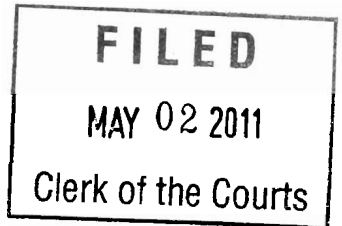


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE



**IN RE: AMENDMENTS TO RULE 9, SECTIONS 1.3, 8.3, 13.7 AND 16.1,  
RULES OF THE TENNESSEE SUPREME COURT**

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No. M2011-00527-SC-RL2-RL - Filed: May 2, 2011

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**ORDER**

Tennessee Supreme Court Rule 9, section 1.3 governs the procedure for judicial review of the judgment of a hearing panel of the Board of Professional Responsibility of the Tennessee Supreme Court. On March 9, 2011, the Court filed an order stating that the Court was considering an amendment to section 1.3 and related amendments to sections 8.3, 13.7, and 16.1 concerning judicial review of the judgment of a hearing panel. In that order, the Court solicited public comments concerning the proposed amendments; the deadline for submitting written comments was Friday, April 8, 2011.

After due consideration, and based upon the written comments received during the public comment period, the Court has decided not to adopt the proposed amendments published for public comment in the order filed on March 9, 2011. Instead, the Court hereby amends sections 1.3 and 8.3 as set out in the attached Appendix to this order. These amendments shall take effect upon the filing of this order.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

It is so ORDERED.

PER CURIAM

***APPENDIX***  
**Amendments to Tenn. Sup. Ct. R. 9**

[Amend Tenn. Sup. Ct. R. 9, § 1.3 to read as follows:]

**1.3** The respondent-attorney (hereinafter “respondent”) or the Board may have a review of the judgment of a hearing panel in the manner provided by Tenn. Code Ann. § 27-9-101 et seq., except as otherwise provided herein. A petition filed under this section shall be made under oath or on affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106. The review shall be on the transcript of the evidence before the hearing panel and its findings and judgment. If allegations of irregularities in the procedure before the panel are made, the trial court is authorized to take such additional proof as may be necessary to resolve such allegations. The court may affirm the decision of the panel or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the panel’s findings, inferences, conclusions or decisions are: (1) in violation of constitutional or statutory provisions; (2) in excess of the panel’s jurisdiction; (3) made upon unlawful procedure; (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (5) unsupported by evidence which is both substantial and material in the light of the entire record.

In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the panel as to the weight of the evidence on questions of fact. Either party dissatisfied with the decree of the circuit or chancery court may prosecute an appeal directly to the Supreme Court where the cause shall be heard upon the transcript of the record from the circuit or chancery court, which shall include the transcript of evidence before the hearing panel. Prior decisions of this Court holding that appeal of disciplinary proceedings must be taken to the Court of Appeals because Tenn. Code Ann. § 16-4-108 so requires are expressly overruled.

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[Amend Tenn. Sup. Ct. R. 9, § 8.3 to read as follows:]

**8.3.** The hearing panel shall, in every case, submit its findings and judgment, in the form of a final decree of a trial court, to the Board within 15 days after the conclusion of its hearing. The hearing panel’s judgment shall contain a notice that the judgment may be appealed pursuant to Section 1.3 of this Rule by filing a petition for writ of certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the writ. *See* Tenn. Code Ann. §§ 27-8-104(a) and 27-8-106. The Board shall

immediately serve a copy of the findings and judgment of the hearing panel upon the respondent and the respondent's counsel of record. Any petition for certiorari therefrom must be filed in the circuit or chancery court having jurisdiction within 60 days of the mailing or service of such judgment.

*(End of Appendix)*