

(1) through (4) of this section and shall state that:

(1) The practitioner acknowledges the facts upon which the complaint is based are true; and

(2) The resignation is being submitted because the practitioner could not successfully defend himself or herself against (i) charges predicated on the violation under investigation or (ii) charges set out in the complaint.

(e) When an affidavit under paragraph (b) or (c) of this section is received while an investigation is pending, the Commissioner shall enter an order excluding the practitioner "on consent." When an affidavit under paragraph (b) or (c) of this section is received after a complaint under §10.134 has been filed, the Director shall notify the administrative law judge. The administrative law judge shall enter an order transferring the disciplinary proceeding to the Commissioner and the Commissioner shall enter an order excluding the practitioner "on consent."

(f) Any practitioner who resigns from practice before the Office under this section and who intends to reapply for admission to practice before the Office must comply with the provisions of §10.158.

(g) *Settlement.* Before or after a complaint is filed under §10.134, a settlement conference may occur between the Director and a practitioner for the purpose of settling any disciplinary matter. If an offer of settlement is made by the Director or the practitioner and is not accepted by the other, no reference to the offer of settlement or its refusal shall be admissible in evidence in the disciplinary proceeding unless both the Director and the practitioner agree in writing.

§ 10.134 Complaint.

(a) A complaint instituting a disciplinary proceeding shall:

(1) Name the practitioner, who may then be referred to as the "respondent."

(2) Give a plain and concise description of the alleged violations of the Disciplinary Rules by the practitioner.

(3) State the place and time for filing an answer by the respondent.

(4) State that a decision by default may be entered against the respondent if an answer is not timely filed.

(5) Be signed by the Director.

(b) A complaint will be deemed sufficient if it fairly informs the respondent of any violation of the Disciplinary Rules which form the basis for the disciplinary proceeding so that the respondent is able to adequately prepare a defense.

§ 10.135 Service of complaint.

(a) A complaint may be served on a respondent in any of the following methods:

(1) By handing a copy of the complaint personally to the respondent, in which case the individual handing the complaint to the respondent shall file an affidavit with the Director indicating the time and place the complaint was handed to the respondent.

(2) By mailing a copy of the complaint by "Express Mail" or first-class mail to:

(i) A registered practitioner at the address for which separate notice was last received by the Director or

(ii) A non-registered practitioner at the last address for the respondent known to the Director.

(3) By any method mutually agreeable to the Director and the respondent.

(b) If a complaint served by mail under paragraph (a)(2) of this section is returned by the U.S. Postal Service, the Director shall mail a second copy of the complaint to the respondent. If the second copy of the complaint is also returned by the U.S. Postal Service, the Director shall serve the respondent by publishing an appropriate notice in the *Official Gazette* for four consecutive weeks, in which case the time for answer shall be at least thirty days from the fourth publication of the notice.

(c) If a respondent is a registered practitioner, the Director may serve simultaneously with the complaint a letter under §10.11(b). The Director may require the respondent to answer the §10.11(b) letter within a period of not less than 15 days. An answer to the §10.11(b) letter shall constitute proof of service. If the respondent fails to answer the §10.11(b) letter, his or her