1:20-7. Additional Rules of Procedure

(a) … no change

(b) … no change

(c) … no change

(d) … no change

(e) … no change

(f) … no change

(g) … no change

(h) Service. Service on the respondent of any pleading, motion, [letter] or other document required by these rules to be served [or notice] in a disciplinary or disability proceeding may be made by personal service, or by certified mail (return receipt requested) and regular mail, at the address listed in the New Jersey Lawyers' Diary and Manual or the address shown on the records of the Lawyers' Fund for Client Protection. Service on a respondent may also be made by serving respondent's counsel, if any, by regular mail[; and] or by facsimile transmission[, with the consent of respondent or respondent's counsel].

(i) Subpoena Power.

(1) Oaths. In discipline and disability matters, [pending before them] members of a hearing panel, special ethics masters, court reporters or ethics counsel may administer oaths and affirmations.

(2) Investigative and Hearing Subpoenas. During the investigation or hearing of a matter, a subpoena may be issued in the name of the Supreme Court to compel the appearance of any person for questioning or testimony or to compel the production of books, records, documents or other items designated therein. A showing of relevance or materiality may be required before the issuance of any subpoena. The subpoena shall issue in a form approved by the Supreme Court. Investigative and hearing subpoenas may be signed by any Ethics Committee member, the presenter, ethics counsel or by the Board or its legal staff. Hearing subpoenas may also be issued by a hearing panel member, special ethics master or by the Board or its staff.

(3) Service; Fees. Subpoenas shall be served within the State of New Jersey by any person 18 or more years of age by delivering a copy thereof to the person named, except that subpoenas may be served on an attorney who is a witness or a party, by certified mail, return receipt requested. No attendance fee need be paid. Service on a respondent may also be made by serving respondent's counsel, if any, by regular mail.

(4) Enforcement; Contempt. Subpoenas issued under this rule may be enforced pursuant to R. 1:9-6.

(5) … no change

(6) Subpoena Pursuant to Law of Another Jurisdiction. [When-ever] Whenever a subpoena is sought in this state [State] by a foreign disciplinary authority pursuant to the law of that jurisdiction for use in a discipline or disability proceeding, and where the foreign disciplinary counsel certifies that the issuance of the subpoena has been duly approved under the law of the other jurisdiction, the Disciplinary Review Board, on petition for good cause, on notice to the Director, may issue a subpoena as provided in this rule to compel the attendance of witnesses and production of documents in this state [State].

(j) … no change

(k) … no change

(l) … no change

(m) Transcripts. Where in a pending matter a respondent is found guilty of unethical conduct [misconduct] warranting reprimand, censure, suspension or disbarment, the trier of fact shall order the original transcript and shall file it, together with its report and the record of the matter, with the Board. If no finding of unethical conduct [misconduct] is made, the trier of fact may order the transcript only with prior permission of the Director or the Board. Where a matter is pending, a respondent may, at personal expense, order a transcript of the hearing, provided that the respondent also directs the reporter to furnish a copy of the transcript to the trier of fact. Where a matter is concluded the respondent may, at personal expense, order a transcript of the hearing. Except where a protective order has been issued pursuant to R. 1:20-9(g), any other

person may order all or any part of a transcript at the individual's prepaid expense. Either the Board or the Director shall have the right to order a transcript wherever necessary.

(n) Prior Discipline or Disability. Information concerning prior final discipline or disability of the respondent shall not be a matter for consideration by the trier of fact until a finding of unethical conduct [misconduct] has first been made, unless such information is probative of issues pending before the trier of fact. On a finding of unethical conduct [misconduct] the trier of fact shall request the Office of Attorney Ethics to disclose to it and to the presenter [or ethics counsel] and to the respondent a summary of any orders, letters or opinions imposing temporary or final discipline or disability on the respondent. Within [5] five days of receipt of the submission of any prior discipline or disability, either the presenter or ethics counsel or respondent may submit written argument on the issue of the effect to be given thereto.

Note: Adopted January 31, 1995 to be effective March 1, 1995; paragraphs (h), (i), (m), and (n) amended July 28, 2004 to be effective September 1, 2004.