

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court, and considering the need to amend the Rules for Lawyer Disciplinary Enforcement,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Part 1. Louisiana Supreme Court Rule XIX, Section 22G be and is hereby amended to read as follows:

G. Transfer to Active Status from Disability Inactive Status.

(1) *Generally.* No respondent transferred to disability inactive status may resume active status except by order of this court.

(2) *Petition.* Any respondent transferred to disability inactive status shall be entitled to petition for transfer to active status once a year, or at whatever shorter intervals the court may direct in the order transferring the respondent to disability inactive status or any modifications thereof.

(3) *Examination.* Upon the filing of a petition for transfer to active status, the court may take or direct whatever action it deems necessary or proper to determine whether the disability has been removed, including a direction for an

examination of the respondent by qualified medical experts designated by the court. In its discretion, the court may direct that the expense of the examination be paid by the respondent.

(4) *Required Information; Waiver of Doctor-Patient Privilege.* The respondent shall include with the petition for transfer to active status pertinent documentation, information and evidence which shows, by clear and convincing evidence, that the disability has been removed. The respondent shall disclose the name of each psychiatrist, psychologist, physician and hospital or other institution by whom or in which the respondent has been examined or treated since the transfer to disability inactive status. The respondent shall also furnish to this court written consent to the release of information and records relating to the disability if requested by the court or court-appointed medical experts.

(5) *Certification from Client Assistance Fund.* The respondent shall also include with the petition for transfer to active status a certification from the Client Assistance Fund that no payments have been made by the Fund to any of the respondent's clients. To the extent that Client Assistance Funds have been paid to qualifying clients, the respondent shall obtain a certification from the Fund that the Fund has been reimbursed in its entirety, or alternatively, that a payment plan is in effect which will result in reimbursement to the Fund.

(6) *Learning in Law; Bar Examination.* The court may also direct that the respondent establish proof of competence and

learning in law, which proof may include certification by the bar examiners of successful completion of an examination for admission to practice.

(7) *Granting Petition for Transfer to Active Status.* The court shall grant the petition for transfer to active status upon a showing by clear and convincing evidence that the disability has been removed and the receipt of the certification from the Client Assistance Fund.

(8) *Judicial Declaration of Competence.* If a respondent transferred to disability inactive status on the basis of a judicial determination of incompetence has been judicially declared to be competent, the court may dispense with further evidence that his disability has been removed and may immediately direct his transfer to active status upon terms as are deemed proper and advisable.

Part 2. This rule change shall become effective upon signing, and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court.

New Orleans, Louisiana, this _____ day of June, 2009.

FOR THE COURT:

Catherine D. Kimball, Chief Justice