

## 2007 Membership

Gary G. Gentile, Esq., *Chair\**  
Jonathan H. Newman, Esq., *Chair\*\**  
Smith Barton Gephart, Esq., *Vice Chair+*  
Marc S. Baer  
Laurence H. Brown, Esq.  
Carl D. Buchholz, III, Esq.  
Sal Cagnetti, Jr., Esq.  
Stewart L. Cohen, Esq.  
Robert E. J. Curran, Esq.  
Charlotte S. Jefferies, Esq.  
Francis X. O'Connor, Esq.  
William A. Pietragallo, Esq.  
Marc S. Raspanti, Esq.  
Robert C. Saidis, Esq.  
Robert L. Storey  
Min S. Suh, Esq.  
Donald E. Wright, Jr., Esq.

## Staff

Joseph W. Farrell, *Executive Director*

\* Term as chair expired 4-1-07

\*\* Appointed chair 4-1-07

+ Appointed vice chair 4-1-07

## 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

First Floor  
Two Lemoyne Drive  
Lemoyne, PA 17043  
(717) 731-7073  
fax (717) 731-7080  
[www.padisciplinaryboard.org](http://www.padisciplinaryboard.org)

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).)

<b>2007 Statistics</b>	
Attorneys	59,453
Change from 2006	2.03%
Complaints filed with board	4,733
Change from 2006	(0.71)%
Pending at start of 2007	1,092
Complaints disposed of	4,612
Total complaints resulting in discipline	262
Total pending at end of 2007	917

Table 3.8.1

## 2007 Activities

Statistics for 2007 can be found in Table 3.8.1 above.

The board met five times in 2007. The results of the executive sessions can be found in

Table 3.8.2 on page 66. 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 68. Comparisons of cumulative actions taken and actions taken in 2007 can be found in Chart 3.8.4 on page 70.

## Rules Committee

The following rules changes were approved by the Supreme Court in 2007:

**Pa.R.D.E. 219(d):** Amendment to require that attorneys provide their current residence and office **addresses** on their attorney annual fee forms. They may also provide a preferred mailing address different from those addresses. Attorneys are also required to select one of the three addresses for public access through the board’s Web site or upon written or oral request. Adopted 4-10-07, effective 4-28-07.

**Pa.R.D.E. 402:** Repeal of Rule 402(c)(4) and addition of new Rule 402(k) to provide that a **formal proceeding** that becomes open to the public will subsequently be closed if it results in the imposition of private discipline or dismissal. Adopted 5-23-07, effective 6-9-07.

**Pa.R.D.E. 102:** Amendment to lower the criteria by which an experienced **hearing committee member** would be eligible for promotion to senior hearing committee member. Adopted 6-26-07, effective 7-14-07.

The following proposals were published for comment in 2007:

**Rule of Professional Conduct 1.15 and Rule of Disciplinary Enforcement** relating to **Safe-keeping Property and Funds** of Clients and Third Persons—Mandatory Overdraft Notification.

**Rule of Disciplinary Enforcement 402** relating to **Confidentiality of Disciplinary Proceedings.**

### *Education Committee*

The Education Committee designed the program for the board's retreat meeting in July 2007. The topics were "Rule 6.5—Pro Bono Limited Legal Services to Clients", "Aging & Infirm Lawyers" and "Review of Reinstatement Procedures for Inactive Attorneys."

Rule 6.5 guest speaker was J. Richard Narvin, chief counsel of the Allegheny County Office of Conflict Counsel. The group discussed the impact Rules 1.2, 6.1 and 6.5 have on *pro bono* organizations that provide limited legal services to clients.

On the subject of aging and infirm lawyers, the group reviewed the final report of the National Organization of Bar Counsel and the Association of Professional Responsibility Lawyers (NOBC-APRL) Joint Committee on Aging Lawyers.

The board discussed the current reinstatement procedures for inactive status, reviewed the history of how these rules have changed over the years and discussed whether inactive attorneys should be charged an annual fee and whether an attorney who fails to pay the annual fee should be administratively suspended for non-payment as opposed to transferred to inactive status.

The Education Committee also redesigned the program at the training session for new hearing committee members, held September 11, 2007, in Hershey. Program topics included a review of the Hearing Committee's role in the discipline process; the practicalities of serving as members; types of discipline and how to determine discipline; the latest trends in both mitigation and aggravation and a review of recent changes in the system, opinions handed down by the Supreme Court and changes in the rules. Board members and staff presented the program, along with guest speaker Ellen C. Brotman, who brought the perspective from respondents' counsel.

### *Communications Committee*

In September 2007, the board approved the production of a DVD to educate attorneys and consumers on the disciplinary system in Pennsylvania by providing a general overview in a manner that is brief, interesting and easy to understand. Once produced, the DVD will be available for viewing on the board's Web site and can be provided to consumer associations and organizations.

The chair of the Communications Committee reviewed a number of requests from attorneys to discontinue public access to their address information. The majority of requests received and approved in 2007 were from attorneys who were either active and not practicing law or were on inactive status and had no office address. A few requests citing safety and/or security issues were also approved.

### *Hearings and Hearing Committees*

Hearing committee members are ranked based on their experience. Historically, 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. Effective in July 2007, however, the Supreme Court approved an amendment to Pa.R.D.E. 102 to lower the criteria by which an experienced committee member is eligible for promotion to senior member. The board requested this change due to the increasing number of cases where hearings into formal charges are stayed pending resolution of joint petitions for discipline on consent and the number of joint petitions that have been approved. Senior members must now have completed one term and have conducted at least two hearings into formal charges of misconduct.

Experienced members are those who have completed at least one full year of service and who have conducted at least one hearing

into formal charges of misconduct. New members are those who are either still in their first year of service or have not yet had a full hearing.

As a result of the rule change, of the 35 experienced members who were eligible for reappointment to a second term on July 1, 2007, 33 were also eligible for promotion to senior status as opposed to only 15 members who would have been eligible under the prior rule.

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.

New procedures were put in place to try to eliminate overdue Hearing Committee Reports. After the briefing schedule has passed, committee members are sent reminder letters by the board secretary. A week or two before the report is due, counsel to the board calls the committee chair to remind him/her of the upcoming due date and to offer assistance, if needed. Since the establishment of this new procedure, no reports have been overdue.

As of December 31, 2007, 90 senior members, 68 experienced members and 39 new members were serving on a *pro bono* basis to conduct hearings.

**Disciplinary Board Web Site**

One of the board’s goals is to better inform the public when attorneys receive

<b>2007 Executive Session Results</b>	
<b>Action</b>	<b>Total</b>
Adjudications involving formal charges	48
Board referrals to Supreme Court, including report and recommendation for public discipline	37
Oral arguments before three-member panels of board members	10
Considerations by three-member panels of recommendations for summary private reprimands	8
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	16
Hearings on petitions to revoke and/or modify probation	4
Approval of filing petitions with the Supreme Court for emergency temporary suspensions	2
Petitions for reinstatement to active status of attorneys inactive more than three years with no discipline involved	56

**Table 3.8.2**

discipline. To this end, in late October 2007, the board added a new component to its Web site to assure the public is informed of recent Supreme Court actions taken against attorneys.

The new Discipline Table, available from the main page, lists discipline against attorneys for the previous 60 days. It includes the attorney’s name; the date of the order; action taken and, where available, a link to the board’s report or joint petition for discipline on consent. The information is added within 24 business hours of a Supreme Court order being entered.

Users can also access discipline going back to 2004, and these tables can easily be sorted by date, attorney last name, type of

action taken, county where the attorney is located or attorney ID number.

### *Lobbying Disclosure Law*

With the passage of Act 134 of 2006, the Lobbying Disclosure Law, a bi-partisan Lobbying Disclosure Regulations Committee was formed to create a new system for lobbying regulation and disclosure in Pennsylvania. The Department of State, State Ethics Commission, attorney general and Disciplinary Board have responsibility for administration and enforcement of the law. Laura K. Mohney, counsel to

to the Disciplinary Board, was appointed to serve on the committee.

### *Disposition of Complaints*

At the request of the board, the chief disciplinary counsel, the executive director and the secretary of the board have taken steps to speed up the disposition of complaints. The board is cognizant of the fact that complainants and respondents deserve to have cases handled in a timely manner. A number of changes in procedures and productivity have served to significantly cut down the time it takes to process a case.

**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
<b>TOTAL</b>	<b>43</b>	<b>80</b>	<b>126</b>	<b>111</b>	<b>138</b>	<b>143</b>	<b>161</b>	<b>124</b>	<b>156</b>	<b>209</b>	<b>183</b>	<b>175</b>	<b>177</b>	<b>164</b>	<b>163</b>	<b>180</b>	<b>191</b>	<b>170</b>	<b>203</b>	<b>190</b>
<b>Reinstatement Cases</b>																				
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
<b>TOTAL</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>11</b>	<b>46</b>	<b>21</b>	<b>22</b>	<b>27</b>	<b>21</b>	<b>19</b>	<b>25</b>	<b>36</b>	<b>27</b>	<b>35</b>	<b>35</b>	<b>28</b>

## Disciplinary Board Actions 1993-2007

Disciplinary Cases	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Informal Admonition	85	75	74	70	106	88	48	45	40	54	58	106	109	77	85	3,109
Private Reprimand	30	41	48	31	46	43	26	29	35	32	36	34	26	22	16	807
Probation	5	5	7	3	8	5	7	3	10	8	8	20	24	11	6	136
Public Censure	0	1	6	3	3	7	4	0	2	2	1	1	2	4	3	101
Suspension	12	23	26	37	33	24	23	30	27	29	31	38	51	65	48*	688
Disbarment	20	32	35	41	40	33	29	32	31	42	38	37	37	39	25+	855
<b>TOTAL</b>	<b>152</b>	<b>177</b>	<b>196</b>	<b>185</b>	<b>236</b>	<b>200</b>	<b>137</b>	<b>139</b>	<b>145</b>	<b>167</b>	<b>172</b>	<b>236</b>	<b>249</b>	<b>218</b>	<b>183</b>	<b>5,696</b>

Reinstatement Cases	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Petitions Granted	29	24	44	31	35	33	45	35	55	64	58	75	72	93	64#	1,045
Petitions Denied	1	0	1	0	2	1	4	2	3	4	4	2	1	1	2▲	52
<b>TOTAL</b>	<b>30</b>	<b>24</b>	<b>45</b>	<b>31</b>	<b>37</b>	<b>34</b>	<b>49</b>	<b>37</b>	<b>58</b>	<b>68</b>	<b>62</b>	<b>79</b>	<b>73</b>	<b>94</b>	<b>66</b>	<b>1,097</b>

\* This figure includes 19 suspensions on consent (Rule 215 Pa.R.D.E.) but does not include eight temporary suspensions (Rule 214 Pa.R.D.E.) or eight temporary suspensions (Rule 208(f) Pa.R.D.E.)

+ This figure includes 13 disbarments on consent (Rule 215 Pa.R.D.E.).

# This figure includes reinstatement to active status of 47 attorneys who had been inactive three or more years, twelve reinstatements after suspensions and five reinstatements after disbarment.

▲ This figure includes one reinstatement request denied after the attorney had been suspended and one reinstatement denied after the attorney had been disbarred.

