

RULE 1:22. Committee On The Unauthorized Practice Of Law

1:22-1. Appointment; Membership; Administration

(a) Appointment. The Supreme Court shall appoint a committee on the unauthorized practice of law consisting of 21 attorneys of this State and four lay members. The members shall be appointed for staggered terms of three years and no member who has served four full three-year terms shall be eligible for reappointment. Any vacancy shall be filled for the unexpired term. The Supreme Court shall annually designate a chair and vice-chair, who shall be members of the committee.

(b) Staff. The Administrative Director of the Courts shall provide the committee with a secretary, who shall be responsible for day-to-day coordination of staff support to the committee. The secretary shall file with the Administrative Director a copy of (1) the minutes of every meeting; (2) every advisory opinion; and (3) every recommendation for the institution of litigation.

(c) Records; Confidentiality. All records of the committee shall be filed and maintained by the secretary at the principal office of the committee which shall be located at the Administrative Office of the Courts. All records, files, meetings and proceedings of the committee or of a part thereof shall be confidential and shall not be disclosed to or attended by anyone except as authorized by these rules or by the Supreme Court.

Note: Source-R.R. 1:12A-1(a) (b) (c) (d) (e) (f); caption to rule and text of paragraph (a) amended, paragraphs (b) (c) (d) and (e) deleted, and new paragraphs (b) and (c) with new captions adopted June 29, 1990 to be effective September 4, 1990; paragraph (a) amended June 28, 1996 to be effective September 1, 1996.

1:22-1A. Organization; Quorum

(a) Parts. The Supreme Court shall divide the committee into parts consisting of not less than six members each, one of whom shall be a lay member, and shall assign to each part a designated area of the State. The chair of the committee shall appoint an attorney member as chair of each part.

(b) Quorum. A majority of the committee, or of a part, shall constitute a quorum. No action may be taken by less than a majority of the committee or of a part except as expressly provided by this rule. At the request of the chair, the Supreme Court may appoint temporary members of the committee or a part. The committee and its parts shall meet at the call of their respective chairs.

(c) Action by Committee. The full jurisdiction and authority of the committee, as provided in these rules, may be exercised by a part thereof, except that (1) no advisory opinion shall be given, as provided in R. 1:22-3, without the approval of a majority of the committee; (2) no determination of the unauthorized practice of law by a respondent and referral of a matter to a law enforcement or other agency shall be made, as provided in R. 1:22-6, without the approval of a majority of the committee; and (3) the action of a part on any matter shall be subject to review and the approval or disapproval of the committee.

Note: Adopted June 29, 1990 to be effective September 4, 1990; paragraphs (a) and (c) amended June 28, 1996, to be effective September 1, 1996.

1:22-2. Jurisdiction

(a) Advisory Opinions. On request of any person, or in connection with the consideration of any complaint or any investigation made on its own initiative, the committee may render advisory opinions relating to the unauthorized practice of law and arrange for their publication.

(b) Complaints. The committee shall have jurisdiction over and shall inquire into and consider complaints alleging the unauthorized practice of law by any natural or other persons or entity.

(c) Investigation. The committee may, on its own initiative, and without any complaint being made to it, investigate any condition or situation of which it becomes aware that may involve the unauthorized practice of law.

Note: Source-R.R. 1:12A-2(a) (b) (c); paragraph (a) amended, paragraphs (b) and (c) deleted, and new paragraphs (b) and (c) with new captions adopted June 29, 1990 to be effective September 4, 1990.

1:22-3. Procedure: Advisory Opinions

(a) Receipt of Request. Upon receipt of a request for an advisory opinion, the secretary shall make a written acknowledgement thereof to the person or persons bringing the matter to the committee's attention. The secretary shall promptly forward a copy of the inquiry and other information to the chair of the committee and to the chair of the part of the area of the State from which the inquiry originates. If the request for an advisory opinion originates outside of New Jersey, the matter may be referred to any part by the secretary.

(b) Pending Controversy. No opinion shall be rendered if, to the committee's knowledge, the subject matter either involves or might affect a case or controversy pending in any court.

(c) Technical Requirements. In accordance with R. 1:22-2(a), an advisory opinion shall be issued by the committee in writing and shall be filed with the secretary, who shall transmit a copy to the person making the inquiry. Where the committee so instructs, the secretary shall make suitable arrangements for publication. Published opinions shall not, insofar as practicable, identify the party or parties making an inquiry, or the complainant or respondent.

(d) Form of Opinion. Upon the conclusion of a review by the committee or a part of a request for an advisory opinion, a report shall be made to the whole committee. The committee shall determine the form in which the advisory opinion is to be promulgated, in accordance with R. 1:22-3.

(e) Rules and Procedures. The committee may adopt such additional rules, subject to approval by the Supreme Court, as it may deem appropriate for prescribing the methods and procedures to be followed in considering requests and expressing opinions.

Note: Source-R.R. 1:12A-3(a) (b) (c); caption to rule amended, paragraph (a) deleted and new paragraph (a) with new caption adopted, caption and text of paragraph (b) amended, and paragraphs (c)(d) and (e) adopted June 29, 1990 to be effective September 4, 1990; paragraph (c) amended June 28, 1996 to be effective September 1, 1996.

1:22-3A. Petitions for Review

(a) Notice. Within 20 days after an opinion is published, or within 30 days after any final action of the Committee on the Unauthorized Practice of Law other than the publication of

any opinion, any aggrieved member of the bar, bar association, person or entity may seek review thereof by serving on the Attorney General a notice of petition for review by the Supreme Court and by filing the original notice with the Clerk of the Supreme Court. The notice shall set forth the petitioner's name and address and, if represented, the name and address of counsel. The notice shall designate the action of the Committee on the Unauthorized Practice of Law sought to be reviewed and shall concisely state the manner in which the petitioner is aggrieved.

(b) Deposit for Costs. Deposit for costs shall be made in accordance with R. 2:12-5.

(c) Record on Petition for Review. If the petition for review is granted, the record on review shall be the formal opinion, if any, issued pursuant to R. 1:22-3; the inquiry; brief or memorandum of law, if any; and any documents or other evidence or proof relied upon by the committee in arriving at its determination.

(d) Form of Petition for Review. A petition for review shall be in the form of a brief, conforming to the applicable provisions of R. 2:6 and not exceeding 15 pages if printed or 20 pages if otherwise reproduced or typed, exclusive of tables of contents, citations and appendix. It shall contain a short statement of the matter involved, the question presented, the errors complained of and the arguments in support of the petitioner's position. It shall also contain a certification by the petitioner or counsel, if any, that the petition presents a substantial question and is filed in good faith and not for purposes of delay.

(e) Service and Filing of Petition for Review. Within 10 days after filing of the notice of petition for review, two copies of the petition shall be served on the Attorney General and the Secretary of the Committee on the Unauthorized Practice of Law and nine copies thereof shall be filed with the Clerk of the Supreme Court.

(f) Response to Petition for Review. The Attorney General shall, within 30 days of the service of the petition, serve two copies of the brief in opposition to the petition and file nine copies thereof with the Clerk of the Supreme Court. The brief shall be direct and concise, shall conform to the applicable provisions of R. 2:6 and shall not exceed 15 pages if printed or 20 pages if otherwise reproduced or typed, exclusive of table of contents, citations and appendix. Within 10 days of such service, petitioner may serve two copies and file nine copies of a reply brief not exceeding nine pages if printed or 10 pages if otherwise reproduced or typed, exclusive of tables of contents, citations or appendix.

(g) Final Determination. The final determination of a petition for review may be either by written opinion or by order of the Supreme Court and shall state whether the opinion or other action of the Committee on the Unauthorized Practice of Law is affirmed, reversed or modified or shall provide for such other final disposition as is appropriate.

Note: Adopted June 28, 1996 to be effective September 1, 1996.

1:22-4. Complaints: Preliminary Investigation

(a) Receipt of Complaint. Upon receipt of a complaint or any other matter within the committee's jurisdiction, the secretary shall make written acknowledgement thereof to the person bringing the matter to the committee's attention.

(b) Referral to Part. The secretary shall promptly forward a copy of the complaint and other information to the chair of the committee and to the chair of the part in the area of

the State in which the respondent's activities occur. If the person, persons or entity alleged to be engaged in such unauthorized practice is located outside of New Jersey, the matter may be referred to any part by the secretary.

(c) Investigation. The investigation or review shall be promptly instituted by the part or by a member thereof designated by the chair of the part. If a complaint has been filed, the investigating member shall interview the complainant and respondent and shall conduct such further investigation as is deemed appropriate. At the discretion of the committee, the respondent may be informed of the identity of the complainant.

(d) Report. Upon the conclusion of an investigation of a complaint, a report shall be made to the committee and recorded in the minutes. If, after consideration of the report, the committee concludes that there has been no unauthorized practice of law, the complaint shall be dismissed and the secretary shall so notify the complainant and the respondent in writing and shall close the file in the matter. If the committee concludes that there has been unauthorized practice of law, the committee shall attempt to persuade the respondent to enter into a written agreement to refrain from such conduct in the future, in accordance with R. 1:22-5.

(e) Pending Controversy. No complaint shall be investigated if, to the committee's knowledge, the conduct complained of is the subject matter of or might affect a case or controversy pending in any court.

Note: Source-R.R. 1:12A-4(a) (b) (c); caption and text of rule deleted, and new caption and paragraphs (a) (b) (c) and (d) adopted June 29, 1990 to be effective September 4, 1990; paragraph (e) adopted June 28, 1996 to be effective September 1, 1996.

1:22-5. Complaints: Informal Disposition

(a) Informal Review; Conference. The committee may attempt to arrive at an amicable disposition of any matter within its jurisdiction with the person, persons or entity concerned. At any time during the pendency of a matter before it, the committee may conduct an informal conference with the person, persons or entity that is the subject of a committee inquiry or investigation. At the committee's discretion, an electronic recording or written transcription of the proceeding may be made. No oath shall be administered. A person or entity subject to an informal conference may be represented by counsel.

(b) Disposition. If it appears that the conduct in question involves the unauthorized practice of law, the committee shall endeavor to have the person, persons or entity enter into a written agreement to refrain in the future from such conduct. The informal disposition of matters as provided in this rule is encouraged. If, after a finding by the committee of the unauthorized practice of law, a person or entity declines to enter into a written agreement pursuant to this rule, the committee shall refer the matter to an appropriate law enforcement or other agency in accordance with R. 1:22-6.

Note: Source-R.R. 1:12A-5(a) (b) (c) (d) (e) (f); caption and text of rule deleted, and new caption and paragraphs (a) and (b) adopted June 29, 1990 to be effective September 4, 1990; paragraph (b) amended June 28, 1996 to be effective September 1, 1996.

1:22-6. Complaints: Referrals

(a) Referral to Enforcement Agency. When the committee concludes from its preliminary investigation or from the failure of an informal conference as provided in R. 1:22-5 that an amicable disposition of any matter within its jurisdiction with the person,

persons or entity concerned cannot be effected, it shall, based upon the nature of the complaint, the relief sought, and the facts as then known, refer the matter to the law enforcement or other agency the committee determines is best suited to conduct an investigation and any prosecution of such matter.

(b) Contents of File. Upon making a determination that an amicable disposition of a matter cannot be effected, and that the matter should be referred to a particular law enforcement or other agency, the committee shall send such agency the original complaint, response, evidence or other proof, investigative report and, if an informal conference has been conducted, a transcript of such proceedings. The committee shall retain copies of all such documents for its file.

(c) Notice to Complainant. Upon referring a matter to a law enforcement or other agency, the secretary shall notify the complainant of such action in writing.

Note: Source-R.R. 1:12A-6(a) (b); caption and text of rule deleted, and new caption and paragraphs (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) and (k) adopted June 29, 1990 to be effective September 4, 1990; caption of rule and caption and text of paragraph (a) amended, caption and text of paragraphs (b) and (c) deleted, new caption and text of paragraphs (b) and (c) adopted, and caption and text of paragraphs (d)(e)(f)(g)(h)(i)(j) and (k) deleted June 28, 1996 to be effective September 1, 1996.

1:22-7. Immunity From Suit

(a) The members and staff of the committee shall be absolutely immune from suit, whether legal or equitable in nature, for any conduct in the performance of their official duties.

(b) Persons who bring allegations concerning any individual or entity to the committee shall be immune from suit, whether legal or equitable in nature, for all communications to the committee or to its staff. This immunity shall not extend to any other publication or communication of such information.

Note: Adopted June 29, 1990 to be effective September 4, 1990; R. 1:22-11 amended and redesignated as R. 1:22-7 June 28, 1996 to be effective September 1, 1996.

Former 1:22-7. Proceedings Following Hearing [Deleted]

Note: Source-R.R. 1:12A-7(a) (b) (c) (d); new paragraph (c) adopted July 16, 1981 to be effective September 14, 1981; caption and text of paragraphs (a) (b) and (c) deleted, and new paragraphs (a) (b) and (c) with new captions adopted June 29, 1990 to be effective September 4, 1990; deleted June 28, 1996 to be effective September 1, 1996.

1:22-8. Subpoena: Authority of Committee; Service [Deleted]

Note: Source-R.R. 1:12A-8; caption and text of rule deleted, and new caption and paragraphs (a) (b) and (c) adopted June 29, 1990 to be effective September 4, 1990; deleted June 28, 1996 to be effective September 1, 1996.

1:22-9. Prosecution of Disorderly Persons Offense [Deleted]

Note: Source-R.R. 1:12A-9; caption and text of rule deleted, and new caption and text adopted June 29, 1990 to be effective September 4, 1990; deleted June 28, 1996 to be effective September 1, 1996.

1:22-10. Legal Assistance [Deleted]

Note: Adopted June 29, 1990 to be effective September 4, 1990; deleted June 28, 1996 to be effective September 1, 1996.

