

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS  
TO COURT RULES REGARDING  
ATTORNEY DISCIPLINE,  
SPECIFICALLY, SCR 102, 103, 104, 105,  
105.5, 110, 111, 113, 116 AND 117.

ADKT 0506

**FILED**

SEP 03 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
CHIEF DEPUTY CLERK

*ORDER AMENDING SUPREME COURT RULES* BY

WHEREAS, on March 16, 2015, the Board of Governors of the State Bar of Nevada filed a petition seeking amendments of Supreme Court Rules 102, 103, 104, 105, 105.5, 110, 111, 113, 116, and 117; and

WHEREAS, this court solicited comment from the bench, bar, and public on the proposed changes and conducted a public hearing on July 1, 2015; and

WHEREAS, this court has determined that the proposed amendments are warranted; accordingly,

IT IS HEREBY ORDERED that the Supreme Court Rules shall be amended as set forth in Exhibit A.

IT IS FURTHER ORDERED that these amendments shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and

dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendments.

It is so ORDERED.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Laurence P. Digesti, President, State Bar of Nevada  
Kimberly Farmer, Executive Director, State Bar of Nevada  
Clark County Bar Association  
Washoe County Bar Association  
Administrative Office of the Courts

## EXHIBIT A

### AMENDMENT TO SUPREME COURT RULES 102, 103, 104, 105, 105.5, 110, 111, 113, 116, AND 117

#### D. MISCONDUCT

\* \* \*

**Rule 102. Types of discipline.** Misconduct is grounds for:

1. Irrevocable disbarment by the supreme court.
2. Suspension by the supreme court. A suspension of 6 months or less shall not require proof of rehabilitation; a suspension of more than 6 months shall require proof of rehabilitation to be demonstrated in a reinstatement proceeding under Rule 116.

3. Temporary restraining order regarding funds.

(a) On the petition of a [~~disciplinary board or hearing panel, signed by its chair or vice chair,~~] bar counsel, supported by an affidavit alleging facts personally known to the affiant which shows that an attorney appears to be causing great harm by misappropriating funds to his or her own use, a district court of this state in the county where the attorney resides, where he or she maintains an office, or where the alleged acts occurred, may issue an order, in the same manner and under the same provisions of the Nevada Rules of Civil Procedure, not inconsistent with this rule, as a temporary restraining order is issued, which restricts the attorney in the handling of funds entrusted to him or her or over which the attorney has the power of disposition.

(b) An order entered pursuant to the preceding paragraph may also prescribe the manner in which fees or other funds received from or on behalf of clients are to be handled during the existence of the order. When served on either the attorney or a depository in which the attorney maintains an account, the order is also an injunction against withdrawals from the account except in accordance with the terms of the order. In preparing such an order, due consideration shall be given to whether the account(s) affected by it are maintained by the attorney alone or whether there are other people whose right to withdraw funds may be affected.

(c) Unless it is deemed necessary by the district court, a bond shall not be required for an order under this rule. The duration of the order and proceedings to dissolve it are governed by Rule 65 of the Nevada Rules of Civil Procedure, unless the order is superseded by an order of the supreme court pursuant to the next paragraph of this rule.

4. Temporary suspension by the supreme court.

(a) Following a hearing and upon entry of a hearing panel's recommendation for disbarment pursuant to SCR 105(2)(e) and served upon the attorney in accordance with SCR 105(3)(a), bar counsel may file a petition with the supreme court requesting the immediate temporary suspension of the attorney. The decision of the hearing panel shall accompany the petition.

(b) On the petition of ~~[a disciplinary board, signed by its chair or vice chair,]~~ bar counsel, supported by an affidavit alleging facts personally known to the affiant, which shows that an attorney appears to be posing a substantial threat of serious harm to the public, the supreme court may order, with notice as the court may prescribe, the attorney's immediate temporary suspension or may impose other conditions upon the attorney's practice. If a petition is filed under subsection 3 of this rule, a separate

petition under this subsection must be filed with the supreme court as soon thereafter as possible.

~~[(b)]~~ (c) A temporary order may restrict an attorney in the handling of funds entrusted to the attorney or over which the attorney has the power of disposition, or, if appropriate, direct the attorney to establish a trust account in accordance with conditions prescribed in the order. When served on either the attorney or a depository in which the attorney maintains an account, the order is also an injunction against withdrawals from the account except in accordance with the terms of the order. An order of the supreme court that restricts the handling of funds by an attorney supersedes an order entered by the district court pursuant to subsection 3 of this rule.

~~[(e)]~~ (d) An order of temporary suspension precludes the attorney from accepting new cases but does not preclude the attorney from continuing to represent existing clients during the first 15 days after service of the order unless the court orders otherwise. Fees and other funds received from or on behalf of clients during this 15-day period shall be deposited in a trust account from which withdrawals may be made only in accordance with the conditions imposed by the order.

~~[(d)]~~ (e) The attorney may request dissolution or amendment of the temporary order of suspension by petition filed with the supreme court, a copy of which shall be served on bar counsel. The petition may be set for immediate hearing before a hearing panel, to hear the petition and submit its report and recommendation to the court within 7 days of the conclusion of the hearing. Upon receipt of the report and recommendation, the court may modify its order, if appropriate, and continue such provisions of it as may be appropriate until the final disposition of all pending disciplinary charges against the attorney.

5. Public ~~[or private reprimand,]~~ reprimand or letter of reprimand, with or without conditions, including but not limited to restitution, a fine, or both a reprimand and a fine, imposed by the supreme court.

6. Public ~~[or private reprimand,]~~ reprimand or letter of reprimand, with or without conditions, including but not limited to restitution, a fine of up to \$1,000, or both a reprimand and a fine, imposed by a hearing ~~[panel.]~~ panel of the disciplinary board.

7. ~~[Private]~~ Letter of reprimand, with or without conditions, including but not limited to restitution, a fine of up to \$1,000, or both a reprimand and a fine, imposed by a screening panel of the disciplinary board pursuant to Rule 105(1).

8. Letter of caution imposed by a hearing or screening panel of the disciplinary board and issued by bar counsel, or imposed by the supreme court, which is a dismissal but cautions the attorney regarding specific conduct and/or disciplinary rules. A letter of caution may not be used as an aggravating factor in any subsequent disciplinary proceeding.

\* \* \*

### **Rule 103. Disciplinary boards and hearing panels.**

\* \* \*

6. The chair or vice chair of each disciplinary board shall designate hearing and screening panels of ~~[five or]~~ three members, ~~[one of whom shall be a non-lawyer, and screening panels of three members, at least two of whom shall be members of the bar, as the chair or vice~~

~~chair believes are necessary to preside over proceedings pending in the district.]~~ consisting of two lawyers and one non-lawyer. The chair or vice chair shall assign hearing cases to hearing panels and designate a lawyer as chair of each. The designated hearing panel chair shall preside over any and all motions or other requests. A **[formal]** hearing panel shall:

(a) Conduct hearings pursuant to SCR 105.5(6) to determine if there is a breach of diversion or mentoring agreement.

(b) Conduct hearings on formal complaints of **[misconduct.]** misconduct and matters arising under SCR 116 and 117.

~~[(b)]~~ (c) File its findings and recommendations with bar counsel's office.

\* \* \*

#### Rule 104. State bar counsel.

\* \* \*

2. Bar counsel may meet with an attorney against whom a grievance has been received to informally resolve a matter that does not involve the commission of a serious crime, as defined in these ~~[rules.]~~ rules, including directing the attorney to participate in fee dispute arbitration, obtain Continuing Legal Education credit(s), and/or other appropriate remedial measures.

3. A grievance against bar counsel or bar counsel's staff shall be investigated at the direction of the president of the state bar and heard by the board of governors. A decision of the board of governors against bar

counsel may be appealed to the supreme court under the Nevada Rules of Appellate Procedure.

**Rule 105. Procedure on receipt of complaint.**

**1. Investigation.**

(a) Investigation and screening panel review. Investigations shall be initiated and conducted by bar counsel or bar counsel's staff or other investigative personnel at bar counsel's direction prior or pursuant to the opening of a grievance file. At the conclusion of an investigation of a grievance file, bar counsel shall recommend in writing dismissal with or without prejudice, referral to diversion or mentoring pursuant to Rule 105.5, a letter of caution, a **[private]** letter of reprimand, or the filing of a written complaint for formal **[hearing.]** proceedings. The recommendation shall be promptly reviewed by a screening panel. A screening panel shall consist of three members of the disciplinary board, appointed by the chair or vice chair in accordance with Rule 103(6). Two of the three reviewers must be members of the bar. By majority vote they shall approve, reject, or modify the recommendation, or continue the matter for review by another screening panel.

(b) Notice and election. The attorney shall be notified by bar counsel in writing of a decision by a screening panel to issue a **[private]** letter of reprimand and shall be served with the notification and letter of **[private]** letter of reprimand in the manner prescribed by Rule 109(1). The attorney shall have 14 days after receipt of the notice within which to serve on bar counsel written objections to the issuance of the **[private]** letter of reprimand along with the basis of the objections. ~~[The attorney shall include with his or her written objections a statement electing either~~



~~(i) a formal hearing before a five member panel of the appropriate disciplinary board on a written complaint filed by bar counsel; or (ii) an informal hearing before a three member panel of the appropriate disciplinary board.]~~

(c) Hearing. Upon receipt by bar counsel of written objections to the issuance of a ~~[private]~~ letter of reprimand ~~[and a statement of election by the attorney]~~ within the time prescribed, the matter shall be set for a ~~[formal or informal]~~ hearing ~~[in accordance with the attorney's election. A formal hearing shall proceed]~~ in accordance with Rule 105(2). ~~[At an informal hearing the attorney shall be given the opportunity to appear, to present oral argument, and to present evidence related to the written objections or any relevant issue. Rule 105(2)(a) applies to an informal hearing.]~~ The issuance of a ~~[private]~~ letter of reprimand not objected to by the attorney within 14 days of notice ~~[or imposed after an informal hearing]~~ shall be final and shall not be appealable. A screening panel member who has reviewed bar counsel's recommendation on a grievance shall not be appointed to ~~[an informal or formal]~~ a hearing panel for any subsequent and related proceedings. Except in matters requiring dismissal because the grievance is frivolous or clearly unfounded on its face, or falls outside the disciplinary board's jurisdiction, or is resolved informally pursuant to Rule 104(2), a panel shall not make a finding of misconduct until the attorney has been given an opportunity to respond to the allegations against the attorney.

(d) Appeal of a screening panel's dismissal of a grievance. Bar counsel may appeal a decision to dismiss a grievance to a ~~[five member]~~ hearing panel appointed by the chair or vice chair of the respective northern or southern disciplinary board. The chair of the respective board shall be one of

the **[five]** members on the panel and shall serve as chair of the panel. The panel shall determine whether the decision is supported by the record and is in the best interests of justice. Such an appeal must be filed with bar counsel's office and served upon the chair of the appropriate disciplinary board within 20 days of receipt of the decision by filing and serving a petition, together with the record of the matter being appealed. The petition shall contain the name and address of the appropriate northern or southern disciplinary board chair and identify the chair as the person to whom the petition must be sent. The chair shall issue an order advising the attorney or bar counsel of when any answering or other brief is due. The panel shall decide the matter on the record without oral argument or appearance and shall issue a written decision.

2. **Commencement of formal proceedings.** Formal disciplinary proceedings are commenced by bar counsel filing a written complaint in the name of the state bar. The complaint shall be sufficiently clear and specific to inform the attorney of the charges against him or her and the underlying conduct supporting the charges. A copy of the complaint shall be served on the attorney and it shall direct that a verified response or answer be served on bar counsel within 20 days of service; the original shall be filed with bar counsel's office. The time to respond may be extended once by the chair for not more than 20 days for good cause or upon stipulation of the parties. In the event the attorney fails to plead, bar counsel shall enter a default and the charges shall be deemed admitted; provided, however, that an attorney who fails to respond within the time provided may thereafter **[obtain permission of]** move to set aside the default with the appropriate chair to do so, if failure to file is attributable to mistake, inadvertence, surprise, or excusable neglect.

(a) Challenges to and ad hoc appointments of panel members. The complaint shall be served with the list of members of the appropriate disciplinary board. The attorney, or each if more than one, and bar counsel may exercise five peremptory challenges each to the people on the list by delivering such in writing to bar counsel on or before the date a response to the complaint is due.

Challenges to any member for cause under Rule 103(7) shall be made as soon as possible after receiving either actual or constructive notice of the grounds for disqualification, and shall be made by motion to the chair in accordance with these rules. In no event will a motion seeking the disqualification of a member be timely if the member has already heard, considered or ruled upon any contested matter, except as to grounds based on fraud or like illegal conduct of which the challenging party had no notice until after the contested matter was considered. Any challenge that is not raised in a timely manner shall be deemed waived.

The chair or vice chair may make ad hoc appointments to replace designated panel members in the event of challenges or ~~[disqualification reduce the number to less than the number required for the hearing panel.]~~ disqualification. Ad hoc appointees shall be subject to disqualification under Rule 103(7) and any remaining peremptory challenges unexercised by either the attorney(s) or bar counsel. A hearing panel as finally constituted shall include a non-lawyer.

(b) Assignment for hearing panel and chair. Within 30 days, following service of a responsive pleading, or upon failure to plead, the matter shall be assigned by the chair or vice chair of the disciplinary board to a hearing panel chair, who shall preside over any and all motions or other requests as

provided by SCR 103(6) and the subsequent hearing. Thereafter, the remaining hearing panel members shall be assigned by the chair or vice chair of the disciplinary board.

(c) Venue. Venue shall be the county in which the attorney resides or maintains his or her principal office for the practice of law, where the alleged offense was committed or where the parties have stipulated. If the attorney neither resides nor maintains his or her principal office in Nevada, or has left the state to avoid proceedings under these rules, the hearing may be conducted in any county designated by the chair of the disciplinary board.

(d) Time to conduct hearing; notice of hearing; discovery of evidence against attorney. The hearing panel shall conduct a hearing within 45 days of assignment and give the attorney at least 30 days' written notice of its time and place. The notice shall be served in the same manner as the complaint, and shall inform the attorney that he or she is entitled to be represented by counsel, to cross-examine witnesses, and to present evidence. The notice shall be accompanied by a summary prepared by bar counsel of the evidence against the attorney, and the names of the witnesses bar counsel intends to call for other than impeachment, together with a brief statement of the facts to which each will testify, all of which may be inspected up to 3 days prior to the hearing. Witnesses or evidence, other than for impeachment, which became known to bar counsel thereafter, and which bar counsel intends to use at the hearing, shall be promptly disclosed to the attorney. For good cause shown, the chair may allow additional time, not to exceed 90 days, to conduct the hearing.

(e) Quorum; time for decision of panel; votes required to impose discipline. Any ~~[five members of the panel]~~ three, if a three-member

panel, or five, if a five-member panel, shall be a quorum. The hearing panel shall render a written decision within 30 days of the conclusion of the hearing, unless post-hearing briefs are requested by either bar counsel or the attorney and allowed by the panel or requested by the chair, in which event the decision shall be rendered within 60 days of the conclusion of the hearing. The decision shall be served pursuant to Rule 109(1), accompanied by the panel's findings and recommendation, all of which shall be filed with bar counsel's office. A decision to impose or recommend discipline requires the concurrence of ~~[four members of the panel.]~~ two members of a three-member panel or three members of a five-member panel.

(f) Rules of evidence; support of panel's decision. The rules applicable to the admission of evidence in the district courts of Nevada govern admission of evidence before a hearing panel. Evidentiary rulings shall be made by the chair of the panel, if one has been designated, or by the chair of the appropriate disciplinary board prior to such a designation. The findings of the panel must be supported by clear and convincing evidence.

(g) Court reporter. All ~~[formal]~~ hearings shall be reported by a certified court reporter, which cost may be assessed against the attorney pursuant to Rule 120. Any party desiring to have any other disciplinary proceedings reported must arrange in advance for a certified court reporter at the party's own expense.

\* \* \*

## Rule 105.5. Diversion and mentoring programs.

\* \* \*

6. **Breach of a diversion contract or mentoring agreement.** If bar counsel determines that an attorney has breached a contract or agreement executed under this rule, and unless the contract or agreement dictates otherwise, bar counsel shall notify the attorney of the alleged breach and after receipt of such notice, provide the attorney with 14 days to submit a written response. Bar counsel may withdraw the notice of alleged breach based upon the written response and related communications.

(a) ~~[Informal hearing.]~~ Hearing. If the notice is not withdrawn, bar counsel shall request the chair or vice chair of the appropriate disciplinary board to assign a ~~[three-member informal]~~ hearing panel to hear the matter and issue an order. Bar counsel shall notify the attorney of such request by serving the notice of ~~[informal]~~ hearing on the attorney. The ~~[informal]~~ hearing panel shall convene within 30 days of the request. In ~~[informal]~~ proceedings brought under this rule, bar counsel shall have the burden by a preponderance of the evidence to establish any breach of the contract or agreement, and an attorney shall have the burden by a preponderance of the evidence to establish justification for any such breach. Where there is an alleged breach of a contract or agreement executed pursuant to an order of the supreme court, bar counsel may move the court directly for any relief deemed appropriate.

(b) If ~~[an informal]~~ a hearing panel finds a breach to be material and without justification, the panel shall terminate the contract or agreement and reactivate any underlying grievance(s) to be processed through any course

deemed appropriate under Rule 105. If the contract or agreement was effectuated as an alternative to disciplinary sanctions, the panel shall terminate the contract or agreement and impose the applicable alternative sanctions.

(c) If the [~~informal~~] hearing panel finds that no breach occurred, or that the breach was immaterial or with justification, the panel may modify the existing contract or agreement or direct the parties to proceed in accordance with it.

7. **Costs.** The attorney shall pay any costs associated with participation in a diversion or mentoring program, including but not limited to laboratory testing, professional accounting or evaluation, treatment, and the costs of any [~~informal~~] hearing under this rule. The attorney shall not be assessed any fees or costs for a mentor's or bar counsel's services.

\* \* \*

**Rule 110. Subpoena power, production of documents, witnesses, and pretrial proceedings.**

\* \* \*

5. **Restriction on discovery.** Discovery by the attorney, other than under Rule [~~105(2)(e),~~] 105(2)(d), is not permitted prior to hearing, except by the order of the chair for good cause upon motion under Rule 103(5) or Rule 103(6).

6. **Prehearing conference.** At the discretion of the chair, a prehearing conference may be ordered for the purpose of obtaining

admissions or otherwise narrowing the issues presented by the pleadings. The conference may be held before the chair or the chair's designee.

7. **Deposition in lieu of appearance.** With the approval of the chair, testimony may be taken by deposition or by commission if the witness is not subject to subpoena or is unable to attend or testify at the hearing because of age, illness, or other infirmity.

8. **Confidentiality of deposition.** Depositions are subject to the protective requirements and confidentiality provided in Rule 121.

9. Subpoena pursuant to law of another jurisdiction. Bar counsel, in the aid of lawyer discipline or disability proceedings in another jurisdiction, may issue a subpoena as provided in this Rule 110. The request for the subpoena must be duly approved under the laws of the requesting jurisdiction and must be made by either the disciplinary authority of the requesting jurisdiction or a respondent in a disciplinary or disability proceeding in the requesting jurisdiction. The subpoena may compel the attendance of witnesses and production of documents in Nevada where the witness resides or is employed or elsewhere as agreed by the witness. Service, enforcement, and challenges to this subpoena shall be in accordance with this rule.

**Rule 111. Attorneys convicted of crimes.**

\* \* \*

8. **Referral to disciplinary board.** Upon receipt of a petition filed under subsection 4 of this rule, demonstrating that an attorney has been



convicted of a serious crime, the supreme court shall, in addition to suspending the attorney in accordance with the provisions of subsection 7 of this rule, refer the matter to the appropriate disciplinary board for the institution of a **[formal]** hearing before a hearing panel in which the sole issue to be determined shall be the extent of the discipline to be imposed. The panel may, for good cause, postpone the proceeding until all appeals from the conviction have been concluded.

\* \* \*

**Rule 113. Discipline by consent.**

1. **Conditional plea.** An attorney against whom a grievance or complaint has been made may tender a conditional guilty plea to the charge(s) in exchange for a stated form of discipline. The tendered plea shall be filed with bar counsel's office and approved, modified or rejected by a hearing ~~[panel if the matter has already been assigned for hearing, or by a three member hearing panel, appointed by the chair or vice chair, if the matter has not been assigned.]~~ panel. The tendered plea is subject to final approval or rejection by the supreme court if the stated form of discipline includes disbarment or suspension.

\* \* \*

## Rule 116. Reinstatement.

\* \* \*

3. **Bar counsel to appear.** In proceedings for reinstatement, bar counsel shall represent the state bar and submit any evidence and produce any witnesses relevant to the petition. Prior to the hearing, bar counsel may make a lawful request for information consistent with the requirements for admission under SCR 51.

4. **Tender of costs in advance.** Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit of \$1,000 to cover anticipated costs of the reinstatement proceeding.

5. **Decision on reinstatement; conditions.** If the attorney does not meet the burden of proof to justify reinstatement, the petition shall be dismissed by the hearing panel. If the attorney meets the burden of proof, the hearing panel's recommendation for reinstatement shall be entered. Reinstatement [~~may~~] shall be conditioned upon the attorney's payment of the costs of the proceeding, restitution to parties injured by the petitioner's misconduct, including the [~~Client~~] Clients' Security Fund, any further conditions deemed appropriate by the panel, and such proof of competency as may be required by the supreme court, which proof may include certification by the bar examiners of the successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment. If an attorney has been continuously suspended for 5 years or more at the time a petition for reinstatement is filed, irrespective of the term of suspension initially imposed, successful completion of the examination for admission to practice shall be a mandatory condition of reinstatement.

6. **Successive petitions.** A petition for reinstatement under this rule shall not be filed within 1 year following an adverse judgment on a petition for reinstatement filed by the same attorney, unless otherwise ordered by the court.

## E. DISABILITY

**Rule 117. Proceedings when an attorney is declared to be incompetent or is alleged to be incapacitated.**

\* \* \*

4. **Resumption of practice by disabled attorney.** An attorney transferred to disability inactive status under the provisions of this rule may not resume active status until reinstated by order of the supreme court. An attorney transferred to disability inactive status under the provisions of this rule shall be entitled to petition for reinstatement to active status once a year, or at such shorter intervals as the court may direct in the order transferring the attorney to disability inactive status. The petition shall be filed with bar counsel's office and shall be set for hearing before a [~~five-member~~] hearing panel, which shall consider whether the attorney has demonstrated by clear and convincing evidence that the attorney's disability has been removed and that he or she is fit to resume the practice of law. The panel may direct that the attorney establish competence and learning in law, including certification by the bar examiners that the attorney successfully completed an examination for admission to practice subsequent to being transferred to disability inactive status. Reinstatement shall be conditioned

upon the attorney's repayment to the Clients' Security Fund of clients who were reimbursed on the attorney's behalf. The panel shall render a written decision within 30 days of the hearing's conclusion, which shall be filed with bar counsel's office and served pursuant to Rule 109(1).

Bar counsel shall forward the record of the hearing panel proceeding to the supreme court within 30 days of the decision's entry. Receipt of the record shall be acknowledged in writing by the supreme court clerk. The parties shall have 30 days from the date the supreme court acknowledges receipt of the record within which to file any objection to the panel's recommendation. If none is filed, then the matter shall be submitted for decision. If the supreme court concludes that the attorney's disability has been removed and that the attorney is fit to practice law, then the supreme court may reinstate the attorney to active status, with any conditions that may be appropriate to protect the attorney's clients or the public. If any disciplinary proceeding against the attorney was suspended by the attorney's transfer to disability inactive status, then the supreme court may direct the state bar to resume the disciplinary proceeding. If the supreme court is not satisfied that the attorney's disability has been removed, then it may take such action as it deems appropriate, including denying the petition.

When an attorney who has been transferred to disability inactive status is later judicially declared to be competent, the attorney may file a petition for reinstatement with the supreme court, attaching a copy of the judicial declaration of competency. The petition shall state whether any disciplinary proceedings were pending against the attorney at the time he or she was transferred to disability inactive status. Upon the filing of such a petition, the supreme court may dispense with further evidence that the attorney's disability has been removed and may direct the attorney's

reinstatement to active status upon such terms as are deemed appropriate, or may direct the state bar to resume any disciplinary proceedings that were suspended by the attorney's transfer to disability inactive status.

\* \* \*