

Section 15. Resignations by lawyers under disciplinary investigation

(1) A lawyer who is the subject of an investigation under this Chapter Four may reach an agreement with Bar Counsel on the language of an affidavit of resignation, which shall be filed with the Board along with a recommendation from Bar Counsel (including information sufficient to explain the recommendation) as to whether the facts admitted would typically result in disbarment or if they would typically result in a lesser public sanction. In the alternative, a lawyer may submit a resignation by delivering to the Board an affidavit stating that the lawyer he or she desires to resign, and serve it on Bar Counsel, who shall within 14 days, or such further time as may be allowed by a Board Member, file a response. In either event, the affidavit shall state that:

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(a) the resignation is freely and voluntarily rendered; the lawyer is not being subjected to coercion or duress and is fully aware of the implications of submitting the resignation;

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(b) the lawyer is aware that there is currently pending an investigation into allegations that the lawyer he or she has been guilty of misconduct, the nature of which shall be specifically set forth; ~~and~~

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(c) the lawyer acknowledges that the material facts, or specified material portions of them, upon which the complaint is predicated are true or can be proved by a preponderance of the evidence; ~~and~~

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(d) the lawyer waives the right to hearing as provided by this rule.

(2) The Board may order any hearing or investigation it deems appropriate or may order the parties to provide further explanation. Upon reaching its determination, the Board shall file its recommendation and the entire record of any hearing with the Court. The Board may recommend that the Court reject the affidavit of resignation as submitted, accept the resignation and disbar the resigning lawyer, or accept the resignation as a disciplinary sanction. If the Court accepts the resignation, any reinstatement after resignation will be handled by the Board in accordance with the provisions of sections 15 and 18 of this rule.

~~(2) Upon receipt of the required affidavit, the Board shall file it, together with its recommendation thereon, with this court which may enter an order.~~

(3) All proceedings under this section shall be public as provided in section 20 of this rule.

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(4) Any lawyer whose resignation under this section has been accepted must comply with the provisions of section 17 of this rule regarding notice.

Revised rule on liability insurance (redline)

Rule 4:02, § (2A) Professional liability insurance disclosure

(a) Each attorney shall, as part of the annual filing required by subsection (1) of this rule and on forms provided by the Board for this purpose, certify whether he or she is currently covered by professional liability insurance. Each attorney currently registered as active in the practice of law in this Commonwealth who reports being covered by professional liability insurance shall notify the Board in writing within thirty days if the insurance policy providing coverage lapses or terminates for any reason without immediate renewal or replacement with substitute coverage.

Proposed revised language:

(a) Each attorney shall, as part of the annual filing required by subsection (1) of this rule and on forms provided by the Board for this purpose, certify whether he or she is currently covered by professional liability insurance and provide the following additional information concerning such insurance: the name and address of the carrier, the policy number, and the start and end dates of the policy. Each attorney currently registered as active in the practice of law in this Commonwealth who reports being covered by professional liability insurance shall notify the Board in writing within thirty days if the insurance policy providing coverage lapses or terminates for any reason without immediate renewal or replacement with substitute coverage.