

2003 Membership:

Charles J. Cunningham, III, Esq., *Chair*++
Richard W. Stewart, Esq., *Chair*#
Louis N. Teti, Esq., *Vice Chair*##
Laurence H. Brown, Esq.
Robert E. J. Curran, Esq.
Christine L. Donohue, Esq.*
Lori A. Flickstein, Esq.
Gary G. Gentile, Esq.**
Smith Barton Gephart, Esq.**
C. Eugene McLaughlin
John W. Morris, Esq.*
Jonathan H. Newman, Esq.
Francis X. O'Connor, Esq.▲
J. Michele Peck
Mark S. Raspanti, Esq.
Marvin J. Rudnitsky, Esq.
Robert C. Saidis, Esq.
Martin W. Sheerer, Esq.
Lisa A. Watkins, Esq.+
Donald E. Wright, Jr., Esq.

* Term expired 4-1-03

** Effective 4-1-03

+ Resigned 6-11-03

++ Term expired 9-19-03

Appointed chair 9-19-03

Appointed vice chair 9-19-03

▲ Effective 9-19-03

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

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

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 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).)

2003 Statistics	
Attorneys	54,886
Change from 2002	0.53%
Complaints file with board	5,013
Change from 2002	0.30%
Pending at start of 2003	883
Complaints disposed of	4,893
Total complaints resulting in discipline	227
Total pending at end of 2003	1,003

Table 3.8.1

2003 Activities

Statistics for 2003 can be found in Table 3.8.1 above.

The board met six times in 2003. 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 2003 can be found in Chart 3.8.4 on page 64.

Rules Committee

In the past Notices of Proposed Rule-making were published in the *Pennsylvania Bulletin* in accordance with Rule 103(a) of the Pa.R.J.A. Because of concerns that lawyers in the Commonwealth were not being given ample opportunity to review and comment on proposed rule changes, however, in March 2003 the board decided to broaden its reach by publishing its notices in other legal periodicals as well. In addition to the *Bulletin*, the notices can now be found in the *Legal Intelligencer*, *Pennsylvania Law Weekly* and the *Pittsburgh Legal Journal*.

Several proposed amendments were published for comment in 2003 as follows:

Rules of Professional Conduct relating to **Ethics 2000**. These would be the first comprehensive changes to these rules since their adoption in 1987.

Rules of Professional Conduct and Rules of Disciplinary Enforcement relating to **Multijurisdictional Practice**.

The following rule changes were approved by either the board or the Supreme Court:

Pa.R.D.E. 218(c)(2): Provides that when **petitions for reinstatement** are filed with the board by formerly admitted attorneys, disciplinary counsel is given 60 days to conduct an investigation and prepare a response to the petition before the petition is referred to a hearing committee. A note was added to the amendment to provide that if disciplinary counsel objects to the reinstatement, the response should explain in reasonable detail the reasons for the objection. Adopted 9-19-03, effective 10-4-03.

Pa.R.D.E. 203(b)(4), 207(b)(2) and 208(b): Rule 203(b)(4) provides that failure of a **respondent-attorney** to comply with orders of the Court, board, hearing committees or special masters without good cause shall be grounds

for discipline. Rule 207(b)(2) states that no disposition of a matter shall be recommended by disciplinary counsel until the respondent-attorney has been notified of the allegations and the time for response has expired. Rule 208(b) states that the consequences of a respondent-attorney's failure to answer a Petition for Discipline will be to deem all factual allegations as admitted. Adopted 9-19-03, effective 10-4-03.

Pa.R.D.E. 205 and 208: Provides that **private reprimands** may be administered to attorneys either by the Disciplinary Board or by a designated panel of three board members selected by the board chair. Adopted 10-17-03, effective immediately.

Pa.R.P.C. 1.19, Comment to Pa.R.P.C. 1.6.: Requires **lawyers acting as lobbyists** to comply with registration and disclosure laws, regulations or rules enacted by the executive or legislative branches of state government; authorizes disclosure of information related to client representation in order to comply with disclosure laws; and reiterates that all such compliance actions by lawyer-lobbyists must be consistent with the Rules of Professional Conduct. Adopted 12-22-03, effective 1-3-04.

Finance & Pension Committee

After extensive review and analysis, the board approved the adoption of the Administrative Office of Pennsylvania Courts pay plan, which provides for an open-band pay plan with self-adjusting salary caps, effective July 1, 2003.

In November 2003 the board approved joining the Pennsylvania judiciary's medical benefits plan, effective January 1, 2004. Although the judiciary's medical benefits were very similar to those offered to employees of the Disciplinary Board, the main reason behind the board's request to join the Court's plan was to better control the rising costs of medical insurance through a larger group size. Although the Disciplinary Board is self-funded through attorneys' annual fees, the relatively small size

of the staff and the geographic locations of the offices limited the board's options with medical providers. The board is neutralizing any increases in medical insurance costs through employee contributions and is reimbursing the Administrative Office of Pennsylvania Courts for the board's insurance costs.

Investment Advisory Board

In July 2003 the board received a letter from Supreme Court Justice William H. Lamb announcing the creation of the Investment Advisory Board (IAB). This board will be responsible for developing an investment policy and selecting an investment firm to implement it.

The board will initially include one representative each from the Disciplinary Board, Pennsylvania Lawyer's Fund for Client Security and Continuing Legal Education Board and four members, including the chair, appointed by the Supreme Court. The Court Administrator of Pennsylvania will serve in an *ex officio* and tie-breaking capacity. Donald E. Wright, Jr., Esq., was named as the Disciplinary Board's representative.

Education Committee

The Education Committee prepared and presented the training session for newly appointed hearing committee members on July 17, 2003. Twenty-six of the 29 new members attended.

The committee also designed the program for the board's retreat meeting in the fall of 2003.

Professor Laurel Terry from the Penn State Dickinson School of Law spoke on multi-jurisdictional practice. Following her presentation, the board unanimously agreed that Pennsylvania should adopt the American Bar Association (ABA) Model Rules relating to Multijurisdictional practice and to recommend to the Supreme Court that two rules relating to foreign legal consultants be adopted.

John T. Berry, the executive director of the State Bar of Michigan, a member of the ABA House of Delegates and the ABA Joint Committee on Lawyer Regulation, and a former member of the ABA Ethics 2000 Commission, spoke on Opening the System to the Public. At its meeting the following day, the board unanimously passed a motion to further study opening the disciplinary system to the public at the point where formal charges, (i.e., a Petition for Discipline), are filed against an attorney.

Communications Committee

In July 2003 the board established a new Communications Committee to be chaired by board member Louis N. Teti. The role of the new committee is to provide oversight to the board's new Web site and to explore ways of improving communications with the public, attorneys, law students and others.

Among the board's first actions, in 2004 the Office of Disciplinary Counsel will begin offering accredited Continuing Legal Education programs directed to lawyers and to the public to better familiarize them with the Rules of Professional Conduct and how the disciplinary system works.

Hearing Committees

As of December 31, 2003, 177 regular Hearing Committee members and 24 alternate members appointed by the Disciplinary Board were serving on a *pro bono* basis to conduct hearings.

2003 Executive Session Results

Action	Total
Adjudications involving formal charges	57
Board referrals to Supreme Court, including report and recommendation for public discipline	42
Oral arguments before three-member panels of board members	7
Hearing before one board member on petition to dissolve temporary suspension	1
Hearing before three-member panel on petition to dissolve freeze on certain bank accounts*	1
Considerations by three-member panels of recommendations for summary private reprimands	31
Appeals by Office of Disciplinary Counsel from Review Hearing Committee members before three-member panels	3
Respondents appearing before board or three-member panels to receive private reprimands	29
Approval of filing petitions with the Supreme Court for emergency temporary suspensions	6
Petitions for reinstatement to active status of attorneys inactive more than three years with no discipline involved	43

*Action taken at request of Supreme Court

Table 3.8.2

Web Site

June 25, 2003, the Disciplinary Board launched its new Web site at www.padisiplinaryboard.org. The site offers a wealth of information for consumers and lawyers, including giving visitors the capability to search attorney registration records for address information, current status and standing as well as to ascertain whether a lawyer has ever been publicly disciplined.

Consumers can also learn how to file a complaint against a lawyer and can download the complaint form in either English or Spanish. In

addition, lawyers can get answers to frequently asked questions concerning attorney registration, reinstatement and disciplinary procedures; download copies of the current rules and forms for attorney registration and reinstatement; and view Notices of Proposed Rulemaking. Viewers can also subscribe to the board's e-mail newsletter.

A number of the courts in the Commonwealth are also finding this site useful in verifying information concerning attorneys appearing before them.

National Council of Lawyer Disciplinary Boards

In early 2003 board executive director/ secretary Elaine Bixler participated in a meeting

with seven other jurisdictions to discuss the possibility of forming a national organization for members and staff of disciplinary boards. As a result, the first meeting of the National Council of Lawyer Disciplinary Boards was held May 30, 2003, in conjunction with the American Bar Association's 29th National Conference on Professional Responsibility in Chicago, Illinois.

The mission of the organization is to serve as a national forum for the exchange of information and ideas about the administration, conduct and improvement of formal disciplinary and related proceedings for lawyers admitted to practice in one or more jurisdictions of the United States. AOPC