

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to Referral of Respondent-Attorneys to Mental Health Agencies

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Supreme Court of Pennsylvania that it amend Rule 402 of the Rules of Disciplinary Enforcement as set forth in Annex A to permit Chief Disciplinary Counsel to refer respondent-attorneys to mental health agencies for help with problems such as alcoholism or substance abuse.

The Board has found that respondent-attorneys who receive treatment from qualified mental health agencies or programs dealing with alcoholism or substance abuse often benefit substantially from treatment by those agencies or participation in those programs. As a result, the Office of Disciplinary Counsel will often informally recommend to a respondent-attorney believed to be suffering from mental health or addiction problems that the respondent-attorney contact such an agency or program. For a number of reasons, respondent-attorneys sometimes ignore those recommendations. The Board is considering recommending to the Supreme Court that it amend the Rules of Disciplinary Enforcement to permit Chief Disciplinary Counsel to independently contact those types of agencies or programs with a request that the agency or program contact the respondent-attorney. To protect the respondent-attorney, the new rule would require that the Board have (i) previously reviewed the competency of the agency or organization conducting the program and (ii) entered into a confidentiality agreement with the agency or organization to protect the identity of the respondent-attorney. As a further safeguard, only Chief Disciplinary Counsel would have the authority to contact the agency or program.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before April 15, 2002.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Executive Director and Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter D. MISCELLANEOUS PROVISIONS

Rule 402. Confidentiality.

(a) [All] Except as provided in subdivision (c), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential until or unless:

* * * * *

(c) It shall not be a violation of subdivision (a) for Chief Disciplinary Counsel to disclose the identity of and contact information for a respondent-attorney reasonably believed to be suffering from mental health or addiction problems to an agency or organization approved by the Board under this subdivision. An agency or organization may be approved under this subdivision if:

(1) the Board finds that the agency or organization is competent to help people suffering from mental health or addiction problems; and

(2) the agency or organization executes a confidentiality agreement on a form prescribed by the Board pursuant to which the agency or organization agrees that:

(i) the identity of any respondent-attorney referred to it and the fact that there is a proceeding under these rules pending against the respondent-attorney shall be kept confidential; and

(ii) it will ensure that all of its employees and anyone else connected with it in any capacity will maintain the confidentiality of the information described in the preceding paragraph.

Official Note: If a lawyer receives confidential information under subdivision (c), the lawyer shall be subject to Rule 8.3(c) of the Pennsylvania Rules of Professional Conduct with respect to that information.

[Pa.B. Doc. No. 02-374. Filed for public inspection March 8, 2002, 9:00 a.m.]

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 89]

Amendments to the Rules of Organization and Procedure of the Board Relating to Prehearing Conferences

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering amend-

ing its Rules of Organization and Procedure as set forth in Annex A to require the holding of a prehearing conference in all proceedings before a hearing committee or special master.

The rules of the Board provide for the holding of optional conferences either before or during a hearing, but do not require a prehearing conference in all cases. 204 Pa. Code § 89.71. The Board believes that the hearing process could be improved if a prehearing conference were always required. The Board is accordingly proposing to amend its rules to require the scheduling in all cases of a prehearing conference to be held not less than 30 days before a hearing.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before April 15, 2002.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Executive Director and Secretary
Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter B. INSTITUTION OF PROCEEDINGS

§ 89.57. Scheduling of hearing and prehearing conference.

The date, time and place of hearing on a petition for discipline shall be scheduled by the Office of the Secretary after consultation with and consideration of any recommendations by the members of the hearing committee or special master, the Office of Disciplinary Counsel, and, if available, the respondent-attorney. The date fixed for the hearing shall not be later than **[60] 90** days after the file is transmitted to a hearing committee or special master under § 89.56 (relating to assignment for hearing), unless an extension has been granted by the Board Chairman at the request of any party. **At the time that the hearing is scheduled, the Office of the Secretary shall also schedule a prehearing conference for a date not less than 30 days before the scheduled date of the hearing.**

§ 89.58. Notice of hearing and prehearing conference.

The Office of the Secretary shall serve or cause to be served notice of the hearing and prehearing conference required by § 89.57 (relating to scheduling of hearing and prehearing conference) by means of Form DB-34 (Notice of Hearing and Prehearing Conference) upon the respondent-attorney, at least seven days in advance of the date fixed for the **[hearing] prehearing conference**. The notice shall indicate the **[date, time and place] dates, times and places of the prehearing conference and the hearing** and shall state that the respondent-attorney is entitled to be represented by counsel, to cross-examine witnesses and to present evidence in the respondent-attorney's own behalf. A copy of the notice **[of hearing]** shall at the same time be transmitted to staff counsel. See § 89.7(b) (relating to continuances).

Subchapter C. HEARING PROCEDURES

PREHEARING CONFERENCES

§ 89.72. Subjects which may be considered at conferences to expedite hearings.

At **[any]** the prehearing **[or]** conference required by § 89.57 (relating to scheduling of hearing and prehearing conference) and any other conferences which may be held to expedite the orderly conduct and disposition of any hearing, there may be considered, in addition to any offers of settlement permitted under § 89.71 (relating to conferences to expedite proceedings), the possibility of the following:

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[Pa.B. Doc. No. 02-375. Filed for public inspection March 8, 2002, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SOMERSET COUNTY

Consolidated Rules of Court; No. 14 Misc. 2002

Adopting Order

And Now, this 20th day of February, 2002, it is hereby Ordered:

1. Somerset Rule of Criminal Procedure 590 (Som.R.Crim.P. 590), Guilty Pleas—Time For Acceptance, is amended to read in its entirety as reflected in revised Som.R.Crim.P. 590 effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

2. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the attached Rule with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order and the following Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and following Rule with the Pennsylvania Criminal Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these Rules, which shall include a copy of each transmittal letter.

By the Court

EUGENE E. FIKE, II,
President Judge

Som.R.Crim.P. 590. Guilty Pleas. Time For Acceptance.

A. A guilty plea pursuant to a plea arrangement must be tendered on or before the date of the Scheduling Conference for the trial session in which the case is listed for trial. After the date of the Scheduling Conference, the Court will not accept a guilty plea pursuant to a plea arrangement in a case on the current trial list, and will

accept only a general plea of guilty or straight plea of guilty as charged, absent a showing of extraordinary circumstances.

B. When a guilty plea is entered, the District Attorney shall cause the information or plea to be endorsed with the name of the presiding Judge.

[Pa.B. Doc. No. 02-376. Filed for public inspection March 8, 2002, 9:00 a.m.]
