

**CONFIDENTIAL DISCIPLINARY INFORMATION**

**(a) Scope of Confidentiality.** All disciplinary information that is not public information as defined in rule 3.1(b) is confidential, and is held by the Association under the authority of the Supreme Court, including but not limited to materials submitted to a review committee under rule 8.9 or information protected by rule 3.3(b), rule 5.4(b), rule 5.1(c)(3), a protective order under rule 3.2(e), rule 3.2(b), court order, or other applicable law (e.g., medical records, police reports, etc.).

**(b) Restriction on Release of Client Information.** Notwithstanding any other provision of this title, no information identified to the Association by a respondent as privileged or confidential client information under rule 5.4 may be released under rule 3.4(c)-(i) unless the client consents, including implied consent under rule 5.1(b).

**(c) Investigative Confidentiality.** During the course of an investigation or proceeding, the Chief Disciplinary Counsel may direct that otherwise public information be kept confidential if necessary to further the purposes of the investigation. At the conclusion of the proceeding, those materials become public information unless subject to a protective order.

**(d) Discipline Under Prior Rules.** Discipline imposed under prior rules of this state that was confidential when imposed remains confidential. A record of confidential discipline may be kept confidential during proceedings under these rules, or in connection with a stipulation under rule 9.1, through a protective order under section (e).

**(e) Protective Orders.**

(1) *Authorization.* To protect a compelling interest of a grievant, witness, third party, respondent lawyer, the Association, or other participant in any matter under these rules, on motion and for good cause shown, a protective order may be entered prohibiting any participant in the disciplinary process from disclosing or releasing specific information, documents, or pleadings obtained in the course of any matter under these rules, and direct that the proceedings be conducted so as to implement the order.

(2) *Pending Relief.* Upon filing a motion for a protective order, any participant in the disciplinary matter may move for a temporary protective order prohibiting any participant in the disciplinary matter who has actual notice of the motion for temporary protective order from taking any action which would violate the requested protective order if granted. A motion for temporary protective order may only be granted upon notice and an opportunity to be heard to all affected participants in the matter unless the participant seeking the order demonstrates that immediate and irreparable harm will result to the applicant before the affected participants can be heard in opposition and the participant seeking the order certifies the efforts, if any, which have been made to give notice and the reasons supporting the claim that notice should not be required. Any temporary protective order granted without notice must set forth the irreparable harm warranting issuance of the order without notice. Any temporary protective order expires upon the filing of a decision regarding the requested protective order, or thirty days following issuance of the temporary protective order, whichever is sooner. Upon two day's notice to the party who obtained a temporary protective order, any participant in the matter may move for the dissolution or modification of a temporary protective order, which motion must be heard as expeditiously as the ends of justice require.

(3) *Entry.* A protective order under this rule may be entered by the following:

(A) A hearing officer when a matter is pending before that hearing officer;

(B) The Chair when a matter is pending before the Board;

(C) The chair of a review committee when the matter is pending before a review committee; or

(D) The chief hearing officer when not otherwise authorized above.

(4) *Service.* The Clerk serves copies of decisions and protective orders entered under this rule on all affected participants in the disciplinary process.

(5) *Review.* The Board reviews decisions granting or denying a protective order if any party subject to the decision seeks relief from the decision by requesting a review within five days of service of the decision. The Clerk serves a copy of the request for review on all parties to the disciplinary matter. The Board considers the review under such procedure as it determines, but must allow comment from any person or party affected by the decision under review. Any participant in the disciplinary matter who has actual notice of the request for review is prohibited from taking any action which would violate the relief requested by the party seeking review if granted. On review, the Board may affirm, reverse, or modify the protective order. The Board's decision is not subject to further review.

(6) *Relief from Protective Order.* Any person may apply to the authority that issued a protective order for specific relief from the order upon good cause shown, provided that notice and an opportunity to respond to the requested relief must be afforded any person affected by the order.

**(f) Wrongful Disclosure or Release.** Disclosure or release of information made confidential by these rules, except as permitted by rule 3.4(a) or otherwise by these rules, may subject a person to an action for contempt of the Supreme Court. If the person is a lawyer, wrongful disclosure or release may also be grounds for discipline.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; January 1, 2015.]