

## **COMMITTEE ON DISCIPLINARY RULES AND REFERENDA OPERATING RULES AND PROCEDURES**

In accordance with Tex. Gov't Code §81.0872, the Committee on Disciplinary Rules and Referenda (Committee) adopts the following operating rules and procedures:

### SECTION 1: COMMITTEE COMPOSITION AND DUTIES

1.01 Composition. The Committee is composed of nine members. Seven members shall be attorneys of which four are appointed by the President of the State Bar of Texas and five are appointed by the Supreme Court of Texas. Two members shall be public members of which one is appointed by the President of the State Bar and one is appointed by the Supreme Court of Texas. The President of the State Bar and the Chief Justice of the Supreme Court of Texas shall alternate designating an attorney member of the Committee to serve as the presiding officer for a term of one year. Committee members serve staggered three-year terms, with one-third of the members' terms expiring each year.

1.02 Duties. The Committee shall regularly review the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The Committee shall at least annually issue a report on the adequacy of the rules to the Texas Supreme Court and the State Bar of Texas Board of Directors. The Committee shall oversee the initial process for proposing a disciplinary rule.

### SECTION 2: INITIATION OF RULE PROPOSAL PROCESS

2.01 Request to Initiate the Rule Proposal Process. A request to initiate the rule proposal process may be made by: (1) A resolution of the State Bar of Texas Board of Directors; (2) a request by the Texas Supreme Court; (3) a request by the Commission for Lawyer Discipline; (4) a petition signed by at least 10% of registered members of the State Bar; (5) a concurrent resolution of the legislature; or (6) a petition signed by at least 20,000 people, of which at least 51% or 10,200 or more are Texas residents. In addition, the Committee can initiate the process for proposing a rule. A Committee initiated rule proposal will follow the same timelines as those initiated in any other matter.

2.02 Receipt of Request. Upon receipt of a request to initiate the rule proposal process, the Committee will screen the request for compliance with Rule 2.01. The date of receipt is defined as the first Committee meeting date after the request was sent. If the request does not comply with Rule 2.01, the Committee will notify the requestor and explain the requirements for proper submission. If the request complies with Rule 2.01, the Committee will notify the requestor and determine within 60 days of receiving the request, whether to initiate or decline to initiate the rule proposal process. If the Committee declines to initiate the rule proposal process, the Committee must issue a written decision as to its reason for declining and notify the requestor.

### SECTION 3: RULE PROPOSAL PROCESS

3.01 Generally. During the rule proposal process, the Committee shall 1) study the issue to be addressed by a proposed rule; 2) draft a rule, which can only address one subject; 3) publish the rule and solicit comments statewide from the public and members of the State Bar of Texas; 4) hold a public hearing on a proposed rule at the Committee's discretion or when requested under Rule 3.02; 5) vote on a proposed rule; and 6) submit a recommended proposed rule to the State Bar of Texas Board of Directors.

3.02 Publication, Comment Period and Public Hearing. A proposed rule must be published in (1) the Texas Register and (2) the Texas Bar Journal within six months after the proposal process is initiated under Rule 2.01 and shall include a period of at least 30 days for interested parties to submit comments on the rule to the Committee. During the comment period, the Committee shall hold a public hearing on a proposed rule at the Committee's discretion or if requested by (1) at least 25 people; a state agency or political subdivision of this state, or (3) an association with at least 25 members. A proposed rule is considered withdrawn if not published in accordance with this section.

3.03 Amendment. The Committee may amend a proposed rule at the conclusion of the comment period provided in Rules 3.02.

3.04 Deliberation and Vote. The Committee shall vote whether to recommend a proposed rule to the Board of Directors not later than the 60<sup>th</sup> day after the comment period described in Rule 3.02 ends. The Committee may not recommend a proposed rule unless at least five Committee members favor recommendation. When the Committee meets to deliberate on a final draft of a proposed rule, the Committee will give notice of the meeting and the meeting will be open to the public.

3.05 Submission to the Board of Directors. The Committee shall submit a proposed rule recommended by the Committee to the Board of Directors.

### SECTION 4: MISCELLANEOUS

4.01 Use of Technology. The Committee shall use technological solutions throughout the rule proposal process to promote (1) financial efficiency; and (2) comments from interested persons.

4.02 Expired Time and Defeated Rule Proposal. The Committee may reinstate the rule proposal process if either a time limit required expires or if a proposed rule is otherwise defeated. The Committee may petition the Supreme Court for an extension of any time limit. The petition must be made within 90 days after the original deadline.

4.03 Request for Public Information. Requests for public information will be governed by Rule 12 of the Rules of Judicial Administration.

4.04 Meetings. The Committee may meet in person or telephonically and may conduct business by electronic means.

4.05 Voting. In any matter requiring a vote, a Committee member's vote may be recorded by electronic means as long as the vote is recorded in the minutes.