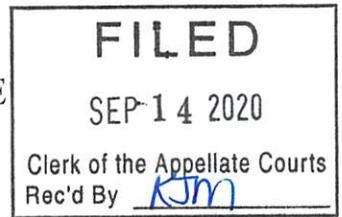


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE



**IN RE: AMENDMENTS TO RULE 9, SECTION 27.4  
RULES OF THE TENNESSEE SUPREME COURT**

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**No. ADM2020-01180**

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**COMMENT OF THE BOARD OF PROFESSIONAL  
RESPONSIBILITY TO AMENDMENTS TO TENNESSEE  
SUPREME COURT RULE 9, SECTION 27.4**

The Board of Professional Responsibility (the Board) pursuant to Order filed September 1, 2020, submits the following comment to proposed amendments to Tennessee Supreme Court Rule 9, Section 27.4.

Pursuant to existing Tenn. Sup. Ct. R. 9, §27.4, if during the course of a disciplinary investigation or proceeding, the respondent attorney contends that he/she is suffering from a disability or because of addiction which makes it impossible for the respondent attorney to respond or defend against the complaint, then disciplinary counsel, respondent attorney or counsel for the respondent attorney shall file a notice with the Tennessee Supreme Court Clerk. The Tennessee Supreme Court shall enter an Order immediately transferring the respondent attorney to disability inactive status until further orders of the Court. As reflected in Mabry v. Bd. of Prof'l Responsibility, 563 S.W.3d 192 (Tenn. 2018), the mandatory transfer of attorneys to disability inactive status removes the Court's discretion

and delays the disciplinary process when an attorney is able to respond to the complaint or defend against a disciplinary proceeding

The proposed amendments to Tenn. Sup. Ct. R. 9, §27.4 establish different provisions for attorneys depending upon their status and whether the attorney is presently suspended or disbarred. The Board supports proposed Tenn. Sup. Ct. R. 9, §27.4(a), which gives the Tennessee Supreme Court the discretion to transfer an attorney to disability inactive status if during an investigation or disciplinary proceeding, the attorney who presently is not suspended or disbarred, contends he/she has a disability or addiction which makes it impossible to respond or defend against the complaint.

Additionally, the Board supports the proposed amendment to Tenn. Sup. Ct. R. 9, §27.4(b) which establishes a process for the Supreme Court to determine whether an attorney, who is suspended or disbarred, is disabled or addicted making it impossible for the attorney to respond or defend against a complaint. If the Court or a hearing panel determines the attorney is incapable of responding or defending against the complaint, then Tenn. Sup. Ct. R. 9, §27.4(c) provides that the disciplinary proceeding may be suspended.

RESPECTFULLY SUBMITTED,

*Floyd S. Flippin*

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Floyd Flippin, Chair (BPR No. 010442)  
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**Certificate of Service**

I certify that the foregoing has been mailed to Joycelyn Ashanti Stevenson, Esq., Executive Director, Tennessee Bar Association, 221 4<sup>th</sup> Avenue North, Suite 400, Nashville, Tennessee 37219 by U.S. mail, on this the 14<sup>th</sup> day of September, 2020.

By: \_\_\_\_\_

*Floyd S. Flippin*

Floyd Flippin, Chair (BPR No. 010442)  
Chairman of the Board

By: \_\_\_\_\_

*Sandy Garrett*

Sandy Garrett (#013863)  
Chief Disciplinary Counsel