Rules Governing the Legal Profession and Judiciary in Illinois

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SUPREME COURT OF ILLINOIS

RULES ON ADMISSION AND DISCIPLINE OF ATTORNEYS

ARTICLE VII.

PART A. ADMISSION TO THE BAR

RULE 701 General Qualifications

(a) Subject to the requirements contained in these rules, persons may be admitted or conditionally admitted to practice law in this State by the Supreme Court if they are at least 21 years of age, of good moral character and general fitness to practice law, and have satisfactorily completed examinations on

academic qualification and professional responsibility as prescribed by the Board of Admissions to the Bar or have been licensed to practice law in another jurisdiction and have met the requirements of Rule 705.

(b) Any person admitted to practice law in this State is privileged to practice in every court in Illinois. No court shall by rule or by practice abridge or deny this privilege by requiring the retaining of local counsel or the maintaining of a local office for the service of notices. However, no person, except the Attorney General or the duly appointed or elected State's Attorney of the county of venue, may appear as lead or co-counsel for either the State or defense in a capital case unless he or she is a member of the Capital Litigation Trial Bar provided for in Rule 714.

Amended effective October 2, 1972; amended April 8, 1980, effective May 15, 1980; amended June 12, 1992, effective July 1, 1992; amended March 1, 2001. The amendment to paragraph (b) shall be effective one year after its adoption, and shall apply in capital cases filed by information or indictment on or after its effective date; amended October 2, 2006, effective July 1, 2007.

Committee Comments

Special Supreme Court Committee on Capital Cases

March 1, 2001

The requirement that all defense counsel and assistant prosecutors appearing as lead or co-counsel in capital cases must be members of the Capital Litigation Trial Bar was adopted to improve the fairness and reliability of capital trials. The minimum qualifications for membership in the Capital Litigation Trial Bar are intended to insure that capital cases are tried by experienced, well-trained attorneys. See Rule 714. The amendment to Rule 701(b) provides the means for enforcement of the qualification standards by prohibiting an attorney who is not a member of the Capital Litigation Trial Bar from appearing as lead or co-counsel in a capital case. See also Rule 416(d). The Capital Litigation Trial Bar membership requirement does not apply to the elected or appointed State's Attorney of the county of venue or the Attorney General. In addition, Rule 701(b) does not prohibit nonmembers from participating in a capital trial in the capacity of "third chair," provided such participation by a third attorney for the prosecution or defense is under the direct supervision of qualified lead or co-counsel.

For the purposes of Rule 701(b), the definition of a "capital" case is supplied by paragraphs (c) and (d) of Rule 416. Rule 461(c) provides that the State must give notice of its intent to seek or decline to seek the death penalty as soon as practicable, and in no event later than 120 days after arraignment, unless the court directs otherwise. Rule 416(d) provides that if the State provides notice of intent to seek the death penalty or fails to provide any notice in the time allowed by Rule 416(c), the trial court must confirm that attorneys appearing in the case are properly certified members of the Capital Litigation Trial Bar. Thus, the Capital Litigation Trial Bar membership requirement of Rule 701(b) is effective upon notification that the State will seek the death penalty or expiration of the time allowed for notice under Rule 416(c) without any notice from the State, whichever occurs first.

Though the trial court will not enforce the counsel qualification standards of this rule and Rule 714 until the State provides notice of intent to seek the death penalty or the time for notice expires, in any case where the defendant may be eligible for the death penalty, defense counsel must presume the case will be capital unless the State has provided notice to the contrary. Attorneys who are not members of the Capital Litigation Trial Bar should not agree to provide representation for a defendant in a potentially capital case (*i.e.*, a case in which the defendant may be eligible for the death penalty, where the time for State notice has not expired and the State has not provided any notice with respect to its intent to seek or decline to seek the death penalty). Attorneys should also decline to provide representation as sole counsel for a defendant in a potentially capital case, unless they are properly certified as lead counsel. See Rule 714. An attorney who is not properly certified under Rule 714 should never agree to provide

representation for a defendant in a potentially capital case on the assumption that the State will not seek the death penalty, or that admission to the Capital Litigation Trial Bar or proper certification will be obtained after accepting the engagement.

When considering representation of a defendant charged with first degree murder, an attorney who is not a member of the Capital Litigation Trial Bar (or does not have proper certification) should immediately determine whether the defendant may be subject to the death penalty. The attorney should ascertain, for example, whether the defendant has been denied bail because the offense is capital, or whether the charges filed or information available through reasonable investigation suggest that one of the statutory aggravating factors of section 9-1(b) of the Criminal Code of 1961 (720 ILCS 5/9-1(b)) may apply. If any information available to the attorney suggests the case is potentially capital, the attorney should decline to provide representation for the defendant. An agreement to provide limited representation in a potentially capital case should be entered into only after careful consideration of the complex practical, legal, and ethical issues involved, and full disclosure of the attorney's inability to provide representation in a capital case.

Adherence to the principles described above with respect to defense counsel in a potentially capital case will ensure fairness to the defendant, compliance with ethical responsibilities, and the proper administration of justice. Consistent with these principles, an attorney appointed for an indigent defendant in a potentially capital case should be a member of the Capital Litigation Trial Bar, certified as lead counsel. In addition, State's Attorneys are encouraged to assign assistant prosecutors who are members of the Capital Litigation Trial Bar in all potentially capital cases.

RULE 702 Board of Admissions to the Bar

(a) The Board of Admissions to the Bar shall oversee the administration of all aspects of bar admissions in this State including the character and fitness process. The board shall consist of seven members of the bar, appointed by the Supreme Court to serve staggered terms of three years. Each shall serve until his or her successor is duly appointed and qualified. No member may be appointed to more than three full consecutive terms.

(b) A majority of the board shall constitute a quorum. A president shall be appointed by the Supreme Court and may serve only one three year term. A secretary and treasurer shall be annually elected by the members of the board. One member may hold the office of both secretary and treasurer.

(c) The board shall audit annually the accounts of its treasurer and shall report to the court at each November term a detailed statement of its finances, together with such recommendations as shall seem advisable. All fees paid to the board in excess of its expenses shall be applied as the court may from time to time direct. (Amended June 12, 1992, effective July 1, 1992; amended December 30, 1993, effective January 1, 1994.)

RULE 703 Educational Requirements

Every applicant seeking admission to the bar on examination shall meet the following educational requirements:

(a) **Preliminary and College Work.** Each applicant shall have graduated from a four-year high school or other preparatory school whose graduates are admitted on diploma to the freshman class of any college or university having admission requirements equivalent to those of the University of Illinois, or shall have become otherwise eligible for admission to such freshman class; and shall have satisfactorily completed at least 90 semester hours of acceptable college work, while in actual attendance at one or more colleges or universities approved by the Board of Admissions to the Bar. In lieu of such preliminary or college work, the board may, after due investigation, accept the satisfactory completion of the program or curriculum of a particular college or university. Proof of preliminary education may be made either by

diploma showing graduation or by certificate that the applicant has become eligible for admission to such college or university, signed by the registrar thereof. Proof of the satisfactory completion of college work may be made by certificate, signed by the registrar of the college or university, that the applicant has satisfactorily completed the required college work. In lieu of the diploma and certificates described herein, the board may accept as proof of the preliminary and college work required herein, a certificate from an approved law school that the law school has on file proof of such preliminary and college work.

(b) **Legal Education.** After the completion of both the preliminary and college work above set forth in paragraph (a) of this rule, each applicant shall have pursued a course of law studies and fulfilled the requirements for and received a first degree in law from a law school approved by the American Bar Association. Each applicant shall make proof that he has completed such law study and received a degree, in such manner as the Board of Admissions to the Bar shall require. (

Amended September 28, 1977, effective October 15, 1977; amended September 14, 1984, effective September 14, 1984; amended June 12, 1992, effective July 1, 1992.

JUSTICE HEIPLE, dissenting:

By the amendment to Rule 711 and by Rule 703, which was previously adopted, this court recognizes only law schools which have been approved by the American Bar Association. I both dissent and object to these rules because they represent an improper delegation of a governmental and judicial function to a trade association of lawyers.

The American Bar Association is a voluntary association of dues paying lawyers (currently $225 per annum) that exists for the benefit of its members. No lawyer is required to belong. Most do not. It clothes its parochial existence with an overlay of public activities and pronouncements designed to convince the general public that it is interested in the general welfare. That its primary focus is the benefit of its members, however, is beyond question. That the American Bar Association is a trade association warrants neither commendation nor condemnation. As a trade association engaging in improving the status of lawyers and lobbying Congress and the State legislatures, it is on a par with any other trade association. It is decidedly not, however, an arm of the State of Illinois nor of this court.

It is improper for this court to assign and delegate to that organization the ultimate decisionmaking function of deciding for the State of Illinois which law schools warrant official recognition. It would be proper, of course, for this court and its Board of Law Examiners (now, Board of Admissions to the Bar) to consider and weigh the evaluations of the American Bar Association in considering which law schools are to be approved. The work of the American Bar Association in evaluating law schools could be considered as relevant evidence in that regard. No objection could be raised to that procedure.

This court, however, has no right to delegate its decisionmaking function to the American Bar Association, the Teamsters Union, the Republic of Uganda or any other such body or group. If the rule asserts a valid principle of law, then this court could as well assign all of its decisionmaking functions to others who might be considered experts in their field.

For the reasons given, I respectfully dissent.

RULE 704 Qualification on Examination

(a) Every applicant for the Illinois bar examination shall file with the Board of Admissions to the Bar both a character and fitness registration application and a separate application to take the bar examination. The application shall be in such form as the board shall prescribe and shall be subject to the fees and filing deadlines set forth in Rule 706.

(b) In the event the character and fitness registration application and the separate application to take the bar examination shall be satisfactory to the board, the applicant shall be admitted to the examination; provided, however, that the following applicants must first receive certification of good moral character and general fitness to practice law by the Committee on Character and Fitness pursuant to Rule 708 before they will be permitted to write the bar examination: (1) applicants who have been convicted of felonies ~~or those misdemeanors involving moral turpitude~~; (2) applicants against whom are pending indictments, criminal informations, or criminal complaints charging felonies ~~or misdemeanors involving moral turpitude~~; (3) applicants who have been rejected, or as to whom hearings are pending, in another jurisdiction on a ground related to character and fitness; or (4) applicants admitted to practice in another jurisdiction who have been reprimanded, censured, disciplined, suspended or disbarred in such other jurisdiction or against whom are pending disciplinary charges or proceedings in that jurisdiction.

(c) The Board of Admissions to the Bar shall conduct separate examinations on academic qualification and professional responsibility. At least two academic qualification examinations shall be conducted annually, one in February and the other in July, or at such other times as the board, in its discretion, may determine. At least three professional responsibility examinations shall be conducted annually, one in March, another in August, and another in November, or at such other times as the board, in its discretion, may determine. The board may designate the Multistate Professional Responsibility Examination of the National Conference of Bar Examiners as the Illinois professional responsibility examination. The board may determine the score that constitutes a passing grade.

(d) The academic qualification examination shall be conducted under the supervision of the board, by uniform printed questions, and may be upon the following subjects: administrative law; agency and partnership; business organization, including corporations and limited liability companies; commercial paper; conflict of laws; contracts; criminal law and procedure; family law; equity jurisprudence; evidence; federal and state constitutional law; federal jurisdiction and procedure; federal taxation; Illinois procedure; personal property, including sales and bailments; real property; secured transactions; suretyship; torts; trusts and future interests; and wills and decedents' estates. The academic qualification examination may also include a performance test. The Board may include the Multistate Bar Examination, the Multistate Essay Examination and the Multistate Performance Test of the National Conference of Bar Examiners as components of the examination.

(e) In the event the Board of Admissions to the Bar shall find that such applicant has achieved a passing score, as determined by the board, on the academic and professional responsibility examinations, meets the requirements of these rules, and has received from the Committee on Character and Fitness its certification of good moral character and general fitness to practice law, the board shall certify to the court ~~that such applicant is qualified for admission~~ <u>these requirements have been met; the Board may also transmit to the Court any additional information or recommendation it deems appropriate.</u>

<u>(f) For all persons taking the bar examination after the effective date of this rule, a passing score on the Illinois bar examination is valid for four years from the last date of the examination. An applicant for admission on examination who is not admitted to practice within four years must repeat and pass the examination after filing the requisite character and fitness registration and bar examination applications and paying the fees therefor in accordance with Rule 706.</u>

Amended effective October 2, 1972; amended April 8, 1980, effective May 15, 1980; amended June 19, 1987, effective immediately; amended June 12, 1992, effective July 1, 1992; amended May 7, 1993, effective immediately; amended July 1, 1998, effective immediately; amended July 6, 2000, effective immediately; amended December 6, 2001; effective immediately; <u>amended October 2, 2006, effective July 1, 2007</u>.

RULE 705 Admission on Motion

Any person who, as determined by the Board of Admissions to the Bar, has been licensed to practice law

in the highest court of law in any other state or territory of the United States or the District of Columbia may make application to the board for admission to the bar, without academic qualification examination, upon the following conditions:

(a) The applicant meets the educational requirements of Rule 703.

(b) The applicant is licensed in a jurisdiction that grants reciprocal admission to Illinois attorneys on the basis of Illinois practice; the applicant has been actively and continuously engaged in the qualified practice of law, as provided by these rules, for at least five of the seven years immediately prior to making application; and, except for practice described in paragraphs (g)(3), (g)(4), (g)(5) or (g)(6) below, during the requisite period the applicant must have practiced either in or the law of the reciprocal jurisdiction from which the applicant is applying.

(c) The applicant has passed the Multistate Professional Responsibility Examination in Illinois or in any jurisdiction in which it was administered.

(d) The applicant meets the character and fitness standards established in Illinois and has been so certified by the Committee on Character and Fitness pursuant to Rule 708.

(e) The applicant has paid the fee for admission on motion in accordance with Rule 706.

(f) An applicant who has taken and failed to pass the academic qualification examination in Illinois shall not be eligible to apply for admission on motion under this rule.

(g) For purposes of this rule, the term "practice of law" shall mean: (1) private practice as a sole practitioner or for a law firm, legal services office, legal clinic or the like; (2) practice as an attorney for an individual, a corporation, partnership, trust, or other entity, with the primary duties of furnishing legal counsel, drafting legal documents and pleadings, interpreting and giving advice regarding the law or preparing, trying or presenting cases before courts, departments of government or administrative agencies; (3) practice as an attorney for the Federal government or for a state government with the same primary duties as described in paragraph (g)(2) above; (4) employment as a judge, magistrate, referee, or similar official for the Federal or a state government, provided that such employment is available only to licensed attorneys; (5) legal service in the armed forces of the United States; (6) employment as a full-time teacher of law at a law school approved by the American Bar Association; or (7) any combination of the above. Applicants shall furnish such proof of practice as may be required by the Board.

(h) Each applicant for admission under this rule shall establish to the satisfaction of the Board that upon admission to the bar of Illinois he or she will engage in the active and continuous practice of law in Illinois.

Adopted April 3, 1989, effective immediately; amended October 25, 1989, effective immediately; amended June 12, 1992, effective July 1, 1992; amended December 6, 2001, effective immediately; amended September 30, 2002, effective immediately; amended February 6, 2004, effective immediately.

RULE 706 Filing Deadlines and Fees of Registrants and Applicants

(a) **Character and Fitness Registration**. Students attending law school who intend to take the Illinois bar examination shall file a character and fitness registration application with the Board of Admissions to the Bar in the form prescribed by the Board by no later than the first day of March following the student's commencement of law school; provided, however, that a student who commences law school after the first day of January and before the first day of March in any calendar year shall file such application no later than the first day of July following the student's commencement of law school. Timely applications shall be accompanied by a registration fee of $100. All character and fitness registration applications filed after the foregoing deadlines shall be accompanied by a registration fee of $450.

(b) **Applications to Take the Bar Examination.** The fees and deadlines for filing applications to take the February bar examination are as follows:

(1) $250 for applications postmarked on or before the regular filing deadline of September 1 preceding the examination;

(2) $500 for applications postmarked after September 1 but on or before the late filing deadline of November 1; and

(3) $1,000 for applications postmarked after November 1 but on or before the final late filing deadline of December 31.

The fees and deadlines for filing applications to take the July bar examination are as follows:

(1) $250 for applications postmarked on or before the regular filing deadline of February 1 preceding the examination;

(2) $500 for applications postmarked after February 1 but on or before the late filing deadline of April 1; and

(3) $1,000 for applications postmarked after April 1 but on or before the final late filing deadline of May 31.

(c) **Applications for Reexamination**. The fees and deadlines for filing applications for reexamination at a February bar examination are as follows:

(1) $150 for applications postmarked on or before the regular reexamination filing deadline of November 1;

(2) $500 for applications postmarked after November 1 but on or before the final late filing deadline of December 31.

The fees and deadlines for filing applications for reexamination at a July bar examination are as follows:

(1) $150 for applications postmarked on or before the regular reexamination filing deadline of May 1;

(2) $500 for applications postmarked after April 1 but on or before the final late filing deadline of May 31.

(d) **Late Applications.** The Board of Admissions shall not consider requests for late filing of applications after the final bar examination filing deadlines set forth in the preceding subparagraphs (b) and (c).

(e) **Applications for Admission on Motion under Rule 705.** Each applicant for admission to the bar on motion under Rule 705 shall pay a fee of $800.

(f) **Application for Limited Admission as House Counsel.** Each applicant for limited admission to the bar as house counsel under Rule 716 shall pay a fee of $400.

(g) **Application for Limited Admission as a Lawyer for Legal Service Programs.** Each applicant for limited admission to the bar as a lawyer for legal service programs under Rule 717 shall pay a fee of $100.

(h) **Payment of Fees.** All fees are nonrefundable and shall be paid in advance by certified check, cashier's check or money order payable to the Board of Admissions to the Bar. Fees of an applicant who does not appear for an examination shall not be transferred to a succeeding examination.

(i) **Fees to be Held by Treasurer.** All fees paid to the treasurer of the Board of Admissions to the Bar shall by held by him or her subject to the order of the court.

Amended January 30, 1975, effective March 1, 1975; amended October 1, 1982, effective October 1, 1982; amended June 12, 1992, effective July 1, 1992; amended July 1, 1998, effective immediately; amended July 6, 2000, effective August 1, 2000; amended December 6, 2001, effective immediately; amended February 11, 2004, effective July 1, 2004.

RULE 707 ~~Foreign Attorneys in Isolated Cases~~ Pro Hac Vice

Anything in these rules to the contrary notwithstanding, an attorney and counselor-at-law from any other jurisdiction in the United States, or foreign country, may in the discretion of any court of this State be permitted to participate before the court in the trial or argument of any particular cause in which, for the time being, he or she is employed.

Amended June 12, 1992, effective July 1, 1992; amended October 2, 2006, effective July 1, 2007.

RULE 708 Committee on Character and Fitness

(a) At the November term in each year, the Supreme Court shall appoint a Committee on Character and Fitness in each of the judicial districts of this state comprised of Illinois lawyers. In the First Judicial District the committee shall consist of no fewer than 30 members of the bar, and in the Second, Third, Fourth and Fifth Judicial Districts, each committee shall consist of no fewer than 10 members of the bar. Unless the Court specifies a shorter term, all members shall be appointed for staggered three-year terms and shall serve until their successors are duly appointed and qualified. No member may be appointed to more than three full consecutive terms. Vacancies for any cause shall be filled by appointment of the Court for the unexpired term. The Court shall appoint a chairperson and a vice-chairperson for each committee. The chairperson may serve only one three-year term. The members of the Board of Admissions to the Bar shall be *ex-officio* members of the committees and are authorized to serve as members of hearing panels of any committee.

~~**(b)** Upon law student character and fitness registration and, where appropriate, upon application to take the bar examination, each law student registrant or applicant shall be passed upon by the committee in his or her district as to his or her good moral character and general fitness to practice law. If required by the committee, each law student registrant or applicant shall appear before the committee of his or her district or some member thereof and shall furnish the committee such evidence of his or her good moral character and general fitness to practice law as in the opinion of the committee would justify his or her admission to the bar.~~

(b) Pursuant to the Rules of Procedure for the Board of Admissions to the Bar and the Committees on Character and Fitness, the committee shall determine whether each law student registrant and applicant presently possesses good moral character and general fitness for admission to the practice of law. A registrant or applicant may be so recommended if the committee determines that his or her record of conduct demonstrates that he or she meets the essential eligibility requirements for the practice of law and justifies the trust of clients, adversaries, courts and others with respect to the professional duties owed to them. A record manifesting a failure to meet the essential eligibility requirements, including a

deficiency in honesty, trustworthiness, diligence, or reliability of a registrant or applicant, may constitute a basis for denial of admission.

~~**(c)** At all times prior to his or her admission to the bar of this state, each law student registrant and applicant is under a continuing duty to update and continue to report fully and completely to the Board of Admissions to the Bar and to the Committee on Character and Fitness all information required to be disclosed pursuant to any and all application documents and such further inquiries prescribed by the Board and the Committee.~~

(c) The essential eligibility requirements for the practice of law include the following: (1) the ability to learn, to recall what has been leaned, to reason, and to analyze; (2) the ability to communicate clearly and logically with clients, attorneys, courts, and others; (3) the ability to exercise good judgment in conducting one's professional business; (4) the ability to conduct oneself with a high degree of honesty, integrity, and trustworthiness in all professional relationships and with respect to all legal obligations; (5) the ability to conduct oneself with respect for and in accordance with the law and the Illinois Rules of Professional Conduct; (6) the ability to avoid acts that exhibit disregard for the health, safety, and welfare of others; (7) the ability to conduct oneself diligently and reliably in fulfilling all obligations to clients, attorneys, courts, creditors, and others; (8) the ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; (9) the ability to comply with deadlines and time constraints; and (10) the ability to conduct oneself properly and in a manner that engenders respect for the law and the profession.

(d) If required by the Committee or its Rules of Procedure, each law student registrant and applicant shall appear before the committee of his or her district or some member thereof and shall furnish the committee such evidence of his or her good moral character and general fitness to practice law as in the opinion of the committee would justify his or her admission to the bar.

(e) At all times prior to his or her admission to the bar of this state, each law student registrant and applicant is under a continuing duty to supplement and continue to report fully and completely to the Board of Admissions to the Bar and to the Committee on Character and Fitness all information required to be disclosed pursuant to any and all application documents and such further inquiries prescribed by the Board and the Committee.

(f) If the committee is of the opinion that the law student registrant or applicant is of good moral character and general fitness to practice law, it shall so certify to the Board of Admissions to the Bar, and the Board shall transmit such certification to the Court together with any additional information or recommendation the Board deems appropriate when all ~~and the law student registrant or applicant shall thereafter be recommended by the Board for admission to the bar if all~~ other admission requirements have been met. If the committee is not of that opinion, it shall file with the Board of Admissions to the Bar a statement that it cannot so certify, together with a report of its findings and conclusions.

~~**(e)**~~ **(g)** A law student registrant or applicant who has availed himself or herself of his or her full hearing rights before the Committee on Character and Fitness and who deems himself or herself aggrieved by the determination of the committee may, on notice to the committee by service upon the Director of Administration for the Board of Admissions in Springfield, petition the Supreme Court for review within 35 days after service of the Committee's decision upon the law student registrant or applicant, and, unless extended for good cause shown, the Committee shall have 28 days to respond. The director shall file the record of the hearing with the Supreme Court at the time that the response of the Committee is filed.

Amended effective November 15, 1971, and October 2, 1972; amended April 10, 1987, effective August 1, 1987; amended June 12, 1992, effective July 1, 1992; amended April 4, 1995, effective immediately; amended November 22, 2000, effective December 1, 2000; amended December 6, 2001, effective immediately; amended October 2, 2006, effective July 1, 2007.

RULE 709 Power to Make Rules, Conduct Investigations, and Subpoena Witnesses

(a) Subject to the approval of the Supreme Court, the Board of Admissions to the Bar and the Committee on Character and Fitness shall have power to make, adopt, and alter rules not inconsistent with this rule, for the proper performance of their respective functions.

(b) The Board of Admissions to the Bar and the Committee on Character and Fitness for each judicial district are hereby respectively constituted bodies of commissioners of this Court, who are hereby empowered and charged to receive and entertain complaints, to make inquiries and investigations, and to take proof from time to time as may be necessary, concerning applications for admission to the bar, examinations given by or under the supervision of the Board of Admissions to the Bar, and the good moral character and general fitness to practice law of law student registrants and applicants for admission. They may call to their assistance in such inquiries other members of the bar and make all necessary rules and regulations concerning the conduct of such inquiries and investigations, and take the testimony of witnesses. The hearings before the commissioners shall be private unless any law student registrant or applicant concerned shall request that they be public. Upon application by the commissioners, the clerk of the Supreme Court shall issue *subpoenas ad testificandum*, *subpoenas duces tecum*, or *dedimus potestatem to take depositions*. Witnesses shall be sworn by a commissioner or any person authorized by law to administer oaths. All testimony shall be taken under oath, transcribed, and transmitted to the court, if requested. The commissioners shall report to the Supreme Court the failure or refusal of any person to attend and testify in response to a subpoena.

Amended effective November 15, 1971, and October 2, 1972; amended May 28, 1982, effective July 1, 1982; amended June 12, 1992, effective July 1, 1992; amended December 6, 2001, effective immediately.

RULE 710 Immunity

Any person who communicates information concerning a law student registrant or an applicant for admission to the Illinois bar to any member of the Illinois Board of Admissions to the Bar or to any member of the Character and Fitness Committees or to the Director of Administration, administrators, staff, investigators, agents, or attorneys of the Board or such Committees shall be immune from all civil liability which, except for this rule, might result from such communication. The grant of immunity provided by this rule shall apply only to those communications made by such persons to any member of the Illinois Board of Admissions to the Bar or to any member of the Character and Fitness Committees or to the Director of Administration, administrators, staff, investigators, agents, or attorneys of the Board or such Committees.

Adopted April 4, 1995, effective immediately.

RULE 711 Representation by Supervised Senior Law Students or Graduates

(a) **Eligibility.** A student in a law school approved by the American Bar Association may be certified by the dean of the school to be eligible to perform the services described in paragraph (c) of this rule, if he/she satisfies the following requirements:

(1) He/She must have received credit for work representing at least three-fifths of the total hourly credits required for graduation from the law school.

(2) He/She must be a student in good academic standing, and be eligible under the school's criteria to undertake the activities authorized herein.

A graduate of a law school approved by the American Bar Association who (i) has not yet had an opportunity to take the examinations provided for in Rule 704, (ii) has taken the examination provided for in Rule 704, but not yet received notification of the results of either examination, or (iii) has taken and passed both examinations provided for in Rule 704, but has not yet been sworn as a member of the Illinois bar may, if the dean of that law school has no objection, be authorized by the Administrative Director of the Illinois Courts to perform the services described in paragraph (c) of this rule.

For purposes of this rule, a law school graduate is defined as any individual not yet licensed to practice law in any jurisdiction.

(b) **Agencies Through Which Services Must Be Performed.** The services authorized by this rule may only be carried on in the course of the student's or graduate's work with one or more of the following organizations or programs:

(1) a legal aid bureau, legal assistance program, organization, or clinic chartered by the State of Illinois or approved by a law school approved by the American Bar Association;

(2) the office of the Public Defender; or

(3) a law office of the State or any of its subdivisions.

(c) **Services Permitted.** Under the supervision of a member of the bar of this State, and with the written consent of the person on whose behalf he/she is acting, which shall be filed in the case and brought to the attention of the judge or presiding officer, an eligible law student or graduate may render the following services:

(1) He/She may counsel with clients, negotiate in the settlement of claims, and engage in the preparation and drafting of legal instruments.

(2) He/She may appear in the trial courts and administrative tribunals of this state, subject to the following qualifications:

(i) Appearances, pleadings, motions, and other documents to be filed with the court may be prepared by the student or graduate and may be signed by him with the accompanying designation "Senior Law Student" or "Law Graduate" but must also be signed by the supervising member of the bar.

(ii) In criminal cases, in which the penalty may be imprisonment, in proceedings challenging sentences of imprisonment, and in civil or criminal contempt proceedings, the student or graduate may participate in pretrial, trial, and post-trial proceedings as an assistant of the supervising member of the bar, who shall be present and responsible for the conduct of the proceedings.

(iii) In all other civil and criminal cases the student or graduate may conduct all pretrial, trial, and post-trial proceedings, and the supervising member of the bar need not be present.

(3) He/She may prepare briefs, excerpts from record, abstracts, and other documents filed in courts of review of the State, which may set forth the name of the student or graduate with the accompanying designation "Senior Law Student" or "Law Graduate" but must be filed in the name of the supervising member of the bar.

(d) **Compensation.** A student or graduate rendering services authorized by this rule shall not request or accept any compensation from the person for whom he/she renders the services, but may receive compensation from an agency described in paragraph (b) above in accordance with an approved program.

(e) **Certification and Authorization**

(1) Upon request of a student or theappropriate organization, the dean of the law school in which the student is inattendance may, if he/she finds that the student meets the requirements statedin paragraph (a) of this rule, file with the Administrative Director acertificate so stating. Upon the filing of the certificate and until it iswithdrawn or terminated the student is eligible to render the services describedin paragraph (c) of this rule. The Administrative Director shall authorize, uponreview and approval of the completed application of an eligible student asdefined in paragraph (a) and the certification as described in paragraph (e),the issuance of the temporary license. No services that are permitted underparagraph (c) shall be performed prior to the issuance of a temporarylicense.

(2) Unless otherwise provided by the Administrative Director for good cause shown, or unless sooner withdrawn or terminated, the certificate shall remain in effect until the expiration of 18 months after it is filed, or until the announcement of the results of the first bar examination following the student's graduation, whichever is earlier. The certificate of a student who passes the examination shall continue in effect until he/she is admitted to the bar.

(3) The certificate may be withdrawn by the dean at any time, without prior notice, hearing, or showing of cause, by the mailing of a notice to that effect to the Administrative Director and copies of the notice to the student and to the agencies to which the student had been assigned.

(4) The certificate may be terminated by this court at any time without prior notice, hearing, or showing of cause. Notice of the termination may be filed with the Administrative Director, who shall notify the student and the agencies to which the student had been assigned.

(f) **Application by Law Graduate.** A law school graduate who wishes to be authorized to perform services described in paragraph (c) of this rule shall apply directly to the Administrative Director, with a copy to the dean of the law school from which he/she graduated.

Amended effective May 27, 1969; amended July 1, 1985, effective August 1, 1985; amended July 3, 1986, effective August 1, 1986; amended June 19, 1989, effective August 1, 1989; amended June 12, 1992, effective July 1, 1992; amended October 10, 2001, effective immediately; amended December 5, 2003, effective immediately; amended February 10, 2006, effective immediately.

JUSTICE HEIPLE, dissenting.

[*See dissent to amendment of Rule 703*.]

Committee Comments
(July 1, 1985)

This rule was amended, effective August 1, 1985, to allow the Administrative Director of the Illinois Courts to allow certain graduates of approved law schools to perform services under this rule pending their first opportunity to sit for the bar examination and to allow the Administrative Director, upon good cause shown, to extend the termination date of a certificate beyond the period prescribed by the rule. "Good cause shown" would ordinarily be limited to evidence that the licensee was unable to sit for the first bar examination offered following his graduation because of illness, a death in his family, military obligation, etc.

RULE 712 Licensing of Foreign Legal Consultants Without Examination

(a) **General Regulation**. In its discretion the supreme court may license to practice as a foreign legal consultant on foreign and international law, without examination, an applicant who:

(1) has been admitted to practice (or has obtained the equivalent of such admission) in a foreign country, and has engaged in the practice of law of such country, and has been in good standing as an attorney or counselor at law (or the equivalent of either) in such country, for a period of not less than five of the seven years immediately preceding the date of his or her application, provided that admission as a notary or its equivalent in any foreign country shall not be deemed to be the equivalent of admission as an attorney or counselor at law;

(2) possesses the good moral character and general fitness requisite for a member of the bar of this State;

(3) possesses the requisite documentation evidencing compliance with the immigration laws of the United States; and

(4) intends to practice as a legal consultant in the State of Illinois and to maintain an office therefor in the State of Illinois.

(b) **Reciprocity.** In considering whether the [sic] license an applicant under this rule, the supreme court may in its discretion take into account whether a member of the bar of the supreme court would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission (as referred to in paragraphs (c)(1) and (c)(5) of this rule), if there is pending with the supreme court a request to take this factor into account from a member of the bar of this court actively seeking to establish such an office in that country which raises a serious question as to the adequacy of the opportunity for such a member to establish such an office, or if the supreme court decides to do so on its own initiative.

(c) **Proof Required.** An applicant to be licensed under this rule must file with the supreme court or its designee:

(1) a certificate from the authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof and as to his or her good standing as such attorney or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate if it is not in English;

(2) a letter of recommendation from one of the members of the executive body of such authority, or from one of the judges of the highest law court or court of original jurisdiction of such foreign country, together with a duly authenticated English translation of such letter if it is not in English;

(3) evidence of his or her citizenship, educational and professional qualifications, period of actual practice in such foreign country and age;

(4) the affidavits of reputable persons as evidence of the applicant's good moral character and general fitness, substantially as required by Rule 708;

(5) a summary of the laws and customs of such foreign country that relate to the opportunity afforded to members of the bar of the supreme court to establish offices for the giving of legal advice to clients in such foreign country; and

(6) a completed character andfitness registration application in the form prescribed by the Board ofAdmissions to the Bar andand such other evidence of character, qualification and fitness as the supreme court may from time to time require and compliance with the requirements of this subsection.

(d) **Waiver.** Upon a showing that strict compliance with the provisions of paragraph (c)(1) or (c)(2) of this rule would cause the applicant hardship, the supreme court may in its discretion waive or vary the application of such provisions and permit the applicant to furnish other evidence in lieu thereof.

(e) **Right to Practice and Limitations on Scope of Practice.** A person licensed as a foreign legal consultant under this rule may render legal services and give professional advice within the State only on the law of the foreign country where the foreign legal consultant is admitted to practice. A foreign legal consultant in giving such advice shall not quote from or summarize advice concerning the law of this State (or of any other jurisdiction) which has been rendered by an attorney at law duly licensed under the law of the State of Illinois (or of any other jurisdiction, domestic or foreign). A licensed foreign legal consultant shall not:

(1) appear for a person other than himself or herself as attorney in any court, or before any judicial officer, or before any administrative agency, in this State (other than upon admission in isolated cases pursuant to Rule 707) or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any such court or before any such judicial officer, or before any such administrative agency;

(2) prepare any deed, mortgage, assignment, discharge, lease or any other instrument affecting real estate located in the United States of America;

(3) prepare any will, codicil or trust instrument affecting the disposition after death of any property located in the United States of America and owned by a citizen thereof;

(4) prepare any instrument relating to the administration of decedent's estate in the United States of America;

(5) prepare any instrument or other paper which relates to the marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of such a resident;

(6) render professional legal advice with respect to a personal injury occurring within the United States;

(7) render professional legal advice with respect to United States immigration laws, United States customs laws or United States trade laws;

(8) render professional legal advice on or under the law of the State of Illinois or of the United States or of any state, territory or possession thereof or of the District of Columbia or of any other jurisdiction (domestic or foreign) in which such person is not authorized to practice law (whether rendered incident to the preparation of legal instruments or otherwise);

(9) directly, or through a representative, propose, recommend or solicit employment of himself or herself, his or her partner, or his or her associate for pecuniary gain or other benefit with respect to any matter not within the scope of practice authorized by this rule;

(10)use any title other than `foreign legal consultant' and affirmatively state in conjunction therewith the name of the foreign country in which he or she is admitted to practice (although he or she may additionally identify the name of the foreign or domestic firm with which he or she is associated); or

(11)in any way hold himself or herself out as an attorney licensed in Illinois or as an attorney licensed in any United States jurisdiction.

(f) **Disciplinary Provisions**. Every person licensed to practice as a foreign legal consultant under this rule shall execute and file with the Illinois Attorney Registration and Disciplinary Commission, in such form and manner as the supreme court may prescribe:

(1) the foreign legal consultant's written commitment to observe the Rules of Professional Conduct, as adopted by the Illinois Supreme Court and as it may be amended from time to time, to the extent applicable to the legal services authorized by subparagraph (e) of this rule;

(2) a duly acknowledged instrument, in writing, setting forth the foreign legal consultant's address in this State and designating the clerk of the supreme court as the foreign legal consultant's agent upon whom process may be served, with like effect as if served personally upon the foreign legal consultant, in any action or proceeding thereafter brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within or to residents of this State, whenever after due diligence service cannot be made upon the foreign legal consultant at such address or at such new address in this State as he or she shall have filed in the office of the clerk of the supreme court by means of a duly acknowledged supplemental instrument in writing; and

(3) appropriate evidence of professional liability insurance or other proof of financial responsibility, in such form and amount as the supreme court may prescribe, to assure his or her proper professional conduct and responsibility.

(g) **Service of Process.** Service of process on the clerk of the supreme court, pursuant to the designation filed as required by Rule 712(f)(2) above, shall be made by personally delivering to and leaving with such clerk, or with a deputy or assistant authorized by the foreign legal consultant to receive such service, at his or her office, duplicate copies of such process together with a fee of $10. Service of process shall be complete when such clerk has been so served. Such clerk shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to such foreign legal consultant at his or her address specified by the foreign legal consultant as aforesaid.

(h) **Separate Authority.** This rule shall not be deemed to limit or otherwise affect the provisions of Rule 704.

(i) **Unauthorized Practice of Law.** Any person who is licensed under the provisions of this rule shall not be deemed to have a license to perform legal services prohibited by Rule 712(e) hereof. Any person licensed hereunder who violates the provisions of Rule 712(e) is engaged in the unauthorized practice of law and may be held in contempt of the court. Such person may also be subject to disciplinary proceedings pursuant to Rule 775 and the penalties imposed by section 32-5 of the Criminal Code of 1961, as amended, and section 1 of "An Act to revise the law in relation to attorneys and counselors," approved March 28, 1874.

Adopted, Dec. 7, 1990, effective immediately; amended December 6, 2001, effective immediately.

RULE 713 Applications for Licensing of Foreign Legal Consultants

(a) **Referral to Committee on Character and Fitness**

(1) The Committee on Character and Fitness of the judicial district in which any applicant for a license (pursuant to Rule 712) to practice as a foreign legal consultant resides shall pass upon his or her good moral character and general fitness to practice as a foreign legal consultant. The applicant shall furnish the committee with copies of the affidavits referred to in paragraphs (b)(3), (b)(4) and (b)(5) hereof. Each applicant for a license to practice as a foreign legal consultant shall appear before the committee of his district or some member thereof and shall furnish the committee such evidence of his or

her good moral character and general fitness to practice as a foreign legal consultant as in the opinion of the committee would justify his or her being licensed as a foreign legal consultant.

(2) Unless otherwise ordered by the supreme court, no license to practice as a foreign legal consultant shall be granted without a certificate, from the Committee on Character and Fitness for the judicial district in which the applicant resides, certifying that the committee has found that the applicant is of good moral character and general fitness to practice as a foreign legal consultant.

(b) **Documents Affidavits and Other Proof Required** Every applicant for a license to practice as a foreign legal consultant shall file the following additional papers with his or her application:

(1) a certificate from the authority having final jurisdiction over professional discipline in the foreign country in which the applicant was admitted to practice, which shall be signed by a responsible official or one of the members of the executive body of such authority and shall be attested under the hand and seal, if any, of the clerk of such authority, and which shall certify:

(i) as to the authority's jurisdiction in such matters;

(ii) as to the applicant's admission to practice in such foreign country and the date thereof and as to his or her good standing as an attorney or counselor at law or the equivalent therein; and

(iii) as to whether any charge or complaint has ever been filed against the applicant with such authority, and, if so, the substance of each such charge or complaint and the disposition thereof;

(2) a letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or court of general original jurisdiction of such foreign country, certifying to the applicant's professional qualifications, together with a certificate under the hand and seal, if any, of the clerk of such authority or of such court, as the case may be, attesting to the office held by the person signing the letter and the genuineness of his signature;

(3) affidavits as to the applicant's good moral character and general fitness to practice as a foreign legal consultant from three reputable persons residing in this State and not related to the applicant, two of whom shall be practicing Illinois attorneys;

(4) affidavits from two attorneys or counselors at law or the equivalent admitted in and practicing in such foreign country, stating the nature and extent of their acquaintance with the applicant and their personal knowledge as to the nature, character and extent of the applicant's practice, and as to the applicant's good standing as an attorney or counselor at law or the equivalent in such foreign country, and the duration and continuity of such practice;

(5) the National Conference of Bar Examiners questionnaire and affidavit;

(6) documentation in duly authenticated form evidencing that the applicant is lawfully entitled to reside and be employed in the United States of America pursuant to the immigration laws thereof;

(7) such additional evidence as the applicant may see fit to submit with respect to his or her educational and professional qualifications and his or her good moral character and general fitness to practice as a foreign legal consultant;

(8) a duly authenticated English translation of every paper submitted by the applicant which is not in English; and

(9) a duly acknowledged instrument designating the clerk of the supreme court the applicant's agent for service of process as provided in Rule 712(f)(2).

(c) **University and Law School Certificates.** A certificate shall be submitted from each university and law school attended by the applicant, setting forth the information required by forms which shall be provided to the applicant for that purpose.

(d) **Exceptional Situations.** In the event that the applicant is unable to comply strictly with any of the foregoing requirements, the applicant shall set forth the reasons for such inability in an affidavit, together with a statement showing in detail the efforts made to fulfill such requirements.

(e) **Authority of Committee on Character and Fitness to Require Additional Proof.** The Committee on Character and Fitness may in any case require the applicant to submit such additional proof or information as it may deem appropriate.

(f) **Filing.** Every application for a license as a foreign legal consultant, together with all the papers submitted thereon, shall upon its final disposition be filed in the office of the clerk of the supreme court.

(g) **Fees of Applicants.** Each applicant for a license to practice as a foreign legal consultant on foreign or international law shall pay in advance a fee of $800. All fees shall be paid to the treasurer of the Board of Admissions to the Bar to be held by the treasurer subject to the order of the court.

(h) **Undertaking.** Prior to taking custody of any money, securities (other than unendorsed securities in registered form), negotiable instruments, bullion, precious stones or other valuables, in the course of his or her practice as a foreign legal consultant, for or on behalf of any client domiciled or residing in the United States, every person licensed to practice as a foreign legal consultant shall obtain, and shall maintain in effect for the duration of such custody an undertaking issued by a duly authorized surety company, and approved by a justice of the supreme court, to assure the faithful and fair discharge of his or her duties and obligations arising from such custody. The undertaking shall be in an amount not less than the amount of any such money, or the fair market value of any such property other than money, of which the foreign legal consultant shall have custody, except that the supreme court may in any case in its discretion for good cause direct that such undertaking shall be in a greater or lesser amount. The undertaking or a duplicate original thereof shall be promptly filed by the foreign legal consultant with the clerk of the supreme court.

Adopted December 7, 1990, effective immediately; amended June 12, 1992, effective July 1, 1992; amended December 6, 2001, effective immediately.

RULE 714. Capital Litigation Trial Bar

(a) **Statement of Purpose**. This rule is promulgated in insure that counsel who participate in capital cases possess the ability, knowledge and experience to do so in a competent and professional manner. To this end, the Supreme Court shall certify duly licensed attorneys to serve as members of the Capital Litigation Trial Bar.

(b) **Qualifications of Members of the Capital Litigation Trial Bar.** Unless exempt under paragraph (c), or the Supreme Court determines that an attorney otherwise has the competence and ability to participate in a capital case pursuant to paragraph (d), trial counsel must meet the following minimum requirements:

Lead Counsel - Qualifications

(1) Be a member in good standing of the Illinois Bar or be admitted to the practice *pro hac vice*.

(2) Be an experienced and active trial practitioner with at least five years of criminal litigation experience.

(3) Have substantial familiarity with the ethics, practice, procedure and rules of the trial and reviewing courts of the State of Illinois.

(4) Have prior experience as lead or co-counsel in no fewer than eight felony jury trials which were tried to completion, at least two of which were murder prosecutions; and either

(i) have completed at least 12 hours of training in the preparation and trial of capital cases in a course approved by the Illinois Supreme Court, within two years prior to making application for admission; or

(ii) have substantial familiarity with and extensive experience in the use of expert witnesses, and forensic and medical evidence including, but not limited to, mental health, pathology and DNA profiling evidence.

Co-Counsel - Qualifications

(1) Be a member in good standing of the Illinois Bar or be admitted to the practice *pro hac vice*.

(2) Be an experienced and active trial practitioner with at least three years of criminal litigation experience.

(3) Have substantial familiarity with the ethics, practice, procedure and rules of the trial and reviewing courts of the State of Illinois.

(4) Have prior experience as lead or co-counsel in no fewer than five felony jury trials which were tried to completion; and either

(i) have completed at least 12 hours of training in the preparation and trial of capital cases in a course approved by the Illinois Supreme Court, within two years prior to making application for admission; or

(ii) have substantial familiarity with and extensive experience in the use of expert witnesses, and forensic and medical evidence including, but not limited to, mental health, pathology and DNA profiling evidence.

(c) The Attorney General or duly elected or appointed State's Attorney of each county of this state shall not be disqualified from prosecuting a capital case because he or she is not a member of the Capital Litigation Trial Bar.

(d) **Waiver.** If an attorney cannot meet one or more of the requirements set forth above, the Supreme Court may waive such requirement upon demonstration by the attorney that he or she, by reason of extensive criminal or civil litigation, appellate or post-conviction experience or other exceptional qualifications, is capable of providing effective representation as lead or co-counsel in capital cases.

(e) **Application for Admission to the Capital Litigation Trial Bar.** In support of an application, an attorney shall submit to the Illinois Supreme Court a form approved by the Administrative Office of the Illinois Courts. It shall require the attorney to demonstrate that he or she has fully satisfied the requirements set forth above. The attorney shall also identify any requirement that he or she requests be waived and shall set forth in detail such criminal or civil litigation, appellate or post-conviction experience or other exceptional qualifications that justify waiver. Applications for certification as lead counsel by

attorneys previously certified as co-counsel shall be handled in the same manner as original applications for admission to the Capital Litigation Trial Bar.

(f) **Creation of Capital Litigation Trial Bar Roster.** The Administrative Office of the Illinois Courts shall review each application to determine that it is complete. All completed applications shall be delivered, within 30 days of their receipt, to the screening panel designated by the Supreme Court to consider such applications. Within 30 days of receipt of the application the screening panel shall designate those attorneys deemed qualified to represent parties in capital cases and shall report those findings to the Supreme Court. Upon concurrence by the Supreme Court, the court shall direct the Administrative Office to maintain and promulgate a roster of attorneys designated as members of the Capital Litigation Trial Bar. The roster shall indicate whether the attorney is certified as lead counsel or co-counsel.

(g) **Continuing Legal Education. (Eff. 1/1/05)** In addition to fulfilling the requirements for Capital Litigation Trial Bar membership, each member of the Capital Litigation Trial Bar shall complete at least 12 hours of training in the preparation and trial of capital cases in a course approved by the Illinois Supreme Court within each two-year period following admission to that bar. It shall be the responsibility of each Capital Litigation Trial Bar member to provide notice of completion within 60 days of such training to the Administrative Office of the Illinois Courts, either by individual correspondence or by certification provided by the agency or group conducting such training.

(h) **Removal of Eligibility.** The Supreme Court may remove from the roster of the Capital Litigation Trial Bar any attorney who, in the court's judgment, has not provided ethical, competent, and thorough representation. In addition, the court may suspend or remove from the Capital Litigation Trial Bar roster any attorney who has failed to meet the continuing legal education requirements of paragraph (g).

(i) **Reinstatement.** An attorney who has been suspended or removed from the roster of the Capital Litigation Trial Bar for failure to comply with the continuing legal education requirements of paragraph (g) may be reinstated by the Supreme Court. An attorney who seeks reinstatement must, within one year after receiving notice of being removed or suspended from the roster of the Capital Litigation Trial Bar, complete the 12 hours of training as required by paragraph (g) and provide notice of compliance to the Administrative Office of the Illinois Courts. Such notice shall be in a form and manner approved by the Administrative Office of the Illinois Courts. To be reinstated, an attorney must have remained in compliance with all other qualifications for membership in the Capital Litigation Trial Bar. An attorney may seek reinstatement by this process only once.

Adopted March 1, 2001, effective immediately; amended October 1, 2004, effective January 1, 2005; amended April 4, 2007, effective immediately.

Committee Comments

Special Supreme Court Committee on Capital Cases

March 1, 2001

The most important safeguard of the fairness and accuracy of capital trials is the competence, professionalism, and integrity of the attorneys who try those cases. Upon comparing the roles of the prosecution and the defense (including public defenders, appointed counsel, and retained counsel), the committee concluded that no group could be singled out as the source of the "problem" in capital trials, or the sole object of a "solution." Fair and accurate results in a capital trial are the result of quality advocacy by both the prosecution and the defense. Rule 714 is based on the committee's unanimous finding that reasonable, minimum standards for training and experience, consistently applied as a condition of trial bar admission, are the only way to ensure significant, systemwide improvement in the quality of advocacy in capital trials.

Rule 714 draws on a rule adopted by the Nevada Supreme Court in 1990, which establishes minimum qualifications for appointed and retained defense counsel in capital cases. The committee also considered the Illinois State Bar Association's recommended qualifications for appointed and retained defense counsel in capital cases. In addition, the use of trial bar membership requirements as a means of improving the quality of trial advocacy finds precedent in the trial bar rules of the United State District Court for the Northern District of Illinois. Rule 714 incorporates ideas from each of these sources, but is designed to achieve uniform application of qualification standards throughout the state by placing Capital Litigation Trial Bar membership matters under the exclusive jurisdiction of the Supreme Court.

All defense counsel and assistant prosecutors appearing as lead or co-counsel in a capital case must be members of the Capital Litigation Trial Bar. See Rule 416(d), and Rule 701(b). The trial bar requirement does not apply to an elected or appointed State's Attorney of the county of venue or to the Attorney General. Defense counsel must be aware that they should not agree to provide representation in a potentially capital case unless they are properly certified members of the Capital Litigation Trial Bar. See Rule 416(d) and Rule 701(b), committee comments.

Counsel may only serve in the capacity (lead or co-counsel) in which they are admitted to the Capital Litigation Trial Bar. Sole counsel in a capital case must be qualified as lead counsel. The distinction between lead and co-counsel is not intended to imply that lead counsel must be present for every pretrial matter in a capital case. Co-counsel may participate in any manner approved by the lead attorney; however, lead counsel must, at a minimum, be present at the initial case management conference (Rule 416(f)) and at all stages of the trial of the case.

Paragraph (e) provides that an application for certification as lead counsel by an attorney previously admitted to the Capital Litigation Trial Bar as co-counsel is handled in the same manner as an original application for admission. The separate application process in such cases is not intended to imply that certification as lead counsel requires training in addition to that required for admission. However, all Capital Litigation Trial Bar members are encouraged to view the training required for admission as a minimum standard, and participate in additional training whenever possible.

Attorneys who are not members of the Attorney Registration & Disciplinary Commission Capital Litigation Trial Bar may participate in capital trials in the capacity of "third chair," provided such participation by a third attorney for the prosecution or defense is under the direct supervision of lead or co-counsel. Although participation in a capital trial as third chair will not satisfy the experience requirements of Rule 714, the experience gained may be considered for the purposes of a request for wavier under paragraph (d).

RULE 715 Admission of Graduates of Foreign Law Schools

Any person who has received his or her legal education and law degree in a foreign country may make application to the Board of Admissions to the Bar for admission to the bar upon academic qualification examination upon the following conditions:

(a) The applicant has been licensed to practice law in the foreign country in which the law degree was conferred and/or in the highest court of law in any state or territory of the United States or the District of Columbia and is in good standing as an attorney or counselor at law (or the equivalent of either) in that country or other jurisdiction where admitted to practice.

(b) The applicant has been actively and continuously engaged in the practice of law under such license or licenses for at least five of the seven years immediately prior to making application.

(c) The Board has determined that the quality of the applicant's preliminary, college and legal education is acceptable for admission to the bar of this state based upon its review and consideration of any matters deemed relevant by the Board including, but not limited to, the jurisprudence of the country in which the

applicant received his or her education and training, the curriculum of the law schools attended and the course of studies pursued by the applicant, accreditation of the law schools attended by the applicant by competent accrediting authorities in the foreign country where situated, post-graduate studies and degrees earned by the applicant in the foreign country and in the United States, and the applicant's success on bar examinations in other jurisdictions in this country. Each applicant shall submit such proofs and documentation as the Board may require.

(d) The applicant has achieved a passing score as determined by the Board on the full academic qualification examination.

(e) The applicant has achieved a passing score as determined by the Board on the Multistate Professional Responsibility Examination in Illinois or in any other jurisdiction in which it was administered.

(f) The applicant meets the character and fitness standards in Illinois and has been so certified to the Board by the Committee on Character and Fitness pursuant to Rule 708.

(g) The applicant has filed the requisite character and fitness registration and bar examination applications and has paid the fees therefor in accordance with Rule 706.

Adopted October 4, 2002, effective January 1, 2003.

RULE 716. Limited Admission Of House Counsel

(a) Eligibility. A lawyer admitted to the practice of law in another state or the District of Columbia may receive a limited license to practice law in this state when the lawyer is employed in Illinois as house counsel exclusively for a single corporation, partnership, association or other legal entity (as well as any parent, subsidiary or affiliate thereof), whose lawful business consists of activities other than the practice of law or the provision of legal services.

(b) Application Requirements. To qualify for the license, the applicant must file with the Board of Admissions to the Bar the following:

(1) A completed application for the limited license in the form prescribed by the Board.

(2) A certificate of good standing from the highest court of each jurisdiction of admission.

(3) A certificate from the disciplinary authority of each jurisdiction of admission which:

(a) states that the applicant has not been suspended, disbarred or disciplined and that no charges of professional misconduct are pending; or

(b) identifies any suspensions, disbarments, or disciplinary sanctions and any pending charges.

(4) A duly authorized and executed certification by applicant's employer that:

(a) it is not engaged in the practice of law or the rendering of legal services, whether for a fee or otherwise;

(b) it is duly qualified to do business under the laws of its organization and the laws of Illinois;

(c) the applicant works exclusively as an employee of said employer for the purpose of providing legal services to the employer at the date of his or her application for licensure; and

(d) it will promptly notify the Clerk of the Supreme Court of the termination of the applicant's employment.

(5) Such other affidavits, proofs and documentation as may be prescribed by the Board.

(6) The requisite fees in accordance with Rule 706.

(c) Character and Fitness Approval at Discretion of the Board. At the discretion of the Board of Admissions to the Bar, any applicant for a limited license under this rule may be required to receive certification of good moral character and general fitness to practice law by the Committee on Character and Fitness in accordance with the provisions of Rule 708.

(d) Certification by the Board. In the event the Board of Admissions to the Bar shall find that the applicant meets the requirements of this rule, the Board shall certify to the Court that such applicant is qualified for licensure.

(e) Limitation of Practice. Licensed house counsel, while in the employ of an employer described in subparagraph (a) of this rule, may perform legal services in this state solely on behalf of such employer; provided, however, that such services shall

(1) be limited to

(a) the giving of advice to the directors, officers, employees and agents of the employer with respect to its business and affairs; and

(b) negotiating, documenting and consummating transactions to which the employer is a party; and

(2) not include appearances as counsel in any court, administrative tribunal, agency or commission situated in this state unless the rules governing such court or body shall otherwise authorize or the lawyer is specially admitted by such court or body in a particular case or matter.

Lawyers licensed under this rule shall not offer legal services or advice to the public or in any manner hold themselves out to be so engaged or authorized.

(f) Duration and Termination of License. The license and authorization to perform legal services under this rule shall terminate upon the earliest of the following events:

(1) The lawyer is admitted to the general practice of law under any other rule of this Court.

(2) The lawyer ceases to be employed as house counsel for the employer listed on his or her initial application for licensure under this rule; provided, however, that if such lawyer, within 120 days of ceasing to be so employed, becomes employed by another employer and such employment meets all requirements of this rule, his or her license shall remain in effect, if within said 120-day period there is filed with the Clerk of the Supreme Court: (a) written notification by the lawyer stating the date on which the prior employment terminated, identification of the new employer and the date on which the new employment commenced; (b) certification by the former employer that the termination of the employment was not based upon the lawyer's character and fitness or failure to comply with this rule; and (c) the certification specified in subparagraph (b)(4) of this rule duly executed by the new employer. If the employment of the lawyer shall cease with no subsequent employment within 120 days meeting all requirements of this rule, he or she shall promptly so notify the Clerk of the Supreme Court in writing stating the date of termination of the employment.

(3) Withdrawal of an employer's certification filed pursuant to subparagraph (b)(4) of this rule. An employer may withdraw certification at any time without cause being stated.

(4) Upon order of this Court.

(g) Annual Registration. Once the Court has conferred upon house counsel a limited license to practice law, counsel must register with the Attorney Registration and Disciplinary Commission and pay the fee for active lawyers set forth in Rule 756 for the year in which the license is conferred. For each subsequent year in which house counsel continues to practice in Illinois under the limited license, counsel must register and pay the fee required by Rule 756 in order to be authorized to practice under the limited license.

(h) Discipline. All lawyers licensed under this rule shall be subject to the jurisdiction of the Court for disciplinary purposes to the same extent as all other lawyers licensed to practice law in this state.

(i) No Credit Toward Admission on Motion. The period of time a lawyer practices law while licensed under this rule shall not be counted toward his or her eligibility for admission on motion under Rule 705.

(j) Transition. Any lawyer not licensed in this state who is employed as house counsel in Illinois on the effective date of this rule shall not be deemed to have been engaged in the unauthorized practice of law in Illinois prior to licensure under this rule if application for the license is made within 12 months of the effective date of the rule.

(k) Newly Employed House Counsel. Any lawyer who is newly employed as house counsel in Illinois after the effective date of this rule shall not be deemed to have engaged in the unauthorized practice of law in Illinois prior to licensure under this rule if application for the license is made within 180 days of the commencement of such employment.

Adopted February 11, 2004, effective July 1, 2004.

Rule 717. Limited Admission of Legal Service Program Lawyers

(a) Eligibility. A lawyer admitted to the practice of law in another state or the District of Columbia who meets the educational requirements of Rule 703 may receive a limited license to practice law in this state when the lawyer is employed in Illinois for an organized legal service, public defender or law school clinical program providing legal assistance to indigent persons.

(b) Application Requirements. To qualify for the license the applicant must file with the Board of Admissions to the Bar the following:

(1) A completed application for the limited license and a completed character and fitness registration application in the form prescribed by the Board.

(2) A certificate of good standing from the highest court of each jurisdiction of admission.

(3) A certificate from the disciplinary authority of each jurisdiction of admission which:

(a) states that the applicant has not been suspended, disbarred or disciplined and that no charges of professional misconduct are pending; or

(b) identifies any suspensions, disbarments, or disciplinary sanctions and any pending charges.

(4) A duly authorized and executed certification by the applicant's employer that:

(a) it is engaged in the practice of law for the rendering of legal services to indigent persons;

(b) it is duly qualified to do business under the laws of its organization and the laws of Illinois;

(c) the applicant will work exclusively as an employee of said employer, noting the date employment is expected to commence; and

(d) it will promptly notify the Clerk of the Supreme Court of the termination of the applicant's employment.

(5) Such other affidavits, proofs and documentation as may be prescribed by the Board.

(6) The requisite fees in accordance with Rule 706.

(c) Character and Fitness Approval. Each applicant for a limited license under this rule must receive certification of good moral character and general fitness to practice law by the Committee on Character and Fitness in accordance with the provisions of Rule 708.

(d) Certification by the Board. In the event the Board of Admissions to the Bar shall find that the applicant meets the requirements of this rule and has received from the Committee on Character and Fitness its certification of good moral character and general fitness to practice law, the Board shall certify to the Court that such applicant is qualified for licensure.

(e) Limitation of Practice. A lawyer while in the employ of an employer described in subparagraph (a) of this rule may perform legal services in this state solely on behalf of such employer and the indigent clients represented by such employer. In criminal cases classified as felonies, the lawyer may participate in the proceedings as an assistant of a supervising member of the bar who shall be present and responsible for the conduct of the proceedings.

(f) Duration and Termination of License. The license and authorization to perform legal services under this rule shall terminate upon the earliest of the following events:

(1) Eighteen months after admission to practice under this rule.

(2) The lawyer is admitted to the general practice of law under any other rule of this Court.

(3) The lawyer ceases to be employed for the employer listed on his or her initial application for licensure under this rule.

(4) Withdrawal of an employer's certification filed pursuant to subparagraph (b)(4) of this rule. An employer may withdraw certification at any time without cause being stated.

(g) Annual Registration. Once the Court has conferred a limited license to perform legal services under this rule, the lawyer must register with the Attorney Registration and Disciplinary Commission and pay the fee for active lawyers set forth in Rule 756 for the year in which the license is conferred and for any subsequent year into which the limited license extends.

(h) Discipline. All lawyers licensed under this rule shall be subject to the jurisdiction of the Court for disciplinary purposes to the same extent as all other lawyers licensed to practice law in this state.

(i) No Credit Toward Admission on Motion. The period of time a lawyer practices law while licensed under this rule shall not be counted toward his or her eligibility for admission on motion under Rule 705.

Adopted February 11, 2004, effective July 1, 2004.

RULES 718-720 Reserved

PART A-1. PRACTICE OF LAW

RULE 721 Professional Service Corporations, Professional Associations, Limited Liability Companies and Registered Limited Liability Partnership for the Practice of Law

(a) Professional service corporations formed under the Professional Service Corporation Act (805 ILCS 10/1 *et seq*.), professional associations organized under the Professional Association Act (805 ILCS 305/1 *et seq*.), limited liability companies organized under the Limited Liability Company Act (805 ILCS 180/1--1 *et seq.*), or registered limited liability partnerships organized under the Uniform Partnership Act (805 ILCS 205/8.1 *et seq.*), or professional corporations, professional associations, limited liability companies, or registered limited liability partnerships formed under similar provisions of successor Acts to any of the foregoing legislation or under similar statutes of other states or jurisdictions of the United States**,** may engage in the practice of law in Illinois provided that

(1) each natural person shall be licensed to practice law who is (A) a shareholder, officer, or director of the corporation (except the secretary of the corporation), member of the association**,** member (or manager, if any) of the limited liability company, or partner of the registered limited liability partnership, (B) a shareholder, officer, or director of a corporation (except the secretary of the corporation), member of an association, member (or manager, if any) of a limited liability company, or partner of a registered limited liability partnership that itself is a shareholder of a corporation, member of an association, member (or manager, if any) of a limited liability company, or partner of a registered limited liability partnership engaged in the practice of law, or (C) engaged in the practice of law and an employee of any such corporation, association, limited liability company, or registered limited liability partnership; and

(2) one or more persons shall be members of the bar of Illinois, and engaged in the practice of law in Illinois, who are either (A) shareholders of the corporation, members of the association or limited liability company, or partners of the registered limited liability partnership permitted to engage in the practice of law in Illinois hereunder, or (B) shareholders of a corporation, members of an association or limited liability company, or partners in a registered limited liability partnership permitted to engage in the practice of law in Illinois hereunder that itself is a shareholder of the corporation, member of the association or limited liability company, or partner of the registered limited liability partnership permitted to engage in the practice of law in Illinois hereunder; and

(3) the corporation, association, limited liability company, or registered limited liability partnership shall do nothing which, if done by an individual attorney, would violate the standards of professional conduct applicable to attorneys licensed by this court; and

(4) no natural person shall be permitted to practice law in Illinois who is a shareholder, officer, director of the corporation, member of the association, member (or manager, if any) of the limited liability company, or partner of the registered limited liability partnership, or an employee of the corporation, association, limited liability company, or registered limited liability partnership, unless that person is either a member of the bar in Illinois or specially admitted by court order to practice in Illinois.

(b) This rule does not diminish or change the obligation of each attorney engaged in the practice of law in behalf of the corporation, association, limited liability company, or registered limited liability partnership to conduct himself or herself in accordance with the standards of professional conduct applicable to attorneys licensed by this court. Any attorney who by act or omission causes the corporation, association, limited liability company, or registered limited liability partnership to act in a way which violates standards of professional conduct, including any provision of this rule, is personally responsible for such act or omission and is subject to discipline therefor. Any violation of this rule by the corporation, association, limited liability company, or registered limited liability partnership is a ground for the court to terminate or

suspend the right of the corporation, association, limited liability company, or registered limited liability partnership to practice law or otherwise to discipline it.

(c) No corporation, association, limited liability company, or registered limited liability partnership shall engage in the practice of law in Illinois, or open or maintain an establishment for that purpose in Illinois, without a certificate of registration issued by this court.

(d) Unless the corporation, association, limited liability company, or registered limited liability partnership maintains minimum insurance or proof of financial responsibility in accordance with Rule 722, the articles of incorporation or association or organization, or the partnership agreement, shall provide, and in any event the shareholders of the corporation, members of the association or limited liability company, or partners of the registered limited liability partnership shall be deemed to agree by virtue of becoming shareholders, members, or partners, that all shareholders, members, or partners shall be jointly and severally liable for the acts, errors, and omissions of the shareholders, members, or partners, and other employees of the corporation, association, limited liability company, or registered limited liability partnership, arising out of the performance of professional services by the corporation, association, limited liability company, or registered limited liability partnership while they are shareholders, members, or partners.

(e) An application for registration shall be in writing signed by an authorized shareholder of the corporation, member of the association or limited liability company, or partner of the registered limited liability partnership, and filed with the clerk of this court with a fee of $50. The application shall contain the following:

(1) the name and address of the corporation, association, limited liability company, or registered limited liability partnership;

(2) the statute under which it is formed;

(3) the names and residence addresses of the shareholders of the corporation, members of the association or limited liability company, or partners of the registered limited liability partnership;

(4) a statement of whether the corporation, association, limited liability company, or registered limited liability partnership is on a calendar or fiscal year basis and if fiscal, the closing date;

(5) a statement that each shareholder, officer, and director of the corporation (except the secretary of the corporation), each member of the association, each member (and each manager, if any) of the limited liability company, or each partner of the registered limited liability partnership is a member of the bar of each jurisdiction in which such person practices law and that no disciplinary action is pending against any of them; and

(6) such other information and documents as the court may from time to time require.

(f) A certificate of registration shall continue in effect until it is suspended or revoked, subject, however, to renewal annually within 30 days following the close of each calendar year. The application for renewal shall be signed by an authorized shareholder, member, or partner and filed with the clerk of this court with a filing fee of $40. It shall state the name of the corporation, association, limited liability company, or registered limited liability partnership and the names and residence addresses of the shareholders of the corporation, members of the association or limited liability company, or partners of the registered limited liability partnership, and shall certify that each shareholder or member, manager (if any), director and officer (except the secretary of the corporation), and partner is a member of the bar of each jurisdiction in which such person practices law. No certificate is assignable.

(g) Nothing in this rule modifies the attorney-client privilege.

(h) To the extent that the provisions of this rule or Rule 722 are inconsistent with any provisions of the Professional Service Corporation Act, the Professional Association Act, the Limited Liability Company Act, or the Uniform Partnership Act, such provisions of said acts shall have no application.

Effective March 18, 1969; amended October 21, 1969, effective November 15, 1969; amended October 1, 1976, effective November 15, 1976; amended February 19, 1982, effective April 1, 1982; amended October 9, 1984, effective November 1, 1984; amended February 5, 1997, effective March 1, 1997; amended April 1, 2003, effective July 1, 2003.

Commentary
(Revised December 5, 2003)

As amended, Rule 721: (i) includes registered limited liability partnerships among the kinds of entities that may engage in the practice of law in Illinois; (ii) facilitates registration and renewal by permitting a single authorized member of such law firms to execute the application for registration or renewal; and (iii) clarifies that a corporation, association, limited liability company, or registered limited liability partnership formed under the laws of this state or similar statutes of other states or jurisdictions of the United States can itself be a shareholder of a corporation, member of an association or limited liability company, or partner of a registered limited liability partnership that is registered under the rule.

Rule 722. Limited Liability Legal Practice

(a) For purposes of this rule:

(1) "Limited liability entity" means a corporation, association, limited liability company, or registered limited liability partnership engaged in the practice of law in Illinois pursuant to Rule 721.

(2) "Owner" means a shareholder, member, manager, or partner of a limited liability entity.

(3) "Wrongful conduct" means acts, errors, or omissions in the performance of professional services by any owners or employees of a limited liability entity while they were affiliated with that entity.

(b) The liability, if any, of owners of a limited liability entity, for a claim asserted against the limited liability entity or any of its owners or employees arising out of wrongful conduct, shall be determined by the provisions of the statute under which the limited liability entity is organized if that entity maintains minimum insurance or proof of financial responsibility, as follows:

(1) "Minimum insurance" means a professional liability insurance policy applicable to a limited liability entity, and any of its owners or employees, for wrongful conduct. Such insurance shall exist, in one or more policies, with respect to claims asserted during an annual policy period due to alleged wrongful conduct occurring during the policy period and the previous six years. Such policies shall have a minimum amount of insurance of $100,000 per claim and $250,000 annual aggregate, times the number of lawyers in the firm at the beginning of the annual policy period, provided that the firm's insurance need not exceed $5,000,000 per claim and $10,000,000 annual aggregate. Evidence of any such minimum insurance shall be provided with each application for registration or renewal pursuant to Rule 721 by means of an affidavit or a verification by certification under section 1–109 of the Code of Civil Procedure of an authorized shareholder, member, or partner that his or her firm maintains the minimum insurance required by this rule. For purposes of Rules 721(d) and 722, the minimum amount of insurance required shall not be affected: (A) by any exceptions or exclusions from coverage that are customary with respect to lawyers professional liability insurance policies; (B) if, with respect to a particular claim, the limited liability entity fails to maintain insurance for wrongful conduct occurring before the annual policy period, so

long as insurance coverage in the amount specified in this rule exists with respect to the claim in question; or (C) if, during an annual policy period, the per claim or annual aggregate limits are exceeded by the amounts of any claims, judgments, or settlements. If evidence of insurance is provided with a registration or renewal application pursuant to Rule 721and it is ultimately determined that the limited liability entity failed to maintain minimum insurance during the period covered by that registration or renewal, unless such failure is fraudulent or wilful the joint and several liability of the owners for a claim arising out of wrongful conduct shall be limited to the minimum per claim amount of insurance applicable to the limited liability entity under this rule.

(2) Owners of a limited liability entity that has obtained minimum insurance shall be jointly and severally liable, up to the amount of the deductible or retention, for any claims arising out of wrongful conduct unless the limited liability entity has also provided proof of financial responsibility in a sum no less than the amount of the deductible or retention.

(3) "Proof of financial responsibility" means funds that are specifically designated and segregated for the satisfaction of any judgments against a limited liability entity, and any of its owners or employees, entered by or registered in any court of competent jurisdiction in Illinois, arising out of wrongful conduct. At the beginning of an annual period covered by a certificate of registration pursuant to Rule 721, such funds shall be in a sum no less than the minimum required annual aggregate for minimum insurance by that limited liability entity, unless the proof of financial responsibility is provided solely to apply to the deductible or retention pertaining to the applicable minimum insurance, in which case the funds shall be no less than the amount of the deductible or retention. During the annual period covered by a certificate of registration pursuant to Rule 721, such funds may be used only to satisfy any judgments against the limited liability entity, and any of its owners or employees, entered by or registered in any court of competent jurisdiction in Illinois, arising out of wrongful conduct. Such funds may be in any of the following forms: (A) deposit in trust or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations; (B) a bank letter of credit, or (C) a surety bond. Evidence of any such proof of financial responsibility shall be provided with each application for registration or renewal pursuant to Rule 721 by means of an affidavit or a verification by certification under section 1–109 of the Code of Civil Procedure of an authorized shareholder, member, or partner that his or her firm maintains the funds required by this rule. Otherwise minimum proof of financial responsibility remains minimum, for purposes of this rule, if the individual or combined amount of any judgments during the annual period covered by the certificate of registration exceeds the amount of the segregated funds.

(4) If a limited liability entity maintains minimum insurance or proof of financial responsibility at the time that a bankruptcy case is commenced with respect to that entity, it shall be deemed to do so with respect to claims asserted after the commencement of the bankruptcy case.

(c) Nothing in this rule or any law under which a limited liability entity is organized shall relieve any lawyer from personal liability for claims arising out of acts, errors, or omissions in the performance of professional services by the lawyer or any person under the lawyer's direct supervision and control.

Adopted April 1, 2003, effective July 1, 2003; amended March 15, 2004, effective immediately.

Commentary
(April 1, 2003)

Rule 721 imposes joint and several liability on lawyers with an ownership interest in law firms organized under statutes that purport to limit vicarious liability, for claims arising out of the performance of professional services by any firm lawyers or employees, unless the firm maintains minimum insurance or proof of financial responsibility in accordance with Rule 722. For lawyers with an ownership interest in such firms to obtain the limited liability authorized by statute, Rule 722 imposes additional obligations, beyond any statutory requirements, to provide sufficient professional liability insurance or other funds to protect clients with such claims.

Rules 721 and 722 do not reduce lawyers' liability for their own professional conduct or that of persons under their direct supervision and control. Nor do these rules affect lawyers' ethical responsibilities for their own conduct, or that of their law firm or their firm's lawyers or employees, under Rules 5.1, 5.2, or 5.3 of the Rules of Professional Conduct.

RULES 723-729 Reserved

RULE 730 Group Legal Services

No attorney shall participate in a plan which provides group legal services in this State unless the plan has been registered as hereinafter set forth:

(a) The plan shall be registered in the office of the Administrator of the Attorney Registration and Disciplinary Commission within 15 days of the effective date of the plan on forms supplied by the Administrator;

(b) Amendments to any plan for group legal services and to any other documents required to be filed upon registration of a plan, made subsequent to the registration of the plan, shall be filed in the office of the Administrator no later than 30 days after the adoption of the amendment;

(c) The Administrator shall maintain an index of the plans registered pursuant to this rule. All documents filed in compliance with this rule shall be deemed public documents and shall be available for public inspection during normal business hours;

(d) Neither the Commission nor the Administrator shall approve or disapprove of any plan for group legal services or render any legal opinion regarding any plan. The registration of any plan under this rule shall not be construed to indicate approval or disapproval of the plan;

(e) Plans existing on the effective date of this order shall be registered on or before June 1, 1977;

(f) Subsequent to initial registration, all such plans shall be registered annually on or before July 1 on forms supplied by the Administrator. Plans initially registered prior to July 1, 1977, need not be registered again until July 1, 1978.

Adopted April 21, 1977, effective May 1, 1977; amended September 28, 1994, effective October 1, 1994.

RULES 731-750 Reserved

PART B. REGISTRATION AND DISCIPLINE OF ATTORNEYS

RULE 751 Attorney Registration and Disciplinary Commission

(a) Authority of the Commission. The registration of, and disciplinary proceedings affecting, members of the Illinois bar shall be under the administrative supervision of an Attorney Registration and Disciplinary Commission.

(b) Membership and Terms. The Commission shall consist of four members of the Illinois bar and three nonlawyers appointed by the Supreme Court. One member shall be designated by the court as chairperson. Unless the court specifies a shorter term, all members shall be appointed for three-year terms and shall serve until their successors are appointed. Any member of the Commission may be removed by the court at any time, without cause.

(c) Compensation. None of the members of the Commission shall receive compensation for serving as such, but all members shall be reimbursed for their necessary expenses.

(d) Quorum. Four members of the Commission shall constitute a quorum for the transaction of business. The concurrence of four members shall be required for all action taken by the Commission.

(e) Duties. The Commission shall have the following duties:

(1) to appoint, with the approval of the Supreme Court, an administrator to serve as the principal executive officer of the registration and disciplinary system. The Administrator shall receive such compensation as the Commission authorizes from time to time;

(2) to make rules for disciplinary proceedings not inconsistent with the rules of this court;

(3) to supervise the activities of the Administrator; supervision of the Administrator shall include review, after the fact, of representative samples of investigative matters concluded by the Administrator without reference to the Inquiry Board;

(4) to authorize the Administrator to hire attorneys, investigators and clerical personnel and to set the salaries of such persons;

(5) to appoint from time to time, as it may deem appropriate, members of the bar to serve as commissioners in addition to those provided for in Rule 753;

(6) to collect and administer the disciplinary fund provided for in Rule 756, to collect and remit to the Lawyers' Assistance Program Fund the fee described in Rule 756(a)(1) and the Lawyers' Assistance Program Act (30 ILCS 105/5.570), to collect and remit to the Lawyers Trust Fund the fee described in Rule 756(a)(1), to collect and remit to the Supreme Court Commission on Professionalism the fee described in Rule 756(a)(1) and, on or before April 30 of each year, file with the court an accounting of the monies received and expended for disciplinary activities and fees remitted to the Lawyers' Assistance Program Fund, the Lawyers Trust Fund, and the Supreme Court Commission on Professionalism, and a report of such activities for the previous calendar year, which shall be published by the court, and there shall be an independent annual audit of the disciplinary fund as directed by the court, the expenses of which shall be paid out of the fund;

(7) to submit an annual report to the court evaluating the effectiveness of the registration and disciplinary system and recommending any changes it deems desirable; and

(8) to develop a comprehensive orientation program for new members of the Inquiry Board and implement that program.

Adopted January 25, 1973, effective February 1, 1973; amended effective May 17, 1973, April 1, 1974, and May 21, 1975; amended August 9, 1983, effective October 1, 1983; amended April 10, 1987, effective August 1, 1987; amended June 4, 1987, effective immediately; amended March 17, 1988, effective immediately; amended October 13, 1989, effective immediately; amended October 4, 2002, effective immediately; amended September 29, 2005, effective immediately.

RULE 752 Administrator

Subject to the supervision of the Commission, the Administrator shall:

(a) On his own motion, on the recommendation of an Inquiry Board or at the instance of an aggrieved party, investigate conduct of attorneys which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute;

(b) Assist each Inquiry Board in its investigations and prosecute disciplinary cases before the Hearing Boards, the Review Board and the court;

(c) Employ at such compensation as may be authorized by the Commission, such investigative, clerical and legal personnel as may be necessary for the efficient conduct of his office;

(d) Discharge any such personnel whose performance is unsatisfactory to him; and

(e) Maintain such records, make such reports and perform such other duties as may be prescribed by the Commission from time to time.

Adopted January 25, 1973, effective February 1,1973; amended effective May 17, 1973, and April 1, 1974; amended March 17, 1988, effective immediately.

RULE 753 Inquiry, Hearing and Review Boards

(a) **Inquiry Board**

(1) There shall be an Inquiry Board. It shall consist of members of the bar of Illinois and nonlawyers appointed by the Commission to serve annual terms as commissioners of the court. Nonlawyer members shall be appointed to the Board in a ratio of two lawyers for each nonlawyer. The Commission may appoint as many members of the Board as it deems necessary to carry on the work of the Board.

(2) The Board shall inquire into and investigate matters referred to it by the Administrator. The Board may also initiate investigations on its own motion and may refer matters to the Administrator for investigation.

(3) After investigation and consideration, the Board shall dispose of matters before it by voting to dismiss the charge, to close an investigation or to file a complaint with the Hearing Board.

(4) The Board may act in panels. Each panel shall consist of two lawyers and one nonlawyer as designated by the Commission. The Commission shall designate one of the members of each panel as chairman. The majority of a panel shall constitute a quorum and the concurrence of a majority shall be necessary to a decision.

(b) **Filing a Complaint.** A complaint voted by the Inquiry Board shall be prepared by the Administrator and filed with the Hearing Board. The complaint shall reasonably inform the attorney of the acts of misconduct he is alleged to have committed.

(c) **Hearing Board**

(1) There shall be a Hearing Board. It shall consist of members of the bar of Illinois and nonlawyers appointed by the Commission to serve annual terms as commissioners of the court. Members shall be appointed to the Board in a ratio of two lawyers for each nonlawyer.

(2) The Hearing Board may act in panels of not less than three members each, as designated by the Commission. The Commission shall also designate one of the lawyer members of each panel as chairperson. The majority of a panel shall constitute a quorum and the concurrence of a majority shall be

necessary to a decision. In the absence of the chairperson of a panel at a hearing, the lawyer member present shall serve as acting chairperson.

(3) The hearing panels shall conduct hearings on complaints filed with the Board and on petitions referred to the Board. The panel shall make findings of fact and conclusions of fact and law, together with a recommendation for discipline, dismissal of the complaint or petition, or nondisciplinary disposition. The Hearing Board may order that it will administer a reprimand to the respondent in lieu of recommending disciplinary action by the court.

(4) The scheduling of matters before the Board shall be in accordance with Commission rules.

(5) Proceedings before the Board, including discovery practice, shall be in accordance with the Code of Civil Procedure and the rules of the supreme court as modified by rules promulgated by the Commission pursuant to Supreme Court Rule 751(a). Information regarding prior discipline of a respondent will not be divulged to a hearing panel until after there has been a finding of misconduct, unless that information would be admissible for reasons other than to show a propensity to commit the misconduct in question.

(6) Except as otherwise expressly provided in these rules, the standard of proof in all hearings shall be clear and convincing evidence.

(d) **Review of Hearing Board Reports**

(1) Review Board. There shall be a nine-member Review Board which shall be appointed by the court. Appointments shall be for a term of three years or until a successor is appointed. Appointments to the Review Board shall be staggered, so that the terms of three members are scheduled to expire each year. No member shall be appointed for more than three consecutive three-year terms. One member shall be designated by the court as chairperson. The Review Board shall function in panels of three, presided over by the most senior member of the panel. The concurrence of two members of a panel shall be necessary to a decision.

(2) Exceptions; Agreed Matters. Reports of the Hearing Board shall be docketed with the Review Board upon the filing of a notice of exceptions by either party. The respondent or the Administrator may file exceptions to the report of the Hearing Board with the Review Board within 21 days ~~after service~~ <u>of the filing</u> of the report ~~to the parties~~ <u>in the Commission</u>. If neither the respondent nor the Administrator files a notice of exceptions to the Hearing Board report, and the report recommends action by the court, the clerk of the Attorney Registration and Disciplinary Commission shall submit the report of the Hearing Board to the court as an agreed matter. Upon the submission of any matter as an agreed matter, the clerk of the Commission shall give notice to the parties of that submission. Within 21 days after submission of the report to the court, the Administrator shall file a motion to approve and confirm the report of the Hearing Board. No response to this motion shall be filed unless ordered by the court on its own motion or pursuant to a motion for leave to respond. Upon receipt of the motion to approve and confirm, the court may enter a final order as recommended by the Hearing Board or as otherwise determined by the court, order briefs or oral argument or both, or remand the matter with directions to the Hearing Board or the Review Board.

(3) Action by the Review Board. The Review Board may approve the findings of the Hearing Board, may reject or modify such findings as it determines are against the manifest weight of the evidence, may make such additional findings as are established by clear and convincing evidence, may approve, reject or modify the recommendations, may remand the proceeding for further action or may dismiss the proceeding. The Review Board may order that it will administer a reprimand to the respondent in lieu of recommending disciplinary action by the court. A copy of the report or order of the Review Board shall be served on the respondent and the Administrator.

(e) **Review of Review Board Reports**

(1) Petition for Leave to File Exceptions. Reports or orders of the Review Board shall be reviewed by the court only upon leave granted by the court or upon the court's own motion. Either party may petition ~~to~~ the court for leave to file exceptions to the order or report of the Review Board. The petition shall be filed within 35 days of ~~service~~ the filing of the order or report ~~upon the party~~ in the Commission. The supreme court, or a justice thereof, on motion supported by affidavit or verification by certification under section 1–109 of the Code of Civil Procedure may extend the time for petitioning for leave to file exceptions, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances. (See Rule 361.)

(2) Grounds for Petition for Leave to File Exceptions. Whether a petition for leave to file exceptions will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered; the general importance of the question presented; the existence of a conflict between the report of the Review Board and prior decisions of the court; and the existence of a substantial disparity between the discipline recommended and discipline imposed in similar cases.

(3) Contents of Petition for Leave to File Exceptions. The petition for leave to file exceptions shall contain, in the following order:

(a) a request for leave to file exceptions;

(b) a statement of the date upon which the report of the Review Board was filed;

(c) a statement of the points relied upon for rejection of the report of the Review Board;

(d) a fair and accurate statement of the facts, which shall contain the facts necessary to an understanding of the case, without argument or comment, with appropriate references to the record by transcript page and exhibit number;

(e) a short argument (including appropriate authorities) stating why review by the supreme court is warranted and why the decision of the Review Board should be rejected;

and

(f) a copy of the reports of the Hearing and Review Boards and proposed exceptions shall be appended to the petition. The petition shall otherwise be ~~duplicated~~ prepared, served, and filed in accordance with requirements for briefs as set forth in Rule 341

(4) Answer. The opposing party need not but may file an answer, with proof of service, within 14 days after the expiration of the time for the filing of the petition~~, or within such further time as the supreme court or a judge thereof may grant within such 14-day period~~. The supreme court, or a justice thereof, on motion supported by affidavit or verification by certification under section 1-109 of the Code of Civil Procedure may extend the time for filing an answer, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances. (See Rule 361.) An answer shall set forth reasons why the petition should not be granted, and shall conform, to the extent appropriate, to the form specified in this rule for the petition, omitting the first four items set forth in paragraph (3) except to the extent that correction of the petition is considered necessary. The answer shall otherwise be ~~duplicated~~ prepared, served, and filed in accordance with the requirements for briefs as set forth in Rule 341. No reply to the answer shall be filed.

(5) Ruling on Petition.

(a) If the court allows exceptions to an order or report of the Review Board, it may:

(i) enter a final order as recommended by the Review Board or as otherwise determined by the court;

(ii) enter an order remanding the matter with directions to the Hearing Board or the Review Board; or

(iii) accept the matter for further consideration.

If the case is accepted for further consideration, the clerk of the Attorney Registration and Disciplinary Commission shall transmit the record of the case to the court. Either party may assert error in any ruling, action, conclusion or recommendation of the Review Board without regard to whether the party filed exceptions. The petition for leave to file exceptions allowed by the court shall stand as the brief of the appellant. Remaining briefs shall be prepared, filed, and served in compliance with Rules 341 and 343 ~~and 344~~. The parties shall not be entitled to oral argument before the court as of right. Oral argument may be requested in accordance with Rule 352.

(b) If the court denies leave to file exceptions, it may:

(i) enter a final order as recommended by the Review Board or as otherwise determined by the court; or

(ii) enter an order remanding the matter with directions to the Hearing Board or the Review Board.

(6) Agreed Matters. If a petition for leave to file exceptions is not timely filed and if the report of the Review Board recommends action by the court, the clerk of the Attorney Registration and Disciplinary Commission shall submit the report of the Review Board together with a copy of the report of the Hearing Board to the court as an agreed matter. Upon the submission of any matter as an agreed matter, the clerk of the Commission shall give notice to the parties of that submission. Within 21 days after submission of the report to the court, the Administrator shall file a motion to approve and confirm the report of the Review Board. No response to this motion shall be filed unless ordered by the court on its own motion or pursuant to a motion for leave to respond. Upon receipt of the motion to approve and confirm, the court may enter a final order of discipline as recommended or as otherwise determined by the court, order briefs or oral argument or both, or remand the matter with directions to the Hearing Board or the Review Board.

(7) Finality of Review Board Decision. If exceptions are not filed and the order or report of the Review Board does not recommend disciplinary action by the court, the order or report of the Review Board shall be final.

(f) **Duty of Respondent or Petitioner.** It shall be the duty of the respondent or petitioner who is the subject of any investigation or proceeding contemplated by these rules to appear at any hearing at which his presence is required or requested. Failure to comply, without good cause shown, may be considered as a separate ground for the imposition of discipline or denial of a petition.

Adopted January 25, 1973, effective February 1, 1973; amended effective May 17, 1973, April 1, 1974, and May 21, 1975; amended October 1, 1976, effective November 15, 1976; amended August 9, 1983, effective October 1, 1983; amended July 1, 1985, effective August 1, 1985; amended October 13, 1989, effective immediately; amended October 16, 1990, effective November 1, 1990; amended May 26, 1993, effective immediately, amended October 15, 1993, effective immediately; amended December 30,

1993, effective January 1, 1994; amended February 2, 1994, effective immediately; amended December 1, 1995, effective immediately; amended June 29, 2006, effective September 1, 2006.

RULE 754 Subpoena Power

(a) **Power to Take Evidence.** The Administrator, the Inquiry Board and the Hearing Board are empowered to take evidence of respondents, petitioners and any other attorneys or persons who may have knowledge of the pertinent facts concerning any matter which is the subject of an investigation or hearing.

(b) **Issuance of Subpoenas.** The clerk of the court shall issue a subpoena *ad testificandum* or a subpoena *duces tecum* as provided below:

(1) upon request of the Administrator related to an investigation conducted pursuant to Rules 752, 753, 759, 767, or 780 or related to a deposition or hearing before the Hearing Board; the Administrator may use a subpoena in an investigation conducted pursuant to Rule 753 until such time as a complaint is filed with the Hearing Board;

(2) upon request of the Inquiry or Hearing Board related to a proceeding pending before the Board;

(3) upon request of the respondent or the petitioner related to a deposition or hearing before the Hearing Board; or

(4) upon request of the Administrator related to the investigation or review of a Client Protection Claim.

(c) **Fees and Costs.** Respondents and petitioners shall not be entitled to a witness fee or reimbursement for costs to comply with any subpoena issued pursuant to this rule. All other persons shall be entitled to payment for fees, mileage and other costs as provided by law. Such payments shall be made by the Commission for a subpoena issued at the instance of the Administrator, the Inquiry Board or the Hearing Board. Such payments shall be made by the respondent or the petitioner for a subpoena issued at his instance.

(d) **Judicial Review.** A motion to quash a subpoena issued pursuant to this rule shall be filed with the court. Any person who fails or refuses to comply with a subpoena may be held in contempt of the court.

(e) **Enforcement.** A petition for rule to show cause why a person should not be held in contempt for failure or refusal to comply with a subpoena issued pursuant to this rule shall be filed with the court. Unless the court orders otherwise, the petition shall be referred to the chief judge of the circuit court of Cook County or Sangamon County or any other judge of those circuits designated by the chief judge. The designated judge shall be empowered to entertain petitions, hear evidence, and enter orders compelling compliance with subpoenas issued pursuant to this rule. When a petition is referred to the circuit court, the following procedures should be followed:

(1) The Clerk of the Supreme Court shall forward a copy of the petition for rule to show cause to the designated judge of the circuit court and, at the same time, shall send notice to the party who filed the petition and all persons upon whom the petition was served that the matter has been referred to the circuit court. The notice shall name the judge to whom the matter has been referred and state the courthouse at which proceedings pertaining to the petition will be heard.

(2) Any answer to the petition or other responsive pleading shall be filed with the Clerk of the Supreme Court and a copy of such answer or other pleading shall be delivered to the judge to whom the matter has been referred by mailing or hand delivering the copy to the chambers of the designated judge. The proof of service for such answer or other responsive pleading shall state that delivery to the designated judge was made in accordance with this rule.

(3) Proceedings on the petition before the designated judge, including scheduling of hearings and time for serving notices of hearing, shall be governed by the rules of the circuit court in which the designated judge sits, unless otherwise ordered by the judge.

(4) The designated judge may enter any order available to the circuit court in the exercise of its authority to enforce subpoenas, including orders for confinement or fines. If the judge finds an attorney in contempt for failure to comply with a subpoena issued pursuant to this rule, in addition to entertaining any other order, the judge may also recommend that the court suspend the attorney from the practice of law in this State until the attorney complies with the subpoena. Upon issuance of such a recommendation by the designated judge, the Administrator shall file with the Clerk of the Supreme Court a petition seeking implementation of the recommendation of suspension.

Adopted January 25, 1973, effective February 1, 1973; amended May 21, 1975; amended June 12, 1987, effective August 1, 1987; amended November 29, 1990, effective December 1, 1990; amended March 28, 1994, effective immediately; amended April 1, 1994, effective immediately.

RULE 755 Assistance of Members of the Bar, Rule Making Power of Boards

(a) **Assistance of Bar.** The Commission and the inquiry, hearing and review boards may call to their assistance other members of the bar.

(b) **Supplementary Rules.** Subject to the approval of the Commission, the inquiry, hearing and review boards may make supplementary rules concerning the procedures before the respective boards.

Adopted January 25, 1973, effective February 1, 1973; amended August 9, 1983, effective October 1, 1983.

RULE 756 Registration and Fees

(a) Annual Registration Required. Except as hereinafter provided, every attorney admitted to practice law in this state shall register and pay an annual registration fee to the Commission on or before the first day of January. Until further order of the court, the following schedule shall apply:

(1) No registration fee is required of an attorney admitted to the bar less than one year before the first day of January for which the registration fee is due; an attorney admitted to the bar for more than one year but less than three years before the first day of January for which the registration fee is due shall pay an annual registration fee of ~~$90~~ $105; an attorney admitted to the bar for more than three years before the first day of January for which the registration fee is due shall pay an annual registration fee of ~~$239~~ $289, out of which $7 shall be remitted to the Lawyers' Assistance Program Fund, $42 shall be remitted to the Lawyers Trust Fund, ~~and~~ $10 shall be remitted to the Supreme Court Commission on Professionalism, and $25 shall be remitted to the Client Protection Program Trust Fund. For purposes of this rule, the time shall be computed from the date of an attorney's initial admission to practice in any jurisdiction in the United States.

(2) An attorney in the Armed Forces of the United States shall be exempt from paying a registration fee until the first day of January following discharge.

(3) An attorney who has reached the age of 75 years shall be excused from the further payment of registration fees.

(4) No registration fee is required of any attorney during the period he or she may be serving in the office of justice, judge, associate judge or magistrate of a court of the United States of America or the State of Illinois or the office of judicial law clerk, administrative assistant, secretary or assistant secretary to such a justice, judge, associate judge or magistrate, or during any period in which he or she is receiving a retirement annuity pursuant to Title 28, Chapter 17 of the United States Code or Chapter 40, Act 5, Article 18 of the Illinois Compiled Statutes.

(5) An attorney may advise the Administrator in writing that he or she desires to assume inactive status and, thereafter, register as an inactive status attorney. The annual registration fee for an inactive status attorney shall be ~~$90~~ $105. Upon such registration, the attorney shall be placed upon inactive status and shall no longer be eligible to practice law or hold himself or herself out as being authorized to practice law in this State. An attorney who is on the master roll as an inactive status attorney may advise the Administrator in writing that he or she desires to resume the practice of law, and thereafter register as active upon payment of the registration fee required under this rule and submission of verification from the Director of MCLE that he or she has complied with MCLE requirements as set forth in Rule 790 *et seq.* If the attorney returns from inactive status after having paid the inactive status fee for the year, the attorney shall pay the difference between the inactive status registration fee and the registration fee required under paragraphs (a)(1) through (a)(4) of this rule. Inactive status under this rule does not include inactive disability status as described in Rules 757 and 758. Any lawyer on inactive disability status is not required to pay an annual fee.

(6) An attorney may advise the Administrator in writing that he or she desires to assume retirement status and, thereafter, register as a retired attorney. Upon such registration, the attorney shall be placed upon retirement status and shall no longer be eligible to practice law or hold himself or herself out as being authorized to practice law in this state. The retired attorney is relieved thereafter from the annual obligation to register and pay the registration fee. A retired attorney may advise the Administrator in writing that he or she desires to register as an active or inactive status lawyer and, thereafter so register upon payment of the fee required for the current year for that registration status, plus the annual registration fee that the attorney would have been required to pay if registered as active for each of the years during which the attorney was on retirement status. If the lawyer seeks to register as active, he or she must also submit, as part of registering, verification from the Director of MCLE of the lawyer's compliance with MCLE requirements as set forth in Rule 790 *et seq.*

(7) An attorney who is on voluntary inactive status pursuant to former Rule 770 who wishes to register for any year after 1999 shall file a petition for restoration under Rule 759. If the petition is granted, the attorney shall advise the Administrator in writing whether he or she wishes to register as active, inactive or retired, and shall pay the fee required for that status for the year in which the restoration order is entered. Any such attorney who petitions for restoration after December 31, 2000, shall pay a sum equal to the annual registration fees that the attorney would have been required to pay for each full year after 1999 during which the attorney remained on Rule 770 inactive status without payment of a fee.

(8) Upon written application and for good cause shown, the Administrator may excuse the payment of any registration fee in any case in which payment thereof will cause undue hardship to the attorney.

(b) The Master Roll. The Administrator shall prepare a master roll of attorneys consisting of the names of attorneys who have registered and have paid or are exempt from paying the registration fee. The Administrator shall maintain the master roll in a current status. At all times a copy of the master roll shall be on file in the office of the clerk of the court. An attorney who is not listed on the master roll is not entitled to practice law or to hold himself or herself out as authorized to practice law in this State. An attorney listed on the master roll as on inactive or retirement status shall not be entitled to practice law or to hold himself or herself out as authorized to practice law in Illinois.

(c) Notice of Registration. On or before the first day of November of each year the Administrator shall mail to each attorney on the master roll a notice that annual registration is required on or before the first day of January of the following year. It is the responsibility of each attorney on the master roll to notify the Administrator of any change of address within 30 days of the change. Failure to receive the notice from the Administrator shall not constitute an excuse for failure to register.

(d) Disclosure of Trust Accounts. As part of registering under this rule, each lawyer shall identify any and all accounts maintained by the lawyer during the preceding 12 months to hold property of clients or third persons in the lawyer's possession in connection with a representation, as required under Rule 1.15(a) of the Illinois Rules of Professional Conduct, by providing the account name, account number and financial institution for each account. For each account, the lawyer shall also indicate whether each account is an IOLTA account, as defined in Rule 1.15(d) of the Illinois Rules of Professional Conduct. If a lawyer does not maintain a trust account, the lawyer shall state the reason why no such account is required.

(e) Disclosure of Malpractice Insurance. As part of registering under this rule, each lawyer shall disclose whether the lawyer has malpractice insurance on the date of the registration, and if so, shall disclose the dates of coverage for the policy. The Administrator may conduct random audits to assure the accuracy of information reported. Each lawyer shall maintain, for a period of seven years from the date the coverage is reported, documentation showing the name of the insurer, the policy number, the amount of coverage and the term of the policy, and shall produce such documentation upon the Administrator's request. The requirements of this subsection shall not apply to attorneys serving in the office of justice, judge, associate judge or magistrate as defined in subparagraph (a)(4) of this rule on the date of registration.

(f) Disclosure of Voluntary *Pro Bono* Service. As part of registering under this rule, each lawyer shall report the approximate amount of his or her *pro bono* legal service and the amount of qualified monetary contributions made during the preceding 12 months.

(1) *Pro bono* legal service includes the delivery of legal services or the provision of training without charge or expectation of a fee, as defined in the following subparagraphs:

(a) legal services rendered to a person of limited means;

(b) legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(c) legal services to charitable, religious, civic, or community organizations in matters in furtherance of their organizational purposes; and

(d) training intended to benefit legal service organizations or lawyers who provide *pro bono* services.

In a fee case, a lawyer's billable hours may be deemed *pro bono* when the client and lawyer agree that further services will be provided voluntarily. Legal services for which payment was expected, but is uncollectible, do not qualify as *pro bono* legal service.

(2) Pro bono legal service to persons of limited means refers not only to those persons whose household incomes are below the federal poverty standard, but also to those persons frequently referred to as the "working poor." Lawyers providing pro bono legal service need not undertake an investigation to determine client eligibility. Rather, a good-faith determination by the lawyer of client eligibility is sufficient.

(3) Qualified monetary contribution means a financial contribution to an organization as enumerated in subparagraph (1)(b) which provides legal services to persons of limited means or which contributes financial support to such an organization.

(4) As part of the lawyer's annual registration fee statement, the report required by subsection (f) shall be made by answering the following questions:

(a) Did you, within the past 12 months, provide any *pro bono* legal services as described in subparagraphs (1) through (4) below? _____Yes _____No

If no, are you prohibited from providing legal services because of your employment? _____Yes _____No

If yes, identify the approximate number of hours provided in each of the following categories where the service was provided without charge or expectation of a fee:

(1) hours of legal services to a person/persons of limited means;

(2) hours of legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(3) hours of legal services to charitable, religious, civic or community organizations in furtherance of their organizational purposes; and

(4) hours providing training intended to benefit legal service organizations or lawyers who provide *pro bono* services.

Legal services for which payment was expected, but is not collectible, do not qualify as *pro bono* services and should not be included.

(b) Have you made a monetary contribution to an organization which provides legal services to persons of limited means or which contributes financial support to such organization? _____Yes _____No

If yes, approximate amount: $_____.If yes, approximate amount: $_____.

(5) Information provided pursuant to this subsection (f) shall be deemed confidential pursuant to the provisions of Rule 766, but the Commission may report such information in the aggregate.

~~(f)~~ **(g) Removal from the Master Roll.** On February 1 of each year the Administrator shall remove from the master roll the name of any person who has not registered for that year. A lawyer will be deemed not registered for the year if the lawyer has failed to provide trust account information required by paragraph (d) of this rule or if the lawyer has failed to provide information concerning malpractice coverage required by paragraph (e) or information on voluntary *pro bono* service required by paragraph (f) of this rule. Any person whose name is not on the master roll and who practices law or who holds himself or herself out as being authorized to practice law in this State is engaged in the unauthorized practice of law and may also be held in contempt of the court.

~~(g)~~ **(h) Reinstatement to the Master Roll.** An attorney whose name has been removed from the master roll solely for failure to register and pay the registration fee may be reinstated as a matter of course upon registering and paying the registration fee prescribed for the period of his suspension, plus the sum of $25 per month for each month that such registration fee is delinquent.

~~(h)~~ **(i) No Effect on Disciplinary Proceedings.** The provisions of this rule pertaining to registration status shall not bar, limit or stay any disciplinary investigations or proceedings against an attorney.

Adopted January 25, 1973, effective February 1, 1973; amended effective May 17, 1973, April 1, 1974, and February 17, 1977; amended August 9, 1983, effective October 1, 1983; amended April 27, 1984, and June 1, 1984, effective July 1, 1984; amended July 1, 1985, effective August 1, 1985; amended

effective November 1, 1986; amended December 1, 1988, effective December 1, 1988; amended November 20, 1991, effective immediately; amended June 29, 1999, effective November 1, 1999; amended July 6, 2000, effective November 1, 2000; amended July 26, 2001, effective immediately; amended October 4, 2002, effective immediately; amended June 15, 2004, effective October 1, 2004; amended May 23, 2005, effective immediately; amended September 29, 2005, effective immediately; amended June 14, 2006, effective immediately; amended September 14, 2006, effective immediately.

Committee Comment
(June 14, 2006)

Paragraph (f) is derived from the findings of the Special Supreme Court Committee on Pro Bono Publico Legal Service. The Special Committee recognized the vast unmet and burgeoning legal needs of persons of limited means in Illinois, and the unique role that lawyers play in providing greater access to these critical legal services. Therefore, the rule is established to serve as an annual reminder to the lawyers of Illinois that pro bono legal service is an integral part of a lawyer's professionalism.

Through this annual reminder, the primary intended goal is to increase the delivery of legal services directly to persons of limited means in paragraph (f)(1)(a). While the provision of legal services as defined in the other categories is laudable and beneficial to local communities and various organizations, the vast unmet need calls out for increased direct legal services to persons of limited means and support of the organizational infrastructure providing those legal services.

Paragraph (f) is not intended to impose upon lawyers a mandatory duty to provide pro bono service but, rather, is intended to impose a mandatory reporting requirement. The rule was drafted to encompass a broad spectrum of pro bono legal opportunities, including not only traditional services, but also training and monetary contributions.

Paragraph (f)(4)(b). Certain lawyers are prohibited from performing legal services by constitutional, statutory, rule, or other regulatory prohibitions. Members of the legal profession who fall into these exempt categories are encouraged to make a financial contribution to support the provision of legal services to persons of limited means. They are also encouraged to participate in training programs for volunteer attorneys.

Committee Comments
(April 27, 1984)

Subparagraph (d) was amended in 1984 to change from April 1 to February 1 the date on which the Administrator will remove from the master roll persons who have not registered. In 1984 paragraph headings were added to subparagraphs (c), (d) and (e).

RULE 757 Transfer to Disability Inactive Status upon Involuntary Commitment or upon Judicial Determination of Legal Disability Because of Mental Condition

If an attorney admitted to practice in this State has been, because of mental condition, judicially declared to be a person under legal disability or in need of mental treatment, or has been involuntarily committed to a hospital on such grounds, the Court shall enter an order transferring that attorney to disability inactive status until the further order of the court.

Any disciplinary proceeding which may be pending against the attorney shall be stayed while he is on disability inactive status.

No attorney transferred to disability inactive status may engage in the practice of law until restored to active status by order of the Court.

Adopted March 30, 1973, effective April 1, 1973; title amended September 8, 1975, effective October 1, 1975; amended May 28, 1982, effective July 1, 1982; amended June 29, 1999, effective November 1, 1999.

RULE 758 Mental Disability or Addiction to Drugs or Intoxicants

(a) **Petition.** If the Inquiry Board has reason to believe that an attorney admitted to practice in this State is incapacitated from continuing to practice law by reason of mental infirmity, mental disorder, or addiction to drugs or intoxicants, the Administrator shall file a petition with the Hearing Board requesting a hearing to determine whether the attorney is incapacitated and should be transferred to disability inactive status pending the removal of the disability, or be permitted to continue to practice law subject to conditions imposed by the court.

(b) **Hearing and Review Procedure.** The hearing and review procedure shall be the same as provided in Rule 753 for disciplinary cases. The Administrator and the attorney may consent to a transfer to disability inactive status under the procedure set forth in Rule 762(a).

(c) **Transfer to Disability Inactive Status.** If the court determines that the attorney is incapacitated from continuing to practice law, the court shall enter an order transferring the attorney to disability inactive status until further order of the court. The court may impose reasonable conditions upon an attorney's continued practice of law warranted by the circumstances.

(d) **Stay of Disciplinary Proceedings.** Disciplinary proceedings pending against the attorney shall be stayed while the attorney is on disability inactive status.

(e) **Practice of Law Prohibited.** No attorney transferred to disability inactive status may engage in the practice of law until restored to active status by order of the court.

Adopted March 30, 1973, effective April 1, 1973; title amended September 8, 1975, effective October 1, 1975; amended June 1, 1984, effective July 1, 1984; amended October 16, 1990, effective November 1, 1990; amended June 29, 1999, effective November 1, 1999.

RULE 759 Restoration to Active Status

(a) **Petition.** An attorney transferred to disability inactive status under the provisions of Rule 757, 758, or, prior to November 1, 1999, pursuant to Rule 770 may file a petition with the court for restoration to active status. The petition must be accompanied by verification from the Director of MCLE that the attorney has complied with MCLE requirements as set forth in Rule 790 *et seq.* A copy of the petition shall be served on the Administrator, who shall have 21 days to answer the petition. If the Administrator consents or fails to file exceptions in the answer to the petition, the court may order that the petitioner be restored to active status without a hearing. If the Administrator excepts to the petition in the answer, the petition and answer of the Administrator shall be referred to the Hearing Board which shall hear the matter.

(b) **Hearing and Review Procedure.** The hearing and review procedure shall be the same as provided in Rule 753 for disciplinary cases.

(c) **Disposition.** The court may impose reasonable conditions upon an attorney's restoration to active status as may be warranted by the circumstances. A restoration ordered under this rule shall be effective seven days after entry of the court's order allowing the petition provided that the petitioner

produces to the Administrator within the seven days verification from the Director of MCLE that the attorney has complied with MCLE requirements as set forth in Rule 790 *et seq*.

(d) **Resumption of Disciplinary Proceedings.** If an attorney is restored to active status, disciplinary proceedings pending against the attorney may be resumed.

Adopted March 30, 1973, effective April 1, 1973; amended September 8, 1975, effective October 1, 1975; amended June 1, 1984, effective July 1, 1984; amended October 16, 1990, effective November 1, 1990; amended June 29, 1999, effective November 1, 1999; amended September 29, 2005, effective immediately.

RULE 760 Appointment of Medical Experts

(1) In any proceeding under Rule 757, 758, 759, or 770 upon motion of the Administrator or the attorney, the Court may order a mental or physical examination of the attorney. Such examination shall be conducted by a member of a panel of physicians chosen for their special qualifications by the Administrative Office of the Illinois Courts.

(2) The examining physician shall prepare a report of his examination and copies of the report shall be given to the Court, the Hearing Board, the Administrator, and the attorney.

(3) The Administrator, the attorney or the Hearing Board may call the examining physician to testify. A physician so called shall be subject to cross-examination.

(4) The cost of the examination and the witness fees of the physician if called to testify, shall be paid from the Disciplinary Fund.

Adopted March 30, 1973, effective April 1, 1973; amended September 8, 1975, effective October 1, 1975; amended March 19, 1997, effective April 15, 1997.

RULE 761 Conviction of Crime

(a) **Notification.** It is the duty of an attorney admitted in this State who is convicted in any court of a felony or misdemeanor to notify the Administrator of the conviction in writing within 30 days of the entry of the judgment of conviction. The notification is required:

(1) Whether the conviction results from a plea of guilty or of *nolo contendere* or from a judgment after trial; and

(2) Regardless of the pendency of an appeal or other post-conviction proceeding.

(b) **Conviction of Crime Involving Moral Turpitude.** If an attorney is convicted of a crime involving fraud or moral turpitude, the Administrator shall file a petition with the court alleging the fact of such conviction and praying that the attorney be suspended from the practice of law until further order of the court. A certified copy of the judgment of conviction shall be attached to the petition and shall be *prima facie* evidence of the fact that the attorney was convicted of the crime charged. Upon receipt of the petition the court shall issue a rule to show cause why the attorney should not be suspended from the practice of law until the further order of the court. After consideration of the petition and the answer to the rule to show cause, the court may enter an order, effective immediately, suspending the attorney from the practice of law until the further order of the court.

(c) **Conviction of Crime Not Involving Moral Turpitude.** If an attorney is convicted of a crime that does not involve fraud or moral turpitude, the Administrator shall refer the matter to the Inquiry Board.

(d) **Hearing.** Where an attorney has been convicted of a crime involving fraud or moral turpitude, a hearing shall be conducted before the Hearing Board to determine whether the crime warrants discipline, and, if so, the extent thereof.

(1) If the attorney has not appealed from the conviction, the Administrator shall file a complaint with the Hearing Board alleging the fact of the conviction.

(2) If the attorney has appealed from the conviction, the hearing shall be delayed until completion of the appellate process unless the attorney requests otherwise. If after the completion of the appellate process the conviction has not been reversed, the attorney shall notify the Administrator within 30 days of the mandate being filed in the trial court that the conviction was affirmed. Upon becoming aware that the conviction has been affirmed, the Administrator shall file a complaint with the Hearing Board as described in (1) above.

(e) **Time of Hearing.** Hearings pursuant to this rule shall commence within 60 days after the complaint is filed.

(f) **Proof of Conviction.** In any hearing conducted pursuant to this rule, proof of conviction is conclusive of the attorney's guilt of the crime.

(g) **Hearing and Review Procedure.** The hearing and review procedure shall be the same as provided in Rule 753 for disciplinary cases.

Adopted March 30, 1973, effective April 1, 1973; amended July 16, 1973; amended September 8, 1975, effective October 1, 1975; amended August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984.

RULE 762 Disbarment and Other Discipline on Consent

(a) **Disbarment on Consent.** If, while any charge of misconduct is under investigation or pending against him before the Inquiry Board, Hearing Board or Review Board, an attorney files with the court a motion to strike his name from the roll of attorneys admitted to practice law in this State, the clerk of the court shall immediately file with the Administrator a copy of the motion. Within 21 days thereafter the Administrator shall file with the court and serve upon the attorney respondent a statement of charges which shall set forth a description of the evidence which would be presented against the attorney respondent if the cause proceeded to hearing and the findings of misconduct which that evidence would support. Within 14 days after the statement of charges is filed with the court, the attorney respondent shall file with the court his affidavit stating that:

(1) he has received a copy of the statement of charges;

(2) if the cause proceeded to a hearing, the Administrator would present the evidence described in the statement of charges, and that evidence would clearly and convincingly establish the facts and conclusions of misconduct set forth in the statement of charges; except that in cases where the charges are based upon a judgment of conviction of a crime, it shall be sufficient that the attorney respondent state that if the matter proceeded to hearing, the judgment of conviction would be offered into evidence and would constitute conclusive evidence of his guilt of the crime for purposes of disciplinary proceedings;

(3) his motion is freely and voluntarily made; and

(4) he understands the nature and consequences of his motion.

If the attorney respondent fails to file the required affidavit within the 14-day period provided above, or in the event the affidavit does not contain the statements required by subparagraphs (1), (2), (3) and (4) above, the court may deny the attorney's motion to strike his name from the roll of attorneys admitted to practice law in this State. If the court allows the motion, the facts and conclusions of misconduct set forth in the Administrator's statement of charges shall be deemed established and conclusive in any future disciplinary proceedings related to the attorney, including any proceedings under Rule 767.

(b) **Other Discipline on Consent**

(1) Petition. The Administrator and respondent may submit a proceeding to the court as an agreed matter by way of petition to impose discipline on consent under the following circumstances:

(a) during the pendency of a proceeding before the court; or

(b) during the pendency of a proceeding before the Review, Hearing or Inquiry Boards and with the approval of the board before which the proceeding is pending.

(2) Content of Petition. The petition shall be prepared by the Administrator and shall set forth the misconduct and a recommendation for discipline.

(3) Affidavit. Attached to the petition shall be an affidavit executed by the attorney stating that:

(a) he has read the petition;

(b) the assertions in the petition are true and complete;

(c) he joins in the petition freely and voluntarily; and

(d) he understands the nature and consequences of the petition.

The affidavit may recite any other facts which the attorney wishes to present to the court in mitigation.

(4) Submission to Court. The Administrator shall file the petition and affidavit with the Clerk of the court. The Clerk shall submit the matter to the court as an agreed matter.

(5) Action on Petition. The court may allow the petition and impose the discipline recommended in the petition. Otherwise, the court shall deny the petition. If the petition is denied, the proceeding will resume as if no petition had been submitted. No admission in the petition may be used against the respondent. If the proceeding resumes before the Inquiry or Hearing Board, the proceeding will be assigned to a different panel of the Board.

Adopted March 30, 1973, effective April 1, 1973; amended May 21, 1975; amended October 13, 1989, effective immediately; amended January 5, 1993.

RULE 763 Reciprocal Disciplinary Action

If an attorney licensed to practice law in this State and another State is disciplined in the foreign State, he may be subjected to the same or comparable discipline in this State, upon proof of the order of the foreign State imposing the discipline.

The Administrator shall initiate proceedings under this rule by filing a petition with the Court, to which a certified copy of the order of the foreign State is attached, together with proof of service upon the

attorney. Within 21 days after service of a copy of the petition upon him the attorney may request in writing a hearing on the petition. If the court allows the request for a hearing, the hearing shall be held before the Hearing Board no less than 14 days after notice thereof is given to the attorney respondent and the Administrator. At the hearing the attorney may be heard only on the issues as to (1) whether or not the order of the foreign State was entered; (2) whether it applies to the attorney; (3) whether it remains in full force and effect; (4) whether the procedure in the foreign State resulting in the order was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process of law; and (5) whether the conduct of the attorney warrants substantially less discipline in this State.

If an attorney is suspended or disbarred in this State pursuant to this rule, the reinstatement in this State shall be governed by the provisions of Rule 767.

Nothing in this rule shall prohibit the institution of independent disciplinary proceedings in this State against any attorney based upon his conduct in another State, and, in the event the Administrator elects to proceed independently, any discipline imposed in this State shall not be limited to the discipline ordered by a foreign State.

Adopted March 30, 1973, effective April 1, 1973; amended September 21, 1994, effective October 1, 1994.

RULE 764 Duties of a Disciplined Attorney and Attorneys Affiliated with Disciplined Attorney

An attorney who is disbarred, disbarred on consent, or suspended for six months or more shall comply with each of the following requirements. Compliance with each requirement shall be a condition to the reinstatement of the disciplined attorney. Failure to comply shall constitute contempt of court.

Any and all attorneys who are affiliated with the disciplined attorney as a partner or associate shall take reasonable action necessary to insure that the disciplined attorney complies with the provisions of paragraphs (a), (b), (c), (d), and (e) below. Within 35 days of the effective date of the order of discipline, each affiliated attorney or a representative thereof shall file with the clerk of the supreme court and serve upon the Administrator a certification setting forth in detail the actions taken to insure compliance with paragraphs (a), (b), (c), (d), and (e) below.

(a) **Maintenance of Records.** The disciplined attorney shall maintain:

(1) files, documents, and other records relating to any matter which was the subject of a disciplinary investigation or proceeding;

(2) files, documents, and other records relating to any and all terminated matters in which the disciplined attorney represented a client at any time prior to the imposition of discipline;

(3) files, documents, and other records of pending matters in which the disciplined attorney had some responsibility on the date of, or represented a client during the year prior to, the imposition of discipline;

(4) all financial records related to the disciplined attorney's practice of law during the seven years preceding the imposition of discipline, including but not limited to bank statements, time and billing records, checks, check stubs, journals, ledgers, audits, financial statements, tax returns and tax reports; and

(5) all records related to compliance with this rule.

(b) **Withdrawal from Law Office and Removal of Indicia as Lawyer.** Upon entry of the final order of discipline, the disciplined attorney shall not maintain a presence or occupy an office where the practice of law is conducted. The disciplined attorney shall take such action necessary to cause the removal of any indicia of the disciplined attorney as lawyer, counsellor at law, legal assistant, legal clerk, or similar title.

(c) **Notification to Clients.** Within 21 days after the entry of the final order of discipline, the disciplined attorney shall notify, by certified mail, return receipt requested, all clients whom the disciplined attorney represented on the date of the imposition of discipline, of the following:

(1) the action taken by the supreme court;

(2) that the disciplined attorney may not continue to represent them during the period of discipline;

(3) that they have the right to retain another attorney;

and

(4) that their files, documents, and other records are available to them, designating the place where they are available.

(d) **List of Clients.** Within 21 days after the effective date of an order of discipline, the disciplined attorney shall file with the clerk of the supreme court and serve upon the Administrator an alphabetical list of the names, addresses, telephone numbers and file numbers of all clients whom the disciplined attorney represented on the date of, or during the year prior to, the imposition of discipline. At the same time, the disciplined attorney shall serve upon the Administrator a copy of each notification served pursuant to paragraph (c) above.

(e) **Notification to Courts.** Within 21 days of the effective date of the order of discipline, the disciplined attorney shall file a notice before the court in all pending matters in which the disciplined attorney is counsel of record and request withdrawal of his appearance. The notice shall advise the court of the action taken by the supreme court. The notice shall be served upon the disciplined attorney's former client and all other parties who have entered an appearance.

(f) **Notification to Others.** Within 21 days of the effective date of the order of discipline, the disciplined attorney shall, by certified mail, return receipt requested, notify the following of the action taken by the supreme court and his inability, during the period of discipline, to practice law in the State of Illinois:

(1) all attorneys with whom the disciplined attorney was associated in the practice of law on the effective date of the order of discipline;

(2) all attorneys of record in matters in which the disciplined attorney represented a client on the effective date of the order of discipline;

(3) all parties not represented by an attorney in matters in which the disciplined attorney represented a client on the effective date of the order of discipline;

(4) all other jurisdictions in which the disciplined attorney is licensed to practice law;

(5) all governmental agencies before which the disciplined attorney is entitled to represent a person.

(g) **Affidavit of Disciplined Attorney.** Within 35 days after the effective date of an order of discipline, the disciplined attorney shall file with the clerk of the supreme court and serve upon the Administrator an affidavit stating:

(1) the action the disciplined attorney has taken to comply with the order of discipline;

(2) the action the disciplined attorney has taken to comply with this rule;

(3) the arrangements made to maintain the files and other records specified in paragraph (a) above;

(4) the address and telephone number at which subsequent communications may be directed to him; and

(5) the identity and address of all other State, Federal, and administrative jurisdictions to which the disciplined attorney is admitted to practice law.

(h) **Compensation Arising from Former Law Practice.** Provided that the disciplined attorney complies with the provisions of this rule, the disciplined attorney may receive compensation on a *quantum meruit* basis for legal services rendered prior to the effective date of the order of discipline. The disciplined attorney may not receive any compensation related to the referral of a legal matter to an attorney or attributed to the "good will" of his former law office.

(1) Matters in which Legal Proceedings Instituted. The disciplined attorney shall not receive any compensation regarding a matter in which a legal proceeding was instituted at any time prior to the imposition of discipline without first receiving approval of the tribunal.

(2) Other Aspects of Former Law Office. The disciplined attorney shall not receive any compensation related to any agreement, sale, assignment or transfer of any aspect of the disciplined attorney's former law office without first receiving the approval of the supreme court. Prior to entering into any such transaction, the disciplined attorney shall file a petition in the supreme court and serve a copy upon the administrator. The petition shall disclose fully the transaction contemplated, shall attach any and all related proposed agreements and documents, and shall request approval of the transaction. The Administrator shall answer or otherwise plead to the petition within 28 days of service of the petition on the Administrator. If the supreme court determines that an evidentiary hearing is necessary, it may refer the matter to the circuit court for hearing.

(i) **Change of Address or Telephone Number.** Within 35 days of any change of the disciplined attorney's address or telephone number during the period of discipline, the disciplined attorney shall notify the Administrator of the change.

(j) **Modification of Requirements.** On its own motion or at the request of the Administrator or respondent, the supreme court may modify any of the above requirements.

Adopted March 30, 1973, effective April 1, 1973; amended October 20, 1989, effective November 1, 1989; amended August 27, 1990, effective immediately.

RULE 765 Service

(a) **Method of Service.** Service of any notice, complaint, petition, subpoena, pleading or document in proceedings under these rules may be made in any manner authorized by the Code of Civil Procedure or Rules of this court or by delivery of any such notice, complaint, petition, subpoena, pleading, or document to the address listed on the master roll for the attorney.

(b) **Substitute Service.** The failure of any attorney to provide the Administrator with a registration address shall be deemed an appointment by such attorney of the clerk of the Illinois Supreme Court to be the attorney's agent upon whom may be served any notice, complaint, petition, subpoena, pleading or other document under these rules. Service upon the clerk may be made by filing the document with the clerk of the supreme court, together with an affidavit setting forth facts showing that, upon inquiry as full as circumstances permit, the attorney cannot be located, and by mailing the documents by certified mail, proper postage prepaid, return receipt requested, to the last known address of the attorney.

Adopted March 30, 1973, effective April 1, 1973; amended May 21, 1975; amended May 28, 1982, effective July 1, 1982; amended October 16, 1990, effective November 1, 1990.

Committee Comments

In 1990, Rule 765 was revised to provide for service of notices, pleadings and other documents by lawful means other than personal service on an attorney, and for appointment of the clerk of the supreme court as the agent of any attorney who fails to provide the Administrator with a registration address.

These revisions will reduce the expenses incurred in personally serving hundreds of documents, such as notices, complaints, petitions, subpoenas and rules to show cause, and the delays which result from locating and perfecting service on attorneys who attempt to avoid service. Because the revised rule allows for service to be perfected by delivery of an item to a registration address, resources presently committed to serving recalcitrant attorneys could be devoted to conducting investigations and reducing unnecessary delay in processing charges.

Additionally, the revised rule allows for service to be obtained on attorneys who fail to register or who fail to give the Administrator a registration address by filing documents with the clerk of the supreme court. The revision is modeled, in part, on the Illinois Vehicle Code, which provides that use of a vehicle on Illinois roads constitutes consent to the appointment of the Secretary of State as an agent for the service of process (see Ill. Rev. Stat. 1989, ch. 95½, par. 10--301), and in part on similar rules in use in Indiana and Ohio (Indiana Admission and Discipline Rule 23, §12; Ohio Grievance Rule 5; see *Matter of Carmody* (Ind. 1987), 513 N.E.2d 649; *Columbus Bar Association v. Gross* (1982), 2 Ohio St. 3d 5, 441 N.E.2d 570; see also *Bell Federal Savings & Loan Association v. Horton* (1978), 59 Ill. App. 3d 923, 376 N.E.2d 1029).

RULE 766 Confidentiality and Privacy

(a) **Public Proceedings.** Proceedings under Rules 751 through 780 shall be public with the exception of the following matters, which shall be private and confidential:

(1) investigations conducted by the Administrator;

(2) proceedings before the Inquiry Board;

(3) proceedings pursuant to Rule 753 before the Hearing Board prior to the service of a complaint upon the respondent;

(4) information pursuant to which a board or the court has issued a protective order;

(5) deliberations of the Hearing Board, the Review Board and the court;

(6) proceedings before the Hearing and Review Boards pursuant to Rule 758;

(7) proceedings pursuant to Rule 760;

(8) deliberations of the Commission and minutes of Commission meetings;

(9) deliberations related to a claim submitted under the Client Protection Program;

(10) information concerning trust accounts provided by lawyers as part of the annual registration pursuant to Rule 756(d); and

(11) information concerning *pro bono* services and monetary contributions in support of *pro bono* services provided by lawyers as part of the annual registration pursuant to Rule 756(f).

(b) **Disclosures of Confidential Information.**

(1) *Public Information of Misconduct*. Where there is public information of allegations which, if true, could result in discipline, the Administrator, with the approval of the court or a member thereof, and in the interest of the public and the legal profession, may disclose whether the matter is being investigated.

(2) *Disclosures in the Interest of Justice*. In the interests of justice and on such terms it deems appropriate the court or a member thereof may authorize the Administrator to produce, disclose, release, inform, report or testify to any information, reports, investigations, documents, evidence or transcripts in the Administrator's possession.

(3) *Referral to Lawyers' Assistance Program.* When an investigation by the Administrator reveals reasonable cause to believe that a respondent is or may be addicted to alcohol or other chemicals, is or may be abusing the use of alcohol or other chemicals, or is or may be experiencing a mental health condition or other problem that is impairing the respondent's ability to practice law, the information giving rise to this belief may be communicated to the Lawyers' Assistance Programs, Inc., or comparable organization designed to assist lawyers with substance abuse or mental health problems.

Adopted March 30, 1973, effective April 1, 1973; amended April 1, 1974; amended October 1, 1976, effective November 15, 1976; amended June 1, 1984, effective July 1, 1984; amended October 13, 1989, effective immediately; amended March 28, 1994, effective immediately; amended November 19, 2004, effective January 1, 2005; amended March 29, 2006, effective immediately; amended June 14, 2006, effective immediately.

RULE 767 Reinstatement

(a) **Petition.** An attorney who has been disbarred, disbarred on consent or suspended until further order of the court may file his verified petition with the clerk of the court seeking to be reinstated to the roll of attorneys admitted to practice law in this State. No petition shall be filed within a period of five years after the date of an order of disbarment, three years after the date of an order allowing disbarment on consent, two years after the date of an order denying a petition for reinstatement, or one year after an order allowing the petition for reinstatement to be withdrawn. No petition for reinstatement shall be filed by an attorney suspended for a specified period and until further order of the court, until the specified period of time has elapsed. The petition shall include the information specified by Commission rule.

(b) **Presentation of Petition.** An attorney who has been disbarred, disbarred on consent or suspended until further order of the court may present to the Administrator a copy of the petition he proposes to file with the clerk within 120 days prior to the date on which the petition may be filed.

(c) Costs. The petition shall be accompanied by a receipt showing payment to the Commission of a $500 deposit to be applied against the costs, as defined in Rule 773, necessary to the investigation, hearing and review of the petition. If the costs exceed the amount of the deposit, the petitioner shall pay the excess at the conclusion of the matter pursuant to the procedures of Rule 773. If the deposit exceeds the costs, the excess shall be refunded to the petitioner.

(d) Notice of Petition. The Administrator shall give notice to the following:

(1) the chief judge of each circuit in which the petitioner maintained an office or engaged in the practice of law; and

(2) the president of each local or county bar association in each county in which the petitioner maintained an office or engaged in the practice of law.

(e) Form of Notice. The notice shall be in substantially the following form:

NOTICE OF PETITION FOR
REINSTATEMENT AS ATTORNEY

_____, who was licensed to practice law in the State of Illinois on _____ and who was (suspended from the practice of law on _____) (disbarred on _____), has filed (has stated his intention to file) in the Supreme Court of Illinois a petition for readmission to the practice of law in Illinois. A hearing on that petition will be held.

Any person desiring to be heard or having relevant information may communicate with the Administrator of the Attorney Registration and Disciplinary Commission at (insert address and telephone number of Administrator's office concerned).

(f) Factors to Be Considered. The petition shall be referred to a hearing panel. The panel shall consider the following factors, and such other factors as the panel deems appropriate, in determining the petitioner's rehabilitation, present good character and current knowledge of the law:

(1) the nature of the misconduct for which the petitioner was disciplined;

(2) the maturity and experience of the petitioner at the time discipline was imposed;

(3) whether the petitioner recognizes the nature and seriousness of the misconduct;

(4) when applicable, whether petitioner has made restitution;

(5) the petitioner's conduct since discipline was imposed; and

(6) the petitioner's candor and forthrightness in presenting evidence in support of the petition.

(g) Report of Hearing Panel. The hearing panel shall make a report of its findings and recommendations. A copy of the report shall be served upon the petitioner and upon the Administrator.

(h) Hearing and Review Procedure. The hearing and review procedure shall be the same as provided in Rule 753 for disciplinary cases.

Adopted March 30, 1973, effective April 1, 1973; amended September 8, 1975, effective October 1, 1975; amended effective February 17, 1977; amended May 26, 1978, effective July 1, 1978; amended August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984; amended May 23, 2005, effective immediately.

Commentary
(May 23, 2005)

Paragraph (c) is amended to provide that the procedures of Rule 773 to recover costs are applicable in all respects to a reinstatement proceeding

RULE 768 Notification of Disciplinary Action

Upon the date on which an order of this Court disbarring or suspending an attorney, or transferring him to disability inactive status becomes final, the clerk shall forthwith mail a copy of the order to the attorney, the Presiding Judge of each of the Illinois Appellate Court Districts, the Chief Judge of each of the Judicial Circuits of Illinois, the Chief Judge of each of the United States District Courts in Illinois, and the Chief Judge of the United States Court of Appeals for the Seventh Circuit.

Adopted March 30, 1973; effective April 1, 1973; amended June 29, 1999, effective November 1, 1999.

RULE 769 Maintenance of Records

It shall be the duty of every attorney to maintain originals, copies or computer-generated images of the following:

(1) records which identify the name and last known address of each of the attorney's clients and which reflect whether the representation of the client is ongoing or concluded; and

(2) all financial records related to the attorney's practice, for a period of not less than seven years, including but not limited to bank statements, time and billing records, checks, check stubs, journals, ledgers, audits, financial statements, tax returns and tax reports.

Adopted October 20, 1989, effective November 1, 1989; amended July 18, 1990, effective August 1, 1990 Adopted December 2, 1986, effective January 1, 1987; amended June 12, 1987, effective August 1, 1987; amended November 25, 1987, effective November 25, 1987; amended August 6, 1993, effective immediately; amended October 15, 1993, effective immediately; amended March 26, 2001, effective immediately; amended April 1, 2003, effective immediately.

Committee Comment
(April 1, 2003)

This amendment gives attorneys the option of maintaining records in forms that save space and reduce cost without increasing the risk of premature destruction. For example, CDs and DVDs have a normal life exceeding seven years, so an attorney might use them to maintain financial records. At present, however, floppy disks, tapes, hard drives, zip drives, and other magnetic media have insufficient normal life to meet the requirements of this rule.

RULE 770 Types of Discipline

Conduct of attorneys which violates the Rules of Professional Conduct contained in article VIII of these rules or which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute shall be grounds for discipline by the court. Discipline may be:

(a) disbarment;

(b) disbarment on consent;

(c) suspension for a specified period and until further order of court;

(d) suspension for a specified period of time;

(e) suspension until further order of the court;

(f) suspension for a specified period of time or until further order of the court with probation; or

(g) censure;

(h) reprimand by the court, the Review Board or a hearing panel.

Adopted May 26, 1978, effective July 1, 1978; amended June 3, 1980, effective July 1, 1980; amended August 9, 1983, effective October 1, 1983; amended October 13, 1989, effective immediately; amended and renumbered March 23, 2004, effective April 1, 2004.

Commentary
(March 23, 2004)

Effective April 1, 2004, former Rule 771 ("Types of Discipline") was renumbered as Rule 770 and new Rule 771 ("Finality of Orders and Effective Date of Discipline") was adopted.

RULE 771 Finality of Orders and Effective Date of Discipline

(a) **Finality**. All orders imposing discipline pursuant to these rules, except orders entered in cases that were accepted by the court for further consideration pursuant to Rule 753(e)(5)(a)(iii), are final when filed by the clerk of the court, and the mandates in all such cases shall issue at the time the orders are filed. No petition for rehearing pursuant to Rule 367 may be filed in such a case, nor will any motion or other paper submitted after an order is filed automatically stay or recall the court's mandate. The finality of orders imposing discipline entered in cases accepted by the court further consideration pursuant to Rule 753(e)(5)(a)(iii) shall be governed by Rules 367 and 368.

(b) **Effective Date**. Unless otherwise ordered by the court or unless governed by Rules 367 and 368, all orders of discipline are effective when filed by the clerk of the court, except that orders of suspension for a specified period of time which do not continue until further order of court or any orders of suspension which are stayed, in part, by a period of probation become effective 21 days after the date they are filed by the clerk of the court.

(c) **Interim Suspension.** Unless otherwise ordered by the court, all interim suspension orders imposed under Rule 761 or Rule 774 and all subsequent disciplinary orders entered while the lawyer is on interim suspension are effective when filed by the clerk of the court. (Adopted March 23, 2004, effective April 1, 2004.)

Commentary
(March 23, 2004)

Effective April 1, 2004, a new Rule 771 ("Finality of Orders and Effective Date of Discipline") was adopted and the former Rule 771 ("Types of Discipline") was renumbered as Rule 770.

RULE 772 Probation

(a) **Qualifications.** The court may order that an attorney be placed on probation if the attorney has demonstrated that he:

(1) can perform legal services and the continued practice of law will not cause the courts or profession to fall into disrepute;

(2) is unlikely to harm the public during the period of rehabilitation and the necessary conditions of probation can be adequately supervised;

(3) has a disability which is temporary or minor and does not require treatment and transfer to disability inactive status; and

(4) is not guilty of acts warranting disbarment.

Probation shall be ordered for a specified period of time or until further order of the court in conjunction with a suspension which may be stayed in whole or in part.

(b) **Conditions.** The order placing an attorney on probation shall state the conditions of probation. The conditions shall take into consideration the nature and circumstances of the misconduct and the history, character and condition of the attorney. The following conditions and such others as the court deems appropriate, may be imposed:

(1) periodic reports to the Administrator;

(2) supervision over trust accounts as the court may direct;

(3) satisfactory completion of a course of study;

(4) successful completion of the Multistate Professional Responsibility Examination;

(5) restitution;

(6) compliance with income tax laws and verification of such to the Administrator;

(7) limitations on practice;

(8) psychological counseling and treatment;

(9) the abstinence from alcohol or drugs; and

(10)the payment of disciplinary costs.

(c) **Administration.** The Administrator shall be responsible for the supervision of attorneys placed on probation. Where appropriate, he may recommend to the court modification of the conditions and

shall report to the court the probationer's failure to comply with the conditions of probation. Upon a showing of failure to comply with the conditions of probation, the court shall issue a rule to show cause why probation should not be revoked and the stay of suspension vacated.

Adopted August 9, 1983; effective October 1, 1983; amended June 29, 1999, effective November 1, 1999.

RULE 773 Costs

(a) **Costs Defined.** Costs may include the following expenses reasonably and necessarily incurred by the Administrator in connection with the matter: witness fees; duplication of documents necessary to the prosecution of the case; travel expenses of witnesses; bank charges for producing records; expenses incurred in the physical or mental examination of a respondent attorney; fees of expert witnesses; and court reporting expenses except the cost of transcripts of proceedings before the hearing board or review board where the Administrator takes exception to the findings and recommendation of the hearing board or review board, which shall be paid by the Administrator unless the Administrator prevails, at least in part, before the reviewing board or this court, in which case the Administrator may include the transcript costs in the statement of costs subject to the limitations of section (c) of this rule. If both the Administrator and respondent take exception to the findings and recommendation of the hearing board or review board, the cost of the transcript may be taxed to the nonprevailing party. If the Administrator and the respondent each prevail in part, the Administrator may include the costs of transcripts in the statement of costs, subject to the limitations of section (c) of this rule.

(b) **Duty of Respondent.** It is the duty of a respondent to reimburse the Commission for costs not to exceed $1,000 and for such additional amounts as the court may order on the motion of the Administrator for good cause shown, which may include (1) costs incurred in the investigation, hearing and review of matters brought pursuant to article VII of these rules which result in the imposition of discipline, (2) costs involved in the investigation of alleged violations of the terms and conditions of any such disciplinary order, when such violations are later proved, and (3) costs involved in any proceedings for the enforcement of any rule, judgment or order of this court which was made necessary by any act or omission on the part of the respondent, (4) costs incurred to compel the appearance of respondent and to transcribe respondent's testimony, when the appearance followed respondent's failure to comply with a request from the Inquiry Board or Administrator to provide information concerning a matter under investigation, and (5) costs incurred to obtain copies of records from a financial institution, when the institution's production of the records followed respondent's failure to comply with a request from the Inquiry Board or the Administrator to provide those records.

(c) **Statement of Costs.** After the imposition of discipline by the court, the Administrator shall prepare an itemized statement of costs, not to exceed $1,000, which shall be made a part of the record. A copy of the statement shall be served on the respondent. The Administrator may petition the court for costs reasonably and necessarily incurred by the administrator in excess of $1,000, which may be allowed for good cause shown. Costs up to $1,000 shall be paid by the respondent within 30 days of service of the statement. Costs in excess of $1,000 shall be paid by the respondent within 30 days of the order allowing the petition for excess costs.

(d) **Assessment of Costs.** If the respondent contests the amount of the costs or fails to pay the costs within 30 days of service of the statement or order allowing excess costs, the Administrator may petition the court for an order and judgment assessing costs against the respondent and directing the respondent to pay the costs, in full or in part, to the Commission. Costs shall be paid by the respondent attorney within 30 days after the entry of the order and judgement assessing costs. Proceedings for the collection of costs assessed against the respondent attorney may be initiated by the Administrator on the order and judgment entered by the court. A petition for reinstatement pursuant to Rule 767 must be accompanied by a receipt verifying payment of any costs imposed in connection with prior disciplinary proceedings involving the petitioner.

JUSTICE McMORROW dissents from this amendment of Rule 773.

Adopted August 9, 1983, effective October 1, 1983; amended June 1, 1984, effective July 1, 1984; amended February 21, 1986, effective August 1, 1986; amended October 13, 1989, effective immediately; amended October 5, 2000, effective November 1, 2000.

RULE 774 Interim Suspension

(a) **Grounds for Suspension.** During the pendency of a criminal indictment, criminal information, disciplinary proceeding or disciplinary investigation, the court on its own motion, or on the Administrator's petition for a rule to show cause, may suspend an attorney from the practice of law until further order of the court. The petition shall allege:

(1) The attorney-respondent has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon his fitness to practice law, and there appears to be persuasive evidence to support the charge; or

(2) A complaint has been voted by the Inquiry Board; the attorney-respondent has committed a violation of the Rules of Professional Conduct which involves fraud or moral turpitude or threatens irreparable injury to the public, his or her clients, or to the orderly administration of justice; and there appears to be persuasive evidence to support the charge.

(b) **Form and Service of Petition.** The petition shall be verified or supported by affidavit or other evidence and shall be filed with the clerk. The petition shall be served personally upon the respondent. If the respondent is unavailable or respondent's whereabouts is unknown, the respondent shall be served by mailing a copy of the petition by ordinary mail to respondent's last address shown on the Master Roll.

(c) **Suspension Order and Conditions of Suspension.** The court may make such orders and impose such conditions of the interim suspension as it deems necessary to protect the interests of the public and the orderly administration of justice, including but not limited to:

(1) Notification to clients of the respondent's interim suspension;

(2) Audit of the respondent's books, records, and accounts;

(3) Appointment of a trustee to manage respondent's affairs; and

(4) Physical and mental examination of the respondent.

Adopted June 1, 1984, effective July 1, 1984; amended March 25, 1991, effective immediately.

RULE 775 Immunity

Any person who submits a claim to the Client Protection Program or who communicates a complaint concerning an attorney to the Attorney Registration and Disciplinary Commission, or its administrators, staff, investigators or any member of its boards, shall be immune from all civil liability which, except for this rule, might result from such communications or complaint. The grant of immunity provided by this rule shall apply only to those communications made by such persons to the Attorney Registration and Disciplinary Commission, its administrators, staff, investigators and members of its boards.

Adopted Oct. 13, 1989, effective immediately; amended, effective March 28, 1994.

RULE 776 Appointment of Receiver in Certain Cases

(a) **Appointment of Receiver.** Where it comes to the attention of the circuit court in any judicial circuit from any source that a lawyer in the circuit is unable properly to discharge his responsibilities to his clients due to disability, disappearance or death, and that no partner, associate, executor or other responsible party capable of conducting the lawyer's affairs is known to exist, then, upon such showing, the presiding judge in the judicial circuit in which the lawyer maintained his practice, or the supreme court, may appoint an attorney from the same judicial circuit to serve as a receiver to perform certain duties hereafter enumerated. Notice of such appointment shall be made promptly to the Administrator of the Attorney Registration and Disciplinary Commission either at his Chicago or Springfield office, as appropriate. A copy of said notice shall be served on the affected attorney at his or her last known residence.

(b) **Duties of the Receiver.** As expeditiously as possible, the receiver shall take custody of and make an inventory of the lawyer's files, notify the lawyer's clients in all pending cases as to the lawyer's disability, or inability to continue legal representation, and recommend prompt substitution of attorneys, take appropriate steps to sequester client funds of the lawyer, and to take whatever other action is indicated to protect the interests of the attorney, his clients, or other affected parties. A copy of the appointing order shall be served on the affected attorney at his or her last known residence address.

(1) The attorney appointed to serve as receiver shall be designated from among members of the bar from the same judicial circuit who are not representing any party who is adverse to any known client of the disabled, absent or deceased lawyer, and who have no adverse interest or relationship with that lawyer or his estate which would affect the receiver's ability to perform the duties above enumerated.

(2) An attorney appointed as receiver may decline the appointment for personal or professional reasons. If no available members of the bar from the same judicial circuit can properly serve as receiver as a result of personal or professional obligations, the Administrator of the Attorney Registration and Disciplinary Commission shall be appointed to serve as receiver.

(3) Any objections by or on behalf of the disabled, absent, or deceased lawyer, or any other interested party to the appointment of or conduct by the receiver shall be raised and heard in the appointing court prior to or during the pendency of the receivership.

(c) **Effect of Appointment of Receiver.** Where appropriate, a receiver appointed by the court pursuant to this rule may apply to the court for a stay of any applicable statute of limitation, or limitation on time for appeal; or to vacate or obtain relief from any judgment, for a period not to exceed 60 days. An application to the court setting forth reasons or such application shall constitute a pleading sufficient to toll any limitations period. For good cause shown, such stay may be extended for an additional 30 days.

(d) **Liability of Receiver.** A receiver appointed pursuant to this rule shall:

(1) not be regarded as having an attorney-client relationship with the clients of the disabled, absent or deceased lawyer, except that the receiver shall be bound by the obligations of confidentiality imposed by the Rules of Professional Conduct with respect to information acquired as receiver;

(2) have no liability to the clients of the disabled, absent or deceased lawyer except for injury to such clients caused by intentional, willful or gross neglect of duties as receiver; and

(3) except as herein provided, be immune to separate suit brought by or on behalf of the disabled, absent, or deceased lawyer.

(e) **Compensation of the Receiver.**

(1) The receiver shall normally serve without compensation.

(2) On application by the receiver, with notice to the Administrator of the Attorney Registration and Disciplinary Commission, and upon showing by the receiver that the nature of the receivership was extraordinary and that failure to award compensation would work substantial hardship on the receiver, the court may award reasonable compensation to the receiver to be paid out of the Disciplinary Fund, or any other fund that may be designated by the supreme court. In such event, compensation shall be awarded only to the extent that the efforts of the receiver have exceeded those normally required in an amount to be determined by the court.

(f) **Termination of Receivership.** Upon completion of the receiver's duties as above enumerated, he shall file with the appointing court a final report with a copy thereof served upon the Administrator of the Attorney Registration and Disciplinary Commission.

Adopted October 20, 1989, effective November 1, 1989; amended March 25, 1991, effective immediately.

RULE 777 Registration of, and Disciplinary Proceedings Relating to Foreign Legal Consultants

(a) **Supervision and Control of Foreign Legal Consultants.** The registration of, and disciplinary proceedings affecting, persons who are licensed (pursuant to Rule 712) to practice as foreign legal consultants shall be subject to the supreme court rules (Rule 751 et seq.) and to the rules of the Attorney Registration and Disciplinary Commission relating to the registration and discipline of attorneys. As used in those rules, the terms "attorney" and "attorney and counselor at law" shall include foreign legal consultants except to the extent that those rules concern matters unrelated to the permissible activities of foreign legal consultants.

(b) **Issuance of Subpoenas by Clerk Relating to Investigation of Foreign Legal Consultants.** Upon application by the Administrator or an Inquiry Board, disclosing that the Administrator or Inquiry Board is conducting an investigation of either professional misconduct on the part of a foreign legal consultant or the unlawful practice of law by a foreign legal consultant, or of a Hearing Board that it is conducting a hearing relating thereto, or upon application by a respondent, the clerk of this court shall be empowered to issue subpoenas for the attendance of witnesses and the production of books and papers before the Administrator or Inquiry Board or Hearing Board.

(c) **Issuance of Subpoenas by Clerk Relating to Investigation of Wrongfully Representing Himself as a Foreign Legal Consultant.** Upon application by the Administrator or an Inquiry Board disclosing that it has reason to believe that a person, firm or corporation other than a foreign legal consultant is unlawfully practicing or assuming to practice law as a foreign legal consultant and that it is conducting an investigation thereof, or of a Hearing Board by any respondent the clerk of this court shall be empowered to issue subpoenas for the attendance of witnesses and production of books and papers before the Administrator or Inquiry Board or Hearing Board.

(d) **Taking Evidence.** The Administrator or Inquiry Board conducting an investigation and any Hearing Board conducting a hearing pursuant to this rule is empowered to take and transcribe the evidence of witnesses, who shall be sworn by any person authorized by law to administer oaths.

(e) **Disciplinary Procedure.** Disciplinary proceedings and proceedings under Rules 757, 758, 759 or 770 against any foreign legal consultant shall be initiated and conducted in the manner and by the same agencies as prescribed by law for such proceedings against those admitted as attorneys.

Adopted, Dec. 7, 1990, effective immediately.

RULE 778 Retention of Records by Administrator

(a) **Retention of Records.** The Administrator is permitted

to retain the record of investigation for all matters resulting in the imposition of discipline as defined by Rule 771, or for investigations which have been stayed or deferred by the transfer of the attorney to disability inactive status.

(b) **Expungement.** The Administrator shall expunge the record of an investigation concluded by dismissal or closure by the Administrator or Inquiry Board three years after the disposition of the investigation, unless deferral of expunction is warranted under paragraph (c). Expungement shall consist of the Administrator's destruction of the investigative file and other related materials maintained by the Administrator relating to the attorney, including any computer record identifying the attorney as a subject of an investigation.

(c) **Deferral of Expungement of Investigative Materials.** Expungement of an investigative file and all related materials under paragraph (b) shall be deferred until the passage of three years from the later of the following events:

(1) the conclusion of any pending disciplinary or disability proceeding related to the attorney before the Hearing or Review Boards or the Court; or

(2) the termination of any previously imposed sanction (including suspension, disbarment or probation) or the restoration of the attorney from disability inactive to active status.

Adopted January 5, 1993, effective immediately; amended June 29, 1999, effective November 1, 1999.

RULE 780 Client Protection Program

(a) There is established under the auspices of the Attorney Registration and Disciplinary Commission a Client Protection Program to reimburse claimants from the ~~Disciplinary Fund~~ Client Protection Program Trust Fund for losses caused by dishonest conduct committed by lawyers admitted to practice law in the State of Illinois.

(b) The purpose of the Client Protection Program is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in the courts of the State of Illinois occurring in the course of a lawyer-client or fiduciary relationship between the lawyer and the claimant.

(c) Reimbursements of losses by the program shall be within the sole discretion of the Commission, and not a matter of right. No person shall have a right in the ~~Fund~~ Program as a third party beneficiary or otherwise, either before or after the allowance of a claim. The determination of the Commission shall be final and shall not be subject to judicial review.

(d) ~~The Commission shall allocate on an annual basis the amount of money in the Disciplinary Fund which may be used to pay claims~~. The Client Protection Program shall be funded by an annual assessment as provided in rule 756. The Commission shall establish by rule the maximum amount which any one claimant may recover from the program and may establish the aggregate maximum which may be recovered because of the conduct of any one attorney.

(e) A lawyer whose dishonest conduct results in reimbursement to a claimant shall be liable to the ~~Fund~~ Program for restitution. Disciplinary orders imposing suspension or probation shall include a

provision requiring the disciplined attorney to reimburse the ~~Disciplinary Fund~~ Client Protection Program for any Client Protection payments arising from his or her conduct prior to the termination of the period of suspension or probation. Prior to filing a petition for reinstatement, a petitioner shall reimburse the ~~Disciplinary Fund~~ Client Protection Program for all Client Protection payments arising from petitioner's conduct. The Petition must be accompanied by a statement from the Administrator indicating that all such payments have been made.

(f) The Commission may make rules related to the investigation and consideration of a Client Protection claim.

Adopted, effective March 28, 1994; amended September 14, 2006, effective immediately.

PART C. MINIMUM CONTINUING LEGAL EDUCATION

Preamble

The public contemplates that attorneys will maintain certain standards of professional competence throughout their careers in the practice of law. The following rules regarding Minimum Continuing Legal Education are intended to assure that those attorneys licensed to practice law in Illinois remain current regarding the requisite knowledge and skills necessary to fulfill the professional responsibilities and obligations of their respective practices and thereby improve the standards of the profession in general.

Rule 790. Title and Purpose

These rules shall be known as the Minimum Continuing Legal Education Rules ("Rules"). The purpose of the Rules is to establish a program for Minimum Continuing Legal Education ("MCLE"), which shall operate as an arm of the Supreme Court of Illinois.

Adopted September 29, 2005, effective immediately.

Rule 791. Persons Subject to MCLE Requirements

(a) Scope and Exemptions

These Rules shall apply to every attorney admitted to practice law in the State of Illinois, except for the following persons, who shall be exempt from the Rules' requirements:

(1) All attorneys on inactive or retirement status pursuant to Supreme Court Rules 756(a)(5) or (a)(6), respectively;

(2) All attorneys on disability inactive status pursuant to Supreme Court Rules 757 or 758;

(3) All attorneys serving in the office of justice, judge, associate judge, or magistrate of any federal or state court;

(4) All attorneys who, by virtue of their office or employment in the state or federal judiciary, are prohibited by the Supreme Court of Illinois or the federal judiciary from actively engaging in the practice of law;

(5) All attorneys licensed to practice law in Illinois who are on active duty in the Armed Forces of the United States, until their release from active military service and their return to the active practice of law;

(6) An attorney otherwise subject to this rule who is also a member of the bar of another state which has a minimum continuing education requirement, who is regularly engaged in the practice of law in that state, and who has appropriate proof that he or she is in full compliance with the continuing legal education requirements established by court rule or legislation in that state; and

(7) In rare cases, upon a clear showing of good cause, the Board may grant a temporary exemption to an attorney from the Minimum Continuing Legal Education ("MCLE") requirements, or an extension of time in which to satisfy them. Good cause for an exemption or extension may exist in the event of illness, financial hardship, or other extraordinary or extenuating circumstances beyond the control of the attorney.

(b) Full Exemptions

An attorney shall be exempt from these Rules for an entire reporting period applicable to that attorney, if:

(1) The attorney is exempt from these Rules pursuant to paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6), on the last day of that reporting period; or

(2) The attorney is exempt from these Rules pursuant to paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6), for at least 365 days of that reporting period; or

(3) The attorney receives a temporary exemption from the Board pursuant to paragraph (a)(7), for that reporting period.

(c) Partial Exemptions

An attorney who is exempt from these Rules for more than 60, but less than 365, days of a two-year reporting period, and who is not exempt for the entire reporting period pursuant to paragraph (b), shall be required to earn one-half of the CLE activity hours that would otherwise be required pursuant to Rule 794(a) and (d).

(d) Nonexemptions

An attorney who is exempt from these Rules for less than 61 days during a two-year reporting period, and who is not exempt for the entire reporting period pursuant to paragraph (b), shall be required to earn all of the CLE activity hours required pursuant to Rules 794(a) and (d).

(e) Resuming Active Status

An attorney who was exempt from these Rules, pursuant to paragraphs (b)(1) or (b)(2), above, for the attorney's last completed reporting period because the attorney was on inactive, retirement or disability inactive status pursuant to Supreme Court Rules 756(a)(5) or (a)(6), 757 or 758, shall upon return to active status, have 24 months to complete the deferred CLE requirements, not to exceed two times the requirement for the current two-year reporting period, in addition to the CLE credit required for the current two-year reporting period.

Adopted September 29, 2005, effective immediately; amended December 6, 2005, effective immediately; amended February 10, 2006, effective immediately.

Rule 792. The MCLE Board

(a) Administration

The administration of the program for MCLE shall be under the supervision of the Minimum Continuing Legal Education Board ("Board").

(b) Selection of Members; Qualifications; Terms

(1) The Board shall consist of ~~nine~~ 10 members, appointed by the Supreme Court ("Court"). At least one member shall be a nonattorney; at least one member shall be a circuit court judge, and one member shall be a member of the Supreme Court Commission on Professionalism. The Executive Director of the Supreme Court Commission on Professionalism shall serve as an *ex-officio* member in addition to the ~~nine~~ 10 members appointed by the Court but shall have no vote.

(2) To be eligible for appointment to the Board, an attorney must have actively practiced law in Illinois for a minimum of 10 years.

(3) Three members, including the chairperson, shall initially be appointed to a three-year term. Three members shall be appointed to an initial two-year term, and three members shall be appointed to an initial one-year term. Thereafter, all members shall be appointed or re-appointed to three-year terms. The Supreme Court Commission on Professionalism member shall be appointed to a term concurrent with his or her term on the Commission.

(4) Board members shall be limited to serving two consecutive terms.

(5) No individual may be appointed to the Board who stands to gain financially, directly or indirectly, from accreditation or other decisions made by the Board.

(6) Any member of the Board may be removed by the Court at any time, without cause.

(7) Should a vacancy occur, the Court shall appoint a replacement to serve for the unexpired term of the member.

(8) Board members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in performing their official duties, including reasonable travel costs to and from Board meetings.

(9) The chairperson shall be appointed by the Court. Other officers shall be elected by the members of the Board at the first meeting of each year.

(c) Powers and Duties

The Board shall have the following powers and duties:

(1) To recommend to the Court rules and regulations for MCLE not inconsistent with the rules of the Court and these Rules, including fees sufficient to ensure that the MCLE program is financially self-supporting; to implement MCLE rules and regulations adopted by the Court; and to adopt forms necessary to insure attorneys' compliance with the rules and regulations.

(2) To meet at least twice a year, or more frequently as needed, either in person, by conference telephone communications, or by electronic means. Five members of the Board shall constitute a quorum for the transaction of business. A majority of the quorum present shall be required for any official action taken by the Board.

(3) To accredit commercial and noncommercial continuing legal education ("CLE") courses and activities, and to determine the number of hours to be awarded for attending such courses or participating in such activities.

(4) To review applications for accreditation of those courses, activities or portions of either that are offered to fulfill the professional responsibility requirement in Rule 794(d)(1) for conformity with the accreditation standards and hours enumerated in Rule 795, exclusive of review as to substantive content. Those courses and activities determined to be in conformance shall be referred to the Supreme Court Commission on Professionalism for substantive review and approval as provided in Rules 799(c)(5) and (d)(6)(i). Professional responsibility courses or activities approved by both the Commission on Professionalism and the MCLE Board as specified in this subsection shall be eligible for accreditation by the MCLE Board.

(5) To submit an annual report to the Court evaluating the effectiveness of the MCLE Rules and the quality of the CLE courses, and presenting the Board's recommendations, if any, for changes in the Rules or their implementation, a financial report for the previous fiscal year, and its recommendations for the new fiscal year. There shall be an independent annual audit of the MCLE fund as directed by the Court, the expenses of which shall be paid out of the fund. The audit shall be submitted as part of the annual report to the Court.

(6) To coordinate its administrative responsibilities with the Attorney Registration and Disciplinary Commission ("ARDC"), and to reimburse expenses incurred by the ARDC attributable to enforcement of MCLE requirements.

(7) To take all action reasonably necessary to implement, administer and enforce these rules and the decisions of the MCLE Director, staff and Board.

(8) To establish policies and procedures for notification and reimbursement of course fees, if appropriate, in those instances where course accreditation is withheld or withdrawn.

(d) Administration

The Board shall appoint, with the approval of the Supreme Court, a Director of MCLE ("Director") to serve as the principal executive officer of the MCLE program. The Director, with the Board's authorization, will hire sufficient staff to administer the program. The Board will delegate to the Director and staff authority to conduct the business of the Board within the scope of this Rule, subject to review by the Board. The Director and staff shall be authorized to acquire or rent physical space, computer hardware and software systems and other items and services necessary to the administration of the MCLE program.

(e) Funding

The MCLE program shall initially be funded in a manner to be determined by the Court. Thereafter, funding shall be derived solely from the fees charged to CLE providers and from late fees and reinstatement fees assessed to individual attorneys. This schedule of CLE provider fees, late fees, and reinstatement fees must be approved by the Court, and any reference in these Rules to a fee assessed or set by the Board means a fee based on the Court-approved fee schedule.

Adopted September 29, 2005, effective immediately; amended December 6, 2005, effective immediately; amended June 5, 2007, effective immediately.

Rule 793. Basic Skills Course Requirement

(a) Scope

Except as specified in paragraph (f), every Illinois attorney admitted to practice after December 31, 2005, must complete a Basic Skills Course, totaling at least 15 actual hours of instruction.

(b) Completion Deadline

The course must be completed within one year of the newly admitted attorney's admission to practice in Illinois.

(c) Topics

The course shall cover such topics as the jurisdiction of local courts, local court rules, filing requirements for various government agencies, how to draft pleadings and other documents, practice techniques and procedures under the Illinois Rules of Professional Conduct, client communications, use of trust accounts, required record keeping and other rudimentary elements of practice.

(d) Exemption From Other Requirements

During this period, the newly admitted lawyer shall be exempt from the other MCLE requirements.

(e) Initial Reporting Period

The newly admitted attorney's initial two-year reporting period for complying with the MCLE requirements contained in Rule 794 shall commence, following the deadline for the attorney to complete the Basic Skills Course, on the next July 1 of an even-numbered year for lawyers whose last names begin with a letter A through M, and on the next July 1 of an odd-numbered year for lawyers whose last names begin with a letter N through Z.

(f) Prior Practice

The Basic Skills Course requirement does not apply to attorneys who are admitted in Illinois after practicing law in other states for a period of one year or more.

(g) Approval

The Basic Skills Course shall be offered by CLE providers, including "in-house" program providers, authorized by the Board after its approval of the provider's planned curriculum. Courses shall be offered throughout the state and at reasonable cost.

Adopted September 29, 2005, effective immediately.

Rule 794. Continuing Legal Education Requirement.

(a) Hours Required

Except as provided by Rules 791 or 793, every Illinois attorney subject to these Rules shall be required to complete 20 hours of CLE activity during the initial two-year reporting period (as determined on the basis of the lawyer's last name pursuant to paragraph (b), below) ending on June 30 of either 2008 or 2009, 24 hours of CLE activity during the two-year reporting period ending on June 30 of either 2010 or 2011, and 30 hours of CLE activity during all subsequent two-year reporting periods.

(b) Reporting Period

The applicable two-year reporting period shall begin on July 1 of even-numbered years for lawyers whose last names begin with the letters A through M, and on July 1 of odd-numbered years for lawyers whose last names begin with the letters N through Z.

(c) Carryover of Hours

(1) All CLE activity hours may be earned in one year or split in any manner between the two-year reporting period. If an attorney earns more than the required CLE hours in a two-year reporting period, the attorney may carry over a maximum of 10 hours earned during that period to the next reporting period, except for professional responsibility credits referred to in paragraph (d).

(2) A newly admitted attorney may carry over to his or her first two-year reporting period a maximum of 10 CLE activity hours (except for professional responsibility credits referred to in paragraph (d)) earned after completing the Basic Skills Course requirement pursuant to Rule 793.

(3) An attorney, other than a newly admitted attorney, may carry over to his or her first two-year reporting period a maximum of 10 CLE activity hours (except for professional responsibility credits referred to in paragraph (d)) earned between January 1, 2006, and the beginning of that period.

(d) Professional Responsibility Requirement

(1) A minimum of four of the total hours required for any two-year period must be in the area of professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics.

(2) Such credit may be obtained either by:

(i) Taking a separate CLE course or courses, or participating in other eligible CLE activity under these Rules, specifically devoted to professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics; or

(ii) Taking a CLE course or courses, or participating in other eligible CLE activity under these Rules, a portion of which is specifically devoted to professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics credit. Only that portion of a course or activity specifically devoted to professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics shall receive CLE credit for the professional responsibility requirement of this paragraph.

Adopted September 29, 2005, effective immediately.

Rule 795. Accreditation Standards and Hours

(a) Standards

Eligible CLE courses and activities shall satisfy the following standards:

(1) The course or activity must have significant intellectual, educational or practical content, and its primary objective must be to increase each participant’s professional competence as an attorney.

(2) The course or activity must deal primarily with matters related to the practice of law.

(3) The course or activity must be offered by a provider having substantial, recent experience in offering CLE or demonstrated ability to organize and effectively present CLE. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.

(4) The course or activity itself must be conducted by an individual or group qualified by practical or academic experience. The course or activity, including the named advertised participants, must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Thorough, high quality, readable and carefully prepared written materials should be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Board.

(6) Traditional CLE courses or activities shall be conducted in a physical setting conducive to learning. The course or activity may be presented by remote or satellite television transmission, telephone or videophone conference call, videotape, film, audio tape or over a computer network, so long as the Board approves the content and the provider, and finds that the method in question has interactivity as a key component. Such interactivity may be shown, for example, by the opportunity for the viewers or listeners to ask questions of the course faculty, in person, via telephone, or on-line; or through the availability of a qualified commentator to answer questions directly, electronically, or in writing; or through computer links to relevant cases, statutes, law review articles, or other sources.

(7) The course or activity must consist of not less than one-half hour of actual instruction, unless the Board determines that a specific program of less than one-half hour warrants accreditation.

(8) A list of the names of all participants for each course or activity shall be maintained by the provider for a period of at least three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that course or activity.

(b) Accredited CLE Provider

The Board may extend presumptive approval to a provider for all of the CLE courses or activities presented by that provider each year that conform to paragraph (a)’s Standards (1) through (8), upon written application to be an "Accredited Continuing Legal Education Provider." Such accreditation shall constitute prior approval of all CLE courses offered by such providers. However, the Board may withhold accreditation or limit hours for any course found not to meet the standards, and may revoke accreditation for any organization which is found not to comply with standards. The Board shall assess an annual fee, over and above the fees assessed to the provider for each course, for the privilege of being an "Accredited Continuing Legal Education Provider."

(c) Accreditation of Individual Courses or Activities

(1) Any provider not included in paragraph (b) desiring advance accreditation of an individual course or other activity shall apply to the Board by submitting a required application form, the course advance accreditation fee set by the Board, and supporting documentation no less than 45 days prior to the date for which the course or activity is scheduled. Documentation shall include a statement of the provider’s intention to comply with the accreditation standards of this Rule, the written materials distributed to participants at the two most recently produced courses or activities, if available, or an outline of the proposed courses or activities and list of instructors, and such further information as the Board shall request. The Board staff will advise the applicant in

writing by mail within 30 days of the receipt of the completed application of its approval or disapproval.

(2) Providers denied prior approval of a course or activity or individual attorneys who have attended such course or activity may request reconsideration of the Board's initial decision by filing a form approved by the Board. The Board shall consider the request within 30 days of its receipt, and promptly notify the provider and/or the individual attorney.

(3) Providers who do not seek prior approval of their course or activity may apply for approval for the course or activity after its presentation by submitting an application provided by MCLE staff, the supporting documentation described above, and the accreditation fee set by the Board.

(4) A list of the names of participants shall be maintained by the provider for a period of three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that course or activity.

(d) Nontraditional Courses or Activities

In addition to traditional CLE courses, the following courses or activities will receive CLE credit:

(1) "In-House" Programs. Attendance at "in-house" seminars, courses, lectures or other CLE activity presented by law firms, corporate legal departments, governmental agencies or similar entities, either individually or in cooperation with other such entities, subject to the following conditions:

(i) The CLE course or activity must meet the rules and regulations for any other CLE provider, as applicable.

(ii) Specifically, the course or activity must have significant intellectual, educational or practical content, its primary objective must be to increase the participant's professional competence as an attorney, and it must deal primarily with matter related to the practice of law, professionalism, diversity issues, mental illness and addiction issues, civility or ethical obligations of attorneys. No credit will be afforded for discussions relating to the handling of specific cases, or issues relating to the management of a specific law firm, corporate law department, governmental agency or similar entity.

(iii) The course or activity shall be submitted for approval on an individual course or activity basis rather than on a Presumptively Accredited Continuing Legal Education Provider basis.

(iv) The application, including all written materials or an abstract thereof, should be filed with the Board at least 30 days prior to the date on which the course or activity is to be held in order for a prior determination of acceptability to be made. However, prior approval by the Board shall not be required.

(v) Only courses or activities that have at least five attorney participants shall qualify for CLE credit. The attorneys need not be associated with the same firm, corporation or governmental agency.

(vi) Experienced attorneys must contribute to the teaching, and efforts should be made to achieve a balance of in-house and outside instructors.

(vii) The activity must be open to observation, without charge, by members of the Board or their designates.

(viii) The activity must be scheduled at a time and location so as to be free of interruptions from telephone calls and other office matters.

(ix) A list of the names of participants shall be maintained by the provider for a period of three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that activity.

(x) The Board may impose a fee, similar to the fees assessed on traditional CLE providers, on the provider of an in-house program for programs involving payments to the provider.

(2) Law School Courses. Attendance at J.D. or graduate level law courses offered by American Bar Association ("ABA") accredited law schools, subject to the following conditions:

(i) Credit ordinarily is given only for courses taken after admission to practice in Illinois, but the Board may approve giving credit for courses taken prior to admission to practice in Illinois if giving credit will advance CLE objectives.

(ii) Credit towards MCLE requirements shall be for the actual number of class hours attended, but the maximum number of credits that may be earned during any two-year reporting period by attending courses offered by ABA accredited law schools shall be the maximum CLE hours required by Rule 794(a) and (d).

(iii) The attorney must comply with registration procedures of the law school, including the payment of tuition.

(iv) The course need not be taken for law school credit towards a degree; auditing a course is permitted. However, the attorney must comply with all law school rules for attendance, participation and examination, if any, to receive CLE credit.

(v) The law school shall give each attorney a written certification evincing that the attorney has complied with requirements for the course and attended sufficient classes to justify the awarding of course credit if the attorney were taking the course for credit.

(3) Bar Association Meetings. Attendance at bar association or professional association meetings at which substantive law, matters of practice, professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics are discussed, subject to the requirements for CLE credit defined in paragraphs (a)(1) through (a)(2) above. The bar or professional association shall maintain a list of the names of all attendees at each meeting for a period of three years and shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that meeting.

(4) Cross-Disciplinary Programs. Attendance at courses or activities that cross academic lines, such as accounting-tax seminars or medical-legal seminars, may be considered by the Board for full or partial credit. Purely nonlegal subjects, such as personal financial planning, shall not be

counted towards CLE credit. Any mixed-audience courses or activities may receive credit only for sessions deemed appropriate for CLE purposes.

(5) Teaching Continuing Legal Education Courses. Teaching at CLE courses or activities during the two-year reporting term, subject to the following:

(i) Credit may be earned for teaching in an approved CLE course or activity. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(ii) Time spent in preparation for a presentation at an approved CLE activity shall be counted at six times the actual presentation time.

(iii) Authorship or coauthorship of written materials for approved CLE activities shall qualify for CLE credit on the basis of actual preparation time, but subject to receiving no more than 10 hours of credit in any two-year reporting period.

(6) Part-Time Teaching of Law Courses. Teaching at an ABA-accredited law school, or teaching a law course at a university, college, or community college, subject to the following:

(i) Teaching credit may be earned for teaching law courses offered for credit toward a degree at a law school accredited by the ABA, but only by lawyers who are not employed full-time by a law school. Full-time law teachers who choose to maintain their licenses to practice law are fully subject to the MCLE requirements established herein, and may not earn any credits by their ordinary teaching assignments. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material. Teaching credit may be earned by appearing as a guest instructor, moderator, or participant in a law school class for a presentation which meets the overall guidelines for CLE courses or activities, as well as for serving as a judge at a law school moot court argument. Time spent in preparation for an eligible law school activity shall be counted at three times the actual presentation time. Appearing as a guest speaker before a law school assembly or group shall not count toward CLE credit.

(ii) Teaching credit may be earned for teaching law courses at a university, college, or community college by lawyers who are not full-time teachers if the teaching involves significant intellectual, educational or practical content, such as a civil procedure course taught to paralegal students or a commercial law course taught to business students. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(7) Legal Scholarship. Writing law books and law review articles, subject to the following:

(i) An attorney may earn credit for legal textbooks, casebooks, treatises and other scholarly legal books written by the attorney that are published during the two-year reporting period.

(ii) An attorney may earn credit for writing law-related articles in responsible legal journals or other legal sources, published during the two-year reporting period, that deal primarily with matters related to the practice of law, professionalism, diversity issues, mental illness and addiction issues, civility, or ethical obligations of attorneys. Republication of

any article shall receive no additional CLE credits unless the author made substantial revisions or additions.

(iii) An attorney may earn credit towards MCLE requirements for the actual number of hours spent researching and writing, but the maximum number of credits that may be earned during any two-year reporting period on a single publication shall be half the maximum CLE hours required by Rule 794(a) and (d). Credit is accrued when the eligible book or article is published, regardless whether the work in question was performed in the then-current two-year reporting period. To receive CLE credit, the attorney shall maintain contemporaneous records evincing the number of hours spent on a publication.

(8) Pro Bono Training. Attendance at courses or activities designed to train lawyers who have agreed to provide pro bono services shall earn CLE credit to the same extent as other courses and seminars.

(9) Capital Litigation Trial Bar Training. Attendance at courses or activities pursuant to Supreme Court Rule 714(b) designed to train attorneys for certification for membership in the Capital Litigation Trial Bar shall earn CLE credit to the same extent as other courses and seminars.

(10) Bar Review Courses. Attendance at bar review courses before admission to the Illinois Bar shall not be used for CLE credit.

(11) Reading Legal Materials. No credit shall be earned by reading advance sheets, newspapers, law reviews, books, cases, statutes, newsletters or other such sources.

(e) Credit Hour Guidelines

Hours of CLE credit will be determined under the following guidelines:

(1) Sixty minutes shall equal one hour of credit. Partial credit shall be earned for qualified activities of less than 60 minutes duration.

(2) The following are not counted for credit: (i) coffee breaks; (ii) introductory and closing remarks; (iii) keynote speeches; (iv) lunches and dinners; (v) other breaks; and (vi) business meetings.

(3) Question and answer periods are counted toward credit.

(4) Lectures or panel discussions occurring during breakfast, luncheon, or dinner sessions of bar association committees may be awarded credit.

(5) Credits are determined by the following formula: Total minutes of approved activity *minus* minutes for breaks (as described in paragraph (e)(2)) *divided by* 60 *equals* maximum CLE credit allowed.

(6) Credits merely reflect the maximum that may be earned. Only actual attendance or participation earns credit.

(f) Financial Hardship Policy

The provider shall have available a financial hardship policy for attorneys who wish to attend its courses, but for whom the cost of such courses would be a financial hardship. Such policy may be in the form of scholarships, waivers of course fees, reduced course fees, or discounts. Upon request by the Board, the provider must produce the detailed financial hardship policy. The Board may require, on good cause

shown, a provider to set aside without cost, or at reduced cost, a reasonable number of places in the course for those attorneys determined by the Board to have good cause to attend the course for reduced or no cost.

Adopted September 29, 2005, effective immediately.

Rule 796. Enforcement of MCLE Requirements

(a) Reporting Compliance

(1) On or before the first day of the month preceding the end of an attorney's Basic Skills Course requirement reporting period or two-year reporting period, the Director shall mail the attorney, at the most recent address the attorney has provided to the ARDC pursuant to Rule 756(c), a certification, to be completed by the attorney, stating whether, with respect to that reporting period, the attorney either has complied with these Rules, has not complied with these Rules, or is exempt from these Rules. A certification need not be sent to an attorney known by the Director to be exempt from these Rules.

(2) Every Illinois attorney who is either subject to these Rules or who receives an MCLE certification shall complete, sign and submit the certification to the Board within 31 days after the end of the attorney's reporting period~~, *i.e.*, no later than July 31~~. It is the responsibility of each attorney on the master roll to notify the ARDC of any change of address. Failure to receive an MCLE certification shall not constitute an excuse for failure to file the certification.

(b) Failure to Report Compliance

Attorneys who fail to submit an MCLE certification within 45 days of their reporting date, or who file a certification stating that they have not complied with these Rules during the reporting period, shall be notified by the Director of their noncompliance~~. and given until September 30 of that year~~ Attorneys shall be given 61 additional days from the original certification due date provided in Rule 796(a)(2) to achieve compliance and file a certification stating that they have complied with these Rules or are exempt. The Director shall not send a notice of noncompliance to attorneys whom the Director knows are exempt from these Rules.

(c) Grace Period

Attorneys given additional time pursuant to paragraph (b) to comply with the requirements of these Rules may use that "grace period" to attain the adequate number of hours for compliance. Credit hours earned during a grace period may be counted toward compliance with the previous reporting period requirement, and hours in excess of the requirement may be used to meet the current reporting period's requirement. No attorney may receive more than one grace period with respect to the same reporting period, and the grace period shall not be extended if the Director fails to send, or the attorney fails to receive, a notice pursuant to paragraph (b).

(d) Late Fees

(1) Nonexempt attorneys who, for whatever reason, fail to complete, sign and submit to the Board an MCLE certification within 31 days after the end of their reporting period, and who receive a notice of noncompliance from the Director pursuant to paragraph (b), shall pay a late fee, in an amount to be set by the Board.

(2) Attorneys who submit an MCLE certification to the Board who were not sent a notice of noncompliance from the Director pursuant to paragraph (b), but who certify that they failed to

comply with these Rules during the applicable reporting period, shall pay a late fee, in an amount to be set by the Board that is less than the late fee imposed pursuant to paragraph (d)(1).

(e) Failure to Comply or Failure to Report

The Director shall refer to the ARDC the names of nonexempt attorneys who, by the end of their grace periods, failed either to comply or to report compliance with the requirements of these Rules. The ARDC shall then send notice to any such attorneys that they will be removed from the master roll on the date specified in the notice, which shall be no sooner than 21 days from the date of the notice, because of their failure to comply or report compliance. The ARDC shall remove such attorneys from the master roll of attorneys on the date specified in the notice unless the Director certifies before that date that an attorney has complied. Such removal is not a disciplinary sanction.

(f) Recordkeeping and Audits

(1) Each attorney subject to these Rules shall maintain, for three years after the end of the relevant reporting period, certificates of attendance received pursuant to Rules 795(a)(8), (c)(4), (d)(1)(ix), (d)(2)(v), (d)(3), as well as sufficient documentation necessary to corroborate CLE activity hours earned pursuant to Rules 795(d)(4) through (d)(9).

(2) The Board may conduct a reasonable number of audits, under a plan approved by the Court. At least some of these audits shall be randomly selected, to determine the accuracy of attorneys' certifications of compliance or exemption. With respect to audits that are not randomly selected, in choosing subjects for those audits the Board shall give increased consideration to attorneys who assumed inactive or retirement status under Supreme Court Rules 756(a)(5) or (a)(6), and were thereby fully or partially exempt from these Rules pursuant to Rule 791(b) or (c), and who subsequently resumed active status.

(3) The ARDC may investigate an attorney's compliance with these Rules only upon referral from the Director; the ARDC will not investigate an attorney's compliance with these Rules as part of its other investigations. When the Director refers a matter to the ARDC, the investigation, and any resulting prosecution, shall be conducted in accordance with the rules pertaining to ARDC proceedings.

(g) Audits That Reveal an Inaccurate Certification

(1) If an audit conducted pursuant to paragraph (f)(2) reveals that the attorney was not in compliance with or exempt from these Rules for any reporting period for which the attorney had filed a certification of compliance or exemption, the Director shall provide the attorney with written notice containing: (i) the results of the audit, specifying each aspect of the Rules with which the attorney did not comply or the reason why the attorney is not exempt; (ii) a summary of the basis of that determination; and (iii) a deadline, which shall be at least 30 days from the date of the notice, for the attorney to file a written response if the attorney objects to any of the contents of the notice.

(2) After considering any response from the attorney, if the Board determines that the attorney filed an inaccurate certification, the attorney shall be given 60 days in which to file an amended certification, together with all documentation specified in paragraph (f)(1), demonstrating full compliance with the applicable MCLE requirements. The attorney also shall pay a late fee in an amount to be set by the Board. The assessment of a late fee is not a disciplinary sanction.

(3) If the results of the audit suggest that the attorney willfully filed a false certification, the Board through its Director shall provide that information to the ARDC.

(h) Reinstatement

An attorney who has been removed from the master roll due to noncompliance with these Rules may be reinstated by the ARDC, upon recommendation of the Board. Such recommendation may be made only after the removed attorney files a certification which the Board determines shows full compliance with the applicable MCLE requirements. To be reinstated, the attorney shall pay a fee with the request, in an amount to be set by the Board, and meet any further conditions and pay any additional fees as may be required by Rule 756. The removed attorney may attain the necessary credit hours during the period of removal to meet the requirements for the years of noncompliance. Excess hours earned during the period of removal, however, may not be counted towards meeting the current or future reporting periods' requirements.

Adopted September 29, 2005, effective immediately; amended October 5, 2006, effective immediately.

Rule 797. Confidentiality

All files, records and proceedings of the Board must be kept confidential, and may not be disclosed except (a) in furtherance of the duties of the Board, (b) upon written request and consent of the persons affected, (c) pursuant to a proper subpoena *duces tecum*, or (d) as ordered by a court of competent jurisdiction.

Adopted September 29, 2005, effective immediately.

Rule 798. Reserved

PART D. COMMISSION ON PROFESSIONALISM

Rule 799. Supreme Court Commission on Professionalism

(a) Purpose

The Supreme Court Commission on Professionalism is hereby established in order to promote among the lawyers and judges of Illinois principles of integrity, professionalism and civility; to foster commitment to the elimination of bias and divisiveness within the legal and judicial systems; and to ensure that those systems provide equitable, effective and efficient resolution of problems and disputes for the people of Illinois.

(b) Membership and Terms

(1) The Court shall appoint a Chair and ~~13~~ 14 additional members to the Commission. These members shall include three individuals who are faculty members at accredited Illinois law schools, two judges engaged in active service in the trial courts of Illinois, one judge engaged in active service in the appellate courts of Illinois, six practicing lawyers who are active members in good standing of the Illinois bar, one member of the Minimum Continuing Legal Education (MCLE) Board, and two nonlawyers who are active in public affairs in Illinois. The Administrator of the Attorney Registration and Disciplinary Commission shall serve as an *ex-officio* member in addition to the Chair and the 13 members appointed by the Court but shall have no vote.

(2) In addition to the members described above, the Chief Justice may invite to serve on the Commission a judge of the United States District Courts located in Illinois.

(3) The appointed members of the Commission shall be selected with regard to their reputations for professionalism, and for their past contributions to the bar and to their communities, to the extent feasible, the appointees should reflect a diversity of geography, practice areas, race, ethnicity, and gender.

(4) Members of the Commission shall be appointed for terms of three years, except that in making initial appointments to the Commission, the Court may limit appointments to ensure that the terms of the Commission's members are staggered, so that no more than one third of the members' terms expire in any given year. The MCLE Board member shall be appointed to a term concurrent with his or her term on the Board.

(5) None of the members of the Commission shall receive compensation for their service, but all members shall be reimbursed for their necessary expenses.

(c) Duties

The Commission's duties shall include:

(1) Creating and promoting an awareness of professionalism by all members of the Illinois bar and bench;

(2) Gathering and maintaining information to serve as a resource on professionalism for lawyers, judges, court personnel, and members of the public;

(3) Developing public statements on principles of ethical and professional responsibility for distribution to the bench and bar for purposes of encouraging, guiding and assisting individual lawyers, law firms and bar associations on the ethical and professional tenets of the profession;

(4) Assisting CLE providers with the development of courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1);

(5) Determining and publishing criteria for, monitoring, coordinating, and approving, courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1);

(6) Reviewing and approving the content of courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1) and forwarding the Commission's determination to the Minimum Continuing Legal Education (MCLE) Board;

(7) Monitoring activities related to professionalism outside the State of Illinois;

(8) Collaborating with law schools in the development and presentation of professionalism programs for law student orientation and other events as coordinated with law school faculty;

(9) Facilitating cooperation among practitioners, bar associations, law schools, courts, civic and lay organizations and others in addressing matters of professionalism, ethics, and public understanding of the legal profession; and

(10) Recommending to the Court other methods and means of improving the profession and accomplishing the purposes of this Commission.

The Commission shall have no authority to impose discipline upon any member of the Illinois bar or bench, or to exercise any duties or responsibilities belonging to either the Judicial Inquiry Board, the Attorney Registration and Disciplinary Commission, the Board of Admissions to the Bar, or the MCLE Board.

(d) Administration

(1) The Commission shall have the authority to appoint, with the approval of the Supreme Court, an Executive Director, who shall be an attorney who is an active member in good standing of the Illinois bar. The Executive Director shall have the authority to hire such additional staff as necessary to perform the Commission's responsibilities.

(2) The Commission shall meet at least twice a year and at other times at the call of the Chair. A majority of its members shall constitute a quorum for any action. Meetings may be held at any place within the state and may also be held by means of telecommunication that permits reasonably accurate and contemporaneous participation by the members attending by such means.

(3) The Chair may appoint committees of members and assign them to such responsibilities, consistent with the purposes, powers and duties of the Commission, as the Chair may deem appropriate.

(4) The Commission shall file annually with the Court an accounting of the monies received and expended for its activities, and there shall be an annual independent audit of the funds as directed by the court, the expenses of which shall be paid out of the fund.

(5) The Commission shall submit an annual report to the Court describing and evaluating the effectiveness of its activities.

(6) Approving CLE Programs.

(i) The Commission shall receive from the MCLE Board applications for accreditation of those courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1). The Commission shall establish procedures for approval of such courses or activities consistent with the criteria published under paragraph (c)(5) of this rule. Professional responsibility courses and activities, the content of which is approved by the Commission, shall be forwarded to the MCLE Board for accreditation. Absent Commission approval, such courses and activities are not eligible for CLE accreditation. The Commission shall complete its review as expeditiously as possible and with regard to the applicable time lines contained in Rule 795.

(ii) Providers that have been designated "Accredited Continuing Legal Education Providers" under Rule 795(b) must, in addition to that accreditation, obtain Commission approval of any course or activity offered to fulfill the professional responsibility requirement of Rule 794(d)(1), but will not be required to pay an accreditation fee in addition to the fee the provider has paid to the Minimum Continuing Legal Education Board.

(e) Funding

The Commission shall be funded by an annual assessment as provided in Rule 756.

Adopted September 29, 2005, effective immediately; amended December 5, 2005, effective immediately; amended June 5, 2007, effective immediately.