



**THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

STANDARD GUIDANCE TO LAWYERS WHO HAVE BEEN DISBARRED

1. Your disbarment is effective 30 days after the date of the Court's order, unless it says otherwise. After the entry of the disbarment order, the waiting period for eligibility to apply for reinstatement to the practice of law does not begin until you file the verified Statement of Compliance. If the order makes your disbarment retroactive to an earlier date, the waiting period will be deemed to have begun on that earlier date. However, a second Statement of Compliance must be filed showing compliance with the additional steps a disbarred attorney must take. **See (e) through (g) below for more information about this.**

(a) During the interim period prior to the effective date of your disbarment, you are required "promptly" to give notice of your disbarment to all clients represented in pending matters, or in litigation or administrative proceedings, and the attorneys for each adverse party in such litigation or proceedings, by use of the Forms DB-23 and DB-24 provided to you. (Rule 217(b), Pa.R.D.E.)

(b) You are also required to notify the following of your disbarment: all persons or their agents or guardians, wards, heirs and beneficiaries to whom a fiduciary duty is or may be owed at any time after your disbarment; all other persons to whom you may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that you continue as an attorney in good standing; and any other tribunal, court, agency or jurisdiction in which you are admitted to practice.

(c) Such notices are to be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. The notices may be delivered in person with you securing a signed receipt, electronic mailing with some form of acknowledgment from the client other than a "read receipt" and mailing by registered or certified mail return receipt requested. You are required to file copies of the notices with the Secretary of the Board and to serve conforming copies on the Office of Disciplinary Counsel.

(d) Within 10 days after the effective date of the order (40 days from its entry), you are to file the "Statement of Compliance", Form DB-25 with the Secretary of the Board and serve a copy of that Form on Office of Disciplinary Counsel. If the disbarment order was retroactive to an earlier date, the Statement of Compliance is required to be filed and served within 10 days after the date of the Court's order.

(e) Rule 217(d)(3) requires that you resign all appointments as personal representative, executor, administrator, guardian, conservator, receiver, trustee, agent under a power of attorney, or other fiduciary position. Throughout the term of your disbarment, you are precluded from accepting any new appointments or engagements as such. You are also required to maintain records and provide proof of compliance with this requirement at the time you file the Statement of Compliance.

(f) Rule 217(d)(3) requires that you also promptly: (1) close every IOLTA, Trust, client and fiduciary account; (2) properly disburse or otherwise transfer all client and fiduciary funds in your possession, custody or control; and (3) take all necessary steps to cancel or discontinue the next regular publication of all advertisements and telecommunication listings that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania. You are required to maintain records and provide proof of compliance with these actions at the time you file the Statement of Compliance

(g) When filing the Statement of Compliance, Rule 217(e) requires that you attach your attorney registration certificate for the current year, turn in your certificate of admission, any certificate of good standing issued by the Prothonotary, and any other certificate required by this Rule to be surrendered; or, in the alternative, aver that you are not in possession of any of the certificates required to be surrendered; you must attach proof of compliance, including resignation notices, evidence of the closing of accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary funds, and requests to cancel

advertisements and telecommunication listings; or, in the alternative, aver that you have no applicable appointments, accounts, funds, advertisements, or telecommunication listings;

(h) If the various requirements of Rule 217 including the filing of the required Statement of Compliance and copies of notices to clients are not timely accomplished by you, the Office of Disciplinary Counsel will not hesitate to initiate action, in any court of competent jurisdiction, for such injunctive and other relief as may be appropriate to protect the interests of your former clients. (Rule 218(j)(2), Pa.R.D.E.)

(i) The Enforcement Rules provide that proof of such compliance with these notice and filing provisions shall be a "condition precedent" to any petition for reinstatement. (Rule 217(h), Pa.R.D.E.) Disciplinary Board Rule 89.272(b) provides that the Board will not entertain a petition for reinstatement filed before the formerly admitted attorney has paid in full any costs taxed (relating to expenses of formal proceedings) and has made any required restitution to the Lawyers Fund for Client Security (relating to restitution a condition for reinstatement).

2. From and after the entry of the order, you are not to accept any new retainer or engage as attorney for another in any new case or legal matter of any nature, although, in the 30-day period between entry of the order and its effective date, you may wind up and complete matters which were pending on the entry date.

3. In addition to the steps that you must promptly take under the other provisions of Rule 217, Pa.R.D.E. to disengage from the practice of law, you shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar.

4. It is not envisioned that you will, or that you may, unilaterally proceed to dispose of, or transfer to another lawyer, any case, without having given the required notice to the client.

(a) Each client is to be put in a position to make an informed choice as to who is to represent him or her in connection with the legal matter in which you represented the client, and his or her expressed directions are to be observed by you.

(b) When a new attorney is selected by the client, you must promptly make the client's file available to the new attorney, without waiving any right to compensation you may have earned.

(c) You are not to share in any fee for legal services performed by any other attorney, following your disbarment, but you may be compensated for the reasonable value of your services rendered and disbursements incurred prior to the effective date thereof. In no event should the reasonable value of your services, and of those of the substituted attorney, exceed the amount the client would have had to pay, had no substitution of counsel been required.

5. A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the requirements of Rule 217(j), Pa.R.D.E. This Rule sets forth boundaries pertaining to law-related activities and specifies certain activities which are prohibited to formerly admitted attorneys. You should carefully review Rule 217(j), a copy of which is attached, and be guided accordingly.

6. Lastly, in Pennsylvania, it is a misdemeanor of the third degree for a person, not currently admitted to practice law, to hold him or herself out to the public as being entitled to practice law, or use or advertise the title of lawyer, attorney at law, attorney and counselor at law, counselor, or the equivalent in any language, in such a manner as to convey the impression that he or she is a practitioner of the law of any jurisdiction. 42 Pa.C.S., Section 2524. No further guidance can or will be offered by the Disciplinary Board as to what constitutes the practice of law, within the meaning of that statute, or otherwise. In case you anticipate engaging in conduct which could reasonably raise question as to whether it constitutes the practice of law, it is urged that you formally seek prospective guidance in that regard, from appropriate local or state professional associations, whenever such question may arise.

**EXCERPT FROM PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT
CONTAINS AMENDMENTS EFFECTIVE DECEMBER 23, 2006 TO PERSONS BECOMING
FORMERLY ADMITTED ATTORNEYS ON OR AFTER THAT DATE AND
EFFECTIVE JANUARY 22, 2007 TO PERSONS WHO ARE ALREADY FORMERLY
ADMITTED ATTORNEYS AS OF DECEMBER 23, 2006**

Rule 217. Formerly admitted attorneys.

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(j) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements:

(1) All law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the firm or organization as the supervising attorney for purposes of this subdivision.

(2) For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following:

(i) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;

(ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and

(iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

(3) A formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

(4) Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis;

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

- (iv) representing himself or herself as a lawyer or person of similar status;
- (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);
- (vi) rendering legal consultation or advice to a client;
- (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;
- (viii) appearing as a representative of the client at a deposition or other discovery matter;
- (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction;
- (x) receiving, disbursing or otherwise handling client funds.

(5) The supervising attorney and the formerly admitted attorney shall file with the Disciplinary Board a notice of engagement, identifying the supervising attorney and certifying that the formerly admitted attorney's activities will be monitored for compliance with this subdivision (j). The supervising attorney and the formerly admitted attorney shall file a notice with the Disciplinary Board immediately upon the termination of the engagement between the formerly admitted attorney and the supervising attorney.

(6) The supervising attorney shall be subject to disciplinary action for any failure by either the formerly admitted attorney or the supervising attorney to comply with the provisions of this subdivision (j).

Note: Subdivision (j) was adopted by the Court to limit and regulate the law-related activities performed by formerly admitted attorneys regardless of whether those formerly admitted attorneys are engaged as employees, independent contractors or in any other capacity. Subdivision (j) requires that a notice be filed with the Disciplinary Board when any law-related activities are performed by a formerly admitted attorney and when the engagement is terminated. Subdivision (j) is addressed only to the special circumstance of formerly admitted attorneys engaging in law-related activities and should not be read more broadly to define the permissible activities that may be conducted by a paralegal, law clerk, investigator, etc. who is not a formerly admitted attorney. Subdivision (j) is also not intended to establish a standard for what constitutes the unauthorized practice of law. Finally, subdivision (j) is not intended to prohibit a formerly admitted attorney from performing services that are not unique to law offices, such as physical plant or equipment maintenance, courier or delivery services, catering, typing or transcription or other similar general office support activities.