

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 03-01

In the matter of amendments to Supreme Court
Rules Chapter 22 - Procedures for the Lawyer
Regulatory System

FILED

OCT 9, 2003

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

On September 18, 2003, the court held a public hearing on the petition filed January 24, 2003, by the Office of Lawyer Regulation, seeking to amend Supreme Court Rules 22.04, 22.11, 22.25, 22.30, 22.40, and 22.42 relating to procedures for the lawyer regulation system.

IT IS ORDERED that, effective January 1, 2004, Supreme Court Rules Chapter 22 is amended as follows:

SECTION 1. 22.04 **(1)** of the supreme court rules is amended to read:

22.04 **(1)** The director may refer a matter to a district committee for assistance in the investigation. A respondent has the duty to cooperate specified in SCR 21.15 (4) and 22.03 (2) in respect to the district committee. The committee may subpoena and compel the production of documents specified in SCR 22.03 ~~(7)~~(8) and 22.42.

SECTION 2. 22.11 **(2)** of the supreme court rules is amended to read:

22.11 **(2)** The complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed and may set forth the discipline or other disposition sought. Facts and misconduct allegations arising under SCR 22.22 may be set forth in a complaint without a preliminary review panel finding of cause to proceed.

SECTION 3. 22.25 **(8)** of the supreme court rules is amended to read:

22.25 **(8)** Allegations of malfeasance against the director, retained counsel, a member of a district committee, a member of the preliminary review committee, a member of the board of administrative oversight, a special investigator, a member of the special preliminary review panel, or a referee shall be referred by the director to the supreme court for appropriate action.

SECTION 4. 22.40 **(3)** of the supreme court rules is amended to read:

22.40 **(3)** The director may provide relevant information to a district attorney or U.S. attorney where there is substantial evidence of an attorney's possible criminal conduct.

SECTION 5. 22.42 **(2)** of the supreme court rules is amended to read:

22.42 **(2)** In any disciplinary proceeding before a referee, the director, or the director's counsel, a special investigator

acting under SCR 22.25, and the respondent or counsel for the respondent may require the attendance of witnesses and the production of documentary evidence. The use of subpoenas for discovery in a matter pending before a referee shall be pursuant to an order of the referee. The issuance of subpoenas service, enforcement, or challenge to any subpoena issued under this rule shall be governed by ch. 885, 1997 stats., except as otherwise provided in this chapter.

SECTION 6. 22.42 **(2m)** of the supreme court rules is created to read:

22.42 **(2m)** (a) The director may issue a subpoena under this chapter to compel the attendance of witnesses and the production of documents in Wisconsin, or elsewhere as agreed by the witnesses, if a subpoena is sought in Wisconsin under the law of another jurisdiction for use in a lawyer discipline or disability investigation or proceeding in that jurisdiction, and the application for issuance of the subpoena has been ~~duly~~ approved or authorized under the law of that jurisdiction.

(b) In a lawyer discipline or disability investigation or proceeding in this jurisdiction, the director, special investigator, or respondent may apply for the issuance of a subpoena in another jurisdiction, under the rules of that jurisdiction when the application is in aid or defense of the investigation or proceeding, and the director, special investigator, or respondent could issue compulsory process or obtain formal prehearing discovery under this chapter.

IT IS FURTHER ORDERED that no action was taken on the petition to amend SCR 22.30.

IT IS FURTHER ORDERED that notice of this amendment of Supreme Court Rules Chapter 22 be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 9th day of October, 2003.

BY THE COURT:

Dawn Sturdevant Baum
Chief Deputy Clerk of Supreme Court

