

# MEMBER'S MANUAL

The Law Society  
of British Columbia



## AMENDMENT PAGES

2022: No. 3 April

### Highlights

#### Law Society Rules 2015:\*

- A new alternative discipline process is created for circumstances in which a health issue has contributed to lawyer misconduct, to enable lawyers to participate in a consent-based process and improve their ability to meet their professional responsibilities (Rules 3-4(3), 3-8(2) and (2.1), 3-9(3) and 3-9.1 – 3-9.10: pp. 102 and 106.1 – 106.8).
- Administrative penalties may be imposed on lawyers who breach the cash transactions rule (Rule 3-59), the electronic submission of documents rule (Rule 3-96.1) or the Client Identification and Verification Rules (Rules 3-98 to 3-110) (definition of “professional conduct record” and Rules 3-8(3), 4-48(1.2), 4-56(1.1) and (2) and 4-58 – 4-60: pp. 15, 106.1, 170, 174 – 174.2).

\**Historical notes are published only in the website version of the Rules.*

**Filing:** File the amended pages in your *Member's Manual* as follows:

Manual section	Existing pages to be removed	Amendment pages to be inserted
Law Society Rules	15 – 18 101 – 104, 104.1 – 104.2, 105 – 106 159 – 160 169 – 174	15 – 18 101 – 106, 106.1 – 106.8 159 – 160 169 – 174, 174.1 – 174.2

After filing, insert this sheet at the front of the *Manual* for reference.

This amendment package updates the *Member's Manual* to **April 26, 2022**. The previous amendment package was 2022: No. 2 March.

To check that your copy of the Manual is up to date, consult the contents checklist on the next page. To print replacement pages, download the PDFs at [Member's Manual](#) on the Law Society website.

The Law Society Rules and *Code of Professional Conduct for British Columbia* can be accessed in the [Support & Resources for Lawyers](#) section of the Law Society website at [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca). Refer to the website for the most current versions of the Rules and Code.



## MEMBER'S MANUAL CONTENTS CHECKLIST

2022: No. 3 April

The following list of pages and tabs can be used to verify that your *Member's Manual* is complete and up to date.

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- “**officer**” means the Executive Director, a Deputy Executive Director or other person appointed as an officer by the Benchers;
- “**Ombudsperson**” means a person appointed by the Executive Director to provide confidential dispute resolution and mediation assistance to lawyers, articulated students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers and includes anyone employed to assist the Ombudsperson in that capacity;
- “**panel**” means a panel established in accordance with Part 5 [*Tribunal, Hearings and Appeals*];
- “**practice management course**” means a course of study designated as such and administered by the Society or its agents and includes any assignment, examination or remedial work taken during or after the course of study;
- “**practice review**” means an investigation into a lawyer’s competence to practise law ordered under Rule 3-17 (3) (d) [*Consideration of complaints*] or 3-18 (1) [*Practice review*];
- “**practice year**” means the period beginning on January 1 and ending on December 31 in a year;
- “**practitioner of foreign law**” means a person qualified to practise law in a foreign jurisdiction who provides foreign legal services in British Columbia respecting the laws of that foreign jurisdiction;
- “**prescribed form**” means a form approved by the Executive Director;
- “**principal**” means a lawyer who is qualified to employ and employs an articulated student;
- “**pro bono legal services**” means the practice of law not performed for or in the expectation of a fee, gain or reward;
- “**professional conduct record**” means a record of all or some of the following information respecting a lawyer:
- (a) an order under Rule 2-57 (5) [*Principals*], prohibiting the lawyer from acting as a principal for an articulated student;
  - (b) any conditions or limitations of practice or articles accepted or imposed under the Act or these rules;
  - (c) a decision by a panel or a review board to reject an application for enrolment, call and admission or reinstatement;
  - (d) a decision by the Credentials Committee to reject an application for an inter-jurisdictional practice permit;
  - (d.1) a consent agreement to resolve a complaint under Rule 3-7.1 [*Resolution by consent agreement*];
  - (d.2) an administrative penalty assessed under Rule 4-59 [*Administrative penalty*] unless cancelled under Rule 4-60 [*Review and order*];

- (e) any suspension or disbarment under the Act or these rules, including resignation requiring consent under Rule 4-6 [*Continuation of membership during investigation or disciplinary proceedings*];
- (f) recommendations made by the Practice Standards Committee under Rule 3-19 [*Action by Practice Standards Committee*];
- (g) an admission accepted by the Discipline Committee under Rule 4-29 [*Conditional admission*];
- (h) an admission accepted and disciplinary action imposed by a hearing panel under Rule 5-6.5 [*Admission and consent to disciplinary action*];
- (i) any Conduct Review Subcommittee report delivered to the Discipline Committee under Rule 4-13 [*Conduct Review Subcommittee report*], and any written dispute of that report considered by the Committee;
- (j) a decision made under section 38 (4) (b) [*Discipline hearings*];
- (k) an action taken under section 38 (5), (6) or (7);
- (l) an action taken by a review board under section 47 [*Review on the record*];
- (m) a payment made from the former special compensation fund on account of misappropriation or wrongful conversion by the lawyer;
- (n) an order for costs made against the lawyer under Part 5 [*Tribunal, Hearings and Appeals*];
- (o) any failure to pay any fine, costs or penalty imposed under the Act or these rules by the time that it is to be paid;
- (p) the outcome of an application made by the lawyer under the *Judicial Review Procedure Act* concerning a decision taken under the Act or these rules, including a predecessor of either;
- (q) the outcome of an appeal under section 48 [*Appeal*];
- (r) any disciplinary or remedial action taken by a governing body or body regulating the legal profession in any other jurisdiction;
- (s) a decision of or action taken by the Benchers on a review of a decision of a hearing panel;

**“professional corporation”** includes a law corporation and means a corporation that is a company, as defined in the *Business Corporations Act*, and that is in good standing under that Act or that is registered under Part 10 of the *Business Corporations Act*, through which a member of a profession, trade or occupation is authorized under a statute governing the profession, trade or occupation to carry on the business of providing services to the public;

**“Protocol”** means the Inter-Jurisdictional Practice Protocol signed on behalf of the Society on February 18, 1994, as amended from time to time;

**“provide foreign legal services”** means give legal advice in British Columbia respecting the laws of a foreign jurisdiction in which the person giving the advice is qualified;

- “qualification examination”** means an examination set by the Executive Director for the purposes of Rule 2-89 [*Returning to practice after an absence*];
- “qualified CPA”** means a person in public accounting practice who is permitted to perform audit engagements by the Organization of Chartered Professional Accountants of British Columbia;
- “reciprocating governing body”**
- (a) means a governing body that has signed the National Mobility Agreement, and adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement, and
  - (b) includes a governing body that has signed the Territorial Mobility Agreement and adopted regulatory provisions giving effect to the requirements of the Territorial Mobility Agreement;
- “record”** includes metadata associated with an electronic record;
- “remedial program”** includes anything that may be recommended by the Practice Standards Committee under Rule 3-19 (1) (b) [*Action by Practice Standards Committee*];
- “respondent”** means a person whose conduct or competence is
- (a) the subject of a citation directed to be issued under Rule 4-17 (1) [*Direction to issue, expand or rescind citation*], or
  - (b) under review by a review board under section 47 [*Review on the record*]
- and includes a representative of a respondent law firm;
- “review board”** means a review board established in accordance with Part 5 [*Tribunal, Hearings and Appeals*];
- “rule”** or **“subrule”** means a rule or subrule contained in these rules;
- “Second Vice-President-elect”** means the Bencher elected under Rule 1-19 [*Second Vice-President-elect*], from the time of the election until the Bencher takes office as Second Vice-President;
- “section”** means a section of the *Legal Profession Act*;
- “Society”** means the Law Society of British Columbia continued under section 2 (1) [*Incorporation*];
- “suspension”** means temporary disqualification from the practice of law;
- “Territorial Mobility Agreement”** means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;
- “training course”** includes any assessments, examinations or remedial work taken during or after the training course, or an educational program required by the Credentials Committee;
- “Tribunal”** means persons or bodies performing the adjudicative function of the Society or providing legal or administrative support to that function;
- “Tribunal Chair”** means the Bencher appointed under Rule 5-1.3 [*Tribunal Chair*];

**“Tribunal Office”** means the principal place of business of the Tribunal;

**“trust funds”** means funds directly related to legal services provided by a lawyer or law firm received in trust by the lawyer or law firm acting in that capacity, including funds

- (a) received from a client for services to be performed or for disbursements to be made on behalf of the client, or
- (b) belonging partly to a client and partly to the lawyer or law firm if it is not practicable to split the funds;

**“valuables”** means anything of value that can be negotiated or transferred, including but not limited to

- (a) securities,
- (b) bonds,
- (c) treasury bills, and
- (d) personal or real property;

**“vice chair”** means a person appointed to preside at meetings of a committee in the absence of the chair;

**“visiting lawyer”** means a member of a governing body who is qualified to practise law in another Canadian jurisdiction.



## **PART 3 – PROTECTION OF THE PUBLIC**

### **Division 1 – Complaints**

#### **Application**

**3-1** This division applies to the following as it does to a lawyer, with the necessary changes and so far as it is applicable:

- (a) a former lawyer;
- (b) an articulated student;
- (c) a visiting lawyer permitted to practise law in British Columbia under Rules 2-16 to 2-20;
- (d) a practitioner of foreign law;
- (e) a law firm.

#### **Complaints**

**3-2** Any person may deliver a written complaint against a lawyer or law firm to the Executive Director.

#### **Confidentiality of complaints**

- 3-3** (1) The Society must treat as confidential all information and records that form part of the investigation of a complaint or the review of a complaint by the Complainants' Review Committee except for the purpose of complying with the objectives of the Act or with these rules.
- (1.1) The Executive Director may require a lawyer, including the lawyer who is the subject of the investigation of a complaint, to treat as confidential any or all information and records that form part of the investigation or the review of the complaint by the Complainants' Review Committee.
- (2) Despite subrule (1), the Executive Director may do any of the following:
- (a) disclose information referred to in subrule (1), with the consent of the lawyer who is the subject of the complaint;
  - (b) if a complaint has become known to the public, disclose
    - (i) the existence of the complaint,
    - (ii) its subject matter,
    - (iii) its status, including, if the complaint is closed, the general basis on which it was closed; and
    - (iv) any additional information necessary to correct inaccurate information;
  - (c) if, in the course of the investigation of a complaint, a lawyer has given an undertaking to the Society that restricts, limits or prohibits the lawyer's practice of law, disclose the fact that the undertaking was given and its effect on the lawyer's practice;

- (d) provide information to a governing body under Rule 2-27.1 [*Sharing information with a governing body*].
- (3) For the purpose of subrule (2) (b), the status of a complaint is its stage of progress through the complaints handling process, including, but not limited to the following:
  - (a) opened;
  - (b) under investigation;
  - (c) referred to a Committee;
  - (d) closed.
- (4) If the Executive Director discloses the existence of an undertaking under subrule (2) (c) by means of the Society's website, the information must be removed from the website within a reasonable time after the undertaking ceases to be in force.
- (4.1) Despite subrule (1), the Executive Director may disclose any information concerning a complaint to a designated representative of a law firm in which the lawyer who is the subject of the complaint engages in the practice of law.
- (5) Despite subrule (1), with the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that may be evidence of an offence.
- (6) This division must not be interpreted to permit the disclosure of any information or records subject to solicitor and client privilege or confidentiality.
- (7) This rule is subject to the rights and obligations of individuals under sections 87 [*Certain matters privileged*] and 88 [*Non-disclosure of privileged and confidential information*].

### **Consideration of complaints and other information**

- 3-4** (1) The Executive Director must consider every complaint received under Rule 3-2 [*Complaints*].
- (2) Information received from any source that indicates that a lawyer's conduct may constitute a discipline violation must be treated as a complaint under these rules.
- (3) At any time before a complaint is referred to a Committee or the chair of the Discipline Committee under Rule 3-8 [*Action on a complaint*], the Executive Director may proceed on a complaint under Division 1.01 [*Health issues*], without further investigation of the matter.

### **Investigation of complaints**

- 3-5** (1) Subject to subrule (3), the Executive Director may, and on the instruction of the Discipline Committee must, investigate a complaint to determine its validity.

- (2) For the purpose of conducting an investigation under this division and section 26 [*Complaints from the public*], the Executive Director may designate an employee of the Society or appoint a practising lawyer or a person whose qualifications are satisfactory to the Executive Director.
- (3) The Executive Director may decline to investigate a complaint if the Executive Director is satisfied that the complaint
  - (a) is outside the jurisdiction of the Society,
  - (b) is frivolous, vexatious or an abuse of process, or
  - (c) does not allege facts that, if proven, would constitute a discipline violation.
- (4) The Executive Director must deliver to the lawyer who is the subject of a complaint a copy of the complaint or, if that is not practicable, a summary of it.
- (5) Despite subrule (4), if the Executive Director considers it necessary for the effective investigation of the complaint, the Executive Director may delay notification of the lawyer.
- (6) When acting under subrule (4), the Executive Director may decline to identify the complainant or the source of the complaint.
- (7) A lawyer must co-operate fully in an investigation under this division by all available means including, but not limited to, responding fully and substantively, in the form specified by the Executive Director
  - (a) to the complaint, and
  - (b) to all requests made by the Executive Director in the course of an investigation.
- (8) When conducting an investigation of a complaint, the Executive Director may
  - (a) require production of files, documents and other records for examination or copying,
  - (b) require a lawyer to
    - (i) attend an interview,
    - (ii) answer questions and provide information relating to matters under investigation, or
    - (iii) cause an employee or agent of the lawyer to answer questions and provide information relating to the investigation,
  - (c) enter the business premises of a lawyer
    - (i) during business hours, or
    - (ii) at another time by agreement with the lawyer.
- (9) Any written response under subrule (7) must be signed by
  - (a) the lawyer personally, or
  - (b) a representative of the law firm, if the complaint is about a law firm.

- (10) The Executive Director may deliver to the complainant a copy or a summary of a response received from the lawyer, subject to solicitor and client privilege and confidentiality.
- (11) A lawyer who is required to produce files, documents and other records, provide information or attend an interview under this rule must comply with the requirement
  - (a) even if the information or files, documents and other records are privileged or confidential, and
  - (b) as soon as practicable and, in any event, by the time and date set by the Executive Director.

### **Failure to produce records on complaint investigation**

- 3-6** (1) Subject to subrules (2) and (3), a lawyer who is required under Rule 3-5 [*Investigation of complaints*] or 4-55 [*Investigation of books and accounts*] to produce and permit the copying of files, documents and other records, provide information or attend an interview and answer questions and who fails or refuses to do so is suspended until the lawyer has complied with the requirement to the satisfaction of the Executive Director.
- (2) When there are special circumstances, the chair of the Discipline Committee may, in the chair's discretion, order that
  - (a) a lawyer not be suspended under subrule (1), or
  - (b) a suspension under this rule be delayed for a specified period of time.
- (3) At least 7 days before a suspension under this rule can take effect, the Executive Director must deliver to the lawyer notice of the following:
  - (a) the date on which the suspension will take effect;
  - (b) the reasons for the suspension;
  - (c) the means by which the lawyer may apply to the chair of the Discipline Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

### **Resolution by informal means**

- 3-7** The Executive Director may, at any time, attempt to resolve a complaint through mediation or other informal means.

### **Resolution by consent agreement**

- 3-7.1** (1) At any time before a complaint is referred to a Committee or the chair of the Discipline Committee under Rule 3-8 [*Action on a complaint*], the Executive Director may resolve a complaint by agreement with the lawyer.

- (2) A consent agreement under this rule must include admission by the lawyer of a discipline violation and one or more of the following:
  - (a) a requirement that the lawyer complete a course of study or remedial program to the satisfaction of the Executive Director;
  - (b) conditions or limitations on the practice of the lawyer;
  - (c) payment of a fine permitted under section 38 [*Discipline hearings*];
  - (d) suspension of the lawyer from the practice of law or from practice of law in one or more fields of law;
  - (e) resignation of the lawyer from membership in the Society;
  - (f) any other disciplinary action that could be ordered by a hearing panel under section 38.
- (3) A consent agreement is not effective unless it is
  - (a) signed by the Executive Director,
  - (b) personally signed by the lawyer or, where the complaint is made against a law firm, by the representative of a law firm, and
  - (c) approved by the chair of the Discipline Committee.
- (4) Under subrule (3) (c), the chair of the Discipline Committee may
  - (a) approve the agreement as proposed, or
  - (b) decline to approve the agreement.
- (5) Subject to Rule 3-7.2 [*Breach of consent agreement*], the Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
- (6) An admission of conduct tendered in good faith by a lawyer during negotiation that does not result in an effective consent agreement under subrule (3) is not admissible in a hearing of a citation arising from the complaint.
- (7) When a complaint is resolved by means of a consent agreement, the Executive Director must notify the complainant in writing of the disposition.
- (8) Section 15 (3) [*Authority to practise law*] applies to a lawyer who is suspended or disbarred or is permitted to resign from membership in the Society under a consent agreement.

### **Breach of consent agreement**

- 3-7.2** If a lawyer is in breach of a consent agreement, the Executive Director may do one or more of the following:
- (a) treat the breach as a complaint under this division;
  - (b) reopen investigation of the complaint that gave rise to the consent agreement;

- (c) refer the matter to a Committee or the chair of the Discipline Committee under Rule 3-8 [*Action on a complaint*];
- (d) enter into an amended consent agreement under Rule 3-7.3 [*Amending consent agreement*].

### **Amending consent agreement**

- 3-7.3** (1) A consent agreement may be amended by agreement of the parties reduced to writing and given effect as in Rule 3-7.1 (3) [*Resolution by consent agreement*].
- (2) An agreement amended under subrule (1) has the same effect as if given effect under Rule 3-7.1 (3).
- (3) Either party may apply to the chair of the Discipline Committee to approve a proposed amendment concerning
- (a) a course of study, remedial program or other task to be completed by the lawyer,
  - (b) conditions or limitations on the practice of the lawyer, or
  - (c) an extension of time to pay a fine or begin a suspension.
- (4) On an application under subrule (3), the chair of the Discipline Committee may
- (a) amend the agreement as proposed, or
  - (b) decline to amend the agreement.
- (5) The chair of the Discipline Committee may designate another member of the Committee to exercise the discretion under subrule (4).

### **Publication of consent agreement**

- 3-7.4** (1) When a consent agreement has been reached and approved under Rule 3-7.1 [*Resolution by consent agreement*], the Executive Director must publish on the Society's website a summary of the circumstances of the consent agreement and the action taken.
- (2) In addition to that required under subrule (1), publication may be made by any other means.
- (3) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.
- (4) A publication under this rule must identify the lawyer who is a party to the consent agreement.
- (5) The Executive Director may publish a summary of an amendment to a consent agreement by any means used to publish the original agreement.

### Action on a complaint

- 3-8** (1) After investigating a complaint, the Executive Director must take no further action if the Executive Director is satisfied that the complaint
- (a) is not valid or its validity cannot be proven, or
  - (b) does not disclose conduct serious enough to warrant further action.
- (2) The Executive Director may take no further action under this division on a complaint if the Executive Director is satisfied that the matter giving rise to the complaint has been resolved.
- (2.1) Subject to Rule 3-9.9 [*Referral to complaint investigation process*], the Executive Director must take no further action under this division on a complaint if the Executive Director has proceeded on the complaint under Division 1.01 [*Health issues*].
- (3) Unless subrule (1) or (2.1) applies or the Executive Director takes no further action under subrule (2), the Executive Director must
- (a) refer the complaint to the Practice Standards Committee,
  - (b) refer the complaint to the Discipline Committee, or
  - (c) impose an administrative penalty under Part 4, Division 6 [*Administrative penalty*].
- (4) Despite subrule (3), the Executive Director may refer a complaint to the chair of the Discipline Committee if the complaint concerns only allegations that the lawyer has done one or more of the following:
- (a) breached a rule;
  - (b) breached an undertaking given to the Society;
  - (c) failed to respond to a communication from the Society;
  - (d) breached an order made under the Act or these rules.

### Notice

- 3-9** (1) When a decision has been made under Rule 3-8 [*Action on a complaint*], the Executive Director must notify the complainant and the lawyer in writing of the disposition.
- (2) When the Executive Director takes no further action on a complaint under Rule 3-8 (1) [*Action on a complaint*], notice to the complainant under subrule (1) must include
- (a) the reason for the decision, and
  - (b) instructions on how to apply for a review of the decision under Rule 3-14 [*Review by Complainants' Review Committee*].
- (3) Despite subrule (1), when proceeding on a complaint under Division 1.01 [*Health issues*], the Executive Director may delay notifying the complainant until health information has been collected and assessed.

## Division 1.01 – Health issues

### Proceeding on health issue

- 3-9.1** (1) In this division, “**health issue**” includes matters that may affect a lawyer’s physical or mental health.
- (2) The Executive Director may proceed under this division on the basis of information about a health issue that may affect a lawyer received from any source, including the lawyer.
- (3) The Executive Director may proceed under this division if
- (a) the lawyer acknowledges the existence of a health issue that may have contributed to an alleged discipline violation by the lawyer,
  - (b) the lawyer consents in writing to the Executive Director proceeding under this division, and
  - (c) the Executive Director is satisfied, in all the circumstances of the alleged discipline violation, including whether it involved substantial harm to the complainant or another person, that it is likely to be in the public interest to proceed under this division.

### Risk mitigation

- 3-9.2** Unless a consent agreement is in effect under this division, if the Executive Director is satisfied on reasonable grounds that interim measures are necessary to protect the public, the Executive Director may enter into an interim agreement under which the lawyer agrees to do one or more of the following:
- (a) not engage in the practice of law indefinitely or for a specific period of time;
  - (b) restrict the lawyer’s practice to a specific area of law or other type of practice;
  - (c) accept practice supervision on terms approved by the Executive Director;
  - (d) any other measure that the Executive Director considers necessary in the public interest.

### Health information

- 3-9.3** (1) The Executive Director may request that the lawyer provide health information that demonstrates to the satisfaction of the Executive Director that
- (a) a health issue may have contributed to an alleged discipline violation by the lawyer,
  - (b) the lawyer could benefit from remedial initiatives, and
  - (c) it is in the public interest for the lawyer to engage in remedial measures.
- (2) The Executive Director may request further health information from the lawyer as, in the judgment of the Executive Director, is required to determine whether a consent agreement under Rule 3-9.4 [*Consent agreement*] is appropriate.



### Consent agreement

- 3-9.4** (1) The Executive Director may enter into a consent agreement with a lawyer if the Executive Director is satisfied that
- (a) proceeding under this division is permitted under Rule 3-9.1 [*Proceeding on health issue*], and
  - (b) the lawyer has provided sufficient health information requested under Rule 3-9.3 [*Health information*] for the Executive Director to make a decision under subrule (5).
- (2) Before entering into a consent agreement under this rule, the Executive Director must ensure that each complainant in the complaint giving rise to the agreement is given an opportunity to provide a statement regarding the effect on the complainant of the lawyer's conduct.
- (3) A consent agreement under this rule must include provisions addressing the following:
- (a) the duration of the agreement and, if different, of any obligation of a party;
  - (b) confidentiality and information sharing;
  - (c) the fulfillment of or amendment to the terms of the agreement;
  - (d) responsibility for reporting a breach of the terms of the agreement;
  - (e) the consequences of the lawyer's fulfilling or failing to fulfill the terms of the agreement;
  - (f) responsibility for costs associated with fulfilling the terms of the agreement;
  - (g) the lawyer's undertaking not to assert delay or any other prejudice as the result of proceeding under this division if the matter is subsequently referred to the complaint investigation process under Rule 3-9.9 [*Referral to complaint investigation process*].
- (4) A consent agreement under this rule may also include other provisions, including but not limited to the following:
- (a) a recommended treatment plan;
  - (b) medical monitoring and reporting requirements;
  - (c) practice conditions and limitations;
  - (d) mitigation of loss or harm resulting from an alleged discipline violation;
  - (e) an apology, restitution or other remedial steps.
- (5) The Executive Director may enter into a consent agreement if the Executive Director is satisfied that the agreement is in the public interest having considered all the relevant circumstances, including the following:
- (a) the nature and scope of the terms of the agreement, including specific action to be taken to protect the public;
  - (b) the nature and seriousness of the alleged discipline violation;

- (c) the impact of the lawyer's conduct on the complainant or others;
  - (d) any previous complaints concerning the lawyer proceeded on under this division;
  - (e) the effect of the agreement on the administration of justice and the public's confidence in the integrity of the legal profession;
  - (f) whether measures to be taken under the agreement are likely to improve the lawyer's ability to fulfill the duties of a lawyer in the practice of law;
  - (g) the presence of aggravating or mitigating factors, such as acknowledgement of a discipline violation or steps taken to redress a wrong where appropriate.
- (6) An agreement under this rule is
- (a) voluntary and requires the consent of the lawyer, and
  - (b) not valid unless signed by the Executive Director and the lawyer.
- (7) When a consent agreement is made under this rule, the Executive Director must notify the complainant in writing of that fact.
- (8) The Executive Director may report to the Benchers or the Executive Committee on a consent agreement made under this rule, but the report must not identify the lawyer concerned.
- (9) Subject to Rule 3-9.9 [*Referral to complaint investigation process*], the Society is bound by an effective consent agreement made under this rule, and no further action on the complaint that gave rise to the agreement is permitted.

### **Practice conditions and limitations**

- 3-9.5** (1) When a condition or limitation on the practice of a lawyer is agreed to under this division, the Executive Director may disclose the fact that the condition or limitation applies, the nature of the condition or limitation and its effect on the lawyer's practice.
- (2) A disclosure under this rule must not indicate that the agreement was made under this division.
- (3) If the Executive Director discloses the existence of a condition or limitation under this rule by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the condition or limitation ceases to be in force.

### **Amending consent agreement**

- 3-9.6** (1) A consent agreement may be amended by agreement of the parties reduced to writing and given effect in accordance with Rule 3-9.4 [*Consent agreement*].
- (2) An agreement amended under subrule (1) has the same effect as if given effect under Rule 3-9.4.

### **Breach of consent agreement**

**3-9.7** If a lawyer is in breach of a consent agreement made under this division, the Executive Director may do any of the following as appears to the Executive Director to be consistent with the public interest:

- (a) terminate the consent agreement;
- (b) refer the matter under Rule 3-9.9 [*Referral to complaint investigation*] for investigation of the complaint that gave rise to the consent agreement;
- (c) enter into an amended consent agreement under Rule 3-9.6 [*Amending consent agreement*];
- (d) take any other appropriate action consistent with these rules.

### **Records and confidentiality**

- 3-9.8** (1) Nothing done under this division forms part of a lawyer's professional conduct record.
- (2) Unless permitted under this division, no one is permitted to disclose any information or records related to a step taken under this division.
- (3) The Executive Director may do any of the following:
- (a) disclose information related to a step taken with respect to a lawyer under this division if
    - (i) the lawyer consents to the disclosure, or
    - (ii) the disclosure is necessary to comply with a legal duty to accommodate;
  - (b) disclose or publish information about consent agreements or other steps taken under this division, but that information must not identify the lawyer, clients or complainants concerned;
  - (c) disclose information to the complainant to the extent necessary
    - (i) to comply with Rule 3-9 [*Notice*],
    - (ii) to comply with Rule 3-9.4 [*Consent agreement*],
    - (iii) to report to the complainant on the successful fulfillment of the terms of the consent agreement, or
    - (iv) to report to the complainant that the complaint has been referred for investigation or further investigation under Rule 3-9.9 [*Referral to complaint investigation process*].
- (4) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.

### **Referral to complaint investigation process**

- 3-9.9** (1) The Executive Director may refer a matter that has been proceeded on under this division for investigation or further investigation under Division 1 [*Complaints*] if
- (a) a condition required under Rule 3-9.1 [*Proceeding on health issue*] is not present or no longer present,
  - (b) the lawyer fails or refuses to provide sufficient health information requested under Rule 3-9.3 [*Health information*],
  - (c) it is not possible, in the opinion of the Executive Director, to reach an interim agreement or a consent agreement within a reasonable period of time, or
  - (d) the lawyer breaches an interim agreement or a consent agreement made under this division.
- (2) The Executive Director must give the lawyer 30 days' notice in writing before taking action under this rule.

### **Dispute resolution**

- 3-9.10** (1) This rule applies to resolution of a dispute arising from an allegation that the lawyer
- (a) has committed a breach of an interim agreement or a consent agreement, or
  - (b) has failed to successfully fulfill the terms of a consent agreement.
- (2) A lawyer may apply to the Tribunal for the determination of a dispute if the Executive Director has given notice under Rule 3-9.9 [*Referral to complaint investigation process*] that
- (a) an interim agreement or consent agreement will be terminated as a result of an alleged breach or failure to fulfill the terms of a consent agreement, and
  - (b) the matter that gave rise to the interim agreement or consent agreement will be referred for investigation or further investigation under Division 1 [*Complaints*].
- (3) The lawyer may make an application under subrule (2) within 30 days of receiving notice under Rule 3-9.9 [*Referral to complaint investigation process*] by filing with the Tribunal and delivering to the Executive Director written notice setting out the substance of the application, the grounds for it and the order that is sought.
- (4) On application by the lawyer, a motions adjudicator may extend the time to apply for a determination under this rule.
- (5) When an application is made under subrule (2), the motions adjudicator must do one of the following as appears to the motions adjudicator to be appropriate:
- (a) grant all or part of the order applied for, with or without conditions;
  - (b) refuse the order.

- (6) The motions adjudicator must provide written reasons for a decision under this rule.
- (7) For greater certainty, Rule 3-9.8 [*Records and confidentiality*] applies with respect to an application under this rule, and the written reasons for a decision must not be published or otherwise disclosed except as permitted by Rule 3-9.8.

### **Division 1.1 – Extraordinary action to protect public**

#### **Interim suspension or practice conditions**

- 3-10** (1) Under this rule, an interim action board may make an order with respect to a lawyer or articled student who is the subject of
- (a) an investigation or intended investigation under Rule 3-5 [*Investigation of complaints*], or
  - (b) a citation under Part 4 [*Discipline*].
- (1.1) When a proceeding is initiated under Rule 3-12 (3) [*Public protection proceeding*], the President must appoint an interim action board, consisting of 3 or more Benchers who are not members of the Discipline Committee.
- (2) If satisfied, on reasonable grounds, that extraordinary action is necessary to protect the public, an interim action board may
- (a) impose conditions or limitations on the practice of a lawyer or on the enrolment of an articled student, or
  - (b) suspend a lawyer or the enrolment of an articled student.
- (3) An order made under subrule (2) or varied under Rule 3-12 [*Public protection proceeding*] is effective until the first of
- (a) final disposition of the existing citation or any citation authorized under Part 4 [*Discipline*] arising from the investigation, or
  - (b) rescission, variation or further variation under Rule 3-12.
- (4) Subject to an order under subrule (6), when a condition or limitation is imposed under this rule on the practice of a lawyer or the enrolment of an articled student, the Executive Director may disclose the fact that the condition or limitation applies and the nature of the condition or limitation.
- (5) An interim action board that makes an order under subrule (2) (a) must consider the extent to which disclosure of the existence and content of the order should be made public.
- (6) Where, in the judgment of the interim action board that made an order under subrule (2) (a), there are extraordinary circumstances that outweigh the public interest in the disclosure of the order, the board may make an order
- (a) that the Executive Director not disclose all or part of the order, or
  - (b) placing limitations on the content, means or timing of disclosure.

- (7) An order made under subrule (6) does not apply to disclosure of information for the purposes of
  - (a) enforcement of the order,
  - (b) investigation and consideration of a complaint under this part or Part 4 [*Discipline*] or a proceeding under Part 5 [*Tribunal, Hearings and Appeals*], or
  - (c) obtaining and executing an order under Part 6 [*Custodianships*].
- (8) An interim action board must give written reasons for an order under subrule (6).
- (9) An order under subrule (6) may be made by a majority of the interim action board.
- (10) If the Executive Director discloses the existence of a condition or limitation under subrule (2) (a) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the condition or limitation ceases to be in force.
- (11) Subrule (10) does not apply to a decision of a hearing panel or a review board.
- (12) This rule is subject to the requirement to publish discipline decisions under Rule 4-48 (2) [*Publication of discipline decisions*].

### **Medical examination**

- 3-11** (1) This rule applies to a lawyer or articled student who is the subject of
  - (a) an investigation or intended investigation under Rule 3-5 [*Investigation of complaints*], or
  - (b) a citation under Part 4 [*Discipline*].

## PART 4 – DISCIPLINE

### Interpretation and application

- 4-1** (1) In this part,
- “**conduct meeting**” means a meeting that a lawyer or a law firm is required to attend under Rule 4-4 (1) (c) [*Action on complaints*];
- “**conduct review**” means a meeting with a conduct review subcommittee that a lawyer or a law firm is required to attend under Rule 4-4 (1) (d).
- (2) This part applies to a former lawyer, an articulated student, a law firm, a visiting lawyer permitted to practise law under Rules 2-16 to 2-20 and a practitioner of foreign law as it does to a lawyer, with the necessary changes and so far as it is applicable.
- (3) This part must be interpreted in a manner consistent with standards of simplicity, fairness and expediency, and so as to provide maximum protection to the public and to lawyers.
- (4) In this part, a law firm may act through its designated representative or another lawyer engaged in the practice of law as a member of the law firm.

### Division 1 – Discipline Committee

#### Discipline Committee

- 4-2** (1) For each calendar year, the President must appoint a Discipline Committee, including a chair and vice chair, both of whom must be Benchers.
- (2) The President may remove any person appointed under subrule (1).
- (3) At any time, the President may appoint a person to the Discipline Committee to replace a Committee member who resigns or otherwise ceases membership in the Committee, or to increase the number of members of the Committee.
- (4) Any function of the chair of the Discipline Committee under these rules may be performed by the vice chair or by another Bencher member of the Committee designated by the chair.

#### Consideration of complaints by Committee

- 4-3** (1) The Discipline Committee must consider any complaint referred to it under these rules and may instruct the Executive Director to make or authorize further investigation that the Discipline Committee considers desirable.
- (2) If, in the view of the Executive Director and the chair of the Discipline Committee, there is a need to act before a meeting of the Committee can be arranged, the Executive Director may refer a complaint to the chair for consideration under Rule 4-5 [*Consideration of complaints by chair*].

### Action on complaints

- 4-4** (1) After its consideration under Rule 4-3 [*Consideration of complaints by Committee*], the Discipline Committee must
- (a) decide that no further action be taken on the complaint,
  - (b) authorize the chair or other Bench member of the Discipline Committee to send a letter to the lawyer concerning the lawyer's conduct,
  - (c) require the lawyer or law firm to attend a meeting with one or more Benchers or lawyers to discuss the conduct of the lawyer,
  - (d) require the lawyer or law firm to appear before a Conduct Review Subcommittee, or
  - (e) direct that the Executive Director issue a citation against the lawyer under Rule 4-17 (1) [*Direction to issue, expand or rescind citation*].
- (2) In addition to the determination made under subrule (1), the Discipline Committee may refer any matter or any lawyer to the Practice Standards Committee.
- (3) In addition to any action taken under subrules (1) and (2), if a complaint discloses that there may be grounds for revoking a law corporation's permit under Rule 9-11 [*Revocation of permits*], the Discipline Committee may order a hearing on the revocation of the law corporation's permit.
- (4) At any time before the Discipline Committee makes a decision under Rule 4-13 (6) (a) to (c) [*Conduct Review Subcommittee report*], the Committee may resolve to rescind a decision made under subrule (1) (d) to require a lawyer to appear before a Conduct Review Subcommittee and substitute another decision under subrule (1).

### Consideration of complaints by chair

- 4-5** (1) The chair of the Discipline Committee must consider any complaint referred to the chair under these rules and may instruct the Executive Director to make or authorize further investigation that the chair considers desirable.
- (2) After considering a complaint under subrule (1), the chair of the Discipline Committee must
- (a) direct that the Executive Director issue a citation against the lawyer under Rule 4-17(1) [*Direction to issue, expand or rescind citation*], or
  - (b) refer the complaint to the Discipline Committee.

### Continuation of membership during investigation or disciplinary proceedings

- 4-6** (1) In this rule, "lawyer under investigation" means a lawyer who is the subject of
- (a) an investigation under Part 3, Division 1 [*Complaints*], or
  - (b) a decision of the Discipline Committee under Rule 4-4 (1) (c) or (d) [*Action on complaints*].



### **Discipline involving lawyers practising in other jurisdictions**

- 4-46** (1) If it is alleged that a member of the Society has committed misconduct while practising temporarily in another Canadian jurisdiction under provisions equivalent to Rules 2-15 to 2-27 [*Inter-jurisdictional practice*], the Discipline Committee will
- (a) consult with the governing body concerned respecting the manner in which disciplinary proceedings will be conducted, and
  - (b) subject to subrule (2), assume responsibility for the conduct of the disciplinary proceedings under this part.
- (2) The Discipline Committee may agree to allow the governing body concerned to assume responsibility for the conduct of disciplinary proceedings under subrule (1), including the expenses of the proceeding.
- (3) In deciding whether to agree under subrule (2), the primary considerations will be the public interest, convenience and cost.
- (4) To the extent that is reasonable in the circumstances, the Executive Director must do the following at the request of a governing body that is investigating the conduct of a member or former member of the Society or a visiting lawyer who has provided legal services:
- (a) provide information to the governing body under Rule 2-27.1 [*Sharing information with a governing body*];
  - (b) co-operate fully in the investigation and any citation and hearing.
- (5) Subrule (4) applies when the Discipline Committee agrees with a governing body under subrule (2).
- (6) When the Executive Director provides information or documentation to a governing body under subrule (4) or (5), the Executive Director may inform any person whose personal, confidential or privileged information may be included of that fact and the reasons for it.

## **Division 2 – Disclosure and publication**

### **Public notice of suspension or disbarment**

- 4-47** (1) When a person is suspended under this part or Part 5 [*Tribunal, Hearings and Appeals*], is disbarred or, as a result of disciplinary proceedings, resigns from membership in the Society or otherwise ceases to be a member of the Society as a result of disciplinary proceedings, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation by means including but not limited to the following:
- (a) publication of a notice in
    - (i) the British Columbia Gazette,

- (ii) a newspaper of general circulation in each municipality and each district referred to in Rule 1-21 [*Regional election of Benchers*], in which the person maintained a law office, and
  - (iii) the Society website, and
- (b) notifying the following:
  - (i) the Registrar of the Supreme Court;
  - (ii) the Public Guardian and Trustee.
- (2) When a person is suspended under Part 2 [*Membership and Authority to Practise Law*] or 3 [*Protection of the Public*], the Executive Director may take any of the steps referred to in subrule (1).
- (3) A lawyer who is suspended under this part or Part 5 [*Tribunal, Hearings and Appeals*] must inform all clients who reasonably expect the lawyer to attend to their affairs during the period of the suspension and clients or prospective clients who inquire about the availability of the lawyer's services during the suspension period of the following:
  - (a) the period during which the lawyer will not be practising;
  - (b) the arrangements the lawyer has put in place to protect the clients' interests while the lawyer will not be practising;
  - (c) the fact that the lawyer is not practising during the relevant period because of the suspension.
- (4) A panel that suspends a lawyer may relieve the lawyer of any of the obligations set out in subrule (3) if the panel is satisfied that it is consistent with the public interest and that imposing the obligation would be unreasonable in the circumstances.

### **Publication of discipline decisions**

- 4-48** (1) The Executive Director must publish and circulate to the profession a summary of the circumstances and of any decision, reasons and action taken by a hearing panel, a motions adjudicator or a review board.
- (1.1) The Executive Director must publish and circulate to the profession a summary of the circumstances and of an admission of a discipline violation accepted by the Discipline Committee under Rule 4-29 [*Conditional admission*].
  - (1.2) The Executive Director must publish and circulate to the profession a summary of the circumstances of the rule breach deemed admitted under Rule 4-59 [*Administrative penalty*] and the administrative penalty imposed.
- (2) Despite subrules (1) and (3), but subject to Rule 4-47 [*Public notice of suspension or disbarment*], the Executive Director must not make public any decision, reasons or action taken as follows:
- (a) a decision not to accept an admission under Rule 5-6.5 [*Admission and consent to disciplinary action*];

- (b) any decision under Rule 3-10 [*Interim suspension or practice conditions*] or 3-11 [*Medical examination*] before the matter is concluded and any prescribed period to initiate an appeal or review has expired.
- (3) When a publication is required or permitted under this rule, the Executive Director may also publish generally all or part of
  - (a) [rescinded]
  - (b) the written reasons for the decision,
  - (c) an agreed statement of facts, or
  - (d) admissions made in response to a Notice to Admit.
- (4) This rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

### **Anonymous publication**

- 4-49** (1) Except as allowed under this rule, a publication under Rule 4-48 [*Publication of discipline decisions*] must identify the respondent.
- (2) The publication of a decision dismissing all allegations in the citation and any subsequent decision in the matter must not identify the respondent unless
  - (a) the respondent consents in writing, or
  - (b) an allegation is held to be proven on a review or appeal.
- (3) An individual affected, other than the respondent, may apply to the panel for an order under subrule (4) before the written report on findings of fact and determination is issued or oral reasons are delivered.
- (4) On an application under subrule (3) or on its own motion, the panel may order that publication not identify the respondent if
  - (a) the panel has imposed a disciplinary action that does not include a suspension or disbarment, and
  - (b) publication of the identity of the respondent could reasonably be expected to identify an individual, other than the respondent, and that individual would suffer serious prejudice as a result.
- (5) If a panel orders that a respondent's identity not be disclosed under subrule (4), the panel must state in writing the specific reasons for that decision.

### **Disclosure of practice restrictions**

- 4-50** (1) When, under this part or Part 4 [*Discipline*] of the Act, a condition or limitation is imposed on the practice of a lawyer or a lawyer is suspended, the Executive Director may disclose the fact that the condition, limitation or suspension applies and the nature of the condition, limitation or suspension.

- (2) If a lawyer gives an undertaking that restricts, limits or prohibits the lawyer's practice in one or more areas of law, the Executive Director may disclose the fact that the undertaking was given and its effect on the lawyer's practice.
- (3) If the Executive Director discloses the existence of a condition, limitation or suspension under subrule (1) or an undertaking under subrule (2) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the condition, limitation or suspension ceases to be in force.
- (4) Subrule (3) does not apply to a decision of Benchers, a hearing panel or a review board.

### **Disbarment**

- 4-51** When a lawyer is disbarred, the Executive Director must strike the lawyer's name from the barristers and solicitors' roll.

## **Division 3 – Criminal conviction**

### **Conviction**

- 4-52** (1) In this rule, “**offence**” means
- (a) an offence that was proceeded with by way of indictment, or
  - (b) an offence in another jurisdiction that, in the opinion of the Benchers, is equivalent to an offence that may be proceeded with by way of indictment.
- (2) If the Discipline Committee is satisfied that a lawyer or former lawyer has been convicted of an offence, the Committee may refer the matter to the Benchers to consider taking action under subrule (3).
- (3) Without following the procedure provided for in the Act or these rules, the Benchers may summarily suspend or disbar a lawyer or former lawyer on proof that the lawyer or former lawyer has been convicted of an offence.

### **Notice**

- 4-53** (1) Before the Benchers proceed under Rule 4-52 [*Conviction*], the Executive Director must notify the lawyer or former lawyer in writing that
- (a) proceedings will be taken under that rule, and
  - (b) the lawyer or former lawyer may, by a specified date, make written submissions to the Benchers.
- (2) The notice referred to in subrule (1) must be served in accordance with Rule 10-1 [*Service and notice*].
- (3) In extraordinary circumstances, the Benchers may proceed without notice to the lawyer or former lawyer under subrule (1).

### Summary procedure

- 4-54** (1) This rule applies to summary proceedings before the Benchers under Rule 4-52 [*Conviction*].
- (2) The Benchers may, in their discretion, hear oral submissions from the lawyer or former lawyer.
- (3) Subject to the Act and these rules, the Benchers may determine practice and procedure.

## Division 4 – Investigation

### Investigation of books and accounts

- 4-55** (1) If the chair of the Discipline Committee reasonably believes that a lawyer or former lawyer may have committed a discipline violation, the chair may order that the Executive Director conduct an investigation of the books, records and accounts of the lawyer or former lawyer, including, if considered desirable in the opinion of the chair, all electronic records of the lawyer or former lawyer.
- (2) When electronic records have been produced or copied pursuant to an order under this rule, the lawyer concerned may request that a specific record be excluded from the investigation on the basis that it contains personal information that is not relevant to the investigation.
- (3) A request under subrule (2) must be made to the Executive Director in writing within 21 days after the lawyer concerned receives a copy of the order under this rule.
- (3.1) In exceptional circumstances, the Executive Director may extend the time for making a request under subrule (2).
- (4) An order under this rule that permits the production or copying of electronic records must provide for a method of evaluating and adjudicating exclusion requests made under subrule (2).
- (5) A request under subrule (2) must be refused unless the records in question are retained in a system of storage of electronic records that permits the segregation of personal information in a practical manner in order to comply with the request.
- (6) When an order is made under subrule (1), the lawyer or former lawyer concerned must do the following as directed by the Executive Director:
- (a) and (b) [rescinded]
- (c) immediately produce and permit the copying of all files, vouchers, records, accounts, books and any other evidence regardless of the form in which they are kept;
- (d) provide any explanations required for the purpose of the investigation;

- (e) assist the Executive Director to access, in a comprehensible form, records in the lawyer's possession or control that may contain information related to the lawyer's practice by providing all information necessary for that purpose, including but not limited to
  - (i) passwords, and
  - (ii) encryption keys.
- (7) When an order has been made under this rule, the lawyer concerned must not alter, delete, destroy, remove or otherwise interfere with any book, record or account within the scope of the investigation without the written consent of the Executive Director.

## **Division 5 – Enforcement**

### **Failure to pay fine, costs or administrative penalty or fulfill practice condition**

- 4-56** (1) An applicant or respondent must do the following by the date set by a hearing panel, review board or Committee or extended under Rule 5-12 [*Application to vary order*]:
- (a) pay in full a fine or the amount owing under Rule 5-11 [*Costs of hearings*];
  - (b) fulfill a practice condition as imposed under section 21 [*Admission, reinstatement and requalification*], 22 [*Credentials hearings*], 27 [*Practice standards*], 32 [*Financial responsibility*], 38 [*Discipline hearings*] or 47 [*Review on the record*], as accepted under section 19 [*Applications for enrolment, call and admission, or reinstatement*], or as varied under these Rules.
- (1.1) A lawyer must pay in full an administrative penalty by the date set under Division 6 [*Administrative penalty*].
- (2) If, on December 31, an applicant or respondent is in breach of subrule (1) or (1.1), the Executive Director must not issue to the applicant or respondent a practising certificate or a non-practising or retired membership certificate, and the applicant or respondent is not permitted to engage in the practice of law.

### **Recovery of money owed to the Society**

- 4-57** (1) A lawyer or former lawyer who is liable to pay the costs of an audit or investigation must pay to the Society the full amount owing by the date set by the Discipline Committee.
- (2) A lawyer who is liable to pay an assessment under Rule 3-80 [*Late filing of trust report*] must pay to the Society the full amount owing by the date specified in that Rule or as set or extended by the Executive Director.

- (3) A lawyer who has not paid the full amount owing under subrule (1) or (2) by the date set or extended is in breach of these Rules and, if any part of the amount owing remains unpaid by December 31 following the making of the order, the Executive Director must not issue a practising certificate to the lawyer unless the Benchers order otherwise.

## **Division 6 – Administrative penalty**

### **Application**

- 4-58** (1) This division applies to allegations of breaches of the following provisions:
- (a) Rule 3-59 [*Cash transactions*];
  - (b) Rule 3-96.1 [*Electronic submission of documents*];
  - (c) Part 3, Division 11 [*Client Identification and Verification*].
- (2) This division applies to a law firm or an articled student as it does to a lawyer.

### **Administrative penalty**

- 4-59** (1) If the Executive Director is satisfied on a balance of probabilities that a lawyer has breached a rule, the Executive Director may assess an administrative penalty.
- (2) The maximum administrative penalty that the Executive Director may assess is as follows:
- (a) if no previous administrative penalty has been assessed against the lawyer, \$5,000;
  - (b) if one or more administrative penalties have previously been assessed against the lawyer, \$10,000.
- (3) At least 30 days before the effective date of an administrative penalty under this rule, the Executive Director must deliver to the lawyer notice in writing of the following:
- (a) the effective date of the penalty, by which the penalty must be paid if not disputed;
  - (b) the amount of the penalty;
  - (c) the reasons for the penalty, including the specific rule breach alleged;
  - (d) the means by which the lawyer may apply to the chair of the Discipline Committee for an order under Rule 4-60 [*Review and order*] and the deadline for making such an application before the effective date of the penalty.
- (4) A lawyer who has received a notice under this rule must do one of the following on or before the date specified in the notice:
- (a) pay the administrative penalty in the amount specified in the notice;
  - (b) apply to the chair of the Discipline Committee for an order under Rule 4-60 [*Review and order*].

- (5) A lawyer is deemed to admit the breach of the rule as alleged in the notice from the Executive Director under subrule (3) if
  - (a) the lawyer pays the administrative penalty,
  - (b) the lawyer fails to comply with subrule (4), or
  - (c) the chair of the Discipline Committee orders under Rule 4-60 [*Review and order*] that a penalty be paid.
- (6) When an administrative penalty has been imposed under this division and the lawyer has paid the amount assessed, the Discipline Committee must not take any action against the lawyer under Rule 4-4 [*Action on complaints*] with respect to the rule breach giving rise to the administrative penalty.

### **Review and order**

- 4-60** (1) A lawyer who has received a notice of administrative penalty under Rule 4-59 [*Administrative penalty*] may apply before the effective date of the penalty to the chair of the Discipline Committee for a review of the penalty and an order under this rule.
- (2) The chair of the Discipline Committee must consider submissions regarding the administrative penalty received within the time allowed under subrule (1) from the lawyer and, if satisfied that the lawyer has breached a rule as alleged, make an order
    - (a) confirming that the penalty must be paid in accordance with the notice delivered under Rule 4-59 [*Administrative penalty*],
    - (b) reducing the amount of the penalty, or
    - (c) extending the date by which the penalty is to be paid.
  - (3) If not satisfied that the lawyer has breached a rule as alleged, the chair of the Discipline Committee must make an order cancelling the administrative penalty.
  - (4) The chair of the Discipline Committee must promptly notify the lawyer and the Executive Director of a decision under this rule.
  - (5) The lawyer must pay an administrative penalty as ordered under this rule.