

## **PROPOSED AMENDMENTS TO THE SUPREME COURT RULES FOR THE GOVERNMENT OF THE BAR OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until December 3, 2020, on the following proposed amendments to the Supreme Court Rules for the Government of the Bar of Ohio.

Comments on the proposed amendments should be submitted in writing to: Minerva Elizaga, Assistant Director of Attorney Services, Supreme Court of Ohio, 65 South Front Street, 5th Floor, Columbus, Ohio 43215-3431, or [minerva.elizaga@sc.ohio.gov](mailto:minerva.elizaga@sc.ohio.gov) not later than December 3, 2020. Please include your full name and mailing address in any comments submitted by e-mail.

### Key to Proposed Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

**SUPREME COURT RULES FOR THE GOVERNMENT OF THE BAR OF OHIO**

**RULE VII. UNAUTHORIZED PRACTICE OF LAW**

**Section 1. Board on the Unauthorized Practice of Law of the Supreme Court.**

**(A) Creation**

~~There shall be a~~ is hereby created by the Supreme Court the Board on the Unauthorized Practice of Law ~~of the Supreme Court consisting.~~

**(B) Appointments**

The Board consists of the following thirteen commissioners appointed by the Chief Justice and Justices of the Court. ~~Eleven commissioners shall be;~~

(1) Nine attorneys admitted to the practice of law in Ohio and ~~two~~ commissioners shall be registered for active status;

(2) Four persons not admitted to the practice of law in any state. ~~The~~

**(C) Composition**

Board membership should be broad-based and multi-disciplinary to represent a cross-section of interests related to governmental advisory bodies and reflect the diverse population of the state with respect to race, ethnicity, gender, and geography.

**(D) Terms and reappointment**

The term of office of each commissioner shall be three years, beginning on the first day of January next following the commissioner's appointment. Appointments to terms commencing on the first day of January of any year shall be made prior to the first day of December of the preceding year. A commissioner whose term has expired and who has an uncompleted assignment as a commissioner shall continue to serve for the purpose of that assignment until the assignment is concluded before the Board, and the successor commissioner shall take no part in the proceedings of the Board concerning the assignment. No commissioner shall be appointed for more than ~~two~~ three consecutive three-year terms. ~~Vacancies for any cause shall be filled for the unexpired term by the Justice who appointed the commissioner causing the vacancy or by the successor of that Justice. A commissioner appointed to a term of fewer than three years to fill a vacancy may be reappointed to is eligible for reappointment, but shall not serve more than ~~two~~ three consecutive ~~three-year~~ full terms. A commissioner is eligible for reappointment after serving three consecutive full terms, but only upon at least a one-year break in service.~~

45 **(E) Filling of vacancies**

46  
47 Vacancies shall be filed in the same manner as original appointments. A commissioner  
48 appointed to fill a vacancy occurring prior to the expiration of the term for which the  
49 member's predecessor was appointed holds office for the remainder of that term. A  
50 commissioner appointed to a term of fewer than three years may be reappointed to not  
51 more than three full terms.

52  
53 ~~(B)~~ The

54  
55 **(F) Change of position, employment, affiliation, or status**

56  
57 Each commissioner member appointed because of the member's attorney status ceases to  
58 be a commissioner at such time the member no longer holds that status.

59  
60 **(G) Chairperson and vice-chairperson**

61  
62 (1) At the first meeting each year of the Board, the members of the Board shall each  
63 year elect an one attorney commissioner as chair chairperson and vice chair one attorney  
64 commissioner as vice-chairperson. A commissioner may be reelected as chair, but The  
65 term of a chairperson and vice-chairperson is one year. A chairperson and vice-chairperson  
66 shall not serve as chair for more than two consecutive one-year full terms. A commissioner  
67 may be reelected as vice chair, but shall not serve as vice chair for more than two  
68 consecutive one-year terms. The Administrative Director or his or her designee shall serve  
69 as the Secretary of the Board. The chair

70  
71 (2) The chairperson, vice chair vice-chairperson, or the Secretary secretary may  
72 execute entries and administrative documents on behalf of the Board and panels of the  
73 Board. The Secretary secretary may execute any other documents at the direction of the  
74 chair chairperson or vice chair vice-chairperson. In the absence of the chairperson, the  
75 vice-chairperson shall perform the duties of the chairperson.

76  
77 ~~(G)~~ **(H) Secretary**

78  
79 (1) The Administrative Director of the Court shall assign a Court employee to serve as  
80 the secretary of the Board. The secretary assists the Board as necessary in the  
81 implementation of its work, but at all times is considered an employee of the Supreme  
82 Court. The secretary shall be an attorney admitted to the practice of law in Ohio.

83  
84 (2) The secretary shall have the following responsibilities:

85  
86 (a) Oversees administration and fiscal operations of the Board;

87  
88 (b) Schedule all meetings of the Board and its committees and all hearings of  
89 Board panels;

90

91 (c) Maintain a docket of each formal complaint and of all proceedings on each  
92 formal complaint, which shall be retained permanently as a part of the records of  
93 the Board;

94  
95 (d) Prepare and execute entries on behalf of the Board and its hearing panels  
96 and execute entries for extensions of time where appropriate;

97  
98 (e) Issue subpoenas pursuant to Section 2(C) of this rule;

99  
100 (f) Maintain the records for the receipt and expenditure of money, and prepare  
101 financial reports and budgets as required by the Supreme Court Rules for the  
102 Government of the Bar of Ohio;

103  
104 (g) Assist the Board in preparing advisory opinions pursuant to Section 2(E) of  
105 this rule;

106  
107 (h) Take any other action consistent with the secretary's position.

108  
109 **(I) Execution of documents**

110  
111 The chairperson, vice-chairperson, or the secretary may execute administrative documents  
112 on behalf of the Board. The secretary may execute any other documents at the direction  
113 of the chairperson or vice-chairperson.

114  
115 **(J) Meetings**

116  
117 (1) The Board may meet in person or by telephone or other electronic means available  
118 to the Court.

119  
120 (2) The Board shall meet as often as required to complete its work, provided the Board  
121 shall meet a minimum of three times per year. The Board may meet at the call of the  
122 chairperson or at the request of a majority of the Board members.

123  
124 (3) All Board meetings shall be scheduled for a time and place so as to minimize costs  
125 to the Court and to be accessible to commissioners and Court staff.

126  
127 **(K) Commissioner attendance**

128  
129 (1) For a fully effective commission, a commissioner shall make a good faith effort to  
130 attend, in person, each Board meeting.

131  
132 (2) A commissioner who is unable to attend a meeting due to an unavoidable conflict  
133 may request the chairperson allow the member to participate by telephone or other  
134 electronic means available to the Court. A commissioner participating in this manner is  
135 considered present for meeting attendance, quorum, and voting purposes.

136

137 (3) A commissioner may not designate a replacement for participation in or voting at  
138 meetings.

139  
140 (4) If a commissioner misses three consecutive meetings, the chairperson or the  
141 secretary for the Board shall notify the Chief Justice and the Administrative Director and  
142 may recommend to the Chief Justice and Justices of the Court that the member relinquish  
143 the member's position on the Board.

144  
145 **(L) Minutes**

146  
147 Minutes shall be kept at every Board meeting and distributed to the commissioners for  
148 review prior to and approval at the next meeting.

149  
150 **(M) Quorum**

151  
152 A quorum exists when a majority of commissioners is present for the meeting, including  
153 those members participating by telephone or other electronic means.

154  
155 **(N) Actions**

156  
157 At any commission meeting at which a quorum is present, the Board members may take  
158 action by affirmative vote of a majority of the members in attendance.

159  
160 **(O) Subcommittees**

161  
162 (1) The Board may form such subcommittees it believes necessary to complete the  
163 work of the Board. A subcommittee should consist of select commissioners and other  
164 persons who the chairperson believes will assist in a full exploration of the issue under the  
165 review of the subcommittee.

166  
167 (2) A subcommittee should remain relatively small in size and have a ratio of  
168 commission members to non-commission members not exceeding one to three.

169  
170 (3) Divisions (H); (J)(1) and (3); (K)(2) and (3); (M); (N); (P); (Q); (R); and (U) of this  
171 section apply to the work and non-commissioners of a subcommittee.

172  
173 **(P) Code of ethics**

174  
175 A commissioner shall comply with the requirements of the Court's "Code of Ethics for  
176 Court Appointees." The secretary for the Board shall provide each commissioner with a  
177 copy of the code following the commissioner's appointment to the Board and thereafter at  
178 the first meeting each year of the Board.

179  
180 **(Q) Confidentiality**

181  
182 No commissioner shall disclose to any person any non-public proceedings, documents, or

183 deliberations of the Board, a panel of the Board, or a Board committee. This rule shall not  
184 apply to an individual commissioner's personal opinion relating to matters of staffing or  
185 operational issues, which, at the commissioner's option, may be discussed with a justice  
186 upon the justice's request. Prior to taking office, each commissioner shall confirm in  
187 writing that he or she will abide by these rules.

188  
189 **(R) Work product**

190  
191 The work product of the Board is the property of the Court.

192  
193 **(S) Budget**

194  
195 The budget of the Board is set by the Court through its internal budget process and as  
196 implemented by the Office of Attorney Services. The Board has no authority to set its own  
197 budget.

198  
199 **(T) Compensation**

200  
201 A commissioner serves without compensation.

202  
203 **(U) Reimbursement of expenses**

204  
205 Commissioners shall be reimbursed for reasonable and ordinary expenses incurred in the  
206 performance of their official duties service to the board as permitted by the Court's  
207 Guidelines for Travel by Court Appointees. A commissioner shall not be entitled to  
208 compensation beyond reasonable and ordinary expenses. Reimbursement shall be paid  
209 from the Attorney Services Fund.

210  
211 ~~(D) Initial appointments for terms beginning January 1, 2005, shall be as follows:~~

212  
213 ~~(1) One attorney and one nonattorney shall be appointed for terms ending December~~  
214 ~~31, 2005. Commissioners appointed pursuant to this division shall be eligible for~~  
215 ~~reappointment to two consecutive three year terms.~~

216  
217 ~~(2) Two attorneys shall be appointed for terms ending December 31, 2006.~~  
218 ~~Commissioners appointed pursuant to this division shall be eligible for reappointment to~~  
219 ~~two consecutive three year terms.~~

220  
221 ~~(3) One attorney shall be appointed for a term ending December 31, 2007. A~~  
222 ~~commissioner appointed pursuant to this division shall be eligible for reappointment to one~~  
223 ~~three year term.~~

224  
225 ~~(4) Thereafter, appointments shall be made pursuant to division (A) of this section.~~  
226

227           (E)     For the initial appointment beginning January 1, 2011, one nonattorney shall be  
228 appointed for a term ending December 31, 2013. A commissioner appointed pursuant to this  
229 division shall be eligible for reappointment to one three-year term.

230  
231  
232           **Section 2.     Jurisdiction and Powers of the Board.**

233  
234           (A)     The

235  
236           **(A)     Exclusive jurisdiction**

237  
238           Except as otherwise expressly provided in rules adopted by the Supreme Court, all  
239 allegations of the unauthorized practice of law is:

240  
241           (1)     ~~The rendering of legal services for another by any person not admitted to~~  
242 ~~practice in Ohio under Rule I of the Supreme Court Rules for the Government of~~  
243 ~~the Bar unless the person is:~~

244  
245                   (a)     ~~Certified as a legal intern under Gov. Bar R. II and rendering legal~~  
246 ~~services in compliance with that rule;~~

247  
248                   (b)     ~~Granted corporate status under Gov. Bar R. VI and rendering legal~~  
249 ~~services in compliance with that rule;~~

250  
251                   (c)     ~~Certified to temporarily practice law in legal services, public~~  
252 ~~defender, and law school programs under Gov. Bar R. IX and rendering~~  
253 ~~legal services in compliance with that rule;~~

254  
255                   (d)     ~~Registered as a foreign legal consultant under Gov. Bar R. XI and~~  
256 ~~rendering legal services in compliance with that rule;~~

257  
258                   (e)     ~~Granted permission to appear pro hac vice by a tribunal in a~~  
259 ~~proceeding in accordance with Gov. Bar R. XII and rendering legal services~~  
260 ~~in that proceeding;~~

261  
262                   (f)     ~~Rendering legal services in accordance with Rule 5.5 of the Ohio~~  
263 ~~Rules of Professional Conduct (titled “Unauthorized practice of law;~~  
264 ~~multijurisdictional practice of law”) shall be brought, conducted, and~~  
265 ~~disposed of in accordance with the provisions of this rule. The Board shall~~  
266 ~~have the authority to certify, recertify, and decertify an unauthorized~~  
267 ~~practice of law committee in accordance with Section 3 of this rule.~~

268  
269           (2)     ~~The rendering of legal services for another by any person:~~

270  
271                   (a)     ~~Disbarred from the practice of law in Ohio under Gov. Bar R. V;~~  
272

273 (b) Designated as resigned or resigned with disciplinary action pending  
274 under former Gov. Bar R. V (prior to September 1, 2007);  
275

276 (c) Designated as retired or resigned with disciplinary action pending  
277 under Gov. Bar R. VI.  
278

279 (3) The rendering of legal services for another by any person admitted to the  
280 practice of law in Ohio under Gov. Bar R. I while the person is:  
281

282 (a) Suspended from the practice of law under Gov. Bar R. V;  
283

284 (b) Registered as an inactive attorney under Gov. Bar R. VI;  
285

286 (c) Summarily suspended from the practice of law under Gov. Bar R.  
287 VI for failure to register;  
288

289 (d) Suspended from the practice of law under Gov. Bar R. X for failure  
290 to satisfy continuing legal education requirements;  
291

292 (e) Registered as retired under former Gov. Bar R. VI (prior to  
293 September 1, 2007).  
294

295 (4) Holding out to the public or otherwise representing oneself as authorized to  
296 practice law in Ohio by a person not authorized to practice law by the Supreme  
297 Court Rules for the Government of the Bar or Prof. Cond. R. 5.5.  
298

299 For purposes of this section, "holding out" includes conduct prohibited by divisions  
300 (A)(1) and (2) and (B)(1) of section 4705.07 of the Revised Code.  
301

302 ~~(B)~~

303  
304 **(B) Hearing authority**  
305

306 The Board shall receive evidence, preserve the record, make findings, and submit  
307 recommendations concerning complaints of the unauthorized practice of law, except for  
308 complaints against persons listed in ~~division (A)(3)~~ Section 31(J)(3) of this section rule,  
309 which shall be filed in accordance with the disciplinary procedure set forth in Gov. Bar R.  
310 V.  
311

312 ~~(C)~~ The Board may issue informal, nonbinding advisory opinions to any regularly  
313 organized bar association in this state, Disciplinary Counsel, or the Attorney General in response  
314 to prospective or hypothetical questions of public or great general interest regarding the application  
315 of this rule and the unauthorized practice of law. The Board shall not issue advisory opinions in  
316 response to requests concerning a question that is pending before a court or a question of interest  
317 only to the person initiating the request. All requests for advisory opinions shall be submitted, in



318 writing, to the Secretary with information and details sufficient to enable adequate consideration  
319 and determination of eligibility under this rule.

320  
321 ~~The Secretary shall acknowledge the receipt of each request for an advisory opinion and~~  
322 ~~forward copies of each request to the Board. The Board shall select those requests that shall~~  
323 ~~receive an advisory opinion. The Board may decline to issue an advisory opinion and the Secretary~~  
324 ~~promptly shall notify the requesting party. An advisory opinion approved by the Board shall be~~  
325 ~~issued to the requesting party over the signature of the Secretary.~~

326  
327 ~~Advisory opinions shall be public and distributed by the Board.~~

328  
329 ~~(D) *Referral of Procedural Questions to Board.* In the course of an investigation, the~~  
330 ~~chair of the unauthorized practice of law committee of a bar association, Disciplinary Counsel, or~~  
331 ~~the Attorney General may direct a written inquiry regarding a procedural question to the Board~~  
332 ~~chair or vice chair. The inquiry shall be sent to the Secretary. The chair or vice chair and the~~  
333 ~~Secretary shall consult and direct a response.~~

334  
335 **~~Section 3. Referral for Investigation.~~**

336  
337 ~~The Board may refer to the unauthorized practice of law committee of the appropriate bar~~  
338 ~~association, Disciplinary Counsel, or the Attorney General any matters coming to its attention for~~  
339 ~~investigation as provided in this rule.~~

340  
341 **~~Section 4. Application of Rule.~~**

342  
343 ~~(A) All proceedings arising out of complaints of the unauthorized practice of law shall~~  
344 ~~be brought, conducted, and disposed of in accordance with the provisions of this rule except for~~  
345 ~~complaints against persons listed in Section 2(A)(3) of this rule, which shall be filed in accordance~~  
346 ~~with the disciplinary procedure set forth in Gov. Bar R. V. A bar association that permits the~~  
347 ~~membership of any attorney practicing within the geographic area served by that association~~  
348 ~~without reference to the attorney's area of practice, special interest, or other criteria and that~~  
349 ~~satisfies other criteria that may be established by Board regulations may establish an unauthorized~~  
350 ~~practice of law committee. Members of bar association unauthorized practice of law committees~~  
351 ~~shall be attorneys admitted to the practice of law in Ohio. Unauthorized practice of law~~  
352 ~~committees, Disciplinary Counsel, and the Attorney General may share information with each~~  
353 ~~other regarding investigations and prosecutions. This information shall be confidential and not~~  
354 ~~subject to discovery or subpoena. Unauthorized practice of law committees may conduct joint~~  
355 ~~investigations and prosecutions of unauthorized practice of law matters with each other,~~  
356 ~~Disciplinary Counsel, and the Attorney General.~~

357  
358 ~~(B) The unauthorized practice of law committee of a bar association or Disciplinary~~  
359 ~~Counsel shall investigate any matter referred to it or that comes to its attention and may file a~~  
360 ~~complaint pursuant to this rule. The Attorney General may also file a complaint pursuant to this~~  
361 ~~rule. The Board, Disciplinary Counsel, the president, secretary, or chair of the unauthorized~~  
362 ~~practice of law committee of a bar association, and the Attorney General may call upon an attorney~~  
363 ~~or judge in Ohio to assist in any investigation or to testify in any hearing before the Board as to~~

364 any matter as to which he or she would not be bound to claim privilege as an attorney. No attorney  
365 or judge shall neglect or refuse to assist in any investigation or to testify.

366  
367 ~~(C) By the thirty first day of January of each year, each bar association, Disciplinary~~  
368 ~~Counsel, and the Attorney General shall file with the Board, on a form provided by the Board, a~~  
369 ~~report of its activity on unauthorized practice of law complaints, investigations, and other matters~~  
370 ~~requested by the Board. The report shall include all activity for the preceding calendar year.~~

371  
372 ~~(D) For complaints filed more than sixty days prior to the close of the report period on~~  
373 ~~which a disposition has not been made, the report shall include an expected date of disposition and~~  
374 ~~a statement of the reasons why the investigation has not been concluded.~~

375  
376 **Section 5. The Complaint; Where Filed; By Whom Signed.**

377  
378 ~~(A) A complaint shall be a formal written complaint alleging the unauthorized practice~~  
379 ~~of law by one who shall be designated as the respondent. The original complaint shall be filed in~~  
380 ~~the office of the Secretary and shall be accompanied by thirteen copies plus two copies for each~~  
381 ~~respondent named in the complaint. A complaint shall not be accepted for filing unless it is signed~~  
382 ~~by one or more attorneys admitted to the practice of law in Ohio who shall be counsel for the~~  
383 ~~relator. The complaint shall be accompanied by a certificate in writing signed by the president,~~  
384 ~~secretary or chair of the unauthorized practice of law committee of any regularly organized bar~~  
385 ~~association, Disciplinary Counsel, or the Attorney General, who shall be the relator, certifying that~~  
386 ~~counsel are authorized to represent relator and have accepted the responsibility of prosecuting the~~  
387 ~~complaint to conclusion. The certification shall constitute a representation that, after investigation,~~  
388 ~~relator believes probable cause exists to warrant a hearing on the complaint and shall constitute~~  
389 ~~the authorization of counsel to represent relator in the action as fully and completely as if~~  
390 ~~designated by order of the Supreme Court with all the privileges and immunities of an officer of~~  
391 ~~the Court. The Attorney General may serve as co relator with any regularly organized bar~~  
392 ~~association or Disciplinary Counsel.~~

393  
394 ~~(B) Upon the filing of a complaint with the Secretary, the relator shall forward a copy~~  
395 ~~of the complaint to Disciplinary Counsel, the unauthorized practice of law committee of the Ohio~~  
396 ~~State Bar Association, and any local bar association serving the county or counties from which the~~  
397 ~~complaint emanated, except that the relator need not forward a copy of the complaint to itself.~~

398  
399 **Section 5a. Interim Cease and Desist Order**

400  
401 ~~(A)(1) Upon receipt of substantial, credible evidence demonstrating that an individual or entity~~  
402 ~~has engaged in the unauthorized practice of law and poses a substantial threat of serious harm to~~  
403 ~~the public, Disciplinary Counsel, the unauthorized practice of law committee of any regularly~~  
404 ~~organized bar association, or the Attorney General, which shall be referred to as the relator, shall~~  
405 ~~do both of the following:~~

406  
407 ~~(a) Prior to filing a motion for an interim cease and desist order, make a reasonable~~  
408 ~~attempt to provide the individual or entity, who shall be referred to as respondent, with~~  
409 ~~notice, which may include notice by telephone, that a motion requesting an interim order~~

410 that the respondent cease and desist engaging in the unauthorized practice of law will be  
411 filed with the Supreme Court and the Board.  
412

413 (b) ~~Simultaneously file a motion with the Supreme Court and the Board requesting that~~  
414 ~~the Court order respondent to immediately cease and desist engaging in the unauthorized~~  
415 ~~practice of law. The relator shall include, in its motion, proposed findings of fact, proposed~~  
416 ~~conclusions of law, and other information in support of the requested order. Evidence~~  
417 ~~relevant to the requested order shall be attached to or filed with the motion. The motion~~  
418 ~~shall include a certificate detailing the attempts made by relator to provide advance notice~~  
419 ~~to the respondent of relator's intent to file the motion. The motion also shall include a~~  
420 ~~certificate of service on the respondent at the most recent address of the respondent known~~  
421 ~~to the relator. Upon the filing of a motion with the Court and the Board, proceedings before~~  
422 ~~the Court shall be automatically stayed and the matter shall be deemed to have been~~  
423 ~~referred by the Court to the Board for application of this rule.~~  
424

425 (2) ~~After the filing of a motion for an interim cease and desist order the respondent may~~  
426 ~~file a memorandum opposing the motion in accordance with Rule XIV of the Rules of Practice of~~  
427 ~~the Supreme Court of Ohio. The respondent shall attach or file with the memorandum any rebuttal~~  
428 ~~evidence and simultaneously file a copy with the Board. If a memorandum in opposition to the~~  
429 ~~motion is not filed, the stay of proceedings before the Supreme Court shall be automatically lifted~~  
430 ~~and the Court shall rule on the motion pursuant to division (C) of this section.~~  
431

432 (B) ~~Upon the filing of a memorandum opposing the motion for an interim cease and desist~~  
433 ~~order, the Board chair or the chair's designee ("commissioner") shall set the matter for hearing~~  
434 ~~within seven days. A designee shall be an attorney member of the Board. Upon review of the~~  
435 ~~filings of the parties, the commissioner will determine whether an oral argument or an evidentiary~~  
436 ~~hearing shall be held based upon the existence of any genuine issue of material fact. Within seven~~  
437 ~~days after the close of hearing, the commissioner shall file a report, including the transcript of~~  
438 ~~hearing and the record, with the Supreme Court recommending whether or not an interim cease~~  
439 ~~and desist order should be issued. Upon the filing of the commissioner's report, the stay of~~  
440 ~~Supreme Court proceedings shall be automatically lifted.~~  
441

442 (C) ~~Upon consideration of the commissioner's report required by division (B) of this section,~~  
443 ~~or if no memorandum in opposition is filed, the Supreme Court may enter an order that the~~  
444 ~~respondent cease and desist engaging in the unauthorized practice of law, pending final disposition~~  
445 ~~of proceedings before the Board, predicated on the conduct posing a substantial threat of serious~~  
446 ~~harm to the public, or may order other action as the Court considers appropriate.~~  
447

448 (D)(1) ~~The respondent may request dissolution or modification of the cease and desist order by~~  
449 ~~filing a motion with the Supreme Court. The motion shall be filed within thirty days of entry of~~  
450 ~~the cease and desist order, unless the respondent first obtains leave of the Supreme Court to file a~~  
451 ~~motion beyond that time. The motion shall include a statement and all available evidence as to~~  
452 ~~why the respondent no longer poses a substantial threat of serious harm to the public. A copy of~~  
453 ~~the motion shall be served by the respondent on the relator. The relator shall have ten days from~~  
454 ~~the date the motion is filed to file a response to the motion. The Supreme Court promptly shall~~  
455 ~~review the motion after a response has been filed or after the time for filing a response has passed.~~

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~~(2) In addition to the motion allowed by division (D)(1) of this section, the respondent may file a motion requesting dissolution of the interim cease and desist order, alleging that one hundred eighty days have elapsed since the entry of the order and the relator has failed to file with the Board a formal complaint predicated on the conduct that was the basis of the order. A copy of the motion shall be served by the respondent on the relator. The relator shall have ten days from the date the motion is filed to file a response to the motion. The Supreme Court promptly shall review the motion after a response has been filed or after the time for filing a response has passed.~~

~~(E) The Rules of Practice of the Supreme Court of Ohio shall apply to interim cease and desist proceedings filed pursuant to this section.~~

~~(F) Upon the entry of an interim cease and desist order or an entry of dissolution or modification of such order, the Clerk of the Supreme Court shall mail certified copies of the order as provided in Section 19(E) of this rule.~~

**Section 5b. Settlement of Complaints; Consent Decrees**

~~(A) As used in this section:~~

~~(1) A “settlement agreement” is a voluntary written agreement entered into between the parties without the continuing jurisdiction of the Board or the Supreme Court.~~

~~(2) A “consent decree” is a voluntary written agreement entered into between the parties, approved by the Board, and approved and ordered by the Supreme Court. The consent decree is the final judgment of the Supreme Court and is enforceable through contempt proceedings before the Court.~~

~~(3) A “proposed resolution” is a proposed settlement agreement or a proposed consent decree.~~

~~(B) The proposed resolution of a complaint filed pursuant to Section 5 of this rule, prior to adjudication by the Board, shall not be permitted without the prior review of the Board, the Supreme Court, or both. Parties contemplating the proposed resolution of a complaint shall file a motion to approve settlement agreement or motion to approve consent decree, whichever is applicable, with the Secretary. The motion shall be accompanied by:~~

~~(1) A proposed settlement agreement or a proposed consent decree that is signed by the respondent, respondent’s counsel, if the respondent is represented by counsel, and the relator and contains a stipulation of facts and waiver of notice and hearing as stated in Section 7(H) of this rule;~~

~~(2) A memorandum in support of the proposed resolution that demonstrates the resolution complies with the factors set forth in division (C) of this section and makes a recommendation concerning civil penalties based upon the factors set forth in Section 8(B) of this rule and Regulation 400(F) of the Regulations Governing~~

502 ~~Procedure on Complaints and Hearings Before the Board on the Unauthorized~~  
503 ~~Practice of Law;~~

504  
505 (3) ~~An itemized statement of the relator's costs or a statement that no costs have been~~  
506 ~~incurred.~~

507  
508 ~~The voluntary dismissal of a complaint filed pursuant to Civ. R. 41(A) in conjunction with a~~  
509 ~~proposed resolution is subject to the requirements of this section.~~

510  
511 ~~(C) The Board shall determine whether a proposed resolution shall be considered and approved~~  
512 ~~by either the Board or the Supreme Court based on the following factors:~~

513  
514 ~~(1) The extent the proposed resolution:~~

515  
516 ~~(a) Protects the public from future harm and remedies any substantial injury;~~

517  
518 ~~(b) Resolves material allegations of the unauthorized practice of law;~~

519  
520 ~~(c) Contains an admission by the respondent to material allegations of the~~  
521 ~~unauthorized practice of law as stated in the complaint and a statement that~~  
522 ~~the admitted conduct constitutes the unauthorized practice of law;~~

523  
524 ~~(d) Involves public policy issues or encroaches upon the jurisdiction of the~~  
525 ~~Supreme Court to regulate the practice of law;~~

526  
527 ~~(e) Contains an agreement by the respondent to cease and desist the alleged~~  
528 ~~activities;~~

529  
530 ~~(f) Furthers the stated purposes of this rule;~~

531  
532 ~~(g) Designates whether civil penalties are to be imposed in accordance with~~  
533 ~~Section 8 of this rule;~~

534  
535 ~~(h) Assigns the party responsible for costs, if any.~~

536  
537 ~~(2) The extent the motion to approve settlement agreement or consent decree and any~~  
538 ~~accompanying documents comply with the requirements of division (B) of this~~  
539 ~~section;~~

540  
541 ~~(3) Any other relevant factors.~~

542  
543 ~~(D) *Review by the Board*~~

544  
545 ~~(1) Upon receipt of a proposed resolution, the Board chair shall direct the assigned~~  
546 ~~hearing panel to prepare a written report setting forth its recommendation for the acceptance or~~  
547 ~~rejection of the proposed resolution. The Board shall vote to accept or reject the proposed~~

548 resolution. Upon a majority vote to accept a settlement agreement, an order shall be issued by the  
549 Board chair or vice chair dismissing the complaint. Upon a majority vote to accept a consent  
550 decree, the Board shall prepare and file a final report with the Supreme Court in accordance with  
551 division (E)(1) of this section.

552  
553 (2) The refiling of a complaint previously resolved as a settlement agreement pursuant  
554 to this section shall reference the prior settlement agreement, and proceed only on the issue of the  
555 unauthorized practice of law. The case shall be presented on the merits and any previous  
556 admissions made by the respondent to allegations of conduct may be offered into evidence.

557  
558 (E) *Review by the Court*

559  
560 (1) After approving a proposed consent decree, the Board shall file an original and  
561 twelve copies of a final report and the proposed consent decree with the Clerk of the Supreme  
562 Court. A copy of the report shall be served upon all parties and counsel of record. Neither party  
563 shall be permitted to file an objection to the final report.

564  
565 (2) A consent decree may be approved or rejected by the Supreme Court. If a consent  
566 decree is approved, the Court shall issue the appropriate order.

567  
568 (3) A motion to show cause alleging a violation of a consent decree and any  
569 memorandum in opposition shall be filed with both the Supreme Court and the Board. The Board,  
570 upon receipt of the motion and memorandum in opposition, by panel assignment shall conduct  
571 either an evidentiary hearing or oral argument hearing on the motion, and by a majority vote of the  
572 Board submit a final report to the Court with findings of fact, conclusions of law, and  
573 recommendations on the issue of whether the consent decree was violated. Neither party shall be  
574 permitted to file objections to the Board's report without leave of Court.

575  
576 (F) *Rejection of a Proposed Resolution*

577  
578 (1) A complaint will proceed on the merits pursuant to this rule if a proposed resolution  
579 is rejected by either the Board or the Supreme Court. Upon rejection by the Board, an order shall  
580 be issued rejecting the proposed resolution and remanding the matter to the hearing panel for  
581 further proceedings. Upon rejection by the Court, an order shall be issued remanding the matter  
582 to the Board with or without instructions.

583  
584 (2) A rejected proposed resolution shall not be admissible or otherwise used in a  
585 subsequent proceeding before the Board.

586  
587 (3) No objections or other appeal may be filed with the Supreme Court upon a rejection  
588 by the Board of a proposed resolution.

589  
590 (4) Any panel member initially considering a proposed resolution and voting with the  
591 Board on the rejection of the proposed resolution may proceed to hear the original complaint.

592

593 (G) ~~The parties may consult with the Board through the Secretary concerning the terms of a~~  
594 ~~proposed resolution.~~

595  
596 (H) ~~All settlement agreements approved by the Board and all consent decrees approved by the~~  
597 ~~Supreme Court shall be recorded for reference by the Board, bar association unauthorized practice~~  
598 ~~of law committees, and Disciplinary Counsel.~~

599  
600 (I) ~~This section shall not apply to the resolution of matters considered by an unauthorized~~  
601 ~~practice of law committee, Disciplinary Counsel, or the Attorney General before a complaint is~~  
602 ~~filed pursuant to Section 5 of this rule.~~

603  
604 **Section 6. Duty of the Board Upon Filing of the Complaint; Notice to Respondent.**

605  
606 ~~The Secretary shall send a copy of the complaint by certified mail to respondent at the~~  
607 ~~address indicated on the complaint with a notice of the right to file, within twenty days after the~~  
608 ~~mailing of the notice, an original and thirteen copies of an answer and to serve copies of the answer~~  
609 ~~upon counsel of record named in the complaint. Extensions of time may be granted, for good~~  
610 ~~cause shown, by the Secretary.~~

611  
612 **Section 7. Proceedings of the Board after Filing of the Complaint.**

613  
614 (A) ~~*Hearing Panel.*~~

615  
616 (1) ~~After respondent's answer has been filed, or the time for filing an answer has~~  
617 ~~elapsed, the Secretary shall appoint a hearing panel consisting of three commissioners chosen by~~  
618 ~~lot. At least two members of the hearing panel shall be attorney commissioners. The Secretary~~  
619 ~~shall designate one of the commissioners chair of the panel, except that a nonattorney~~  
620 ~~commissioner shall not be chair of the panel. The Secretary shall serve a copy of the entry~~  
621 ~~appointing the panel on the respondent, relator, and all counsel of record.~~

622  
623 (2) ~~A majority of the panel shall constitute a quorum. The panel chair shall rule on all~~  
624 ~~motions and interlocutory matters. The panel chair shall have a transcript of the testimony taken~~  
625 ~~at the hearing, and the cost of the transcript shall be paid from the Attorney Services Fund and~~  
626 ~~taxed as costs.~~

627  
628 (3) ~~Upon reasonable notice and at a time and location set by the panel chair, the panel~~  
629 ~~shall hold a formal hearing. Requests for continuances may be granted by the panel chair for good~~  
630 ~~cause. The panel may take and hear testimony in person or by deposition, administer oaths, and~~  
631 ~~compel by subpoena the attendance of witnesses and the production of books, papers, documents,~~  
632 ~~records, and materials.~~

633  
634 (B) ~~*Motion for Default.* If no answer has been filed within twenty days of the answer date set~~  
635 ~~forth in the notice to respondent of the filing of the complaint, or any extension of the answer date,~~  
636 ~~relator shall file a motion for default. Prior to filing, relator shall make reasonable efforts to contact~~  
637 ~~respondent.~~

638

639 A motion for default shall contain at least all of the following:

640

641 (1) A statement of the effort made to contact respondent and the result;

642

643 (2) Sworn or certified documentary *prima facie* evidence in support of the allegations  
644 of the complaint;

645

646 (3) Citations of any authorities relied upon by relator;

647

648 (4) A statement of any mitigating factors or exculpatory evidence of which relator is  
649 aware;

650

651 (5) A statement of the relief sought by relator;

652

653 (6) A certificate of service of the motion on respondent at the address stated on the  
654 complaint and at the last known address, if different.

655

656 The hearing panel appointed pursuant to division (A) of this section shall rule on the motion  
657 for default. If the motion for default is granted by the panel, the panel shall prepare a report for  
658 review by the Board pursuant to division (E) of this section. If the motion is denied, the hearing  
659 panel shall proceed with a formal hearing pursuant to division (A) of this section.

660

661 The Board chair or vice chair may set aside a default entry, for good cause shown, and  
662 order a hearing before the hearing panel at any time before the Board renders its decision pursuant  
663 to division (F) of this section.

664

665 ~~(C) *Authority of Hearing Panel; Dismissal.* If at the end of evidence presented by relator or of  
666 all evidence, the hearing panel unanimously finds that the evidence is insufficient to support a  
667 charge or count of unauthorized practice of law, or the parties agree that the charge or count should  
668 be dismissed, the panel may order that the complaint or count be dismissed. The panel chair shall  
669 give written notice of the action taken to the Board, the respondent, the relator, all counsel of  
670 record, Disciplinary Counsel, the unauthorized practice of law committee of the Ohio State Bar  
671 Association, and the bar association serving the county or counties from which the complaint  
672 emanated.~~

673

674 ~~(D) *Referral by the Panel.* If the hearing panel is not unanimous in its finding that the evidence  
675 is insufficient to support a charge or count of unauthorized practice of law, the panel may refer its  
676 findings of fact and recommendations for dismissal to the Board for review and action by the full  
677 Board. The panel shall submit to the Board its findings of fact and recommendation of dismissal  
678 in the same manner as provided in this rule with respect to a finding of unauthorized practice of  
679 law pursuant to division (E) of this section.~~

680

681 ~~(E) *Finding of Unauthorized Practice of Law; Duty of Hearing Panel.* If the hearing panel  
682 determines, by a preponderance of the evidence, that respondent has engaged in the unauthorized  
683 practice of law, the hearing panel shall file its report of the proceedings, findings of facts and  
684 recommendations with the Secretary for review by the Board. The report shall include the~~



685 transcript of testimony taken and an itemized statement of the actual and necessary expenses  
686 incurred in connection with the proceedings.

687  
688 (F) *Review by Entire Board.* After review, the Board may refer the matter to the hearing panel  
689 for further hearing or proceed on the report of the prior proceedings before the hearing panel. After  
690 the final review, the Board may dismiss the complaint or find that the respondent has engaged in  
691 the unauthorized practice of law. If the complaint is dismissed, the dismissal shall be reported to  
692 the Secretary, who shall notify the same persons and organizations that would have received notice  
693 if the complaint had been dismissed by the hearing panel.

694  
695 (G) *Finding of Unauthorized Practice of Law; Duty of Board.* If the Board determines, by a  
696 preponderance of the evidence, that the respondent has engaged in the unauthorized practice of  
697 law, the Board shall file the original and twelve copies of its final report with the Clerk of the  
698 Supreme Court, and serve a copy of the final report upon all parties and counsel of record,  
699 Disciplinary Counsel, the unauthorized practice of law committee of the Ohio State Bar  
700 Association, and the bar association of the county or counties from which the complaint emanated.  
701 The final report shall include the Board's findings, recommendations, a transcript of testimony, if  
702 any, an itemized statement of costs, recommendation for civil penalties, if any, and a certificate of  
703 service listing the names and addresses of all parties and counsel of record.

704  
705 (H) *Hearing on Stipulated Facts.* A stipulation of facts and waiver of notice and hearing,  
706 mutually agreed and executed by relator and respondent, or counsel, may be filed with the Board  
707 prior to the date set for formal hearing. If a stipulation and waiver are filed, the parties are not  
708 required to appear before the hearing panel for a formal hearing, and the hearing panel shall render  
709 its decision based upon the pleadings, stipulation, and other evidence admitted.

710  
711 The stipulation of facts must contain sufficient information to demonstrate the specific  
712 activities in which the respondent is alleged to have engaged and to enable the Board to determine  
713 whether respondent has engaged in the unauthorized practice of law.

714  
715 The waiver of notice and hearing shall specifically state that the parties waive the right to  
716 notice of and appearance at the formal hearing before the hearing panel.

717  
718 **Section 8. Costs; Civil Penalties.**

719  
720 (A) *Costs.* As used in Section 7(G) of this rule, "costs" includes both of the following:

721  
722 (1) The expenses of relator, as described in Section 9 of this rule, that have been  
723 reimbursed by the Board;

724  
725 (2) The direct expenses incurred by the hearing panel and the Board, including, but not  
726 limited to, the expense of a court reporter and transcript of any hearing before the hearing panel.  
727 "Costs" shall not include attorney's fees incurred by the relator.

728

729 (B) *Civil Penalties.* ~~The Board may recommend and the Supreme Court may impose civil~~  
730 ~~penalties in an amount up to ten thousand dollars per offense. Any penalty shall be based on the~~  
731 ~~following factors:~~

- 732
- 733 (1) ~~The degree of cooperation provided by the respondent in the investigation;~~
  - 734
  - 735 (2) ~~The number of occasions that unauthorized practice of law was committed;~~
  - 736
  - 737 (3) ~~The flagrancy of the violation;~~
  - 738
  - 739 (4) ~~Harm to third parties arising from the offense;~~
  - 740
  - 741 (5) ~~Any other relevant factors.~~
  - 742

743 **~~Section 9. Expenses.~~**

744

745 (A) *Reimbursement of Direct Expenses.* ~~A bar association and the Attorney General~~  
746 ~~may be reimbursed for direct expenses incurred in performing the obligations imposed by this rule.~~  
747 ~~Reimbursement shall be limited to costs for depositions, transcripts, copies of documents,~~  
748 ~~necessary travel expenses for witnesses and volunteer attorneys, witness fees, subpoenas, the~~  
749 ~~service of subpoenas, postal and delivery charges, long distance telephone charges, and~~  
750 ~~compensation of investigators and expert witnesses authorized in advance by the Board. There~~  
751 ~~shall be no reimbursement for the costs of the time of other bar association or Attorney General~~  
752 ~~personnel or attorneys in discharging these obligations.~~

753

754 An application for reimbursement of expenses, together with proof of the expenditures,  
755 shall be filed with the Secretary. Upon approval by the Board, reimbursement shall be made from  
756 the Attorney Services Fund.

757

758 (B) *Annual Reimbursement of Indirect Expenses.* ~~A bar association may apply to the~~  
759 ~~Board prior to the first day of February each year for partial reimbursement of other expenses~~  
760 ~~necessarily and reasonably incurred during the preceding calendar year in performing their~~  
761 ~~obligations under this rule. The Board, by regulation, shall establish criteria for determining~~  
762 ~~whether expenses under this section are necessary and reasonable. The Board shall deny~~  
763 ~~reimbursement for any expense for which a bar association seeks reimbursement on or after the~~  
764 ~~first day of May of the year immediately following the calendar year in which the expense was~~  
765 ~~incurred. Expenses eligible for reimbursement are those specifically related to unauthorized~~  
766 ~~practice of law matters and include the following:~~

- 767
- 768 (1) ~~The personnel costs for the portion of an employee's work that is dedicated to this~~  
769 ~~area;~~
  - 770
  - 771 (2) ~~The costs of bar counsel retained pursuant to a written agreement with the~~  
772 ~~unauthorized practice of law committee;~~
  - 773
  - 774 (3) ~~Postal and delivery charges;~~

- 775  
776 (4) Long distance telephone charges;  
777  
778 (5) Local telephone charges and other appropriate line charges included, but not  
779 limited to, per call charges;  
780  
781 (6) The costs of dedicated telephone lines;  
782  
783 (7) Subscription to professional journals, law books, and other legal research services  
784 and materials related to unauthorized practice of law;  
785  
786 (8) Organizational dues and educational expenses related to unauthorized practice of  
787 law;  
788  
789 (9) All costs of defending a lawsuit relating to unauthorized practice of law and that  
790 portion of professional liability insurance premiums directly attributable to the operation of the  
791 committees in performing their obligations under this rule;  
792  
793 (10) The percentage of rent, insurance premiums not reimbursed pursuant to division  
794 (B)(9) of this section, supplies and equipment, accounting costs, occupancy, utilities, office  
795 expenses, repair and maintenance, and other overhead expenses directly attributable to the  
796 operation of the committees in performing their obligations under this rule, as determined by the  
797 Board and provided that no bar association shall be reimbursed in excess of three thousand five  
798 hundred dollars per calendar year for such expenses. Reimbursement shall not be made for the  
799 costs of the time of other bar association personnel, volunteer attorneys, depreciation, or  
800 amortization. No bar association shall apply for reimbursement or be entitled to reimbursement  
801 for expenses that are reimbursed pursuant to Gov. Bar R. V, Section 7.  
802  
803 (C) *Quarterly Reimbursement of Certain Indirect Expenses.* In addition to applying  
804 annually for reimbursement pursuant to division (B) of this section, a bar association may apply  
805 quarterly to the Board for reimbursement of the expenses set forth in divisions (B)(1) and (2) of  
806 this section that were necessarily and reasonably incurred during the preceding calendar quarter.  
807 Quarterly reimbursement shall be submitted in accordance with the following schedule:  
808

<b>Reimbursement for the months of:</b>	<b>Due by:</b>
January, February, and March	May 1
April, May, and June	August 1
July, August, and September	November 1
October, November, and December	February 1 (with annual reimbursement request)

809  
810 Any expense that is eligible for quarterly reimbursement, but that is not submitted on a quarterly  
811 reimbursement application, shall be submitted no later than the appropriate annual reimbursement  
812 application pursuant to division (B) of this section and shall be denied by the Board if not timely  
813 submitted. The application for quarterly reimbursement shall include an affidavit with

814 ~~documentation demonstrating that the unauthorized practice of law committee incurred the~~  
815 ~~expenses set forth in divisions (B)(1) and (2) of this section.~~

816  
817 ~~(D) *Audit.* Expenses incurred by bar associations and reimbursed under divisions (A),~~  
818 ~~(B), and (C) of this section may be audited at the discretion of the Board or the Supreme Court and~~  
819 ~~paid out of the Attorney Services Fund.~~

820  
821 ~~(E) *Availability of Funds.* Reimbursement under divisions (A), (B), and (C) of this~~  
822 ~~section is subject to the availability of moneys in the Attorney Services Fund.~~

823  
824 **Section 10. Manner of Service.**

825  
826 ~~Whenever provision is made for the service of any complaint, notice, order, or other~~  
827 ~~document upon a respondent or relator in connection with any proceeding under this rule, service~~  
828 ~~may be made upon counsel of record for the party personally or by certified mail.~~

829  
830 ~~If service of any document by certified mail is refused or unclaimed, the Secretary may~~  
831 ~~make service by ordinary mail evidenced by a certificate of mailing. Service shall be considered~~  
832 ~~complete when the fact of mailing is entered in the record, provided that the ordinary mail envelope~~  
833 ~~is not returned by the postal authorities with an endorsement showing failure of delivery.~~

834  
835 **Section 11. Quorum of Board.**

836  
837 ~~A majority of the commissioners shall constitute a quorum for all purposes and the action~~  
838 ~~of a majority of those present comprising such quorum shall be the action of the Board.~~

839  
840 **Section 12. Power to Issue**

841  
842 **(C) Subpoenas.**

843  
844 ~~In order to facilitate any investigation and proceeding under this rule, upon application by~~  
845 ~~Disciplinary Counsel, the unauthorized practice of law committee of any regularly~~  
846 ~~organized bar association, respondent, relator, or the Attorney General, the Secretary, the~~  
847 ~~(1) The Board chair or vice chair, and the hearing panel chair may issue subpoenas and~~  
848 ~~cause testimony to be taken under oath before Disciplinary Counsel disciplinary counsel,~~  
849 ~~the a certified unauthorized practice of law committee of any regularly organized bar~~  
850 ~~association, the Attorney General, a Board hearing panel, or the Board. All subpoenas~~  
851 ~~Each subpoena shall be issued in the name and under the seal of the Supreme Court and~~  
852 ~~shall be signed by the Secretary secretary, the Board chair chairperson or vice chair vice-~~  
853 ~~chairperson, or the hearing panel chair chairperson and served as provided by the Rules of~~  
854 ~~Civil Procedure. Fees and costs of all subpoenas shall be provided from the Attorney~~  
855 ~~Services Fund and taxed as costs.~~

856  
857 ~~(2) The refusal or neglect of a person subpoenaed or called as a witness to obey a~~  
858 ~~subpoena, to attend, to be sworn or to affirm, or to answer any proper question shall be~~  
859 ~~deemed to be contempt of the Supreme Court and may be punished accordingly.~~

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**Section 13.**

**(D) Depositions.**

The Secretary secretary, the Board chair chairperson or vice-chair vice-chairperson, and or the chairperson of the hearing panel chair assigned to a relevant case may order testimony of any person to be taken by deposition within or without this state in the manner prescribed for the taking of depositions in civil actions, and such depositions may be used to the same extent as permitted in civil actions.

**(E) Advisory opinions**

The Board may issue nonbinding advisory opinions to any regularly organized bar association in this state, disciplinary counsel, or the Attorney General in response to prospective or hypothetical questions of public or great general interest regarding the application of this rule and the unauthorized practice of law.

**(F) Regulations**

The Board shall have authority to adopt regulations consistent with this rule. Proposed regulations and amendments to existing regulations shall be published for comment prior to adoption in a manner consistent with rule amendments proposed by the Court, and adopted regulations shall be published in the same manner as rules adopted by the Court. The regulations shall include the following provisions:

- (1) Procedures for identifying certified unauthorized practice of law committees that are not in compliance with the standards set forth in this rule, and for decertifying a certified unauthorized practice of law committee that fails to bring itself into compliance after being notified of noncompliance;
- (2) Guidelines for the processing of unauthorized practice of law cases pending before the Board and panels of the Board;
- (3) Procedures for the issuance of advisory opinions;
- (4) Guidelines for the imposition of civil penalties in unauthorized practice of law cases pending before the Board and panels of the Board.

**Section 14. 3. Certified Unauthorized Practice of Law Committees.**

**(A) Certified unauthorized practice of law committees**

A certified unauthorized practice of law committee shall be an organized committee of the Ohio State Bar Association or of one or more local bar associations in Ohio that permits

906 the membership of any attorney practicing within the geographic area served by that  
907 association without reference to the attorney's area of practice, special interest, or other  
908 criteria. There shall be only one certified unauthorized practice of law committee in each  
909 county. Two or more bar associations may establish a joint certified unauthorized practice  
910 of law committee in accordance with the procedure outlined in division (C) of this section.

911  
912 **(B) Board certification**

913  
914 (1) Upon application by a bar association or bar associations and satisfaction of the  
915 standards set forth in division (D) of this section, the Board may certify an unauthorized  
916 practice of law committee to investigate allegations of the unauthorized practice of law and  
917 initiate and prosecute formal complaints as a result of investigations under the provisions  
918 of this rule.

919  
920 (2) A certified unauthorized practice of law committee shall have authority to  
921 investigate allegations of the unauthorized practice of law filed against a person who  
922 resides or maintains a business in the geographic area served by the committee or where  
923 the misconduct alleged in the allegation occurred within the geographic area served by the  
924 committee.

925  
926 (3) A certified unauthorized practice of law committee shall not have the authority to  
927 investigate allegations of the unauthorized practice of law against persons listed in Section  
928 31(J)(3) of this rule, which shall be filed in accordance with the disciplinary procedure set  
929 forth in Gov. Bar R. V.

930  
931 **(C) Joint committees**

932  
933 (1) A bar association seeking to establish an unauthorized practice of law committee,  
934 or the bar associations seeking to establish a joint unauthorized practice of law committee,  
935 shall file a petition with the Board seeking approval to establish an unauthorized practice  
936 of law committee or joint unauthorized practice of law committee. The petition shall  
937 include all of the following:

938  
939 (a) The name of the bar association or bar associations seeking to form an  
940 unauthorized practice of law committee or joint unauthorized practice of law  
941 committee;

942  
943 (b) The names of the chairperson and other members of the unauthorized  
944 practice of law committee, provided the membership of a joint unauthorized  
945 practice of law committee shall be in proportion to the number of attorneys  
946 employed in the geographic area served by each bar association establishing the  
947 joint committee;

948  
949 (c) The name of the lawyer who will serve as bar counsel to the unauthorized  
950 practice of law committee or joint unauthorized practice of law committee;  
951

952 (d) In the case of a petition to form a joint unauthorized practice of law  
953 committee, a copy of the written agreement between or among the sponsoring bar  
954 associations that establishes and governs the operation of the joint unauthorized  
955 practice of law committee;

956  
957 (e) Any other information the Board considers necessary to evaluate the  
958 petition.

959  
960 (2) Upon receipt of a completed petition, the Board promptly shall determine whether  
961 the proposed unauthorized practice of law committee satisfies the requirements for  
962 establishment of a certified unauthorized practice of law committee and the standards set  
963 forth in division (D) of this section. Upon determination that the unauthorized practice of  
964 law committee satisfies these requirements and standards and upon certification of bar  
965 counsel as required by Section 4 of this rule, the Board shall certify the unauthorized  
966 practice of law committee as eligible to accept and investigate allegations of the  
967 unauthorized practice of law and file and prosecute formal complaints as set forth in this  
968 rule.

969  
970 **(D) Standards for certified unauthorized practice of law committees**

971  
972 (1) To obtain and retain certification, each unauthorized practice of law committee  
973 shall satisfy all of the following standards:

974  
975 (a) *Membership and term limits*

976  
977 (i) Consist of no fewer than five natural persons. A majority of the  
978 members of the certified unauthorized practice of law committee shall  
979 consist of attorneys admitted to the practice of law in Ohio, but at least one  
980 member shall be a natural person who is not admitted to the practice of law  
981 in Ohio or any other state. Not more than twenty percent of the committee  
982 or two members, whichever is less, shall consist of attorneys who practice  
983 in the same firm, as defined in Prof. Cond. R. 1.0, or governmental office.

984  
985 (ii) Each bar association responsible for appointing members to its  
986 certified unauthorized practice of law committee shall adopt and implement  
987 procedures that provide for the appointment of certified unauthorized  
988 practice of law committee members to specific terms of office, with the  
989 length of such terms to be determined by the appointing authority and  
990 subject to the ten-year limitation on consecutive service set forth in division  
991 (D)(1)(a)(ii) of this section. The expiration dates of the initial terms of office  
992 shall be established to ensure that the terms of members expire in different  
993 years.

994  
995 (iii) No member of a certified unauthorized practice of law committee  
996 shall serve on the committee for more than ten consecutive years.

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(b) Meetings

Meet at least twice annually.

(c) Office

Maintain a fulltime, permanent office that is open during regular business hours, has a listed telephone number, monitors and updates a website that permits the filing of allegations of the unauthorized practice of law by the general public, and is staffed by a minimum of one fulltime employee to process allegations received by the certified unauthorized practice of law committee and assist with other work of the certified unauthorized practice of law committee. The employee shall be able to access and refer to the certified unauthorized practice of law committee allegations received through the website. A joint certified unauthorized practice of law committee shall designate a single office within the geographical region served by the joint committee, and the fulltime employee designated to assist the committee may be employed jointly by the bar associations that have established the joint committee.

(d) Bar counsel

Nominate bar counsel, who shall be certified by disciplinary counsel pursuant to and perform the duties set forth in Section 4 of this rule. Bar counsel may be a volunteer or be paid for services related to unauthorized practice of law activities by or through the certified unauthorized practice of law committee.

(e) Files and records

Maintain files and records of proceedings, in paper or electronic format and in accordance with the following schedule:

(i) Records of the proceedings of the certified unauthorized practice of law committee and files related to any matter in which the committee filed a formal complaint shall be retained permanently;

(ii) Files related to any matter in which the committee initiated an investigation shall be retained for ten years;

(iii) Files related to any matter that the committee dismissed without investigation shall be retained for two years.



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(f) Funding

Be sufficiently funded by the sponsoring bar association or associations to perform the duties imposed by these rules.

(g) Written procedures

Establish and file with the Board written procedures for the processing of allegations concerning the unauthorized practice of law. The written procedures shall provide a method for notifying potential complainants that they have the option to file allegations of the unauthorized practice of law with disciplinary counsel, the Ohio State Bar Association, or the Attorney General, rather than with the certified unauthorized practice of law committee.

(h) Quarterly reports

File quarterly reports with the Board on the form and by the same dates specified for the reimbursement of indirect expenses in Section 5(C)(3) of this rule.

(2) A certified unauthorized practice of law committee should encourage each committee member, in the member's first full calendar year of service and each calendar year thereafter, to complete a minimum of one continuing education program or activity in one or more of the following subject-matter areas:

(a) Unauthorized practice of law;

(b) Execution of the responsibilities outlined in this rule for the review and investigation of allegations and the preparation and prosecution of formal complaints concerning the unauthorized practice of law.

**(E) Annual report and biennial recertification**

(1) On or before the first day of March, each certified unauthorized practice of law committee shall file with the Board a report of its activity in the preceding calendar year. The annual report shall be submitted on behalf of the certified unauthorized practice of law committee by the committee chairperson and bar counsel, and shall include all of the following:

(a) A current roster of all members of the certified unauthorized practice of law committee that identifies the committee chairperson, the non-attorney members of the committee, the tenure of each member's service on the committee, and the expiration date of each committee member's term;

1089 (b) Information indicating compliance by bar counsel with the education  
1090 requirements set forth in Section 4(C)(4) of this rule.

1091  
1092 (c) Other information considered necessary by the Board to ascertain the  
1093 certified unauthorized practice of law committee's compliance with the standards  
1094 set forth in division (D) of this section.

1095  
1096 (2) Based on the content of the annual reports for the two preceding years and other  
1097 relevant information that may be available to the Board, the Board, on or before May 1,  
1098 2019, and every two years thereafter, shall do one of the following:

1099  
1100 (a) Recertify the unauthorized practice of law committee;

1101  
1102 (b) Defer recertification and notify the certified unauthorized practice of law  
1103 committee of its noncompliance with specific minimum standards applicable to the  
1104 operation of a certified unauthorized practice of law committee, the steps the  
1105 certified unauthorized practice of law committee is required to take to remedy  
1106 noncompliance, and the time in which the certified unauthorized practice of law  
1107 committee must remedy noncompliance;

1108  
1109 (c) Initiate decertification proceedings pursuant to division (F) of this section.

1110  
1111 **(F) Decertification**

1112  
1113 (1) The Board may decertify a certified unauthorized practice of law committee at the  
1114 request of one or more of its sponsoring local bar associations or sua sponte. If the  
1115 committee fails to adhere to the standards set forth in division (D) and (E) of this section  
1116 and regulations adopted by the Board, if bar counsel fails to comply with the requirements  
1117 set forth in Section 4 of this rule, or if the committee substantially fails to perform the  
1118 obligations set forth in these rules, the secretary may issue to the chairperson of the certified  
1119 unauthorized practice of law committee and president of the sponsoring bar association an  
1120 order to show cause why the unauthorized practice of law committee should not be  
1121 decertified by the Board for the reasons set forth in the order. The Board shall hold a  
1122 hearing before three commissioners, chosen by lot, who do not reside in the same appellate  
1123 district where the certified unauthorized practice of law committee is located. If the panel  
1124 of commissioners recommends decertification, it shall issue findings setting forth all of the  
1125 following:

1126  
1127 (a) The reasons for decertification;

1128  
1129 (b) All of the certified unauthorized practice of law committee's pending  
1130 matters;

1131  
1132 (c) Any special circumstances by reason of which the committee should not be  
1133 required to discharge its remaining responsibilities in any or all pending matters.

1134

1135 (2) The Board shall review the report and findings of the panel recommending  
1136 decertification and, by majority vote, may decertify the committee. In the absence of  
1137 special circumstances, the Board shall not decertify a certified unauthorized practice of law  
1138 committee, either at the request of a sponsoring bar association or *sua sponte*, before the  
1139 committee has discharged to the Board's satisfaction the committee's remaining  
1140 responsibilities in its then-pending matters.

1141  
1142 **(G) Confidentiality; oath of office**

1143  
1144 No employee, bar counsel or member of a certified unauthorized practice of law committee  
1145 shall disclose to any person any non-public proceedings, documents, or deliberations of the  
1146 committee. Prior to taking office, bar counsel and each employee or member of the  
1147 committee shall confirm in writing that he or she will abide by these rules.

1148  
1149  
1150 **Section 4. Bar Counsel**

1151  
1152 **(A) Certification of bar counsel**

1153  
1154 (1) Disciplinary counsel shall certify bar counsel and assistant bar counsel who are  
1155 nominated on or after January 1, 2021. Any bar counsel or assistant bar counsel certified  
1156 or employed prior to January 1, 2021, shall not be subject to recertification but otherwise  
1157 shall comply with the requirements set forth in this section. Disciplinary counsel shall  
1158 promulgate and make available to the certified unauthorized practice of law committees  
1159 the criteria that will be used in certifying bar counsel and assistant bar counsel and a form  
1160 for submitting bar counsel nominations for certification. The criteria for certification shall  
1161 include, but not be limited to, the following:

1162  
1163 (a) Legal experience, including substantive areas of practice and trial  
1164 experience;

1165  
1166 (b) Any experience as a member of a certified unauthorized practice of law  
1167 committee;

1168  
1169 (c) Experience in reviewing and investigating unauthorized practice of law  
1170 allegations or prosecuting formal complaints, or both, including but not limited to  
1171 the approximate number of allegations reviewed and investigated, the number of  
1172 cases presented to hearing panels of the Board, and the number of unauthorized  
1173 practice of law hearings before the Supreme Court;

1174  
1175 (d) References from at least three natural persons in the legal community who  
1176 attest to the applicant's high ethical standards, professionalism, and integrity.

1177  
1178 (2) Upon receipt of the nomination and application materials, disciplinary counsel shall  
1179 promptly make a decision to grant or deny certification and provide notice to the certified  
1180 unauthorized practice of law committee, nominated bar counsel or assistant bar counsel,

1181 and the Board. To facilitate the review of a nomination and application, disciplinary  
1182 counsel may conduct an interview of the nominated bar counsel or assistant bar counsel.

1183  
1184 **(B) Decertification**

1185  
1186 Disciplinary counsel may decertify bar counsel or assistant bar counsel for failing to  
1187 competently and diligently perform the duties set forth in Gov. Bar R. VII, or for other  
1188 good cause shown. Before decertifying bar counsel or assistant bar counsel, disciplinary  
1189 counsel shall provide to bar counsel or assistant bar counsel and the chairperson of the  
1190 certified unauthorized practice of law committee that employs or retains bar counsel or  
1191 assistant bar counsel written notice proposing the decertification of bar counsel or assistant  
1192 bar counsel and shall afford bar counsel or assistant bar counsel a reasonable opportunity  
1193 to respond to the proposed decertification.

1194  
1195 **(C) Duties of bar counsel**

1196  
1197 Bar counsel shall devote the time necessary to performing the duties set forth in this rule,  
1198 including but not limited to the following:

1199  
1200 (1) Supervising the intake and investigation of allegations concerning the  
1201 unauthorized practice of law;

1202  
1203 (2) Serving as the point of contact between the certified unauthorized practice  
1204 of law committee and respondents and respondents' counsel, provided bar counsel  
1205 may delegate this task to staff or volunteer members of the certified unauthorized  
1206 practice of law committee;

1207  
1208 (3) Advising and training certified unauthorized practice of law committee  
1209 members on matters of the unauthorized practice of law;

1210  
1211 (4) Participating in educational activities related to the unauthorized practice of  
1212 law, including the completion, in each biennium, of a minimum of three hours of  
1213 training offered or approved by disciplinary counsel or the Board in the area of  
1214 unauthorized practice of law and the execution of the responsibilities for the review  
1215 and investigation of allegations and the preparation and prosecution of formal  
1216 complaints concerning the unauthorized practice of law;

1217  
1218 (5) Serving as lead counsel of record in each formal complaint filed with the  
1219 Board by the bar counsel's certified unauthorized practice of law committee. For  
1220 purposes of this rule, designation as lead counsel requires bar counsel to participate  
1221 personally and substantially in the post-complaint adjudication process, including,  
1222 but not limited to, participating in prehearing telephone conferences; attending  
1223 discovery depositions; drafting pleadings, stipulations, consent decree agreements,  
1224 and pre-and post-hearing briefs; and attending and litigating the case before the  
1225 hearing panel. Bar Counsel may delegate some aspects of discovery, pleading  
1226 preparation, or hearing preparation or presentation to assistant bar counsel or

1227 volunteer certified unauthorized practice of law committee members, provided all  
1228 of the following requirements are met:

1229  
1230 (a) The attorney to whom responsibilities are delegated is identified as  
1231 counsel in the case;

1232  
1233 (b) Bar counsel directly supervises that attorney;

1234  
1235 (c) Bar counsel remains primarily responsible for litigating the case to  
1236 the hearing panel.

1237  
1238 **(D) Noncompliance**

1239  
1240 Failure of bar counsel to comply with the requirements of this section may be grounds for  
1241 decertifying the bar counsel’s appointing certified unauthorized practice of law committee  
1242 pursuant to Section 3 of this rule.

1243  
1244  
1245 **Section 5. Funding; Reimbursements to Certified Unauthorized Practice of Law**  
1246 **Committees.**

1247  
1248 **(A) Funding and budgets**

1249  
1250 The Supreme Court shall allocate funds for the operation of the Board and disciplinary  
1251 counsel and development and distribution of materials describing the unauthorized practice  
1252 of law process from the Attorney Services Fund.

1253  
1254 **(B) Budget**

1255  
1256 On or before the first day of May each year, the Board shall prepare and submit to the  
1257 administrative director a proposed budget for the fiscal year that begins on the ensuing first  
1258 day of July. The budget shall be in the form prescribed by the administrative director.

1259  
1260 **(C) Reimbursement for expenses**

1261  
1262 The Board may reimburse certified unauthorized practice of law committees for expenses  
1263 incurred by the committees in performing the obligations imposed on them by these rules.  
1264 Any reimbursements authorized by the Board shall be paid from moneys allocated by the  
1265 Court for that purpose from the Attorney Services Fund. Reimbursement is not permitted  
1266 for costs associated with compliance with the standards contained in in Section 5(D) of this  
1267 rule, except for the costs listed in division (C)(2) of this section.

1268  
1269 (1) Reimbursement of direct expenses. A certified unauthorized practice of law  
1270 committee and the Attorney General may be reimbursed for direct expenses  
1271 incurred in performing the obligations imposed by this rule. Reimbursement shall  
1272 be limited to costs for depositions, transcripts, copies of documents, necessary

1273 travel expenses for witnesses and volunteer attorneys, witness fees, subpoenas, the  
1274 service of subpoenas, postal and delivery charges, long distance telephone charges,  
1275 and compensation of investigators and expert witnesses authorized in advance by  
1276 the Board. There shall be no reimbursement for the costs of the time of other bar  
1277 association or Attorney General personnel or attorneys in discharging these  
1278 obligations. Reimbursement shall be made upon submission to the secretary of  
1279 proof of the expenditures. Upon approval by the chairperson, reimbursement shall  
1280 be made from the Attorney Services Fund.

1281  
1282 (2) Annual reimbursement of indirect expenses. A certified unauthorized  
1283 practice of law committee may apply to the Board prior to the first day of February  
1284 each year for partial reimbursement of other expenses necessarily and reasonably  
1285 incurred during the preceding calendar year in performing their obligations under  
1286 this rule. The Board, by regulation, shall establish criteria for determining whether  
1287 expenses under this section are necessary and reasonable. The Board shall deny  
1288 reimbursement for any expense for which a certified unauthorized practice of law  
1289 committee seeks reimbursement on or after the first day of May of the year  
1290 immediately following the calendar year in which the expense was incurred.  
1291 Expenses eligible for reimbursement are those specifically related to unauthorized  
1292 practice of law matters and include the following:

1293  
1294 (a) The personnel costs for the portion of an employee's work that is  
1295 dedicated to this area;

1296  
1297 (b) The costs of bar counsel retained pursuant to a written agreement  
1298 with the certified unauthorized practice of law committee;

1299  
1300 (c) Postal and delivery charges;

1301  
1302 (d) Long distance telephone charges;

1303  
1304 (e) Local telephone charges and other appropriate line charges  
1305 included, but not limited to, per call charges;

1306  
1307 (f) The costs of dedicated telephone lines;

1308  
1309 (g) Subscription to professional journals, law books, and other legal  
1310 research services and materials related to the unauthorized practice of law;

1311  
1312 (h) Organizational dues and educational expenses related to the  
1313 unauthorized practice of law;

1314  
1315 (i) All costs of defending a lawsuit relating to the unauthorized practice  
1316 of law and that portion of professional liability insurance premiums directly  
1317 attributable to the operation of the committees in performing their  
1318 obligations under this rule;

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(j) The percentage of rent, insurance premiums not reimbursed pursuant to division (C)(2)(i) of this section, supplies and equipment, occupancy, utilities, office expenses, repair and maintenance, and other overhead expenses directly attributable to the operation of the committees in performing their obligations under this rule, as determined by the Board and provided that no certified unauthorized practice of law committee shall be reimbursed in excess of three thousand five hundred dollars per calendar year for such expenses. Reimbursement shall not be made for the costs of the time of other bar association personnel, volunteer attorneys, depreciation, amortization, or the cost of compiling and submitting requests for reimbursement of indirect expenses under this division. No certified unauthorized practice of law committee shall apply for reimbursement or be entitled to reimbursement for expenses that are reimbursed pursuant to Gov. Bar R. V, Section 7.

(3) Quarterly reimbursement of certain indirect expenses. In addition to applying annually for reimbursement pursuant to division (C)(2) of this section, a certified unauthorized practice of law committee may apply quarterly to the Board for reimbursement of the expenses set forth in divisions (C)(2)(a) and (b) of this section that were necessarily and reasonably incurred during the preceding calendar quarter. Quarterly reimbursement shall be submitted in accordance with the following schedule:

<b><u>Reimbursement for the months of:</u></b>	<b><u>Due by:</u></b>
<u>January, February, and March</u>	<u>May 1</u>
<u>April, May, and June</u>	<u>August 1</u>
<u>July, August, and September</u>	<u>November 1</u>
<u>October, November, and December</u>	<u>February 1 (with annual reimbursement request)</u>

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Any expense that is eligible for quarterly reimbursement, but that is not submitted on a quarterly reimbursement application, shall be submitted no later than the appropriate annual reimbursement application pursuant to division (C)(2) of this section and shall be denied by the Board if not timely submitted. The application for quarterly reimbursement shall include an affidavit with documentation demonstrating that the certified unauthorized practice of law committee incurred the expenses set forth in divisions (C)(2)(a) and (b) of this section.

**(D) Audit**

Expenses incurred by certified unauthorized practice of law committees and reimbursed

1355 under division (C) of this section may be audited at the discretion of the Board or the Court  
1356 and paid out of the Attorney Services Fund.

1357  
1358 **(E) Availability of funds**

1359  
1360 Reimbursement under division (C) of this section is subject to the availability of moneys  
1361 in the Attorney Services Fund.

1362  
1363 **(F) Deferral or denial of reimbursements**

1364  
1365 The Board may defer or deny an indirect reimbursement requested by a certified  
1366 unauthorized practice of law committee based on the committee's failure to satisfy the  
1367 standards of Section 3(D) and (E) of this rule or bar counsel's noncompliance with Section  
1368 4(C) of this rule.

1369  
1370  
1371 **Section 6. Public Access to Unauthorized Practice of Law Documents and Proceedings.**

1372  
1373 **(A) Proceedings prior to filing of formal complaint**

1374  
1375 (1) Prior to the filing of a formal complaint with the Board, all proceedings, documents,  
1376 and deliberations relating to review, investigation, and consideration of allegations of the  
1377 unauthorized practice of law by a certified unauthorized practice of law committee,  
1378 disciplinary counsel, or the Attorney General shall be confidential except as follows:

1379  
1380 (a) Where the respondent expressly and voluntarily waives confidentiality of  
1381 the proceedings. A waiver of confidentiality does not entitle the respondent or any  
1382 other person access to documents or deliberations expressly designated as  
1383 confidential under this section.

1384  
1385 (b) Where, in the course of an investigation by a certified unauthorized practice  
1386 of law committee, disciplinary counsel, or the Attorney General, it is found that a  
1387 person involved in the investigation may have violated federal or state criminal  
1388 statutes, the entity conducting the investigation shall notify the appropriate law  
1389 enforcement agency, prosecutorial authority, or regulatory agency of the alleged  
1390 criminal violation and may provide the agency or authority with information  
1391 concerning the criminal violation.

1392  
1393 (2) A certified unauthorized practice of law committee, disciplinary counsel, or the  
1394 Attorney General may share information with each other or with the unauthorized practice  
1395 of law authority of another state or federal jurisdiction regarding the review, investigation  
1396 and consideration of unauthorized practice of law allegations.

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1401 **(B) Proceedings before the Board**

1402  
1403 From the time a formal complaint has been filed with the Board, the complaint and all  
1404 subsequent proceedings conducted and documents filed in connection with the complaint  
1405 shall be public except as follows:

1406  
1407 (1) Deliberations by a hearing panel of the Board and the Board shall be  
1408 confidential.

1409  
1410 (2) The report and recommendations of a hearing panel of the Board shall be  
1411 confidential until the report of the full Board is filed with the Court. If the case is  
1412 dismissed either by the hearing panel or the Board pursuant to Section 12(D) or (H)  
1413 of this rule, any report of the hearing panel shall be public upon the filing of an  
1414 order of dismissal. The report and recommendation of the Board shall be  
1415 confidential until the report is filed with the Court.

1416  
1417 (3) The summary of investigation prepared by the relator shall be confidential  
1418 as work product of the relator. All other investigatory materials and any  
1419 attachments prepared in connection with an investigation conducted pursuant to  
1420 Section 7 of this rule shall be discoverable as provided in the Ohio Rules of Civil  
1421 Procedure.

1422  
1423 **(C) Restricted access to case documents**

1424  
1425 A party to a matter pending before the Board may file a motion requesting that the Board  
1426 restrict public access to all or a portion of a document filed with the Board. Additionally,  
1427 the chairperson of a hearing panel may request that the Board restrict public access to all  
1428 or a portion of a document filed with the Board. In considering the motion or request, the  
1429 Board chairperson shall apply the standards set forth in Sup. R. 45(E). If the Board  
1430 chairperson finds that public access to a document should be restricted, the order shall  
1431 direct the use of the least restrictive means available, including but not limited to redaction  
1432 of the information rather than limiting access to the entire document.

1433  
1434 **(D) Personal identifiers**

1435  
1436 A party to a matter pending before the Board shall be responsible for omitting personal  
1437 identifiers from a case document filed with the Board, consistent with Sup. R. 45(D). As  
1438 used in this rule, “personal identifiers” and “case document” shall have the same meaning  
1439 as in Sup. R. 44.

1440  
1441 **(E) Response to allegations**

1442  
1443 Notwithstanding the other provisions of this rule, the respondent’s reply to allegations of  
1444 the unauthorized practice of law, made during the course of an investigation by a certified  
1445 unauthorized practice of law committee, disciplinary counsel or the Attorney General, shall  
1446 be furnished to the complainant without waiving any other right to confidentiality provided

1447 by this rule. If the respondent specifically requests, in writing, to the certified unauthorized  
1448 practice of law committee, disciplinary counsel or the Attorney General that the reply not  
1449 be furnished to the complainant, the certified unauthorized practice of law committee,  
1450 disciplinary counsel or the Attorney General shall not furnish the reply to the complainant.  
1451 Release to the complainant of the respondent's reply is, nevertheless, encouraged and  
1452 consistent with the liberal construction of this rule for the protection of the public.

1453  
1454 **(F) Administrative and financial records**

1455  
1456 Except as otherwise provided in this section or in rules adopted by the Court, documents  
1457 and records pertaining to the administration and finances of the Board, including budgets,  
1458 reports, and records of income and expenditures, shall be made available, upon request,  
1459 as provided in Sup. R. 45.

1460  
1461  
1462 **Section 7. Filing and Investigation of Unauthorized Practice of Law Allegations**

1463  
1464 **(A) Referral by secretary**

1465  
1466 The secretary may refer to the appropriate certified unauthorized practice of law  
1467 committee, disciplinary counsel, or the Attorney General any matters coming to the  
1468 attention of the Board or secretary for investigation as provided in this rule.

1469  
1470 **(B) Referral by certified unauthorized practice of law committee**

1471  
1472 If a certified unauthorized practice of law committee determines in the course of its  
1473 investigation that the allegations of the unauthorized practice of law under investigation  
1474 are sufficiently serious and complex as to require the assistance of disciplinary counsel or  
1475 the Attorney General, the chairperson of the certified unauthorized practice of law  
1476 committee may direct a written request for assistance to Disciplinary Counsel or the  
1477 Attorney General. Disciplinary counsel or the Attorney General shall review and may  
1478 investigate all matters contained in the request and report the results of the investigation to  
1479 the committee that requested it.

1480  
1481 **(C) Power and duty to investigate; dismissal without investigation**

1482  
1483 (1) A certified unauthorized practice of law committee, disciplinary counsel or the  
1484 Attorney General shall review and may investigate any matter referred to it or that comes  
1485 to its attention and may file a formal complaint pursuant to this rule. No investigation shall  
1486 be completed, and no complaint shall be filed with the Board, without first giving the  
1487 subject of the allegations or investigation notice of each allegation and the opportunity to  
1488 respond to each allegation. The certified unauthorized practice of law committee,  
1489 disciplinary counsel or the Attorney General shall provide the person alleged to have  
1490 engaged in the unauthorized practice of law with a minimum of fourteen days to respond  
1491 to the allegations.

1492

1493 (2) Allegations of the unauthorized practice of law may be dismissed without  
1494 investigation if the allegations and supporting material do not allege facts that, if  
1495 substantiated, would constitute the unauthorized practice of law. A certified unauthorized  
1496 practice of law committee shall not dismiss allegations of the unauthorized practice of law  
1497 without investigation unless bar counsel has first reviewed the allegations.  
1498

1499 **(D) Time for investigation**  
1500

1501 (1) The investigation of allegations by a certified unauthorized practice of law  
1502 committee, disciplinary counsel or the Attorney General shall be concluded within two  
1503 hundred seventy days from the date of the receipt of the allegations. A decision as to the  
1504 disposition of the allegations shall be made within thirty days after conclusion of the  
1505 investigation.  
1506

1507 (2) Upon written request of disciplinary counsel or a certified unauthorized practice of  
1508 law committee the secretary may extend the time to complete an investigation beyond two  
1509 hundred seventy days in the event of pending litigation, appeals, unusually complex  
1510 investigations, including the investigation of multiple allegations, time delays in obtaining  
1511 evidence or testimony of witnesses, or for other good cause shown. If an investigation is  
1512 not completed within two hundred seventy days from the date of filing of the allegations  
1513 or a good cause extension of that time, the secretary may refer the matter either to a  
1514 geographically appropriate certified unauthorized practice of law committee or disciplinary  
1515 counsel.  
1516

1517 (4) Time Limits not Jurisdictional. Time limits set forth in this rule are not  
1518 jurisdictional. No investigation or complaint shall be dismissed unless it appears that there  
1519 has been an unreasonable delay and that the rights of the respondent to have a fair hearing  
1520 have been violated. Investigations that extend beyond one year from the date of filing are  
1521 prima facie evidence of unreasonable delay.  
1522

1523 **(E) Retaining outside experts**  
1524

1525 If a particular investigation may benefit from the services of an independent investigator,  
1526 auditor, examiner, assessor, or other expert, a certified unauthorized practice of law  
1527 committee may submit a written request to the secretary for permission to retain the  
1528 services of the outside expert. The written request shall include a general statement of the  
1529 purpose for which the request is being made and an estimate of the fees and costs expected  
1530 to be incurred. The outside expert may be retained upon receipt of written approval of the  
1531 secretary.  
1532

1533 **(F) Duty to cooperate**  
1534

1535 (1) The Board, disciplinary counsel, the Attorney General, and the president, secretary,  
1536 or chairperson of a certified unauthorized practice of law committee may call upon an  
1537 attorney or judicial officer in Ohio to assist in any investigation or to testify in any hearing  
1538 before the Board as to any matter as to which he or she would not be bound to claim

1539 privilege as an attorney. No attorney or judicial officer shall neglect or refuse to assist in  
1540 any investigation or to testify.

1541  
1542 (2) The failure or refusal of the subject of the allegations of the unauthorized practice  
1543 of law to cooperate with an investigation initiated under Section 7(C)(1) of this rule shall  
1544 create a rebuttable presumption of the unauthorized practice of law and constitute probable  
1545 cause for the filing of a complaint thereunder. No complaint shall be filed with the Board  
1546 unless the investigating authority has first warned the subject of the allegations of the  
1547 consequences of failure or refusal to cooperate and given the subject of the allegations the  
1548 time specified in Section 7(C)(1) to cooperate.

1549  
1550 **(G) Referral of procedural questions to Board**

1551  
1552 In the course of an investigation, the chairperson of a certified unauthorized practice of law  
1553 committee, the Attorney General, bar counsel, or disciplinary counsel may direct a written  
1554 inquiry regarding a procedural question to the secretary. Upon receipt of a written inquiry,  
1555 the secretary shall consult with the chairperson of the Board and respond to the inquiry.

1556  
1557  
1558 **Section 8. Probable Cause Determinations; Appeals.**

1559  
1560 **(A) Probable cause determination**

1561  
1562 The certified unauthorized practice of law committee, disciplinary counsel or the Attorney  
1563 General shall, upon the receipt of allegations of the unauthorized practice of law and  
1564 completion of any necessary investigation of those allegations, make a determination of  
1565 whether probable cause exists for the filing of a complaint. The certified unauthorized  
1566 practice of law committee, disciplinary counsel or the Attorney General shall, upon  
1567 completion of its determination, file a complaint with the Board or take no further action.

1568  
1569 **(B) Waiver of probable cause**

1570  
1571 If the subject of allegations of the unauthorized practice of law has expressly waived, in  
1572 writing, his, her or its right to a determination of probable cause by the certified  
1573 unauthorized practice of law committee, disciplinary counsel or the Attorney General  
1574 receiving the allegations of the unauthorized practice of law, said certified unauthorized  
1575 practice of law committee, disciplinary counsel or the Attorney General shall immediately  
1576 file a complaint with the Board and send a copy of the complaint by certified mail to the  
1577 respondent.

1578  
1579 **(C) Retention and destruction of probable cause materials**

1580  
1581 The certified unauthorized practice of law committee, disciplinary counsel or the Attorney  
1582 General receiving the allegations of the unauthorized practice of law shall retain the  
1583 allegations and all documents and investigatory materials in accordance with the retention  
1584 standards found in Section 3(D)(1)(f) of this rule.

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**(D) Majority vote required**

No complaint shall be filed by a certified unauthorized practice of law committee with the Board unless a majority of a quorum of that committee determines, after the probable cause review has been completed, that the complaint is warranted.

**(E) Notice of intent not to file**

If, after the probable cause review has been completed, the certified unauthorized practice of law committee, disciplinary counsel or the Attorney General determines that the filing of a complaint with the Board is not warranted, the complainant and the subject of allegations of the unauthorized practice of law shall be notified in writing of that determination, with a statement of the reasons that a complaint was not filed with the Board. This written notice shall advise the complainant of their right to have the determination reviewed pursuant to division (F) of this section and the steps to obtain such review. Upon request, the certified unauthorized practice of law committee, disciplinary counsel or the Attorney General shall provide the subject of allegations of the unauthorized practice of law with a copy of the allegations.

**(F) Appeal**

A complainant who is dissatisfied with a determination by a certified unauthorized practice of law committee, disciplinary counsel or the Attorney General to not file a complaint may secure a review of the determination by filing a written request with the secretary within fourteen days after the complainant is notified of the determination. The secretary shall refer the request for review to disciplinary counsel or, in the case of a conflict, to another certified unauthorized practice of law committee or to the Attorney General. The review shall be considered promptly by disciplinary counsel, the certified unauthorized practice of law committee or the Attorney General, a decision made within thirty days, and the complainant notified. The standard of review for an appeal shall be abuse of discretion or error of law. Extensions of time for completion of the review may be granted by the secretary, upon written request and for good cause shown. No further review or appeal by a complainant is authorized. If the original determination is not affirmed, any further proceedings shall be handled by disciplinary counsel, the certified unauthorized practice of law committee or the Attorney General conducting the review.

**Section 9. Requirements for Filing a Complaint.**

**(A) Notice of intent to file**

No complaint shall be filed with the Board without first giving the subject of the allegations or investigation written notice by certified mail of the intent of disciplinary counsel, certified unauthorized practice of law committee or the Attorney General to file the complaint and fourteen days to respond to the notice. The notice of intent shall include a

1631 copy of the proposed complaint setting forth each allegation of the unauthorized practice  
1632 of law.

1633  
1634 **(B) Content of the complaint**  
1635

1636 (1) A complaint filed with the Board shall be a formal written complaint alleging the  
1637 unauthorized practice of law by one who shall be designated as the respondent. The  
1638 original complaint shall be filed in the office of the secretary. It shall be filed in the name  
1639 of either the bar association that sponsors the certified unauthorized practice of law  
1640 committee, disciplinary counsel or the Attorney General, as relator. The complaint shall  
1641 include all of the following:

1642  
1643 (a) Allegations of specific instances of the unauthorized practice of law;

1644  
1645 (b) A list of any penalties previously imposed against the respondent for the  
1646 unauthorized practice of law and the nature of the prior matter;

1647  
1648 (c) The respondent's last known address;

1649  
1650 (d) The signatures of one or more attorneys admitted to the practice of law in  
1651 Ohio, who shall be counsel for the relator and, where applicable, by bar counsel;

1652  
1653 (e) Whether or not the relator is aware that an underlying complainant or  
1654 individual is seeking a private remedy pursuant to R.C. 4705.07(C)(2).

1655  
1656 (2) The complaint shall not include any documents, exhibits, or other attachments  
1657 unless specifically required by Civ. R. 10.

1658  
1659 **(C) Relator certificate requirement**  
1660

1661 (1) The complaint shall be accompanied by a written certification, signed by the  
1662 president, secretary or chairperson of the certified unauthorized practice of law committee,  
1663 disciplinary counsel, or the Attorney General, who shall be the relator, that, after  
1664 investigation, relator believes probable cause exists to warrant a hearing on the complaint  
1665 and that counsel have accepted the responsibility of prosecuting the complaint to  
1666 conclusion. The certification shall constitute the authorization of the counsel to represent  
1667 the relator in the action as fully and completely as if designated and appointed by order of  
1668 the Court with all the privileges and immunities of an officer of the Court. The Attorney  
1669 General may serve as co-relator with any regularly organized bar association or  
1670 Disciplinary Counsel.

1671  
1672 (2) Concurrently with the filing of a complaint alleging the unauthorized practice of  
1673 law, relator shall also file an original certificate from the Court, Office of Attorney  
1674 Services, certifying that the respondent is not admitted to the practice of law in the State of  
1675 Ohio, and serve a copy thereof upon all respondents, counsel of record, and the secretary.  
1676

1677 **(D) Forwarding of complaint**

1678  
1679 Upon the filing of a complaint, the relator shall forward a copy of the complaint to  
1680 disciplinary counsel, the certified unauthorized practice of law committees of the Ohio  
1681 State Bar Association, and any local bar association serving the county or counties from  
1682 which the complaint emanated, except that the relator need not forward a copy of the  
1683 complaint to itself.

1684  
1685  
1686 **Section 10. Interim Cease and Desist Order.**

1687  
1688 **(A) Standard of review**

1689  
1690 (1) Upon receipt of substantial, credible evidence demonstrating that an individual or  
1691 entity has engaged in the unauthorized practice of law and poses a substantial threat of  
1692 serious harm to the public, or upon the failure to cooperate with an investigation initiated  
1693 under Section 7(C)(1) of this rule, the relator shall do both of the following:

1694  
1695 (a) Prior to filing a motion for an interim cease and desist order, make a  
1696 reasonable attempt to provide the respondent with notice, which may include notice  
1697 by telephone, that a motion requesting an interim order that the respondent cease  
1698 and desist engaging in the unauthorized practice of law will be filed with the  
1699 Supreme Court and the Board.

1700  
1701 (b) File a motion with the Court requesting that the Court order respondent to  
1702 immediately cease and desist engaging in the unauthorized practice of law. The  
1703 relator shall include, in its motion, proposed findings of fact, proposed conclusions  
1704 of law, and other information in support of the requested order. Evidence relevant  
1705 to the requested order shall be attached to or filed with the motion. The motion  
1706 shall include a certificate detailing the attempts made by relator to provide advance  
1707 notice to the respondent of relator's intent to file the motion. The motion also shall  
1708 include a certificate of service on the respondent at the most recent address of the  
1709 respondent known to the relator.

1710  
1711 (2) After the filing of a motion for an interim cease and desist order, the respondent  
1712 may file a memorandum opposing the motion in accordance with S.Ct.Prac.R. 4.01. The  
1713 respondent shall attach or file with the memorandum any rebuttal evidence and  
1714 simultaneously file a copy with the Board. If a memorandum in opposition to the motion  
1715 is not filed, the Court shall rule on the motion pursuant to division (B) of this section.

1716  
1717 **(B) Order of the Court**

1718  
1719 Upon consideration of the motion required by division (A) of this section and any  
1720 memorandum in opposition filed, the Court may enter an order that the respondent cease  
1721 and desist engaging in the unauthorized practice of law, pending final disposition of  
1722 proceedings before the Board, predicated on the conduct posing a substantial threat of

1723 serious harm to the public, or may order other action as the Court considers appropriate.

1724  
1725 **(C) Rescission or modification of the order of the Court**

1726  
1727 (1) The respondent may request rescission or modification of the cease and desist order  
1728 by filing a motion with the Court. The motion shall be filed within thirty days of entry of  
1729 the cease and desist order, unless the respondent first obtains leave of the Court to file a  
1730 motion beyond that time. The motion shall include a statement and all available evidence  
1731 as to why the respondent no longer poses a substantial threat of serious harm to the public.  
1732 A copy of the motion shall be served by the respondent on the relator. The relator shall  
1733 have ten days from the date the motion is filed to file a response to the motion. The Court  
1734 shall promptly review the motion after a response has been filed or after the time for filing  
1735 a response has passed.

1736  
1737 (2) In addition to the motion allowed by division (C)(1) of this section, the respondent  
1738 may file a motion requesting rescission of the interim cease and desist order, alleging that  
1739 one hundred eighty days have elapsed since the entry of the order and the relator has failed  
1740 to file with the Board a formal complaint predicated on the conduct that was the basis of  
1741 the order. A copy of the motion shall be served by the respondent on the relator. The  
1742 relator shall have ten days from the date the motion is filed to file a response to the motion.  
1743 The Court shall promptly review the motion after a response has been filed or after the time  
1744 for filing a response has passed.

1745  
1746 **(D) Rules of Practice**

1747  
1748 The Rules of Practice of the Supreme Court of Ohio shall apply to interim cease and desist  
1749 proceedings filed pursuant to this section.

1750  
1751 **(E) Certified copies**

1752  
1753 Upon the entry of an interim cease and desist order or an entry of rescission or modification  
1754 of such order, the Clerk of the Court shall mail certified copies of the order as provided in  
1755 Section 17(E) of this rule.

1756  
1757  
1758 **Section 11. Duty of the Board Upon Filing of the Complaint; Notice to Respondent.**

1759  
1760 The secretary shall send a copy of the complaint by certified mail to respondent at the  
1761 address indicated on the complaint with a notice of the right to file, within twenty days  
1762 after the mailing of the notice, an answer and to serve a copy of the answer upon counsel  
1763 of record named in the complaint. Extensions of time may be granted, for good cause  
1764 shown, by the secretary.

1765  
1766  
1767  
1768



1769 **Section 12. Proceedings of the Board After Filing of the Complaint.**

1770  
1771 **(A) Hearing Panel**

1772  
1773 (1) Appointment

1774  
1775 (a) After respondent's answer has been filed, or the time for filing an answer  
1776 has elapsed, the secretary shall appoint a hearing panel consisting of three  
1777 commissioners chosen by lot. At least two members of the hearing panel shall be  
1778 attorney commissioners. The secretary shall designate one of the attorney  
1779 commissioners as chairperson of the panel. The secretary shall serve a copy of the  
1780 entry appointing the panel on the respondent, relator, and all counsel of record.

1781  
1782 (b) In the event that an insufficient number of commissioners are able, for any  
1783 reason, to serve on a hearing panel, the secretary shall have the authority, with the  
1784 approval of the Board chairperson, to appoint one or more former commissioners  
1785 of the Board to the hearing panel.

1786  
1787 (2) Initial procedures

1788  
1789 A majority of the panel shall constitute a quorum. The panel chairperson shall rule  
1790 on all motions and interlocutory matters. The panel chairperson shall have a  
1791 transcript of the testimony taken at the hearing, and the cost of the transcript shall  
1792 be paid from the Attorney Services Fund and taxed as costs.

1793  
1794 (3) Hearing

1795  
1796 Upon reasonable notice and at a time and location set by the panel chairperson, the  
1797 panel shall hold a formal hearing. Requests for continuances may be granted by  
1798 the panel chairperson for good cause. The panel may take and hear testimony in  
1799 person or by deposition, administer oaths, and compel by subpoena the attendance  
1800 of witnesses and the production of books, papers, documents, records, and  
1801 materials.

1802  
1803 **(B) Motion for default**

1804  
1805 If no answer has been filed within twenty days of the answer date set forth in the notice to  
1806 respondent of the filing of the complaint, or any extension of the answer date, relator shall  
1807 file a motion for default. Prior to filing, relator shall make reasonable efforts to contact  
1808 respondent. A motion for default shall contain at least all of the following:

1809  
1810 (1) A statement of the effort made to contact respondent and the result;

1811  
1812 (2) Sworn or certified documentary prima facie evidence in support of the  
1813 allegations of the complaint;

1814

- 1815 (3) Citations of any authorities relied upon by relator;  
1816  
1817 (4) A statement of any mitigating factors or exculpatory evidence of which  
1818 relator is aware;  
1819  
1820 (5) A statement of the relief sought by relator;  
1821  
1822 (6) A certificate of service of the motion on respondent at the address stated on  
1823 the complaint and at the last known address, if different. The hearing panel  
1824 appointed pursuant to division (A) of this section shall rule on the motion for  
1825 default. If the motion for default is granted by the panel, the panel shall prepare a  
1826 report for review by the Board pursuant to division (H) of this section. If the motion  
1827 is denied, the hearing panel shall proceed with a formal hearing pursuant to division  
1828 (A) of this section. The Board chairperson or vice-chairperson may set aside a  
1829 default entry, for good cause shown, and order a hearing before the hearing panel  
1830 at any time before the Board renders its decision pursuant to division (G) of this  
1831 section.  
1832

1833 **(C) Conduct of Hearing, hearing**  
1834

1835 The hearing panel shall follow the Rules of Civil Procedure and Rules of Evidence  
1836 wherever practicable, unless a provision of this rule or Board hearing procedures and  
1837 guidelines provide otherwise. The panel ~~chair~~ chairperson shall rule on evidentiary  
1838 matters. All evidence shall be taken in the presence of the hearing panel and the parties  
1839 except where a party is absent, is in default, or has waived the right to be present. The  
1840 hearing panel shall receive evidence by sworn testimony and may receive additional  
1841 evidence as it determines proper. Any documentary evidence to be offered shall be served  
1842 upon the adverse parties or their counsel and the hearing panel at least thirty days before  
1843 the hearing, unless the parties or their counsel otherwise agree or the hearing panel  
1844 otherwise orders. All evidence received shall be given the weight the hearing panel  
1845 determines it is entitled after consideration of objections.  
1846

1847 **(D) Authority of hearing panel; dismissal**  
1848

1849 If at the end of evidence presented by relator or of all evidence, the hearing panel  
1850 unanimously finds that the evidence is insufficient to support a charge or count of the  
1851 unauthorized practice of law, or the parties agree that the charge or count should be  
1852 dismissed, the panel chairperson may order that the complaint or count be dismissed. The  
1853 panel chairperson shall give written notice of the action taken to the Board, the respondent,  
1854 the relator, all counsel of record, disciplinary counsel, the Attorney General, and all  
1855 certified unauthorized practice of law.  
1856

1857 **(E) Hearing on stipulated facts**  
1858

1859 (1) A stipulation of facts and waiver of notice and hearing, mutually agreed and  
1860 executed by relator and respondent, or counsel, may be filed with the Board prior to the

1861 date set for formal hearing. If a stipulation and waiver are filed, the parties are not required  
1862 to appear before the hearing panel for a formal hearing, and the hearing panel shall render  
1863 its decision based upon the pleadings, stipulation, and other evidence admitted.

1864  
1865 (2) The stipulation of facts must contain sufficient information to demonstrate the  
1866 specific activities in which the respondent is alleged to have engaged and to enable the  
1867 Board to determine whether respondent has engaged in the unauthorized practice of law.

1868  
1869 (3) The waiver of notice and hearing shall specifically state that the parties waive the  
1870 right to notice of and appearance at the formal hearing before the hearing panel.

1871  
1872 **(F) Referral by the panel**

1873  
1874 If the hearing panel is not unanimous in its finding that the evidence is insufficient to  
1875 support a charge or count of the unauthorized practice of law, the panel may refer its  
1876 findings of fact and recommendations for dismissal to the Board for review and action by  
1877 the full Board. The panel shall submit to the Board its findings of fact and recommendation  
1878 of dismissal in the same manner as provided in this rule with respect to a finding of the  
1879 unauthorized practice of law pursuant to division (G) of this section.

1880  
1881 **(G) Finding of unauthorized practice of law; duty of hearing panel**

1882  
1883 If the hearing panel determines, by a preponderance of the evidence, that respondent has  
1884 engaged in the unauthorized practice of law, the hearing panel shall file its report of the  
1885 proceedings, findings of facts and recommendations with the secretary for review by the  
1886 Board. The report shall include the transcript of testimony taken and an itemized statement  
1887 of the actual and necessary expenses incurred in connection with the proceedings.

1888  
1889 **(H) Review by entire Board**

1890  
1891 The Board shall review all reports submitted by hearing panels. After review, the Board  
1892 may remand the matter to the hearing panel for further hearings, dismiss the complaint or  
1893 find that the respondent has engaged in the unauthorized practice of law. If the complaint  
1894 is dismissed, the dismissal shall be reported to the secretary, who shall notify the same  
1895 persons and organizations that would have received notice if the complaint had been  
1896 dismissed by the hearing panel.

1897  
1898 **(I) Finding of unauthorized practice of law; duty of Board**

1899  
1900 If the Board determines, by a preponderance of the evidence, that the respondent has  
1901 engaged in the unauthorized practice of law, the Board shall file the original final report  
1902 with the Clerk of the Supreme Court. The final report shall include the Board's findings,  
1903 recommendations, a transcript of testimony, if any, an itemized statement of costs,  
1904 recommendation for civil penalties, if any, and a certificate of service listing the names and  
1905 addresses of all parties and counsel of record. The secretary shall serve a copy of the final  
1906 report upon all parties and counsel of record, and a copy of the final report, less any

1907 transcript and statement of costs, upon disciplinary counsel, the Attorney General, and all  
1908 certified unauthorized practice of law committees.

1909  
1910

1911 **Section 13. Settlement of Complaints; Consent Decree Agreements.**

1912  
1913

**(A) Resolution procedure**

1914  
1915

The proposed resolution of a complaint filed pursuant to Section 10 of this rule, prior to  
1916 adjudication by the Board, shall not be permitted without the prior review of the Board and  
1917 the Supreme Court. Parties contemplating the proposed resolution of a complaint shall file  
1918 a motion to approve a proposed consent decree agreement with the secretary which shall  
1919 be forwarded to the hearing panel. If the hearing panel, by majority vote, recommends  
1920 acceptance of the agreement and concurs in the agreed recommended civil penalty, if any,  
1921 the matter shall be submitted to the Board for consideration.

1922  
1923

(1) The motion shall be accompanied by a proposed consent decree agreement  
1924 that is signed by the respondent, respondent's counsel, if the respondent is  
1925 represented by counsel, and the relator that shall contain the following:

1926  
1927

(a) A stipulation of facts and waiver of notice and hearing;

1928  
1929

(b) An explanation of how the proposed consent decree agreement  
1930 complies with the applicable factors set forth in division (B) of this section;

1931  
1932

(c) A recommendation concerning civil penalties based upon the factors  
1933 set forth in Section 15(B) of this rule and Regulation 400(F) of the  
1934 Regulations Governing Procedure on Complaints and Hearings Before the  
1935 Board on the Unauthorized Practice of Law; and

1936  
1937

(d) An itemized statement of relator's costs or a statement that no costs  
1938 have been incurred.

1939  
1940

(2) The motion may be accompanied by a brief filed by either party, or jointly  
1941 filed by both parties, in support of the agreement.

1942  
1943

(3) The panel chairperson may order the parties to supplement the agreement  
1944 with additional information or exhibits to facilitate the hearing panel's  
1945 consideration of the agreement.

1946  
1947

**(B) Consent decree agreement requirements**

1948  
1949

A proposed consent decree agreement shall be considered and approved by the hearing  
1950 panel, the Board and the Court based on the following factors:

1951  
1952

(1) The extent the proposed consent decree agreement:

- 1953  
1954 (a) Protects the public from future harm and remedies any substantial  
1955 injury;  
1956  
1957 (b) Resolves material allegations of the unauthorized practice of law;  
1958  
1959 (c) Contains an admission by the respondent to the conduct which gave  
1960 rise to the complaint;  
1961  
1962 (d) Contains an admission that the conduct constitutes the unauthorized  
1963 practice of law;  
1964  
1965 (e) Contains an agreement by the respondent to cease and desist the  
1966 alleged activities;  
1967  
1968 (f) Furtheres the stated purposes of this rule;  
1969  
1970 (g) Designates whether civil penalties are to be imposed in accordance  
1971 with Section 16 of this rule;  
1972  
1973 (h) Assigns the party responsible for costs, if any.  
1974  
1975 (2) Any other relevant factors.  
1976

1977 **(C) Review by the Board**  
1978

1979 Upon receipt of a proposed consent decree agreement, the assigned hearing panel shall  
1980 prepare and file a written report to the Board setting forth its recommendation for the  
1981 acceptance or rejection of the proposed resolution. The Board shall vote to accept or reject  
1982 the proposed consent decree agreement. Upon a majority vote to accept a consent decree  
1983 agreement, the Board shall prepare and file a final report with the Supreme Court in  
1984 accordance with division (D)(1) of this section.  
1985

1986 **(D) Review by the Court**  
1987

1988 (1) After approving a proposed consent decree agreement, the Board shall file an  
1989 original final report and the proposed consent decree agreement with the Clerk of the  
1990 Supreme Court. A copy of the report shall be served upon all parties and counsel of record.  
1991 Neither party shall be permitted to file an objection to the final report.  
1992

1993 (2) A consent decree agreement may be approved or rejected by the Supreme Court. If  
1994 a consent decree agreement is approved, the Court shall issue a consent decree.  
1995

1996 **(E) Rejection of a proposed consent decree agreement**  
1997

1998 (1) A complaint will proceed on the merits pursuant to this rule if a proposed consent

1999 decree agreement is rejected by either the Board or the Supreme Court. Upon rejection by  
2000 the Board, an order shall be issued rejecting the proposed consent decree agreement and  
2001 remanding the matter to the hearing panel for further proceedings. Upon rejection by the  
2002 Supreme Court, an order shall be issued remanding the matter to the Board with  
2003 instructions.

2004  
2005 (2) A rejected proposed consent decree agreement shall not be admissible or otherwise  
2006 used in a subsequent proceeding before the Board.

2007  
2008 (3) No objections or other appeal may be filed with the Supreme Court upon a rejection  
2009 by the Board of a proposed consent decree agreement.

2010  
2011 **(F) Consultation on terms of proposed consent decree agreement**

2012  
2013 The parties may consult with secretary or with the chairperson of the hearing panel  
2014 concerning the terms of a proposed consent decree agreement.

2015  
2016 **(G) Recording of consent decree agreement**

2017 All consent decree agreements approved by the Supreme Court shall be recorded for  
2018 reference by the Board, certified unauthorized practice of law committees, disciplinary  
2019 counsel and the Attorney General.

2020  
2021 **(H) Application**

2022  
2023 This section shall not apply to the resolution of matters considered by a certified  
2024 unauthorized practice of law committee, disciplinary counsel, or the Attorney General  
2025 before a complaint is filed pursuant to Section 11 of this rule.

2026  
2027  
2028 **Section 14. Costs; Civil Penalties.**

2029  
2030 **(A) Costs**

2031  
2032 (1) As used in Section 15 of this rule, "costs" includes all of the following:

2033  
2034 (a) The expenses of relator, as described in Section 6 of this rule, that have been  
2035 reimbursed by the Board;

2036  
2037 (b) The direct expenses incurred by the hearing panel and the Board, including,  
2038 but not limited to, the expense of a court reporter and transcript of any hearing  
2039 before the hearing panel.

2040  
2041 (c) Publication fees incurred in compliance with Section 19(G) of this rule.

2042  
2043 (2) "Costs" shall not include attorney's fees incurred by the relator.

2044

2045 **(B) Civil penalties**

2046

2047 The Board may recommend, and the Supreme Court may impose, civil penalties in an  
2048 amount up to ten thousand dollars per offense. Any penalty shall be based on the following  
2049 factors:

2050

2051 (1) The degree of cooperation provided by the respondent in the investigation;

2052

2053 (2) The number of occasions that the unauthorized practice of law was  
2054 committed;

2055

2056 (3) The flagrancy of the violation;

2057

2058 (4) Harm to third parties arising from the offense;

2059

2060 (5) Any other relevant factors.

2061

2062

2063 **Section 15. Records.**

2064

2065 The ~~Secretary~~ secretary shall maintain permanent public records of all matters processed  
2066 by the Board and the disposition of those matters.

2067

2068

2069 **~~Section 16. Board May Prescribe Regulations.~~**

2070

2071 ~~Subject to the prior approval of the Supreme Court, the Board may adopt regulations not~~  
2072 ~~inconsistent with this rule.~~

2073

2074

2075 **~~Section 17. Rules to Be Liberally Construed.~~**

2076

2077 Amendments to any complaint, notice, answer, objections, or report may be made at any  
2078 time prior to final order of the Board. The party affected by ~~the~~ an amendment shall be  
2079 given reasonable opportunity to ~~meet~~ respond to any new matter presented by ~~the~~ that  
2080 amendment. This rule and regulations relating to investigations and proceedings involving  
2081 complaints the of unauthorized practice of law shall be liberally construed for the  
2082 protection of the public, the courts, and the legal profession and shall apply to all pending  
2083 investigations and complaints so far as may be practicable, and to all future investigations  
2084 and complaints whether the conduct involved occurred prior or subsequent to the  
2085 enactment or amendment of this rule.

2086

2087

2088

2089

2090

2091 **Section 18. Records and Proceedings Public.**

2092

2093 All records, documents, proceedings, and hearings of the Board relating to investigations  
2094 and complaints pursuant to this rule shall be public, except that deliberations by a hearing  
2095 panel and the Board shall not be public.

2096

2097

2098 **Section 19 17. Review by Supreme Court of Ohio; Orders; Costs.**

2099

2100 ~~(A) Show Cause Order.~~ **(A) Show cause order**

2101

2102 After the filing of a final report of the Board, the Supreme Court shall issue to respondent  
2103 an order to show cause why the report of the Board shall not be confirmed and an  
2104 appropriate order granted. Notice of the order to show cause shall be served by the Clerk  
2105 of the Supreme Court on all parties and counsel of record by certified mail at the address  
2106 provided in the Board's report or electronic service address.

2107

2108 ~~(B) Response to Show Cause Order.~~ **(B) Response to show cause order**

2109

2110 (1) Within twenty days after the issuance of an order to show cause, the respondent or  
2111 relator may file objections to the findings or recommendations of the Board and to the entry  
2112 of an order or to the confirmation of the report on which the order to show cause was issued.  
2113 The objections shall be accompanied by a brief in support of the objections and proof of  
2114 service of copies of the objections and the brief on the ~~Secretary~~ secretary and all counsel  
2115 of record. Objections and briefs shall be filed in the number and form required for original  
2116 actions by the Rules of Practice of the Supreme Court of Ohio, to the extent such rules are  
2117 applicable.

2118

2119 (2) In lieu of objections, the respondent and relator, individually or jointly, may file a  
2120 no-objection brief in support of the recommended sanctions of the Board within twenty  
2121 days of the issuance of an order to show cause. Upon filing of a no-objection brief, the case  
2122 shall immediately be submitted to the Court for consideration.

2123

2124 (3) A no-objection brief filed pursuant to division (B)(2) of this section shall not exceed  
2125 ten pages in length. The brief shall not, in any way or manner, make any argument opposed  
2126 to any fact, finding, analysis, argument, or recommendation found or made in the report of  
2127 the Board or make any argument in support of any recommendation not made in the report.  
2128 No answering or responsive briefs may be filed in response to a no-objection brief.

2129

2130 (4) If a no-objection brief filed pursuant to division (B)(2) of this section violates the  
2131 prohibitions of division (B)(3) of this section, the Court shall strike the brief in its entirety  
2132 and assess the party or parties that filed the brief a fine not to exceed \$500 beyond any  
2133 costs incurred to that date.

2134

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2136



2137 (C) ~~Answer Briefs.~~ **(C) Answer briefs**

2138

2139 Answer briefs and proof of service shall be filed within fifteen days after briefs in support  
2140 of objections have been filed. All briefs shall be filed in the number and form required for  
2141 original actions by the Rules of Practice of the Supreme Court of Ohio, to the extent such  
2142 rules are applicable.

2143

2144 (D) ~~Supreme Court Proceedings.~~ **(D) Second show cause order**

2145

2146 If neither party files an objection to the final report of the Board and the Court is  
2147 considering increasing the civil penalty recommended in the report, or imposing a civil  
2148 penalty when a civil penalty was not recommended by the Board in its report, the Court  
2149 shall issue a second show cause order giving the parties twenty days from the date of the  
2150 order to file objections. Answer briefs shall be filed in the manner as provided in division  
2151 (C) of this rule.

2152

2153 **(E) Supreme Court proceedings**

2154

2155 (1) After a hearing on objections, or if objections are not filed within the prescribed  
2156 time, the ~~Supreme~~ Court shall enter an order as it finds proper. If the ~~Supreme~~ Court finds  
2157 that respondent's conduct constituted the unauthorized practice of law, the Court shall issue  
2158 an order that does one or more of the following:

2159

(a) Prohibits the respondent from engaging in any such conduct in the future;

2161

(b) Requires the respondent to reimburse the costs and expenses incurred by the  
2162 Board and the relator pursuant to this rule;

2163

(c) Imposes a civil penalty on the respondent. The civil penalty may be  
2164 imposed regardless of whether the Board recommended imposition of the penalty  
2165 pursuant to Section ~~8(B)~~16(B) of this rule and may be imposed for an amount  
2166 greater or less than the amount recommended by the Board, but not to exceed ten  
2167 thousand dollars per offense.

2168

(2) Payment for costs, expenses, ~~sanctions~~, and penalties imposed under this rule shall  
2172 be deposited in the Attorney Services Fund established under Gov. Bar R. VI, Section 8.

2173

2174 (E) ~~Notice.~~ **(F) Notice**

2175

2176 Upon the entry of any order pursuant to this rule, the Clerk of the ~~Supreme~~ Court shall mail  
2177 certified copies of the entry to all parties and counsel of record, the Board, Disciplinary  
2178 Counsel, and the Ohio State Bar Association. Notice may be served on counsel of record,  
2179 the Board, Disciplinary Counsel, and the Ohio State Bar Association at their electronic  
2180 service address or published electronic address.

2181

2182

2183 (F) *Publication.*

2184

2185 (G) **Publication**

2186

2187 The Supreme Court reporter shall publish any order entered by the ~~Supreme~~ Supreme Court under  
2188 this rule in the *Ohio Official Reports*, the *Ohio State Bar Association Report*, and in a  
2189 publication, if any, of the local bar association in the county in which the complaint arose.  
2190 The publication shall include the citation of the case in which the order was issued.  
2191 ~~Publication also shall be made in a local newspaper having the largest general circulation~~  
2192 ~~in the county in which the complaint arose. The publication shall be in the form of a paid~~  
2193 ~~legal advertisement, in a style and size commensurate with legal advertisements, and shall~~  
2194 ~~be published three times within the thirty days following the order of the Supreme Court.~~  
2195 Publication fees shall be assessed against the respondent as part of the costs.  
2196  
2197

2198 **Sections 18 to 30. RESERVED**

2199

2200

2201 **Section 31. Definitions.**

2202

2203 As used in this rule:

2204

2205 (A) “Complaint” means a formal written allegation of the unauthorized practice of law  
2206 by a person designated as the respondent filed with the Board by a person designated as  
2207 the relator.

2208

2209 (B) “Confidential” acknowledges the restrictions and requirements of Sections 1 and 4  
2210 of this rule, the necessity of confidentiality of all proceedings, documents, and deliberations  
2211 of a certified unauthorized practice of law committee, disciplinary counsel, the Attorney  
2212 General, and the Board and its hearing panels.

2213

2214 (C) “Consent decree agreement” means a voluntary written agreement entered into  
2215 between the parties and submitted to the Board. If approved by the Board, it is submitted  
2216 to the Supreme Court. It becomes a consent decree if approved by the Court. The consent  
2217 decree is the final judgment of the Court and is enforceable through contempt proceedings  
2218 before the Court.

2219

2220 (D) “Electronic service address” means the email address designated by an attorney for  
2221 service of documents pursuant to Gov. Bar R. VI, Section 4(B)(2).

2222

2223 (E) “Judicial officer” means any natural person who is subject to the Code of Judicial  
2224 Conduct as set forth in the Application section of that code.

2225

2226 (F) “Misconduct” means the unauthorized practice of law.

2227

2228 (G) “Person” means a natural person or legal entity capable of suing or being sued.

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(H) “Probable cause” means there is substantial, credible evidence that misconduct has been committed.

(I) “Proposed resolution” means a proposed settlement agreement or a proposed consent decree agreement.

(J)(1) “Unauthorized practice of law” means:

(a) The rendering of legal services for another by any person not admitted to practice in Ohio under Rule I of the Supreme Court Rules for the Government of the Bar unless the person is:

(i) Certified as a legal intern under Gov. Bar R. II and rendering legal services in compliance with that rule;

(ii) Granted corporate status under Gov. Bar R. VI and rendering legal services in compliance with that rule;

(iii) Certified to temporarily practice law in legal services, public defender, and law school programs under Gov. Bar R. IX and rendering legal services in compliance with that rule;

(iv) Registered as a foreign legal consultant under Gov. Bar R. XI and rendering legal services in compliance with that rule;

(v) Granted permission to appear *pro hac vice* by a tribunal in a proceeding in accordance with Gov. Bar R. XII and rendering legal services in that proceeding;

(vi) Rendering legal services in accordance with Rule 5.5 of the Ohio Rules of Professional Conduct (titled "Unauthorized Practice of Law; Multijurisdictional Practice of Law").

(b) The rendering of legal services for another by any person:

(i) Disbarred from the practice of law in Ohio under Gov. Bar R. V;

(ii) Designated as resigned or resigned with disciplinary action pending under former Gov. Bar R. V (prior to September 1, 2007);

(iii) Designated as retired or resigned with disciplinary action pending under Gov. Bar R. VI.

(c) The rendering of legal services for another by any person admitted to the practice of law in Ohio under Gov. Bar R. I while the person is:

- 2275  
2276 (i) Suspended from the practice of law under Gov. Bar R. V;  
2277  
2278 (ii) Registered as an inactive attorney under Gov. Bar R. VI;  
2279  
2280 (iii) Summarily suspended from the practice of law under Gov. Bar R.  
2281 VI for failure to register;  
2282  
2283 (iv) Suspended from the practice of law under Gov. Bar R. X for failure  
2284 to satisfy continuing legal education requirements;  
2285  
2286 (v) Registered as retired under former Gov. Bar R. VI (prior to  
2287 September 1, 2007).  
2288  
2289 (d) Holding out to the public or otherwise representing oneself as authorized to  
2290 practice law in Ohio by a person not authorized to practice law by the Supreme  
2291 Court Rules for the Government of the Bar or Prof. Cond. R. 5.5.  
2292  
2293 (2) For purposes of this section, "holding out" includes conduct prohibited by divisions  
2294 (A)(1) and (2) and (B)(1) of section 4705.07 of the Revised Code.  
2295  
2296

2297 [Not analogous to former Rule VII, effective October 20, 1975; amended effective April 13, 1977;  
2298 November 6, 1978; April 25, 1983; July 1, 1983; November 30, 1983; June 6, 1988; January 1,  
2299 1989; January 1, 1990; January 1, 1992; January 1, 1993; January 1, 1995; June 16, 2003; January  
2300 1, 2005; November 1, 2007; January 1, 2008; September 1, 2008; September 1, 2010; January 1,  
2301 2011; January 1, 2013; January 1, 2015;\_\_\_\_\_.]