



SECTION 11. PUBLIC HEARING.

A. If a public hearing is properly requested under Section 10, a seven-member panel of the Committee, no member of which was a member of the original ballot-vote panel, will hear the complaint de novo under the rules for public hearings. The ballots and the action of the original panel shall be kept confidential and shall not be made known to the panel which conducts the de novo public hearing.

B. The Executive Director shall set a date for the hearing and shall notify the respondent attorney and the complainant of the hearing date. Once a hearing is set, the granting of any request for a continuance shall be at the discretion of the chair of the panel. The chair of the panel may require a prehearing conference. If a respondent attorney who has requested a hearing and who has been notified properly of the hearing date does not appear at the time and place set for the hearing, the action of the original panel by ballot vote shall become final, and the respondent attorney shall not be entitled to any further review of that action.

C. At the end of the hearing, the panel shall hold an executive session to deliberate upon any disciplinary action to be taken. The findings and decision of the panel shall be announced immediately. The votes of the individual members shall be announced if the decision is not unanimous.

D. If a majority of the panel votes to caution, reprimand, or suspend an attorney, the Office of Professional Conduct shall prepare a proposed order, including findings, which shall be provided to the respondent attorney, who shall have fifteen (15) calendar days after service of the proposed order by first class mail within which to file with the Office of Professional Conduct any objections and alternatives to the proposed language. The Office of Professional Conduct shall provide the proposed order and any objections and alternatives to the panel chair, who will determine and sign the final order. The order shall be filed as a public record in the office of the Clerk.

E. If a majority of the panel votes to initiate disbarment proceedings, the Executive Director shall file an action for disbarment as provided in Section 13. Alternatively, if circumstances require, and with the Supreme Court's approval, the panel may retain independent counsel to prosecute the disbarment proceedings. If the panel finds that a lawyer has committed acts against a client which constitute theft of property under Ark. Code Ann. ? 5-36-103 (or its replacement), regardless of whether the attorney has been criminally charged or convicted,

disbarment proceedings must be initiated.

F. The Committee may refer matters involving lesser misconduct to alternatives-to-discipline programs as provided in Section 5(C)(2).

G. Doctor-Patient Privilege Waived. Raising the defense of mental or physical disability or incapacity by one who is the subject of a disciplinary proceeding shall constitute a waiver of the doctor-patient privilege, except as otherwise provided in the rules pertaining to the Arkansas

Judges and Lawyers Assistance Program.

H. A respondent in a disciplinary proceeding who raises the defense or issue of mental or physical disability or incapacity shall be deemed to have consented to undergoing an independent medical examination by a physician or physicians selected by the Committee or the

Executive Director, at the expense of the Committee or the Office of Professional Conduct, and

the results of any such examination shall be admissible in any disciplinary proceeding under such

conditions as the panel chair may establish.

I. Immunity for Disciplinary Proceedings. Except for perjury and false swearing, complainants, respondents, and witnesses are absolutely immune from suit or action for all communications with the Office of Professional Conduct and the Committee and for all statements made within the disciplinary proceeding.

Associated Court Rules:

Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law

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