



Ohio Board of Professional Conduct

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TO: Disciplinary Counsel, Bar Counsel, Certified Grievance Committees, and Respondents' Counsel

FROM: Rick Dove

DATE: August 2020

RE: Bimonthly Update

June Board Meeting

The Board of Professional Conduct met on August 7 and approved six case reports, including one report containing findings of fact pursuant to a remand order and one reinstatement matter. The reports were filed with the Supreme Court the afternoon of August 7.

The Board has 49 pending cases, 33 of which have been opened this year. Six cases have been heard and are awaiting reports, and 23 cases are scheduled for hearing. Cases that do not have hearing dates are stayed, in default, or awaiting answers.

Advisory Opinions

On August 7, the Board approved [Adv. Op. 2020-6 through 2020-9](#), each of which replaces or modifies a prior Board opinion that addressed questions under the former Code of Professional Responsibility. The opinions provide advice for a lawyer departing a law firm (2020-6), the use of the surname of a retired or inactive lawyer (2020-7), the provision of financial planning services or products (2020-8), and payment of a fee to a real estate agency for participation in a member-benefits program (2020-9).

COVID-19

The Chief Justice extended her previously issued work-from-home directive for Supreme Court staff through end of 2020. The staff of the Board will continue to work remotely through that date. To ensure timely receipt and processing of documents, I continue to request that all

communications, other than case filings, be sent via email to BOCfilings@bpc.ohio.gov. This includes extension requests, reimbursement requests (both direct and indirect), grievance referrals, appeals, and probable cause materials. All case-related documents should be e-Filed. There should be little, if any, need to send administrative or case-related documents via regular, express, or certified mail, and no need to follow-up an electronic submission with a paper copy unless asked or ordered to do so.

Please review the various documents available on the [relator/respondents page](#) of the website for more information about case filings and administrative requirements. Also refer your staff to the direction regarding administrative submissions contained in my April update memo.

Panel Hearings

Since late April, Board hearing panels have conducted 13 hearings via video teleconference, and five additional remote hearings are scheduled for later this month. Many panel chairs are scheduling remote hearings that will be held later this year, and I anticipate the majority of hearings will be conducted via video teleconference through December. Use of video teleconferencing during the pandemic has allowed the Board to maintain a current docket and file timely reports and recommendations with the Supreme Court. The Board appreciates the cooperation and patience of counsel in proceeding with remote hearings and addressing the many novel issues presented by the video format. If you have participated in a remote hearing and have suggestions based on your experience, please do not hesitate to contact me.

Miller-Becker Seminar

As noted in a prior communication, the 2020 Miller-Becker Seminar will proceed as scheduled on October 23, although in a real-time video format. The keynote presentation will be made by a medical professional and focus on age-related impairment. That presentation will be followed by a panel discussion on the topic of age-related impairment as it relates to disciplinary investigations and prosecutions. In the afternoon, a panel will discuss the preparation and use of stipulations in disciplinary cases, and multiple presenters will provide an overview of issues and trends found in recent disciplinary decisions. The seminar will conclude with an optional disciplinary process overview. A total of 5.5 hours of CLE credit will be offered for the entire program, with an additional hour for those attending the optional overview.

Registration information and other details regarding the seminar will be provided via email and on the Board's web site in September.

Recent and Pending Rule Amendments

In the past two months, the Supreme Court has amended provisions of the Rules of Professional Conduct and Code of Judicial Conduct. The Court did not publish these amendments for comment prior to adoption.

- Effective June 17, the Court amended [Prof. Cond. R. 7.5](#) to eliminate the prior restriction on lawyers practicing under trade names.

- Effective August 1, the Court repealed [Jud. Cond. R. 4.1\(A\)\(5\)](#) and amended [Jud. Cond. R. 4.6\(N\)](#). On August 11, [the Court modified the effective date of the amendment to Jud. Cond. R. 4.6\(N\)](#) to November 4, 2020 and specified that the amended definition applies to campaign communications used by judicial candidates in the 2021 and subsequent elections.

The amendments proposed by the Task Force to Review the Ohio Disciplinary System remain pending. In mid-June, the Court considered revisions to the amendments that were published for comment in February of this year. The Court again discussed these revisions on August 2 and is scheduled to continue that discussion next week.