

[Click here to view this email in your browser](#)

Attorney News - August 2016



Articles & Updates

- **Pennsylvania Attorney General Resigns after Conviction**
- **ABA House of Delegates Adopts Proposed RPC against Harassment**
- **Disciplinary Board Chair Seeks Public Awareness with Op-Ed**
- **Board Proposes Rule Change on Magisterial District Candidates**
- **Ohio Board: Just Say No**
- **Board Secretary Elaine Bixler Plans Retirement; Julia Frankston-Morris Named Successor**
- **Hearing Committee Members Move on After Service**
- **Renowned Family Law Layer, Former Board Member Albert Momjian Passes**

Things to Remember

- **Follow the Disciplinary Board on Twitter**

*This newsletter is intended to inform and educate members of the legal profession regarding activities and initiatives of the Disciplinary Board of the Supreme Court of Pennsylvania. To ensure you receive each newsletter and announcement from the Disciplinary Board of the Supreme Court of PA, please add us to your "safe recipients" list in your email system. **Please do not reply to this email. Send any comments or questions to comments@padisciplinaryboard.org.***

Pennsylvania Attorney General Resigns after Conviction

The elected Attorney General of Pennsylvania, Kathleen Kane, **resigned from office** on August 16, 2016, one day after a Montgomery County jury found her guilty on two counts of perjury and seven misdemeanor counts of abusing the powers of her office.

Kane's license as an attorney in Pennsylvania has been on **temporary suspension** since September 21, 2015.

On August 19, Governor Wolf **nominated Bruce Beemer**, formerly Kane's first deputy attorney general, to serve out the remainder of Kane's term, which ends in January 2017. In July Wolf appointed Beemer to the position of Inspector General. His nomination is subject to confirmation by the State Senate.

ABA House of Delegates Adopts Proposed RPC against Harassment

In August the **ABA House of Delegates passed Resolution 109**, which proposes an amendment to Rule 8.4 of the Rules of Professional Conduct, Misconduct, to add a provision making harassment or discrimination on various classifications grounds for professional discipline of an attorney. The resolution proposes to add to Rule 8.4 a provision to read:

It is professional misconduct for a lawyer to ...

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law.

The resolution provides that the language does not limit the ability of a lawyer to accept, decline, or withdraw from representation as allowed by the RPC, nor does it preclude legitimate advice or advocacy consistent with the RPC.

The approval of the resolution does not mean that the changes become mandatory for lawyers in Pennsylvania and other jurisdictions. The Supreme Court of each state or governing court of each jurisdiction must adopt the changes as part of the local Rules before they become part of the local Rules of Professional Conduct. To be enforceable in Pennsylvania, the rule change would have to be adopted by the Supreme Court of Pennsylvania. If such a measure is proposed or adopted in Pennsylvania, notice of the proposal will be thoroughly covered in this newsletter.

Disciplinary Board Chair Seeks Public Awareness with Op-Ed

Jane Penny, Chair of the Disciplinary Board, has contributed to a campaign to raise public awareness of the availability of the Disciplinary Board to protect the public by publishing an op-ed explaining to the public steps the Board has taken to deal with cases of mishandling client funds and dishonesty. The statement has appeared in the [Delaware County Daily Times](#), [Pittsburgh Tribune Review](#) and the [Lebanon Daily News](#).

The op-ed is part of a broader campaign by the Disciplinary Board to increase public awareness of and confidence in the accountability provided by the Pennsylvania disciplinary system.

Board Proposes Rule Change on Magisterial District Candidates

The Disciplinary Board has **proposed** a minor rule change to **Rule 8.2** of the Rules of Professional Conduct regarding statements concerning judges and other adjudicatory officers. The proposed change would expand the requirement of Rule 8.2(b) that lawyers who are candidates for judicial office must comply with applicable judicial conduct rules to lawyers who are candidates for the office of magisterial district justice. Such candidates would be required to comply with the Rules Governing Standards for Magisterial District Judges.

The proposal would also make a grammatical change to **Rule 3.5**, Impartiality and Decorum of the Tribunal, that does not alter the meaning of the rule or the duties imposed. Comment 1 to that rule would also be amended to refer to improper influence provisions of the Rules Governing Standards of Conduct for Magisterial District Judges as well as the Code of Judicial Conduct.

Interested persons may comment on the proposed amendments by **September 16, 2016**. Submit comments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3382), Email address Dboard.comments@pacourts.us. [i]

Ohio Board: Just Say No

In May we reported on a **proposed rule change** which would allow Pennsylvania lawyers, under limited circumstances, to provide legal advice and assistance to clients engaging in legal marijuana businesses. Lawyers near the Ohio line should proceed with caution, however. The Board of Professional Conduct of the Supreme Court of Ohio has issued an **ethics opinion** stating flatly that “A lawyer may not advise a client to engage in conduct that violates federal law, or assist in such conduct, even if the conduct is authorized by state law.” The opinion does approve of giving “advice as to the legality and consequences of a client’s proposed conduct under state and federal law and explain the validity, scope, meaning, and application of the law.”

The opinion goes beyond advising about advice, and further warns lawyers not to engage in the personal use of marijuana, again based on its prohibited status under Federal law. The opinion states, “A lawyer’s personal use of medical marijuana pursuant to a state regulated prescription, ownership in,

or employment by a medical marijuana enterprise, subjects the lawyer to possible federal prosecution, and may adversely reflect on a lawyer's honesty, trustworthiness, and overall fitness to practice law.”

Ohio, like Pennsylvania, has a newly adopted medical marijuana statute, but the Board of Professional Conduct opined that Federal law controls as to the conduct of lawyers.

Ethics opinions in many of the 24 states that have relaxed marijuana laws have **generally taken a more lenient approach**, but Ohio joins Hawaii in drawing a strict line.

Board Secretary Elaine Bixler Plans Retirement; Julia Frankston-Morris Named Successor

Jane Penny, Chair of the Disciplinary Board, has recently announced significant changes at the Board. Elaine Bixler, the face and voice of the Board for nearly forty years, is retiring at the end of the year. “Effective August 8, 2016, Elaine Bixler was named Secretary Emerita of the Board and Julia Frankston-Morris, Esquire, was appointed the new Board Secretary. By making the change now, we hope to ensure a smooth transition with Ms. Frankston-Morris and Ms. Bixler working closely together over the final four months of Ms. Bixler's employment,” stated Penny.

Ms. Bixler began working as a clerk for the Board in 1978, five years after the Board's creation. For over 26 years, she has been Secretary to the Board and responsible for the day-to-day operation of the Board which registers all attorneys annually, regulates attorney behavior throughout its disciplinary process, and assists the Supreme Court in a wide range of activities including rule making and education. During Ms. Bixler's time at the Board, the attorney population grew from 13,057 active attorneys in 1973 to 64,509 active attorneys in 2015. Ms. Bixler played an important role in the office over the past forty years and has been a valuable asset to the disciplinary process.

The Board selected Ms. Frankston-Morris to succeed Ms. Bixler as the Board Secretary. The Board is eager to see a legal practitioner in this position, which will now include oversight of the Board Counsel and HR and Finance Departments, in addition to the Office of the Secretary and Attorney Registration.

A Harrisburg native, Ms. Frankston-Morris returned to the area after earning her Juris Doctorate from the Benjamin N. Cardozo School of Law in New York, NY, to clerk for the Honorable Justice (now Chief Justice) Thomas G. Saylor, Supreme Court of Pennsylvania. Following her clerkship, she prosecuted for the Bureau of Professional and Occupational Affairs, Department of State, Commonwealth of Pennsylvania. She then served as Disciplinary Counsel for the Office of Disciplinary Counsel, working in Districts I, II, and III. The Board is confident that with her knowledge of the court system and experience in the disciplinary system, Ms. Frankston-Morris will usher in a smooth transition and serve the Board in this new era.

Hearing Committee Members Move on After Service

The following Hearing Committee members have left the service of the Board when their terms expired or they were named to offices. The Disciplinary Board is deeply grateful for the service these volunteer attorneys have contributed to our peer review based disciplinary system.

District 1:

Kevin F. Berry
Timothy W. Callahan, II
Linda M. Hee
Sophia Lee
Ria C. Momblanco
Patricia V. Pierce
Kevin E. Raphael
Dionysios G. Rassias

District 2:

Margaret J. Amoroso (2012 – 2015) – became Common Pleas Judge
Francis J. Catania
Daniel Clifford (2012 – 2015) – became Common Pleas Judge
Michael W. McTigue, Jr.
Patrick J. Murphy (2013 – 2015) – appointed Under Secretary of the Army
Dara Rosenthal (2012 – 2015) – joined staff of Justice Kevin Dougherty
Raymond J. Santarelli

District 3:

Elizabeth S. Beckley (2011 – 2016) – appointed to the Judicial Conduct Board
Joseph D. Burke
Vincent Cimini
Maria P. Cognetti
Walter T. Grabowski
Stephen Jennings
Edward H. Jordan, Jr.
Sandra L. Meilton
Barbara A. Zemlock

District 4:

Susan Shin Connelly
Michele S. Haggerty
Elizabeth L. Hughes
Jill M. Ondos
Philip Walter Zarone
Lisa Ann Zemba

Renowned Family Law Layer, Former Board Member Albert Momjian Passes

We are saddened to note the passing of **Albert Momjian**, a distinguished family law attorney and former Disciplinary Board member from the Philadelphia area. Mr. Momjian, 82, passed away on July 11 at Einstein Medical Center Montgomery.

Mr. Momjian was a partner in the Philadelphia law firm of Schnader Harrison Segal & Lewis, where he worked for 24 years before retiring in 2012. Over the years, he attracted many high-profile clients. He

cochaired the Committee to Consolidate Pennsylvania Family Laws, and provided guidance to the Pennsylvania House and Senate Judiciary Committees during passage of the 1980 Divorce Code. He was the author of "Pennsylvania Family Law," a treatise often cited by appellate courts, collaborated with his son, Mark, on "Pennsylvania Family Law Annotated," and wrote many articles for the education of the bar. He was active in civic and charitable causes, and was a devoted advocate for the Armenian-American community.

He served on the Disciplinary Board from 2009 to 2013.

[i] Please do not submit comments to the "comments" email at the end of this newsletter.

[ii] Please note in last month's newsletter there was a misprint under "Lawyer Suspended for Excesses in Representing Wife." Charles Edward Malloy, III was printed and the correct name is Edward Charles Mallow, III

Let Us Know

Got a tip, a link, a correction, a question, a comment, an observation, a clarification, a wisecrack, an idea you'd like to see addressed? We are always glad to hear from you. Please do not reply to this email. Write us at comments@padisciplinaryboard.org.

Sign Up for Our RSS Feeds

Receive emails or link to your [personal feeder](#).

This newsletter is being sent to you as a courtesy by The Disciplinary Board of the Supreme Court of Pennsylvania, www.padb.us. To subscribe, please click [here](#). To unsubscribe, please click [here](#). All comments and questions can be sent to us via email to comments@padisciplinaryboard.org. If you wish to contact us by other means, please address correspondence to:

The Disciplinary Board of the Supreme Court of Pennsylvania
PA Judicial Center
601 Commonwealth Ave., Suite 5600
P.O. Box 62625
Harrisburg, PA 17106-2625
(717) 231-3380

Copyright © 2016 The Disciplinary Board of the Supreme Court of Pennsylvania, All rights reserved.

[unsubscribe from this list](#) [update subscription preferences](#)

