The topics covered were lawyer succession issues and disaster planning.

The board discussed the number of aging lawyers becoming senior citizens and the implications the aging lawyer population has on the profession. The guest speaker was retired board member C. Eugene McLaughlin, who spoke from his perspective as a small business owner about the need for solo practitioners to have a plan in place to ensure that clients are protected in the event the lawyer has died. The board also discussed whether changes should be made to the rules governing conservatorships and the use of Office of Disciplinary Counsel staff attorneys as conservators.

The guest speaker for disaster planning was attorney J. Marc Vezina from New Orleans, Louisiana. Mr. Vezina spoke at length about his law firm's experiences in dealing with Hurricane Katrina. He gave tips on how to prepare for an unexpected disaster, evaluating one's risk level based on office location, considering what documents and records are vital to operations and for the service of clients, taking an inventory of all computer and technical assets in the firm, finding staff after a disaster, determining whether temporary offices will be necessary, reestablishing communications and recovering destroyed documents.

The Education Committee also redesigned the program at the training session for new hearing committee members held on September 21, 2006, in Hershey. Panels discussed topics such as Opening the System, Discipline on Consent, Respondents in Financial Hardship, the Latest Trends in Mitigation and Aggravation, Being on Public Display, Recent Case Law & Rule Changes, A Non-lawyer's Perspective and a Review of Reinstatement Procedure.

Communications Committee

In January 2006 board member Min Suh published an article in *Unidad Latina* to educate at-risk audiences.

Hearings and Hearing Committees

Hearing committee members are ranked based on their experience. Senior members are those who have completed one full three-year term and who have conducted at least three hearings that required the preparation of transcripts and full reports to the board. Experienced members are those who have completed at least one full year of service and who have conducted at least one hearing that required preparation of transcripts and a full report to the board. New members are those who are either still in their first year of service and/or have not yet had a full hearing.

A committee must be composed of at least one senior member and one senior or experienced member. A senior member chairs the committee. Only a senior or experienced member may conduct the mandatory prehearing conference.

As of December 31, 2006, 70 senior members, 73 experienced members and 55 new members were serving on a *pro bono* basis to conduct hearings.

Disciplinary Board Web Site

In late June the board launched its redesigned Web site with the goal of making it more consumer friendly. The new site features

2006 Executive Session Results

Action	Total
Adjudications involving formal charges	58
Board referrals to Supreme Court, including report and recommendation for public discipline	46
Oral arguments before three-member panels of board members	10
Hearing before one board member on petition to revoke or modify probation	1
Considerations by three-member panels of recommendations for summary private reprimands	14
Appeals by Office of Disciplinary Counsel from Review Hearing Committee members before three-member panels	1
Respondents appearing before board or three-member panels to receive private reprimands	21
Approval of filing petitions with the Supreme Court for emergency temporary suspensions	4
Petitions for reinstatement to active status of attorneys inactive more than three years with no discipline involved	72

Table 3.8.2

an attorney section, a consumer section and an attorney look-up section.

The attorney section provides forms for registration and reinstatement, information on registration and reinstatement procedures, options to look up attorneys, frequently asked questions, current copies of the rules and other attorney-related information.

The new consumer section allows consumers to look up attorneys, explains the process for filing a complaint, provides downloadable copies of the complaint form and informational brochures and provides information to better understand how the disciplinary system works.

The attorney look-up section, which can be accessed directly from the home page or from either the attorney or consumer sections, allows users to easily search registered Pennsylvania attorneys to verify public address information, the attorney's current status and date of admission; a history of public discipline, if any; and whether any public proceedings are pending against that attorney.

HALT Report Card

In 2002 the legal reform organization HALT issued its first Lawyer Discipline Report Card. Pennsylvania ranked 51st in the nation with an overall grade of F. In the 2006 Report Card, Pennsylvania had improved to fifth in the

nation, receiving a grade of C+ and honors as the most improved. The report based the improvement on the launching of the board's Web site in 2003, a more organized staff that now provides the American Bar Association with statistics related to its case processing and the opening of the disciplinary system to the public.

While the board appreciates the recognition from HALT, efforts to improve the disciplinary system over the last several years were not made as a result of the report card. Rather, they were in response to the realization that in balancing the rights of respondents against a responsibility to protect the public, opening the disciplinary system in certain cases was warranted and necessary. **AOPC**

Disciplinary Board Actions 1973-1992

Disciplinary Cases	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Informal Admonition	37	55	95	81	96	102	121	98	113	156	137	125	123	101	110	106	123	98	115	82
Private Reprimand	0	7	8	9	7	14	5	5	4	6	9	21	19	27	17	25	31	26	46	42
Probation	0	0	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	1	1	7
Public Censure	0	2	5	8	10	7	6	1	1	2	6	1	3	2	3	0	2	1	4	1
Suspension	3	12	12	8	10	13	17	8	17	12	7	7	16	5	10	17	17	18	10	20
Disbarment	3	4	6	5	13	6	12	12	21	33	24	21	16	29	23	32	18	26	27	38
TOTAL	43	80	126	111	138	143	161	124	156	209	183	175	177	164	163	180	191	170	203	190
Reinstatement Cases																				
Petitions Granted	1	2	2	3	3	4	2	6	42	21	22	25	21	17	24	34	27	34	35	27
Petitions Denied	1	2	2	0	0	3	1	5	4	0	0	2	0	2	1	1	0	1	0	1
TOTAL	2	4	4	3	3	7	3	11	46	21	22	27	21	19	25	36	27	35	35	28

Disciplinary Board Actions 1993-2006

Disciplinary Cases	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total
Informal Admonition	85	75	74	70	106	88	48	45	40	54	58	106	109	77	3,109
Private Reprimand	30	41	48	31	46	43	26	29	35	32	36	34	26	22	807
Probation	5	5	7	3	8	5	7	3	10	8	8	20	24	11	136
Public Censure	0	1	6	3	3	7	4	0	2	2	1	1	2	4	101
Suspension	12	23	26	37	33	24	23	30	27	29	31	38	51	65*	688
Disbarment	20	32	35	41	40	33	29	32	31	42	38	37	37	39+	855
TOTAL	152	177	196	185	236	200	137	139	145	167	172	236	249	218	5,696

Reinstatement Cases	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total
Petitions Granted	29	24	44	31	35	33	45	35	55	64	58	75	72	93#	1,045
Petitions Denied	1	0	1	0	2	1	4	2	3	4	4	2	1	1▲	52
TOTAL	30	24	45	31	37	34	49	37	58	68	62	79	73	94	1,097

* This figure includes 16 suspensions on consent (Rule 215 Pa.R.D.E.) but does not include nine temporary suspensions (Rule 214 Pa.R.D.E.) or three temporary suspensions (Rule 208(f) Pa.R.D.E.)

+ This figure includes 21 disbarments on consent (Rule 215 Pa.R.D.E.).

This figure includes reinstatement to active status of 77 attorneys who had been inactive three or more years, ten reinstatements after suspensions and six reinstatements after disbarment.

▲ This figure is a reinstatement request denied after the attorney had been suspended

Disciplinary Board Actions Comparison



Table 3.8.4