

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

[ 204 PA. CODE CH. 83 ]

#### Proposed Amendments to the Comments to Pennsylvania Rules of Disciplinary Enforcement Relating to Annual Registration of Attorneys—Status Changes

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is planning to recommend to the Supreme Court of Pennsylvania that it adopt amendments to the Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) 219(k) relating to the administrative change in status from administrative suspension to inactive status, as set forth in Annex A.

Pa.R.D.E. 219 governs the annual registration of attorneys. Pursuant to this rule, an attorney who fails to timely register, or who fails to comply with Continuing Legal Education obligations, will be transferred to administrative suspension. Our rules provide that an attorney who is on administrative suspension for three years or more must petition for reinstatement to the Supreme Court of Pennsylvania in order to resume active status. Where an attorney is administratively suspended for less than three years, Pa.R.D.E. 219 permits the Attorney Registration Office to administratively change the attorney’s status. These status changes are contingent upon the attorney’s fulfillment of certain requirements set forth in the Rule.

Current paragraph (h) permits a clerical change in status for an attorney who has been administratively suspended for three years or less to active status as follows:

(h) An attorney who has been administratively suspended pursuant to subdivision (f) for three years or less is not eligible to file the annual fee form electronically. The procedure for reinstatement is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment penalties required by paragraph (3);
- (iv) any unpaid collection fee; and
- (v) a reinstatement fee of \$300.00.

Current paragraph (k) permits a clerical change in status from administrative suspension to inactive status as follows:

(k) An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office

shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

- (1) the annual form required by subdivision (d);
- (2) payment of the annual fee required by subdivision (j)(1);
- (3) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and
- (4) payment of an administrative processing fee of \$100.00.

The requirements of paragraphs (h) and (k) are similar, except for the fee requirements. In addition to the current annual fee, late payment penalties, unpaid collection fees and a reinstatement fee, paragraph (h)(1)(ii) requires an attorney who is administratively suspended and seeks to resume active status to pay the annual fee that was due in the year in which the attorney was administratively suspended. Paragraph (k) requires an attorney to pay the annual fee, collection fees, late payment penalties and an administrative processing fee, but does not direct an administratively suspended attorney to pay the fee that was due in the year in which the attorney was administratively suspended.

The reason for requiring an attorney to pay the annual fee that was due in the year he or she was administratively suspended is to collect an unpaid fee owed to the Board. This reason should apply to both administratively suspended attorneys seeking to resume active status and administratively suspended attorneys seeking to resume inactive status. For this reason, and for administrative ease in processing status change requests in a uniform manner, the Board proposes an amendment to paragraph (k)(3) to require that an administratively suspended attorney must pay the annual fee that was due in the year that the attorney was placed on administrative suspension.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382), Email address [Dboard.comments@pacourts.us](mailto:Dboard.comments@pacourts.us) on or before April 2, 2018.

*By the Disciplinary Board of the  
Supreme Court of Pennsylvania*

JULIA FRANKSTON-MORRIS,  
*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 B. MISCONDUCT

#### Rule 219. Annual registration of attorneys.

\* \* \* \* \*

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status:* An inactive attorney

who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

- (1) the annual form required by subdivision (d);
- (2) payment of the annual fee required by subdivision (j)(1);

**(3) payment of the annual fee that was due in the year in which the attorney was administratively suspended;**

[ (3) ] (4) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and

[ (4) ] (5) payment of an administrative processing fee of \$100.00.

\* \* \* \* \*

[Pa.B. Doc. No. 18-325. Filed for public inspection March 2, 2018, 9:00 a.m.]

**Title 231—RULES OF CIVIL PROCEDURE**

**PART II. ORPHANS' COURT RULES**

**[ 231 PA. CODE PART II ]**

**Proposed Amendment of Pa. O.C. Rules 2.1, 4.6 and 7.1**

The Orphans' Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa. O.C. Rules 2.1, 4.6, and 7.1 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court. Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Orphans' Court Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9526  
 orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by April 6, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Orphans' Court  
 Procedural Rules Committee*

WAYNE M. PECHT, Esq.,  
*Chair*

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART II. ORPHANS' COURT RULES**

**CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**

**Rule 2.1. Form of Account.**

\* \* \* \* \*

(b) As illustrated in the Model Accounts, Accounts shall conform to the following rules:

\* \* \* \* \*

(4) Every Account shall contain:

\* \* \* \* \*

(iv) signature [ **and verification** ] pages signed by all the accountants stating the Account and verified by at least one of the accountants. The verification of a personal representative's Account shall contain a statement that the Grant of Letters and the first complete advertisement thereof occurred more than four months before the filing of the Account, unless the personal representative has been directed by the court to file an Account prior to that time.

\* \* \* \* \*

**CHAPTER IV. FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT; ELECTRONIC FILING**

**Rule 4.6. Notice of the Date of Entry of an Adjudication or Court Order on the Docket.**

(a) The clerk shall immediately give written notice of the entry of an adjudication or court order in a particular matter to each **interested** party's counsel of record or, if unrepresented, to each **interested** party. The notice shall include a copy of the adjudication or court order.

(b) The clerk shall note in the docket the date when notice was given to the **interested** party or to his or her counsel under subparagraph (a) of this Rule.

**Note:** Rule 4.6 has no counterpart in former Orphans' Court Rule, but is derived from Pa.R.C.P. No. 236.

**CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE**

**Rule 7.1. Depositions, Discovery, Production of Documents [ and ], Perpetuation of Testimony, and Subpoenas to Attend and Testify.**

The court, by local rule or order in a particular matter, may prescribe the practice relating to depositions, discovery, production of documents [ **and** ], perpetuation of testimony, **and subpoenas to attend and testify**. To the extent not provided for by local rule or an order governing a particular matter, the practice relating to depositions, discovery, production of documents [ **and** ], perpetuation of testimony, **and subpoenas to attend and testify** shall conform to the practice in the Trial or Civil Division of the local Court of Common Pleas.

**Note:** Rule 7.1 is [ **identical to** ] **derived from** former Rule 3.6.

**PUBLICATION REPORT****Proposed Amendment of Pa. O.C. Rules 2.1, 4.6, and 7.1**

The Orphans' Court Procedural Rules Committee ("Committee") is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa. O.C. Rules 2.1, 4.6, and 7.1. These amendments will provide minor refinements to the Orphans' Court Rules that were adopted by the Court on December 1, 2015 and took effect on September 1, 2016.

Rule 2.1 provides the requirements for the form of Accounts. Rule 2.1(b)(4)(iv) sets forth the requirements for signature and verification pages, and currently requires the "signature and verification pages signed by all the accountants stating the Account and verified by at least one of the accountants." The Committee proposes to delete "and verification" from that phrase so it is not inconsistent with the remainder of the sentence, which only requires verification "by at least one of the accountants."

With regard to Rule 4.6, the Committee received inquiries about the necessity of sending notices to beneficiaries not participating in the present proceeding or matter. The Committee deliberated about whether "party" in Rule 4.6 was sufficient in scope to include those having an interest in the subject of the proceeding. Ultimately, the Committee concluded that "person" should be modified to "interested party," as defined in Rule 1.3.

Rule 7.1 addresses discovery practices in the Orphans' Courts. The Committee discussed that the Orphans' Court Rules did not address the use of subpoenas to attend and testify. *Compare* Pa.R.C.P. No. 234.1. The Committee agreed to add subpoenas to attend and testify to the list of permitted discovery practices set forth in Rule 7.1.

The Committee invites all comments, concerns, and suggestions regarding this proposal.

[Pa.B. Doc. No. 18-326. Filed for public inspection March 2, 2018, 9:00 a.m.]