

judicially declared to be competent or discharged from inpatient status in the mental hospital, the USPTO Director may dispense with further evidence that the disability has ended and may direct the reinstatement of the practitioner's former recognition or registration upon such terms as is deemed appropriate. In a case of addiction to drugs or intoxicants, the USPTO Director alternatively may consider the possibility of probationary conditions.

(g) *Self-reported incapacitation due to disability or addiction; no intent to continue representation.*—(1) *OED Director's request.* If the OED Director receives from a practitioner or the practitioner's guardian either a written acknowledgment of the practitioner or guardian confirming the existence of the alleged disability or addiction, and otherwise showing the practitioner is incapacitated as alleged, or a report of an examination by one or more qualified medical experts providing reason to believe that a practitioner is incapacitated from continuing to practice before the Office because of disability or addiction, and the practitioner does not intend to offer or attempt to perform legal services while so incapacitated, the OED Director shall petition the USPTO Director for an order directing that the practitioner's name be transferred to disability inactive status, and that the practitioner cease practicing before the Office in patent, trademark, and other non-patent law effective immediately and for an indefinite period of time until further ordered by the USPTO Director. In the case of addiction to drugs or intoxicants, the OED Director may petition the USPTO Director to prohibit reinstatement absent satisfaction of specified conditions.

(2) *Action by the USPTO Director.* When a practitioner is incapacitated from continuing to practice before the Office because of disability or addiction, and reports the same to the OED Director, the USPTO Director, upon proper proof of that disability or addiction, shall enter an order directing that the practitioner's name be transferred to disability inactive status, and that the practitioner cease practicing before the Office in patent, trademark, and other non-patent law effective immediately and for an indefinite period of time until further ordered by the USPTO Director. A copy of the order shall be served upon the practitioner, and the practitioner's guardian, if any, in such manner as the USPTO Director may direct. In a case of addiction to drugs or intoxicants, the USPTO Director may prohibit

reinstatement absent satisfaction of specified conditions.

(h) *Holding in abeyance a disciplinary proceeding because of disability or addiction.*—(1) *Practitioner's motion.* In the course of a disciplinary proceeding under § 11.32, but before an initial decision is mailed, the practitioner therein may file a motion requesting the hearing officer to enter an order holding such proceeding in abeyance based on the contention that 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. The practitioner's motion shall be accompanied by all pertinent medical records and in all cases must include a signed form acknowledging the alleged incapacity by reason of disability or addiction.

(2) *Disposition of practitioner's motion.* The hearing officer shall decide the motion and any response thereto. If the motion satisfies paragraph (h)(1) of this section, the hearing officer shall:

(i) Enter a temporary order holding the disciplinary proceeding in abeyance (but not any investigation instituted by the OED Director with respect to the practitioner);

(ii) Submit to the USPTO Director a report that includes a petition, prepared by the OED Director, seeking from the USPTO Director an order immediately transferring the practitioner to disability inactive status and otherwise precluding the practitioner from practice before the Office in patent, trademark and other non-patent law until a determination is made of the practitioner's capability to resume practice before the Office in a proceeding instituted by the practitioner under paragraph (h)(2)(i) of this section; and

(iii) If the OED Director raises a genuine issue as to any material fact concerning the practitioner's self-alleged disability or addiction, to enter an order referring such issue(s) to the hearing officer for an evidentiary hearing pursuant to paragraph (e) of this section. The temporary abeyance order shall remain in effect until a determination is made by the hearing officer that the practitioner is not incapacitated and that resumption of the matters held in abeyance would be proper and advisable.

(i) *Determination of practitioner's recovery and removal of disability or addiction.*—(1) *Scope of rule.* This section applies to disability matters involving allegations that a practitioner's prior disability or addiction has been removed, including proceedings for reactivation or for

resumption of disciplinary matters being held in abeyance.

(2) *Reactivation.* Any practitioner transferred to disability inactive status for incapacity by reason of disability or addiction shall be entitled to file a motion for reactivation once a year beginning at any time not less than one year after the initial effective date of suspension, or once during any shorter interval provided by the USPTO Director's order of suspension or any modification thereof. In addition to complying with all applicable rules, such motion shall conform to the requirements of paragraph (f)(3) of this section, and include all alleged facts showing that the practitioner's disability or addiction has been removed and that the practitioner is fit to resume practice before the Office.

(3) *Contents of motion for reactivation.* A motion for reactivation alleging that a practitioner has recovered from a prior disability or addiction shall be accompanied by all available medical reports or similar documents relating thereto and shall also include allegations specifically addressing the following matters:

(i) The nature of the prior disability or addiction, including its beginning date and the most recent date (both dates approximate if necessary) on which the practitioner was still afflicted with the prior disability;

(ii) The relationship between the prior disability or addiction and the practitioner's incapacity to continue to practice before the Office during the period of such prior disability or addiction;

(iii) In the case of prior addiction, for an appropriate prior period (including the entire period following any suspension thereof), the dates or period (approximate if necessary) for each and every occasion on or during which the practitioner used any drugs or intoxicants having the potential to impair the practitioner's capacity to practice before the Office, whether or not such capacity was in fact impaired;

(iv) A brief description of the supporting medical evidence (including names of medical or other experts) that the practitioner expects to submit in support of the alleged recovery and rehabilitation;

(v) A written statement disclosing the name of every medical expert (such as psychiatrist, psychologist, or physician) or other expert and hospital by whom or in which the practitioner has been examined or treated during the period since the date of suspension for disability or addiction;

(vi) The practitioner's written consent, to be provided to each medical