

Impaired Attorneys and the Disciplinary System

Roughly 15 percent of Florida Bar members will develop a problem with alcohol or drugs during their career. That translates to almost 10,000 lawyers at risk.

by **Richard B. Marx**

One of the major problems facing society today is addiction.¹ It is a problem that has permeated every level of society, including the legal profession. There are now an estimated 64,800 members in good standing with The Florida Bar.² That number is staggering, but what is an even more sobering statistic is the number of impaired lawyers in Florida today. It has been estimated by Florida Lawyers Assistance, Inc.³ that roughly 15 percent of Florida Bar members will develop a problem with alcohol or drugs at some time during their careers. That translates to almost 10,000 lawyers at risk of developing an addictive illness.

This article focuses on the attorney disciplinary system as set forth in the Rules Regulating The Florida Bar, and how the Bar and Supreme Court deal with attorneys who have breached those rules as a result of addiction. Additionally, this article looks at the most judicious approaches to handling attorney disciplinary matters where addiction is involved, and how to make the best use of the resources available through FLA in defending those actions. This article also will undertake a comparison between attorney discipline and discipline in the medical profession, as it relates to addiction.

It is worthy to note that many lawyers who handle disciplinary actions also practice criminal defense. While a background in this area may be helpful in the average disciplinary case, it can sometimes be a hindrance when the matter involves addiction. Criminal defense lawyers must try cases and advocate strenuously on behalf of their clients. This approach can work against their client's best interest when it comes to disciplinary cases. In the defense of disciplinary cases, especially involving addiction, over-reliance on the advocacy system may be the greatest obstacle to obtaining a good result.

A review of disciplinary records indicates that a large percentage of the cases filed by the Bar have factual support and require some measure of discipline. It is this type of case that demands prompt resolution instead of protracted litigation. In such matters, the wise lawyer should acknowledge the Bar's basis for filing the complaint and realize that the client's best interest is served by negotiating the least damaging sanction possible. As an example, where the facts clearly establish a violation for which suspension is warranted, the lawyer should strive to obtain a suspension of 90 days or fewer, after which reinstatement is automatic. A suspension of more than 90 days creates an entirely different scenario, requiring a petition for reinstatement and a hearing before a referee to demonstrate rehabilitation. A 91-day suspension can actually extend the period by several months due to delays inherent in the reinstatement process.

Addiction and the Attorney

There are two broad and opposing views of addiction. The first is that addiction is a moral failing which should act as a bar to admission to the legal profession. This view sees the addicted attorney as a high risk to the profession. Its proponents are skeptical about addiction being a true disease, believe that treatment is futile, and feel that recovery is not a stable condition.⁴ An alternative view is held by professionals in the addiction treatment field and by many lawyers and judges who have witnessed recovery from addiction. This view stresses the need for understanding the nature of addictive illness, especially the features of compulsivity and denial.⁵ Elsewhere in this issue Dr. Roger Goetz eloquently explains these points.

Fortunately, for almost 20 years the Florida Supreme Court has subscribed to the latter view and has looked favorably on a lawyer's efforts at rehabilitation. In 1987, a lawyer received a three-year suspension rather than disbarment for felony convictions for injecting cocaine into two young women.⁶ The court found that the women participated voluntarily and that the lawyer's conduct was caused by

his cocaine addiction. The Supreme Court was impressed by his efforts to go straight. The defense lawyer in that case bristled at the suggestion that his client's punishment was mild, considering the offense. "A suspension of any length is simply devastating. I have no patience with anyone who sees it as a slap on the wrist. Even if you ignore the obvious financial penalty of loss of income, you have [horribly damaging] publicity, including the requirement to send a copy of your suspension to each of your clients. There's a complete loss of privacy and prestige within the community."⁷

Today addiction is generally viewed as a disease and recovery is widely seen as a mitigating factor in disciplinary proceedings. Given a proper showing of rehabilitation and restitution, addiction will be accepted as evidence in mitigation of improper behavior.⁸

In order to properly represent impaired lawyers in disciplinary matters, it is extremely important to understand the nature of addiction and be able to recognize it. Lawyers with limited or no knowledge in this area often overlook strategies which should be followed to obtain a successful result. When substance abuse is the reason for an attorney's misconduct, the lawyer representing him or her is in a unique position to facilitate a favorable result in which the legal crisis can lead to recovery from the substance abuse problem.

Most people who are chemically dependent still believe they can control their alcohol or drug use. Although they may cut down or even abstain entirely for a period of time, one thing is predictable: without treatment the illness will progress, resulting in more and more serious family, health, and professional consequences. Attorneys who are themselves successfully recovering from addiction may be more sensitive to these issues and aware of the crucial role they can play in facilitating recovery. Often, an impaired attorney who fights assessment and treatment and fails to cooperate with the court or the Bar may be making a minor disciplinary problem into a suspension or even disbarment case.

Florida Lawyers Assistance

The history and operations of FLA are more fully described elsewhere in this issue. For the purposes of this article, it should be stressed that from the point of view of a chemically dependent attorney who is facing a disciplinary proceeding, the FLA rehabilitation contract may be the practical means of proving, through highly credible evidence, that he or she is involved in a sustained program of recovery. The Supreme Court of Florida has held that a genuine effort to voluntarily seek rehabilitation from chemical dependency should be considered as a mitigating factor in disciplinary actions. FLA employs a similar approach in the supervision of attorneys who are ordered by the Supreme Court to participate in the FLA program as a condition of probation or admission to the Bar. In these cases, periodic reports are provided by FLA to the Bar.

Although FLA plays a vital role in helping impaired attorneys, more could be done. An impaired attorney could continue undetected in his job until a complaint is filed with the Bar for some type of misconduct. A comparative analysis with the medical profession, which takes a proactive approach to identifying impaired practitioners and intervening on them *before* complaints are filed, will illuminate the possible deficiencies in the legal profession's assistance program.

Physicians Recovery Network

The Florida Legislature has conferred upon the Department of Business and Professional Regulation the overall authority and responsibility for the regulation of health care practitioners. Within the department there are various boards which regulate specific professions, including the Board of Medicine.

The department, through its boards, has the authority and the power to revoke, suspend, or deny the renewal of a license, or to reprimand or censure a licensee for conduct which violates any of the relevant statutory provisions or rules promulgated with respect to the regulated professions. Additionally, the department may impose administrative fines and institute civil actions, including seeking issuance of an injunction or a writ of mandamus.

Pursuant to F.S. §458.331(1)(s), the following constitutes grounds for disciplinary action against a medical practitioner: "Being unable to practice medicine with reasonable skill and safety to patients by

reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition." Further, all licensed medical practitioners have a statutory obligation to notify the department of behavior by other medical practitioners that indicates impairment as a result of use of alcohol or other drugs. In enforcing these provisions, the department has the authority, after a finding of probable cause to believe that the medical practitioner is impaired, to issue an order compelling the practitioner to submit to a mental or physical examination. If the order is not complied with, the department may file a petition for enforcement of its order in the circuit court. Thus, if a nurse believes that a doctor is impaired, he can contact the department, which will institute an immediate investigation. This procedure may bring help to the doctor before serious problems arise. Conversely, if a secretary contacts the Bar and advises them that an attorney is impaired, the Bar is prohibited from doing anything until a formal complaint is brought for specified misconduct.

The department and the Board of Medicine are directed to designate approved preventive and rehabilitative treatment programs for impaired practitioners, to retain impaired practitioner consultants, and to establish an Impaired Practitioners Committee to oversee and to coordinate efforts between consultants, treatment programs, the department and the board.⁹ The PRN, based in Jacksonville, has been designated by the Impaired Practitioners Committee as the approved treatment program for medical doctors and several other groups of medical practitioners. In accordance with the statutory mandate, the PRN emphasizes early intervention with medical practitioners in order to protect the profession and the public from impaired practitioners and to persuade or coerce the practitioner into seeking the help that he or she so desperately needs.

The approach of the PRN stresses the disease concept of addiction and the consequent need for early intervention and treatment in order to prevent or to minimize the disciplinary problems and public harm that will inevitably result from chemical dependency. Furthermore, PRN's approach is supported by a statutory mandate.¹⁰

Standards for Imposing Lawyer Sanctions

In Florida, the disciplinary proceedings are guided by the Rules Regulating The Florida Bar and the Florida Standards for Imposing Lawyer Sanctions. These standards provide a format to be used by Bar counsel, referees, and the Supreme Court whereby they are to consider each of the following questions before recommending or imposing appropriate discipline:

- 1) What are the professional duties violated by the attorney?
- 2) What was the attorney's mental state at the time of the misconduct?
- 3) What is the potential or actual injury caused by the attorney's misconduct?
- 4) Do any aggravating or mitigating circumstances exist?

The Bar will use the standards in recommending discipline to referees and the court and to determine acceptable pleas pursuant to Rule 3-7.9. The purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely to properly discharge their professional duties to clients, the public, the legal system, and the legal profession.¹¹

The Florida Standards are designed for use in imposing sanctions following a determination by clear and convincing evidence that a member of the Bar has violated a provision of the rules. The Florida Standards constitute a model, permitting flexibility and creativity in assigning sanctions in cases of lawyer misconduct. They are designed to promote: 1) consideration of all factors relevant to imposing appropriate level of sanctions in an individual case; 2) consideration of the appropriate weight of such factors in light of the stated goals of lawyer discipline; 3) consistency in the imposition of disciplinary sanctions for the same or similar offenses within and among the jurisdictions.¹²

The trend in Florida has been toward suspension rather than disbarment when the respondent's misconduct was a result of his own addiction, he has acknowledged such impairment, and has demonstrated he is participating in a recovery program designed to overcome his addiction and insure the behavior does not recur.¹³ However, this trend must be tempered against the fact that "In the

the behavior does not reoccur. However, this trend must be tempered against the fact that, in the hierarchy of offenses for which lawyers may be disciplined, stealing from a client must be among those at the very top of the list."¹⁴

While involuntariness may be considered a defense in a criminal proceeding, addiction's impact on a lawyer's mental state is more often considered only as a mitigating factor.¹⁵ An attorney's actions while impaired can leave a tremendous amount of wreckage. If convicted of a felony, he is automatically deemed to have violated his duty to the public¹⁶ and disbarment will follow unless there are mitigating factors involved.¹⁷

Recovery as Mitigation

The Supreme Court has recognized that the problem of addiction must be directly confronted; a practicing attorney who is impaired can be a substantial danger to the public and the judicial system as a whole. The Court has held that,

[T]oo often, attorneys will recognize that a colleague suffers from [substance abuse], and be willing to ignore the problem because they do not want to hurt the individual or his or her family. This attitude can have disastrous results both for the public and for the individual attorney. If [substance abuse] is dealt with properly, not only will an attorney's clients and the public be protected, but the attorney may be able to be restored as a full contributing member of the legal profession. The Court has the responsibility to assure that the public is fully protected from attorney misconduct. In those cases where [substance abuse] is the underlying cause of professional misconduct and the individual attorney is willing to cooperate in seeking rehabilitation, we should take these circumstances into account in determining the appropriate discipline.¹⁸

The variations in penalties reflect, in part, how each jurisdiction looks at aggravating and mitigating factors. Former Florida Bar Counsel John Berry explained that "sanctions for lawyers convicted of possession or distribution of cocaine will depend on the nature of the violation, the intent of the lawyer, whether there was any damage to clients and other factors." Normally, said Berry, "Disbarment is sought if a lawyer is convicted of a felony or engages in the sale or distribution of drugs."¹⁹

Although misappropriation of client funds and felony convictions carry the presumption of disbarment, the Supreme Court has recognized the imposition of the less severe sanction of suspension in light of significant mitigating factors, such as remorse, addiction, full and fair disclosure to the disciplinary board, a cooperative attitude toward the proceedings, or emotional problems.²⁰ After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanctions to impose. Factors considered in aggravation are any considerations or factors that may justify an increase in the degree of discipline to be imposed, and are specifically set forth in Florida Standards 9.22. Mitigating circumstances are any considerations or factors that may justify a reduction in the degree of discipline to be imposed, and are set forth in Florida Standards 9.32 and 11.1. Finally, the factors which are not considered as either aggravating or mitigating are set out in Florida Standards 9.4.

Imposition of Sanctions²¹

1) Disbarment [Rule 3-5.1(f)]:

Disbarment terminates the individual's status as a lawyer. While disbarment is not permanent unless specifically made so by the Court: (1) no application shall be considered for five years from the effective date of the disbarment; and (2) the petition must show by clear and convincing evidence: (a) successful completion of the bar examination; and (b) rehabilitation and fitness to practice law.

2) Suspension [Rule 3-5.1(e)]:

Suspension is the removal of a lawyer from the practice of law for a specified minimum period of time. Suspension for 90 days or less shall not require proof of rehabilitation or passage of the bar

examination before reinstatement. Suspension for more than 90 days shall require proof of rehabilitation and may require passage of all or part of the Florida Bar Examination. No suspension shall be ordered for a specific period of time in excess of three years.

3) Emergency Suspension [Rule 3-5.2]:

Emergency suspension is the immediate, temporary suspension of a lawyer from the practice of law pending the imposition of final discipline. Emergency suspension may be ordered: (a) upon conviction of a "serious crime," or (b) when the lawyer's continuing conduct is or is likely to cause immediate and serious injury to clients or the public.

4) Public Reprimand [Rule 3-5.1(d)]:

Public reprimand requires a personal appearance by the attorney before the Bar's Board of Governors and is a form of discipline which declares the conduct of a lawyer improper, but does not limit the lawyer's right to practice law.

5) Admonishment/Minor Misconduct [Rules 3-5.1(a) & (b)]:

Admonishment is the mildest form of discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice law.

6) Diversion to Practice and Professionalism Program [Rule 3-5.3]:

Diversion is a recently enacted rule which allows matters of minor misconduct to be diverted to specific programs (FLA, Ethics School, LOMAS), completion of which will close the Bar file with a finding of no discipline.

7) Probation [Rule 3-51.(c)]:

Probation may be ordered in conjunction with any of the above, allowing a lawyer to practice law under specified conditions. It may also be imposed as a condition upon admission or reinstatement.

8) Other Sanctions and Remedies:

Other sanctions and remedies which may be imposed include: (a) restitution; (b) assessment of costs; (c) limitations upon practice; (d) appointment of a receiver; (e) requirement that the lawyer take the bar and/or professional responsibility examination; (f) requirement that the lawyer attend CLE courses; and (g) other requirements that the Court or disciplinary board deem consistent with the purposes of lawyer sanctions.

9) Reciprocal Discipline:

Reciprocal discipline is the imposition of a sanction in Florida on a lawyer who has been disciplined in another jurisdiction.

10) Disciplinary Resignation [Rule 3-5.1(j)]:

In certain cases, an attorney may be permitted to resign from the Bar rather than face disciplinary proceedings. In such instances, resignation acts much the same as disbarment, striking the attorney's name from bar records and requiring undergoing the full admissions process for reinstatement. Resignation may be for a term of years or permanent.

Procedure for Reinstatement²²

Reinstatement to The Florida Bar after disciplinary suspension is covered under Rule 3-7.10 of the Rules Governing The Florida Bar.

The process of reinstatement is similar to the disciplinary process in that a petition for reinstatement is filed, a referee is appointed to hear the case, the referee receives evidence, and a recommendation is

made as to whether petitioner has met the burden for reinstatement. The referee conducts the hearing in the same manner as a disciplinary trial, but pleadings other than the petition are not required. The issue for the referee is whether the attorney is fit to resume the practice of law. Any persons to whom notice is given, any other interested persons or any local bar association may appear before the referee in support of or in opposition to the petition at the hearings.

Normally, once the petition for reinstatement is served upon The Florida Bar, Bar counsel will furnish copies of the petition to local board members and board members where the original disciplinary case was processed, local grievance committees and the grievance committee which processed the original disciplinary case, local bar association presidents, complainants in the original disciplinary case, prosecutors if the case was a criminal matter, judges, and any person involved with petitioner in any civil litigation. Bar counsel will also publish notice of the proceedings in the area where the original case was processed and in *The Florida Bar News*. This notice will request anyone who has a comment to advise the Bar of such, recites the discipline imposed, a summary of facts leading thereto, and any terms of probation.²³ Bar counsel may or may not oppose the petition. Bar counsel may request that a staff investigator assist by conducting an investigation concerning the petitioner's activities since the suspension.

The burden of proof is on the petitioner to establish entitlement to reinstatement with or without conditions.²⁴ The petitioner has the burden of proving through clear and convincing evidence his or her integrity and professional competency. Special emphasis is placed on protection of the public in determining the fitness of the petitioner to resume the privilege of practicing law. If the referee finds that the petitioner is fit to resume the practice of law, reinstatement is not final until the Supreme Court approves the referee's report. Either party may seek review of the report in the Supreme Court. No petition for reinstatement shall be filed within one year following an adverse judgment on a previous petition for reinstatement.

Disbarment Cases

The leading cases dealing with the issue of addiction and ordering the punishment of disbarment are as follows:

1) *The Florida Bar v. Shuminer*, 567 So. 2d 430 (Fla. 1990). Misappropriation of clients' funds warrants disbarment, rather than 18 month suspension, in absence of showing that impairment caused by alcohol and cocaine addictions outweigh seriousness of offenses. The referee found the following factors in mitigation: 1) absence of any prior discipline; 2) great personal and emotional problems including addiction, family and financial stressors; 3) a timely good faith effort at restitution made to all clients; 4) cooperation with the Bar; 5) inexperience in the practice of law; 6) character and reputation; 7) mental impairment due to addiction; 8) serious, productive, and successful involvement in rehabilitation; 9) expression and demonstration of remorse. However, the Court held that the respondent failed to establish that his addiction rose to a sufficient level of impairment to outweigh the seriousness of his offenses, noting that he used a significant portion of the funds not to support or conceal his addiction, but rather to purchase a luxury automobile. The Court ordered disbarment.

2) *The Florida Bar v. Golub*, 550 So. 2d 455 (Fla. 1989). Respondent misappropriated \$23,608.34 from an estate of which he was the personal representative. The mitigating factors presented were alcoholism, cooperation with the proceedings, voluntary self-imposed suspension and the absence of prior disciplinary proceedings. The Court held that although it considered alcoholism and cooperation as mitigation, the extent and weight of such mitigation, when balanced against the seriousness of the misconduct, required disbarment.

3) *The Florida Bar v. Setien*, 530 So. 2d 298 (Fla. 1988). An attorney's neglect of client matters, issuance of bad checks, and failure to notify clients of abandonment of practice constitutes misconduct warranting disbarment. Mitigation presented at the trial included absence of prior disciplinary record, drug and alcohol dependency, distinguished service as a police officer before becoming a lawyer, and lack of dishonest or selfish motive. The referee either rejected this information or did not consider it sufficient compared to the conduct involved. The Court refused to reweigh the evidence submitted and approved the referee's recommendation of disbarment.

Suspension

Suspension

The leading cases dealing with addiction where the punishment was a suspension of 90 days or less are:

1) *The Florida Bar v. Millin*, 517 So. 2d 20 (Fla. 1987). The referee found that erroneously stating, in support of motion to disqualify judge in criminal case, that local attorneys described the judge as prejudiced in certain kinds of cases, failing to file marital settlement agreement and have it incorporated into a dissolution decree, misrepresenting to a client that a petition for bankruptcy had been filed, being convicted of DUI, and appearing in court while suspended for nonpayment of dues warranted 90-day suspension, and probation for one year after reinstatement.

2) *The Florida Bar v. Liroff*, 582 So. 2d 1178 (Fla. 1991). Drug use, in violation of probation imposed after finding of addiction, warrants 60-day suspension, to be followed by probation for two years and monitoring by FLA.

3) *The Florida Bar v. Sommers*, 508 So. 2d 341 (Fla. 1987). The primary concerns of the Bar and the Court in attorney discipline cases are to protect the public, warn other members of the profession about the consequences of similar misconduct, impose appropriate punishment on the errant lawyer, and allow for and encourage reformation and rehabilitation. Evidence showing numerous counts of client neglect by attorney who voluntarily entered and successfully completed chemical dependency treatment facility warranted 90-day suspension and three year probation with conditions including restitution to clients, participation in FLA, and oversight of legal practice by Bar disciplinary staff.

The leading cases dealing with addiction involving a suspension of more than 90 days are:

1) *The Florida Bar v. Larkin*, 420 So. 2d 1080 (Fla. 1982). Where misconduct stems totally from effects of alcohol abuse, professional misconduct in failing to appear at continuation of trial, neglecting legal matters, and failing to carry out contracts with clients merits suspension of 91 days and until rehabilitation is established, followed by a two-year probationary period.

2) *The Florida Bar v. Price*, 632 So. 2d 69 (Fla. 1994). Failing to act with reasonable diligence and promptness in representing client and engaging in conduct intended to disrupt tribunal, in connection with use of alcohol or drugs, warrants reprimand and 91-day suspension and until completion of substance abuse treatment program.

3) *The Florida Bar v. Rosen*, 495 So. 2d 180 (Fla. 1986). Attorney convicted on federal charges of knowingly and intentionally possessing cocaine with intent to distribute is subject to three year suspension rather than disbarment when attorney overcomes addiction and no longer engages in illegal drug use. Loss of control due to addiction may properly be considered as a mitigating circumstance in order to reach a just conclusion as to discipline to be properly imposed.

Public Reprimand

The leading cases dealing with addiction where the punishment was a public reprimand are as follows:

1) *The Florida Bar v. Shores*, 500 So. 2d 139 (Fla. 1986). Neglect of legal matter and commission of misconduct constituting felony or misdemeanor warrants public reprimand and probation for two years. Respondent was ordered to enter into contract with FLA. and complete any program recommended by it.

2) *The Florida Bar v. Seidel*, 510 So. 2d 871 (Fla. 1987). Engaging in conduct prejudicial to the administration of justice, engaging in conduct that adversely reflects on fitness to practice law, and committing acts contrary to honesty, justice, and morality justifies public reprimand and three year probation with conditions that require treatment for alcoholism, payment of restitution, bar practice of law until rehabilitated, and supervision upon resumption of practice. Respondent was ordered to submit to treatment FLA deemed appropriate and precluded him from practicing law until FLA certified his alcoholism was under control.

3) *The Florida Bar v. Budzinski*, 322 So. 2d 511 (Fla. 1975). Conditional guilty plea and consent

judgment, after charges of neglect, incompetence, and failure to account, was accepted, and the attorney was disciplined by public reprimand, ordered to pay restitution, and placed on probation for three years. Probation conditions included quarterly reports from his physician indicating the progress in the treatment of his alcoholism.

¹ The term "addiction" encompasses dependency on many types of chemicals, including alcohol, cocaine, and prescription medications.

² FLABAR Online, March 22, 1999.

³ FLA is a nonprofit corporation organized to deal in a comprehensive fashion with the problem of substance abuse among attorneys, judges and law students.

⁴ Carl Anderson, Thomas G. McCracken and Betty Reed, *Addictive Illness in the Legal Profession: Bar Examiners Dilemma*, 7 Prof. Law. 16 (May 1996).

⁵ *Id.* at 16.

⁶ *The Florida Bar v. Jahn*, 509 So. 2d 285 (Fla. 1987).

⁷ Stephanie B. Goldberg, *Drawing the Line: When is an Ex-Coke Addict Fit to Practice Law?*, A.B.A. J. 49 (Feb. 1990).

⁸ Raymond P. O'Keefe, *The Cocaine Addicted Lawyer and the Disciplinary System*, 6 St. Thomas L. Rev. 220 (1992).

⁹ See Fla. Stat. §§455.26 and 458.3315.

¹⁰ *Id.*

¹¹ See Florida Standards 1.3.

¹² *Id.*

¹³ See *Rosen*, 495 So. 2d at 181; and *The Florida Bar v. Marcus*, 616 So. 2d 975 (Fla. 1993).

¹⁴ See *The Florida Bar v. Tunsil*, 503 So. 2d 1230 (Fla. 1986).

¹⁵ See O'Keefe, *supra* note 8, at 223.

¹⁶ See Florida Standards 5.1 and 5.2.

¹⁷ See O'Keefe, *supra* note 8, at 224; see also *Rosen*, 496 So. 2d at 182.

¹⁸ See *The Florida Bar v. Larkin*, 420 So. 2d 1080,1081 (Fla. 1982).

¹⁹ See Goldberg, *supra* note 7, at 51.

²⁰ See, e.g., *The Florida Bar v. McNamara*, 634 So. 2d 166 (Fla. 1994); *The Florida Bar v. Stark*, 616 So. 2d 41 (Fla. 1993).

²¹ See Florida Standards 2.1 - 2.9.

²² For a good discussion of the procedures for reinstatement see *The Florida Bar Restatement Manual*, The Florida Bar, April 1996.

²³ *Id.*

²⁴ *The Florida Bar re Cohen*, 560 So. 2d 785 (Fla. 1990).

Richard B. Marx is a member of the Florida and New York bars who represents lawyers, law students, and other professionals facing disciplinary problems. He received his B.A. from Hobart College, New York, and his L.L.B. in 1957 from NYU School of Law, and is a former member of the Florida Lawyers Assistance board of directors.