

§ 11.20

37 CFR Ch. I (7–1–10 Edition)

(2) Grounds for transfer to disability inactive status include:

(i) Being transferred to disability inactive status in another jurisdiction;

(ii) Being judicially declared incompetent, being judicially ordered to be involuntarily committed after a hearing on the grounds of insanity, incompetency or disability, or being placed by court order under guardianship or conservatorship; or

(iii) Filing a motion requesting a disciplinary proceeding be held in abeyance because the practitioner is suffering from a disability or addiction that makes it impossible for the practitioner to adequately defend the charges in the disciplinary proceeding.

(c) Petitions to disqualify a practitioner in *ex parte* or *inter partes* matters in the Office are not governed by §§ 11.19 through 11.60 and will be handled on a case-by-case basis under such conditions as the USPTO Director deems appropriate.

(d) The OED Director may refer the existence of circumstances suggesting unauthorized practice of law to the authorities in the appropriate jurisdiction(s).

§ 11.20 Disciplinary sanctions; Transfer to disability inactive status.

(a) *Types of discipline.* The USPTO Director, after notice and opportunity for a hearing, and where grounds for discipline exist, may impose on a practitioner the following types of discipline:

(1) Exclusion from practice before the Office;

(2) Suspension from practice before the Office for an appropriate period of time;

(3) Reprimand or censure; or

(4) *Probation.* Probation may be imposed *in lieu* of or in addition to any other disciplinary sanction. Any conditions of probation shall be stated in writing in the order imposing probation. The order shall also state whether, and to what extent, the practitioner shall be required to notify clients of the probation. The order shall establish procedures for the supervision of probation. Violation of any condition of probation shall be cause for the probation to be revoked, and the disciplinary sanction to be imposed for the remainder of the probation period. Revocation

of probation shall occur only after an order to show cause why probation should not be revoked is resolved adversely to the practitioner.

(b) *Conditions imposed with discipline.* When the USPTO Director imposes discipline, the practitioner may be required to make restitution either to persons financially injured by the practitioner's conduct or to an appropriate client's security trust fund, or both, as a condition of probation or of reinstatement. Such restitution shall be limited to the return of unearned practitioner fees or misappropriated client funds. Any other reasonable condition may also be imposed, including a requirement that the practitioner take and pass a professional responsibility examination.

(c) *Transfer to disability inactive status.* The USPTO Director, after notice and opportunity for a hearing may, and where grounds exist to believe a practitioner has been transferred to disability inactive status in another jurisdiction, or has been judicially declared incompetent; judicially ordered to be involuntarily committed after a hearing on the grounds of incompetency or disability, or placed by court order under guardianship or conservatorship, transfer the practitioner to disability inactive status.

§ 11.21 Warnings.

A warning is neither public nor a disciplinary sanction. The OED Director may conclude an investigation with the issuance of a warning. The warning shall contain a brief statement of facts and Mandatory Disciplinary Rules identified in § 10.20(b) of Part 10 of this Subchapter relevant to the facts.

§ 11.22 Investigations.

(a) The OED Director is authorized to investigate possible grounds for discipline. An investigation may be initiated when the OED Director receives a grievance, information or evidence from any source suggesting possible grounds for discipline. Neither unwillingness nor neglect by a grievant to prosecute a charge, nor settlement, compromise, or restitution with the grievant, shall in itself justify abatement of an investigation.