

Rule Change 2005 (12)

COLORADO RULES OF CIVIL PROCEDURE

CHAPTER 20

COLORADO RULES OF PROCEDURE REGARDING ATTORNEY DISCIPLINE AND
DISABILITY PROCEEDINGS, COLORADO ATTORNEY'S FUND FOR CLIENT
PROTECTION, AND MANDATORY CONTINUING LEGAL EDUCATION AND
JUDICIAL EDUCATION

Rule 251.13. Alternatives to Discipline

(a) through (c) [No change]

(d) **Costs of the Diversion.** The attorney shall pay all the costs incurred in connection with participation in any diversion program. The attorney shall also pay the administrative cost of the proceeding as set by the Supreme Court.

(e) through (i) [No Change]

**Rule 251.28. Required Action After Disbarment,
Suspension, or Transfer to Disability Inactive Status**

(a) **Effective Date of Order – Winding Up Affairs.** Orders imposing disbarment, a definite suspension, or an administrative suspension for failure to comply with rules governing attorney registration or continuing legal education, shall become effective thirty-one days after the date of entry of the decision or order, or at such other time as the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge may order. Orders imposing immediate suspension or transferring an attorney to disability inactive status shall become effective immediately upon the date of entry of the order, unless otherwise ordered by the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge. After the entry of an order of disbarment, suspension unless fully stayed (see C.R.C.P. 251.7(a)(3)), or transfer to disability inactive status the attorney may not accept any new retainer or employment as an attorney in any new case or legal matter; provided, however, that during any period between the date of entry of an order and its effective date the attorney may, with the consent of the client after full disclosure, wind up or complete any matters pending on the date of entry of the order.

(b) **Notice to Clients in Pending Matters.** An attorney against whom an order of disbarment, suspension unless fully stayed, or transfer to disability inactive status has been entered shall

promptly notify in writing by certified mail each client whom the attorney represents in a matter still pending of the order entered against the attorney and of the attorney's consequent inability to act as an attorney after the effective date of such order, and advising such clients to seek legal services elsewhere. In addition, the attorney shall deliver to each client all papers and property to which the client is entitled. An attorney who has been suspended as provided in the rules governing attorney registration or continuing legal education need not comply with the requirements of this subsection if the attorney has sought reinstatement as provided by the rules governing attorney registration or continuing legal education and reasonably believes that reinstatement will occur within fifteen days of the date of the order of suspension. If the attorney is not reinstated within those fifteen days, then the attorney must comply with this subsection.

(c) Notice to Parties in Litigation. An attorney against whom an order of disbarment, suspension unless fully stayed, or transfer to disability inactive status is entered and who represents a client in a matter involving litigation or proceedings before an administrative body shall notify that client as required by section (b) of this rule, and shall recommend that the client promptly obtain substitute counsel. In addition, the lawyer must notify in writing by certified mail the opposing counsel of the order entered against the attorney and of the attorney's consequent inability to act as an attorney after the effective date of the order. The notice to opposing counsel shall state the place of residence of the client of the attorney against whom the order was entered. An attorney who has been suspended as provided in the rules governing attorney registration or continuing legal education need not comply with the requirements of this section if the attorney has sought reinstatement as provided by the rules governing attorney registration or continuing legal education and reasonably believes that reinstatement will occur within fifteen days of the date of the order of suspension. If the attorney is not reinstated within those fifteen days, then the attorney must comply with this section.

If the client of the attorney against whom an order was entered does not obtain substitute counsel before the effective date of such order, the attorney must appear before the court or administrative body in which the proceeding is pending and move for leave to withdraw.

(d) Affidavit Filed With Supreme Court or the Hearing Board. Within ten days after the effective date of the order of disbarment, suspension, or transfer to disability inactive status, or within such additional time as allowed by the Supreme

Court, the Hearing Board, or the Presiding Disciplinary Judge, the attorney shall file with the Supreme Court or the Hearing Board an affidavit setting forth a list of all pending matters in which the attorney served as counsel and showing:

(1) That the attorney has fully complied with the provisions of the order and of this rule;

(2) That the attorney has served on Regulation Counsel, a list of the clients notified pursuant to subsection (b) of this rule and a copy of each notice provided;

~~(3)~~ That the attorney has notified every other jurisdiction before which the attorney is admitted to practice law of the order entered against attorney; and

~~(4)~~ That the attorney has served a copy of such affidavit upon the Presiding Disciplinary Judge and the Regulation Counsel. The list and notices described in (d) (2) shall only be attached to the affidavit provided to Regulation Counsel.

Such affidavit shall also set forth the address of the attorney to which communications may thereafter be directed.

In addition, the attorney shall continue to file a registration statement in accordance with C.R.C.P. 227 for a period of five years following the effective date of the order listing the attorney's residence or other address where communications may thereafter be directed to the attorney; provided, however, that the annual registration fee need not be paid during such five-year period unless and until the attorney is reinstated. Upon reinstatement the attorney shall pay the annual registration fee for the year in which reinstatement occurs.

(e) through (g) [No Change]

Rule 251.31. Access to Information Concerning Proceedings Under These Rules

(a) Availability of Information. Except as otherwise provided by these rules, all records, except (i) the work product, deliberations and internal communications of the Regulation Counsel, the committee, the Presiding Disciplinary Judge, the Hearing Boards, and the Supreme Court, and (ii) the lists of clients and copies of client notices referred to in C.R.C.P. 251.28(d) (2), shall be available to the public after the committee determines that reasonable cause to believe grounds for discipline exists and the Regulation Counsel files and serves a complaint as provided in C.R.C.P. 251.14, unless the complainant or the respondent obtains a protective order.

Unless otherwise ordered by the Supreme Court or the Presiding Disciplinary Judge, nothing in these rules shall prohibit the complaining witness, the attorney, or any other witness from disclosing the existence of proceedings under these rules or from disclosing any documents or correspondence served on or provided to those persons.

(b) through (q) [No Change]

Amended and Adopted by the Court, En Banc, October 6, 2005, effective January 1, 2006.

BY THE COURT:

**Justice Michael L. Bender
Colorado Supreme Court**

**Justice Nathan B. Coats
Colorado Supreme Court**