



BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

IN THE MATTER OF
LANCE HAC NGUYEN
STATE BAR CARD NO. 24010266

§
§
§

CAUSE NO. 72644

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline (hereinafter referred to as the "Commission"), brings this compulsory discipline action against attorney Lance Hac Nguyen (hereinafter referred to as "Respondent"), and would show the following:

1. This action is commenced by the Commission pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. The Commission is providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent, Lance Hac Nguyen, may be served with a true and correct copy of this Petition for Compulsory Discipline and its attachments, as well as a notice of hearing, at Lance Hac Nguyen, 10526 Judia Lane, Houston, Texas 77099-4810.

3. On or about February 8, 2024, a Complaint (Exhibit 1) was filed alleging the felony charge of Sexual Assault of an Adult, in Cause No. 1855025, styled *State of Texas vs. Lance Nguyen, 10202 Forum Park Dr, Apt: 250, Houston, TX 77036*, in Harris County, Texas, that states in pertinent part as follows:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, **LANCE NGUYEN**, hereafter styled the Defendant, heretofore on or about **August 20, 2022**, did then and there unlawfully, intentionally and knowingly cause the sexual organ of B.R., hereinafter called the

Complainant, to contact the sexual organ of the Defendant, without the consent of the Complainant, namely the Complainant had not consented and the Defendant knew that the Complainant was unconscious, and physically unable to resist, and unaware that the sexual assault was occurring.

Probable Cause

Affiant, Det K. Koryciak, is reputedly employed as a Peace Officer by the Houston Police Department assigned to the Special Victims Division, Adult Sex Crimes Unit. The Affiant has reason to believe and does believe that on or about August 20th, 2022, Lance Nguyen, an Asian MALE with the date of birth 05/22/1972, hereinafter Suspect, committed the felony offense of Sexual Assault in Houston, Harris County, Texas.

Affiant has reviewed the information documented in Houston Police Department Offense Report Number 1117712-22 authored by Officer M. Puffer and Officer N. Olding, both credible and reliable Peace Officers employed by the Houston Police Department and was able to determine the following:

On August 20th, 2022, at approximately 1400 hours Officers M. Puffer and Officer N. Olding, both assigned to Northeast Patrol Division, were dispatched to a sexual assault case call at the LBJ Hospital located at 5656 Kelly Street, Houston, Harris County, Texas 77026, where B.R., a 24-year-old female, hereinafter the Complainant, who officers found to be credible and reliable, informed officers that she was forced to engage in sexual intercourse, (straight sex - defendant's penis to complainant's vagina) without her consent. Affiant is aware the Complainant, B.R., participated in a SANE exam at LBJ Hospital, where several forensic swabs were taken from the Complainant for possible DNA. On August 22nd, 2022, Sgt. L. Magness, a peace officer with the rank of Sergeant, employed by the Houston Police Department assigned to the Special Victims Division Adult Sex Crimes Unit, assigned this case to Affiant.

On September 2nd, 2022, Affiant reviewed the Sexual Assault Nurse Examination (SANE) report, where Complainant B.R. Affiant noted that the Complainant reported to the SANE nurse that she was with the Suspect at a club the previous night. The Complainant reported leaving this club around 1:30 in the morning, and then waking up the next morning with the Suspect on top of her and with his penis penetrating her vagina. Complainant reported that the Suspect had cut off her clothes. Complainant indicated that she took the Suspect's shirt because she had no top. Complainant reported she got an Uber and came back to her residence. Complainant reported having no memory of leaving the club or of how she arrived at the suspect's residence. Complainant reported she believed the Suspect had put something in her drink. Complainant indicated that she did

not consent to sex at any point with the suspect. The Complainant was observed to have injuries to her right and left breasts.

On September 8th, 2022, Affiant interviewed the Complainant, who reported meeting the Suspect the previous night on or about August 18th, 2022, at a club called the Perfect 10 (P10), at which time they exchanged phone numbers. On the night of the incident, on or about August 19th, 2022, the Suspect invited the Complainant to the restaurant Willie G's where the Complainant arrived at the restaurant approximately at 1800 hours with two of her cousins, and met up with the Suspect. During the course of talking with the Suspect, the Complainant learned his name and that he is a licensed attorney within Harris County. While out during the night, the Complainant's cousins left to go to another location, and the Complainant stayed with the Suspect at a bar called the Clutch Bar, where the Complainant's friend "J" arrived with her friend "A" and met up with the Complainant and Suspect. The Complainant states she was given and consumed multiple drinks of liquor paid for by the Suspect. At some point the Complainant began to "black out." The Complainant stated that the last thing she remembered was yelling at someone in the bar about her phone since the Complainant dropped it, and then she remembered nothing else. The next thing the Complainant remembers is waking up the next morning, August 19, 2022, in an unknown bedroom with the Suspect penetrating her vagina with his penis without her consent.

Complainant told Affiant, that when she realized what was taking place, she pushed the Suspect off of her, and the Suspect apologized to the Complainant repeatedly. The Complainant then started looking around for her clothes and observed that her clothes had been cut off her, including her underwear. The Complainant then became extremely angry and grabbed the Suspect's phone while he was putting his clothes on in order to get herself an Uber so that she could get back to her residence. The Complainant asked the Defendant if he had drugged her, to which he responded he did not, but the Complainant noticed a pill that looked like Viagra on the nightstand in plain view. The Complainant then demanded the Suspect order her an Uber home from her current location.

The Complainant was able to identify the location of the assault due to sending a friend a dropped pin with her location information being the address of 10202 Forum Park Drive, Houston, Texas 77036 within Harris County. The Complainant provided Affiant text messages between her cousin and the Suspect, who was using the Complainant's phone, on August 19, 2022, at approximately 11:29am, showing the Suspect texted the Complainant's cousin, "Bri's on the way. Sorry about the door, we both knocked out after we got back to my place. Lance."

On November 29th, 2022, Detective K. Howton, employed by the Houston Police Department, assigned to the Special Victims Division Adult Sex Crimes unit, who the Affiant finds to be credible and reliable, presented the Complainant a photo array, where the Complainant was able to positively identify the Suspect, Lance Nguyen, as the person who sexually assaulted her on the night of the incident, on or about the date of August 19th, 2022, within Harris County.

On December 12th, 2022, Affiant received and reviewed the lab reports from Signature Science LLC Forensic Laboratory with Lab report # LSS2022-01 698 on behalf of the Houston Forensic Science Center report # 2022-10199 for the sexual assault kit from this case (HPD# 1117712-22) dated 12/02/2022, which resulted with a single source of foreign male DNA found on Item # 1A.1-S Vaginal/cervical swab (sperm cell fraction). On April 26th, 2023, Affiant, drafted and presented a buccal warrant for the Suspect, Lance Nguyen, an Asian MALE with the date of birth 05/22/1972, to magistrate Renette O. Franklin, who signed the buccal warrant on April 26th, 2023, at 0824 hours (08:24am).

On or about May 1st, 2023, the Suspect's attorney David McClure informed Affiant that the Suspect would not have time to comply with the court-ordered warrant due to preparation for federal trial. On May 9th, 2023, Affiant and Investigator P. Garcia assigned to the Special Victims Division -Adult Sex Crimes unit, traveled to the United States District Courthouse located at 515 Rusk, Houston, Texas 77002 and then presented the signed warrant to Suspect Lance Nguyen, at which point Affiant then collected the buccal/DNA swabs from the Defendant and tagged the evidence into HPD property room located at 1202 Washington Ave., Houston, Texas 77002.

On May 9th, 2023, Affiant submitted a LIMS request to HFSC Laboratory to analyze and compare the DNA from buccal swabs for the Suspect against the unknown male DNA found in Complainant SAK. On August 14th, 2023, Affiant received and reviewed the lab reports from Houston Forensic Science Center report # 2022-10199 for the sexual assault kit from this case (HPD# 1117712-22) dated 07/31/2023, which showed the comparison between the Signature Science Item 1A.1-S (Vaginal/cervical swabs (sperm cell fraction) and the buccal swabs collected from LANCE NGUYEN, and reporting that the Suspect cannot be excluded as a possible contributor to the major component of this mixture. The probability that a randomly chosen unrelated individual would be included as a possible contributor to the major component is approximately 1 in 170 octillion individuals.

BASED ON THE ABOVE, AFFIANT BELIEVES AND HAS REASON TO BELIEVE THAT LANCE NGUYEN COMMITTED THE FELONY OFFENSE OF SEXUAL ASSAULT ON OR AROUND AUGUST 20TH,

2022 AT 10202 FORUM PARK DRIVE UNIT # 206, HOUSTON,
HARRIS COUNTY, TEXAS, 77036.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

4. On or about October 14, 2024, Respondent was charged by Indictment (Exhibit 2) with Sexual Assault, in Cause No. 1855025, styled *State of Texas v. Lance Nguyen*, in Harris County, Texas, that states in pertinent part as follows:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, **LANCE NGUYEN**, hereafter styled the Defendant, heretofore on or about **August 20, 2022**, did then and there unlawfully, intentionally and knowingly cause the sexual organ of B.R., hereinafter called the Complainant, to contact the sexual organ of the Defendant, without the consent of the Complainant, namely the Complainant had not consented and the Defendant knew that the Complainant was unconscious, and physically unable to resist, and unaware that the sexual assault was occurring.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

5. On or about February 10, 2026, a Judgment of Conviction by Jury (Exhibit 3) was entered in Cause Number 185502501010, styled *The State of Texas v. Nguyen, Lance*, in the 185th District Court, Harris County, Texas, wherein Respondent was found guilty of Sexual Assault, a Second Degree Felony. Respondent was sentenced to eight (8) years confinement in the Texas Department of Criminal Justice, Institutional Division probated to eight (8) years community supervision for the FELONY – LEVEL 2 offense of SEXUAL ASSAULT in accordance with Article 42A, Texas Code of Criminal Procedure, in the 185TH DISTRICT COURT of Harris County, Texas by the Honorable Andrea Beall Judge Presiding. The Court ordered Respondent confined **100** days in the **County Jail** as a condition of community supervision; ordered to register as sex offender in accordance with Chapter 62, Tex. Code Crim. Proc.; and ordered Respondent to pay \$290 in court costs and \$780 in reimbursement fees.

6. Attached hereto are true and correct copies of the following documents in the Nguyen criminal case: Complaint filed February 8, 2024 (Exhibit 1); Indictment filed October 14, 2024 (Exhibit 2); and Judgment of Conviction by Jury entered February 10, 2026 (Exhibit 3). The Commission expects to introduce certified copies of all exhibits at the time of hearing of this cause.

7. Respondent, Lance Hac Nguyen, whose bar card number is 24010266, is the same person as Lance Nguyen who is the subject of the Complaint, Indictment, and Judgment of Conviction by Jury, described above, true and correct copies of which are attached hereto.

8. Attached hereto as Exhibit 4 is a true and correct copy of an affidavit of Amanda M. Kates, Attorney of Record for the Commission herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Complaint, Indictment, and Judgment of Conviction by Jury entered in the Nguyen criminal case. The Commission expects to introduce the original of said affidavit at the time of hearing of this cause.

9. The offense for which Respondent was convicted is an Intentional Crime (as defined by Rule 1.06(V)(1) of the Texas Rules of Disciplinary Procedure) because Respondent's offense is a Serious Crime (as defined by Rule 1.06(GG), Texas Rules of Disciplinary Procedure) that requires knowledge or intent as an essential element.

10. Having been found guilty of an Intentional and Serious crime, and such judgment being final, Respondent is subject to compulsory discipline as provided in Part VIII, Texas Rules of Disciplinary Procedure.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Commission prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the

Board enter an order imposing compulsory discipline on Respondent and for such other and further relief to which the Commission may be entitled to receive.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Amanda M. Kates
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
Telephone: 512.427.1350
Facsimile: 512.427.4253
Email: amanda.kates@texasbar.com



Amanda M. Kates
State Bar Card No. 24075987

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent for service on Lance Hac Nguyen, 10526 Judia Lane, Houston, Texas 77099-4810, Via Personal Service on this 2nd day of March, 2026.



Amanda M. Kates

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at 9:00 a.m. on the **24th day of April, 2026**. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.



Amanda M. Kates

P3

THE STATE OF TEXAS
VS.
LANCE NGUYEN
10202 FORUM PARK DR APT: 250
HOUSTON TX 77036

SPN:
DOB: A M 05/22/1972
DATE PREPARED: 02/08/2024

D.A. LOG NUMBER: 3018873
CJIS TRACKING NO.:
AGENCY:HPD
O/R NO: 111771222
ARREST DATE: TO BE

FILED
Marilyn Burgess
District Clerk
FEB 08 2024
Harris County, Texas
BY: [Signature] Deputy

NCIC CODE: 1115 22 RELATED CASES:
FELONY CHARGE: Sexual Assault of an Adult

CAUSE NO:
HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE:

COURT ORDERED BAIL: TO BE SET AT
MAGISTRATION
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, LANCE NGUYEN, hereafter styled the Defendant, heretofore on or about August 20, 2022, did then and there unlawfully, intentionally and knowingly cause the sexual organ of B.R., hereinafter called the Complainant, to contact the sexual organ of the Defendant, without the consent of the Complainant, namely the Complainant had not consented and the Defendant knew that the Complainant was unconscious, and physically unable to resist, and unaware that the sexual assault was occurring.

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RECORDER'S MEMORANDUM
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at the time of imaging.

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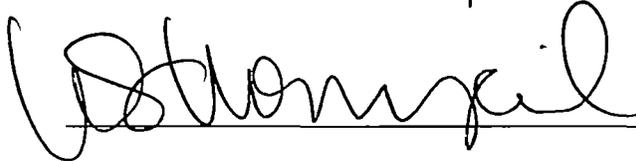
On May 9th, 2023, Affiant submitted a LIMS request to HFSC Laboratory to analyze and compare the DNA from buccal swabs for the Suspect against the unknown male DNA found in Complainant SAK. On August 14th, 2023, Affiant received and reviewed the lab reports from Houston Forensic Science Center report # 2022-10199 for the sexual assault kit from this case (HPD# 1117712-22) dated 07/31/2023, which showed the comparison between the Signature Science Item 1A.1-S (Vaginal/cervical swabs (sperm cell fraction) and the buccal swabs collected from LANCE NGUYEN, and reporting that the Suspect cannot be excluded as a possible contributor to the major component of this mixture. The probability that a randomly chosen unrelated individual would be included as a possible contributor to the major component is approximately 1 in 170 octillion individuals.

BASED ON THE ABOVE, AFFIANT BELIEVES AND HAS REASON TO BELIEVE THAT LANCE NGUYEN COMMITTED THE FELONY OFFENSE OF SEXUAL ASSAULT ON OR AROUND AUGUST 20TH, 2022 AT 10202 FORUM PARK DRIVE UNIT # 206, HOUSTON, HARRIS COUNTY, TEXAS, 77036.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Signed and sworn by me on 2/8/24

Duly attested by me on 2-8-24





AFFIANT

Assistant District Attorney
Harris County District Attorney's Office
TBC No. 24061847

Jaime V. Cousin HCSO
Witness (Peace Officer)

Jaime Cousin 139490
Witness Printed name & Badge or Payroll number

COMPLAINT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this February 13, 2026

Certified Document Number: 112690098 Total Pages: 3

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

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THE STATE OF TEXAS
VS.
LANCE NGUYEN
10202 FORUM PARK DR #250
HOUSTON, TX 77036

SPN: 03229191
DOB: A M 5/22/1972
DATE PREPARED: 10/12/2024

D.A. LOG NUMBER: 3018873
CJIS TRACKING NO.:
BY: TL DA NO: 2533919
AGENCY: HPD
O/R NO: 111771222
ARREST DATE: TO BE

NCIC CODE: 111522
FELONY CHARGE: SEXUAL ASSAULT

RELATED CASES:

CAUSE NO: 1855025
HARRIS COUNTY DISTRICT COURT NO: 185
FIRST SETTING DATE:

COURT ORDERED BAIL:
PRIOR CAUSE NO:
CHARGE SEQ NUM: 1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, LANCE NGUYEN, hereafter styled the Defendant, heretofore on or about August 20, 2022, did then and there unlawfully, intentionally and knowingly cause the sexual organ of B.R., hereinafter called the Complainant, to contact the sexual organ of the Defendant, without the consent of the Complainant, namely the Complainant had not consented and the Defendant knew that the Complainant was unconscious, and physically unable to resist, and unaware that the sexual assault was occurring.

FILED

Marilyn Burgess
District Clerk

OCT 14 2024

Time: _____
Harris County, Texas
By: _____
Deputy

Certified Document Number: 116984028 - Page 1 of 1

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Asst. Foreman 228th

Puffany Turney

FOREMAN OF THE GRAND JURY

INDICTMENT

EXHIBIT
2

RECORDER'S MEMORANDUM
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at the time of imaging.



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this February 18, 2026

Certified Document Number: 116984028 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com



CAUSE NO. 185502501010

INCIDENT NO. /TRN: 9271362829A001

THE STATE OF TEXAS

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§
§
§
§
§
§

IN THE 185TH DISTRICT

v.

COURT

NGUYEN, LANCE

HARRIS COUNTY, TEXAS

STATE ID No.: TX20975841

JUDGMENT OF CONVICTION BY JURY

Judge Presiding: ANDREA BEALL

Date Sentence Imposed: 2/10/2026

Attorney for State: JAMES GORDON

Attorney for Defendant: MCCLURE, DAVID BRUCE

Offense for which Defendant Convicted:

SEXUAL ASSAULT

Charging Instrument: INDICTMENT

Statute for Offense:

Date of Offense: 8/20/2022

Plea to Offense: NOT GUILTY

Degree of Offense: 2ND DEGREE FELONY

Verdict of Jury: GUILTY

Findings on Deadly Weapon: N/A

1st Enhancement Paragraph: N/A

Finding on 1st Enhancement Paragraph: N/A

2nd Enhancement Paragraph: N/A

Finding on 2nd Enhancement Paragraph: N/A

Punishment Assessed by: JURY

Date Sentence Commences: (Date does not apply to confinement served as a condition of community supervision.) N/A

Punishment and Place of Confinement:

8 YEARS TDCJ, CORRECTIONAL INSTITUTIONS DIVISION

THIS SENTENCE SHALL RUN: CONCURRENTLY.

[X] SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR 8 YEARS. (The document setting forth the conditions of community supervision is incorporated herein by this reference.)

[X] Defendant is required to register as sex offender in accordance with Chapter 62, Tex. Code Crim. Proc.

(For sex offender registration purposes only) The age of the victim at the time of the offense was 24 years .

Fines:

\$ N/A

Restitution:

\$ N/A

Restitution Payable to:

(See special finding or order of restitution which is incorporated herein by this reference.)

Court Costs:

\$ 290

Reimbursement Fees:

\$ 780

Was the victim impact statement returned to the attorney representing the State? N/A

(FOR STATE JAIL FELONY OFFENSES ONLY) Is Defendant presumptively entitled to diligent participation credit in accordance with Article 42A.559, Tex. Code Crim. Proc.? N/A

Total Jail Time

Credit: N/A

If Defendant is to serve sentence in county jail or is given credit toward the fine and costs, enter days credited below.

DAYS

N/A DAYS

NOTES: N/A

This cause was called for trial by jury and the parties appeared. The State appeared by her District Attorney as named above.

Counsel / Waiver of Counsel (select one)

[X] Defendant appeared with counsel.

[] Defendant appeared without counsel and knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.



Certified Document Number: 125159136 - Page 1 of 10

Defendant was tried in absentia.

Both parties announced ready for trial. It appeared to the Court that Defendant was mentally competent to stand trial. A jury was selected, impaneled, and sworn, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and **ORDERED** it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

Jury. Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

Court. Defendant elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

No Election. Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

In accordance with the jury's verdict, the Court **ADJUDGES** Defendant **GUILTY** of the above offense. The Court **FINDS** that the Presentence Investigation, if so ordered, was done according to the applicable provisions of Subchapter F, Chapter 42A, Tex. Code Crim. Proc.

The Court **ORDERS** Defendant punished in accordance with the jury's verdict or Court's findings as to the proper punishment as indicated above. The Court **ORDERS** Defendant to pay the fines, court costs, reimbursement fees, and restitution as indicated above and further detailed below.

Punishment Options (select one)

Confinement in State Jail or Institutional Division. The Court **ORDERS** the authorized agent of the State of Texas or the County Sheriff to take and deliver Defendant to the Director of the Correctional Institutions Division, TDCJ, for placement in confinement in accordance with this judgment. The Court **ORDERS** Defendant remanded to the custody of the County Sheriff until the Sheriff can obey the directions in this paragraph. Upon release from confinement, the Court **ORDERS** Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or arrange to pay any fines, court costs, reimbursement fees, and restitution due.

County Jail—Confinement / Confinement in Lieu of Payment. The Court **ORDERS** Defendant committed to the custody of the County Sheriff immediately or on the date the sentence commences. Defendant shall be confined in the county jail for the period indicated above. Upon release from confinement, the Court **ORDERS** Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or arrange to pay any fines, court costs, reimbursement fees, and restitution due.

Fine Only Payment. The punishment assessed against Defendant is for a **FINE ONLY**. The Court **ORDERS** Defendant to proceed immediately to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or arrange to pay the fine, court costs, reimbursement fees, and restitution ordered by the Court in this cause.

Confinement as a Condition of Community Supervision. The Court **ORDERS** Defendant confined **100** days in **the County Jail** as a condition of community supervision. The period of confinement as a condition of community supervision starts when Defendant arrives at the designated facility, absent a special order to the contrary.

Fines Imposed Include (check each fine and enter each amount as pronounced by the court):

- General Fine (§12.32, 12.33, 12.34, or 12.35, Penal Code, or any other Code) \$ (not to exceed \$10,000)
- Add'l Monthly Fine for Sex Offenders (Art. 42A.653, Code Crim. Proc.) \$ (\$5.00/per month of community supervision)
- Child Abuse Prevention Fine (Art. 102.0186, Code Crim. Proc.) \$ (\$100)
- EMS, Trauma Fine (Art. 102.0185, Code Crim. Proc.) \$ (\$100)
- Family Violence Fine (Art. 42A.504 (b), Code Crim. Proc.) \$ (\$100)
- Juvenile Delinquency Prevention Fine (Art. 102.0171(a), Code Crim. Proc.) \$ (\$50)
- State Traffic Fine (§542.4031, Transp. Code) \$ (\$50)
- Children's Advocacy Center Fine - as Cond of CS (Art. 42A.455, Code Crim. Proc.) \$ (not to exceed \$50)
- Repayment of Reward Fine (Art. 37.073/42.152, Code Crim. Proc.) \$ (To Be Determined by the Court)
- Payment of Fine to Crime Stoppers Organization - as Cond of CS (Art. 42A.301 (b) (19), Code Crim. Proc.) \$ (not to exceed \$50)
- DWI Traffic Fine (a/k/a Misc. Traffic Fines) (§709.001, Transp. Code) \$ (not to exceed \$6,000)

Execution of Sentence

The Court **ORDERS** Defendant's sentence **EXECUTED**. The Court **FINDS** that Defendant is entitled to the jail time credit indicated above. The attorney for the state, attorney for the defendant, the County Sheriff, and any other person having or who had custody of Defendant shall assist the clerk, or person responsible for completing this judgment, in calculating Defendant's credit for time served. All supporting documentation, if any, concerning Defendant's credit for time served is incorporated herein by this reference.

Furthermore, the following special findings or orders apply:

The Court enters an affirmative finding that Defendant has been found guilty of a felony.

Weapon Forfeiture:

The Court Finds that a law enforcement agency, namely, _____, seized a weapon, namely, _____, in connection with an offense involving the use of a weapon or an offense under Chapter 46 of the Penal Code. Accordingly the Court Orders the weapon is forfeited to the State of Texas to be destroyed or used by the law enforcement agency. **TEX. CCP. Art 18.18 or 18.19.**

Certified Document Number: 125159136 - Page 2 of 10

Date Judgment Entered: February 10, 2026

X 

ANDREA BEALL
JUDGE PRESIDING



Thumbprint

Clerk: C POOLE

Notice of Appeal Filed: _

Mandate Received: _____ Type of Mandate: _____

After Mandate Received, Sentence to Begin Date is: _____

Jail Credit: _____ DAYS

Case Number: 1855025 Court: 185TH Defendant: **NGUYEN, LANCE**

STATE OF TEXAS
VS.
LANCE NGUYEN

185TH DISTRICT COURT
OF
HARRIS COUNTY, TEXAS

CONDITIONS OF COMMUNITY SUPERVISION

On this the 11th day of February, 2026, you are sentenced to 8 years confinement in the TEXAS DEPARTMENT OF CRIMINAL JUSTICE INSTITUTIONAL DIVISION probated to 8 years community supervision for the FELONY - LEVEL 2 offense of SEXUAL ASSAULT in accordance with Article 42A, Texas Code of Criminal Procedure, in the 185TH DISTRICT COURT of Harris County, Texas, by the Honorable Andrea Beall Judge Presiding. It is the order of this Court that you abide by the following Conditions of Community Supervision:

1. Commit no offense against the laws of this or any other State or of the United States. You are to report any arrests within 24 hours.
2. Not use, possess, or consume any illegal drug or prescription drug not currently prescribed to you by a medical professional. You shall bring all current prescription containers to your Community Supervision Officer. If new medication is prescribed, you must bring the new prescription containers by your next scheduled report date.
3. Report to the Community Supervision Officer as directed for the remainder of the supervision term unless so ordered differently by the Court.
4. Permit a Community Supervision Officer to visit you at your home, place of employment or elsewhere.
5. Work at suitable employment and/or attend school full-time. Present either verification of employment or provide a log of all attempts to secure employment to your Community Supervision Officer as directed. You must notify HCCSCD of any change in your employment status by your next scheduled reporting date.
6. Abide by the rules and regulations of the Harris County Community Supervision and Corrections Department (hereinafter referred to as HCCSCD).
7. Remain within Harris County, Texas or any counties directly touching Harris County, Texas. You may not travel outside these locations unless you receive prior written permission from the Court through your Community Supervision Officer.
8. Notify HCCSCD by your next report date of any change in residence.
9. Submit a non-diluted, valid, unaltered sample for the purpose of alcohol/drug monitoring at the request of the HCCSCD.
10. Participate in the HCCSCD Community Service Restitution Program (CSRP). You shall perform 80 hours as directed by HCCSCD CSRP policy. Hours must be completed 60 days prior to termination.
11. Support your dependents as required by law. Provide your Community Supervision Officer with proof that you are in compliance with all court-ordered support of dependents.

CONDITIONS OF COMMUNITY SUPERVISION

Defendant Lance Nguyen

Cause 185502501010

12. Not ship, transport, possess, receive, or purchase a firearm, altered firearm, or ammunition, or attempt to ship, transport, possess, receive, or purchase a firearm, altered firearm, or ammunition.
13. Pay all fees through HCCSCD. All payments **MUST** be in the form of a Money Order, Cashier's Check or credit card. Online payments may be made with a credit card at PAYCSCD.COM. A \$2.00 transaction fee will be charged by HCCSCD to process each payment.
14. Pay a Supervision Fee at the rate of \$60.00 per month for the duration of your community supervision beginning 08/01/2026 to HCCSCD.
15. Pay a fine of \$.00 and Court Costs at the rate of \$45.00 per month beginning 08/01/2026 to Harris County through HCCSCD. Court grants credit for 0 days served.
16. Pay \$10.00 per month to cover expenses of drug testing beginning 08/01/2026.
17. Report in person to HCCSCD to provide a DNA sample to the Department of Public Safety at the direction of and through HCCSCD for the purpose of creating a DNA Record by 08/01/2026 and pay a fee by this date of \$25.00 unless a sample has already been submitted under other state law.
18. Submit to an assessment through HCCSCD Assessment Unit as directed. Participate and successfully complete any program(s) as indicated by the assessment or until further order of the court.
19. Pay a one-time fee of \$100.00 to HCCSCD for the purpose of screening and assessment.
20. Submit to an evaluation of your Educational skill level by 08/01/2026. If it is determined that you have not attained the average skill of students who have completed the sixth grade in public schools in this State, you shall participate in a program that teaches functionally illiterate persons to read. If you are non-English speaking, you will participate in English as a Second Language (ESL) program, if it is determined there is a need in order for you to meet the state mandate beginning upon referral until successfully discharged or released by further order of the Court.
21. Not use, consume, or possess alcoholic beverages.
22. Provide a breath specimen for breathalyzer/intoxilyzer analysis if requested by any law enforcement officer or any Community Supervision & Corrections Department (CSCD) staff member.
23. Serve 100 DAYS of confinement in the Harris County Jail or otherwise directed by the court beginning 02/11/2026.
24. Have no contact with BELLA ANDREWS in person, in writing, by telephone, via the internet, a third party or any other means for any reason except as specifically permitted by the Court.
25. Have no contact with BRIONNA ROGERS in person, in writing, by telephone, via the internet, a third party or any other means for any reason except as specifically permitted by the Court.

CONDITIONS OF COMMUNITY SUPERVISION

Defendant Lance Nguyen

Cause 185502501010

26. Have no contact with ANY BAR, LOUNGES, CLUB, OR STRIP CLUB in person, in writing, by telephone, via the internet, a third party or any other means for any reason except as specifically permitted by the Court. RESTAURANTS ARE PERMITTED; HOWEVER, THE PRIMARY PURPOSE OF THE BUSINESS MAY NOT BE THE SALE OF ALCOHOLIC BEVERAGES (I.E., NO BARS, TAVERNS, OR BAR-AND-GRILL ESTABLISHMENTS)..
27. MUST REPORT TO THE BAR ASSOCIATION WITHIN TWO BUSINESS DAYS OF YOUR RELEASE FROM HARRIS COUNTY JAIL.
28. Report in person to HCCSCD to provide a DNA sample to the Department of Public Safety at the direction of and through HCCSCD for the purpose of creating a DNA Record by 08/01/2026 unless a sample has already been submitted under other state law and pay a \$25.00 fee.
29. Pay \$25.00 per month to the Sex Assault Program Fund for the duration of your community supervision beginning 06/01/2026 through HCCSCD.
30. Submit to any program of psychological and physiological assessment at the direction of your Community Supervision Officer, including the plethysmograph and/or polygraph, to assist in treatment, planning and case monitoring.
31. Not reside, go in, on or within 1000 feet of a premises where children commonly gather, including, but not limited to, schools, day-care facilities, playgrounds, public or private youth centers, public swimming pools, or video arcade facilities. The measurement of the distance between the residence of the offender and the premises where children gather shall be measured using the shortest, direct, straight line from the property line of the offender's residence to the property line of the premises where children commonly gather. The measurement of distance from the person of the offender to the premises where children gather shall be made using the shortest, direct, straight line between the person of the offender and the property line of the premises where children gather.
32. Reside at 10526 JUDIA LANE, HOUSTON, TX 77099 unless otherwise directed by the Court. With the exception of the listed address, you may not reside, go in, on or within 1000 feet of a premise where children commonly gather as referred in the above paragraph unless the terms and conditions of your community supervision have been amended.
33. Not have access to the Internet through any manner or method, unless it is equipped with an approved tracking software beginning 06/01/2026 for any reason unless specifically ordered by the Court.
34. Not supervise or participate in any program that includes participants or recipients persons who are seventeen (17) years of age or younger and that regularly provides athletic, civic or cultural activities beginning 02/11/2026 for any reason except as specifically permitted by the Court.
35. Have no contact with any minor under the age of seventeen (17) beginning 02/11/2026 for any reason except as specifically permitted by the Court.
36. Not accept or maintain employment which will bring you into direct contact with minor children unless approved by the Court.

CONDITIONS OF COMMUNITY SUPERVISION

Defendant **Lance Nguyen**

Cause **185502501010**

37. Not view own or possess pornographic materials. In addition you may not frequent sexually oriented establishments.
38. Comply with sex offender registration procedures as required by the laws of this or any other State in which you reside beginning 02/11/2026 and at any time thereafter as directed by your Community Supervision Officer.
39. Report in person to the HCCSCD Sex Offender Unit within 24 hours or the following business day by 10:00 am for the purpose of completing your sex offender registration and completing the Static 99 risk assessment. AFTER THE COMPLETION OF THE 100 DAYS HCJ.
40. Not enter or remain within a sexually oriented business. A sexually oriented business is a commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to a patron including, but not limited to: massage parlors sex parlors nude studios modeling studios love parlors adult bookstores adult movie theaters adult video arcades adult motels adult cabarets escort agencies and sexual encounter centers.
41. Participate in Sex Offender Treatment beginning immediately upon referral. Attend treatment and aftercare with a State of Texas registered Sex Offender Provider as recommended. Comply with all program rules regulations and guidelines until successfully discharged or released by further order of the Court.
42. Participate in the HCCSCD Sex Offender Caseload beginning 02/11/2026. Comply with all program rules regulations and guidelines until successfully discharged or released by further order of the Court.

CONDITIONS OF COMMUNITY SUPERVISION

Defendant **Lance Nguyen**

Cause **185502501010**

I understand that under the laws of this State, the Court shall determine the terms and conditions of Community Supervision, and may alter or modify said conditions during the period of Community Supervision. I further understand that failure to abide by these Conditions of Community Supervision may result in the revocation of Community Supervision or an adjudication of guilt.

Court Directive for Release

100 DAYS HCJ AS A CONDITON OF PRONBATION

Community Supervision expires on February 10, 2034.



SIGN

Lance Nguyen
Defendant

02/11/2026
Date Signed

Signed this the February 11, 2026.



SIGN

Andrea Beall
Presiding Judge

02/11/2026
Date Signed



SPN **03229191**

Plea **Not Guilty**

STATE OF TEXAS
VS.
LANCE NGUYEN

185TH DISTRICT COURT
OF
HARRIS COUNTY, TEXAS

1ST AMENDED CONDITIONS OF COMMUNITY SUPERVISION

In the above entitled and numbered cause, it appearing to the court that the above-named defendant was placed on community supervision for the offense of SEXUAL ASSAULT under certain terms and conditions set down by the court in the original supervision order dated 02/10/2026.

And it further appearing to the court that the best interest of the public and of the defendant as well will be served by the modification of the terms of supervision;

It is therefore ordered, adjudged and decreed by the court that the previous supervision order(s) be modified, to wit:

0. On this the 10th day of February, 2026, you are sentenced to 8 years confinement in the TEXAS DEPARTMENT OF CRIMINAL JUSTICE INSTITUTIONAL DIVISION probated to 8 years community supervision for the FELONY - LEVEL 2 offense of SEXUAL ASSAULT in accordance with Article 42A, Texas Code of Criminal Procedure, in the 185TH DISTRICT COURT of Harris County, Texas, by the Honorable Andrea Beall Judge Presiding. It is the order of this Court that you abide by the following Conditions of Community Supervision:

I understand that under the laws of this State, the Court shall determine the terms and conditions of Community Supervision, and may alter or modify said conditions during the period of Community Supervision. I further understand that failure to abide by these Conditions of Community Supervision may result in the revocation of Community Supervision or an adjudication of guilt.

I have read or had read to me by the CLO/CSO Officer the conditions the Judge has added or changed. I also understand that if I do not accept these changes to my Conditions of Community Supervision, I must make a timely and specific objection and request to appear before the Judge. I understand that if I refuse to accept these amendments, the Judge may issue a warrant for my arrest and I have a right to be represented by counsel. If I am indigent, the Court shall appoint counsel for me. I also understand that I may voluntarily and knowingly accept this modification.

Court Directive for Release

100 DAYS HCJ STARTING 2/11/2026.

Community Supervision currently expires on February 9, 2034.

Acceptance and Waiver

I understand the terms and consequences for failing to comply with these Conditions of Community Supervision and I knowingly and voluntarily agree to this modification of my conditions. I further understand that by signing these conditions I am affirmatively accepting the terms and I waive any right to object or be represented by counsel.

Objection and Request for Immediate Hearing

I object to this modification of my conditions of Community Supervision and request an immediate hearing before the Judge.



Lance Nguyen
Defendant

SIGN

02/16/26
Date



For Andrea Beall
Judge Presiding

SIGN

February 16, 2026
Date



02/16/2026



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this February 18, 2026

Certified Document Number: 125159136 Total Pages: 10

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

AFFIDAVIT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Amanda M. Kates, the Commission's attorney of record, who, being by me duly sworn, deposed as follows:

"My name is Amanda M. Kates. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

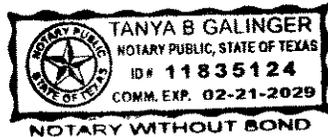
Based upon information and belief, Lance Hac Nguyen, whose Texas Bar Card Number is 24010266, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief Lance Hac Nguyen, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Lance Nguyen who is the subject of the Judgment of Conviction by Jury in Cause Number 185502501010, styled *The State of Texas v. Nguyen, Lance*, in the 185th District Court, Harris County, Texas, wherein Respondent was found guilty of Sexual Assault, a Second Degree Felony. Respondent was sentenced to eight (8) years confinement in the Texas Department of Criminal Justice, Institutional Division probated to eight (8) years community supervision for the FELONY – LEVEL 2 offense of SEXUAL ASSAULT in accordance with Article 42A, Texas Code of Criminal Procedure, in the 185TH DISTRICT COURT of Harris County, Texas by the Honorable Andrea Beall Judge Presiding. The Court ordered Respondent confined **100** days in the **County Jail** as a condition of community supervision; ordered to register as sex offender in accordance with Chapter 62, Tex. Code Crim. Proc.; and ordered Respondent to pay \$290 in court costs and \$780 in reimbursement fees.

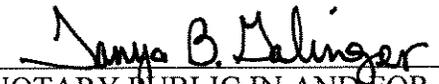
FURTHER Affiant saith not.



Amanda M. Kates

SWORN AND SUBSCRIBED before me on the 2nd day of March, 2026.





NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

THE BOARD *of* DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT *of* TEXAS



INTERNAL PROCEDURAL RULES
(EFFECTIVE SEPTEMBER 24, 2024)



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INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through September 24, 2024

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through September 24, 2024

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

- (c) BODA may, upon decision of the Chair, conduct any business or proceedings—including any hearing, pretrial conference, or consideration of any matter or motion—remotely.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

- (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

- (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) **Exceptions.**

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry or a complaint is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) Format. An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

- (iv) the length of time requested for the extension;
- (v) the number of extensions of time that have been granted previously regarding the item in question; and
- (vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

- (1) marked;
- (2) indexed with the title or description of the item offered as an exhibit; and
- (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

- (1) as required by the TRDP; and
- (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the

decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal

malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule. If a grievance is classified as a complaint, the CDC must notify both the Complainant and the Respondent of the Respondent's right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. For a grievance classified as a complaint, the CDC must send the Respondent an appeal notice form, approved by BODA, with notice of the classification disposition. The form must

include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must not consider documents or other submissions that the Complainant or Respondent filed with the CDC or BODA after the CDC's classification. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

Rule 3.03. Disposition of Classification Appeal

(a) BODA may decide a classification appeal by doing any of the following:

(1) affirm the CDC's classification of the grievance as an inquiry and the dismissal of the grievance;

(2) reverse the CDC's classification of the grievance as an inquiry, reclassify the grievance as a complaint, and return the matter to the CDC for investigation, just cause determination, and further proceedings in accordance with the TRDP;

(3) affirm the CDC's classification of the grievance as a complaint and return the matter to the CDC to proceed with investigation, just cause determination, and further proceedings in accordance with the TRDP; or

(4) reverse the CDC's classification of the grievance as a complaint, reclassify the grievance as an inquiry, and dismiss the grievance.

(b) When BODA reverses the CDC's inquiry classification and reclassifies a grievance as a complaint, BODA must reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. When BODA affirms the CDC's complaint classification, BODA may reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. The scope of investigation will be determined by the CDC in accordance with TRDP 2.12.

(c) BODA's decision in a classification appeal is final and conclusive, and such decision is not subject to appeal or reconsideration.

(d) A classification appeal decision under (a)(1) or (4), which results in dismissal, has no bearing on whether the Complainant may amend the grievance and resubmit it to the CDC under TRDP 2.10.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary

judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the “date of notice” under Rule [TRDP] 2.21 [2.20].

(b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) **Time to File.** In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) **Contents.** The record on appeal consists of the evidentiary panel clerk’s record and, where necessary to the appeal, a reporter’s record of the evidentiary panel hearing.

(b) **Stipulation as to Record.** The parties may designate parts of the clerk’s record and the reporter’s record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) Responsibility for Filing Record.

(1) Clerk’s Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk’s record.

(ii) Unless the parties stipulate otherwise, the clerk’s record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel’s charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk’s record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk’s record cannot be timely filed, and give the date by which he or she expects the clerk’s record to be filed.

(2) Reporter’s Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter’s record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter’s record be prepared; and
- c) the party requesting all or part of the reporter’s record has paid the reporter’s fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter’s record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter’s record cannot be timely filed, and give the date by which he or she expects the reporter’s record to be filed.

(d) Preparation of Clerk’s Record.

(1) To prepare the clerk’s record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties’ written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk’s record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and

35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6¹) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been

timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
- (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) Extension of Time to File the Reporter's Record.

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) Supplemental Record. If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) Appellant's Filing Date. Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) Appellee's Filing Date. Appellee's brief must be filed within 30 days after the appellant's brief is filed.

(c) Contents. Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and

indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) Length of Briefs; Contents Included and Excluded.

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) Amendment or Supplementation. BODA has discretion to grant leave to amend or supplement briefs.

(f) Failure of the Appellant to File a Brief. If the appellant fails to timely file a brief, BODA may:

(1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;

(2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or

(3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) Request. A party desiring oral argument must note the

request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) **Decision.** BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
 - (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members

randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA

determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the

CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for

indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after

BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.