

**Disciplinary  
Board  
of the  
Supreme  
Court**

**1999 Membership:**

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**Staff:**

Elaine M. Bixler, *Executive Director & Secretary*

**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

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## History/Background

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.). Such persons include:

- any attorney admitted to practice law in Pennsylvania
- any attorney of 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 justice, judge or district justice, 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 justice, judge or district justice.

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).

Through December 1999, 52,735 active attorneys were registered in Pennsylvania, an increase of 0.79% over 1998.

During 1999, 4,565 complaints were filed with the Disciplinary Board, an average of 380 per month and a decrease of 5.78% from last year. Of these 4,565 plus the 957 complaints active at the start of the year, 4,639 complaints, or 84.01%, were disposed of, including 3,139 dismissed as "frivolous." At the start of 2000, 883 active complaints remained.

## 1999 Activities

The board held seven meetings in 1999. The results of the executive sessions can be

found in Table 3.8.1 on page 75. A tabulation of the disciplinary actions taken since the beginning of the board's operations in 1972 is set forth on Table 3.8.2 on page 77. Comparisons of cumulative actions taken and actions taken in 1999 can be found in Chart 3.8.3 on page 79.

## Rules Committee

The Rules Committee met and considered amendments to various Pennsylvania Rules of Professional Conduct (Pa.R.P.C.), Pa.R.D.E., and Disciplinary Board Rules and Procedures (D.B.R.P.).

The committee drafted 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 board's experience with conservatorships under the existing rules over the past several years. As a result of the expenses the board incurred in one extraordinary conservatorship and the rising costs of other conservatorships,

these amendments also address the issue of compensation and expenses of conservators. This includes 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 will publish the recommendation for comment early in 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 the 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.

1999 Executive Session Results	
Action	Total
Adjudications involving formal charges	43
Cases resolved by three-member panels of board members who reviewed hearing committee members' recommendations for private reprimand [Rule 208(a)(5) Pa. R.D.E.]	27
Respondents appearing before board to receive private reprimands	42
Oral arguments before three-member panels of board members	1
Board referrals to Supreme Court, including report and recommendation for public discipline	28
Supreme Court orders for disbarment on consent (resulting from verified statements submitted by respondents)	19
Supreme Court orders reinstating previously disbarred or suspended attorneys*	19
Supreme Court denials for reinstatement	4
Petitions for reinstatement to active status to attorneys inactive more than three years with no discipline involved	26
*Action taken following hearing on petition for reinstatement.	

Table 3.8.1

*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 American Bar Association House of Delegates at the association's 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 hopes 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 Supreme Court Justice Russell M. 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 additional Hearing Committees to serve in the District II area (eastern Pennsylvania). As of December 31, 1999, 177 regular hearing committee members and 24 alternate members appointed by the Disciplinary Board were serving on a *pro bono* basis to conduct hearings.

As was mentioned in the section on the Education Committee, a training session for new Hearing Committee members was held on August 19, 1999, in Hershey. Fifty-five new members appointed in 1998 and 1999 participated.

A combined training session for new members and a refresher course for current members is scheduled for August 3, 2000, in Hershey.

## Contact Person

Anyone having questions about the Disciplinary Board may contact Elaine M. Bixler, Secretary to the Board, at (717) 731-7073 or write in care of the board to First Floor; Two Lemoyne Drive; Lemoyne, PA 17043. 