The Tennessee Supreme Court regulates and supervises the practice of law in Tennessee pursuant to Tennessee Supreme Court Rule 9. The Court appoints twelve members to the Board of Professional Responsibility (the Board) to effectuate Tenn. Sup. Ct. R. 9 and the Court’s disciplinary enforcement.

The Board consists of nine (9) attorneys and three (3) public (non-attorney) members who serve three-year terms and geographically represent the entire state. In 2018-2019, Board members volunteered 864 hours and received no compensation for their service. Current members of the Board include:

Floyd Flippin (Chair)
Odell Horton, Jr. (Vice-Chair)
Dana Dye
Ruth Ellis
John D. Kitch
Joe Looney
Jon Lundberg (Lay Member)
Jimmie Miller
Tyreece Miller (Lay Member)
Juanita Patton (Lay Member)
Jody Pickens
Bridget Willhite

The Court appoints a Chief Disciplinary Counsel who reports to the Board. The Board also employs attorneys as Disciplinary Counsel and support staff to assist with attorney registration; consumer assistance; investigation and litigation. A staff directory is attached as Exhibit A.

District Committee Members

The Tennessee Supreme Court appoints attorneys to serve as district committee members from each disciplinary district in the state. In 2018-2019, 177 attorneys assisted the Court and the Board as district committee members reviewing Disciplinary Counsel’s recommendations on investigative files and sitting on hearing panels conducting formal disciplinary charges. Of the 177 members, 170 reported volunteering 2,727 hours in 2018-2019 for which they received no compensation for their services. A roster of current district committee members is attached as Exhibit B.
Tennessee Attorney Information

The Board of Professional Responsibility provides an easy-to-use online registration system that allows lawyers to fulfill their annual registration requirements. We collect and make available public registration information on our website to allow the judiciary, lawyers and the public to access licensing, registration and contact information about lawyers.

Active Attorneys: 22,956

Number of Active Tennessee Attorneys*

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<tr>
<th>Year</th>
<th>Active Attorneys</th>
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<tr>
<td>1979</td>
<td>8,267</td>
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<td>1989</td>
<td>11,605</td>
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<tr>
<td>1999</td>
<td>18,117</td>
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<tr>
<td>2009</td>
<td>19,622</td>
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<td>2019</td>
<td>22,956</td>
</tr>
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Active Attorney Statistics:

- YearsLicensed:
  - <5 yrs: 16%
  - 5-10 yrs: 16%
  - 10-20 yrs: 27%
  - 20-30 yrs: 18%
  - >30 yrs: 23%

- Gender:
  - Male: 62%
  - Female: 34%
  - Unreported: 4%

- Age:
  - 21-29 yrs: 3%
  - 30-49 yrs: 47%
  - 50-74 yrs: 45%
  - 75+ yrs: 5%

- In-state Attorneys: 82%
- Out-of-state Attorneys: 18%
Inactive Attorneys

Pursuant to Tennessee Supreme Court Rule 9, Section 10.3, inactive attorneys include attorneys serving as justice, judge or magistrate of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the practice of law; retired attorneys; attorneys on temporary duty with the armed forces; faculty members of Tennessee law schools who do not practice law; and attorneys not engaged in the practice of law in Tennessee. In 2018-2019, 5,139 attorneys on inactive status were registered with the Board of Professional Responsibility.

- Non-disciplinary/Administrative Suspensions:

Pursuant to Supreme Court Rules, the Supreme Court suspends attorneys who fail to pay their annual fee (Tenn. Sup. Ct. R. 9 § 10.6); fail to complete annual continuing legal education requirements (Tenn. Sup. Ct. R. 21 § 7); fail to comply with Interest on Lawyers Trust Account requirements (Tenn. Sup. Ct. R. 43 § 15); fail to pay the Tennessee professional privilege tax (Tenn. Sup. Ct. R. 9 § 26); or default on student loans (Tenn. Sup. Ct. R. 9 § 37). No attorney suspended pursuant to these Rules may resume practice until reinstated by Order of the Supreme Court. Attorneys were administratively suspended during fiscal year 2018-2019 as follows:

- Non-payment of Annual Fee: 636
- Continuing Legal Education non-compliance: 180
- Interest on Lawyer’s Trust Accounts non-compliance: 94
- Professional Privilege Tax non-compliance: 175
- Default on a Student Loan: 0
- Total: 1,085
Assistance, Investigation and Prosecution

- **Consumer Assistance Program (CAP)**

  Non-frivolous complaints against attorneys submitted by clients, lawyers, judges and the public are referred to the Board’s Consumer Assistance Program (CAP) for assistance or opened and assigned to Disciplinary Counsel for investigation. CAP answers questions, provides information, informally mediates disputes, and refers matters to Disciplinary Counsel for investigation.

  **Caseload**

  Number of Cases Opened 2,277

  **Timeliness of Resolution**

  - 0 to 15 days 62.0%
  - 16 to 30 days 27.0%
  - 31 to 60 days 9.3%
  - 61 or more days 1.7%

  **Actions Taken**

  - Mediate 36%
  - Advise 45%
  - Referrals 12%
  - Provide Information 7%

- **Trust Account Overdraft Notifications**

  Pursuant to Tennessee Supreme Court Rule 9, Section 35.1(b), financial institutions report to the Board whenever any properly payable instrument is presented against an attorney trust account containing insufficient funds. After receiving notification of an overdraft, Board Staff request financial information and explanation from the attorney.

  **Total Notifications:** 104

  **Actions Taken**

  - Referred to Investigations: 18
  - Referred to Litigation: 0
  - Resolved without Investigation: 86
Investigation

Disciplinary Counsel investigate complaints alleging unethical conduct. After investigation, Disciplinary Counsel recommend dismissal of the complaint if there is insufficient proof of a violation of the Rules of Professional Conduct. If the investigated complaint reflects a violation of the Rules of Professional Conduct, Disciplinary Counsel recommend diversion, private informal admonition, private reprimand, public censure, or the filing of formal disciplinary charges. A district committee member reviews and approves or disapproves Disciplinary Counsel’s recommendation for dismissal, diversion, and private informal admonition. The Board of Professional Responsibility reviews and approves or disapproves Disciplinary Counsel’s recommendation for private reprimand, public censure, and the filing of formal disciplinary charges.

A. Nature of Complaints
B. Investigative Complaint Caseload

| Complaints Received: | 1,520 |
| Complaints Pending at beginning of Fiscal Year: | 495 |
| Total Complaints: | 2,015 |

C. Investigative Complaint Disposition:

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<td>Placed on Retired Status:</td>
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<td>Other:</td>
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<td>Total:</td>
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1 Abated by death; complaint withdrawn; duplicate file.
Formal Disciplinary Proceedings:

After the Board of Professional Responsibility authorizes Disciplinary Counsel to file formal disciplinary charges (i.e., a petition for discipline) against an attorney, the matter is assigned to three district committee members who constitute a hearing panel. The Hearing Panel sets the disciplinary proceeding for a hearing which is open to the public unless a protective order has been entered. The Tennessee Rules of Evidence and Rules of Civil Procedure apply unless Tennessee Supreme Court Rule 9 provides otherwise.

The Board of Professional Responsibility must prove an attorney’s ethical misconduct by a preponderance of the evidence. Hearing Panels may recommend dismissal, public censure, suspension or disbarment.

A. Caseload

Formal cases filed during Fiscal Year: 130
Formal cases pending at beginning of Fiscal Year: 112

Total formal proceedings: 242

Public hearings conducted in Fiscal Year: 47

B. Formal Disciplinary Proceedings Disposition:

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<td>Suspensions</td>
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<td>Disbarments</td>
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<td>Temporary Suspensions</td>
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<td>Reinstatements</td>
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<td>Other(^2)</td>
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Total: 124

\(^2\) Abated by death; voluntary non-suited; denied; withdrawn; nonserious crime.
Resolution of Formal Disciplinary Proceedings

- Dismissals: 8
- Public Censures: 11
- Suspensions: 18
- Disbarments: 21
- Transfer to Disability Inactive: 29
- Temporary Suspensions: 14
- Retired: 4
- Reinstatements: 7
- Other: 12
Education and Information

The Board issues Formal Ethics Opinions and staff respond to informal ethics questions by phone and internet. Disciplinary Counsel present continuing legal education seminars and workshops, publish Board Notes, a bi-annual newsletter, and update the Board’s website with rule changes, disciplinary decisions and news for attorneys, judges and the public.

A. Ethics Opinions

i. Informal Opinions

Ethics Counsel and Disciplinary Counsel responded to a total of 2,543 phone and internet inquiries from attorneys seeking ethical guidance.3

ii. Formal Opinions

The Board of Professional Responsibility revised Board Policy 3.15(B), with approval of the Tennessee Supreme Court, to solicit comments from judges, attorneys and the public regarding proposed formal ethics opinions. Formal Ethics Opinion 2019-F-167 was issued by the Board after soliciting and receiving comments.

2019-F-167: The Board of Professional Responsibility issued a Formal Ethics Opinion regarding the ethical propriety of a settlement agreement, in a products liability case, which contains as a material condition of the settlement that the subject vehicle alleged to be defective be destroyed within 180 days with certification to defendant’s counsel of record of the destruction.

B. Continuing Legal Education (CLE) Presentations:

Between July 1, 2018 and June 30, 2019, Disciplinary Counsel presented sixty (69) CLE seminars, attended by approximately 3,680 attorneys.

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3 Tennessee attorneys may submit ethics inquiries to the Board by calling 615-361-7500, ext. 212, or via the Board’s website at www.tbpr.org.
C. *Board Notes:*

In 2018-2019, the Board emailed both Fall and Spring issues of *Board Notes*, the Board’s semi-annual newsletter to all attorneys and judges and published it on the Board’s website.

D. **Workshops**

a. The Board of Professional Responsibility hosted its annual Ethics Workshop on November 2, 2018 at the Nashville School of Law with over 400 attorneys attending. This year’s Ethics Workshop is scheduled for October 25.

b. Since August, 2018, the Board of Professional Responsibility has offered a Trust Account workshop to attorneys receiving diversion and/or discipline for trust account violations. Two trust account workshops were held in 2018/2019.
### Board of Professional Responsibility
#### Staff Directory

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<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Extension</th>
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<tr>
<td>Kevin Balkwill</td>
<td>Disciplinary Counsel</td>
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<td>Patty Burton</td>
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<tr>
<td>Melanie Cail</td>
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<tr>
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<td>Ethics Counsel</td>
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<tr>
<td>Steve Christopher</td>
<td>Deputy Chief Disciplinary Counsel - Investigations</td>
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<td>Jennifer Croft</td>
<td>Legal Assistant - Investigations</td>
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<tr>
<td>Sandy Garrett</td>
<td>Chief Disciplinary Counsel</td>
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<tr>
<td>Reynold Gaulden, Jr.</td>
<td>Registration Assistant II</td>
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<tr>
<td>Elizabeth Gray</td>
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<tr>
<td>Penny Greene</td>
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<tr>
<td>Candis Grooms</td>
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<td>Soumya Kademakki</td>
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<td>Jessica Schraw</td>
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<td>Beverly Sharpe</td>
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<td>Beverly Yousefzadeh</td>
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# District Committee Member Roster

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<th>Last Name</th>
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<th>First Name</th>
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<td>L. Cox</td>
<td>4</td>
<td>W. L. Howell</td>
<td>Aucuff</td>
<td>6</td>
<td>Michael</td>
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<td>James W.</td>
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Exhibit B