

Professional Responsibility Program FY 21 Annual Report

The Professional Responsibility Board is required by Administrative Order No. 9, Rule 1.E.(2) to provide to the Supreme Court “an annual report, including statistics and recommendations for any rule changes, which report shall be public.” The following is submitted in accordance with this mandate.

PROFESSIONAL RESPONSIBILITY BOARD

Michael F. Hanley, Esq., Chair
Carolyn Anderson, Esq., Vice-Chair
Hon. David Howard (Retired Judge)
Mr. Christopher Chapman
Mr. Kevin O’Donnell
Ms. Elizabeth Miller, Esq.
Ms. Susan Fay

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Board Activity Report

Pursuant to A.O. 9, Rule 1.A., the Board is appointed by the Supreme Court and consists of seven members: three members of the bar of this state, three public members and one judge or retired judge. The Board is responsible for overseeing the program and implementing, coordinating and periodically reviewing its policies and goals.

POLICIES

On November 2, 2020, the Supreme Court promulgated amendments to A.O. 9, the governing rule of the Professional Responsibility program. The amendments took effect on April 1, 2021. These rules implemented the Bar Assistance Program, thereby encompassing attorney educational and other types of lawyer assistance. Bar Counsel was given oversight of the Bar Assistance Program under the new amendments. The rule changes created the position of screening counsel, to screen complaints formerly the responsibility of Bar Counsel.

The Program continues to operate remotely under Emergency Order 49, Rule 15. In-person committee meetings and hearings have been held remotely, and documents received and transmitted have been sent through email. Evidentiary hearings were suspended for much of FY21, with the first one resuming on January 29, 2021 using WebEx Technology. Two additional remote hearings were held in FY21.

A link to the amendment was posted on the Professional Responsibility Program page on the Judiciary [website](#).

ANNUAL TRAINING MEETING

In accordance with A.O. 49 paragraph 15(c), the Professional Responsibility Program did not hold its annual meeting due to the COVID-19 emergency.

ODYSSEY CASE MANAGEMENT SYSTEM

During FY21, the Professional Responsibility Program was part of a multi-year, judiciary-wide transition to a new case management system. Program staff worked with Tyler Technology consultants to develop a case management system specifically for the PRB, to track cases and some program activities. The new system interfaces with the Supreme Court case management system, allowing the electronic transmittal of PRB filings to Supreme Court. The conversion date from the old case management system to the new one occurred in June 2021.

SUPERVISION OF THE PROGRAM'S CASE DOCKET & REVIEW OF CASE MANAGEMENT PROCEDURES

Bar Counsel provided the Board a detailed summary of his caseload every month. Disciplinary Counsel held Quarterly conference calls to review the full disciplinary docket. The Board met quarterly.

BOARD MEMBERSHIP

In FY 2021 Professional Responsibility Board member Lisa Ventris declined reappointment for an additional term on the Board and was replaced by Susan Fay. The Board extends their appreciation for her years of service.

Report of the Board Chair

The Board addressed a number of complex and important issues in 2021. Some of these topics were resolved in 2021, but other were not resolved and will have to be addressed by the Board in 2022.

ADMONITIONS

The Board is considering whether to recommend to the Court that it not keep private admonitions (as opposed to public reprimands) as a sanction, except as provided in Rule 10 of the American Bar Association's Model Rules for Lawyer Disciplinary Enforcement. This Model Rule 10 provides that "admonition by disciplinary counsel [can only be] imposed with the consent of the respondent and the approval of the chair of a hearing committee." It goes on to provide that "[a]n admonition cannot be imposed after formal charges have been issued." On the other hand, Rule 15 under A.O. 9(A)(5)(b) allows hearing panels to impose a private admonition without the consent of disciplinary counsel and by a majority vote of the panel. The Board will consider this issue at its January 2022 meeting.

MALPRACTICE INSURANCE

At my request, the Board created a sub-committee which together with representatives of the Vermont Bar Association, considered whether Vermont should require all active members of the bar in private practice not serving as in-house counsel to corporations to (1) to carry professional responsibility liability insurance; or (2) to notify clients that they do not; or (3) to disclose their liability insurance status to the Court on the annual licensing statement.

The Joint Committee held a number of meetings at which it considered the three proposals. There was little support for mandatory malpractice insurance coverage, however there was support for (1) requiring lawyers to disclose their lack of coverage to prospective clients or (2) to the Attorney Licensing Program when renewing their licenses. The Joint Committee was surprised to learn that there is no mechanism, at present, to make public a lawyer's application for renewal of his or her license to practice law available to the public.

As the fiscal year ended, the committee had not reached a decision. The Board will consider this issue at its January 2022 meeting.

REMOTE HEARINGS

As the pandemic persists, the need for remote PRB hearings remains. There were no significant problems related to the remote hearings and I expect the practice will continue.

SPECIAL DISCIPLINARY COUNSEL

I was concerned about a lack of clarity regarding the appointment of special disciplinary counsel when disciplinary counsel has a conflict of interest. The Board resolved this issue by enacting a policy where the PRB Chair will appoint special disciplinary counsel when the need arises.

APPOINTMENT OF HEARING PANELS & HEARING PANEL COUNSEL

During FY21, Mark DiStefano served as Hearing Panel Counsel. In general, he attended hearings and phone conferences and wrote a first draft of any opinion or order for the panel. He was also available to provide research, pre-hearing memos or other legal assistance to the Hearing Panels.

PRB Hearing Panels issued two decisions in FY21. The decisions can be viewed [here](#). There were 14 cases under consideration by a Hearing Panel as the fiscal year ended. The public hearing calendar is [here](#).

As FY21 ended, the following individuals served as members of Hearing Panels:

Hearing Panel No. 1

Anthony Iarrapino, Esq.
Emily Tredeau, Esq.
Mr. Scott Hess

Hearing Panel No. 2

James Valente, Esq., Chair
Amelia Darrow, Esq.
Brian Bannon

Hearing Panel No. 3

Gary Karnedy, Esq., Chair
Ashley Taylor, Esq.
Mr. Peter Zuk

Hearing Panel No. 4

Mary Parent, Esq., Chair
Cara L. Cookson, Esq.
Mr. Thad Richardson

Hearing Panel No. 5

Stephanie Foley, Esq., Chair
Bonnie Badgewick, Esq.
Ms. Traci Cherrier

Hearing Panel No. 6

David Berman, Esq., Chair
Rick Goldsborough, Esq.
Nicole Junas Ravelin

Hearing Panel No. 7

Jesse Bugbee, Esq., Chair
Vanessa Kittell, Esq.
Mr. Carl Rosenquist

Hearing Panel No. 8

Jennifer McDonald., Chair
Jonathon Rose, Esq.
Mr. Patrick Burke

Hearing Panel No. 9

Karl C. Anderson, Esq., Chair
Kate Thomas, Esq.
Mr. Thomas J. Sabotka

Hearing Panel No. 10

Mary Welford, Esq.
Katherine Lamson, Esq.
Ms. Kelley Legac

Activity Reports

The following Reports of Bar Counsel and Disciplinary Counsel cover activities from July 1, 2020 through June 30, 2021. Throughout the report, that time period will be referred to as “FY21.”

Bar Counsel Report

INTRODUCTION

Bar Counsel’s goal is proactive regulation: working with attorneys to address risk and avoid problems. To that end, Bar Counsel responds to ethics inquiries, teaches continuing legal education seminars, and engages in other forms of outreach. Bar Counsel’s activities are designed to assist lawyers to develop and maintain the tools necessary to provide competent representation and to meet the high standards of professionalism and civility expected of attorneys admitted to the bar of the Vermont Supreme Court.

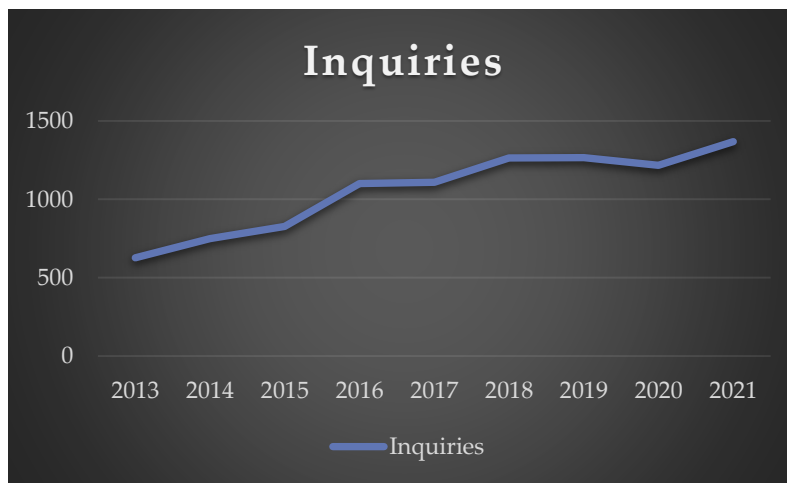
ETHICS INQUIRIES

Rule 5 of Administrative Order 9 requires Bar Counsel to:

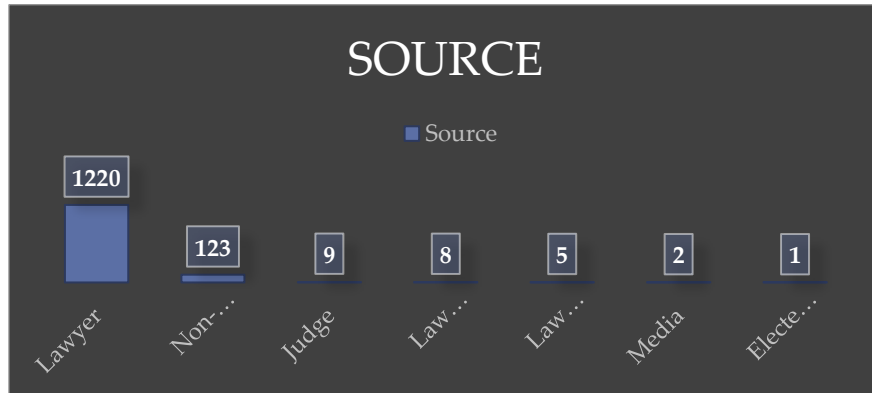
“B. Respond to inquiries from judges, lawyers, legal professionals, law students, and the public regarding the Rules of Professional Conduct, professionalism and professional responsibility, legal ethics, law practice management, and behavioral health issues that impact a lawyer or judge’s professional competence; and,

C. Provide referrals, educational materials, guidance, and preventive advice and information to assist lawyers to achieve, maintain, and enhance professional competence and professional responsibility.”

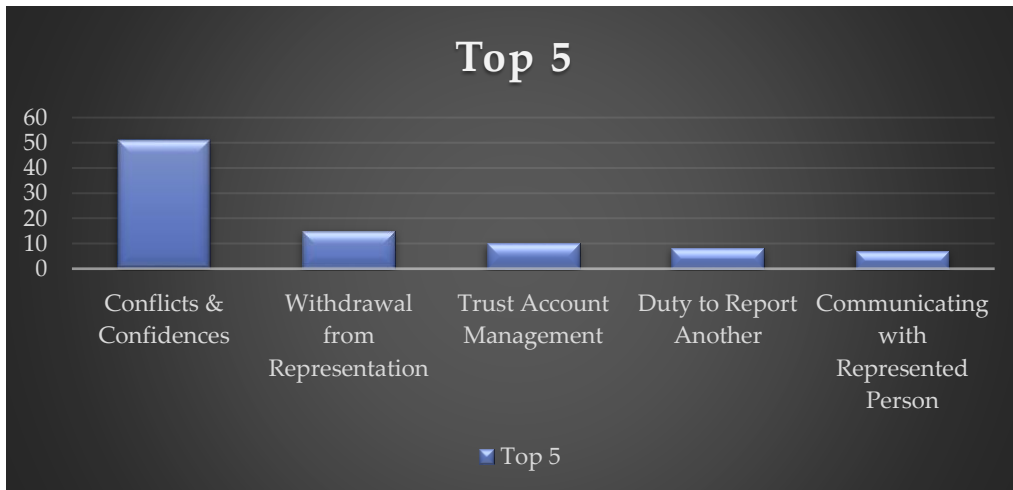
Bar Counsel received 1,368 inquiries in FY 2021, a 12.4% increase over the prior year and the most in the history of the program.



Most of the inquiries come from lawyers.



The vast majority of inquiries involve discussion of more than one of the Rules of Professional Conduct. More than half involve conflicts of interest or client confidences. The rules/topic areas that arise most often, measured as percentage of total inquiries that included the topic area:



Most inquires are resolved on the same day that they are received.



CONTINUING LEGAL EDUCATION

Rule 5 of Administrative Order 9 requires Bar Counsel to:

“D. Develop and present programs related to the Rules of Professional Conduct, legal ethics, and a lawyer’s professional competence and professional responsibilities; and,

E. Develop and present programs concerning lawyer wellness and on issues related to the signs, symptoms, causes, and prevention of behavioral health issues that affect lawyers’ and judges’ professional competence.”

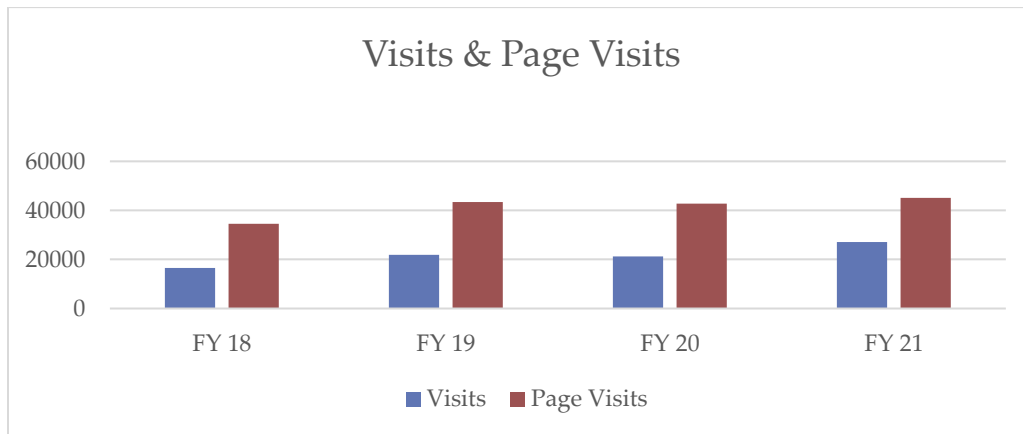
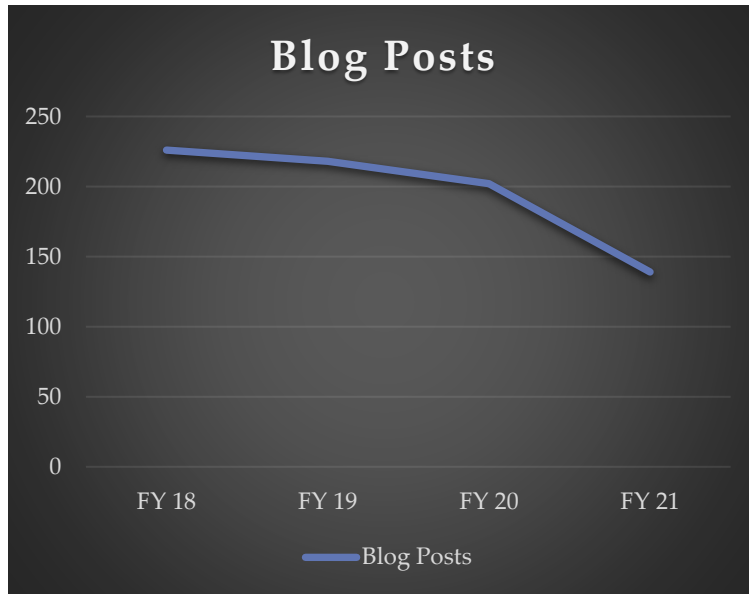
Bar Counsel presented 30 CLE seminars for a total of 40.75 credit hours. Oddly, this is the exact number of seminars and hours that Bar Counsel presented in FY 2020. In FY 2021, only 2 of the seminars were “in-person.” Bar Counsel presented at seminars sponsored or arranged by:

Assistant Judges Association
 Association of Professional
 Responsibility Lawyers
 Attorney General’s Office
 Bennington County Bar Association
 Caledonia County Bar Association
 Chittenden County Bar Association
 Defender General’s Office
 Joan Loring Wing Inn of Court
 National Organization of Bar Counsel
 Office of Sheriffs & State’s Attorneys
 Rutland County Bar Association

South Royalton Legal Clinics
 Vermont Association for Justice
 Vermont Association of
 Criminal Defense Lawyers
 Vermont Bar Association
 Vermont Bar Association
 Young Lawyers Division
 Vermont Law School
 Vermont Paralegals Organization
 Washington County Bar Association
 Windham County Bar Association

BLOG/SOCIAL MEDIA

Bar Counsel uses social media to engage in proactive regulation and to raise awareness on issues related to legal ethics. The platform used most often is the [Ethical Grounds](#) blog. In FY 21, Bar Counsel blogged far less often than in previous years but recorded more visitors and page visits than in any year.



The most read posts:

- July 2020 [Scam Alert: Fake Notice of a Disciplinary Complaint](#)
- August 2020 [Contingent Fee: \\$18,500 per hour?](#)
- September 2020 ["C" in ethics? You're on the right track](#)
- October 2020 ["C" in ethics? You're on the right track](#)
- November 2020 ["C" in ethics? You're on the right track](#)
- December 2020 ["C" in ethics? You're on the right track](#)
- January 2021 ["C" in ethics? You're on the right track](#)
- February 2021 [Vermont Supreme Court suspends lawyer](#)
- March 2021 [Lawyer's incivility factors into substantially reduced fee award](#)
- April 2021 [Leaving your law firm? What not to do](#)
- May 2021 [A civility oath for lawyers](#)
- June 2021 [CLE: The Garage Videos](#)

SCREENING DISCIPLINARY COMPLAINTS

The position of bar counsel has been full-time since June 2012. From then until April 1, 2021, Administrative Order 9 required Bar Counsel to screen all disciplinary complaints. The screening rule authorized Bar Counsel to conduct a limited investigation to determine the nature of a complaint and whether it could be resolved via non-disciplinary means. Upon concluding the limited investigation, the rule authorized Bar Counsel to dismiss or resolve the complaint, refer the complaint for non-disciplinary dispute resolution, or refer the complaint to disciplinary counsel for an investigation.

There were exceptions to the rule. Bar Counsel did not screen notices that a trust account had been overdrawn. Overdraft notices are automatically referred to Disciplinary Counsel for investigation. In addition, Disciplinary Counsel has the authority to open an investigation into any conduct that comes to her attention.

Again, effective April 1, 2021, the Supreme Court amended Administrative Order 9 to create the Bar Assistance Program. As amended, the rules removed the screening function from Bar Counsel duties. As such, in FY 2021, Bar Counsel screened the disciplinary complaints that were filed through March 31, 2021. As of that date, the Professional Responsibility Program had opened 113 complaints for the fiscal year.¹

- Screened by Bar Counsel: 95
- Overdraft Notices: 13
- Opened by Disciplinary Counsel: 1
- Assigned to Conflict Screener: 4

¹ This report will not address the complaints opened from April 1, 2021, through June 30, 2021. Effective April 1, 2021, the State Court Administrator assigned Licensing Counsel to serve as screening counsel.

As is the case throughout the county, most complaints are dismissed or resolved followed the limited investigation conducted by the screener.

- Dismissed or Resolved by Bar Counsel: 68
- Referred to Disciplinary Counsel: 16
- Referred for Non-Disciplinary Resolution: 11²

By rule, if a complaint is dismissed at screening the complainant may request the Chair of the Professional Responsibility Board to review Bar Counsel's decision.³ The Chair can uphold the dismissal or refer the complaint to disciplinary counsel for a formal investigation.

In FY 2021, Bar Counsel dismissed 68 complaints at screening. Twenty-three (23) of the complainants filed requests for review with the Chair of the Professional Responsibility Board. The Chair upheld Bar Counsel's decision in 20 matters, referring 3 to disciplinary counsel for formal investigation.

THE BAR ASSISTANCE PROGRAM

The Bar Assistance Program (BAP) opened on April 1, 2021. Administered by Bar Counsel, BAP continues the practice of making Bar Counsel available to respond to inquiries related to compliance with the Vermont Rules of Professional Conduct. In addition, BAP expands Bar Counsel's role to include providing lawyers with proactive assistance with behavioral health issues and the extent to which those issues can impact a lawyer's ability to provide clients with competent representation.

BAP represents the culmination of years of work related to the well-being of the legal profession. Bar Counsel is grateful to the Vermont Supreme Court, the Professional Responsibility Program, the Vermont Bar Association, the Vermont Lawyers Assistance Program, and countless individual lawyers and legal professionals for their continued dedication to the profession's wellness.

This year, BAP marked [Well-Being Week in the Law](#) with a series of blog posts and virtual lunch meetings that focused on different aspects of wellness. In addition, Bar Counsel continued to serve on the Vermont Commission on the Well-Being of the Legal Profession. The Commission's second annual report is [here](#) (and cover letter [here](#)). Bar Counsel's section begins on page 5.

Remember: it is okay to ask for help and help is available. There is a list of resources [here](#). There are even more resources on the [VBA's Attorney Well-Being page](#).

² This is the Professional Responsibility Program's equivalent to "diversion."

³ Conversely, the rules do not provide for the review or appeal of Disciplinary Counsel's decision to dismiss a complaint after a formal investigation.

UNLOCKING LEGAL REGULATION PROJECT

In FY 2021, Bar Counsel participated in a program presented by the Institute for the Advancement of the American Legal System and its [Unlocking Legal Regulation Project](#). The project focuses on whether changes to the Rules of Professional Conduct might increase access to legal services. Specifically, whether (1) to repeal the prohibition on referral fees; (2) to repeal the prohibition on non-lawyer ownership of law firms; and (3) to authorize non-lawyer to provide services that, currently, only lawyers are allowed to provide. Bar Counsel anticipates starting a discussion of these issues within the Vermont legal community in FY 22.

MALPRACTICE INSURANCE PROJECT

In FY 21, the Professional Responsibility Board and the Vermont Bar Association formed a joint committee to study whether to adopt a rule that would require lawyers (1) to carry professional responsibility liability insurance; or (2) to notify clients that they do not; or (3) to disclose their liability insurance status to the Court on the annual licensing statement. Along with Teri Corsones, Executive Director of the VBA, Bar Counsel staffed the committee. As the fiscal year ended, the committee had not reached a decision.

OTHER

In FY 2021, Bar Counsel:

- Served on the National Organization of Bar Counsel's ad hoc Wellness Committee.
- Served as the Chair of the Vermont Bar Association's Pro Bono Committee.
- Served on the Vermont Bar Association's COVID-19 Committee.
- Found his wellness by running 3,070.73 miles.

Disciplinary Counsel

INTRODUCTION AND YEAR IN REVIEW

Disciplinary counsel administers the disciplinary side of the Professional Responsibility Program, pursuant to A.O. 9, Rule 9. The office of disciplinary counsel is staffed by one full-time attorney and one part-time administrative assistant. Disciplinary counsel utilizes additional contract resources as necessary, such as an investigator, certified public accountant, Special Appointed Disciplinary Counsel, and court-appointed trustees for deceased, suspended or disabled attorneys.

Disciplinary counsel's core function is to investigate, charge, and litigate disciplinary complaints and disability matters from the stage of an initial complaint up to and including appeals before the Vermont Supreme Court. Numerical statistics do not necessarily provide an accurate snapshot of resource allocation or enforcement priorities in a given year in the office of disciplinary counsel. One primary

reason for this is that a single investigation may take anywhere from a few hours by a single attorney to several months of work with the invaluable help of contract investigative support. The length of time a matter takes to investigate may not necessarily correlate to whether or not a lawyer is ultimately charged with a violation of the Rules of Professional Conduct.

FY21 put disciplinary counsel to the test of being sufficiently nimble to perform the job almost entirely remotely. Before the pandemic, many investigative interviews and most meetings, depositions, and hearings were conducted in-person. For the entirety of FY21, the parameters of A.O. 49 and its emergency provisions severely limited in-person operations. Thankfully, the Judiciary was already well-equipped with appropriate technology and operating rules and policies to perform most work without hardwired networks or a large volume of paper mail. And, as the year progressed, most individuals interfacing with the program became more adept in the new normal of primarily web-based interaction, which also led to increased efficiency. All hearings were on pause by emergency order through November 2020, which led to some backlog of cases awaiting merits hearings. But, overall there was minimal interruption to the flow of cases through the program from investigation phase through charging decision phase.

INVESTIGATION

Complaints come to disciplinary counsel for investigation in three main ways. The majority are written complaints received by the program. Disciplinary counsel also receives and investigates all automated notices from approved financial institutions of any overdrafts in attorney trust (IOLTA) accounts. Finally, disciplinary counsel may open an investigation on any other matter that comes to her attention which, if true, might constitute a violation of the Rules of Professional Conduct.

Up until April 1, 2021, all written complaints were screened by bar counsel. April 2021 brought about the effective date of amendments to A.O. 9. The A.O. 9 amendments adjusted bar counsel's role so that a new Bar Assistance Program could be created. The amendments also unlinked bar counsel's role to the disciplinary process and reassigned screening of ethics complaints to a designated screening counsel. After April 1, 2021, screening counsel determined whether a complaint should be referred to disciplinary counsel for investigation. Licensing Counsel Andrew Strauss took on the duties of screening counsel and going forward, bar counsel is no longer involved in screening.

When a complaint is referred for investigation, disciplinary counsel will generally first request a written response from the attorney under investigation. Disciplinary counsel then reviews the written response and conducts whatever additional investigation is appropriate. In the majority of investigations, disciplinary counsel performs an in-person interview or web interview of the lawyer under investigation.

A portion of matters are investigated but no charge or disability proceeding results from the investigation. Some matters may be referred to non-disciplinary resolution and some are closed out without further action. Complainants and respondents are generally interviewed as part of the investigative process. In all instances, complainants and respondents are notified in writing of the disposition of the matter with a brief explanation.

a. Referrals to Non-Disciplinary Resolution

Upon concluding an investigation, and as an alternative to commencing formal disciplinary or disability proceedings, disciplinary counsel may refer cases for non-disciplinary resolution, including an assistance panel or, beginning in April 2021, the newly created Bar Assistance Program. In FY21, three cases were referred to bar counsel for assignment to an Assistance Panel and two were referred to the Bar Assistance Program. None were referred to dispute resolution.

b. Dismissals

Disciplinary counsel investigated and dismissed 24 complaints in FY21. The reasons for the dismissals usually relate to inability to prove a specific rule violation by clear and convincing evidence or other considerations such as enforcement priorities or development of the law in the area of lawyer discipline.

c. Investigative Docket Status

FY21 opened with 24 investigations pending. During the fiscal year, an additional 37 files were opened for investigation. At the close of the fiscal year, there were 23 investigations pending.

LITIGATION

When disciplinary counsel charges a lawyer, the case begins by filing either in the Supreme Court or with the program administrator for assignment to a hearing panel, depending on the type of action. Matters assigned to a hearing panel are subject to direct appeal to the Supreme Court. Procedure in lawyer discipline matters is governed by A.O. 9. Proceedings are neither civil nor criminal. Violations must be proved by clear and convincing evidence.

Supreme Court Original Jurisdiction Matters

Several types of lawyer discipline matters begin by original jurisdiction in the Supreme Court. These categories are set out below.

a. Consent to Disbarment under A.O. 9, Rule 23

In cases where an attorney consents to disbarment under A.O. 9, Rule 23, disciplinary counsel sends documentation to the Board for review, and the Board makes a recommendation to the Supreme Court. The Court then issues a decision. In FY21, there were no consents to disbarment.

b. Petitions for Reciprocal Discipline under A.O. 9, Rule 24

Vermont-licensed attorneys who are disciplined in other jurisdictions are subject to reciprocal discipline in Vermont. A.O. 9 requires that disciplinary counsel file notice of any discipline of a Vermont attorney. The Court then generally provides opportunity for briefing on whether identical discipline should be imposed. In FY21, disciplinary counsel received one notice of a Vermont-licensed attorney disciplined in another jurisdiction and filed it with the Supreme Court, where it remains pending.

c. Petitions for Interim Suspension under A.O. 9, Rule 22

Upon the receipt of sufficient evidence showing that an attorney has either committed a violation of the ethics rules or is under a disability as set forth in Rule 25 and presently poses a substantial threat of serious harm to the public, disciplinary counsel is required to transmit the evidence to the Supreme Court, along with a proposed order for the interim suspension of the attorney's license to practice law. In FY21, disciplinary counsel filed one petition for interim suspension, which was granted following a contested hearing in the Supreme Court.

d. Trustee proceedings under A.O. 9, Rule 28

The Court or the Civil Division in the county where a lawyer is located may appoint a lawyer to act as a trustee of a deceased, suspended or disabled lawyer's practice to inventory files and to protect the interests of the lawyer's clients. In FY21, two trustees were appointed to assist attorneys who were suspended or disbarred.

e. Disability Proceedings under A.O. 9, Rule 25

Disciplinary counsel did not file any new disability cases in FY21.

f. Reinstatement Petitions under A.O. 9, Rule 26

There were no reinstatement petitions filed in FY21.

Hearing Panel Matters

All other types of lawyer discipline and disability matters begin by filing with the program administrator and assignment to hearing panels.

a. Probable Cause Review, A.O. 9, Rule 13.C

Before a case is charged publicly by petition of misconduct, disciplinary counsel must file a nonpublic request for finding of probable cause. One hearing panel serves as the probable cause panel for a term of one year. In FY21, eight requests for finding of probable cause were filed. Probable cause was found in all eight matters.

b. Petitions of Misconduct, Stipulations, and Hearings

Disciplinary counsel may charge a case by filing either a petition of misconduct or a stipulation of facts. The matter is assigned to a hearing panel by rotation, and the panel may take evidence on violations, sanction, or both. Charges, hearing notices, and pleadings are posted to the Board's webpage under the tab [Pending Public Disciplinary Matters](#).

In FY21, disciplinary counsel charged twelve cases by petition of misconduct and one case by stipulation of facts.

On March 24, 2020, the Supreme Court issued an emergency order suspending evidentiary hearings in PRB matters as a result of the pandemic and the suspension remained in effect through November 2020, or about half of FY21. Between December 2020 and the close of FY21 in June 2021, three

hearings and two-prehearing conferences were held by Webex. Hearings are open to the public and are ordinarily held in courthouses, but public access for FY21 was provided through broadcast to the Judiciary's youtube channel. At the close of FY21, fourteen cases remained pending before hearing panels into the next fiscal year.

c. Hearing Panel Decisions

During FY21, hearing panels issued two decisions involving two matters. PRB Decision Nos. 235 and 236. All decisions are posted to the [webpage](#). If no appeal is taken, the decisions become final.

d. Appeals

When a Hearing Panel issues a decision, either party may appeal that decision to the Supreme Court. The Court may also, upon its own motion, order review of the Hearing Panel's decision whether or not either party appeals. One appeal of a FY20 decision, *In re Richard Bowen*, PRB Decision No. 233, was scheduled for oral argument by Webex in November 2020 and a final decision issued in February 2021, affirming the hearing panel's decision and imposition of a three-month suspension in its decision reported at 2021 VT 7.

TRAINING AND PRESENTATIONS

In FY21, Disciplinary counsel attended three days of training provided by the National Organization of Bar Counsel. Disciplinary counsel also served as the moderator and coordinator for one panel for the National Organization of Bar Counsel's mid-year meeting. In November 2020, disciplinary counsel presented on a panel entitled "Women in the Law" as part of the National Organization of Bar Counsel's Diversity, Equity and Inclusion initiative. Disciplinary counsel also served as a regional reporter for disciplinary cases for the Eastern region.

PROBATION

Under A.O. 9, a hearing panel may order probation terms in connection with another sanction imposed for violations of the Rules of Professional Conduct. Disciplinary counsel is responsible for monitoring these attorneys. As FY21 opened, disciplinary counsel was monitoring two attorneys on disciplinary probation. One additional attorney was placed on probation by a hearing panel in FY21. At the close of the fiscal year, disciplinary counsel was monitoring three attorneys on probation.

COMPLIANCE WITH THE TRUST ACCOUNT RULES

In FY21, upon receiving notification from a bank that an attorney had an overdraft in the attorney's trust account, disciplinary counsel opened 14 IOLTA overdraft related cases. All 14 cases were investigated.

APPROVED FINANCIAL INSTITUTIONS

Rule 1.15B(a)(1) of the Vermont Rules of Professional Conduct requires lawyers to maintain their trust accounts only in financial institutions approved by the Professional Responsibility Board. Disciplinary counsel oversees the written agreements with all approved financial institutions on an annual basis, whereby the institutions agree to the notice and other requirements set forth in the rules. The current list of [Approved Financial Institutions](#) is updated as needed.

CONTRACT CERTIFIED PUBLIC ACCOUNTANTS

Disciplinary counsel assigns trust account compliance exams to contract CPAs. The attorneys who are examined are generally selected at random. The CPAs are also assigned to conduct compliance exams when need becomes apparent as part of a disciplinary or disability investigation, and they consult with disciplinary counsel on an ongoing basis. For each exam, the CPA examines the lawyer's records, conducts inquiry, and produces a written report analyzing compliance with trust accounting rules. In FY21, existing contracts for two Certified Public Accountants were extended.

CONTRACT INVESTIGATORS

From time to time, disciplinary investigations arise in which disciplinary counsel requires contract investigator services. In FY21, existing contracts for investigative services were extended.

OTHER TASKS

A.O. 9, Rule 9 provides that disciplinary counsel shall confer periodically with the Board to review operations and perform other assigned tasks.

In FY 2021, disciplinary counsel worked with other Judiciary staff and contractors to help develop the Odyssey case management platform for PRB. By the close of FY 2021, PRB program staff were successfully using Odyssey for intake and tracking of new matters. Disciplinary counsel and staff also began the process of tailoring the Odyssey file and serve system for anticipated future use by litigants in publicly-filed disciplinary matters.

At the request of the Board, disciplinary counsel has been revising and updating the Hearing Panel Manual. This project is in progress and is expected to be completed in FY 2022.

Conclusion

Despite the challenges created by the pandemic, the Professional Responsibility Program continued to administer the attorney discipline program and assist attorneys and the public to maintain and promote the highest standards of professional responsibility. The staff and program volunteers nimbly adapted to the increased use of technology for hearings and meetings, developed and instituted a new case management system, and created systems and procedures in response to new rule changes.

All participants in the Professional Responsibility Program are pleased to be of service to the Supreme Court, to the legal profession, and to the public. The Board acknowledges with gratitude the work of the staff and the many volunteers serving on Hearing and Assistance Panels and as Conflict Counsel, who have contributed significantly to the overall success of the Program.

Although the Pandemic prevented the program from offering an annual education and training opportunity serving all program participants, we look forward to reinstating these events when it is safe to do so.

The Board would like to recognize and thank the following attorneys who served as special counsel and alternate Hearing Members, including:

Steve Adler	Daniel McCabe
Edward Adrian	Robert McNeil
Hon. Brian Burgess	Renee Mobbs
Joseph F. Cahill, Jr., Esq.	Navah Spero
Eric Johnson	Andy Strauss
Samantha Lednicky	

ASSISTANCE PANELS

In addition to Board members, all of whom may serve on Assistance Panels, the following volunteers served as Assistance Panel members during FY21:

Attorneys

Steve Adler	Honorable David Howard
Carolyn Anderson	Deb Kirchwey
Shannon Bertrand	Thea Lloyd
Fred Bethel	Andrew Manitsky
Sandra Bevans	Lon McClintock
Gavin Boyles	Liz Miller
Amy Butler	Beth Novotny
Joe Cahill	Mark Oettinger
Liz Ryan Cole	Bob O'Neill
Phil Danielson	Susan Palmer
Honorable Thomas Durkin	Alan Rome
Jennifer Emens-Butler	Janet Shaw
Ed French	Josh Simonds
Paul Groce	Martha Smyrski
Leslie Hanafin	Alfonso Villegas
Michael Hanley	Caryn Waxman

Public Members

Chris Chapman	Holly Poulin
Lori Cohen	Neal Rodar
Lynn Dunton	Linda Joy Sullivan
Susan Fay	Erik Wheeler
Judith Lidie	Lucia White
Kevin O'Donnell	Peter Zuk
Quaron Pinckney	