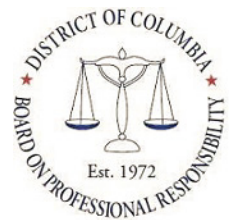


DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY



Issued
July 29, 2025

ADMINISTRATIVE ORDER 2025-1

PLEASE TAKE NOTICE THAT the Board is considering amendments to the Board's Rules. The proposed amendments (shown in redline), and a brief statement of the reasons therefor, are attached hereto.

Interested parties may submit written comments concerning the proposed amendments. Comments must be submitted electronically to DCBoard@dcbpr.org by August 29, 2025. All comments submitted pursuant to this notice will be available to the public.

It is so ORDERED.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: *Bernadette C. Sargeant*
Bernadette C. Sargeant, Chair

Rule 7.5: Respondent's Answer

Respondent shall serve a copy of an answer upon Disciplinary Counsel and file the original with the Office of the Executive Attorney within twenty days after service of the petition, unless the time is extended by the Hearing Committee Chair. Any documents attached to the answer will not be considered as evidence unless introduced and admitted during the hearing. A respondent who fails to answer within the time provided may request, in writing, permission to file an answer from the Chair of the Hearing Committee to which the matter is assigned if the failure to file an answer was attributable to mistake, inadvertence, surprise or excusable neglect.

Reason for proposed Rule change:

The proposed amendment would clarify that if a respondent submits exhibits along with his or her Answer, it will not become part of the record unless and until they are admitted into evidence during the hearing. The Board believes that it is more useful to review a respondent's response to a Specification of Charges in the respondent's own words, rather than through references to attached documents, and that the proposed amendment would discourage that practice.

Rule 7.6: Notice of Intent to Raise Disability in Mitigation

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(f) Motion to Vacate or Modify Suspension. A respondent suspended pursuant to this Rule 7.6 may file a motion at any time ~~with~~ requesting that the Board move the Court to vacate or modify the suspension. If respondent's motion presents a prima facie case that respondent is significantly rehabilitated from the alleged disability, the matter will be referred promptly by the Board to a Hearing Committee for an evidentiary hearing on the issue of rehabilitation. Reinstatement pursuant to this subparagraph (f) shall be subject to the monitoring and waiver provisions of subparagraphs (c), (c)(i) and (c)(ii). Respondent shall have the burden of proving, by clear and convincing evidence, significant rehabilitation from the alleged disability. The Hearing Committee shall file a report with the Board on an expedited basis. The Board shall then consider whether to file a motion in the Court of Appeals under Section 13(f) of D.C. Bar Rule XI to vacate or modify the suspension.

Reason for proposed Rule change:

The proposed amendment would remove an inconsistency with Board Rule 7.6(e), which provides that the Court, not the Board, can suspend a respondent for violating conditions of practice.

Rule 7.12: Quorums for Hearings and Pro Hac Vice Service

A Hearing Committee may conduct a formal hearing in the presence of a quorum of two members. However, if a Hearing Committee member cannot be present, and that fact is known in advance of the hearing, an alternate member shall ordinarily be appointed pro hac vice by the Executive Attorney to complete the Hearing Committee for the originally scheduled date. If during a formal hearing before a three-member Hearing Committee a committee member is unable to attend the entire hearing, the Hearing Committee may proceed with a quorum of two members or, upon the consent of the parties, the Hearing Committee member who is unable to attend the entire hearing may participate in the decision. If the absent member is the Chair of the Hearing Committee, the other attorney member shall serve as Acting Chair.

Reason for proposed Rule change:

The proposed amendment would track D.C. Bar Rule XI, § 5(b).

Rule 7.16: Disposition of Motions

(a) All motions directed to the manner in which the hearing is to be conducted shall be ruled upon by the Hearing Committee Chair or the Chair's designee either at a prehearing conference as provided in Rule 7.20 or at the time of the hearing. In the case of a motion directed to the admissibility of evidence, the evidence, if oral, shall be heard by the Hearing Committee and, if documentary, shall be included in the record, and the Hearing Committee shall include in its report to the Board a recommendation for disposing of the motion, except that if the Hearing Committee Chair determines that the evidence is privileged, irrelevant, or merely cumulative, the Chair may exclude the evidence after allowing the proponent to make a proffer on the record. ~~As to all other motions, except motions to dismiss described as~~ provided in subparagraph (b) of this Rule, the Hearing Committee is not authorized to rule on dispositive motions, including any motion to dismiss filed by the respondent, but shall include in its report to the Board a proposed disposition and the reasons therefor. The Board will rule on all such motions in its disposition in the case, after considering the Hearing Committee's report and any exceptions thereto.

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Reason for proposed Rule change:

Respondents frequently file motions to dismiss the charges before the hearing, and some may not realize that such motions cannot be granted by the hearing committee. The proposed amendment would clarify that it is not necessary to file motions to dismiss before the hearing in order to argue for dismissal in their post-hearing briefs and before the Board.

Rule 13.3: Notice of Exceptions to Hearing Committee Report and Recommendation

Respondent and Disciplinary Counsel ~~may~~ shall file, within ten days of ~~receipt~~ issuance of the Hearing Committee Report, notice of exceptions to the findings and/or recommendation of the Hearing Committee or a statement that the party takes no exception. Alternatively, either party may file a notice taking no exception to the Hearing Committee's recommended sanction, and thus waiving the right to file a brief and present argument, while expressly taking no position as to the underlying findings of fact and conclusions of law. The filing of such a notice does not waive a party's right to argue in opposition to any findings of fact and conclusions of law in the event that the opposing party files an exception to the Hearing Committee Report or briefing is otherwise ordered.

Reason for proposed Rule change:

The proposed amendment would make the record clear as to whether the parties take exception to the hearing committee report, rather than having the Office of Executive Attorney wait for time to expire before referring the matter to the Board. The amendment would also change the deadline for filing exceptions to be calculated from the date of issuance of the Hearing Committee Report, rather than the date of receipt, because reports are issued electronically and received immediately.

Rule 13.11: Extension of Time in Proceedings Before the Board

A request for an extension of time in a proceeding before the Board shall be filed with the Office of the Executive Attorney at least seven days prior to the pertinent date, stating the reasons for the request. Extensions of time shall be granted for good cause shown.

Reason for proposed Rule change:

The proposed amendment would add a standard for the Board to apply when considering a motion for extension of time. The “good cause” standard would match the one applied by hearing committees under Board Rule 12.1(a).

Rule 14.1: Motion to Petition the Court

(a) Disciplinary Counsel's Motion to Petition the Court. If a respondent appears to pose a substantial threat of serious harm to the public, Disciplinary Counsel may file a motion requesting that the Board petition the Court to impose on that respondent a temporary suspension and/or seek temporary conditions of probation. ~~The procedures set forth in Rule 2.10(b)(i) through (iii) shall apply to that motion, any response thereto, and any reply. Rule 2.10(b)(iv)(a) through (b) shall apply to the decision of that motion.~~ In addition to the requirements of any other applicable Board Rule, each such motion shall include or have attached thereto:

- (i) A statement of all material facts and a supporting affidavit demonstrating that respondent appears to pose a substantial threat of serious harm to the public;
- (ii) A proposed petition for filing with the Court, in the event that Disciplinary Counsel's motion is granted by the Chair or Vice Chair of the Board; and
- (iii) A proposed order to be submitted to the Court.

(b) Response. Any response by respondent shall include:

- (i) Any objections to the action requested by Disciplinary Counsel;
- (ii) An admission, denial or lack of knowledge with respect to each of the material facts in Disciplinary Counsel's motion and affidavit; and
- (iii) An affidavit or other document setting forth the facts on which respondent intends to rely for purposes of disputing or denying any material fact set forth in Disciplinary Counsel's motion.

The response shall be filed and served within seven days after the service of the motion, unless such time is shortened or enlarged by the Chair or the Vice Chair for good cause shown.

(c) Reply. Disciplinary Counsel's reply, if any, shall be filed and served five days after the filing of respondent's response.

Reason for proposed Rule change:

The proposed amendment would remove a confusing cross-reference to the standards set forth in Board Rule 2.10(b) (governing motions for temporary suspension for failure to respond to a Board order), not all of which are applicable to motions for temporary suspensions based on substantial threat of serious harm to the public. For example, Board Rule 2.10(b)(i)(d) requires that Disciplinary Counsel submit proof that the respondent received notice of a Board order.

Rule 15.7: Respondent's Motion to Hold In Abeyance Formal Disciplinary Proceedings Because of Disability or Addiction

(a) Respondent's Motion. At any time prior to the Board's final disposition of any formal disciplinary proceeding, respondent therein may file a motion requesting the Board to enter an order holding such proceeding in abeyance based on the contention that respondent is suffering from a disability or addiction that makes it impossible for respondent adequately to defend the charges in such disciplinary proceeding. Respondent's motion should be accompanied by all pertinent medical records and in all cases must include a signed [copy of Board Form 15.7\(a\)](#) (available [from the Office of the Executive Attorney on the Forms page of the Board's website](#)) acknowledging the alleged incapacity by reason of disability or addiction.

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Reason for proposed Rule change:

The proposed amendment would clarify where respondents can find the form required to be submitted with any request to hold proceedings in abeyance based on an assertion of disability or addiction.

Rule 19.4: Computation of Time

Except as otherwise provided in these rules or in any order of the Court or the Board, in computing any period of time prescribed or allowed by these rules, by order of the Board, or any applicable Court or Board Rule, or the time for filing an exception with the Board, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, ~~or when the act to be done is the filing of a paper with the Office of the Executive Attorney, a day on which weather, emergency, or other conditions have made the Office of the Executive Attorney inaccessible, in which event the period shall run until the end of the next day which is not one of the aforementioned days.~~ When the period prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this Rule, “legal holiday” includes New Year’s Day, Birthday of Martin Luther King, Jr., Presidents’ Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or Congress of the United States, or by the District of Columbia.

Reason for proposed Rule change:

The proposed amendment would remove a reference to weather closures, which is outdated now that all filings are submitted electronically. It would also account for the fact that Juneteenth is a federal holiday.

Rule 19.8: Format of Submissions to Board, Committees and Disciplinary Counsel

(a) Electronic Filing Requirements. Any document filed with the Board on Professional Responsibility, or any Hearing Committee, shall be in PDF format and shall be signed with an image of the filer's signature or an "/s" on the signature line. All documents filed publicly with the Board, or any Hearing Committee, shall include a case caption displaying the name of the respondent, their D.C. Bar Number, their date of admission to the D.C. Bar, and all Board and Disciplinary Docket numbers assigned to the matter. All documents filed publicly related to a matter under seal shall be styled "In the Matter of: Confidential ([respondent's initials])," and the caption shall include the words "Under Seal" and all Board and Disciplinary Docket Numbers, but not the respondent's D.C. Bar number or their date of admission to the D.C. Bar.

(b) Length of Briefs. Except by special order of the Chair of the Hearing Committee or the Chair of the Board, or as provided herein, the brief for Disciplinary Counsel or respondent shall not exceed 14,000 words, including headings, footnotes, and quotations. A reply brief, if any, shall not exceed 7,000 words. Requests to exceed these limits will be granted only in extraordinary circumstances. Briefs must be filed in PDF format with page dimensions of 8½ by 11-inches, one-inch margins, and 14-point font text that is double-spaced (aside from headings, footnotes, and block quotations). Any party filing a brief must include the following certificate of compliance:

This document complies with the length and format requirements of Board Rule 19.8(b) because it contains ____ words, double-spaced, in 14-point font, with one-inch margins, on 8½ by 11-inch pages. I am relying on the word-count function in [insert name of software (e.g. Microsoft Word, WordPerfect, etc.)] in making this representation.

...

Reason for proposed Rule change:

It is helpful to the Board's case management system for all pleadings to have a uniform caption including the same identifying information. The proposed amendment to subsection (a) would clarify the information required to be included in captions in both public and confidential matters. The proposed amendment to subsection (b) would ensure that the parties comply with all formatting requirements.