

Ethics for Estate Planning & Probate Lawyers

By Samantha C. Page, *The Saylor Law Firm LLP*



On May 9, 2018, our Section held a breakfast featuring Paula J. Frederick, General Counsel for the *State Bar of Georgia*, who discussed recent developments in legal ethics. We thank Ms. Frederick for her presentation, which is summarized below.

Recent Changes to the Georgia Rules of Professional Conduct

The Supreme Court of Georgia approved substantial revisions to the process for investigating and prosecuting legal disciplinary cases. Under the new rules, effective July 1, 2018, the Office of General Counsel (“OGC”) has authority to review matters as soon as they receive credible information that a lawyer has violated the Rules of Professional Conduct. The former process required a formal written grievance before an investigation could begin.

Another notable change is that the State Disciplinary Board may now refer a lawyer for evaluation if there are any signs of mental illness, addiction, or cognitive impairment. If the lawyer does not cooperate, he or she may be considered for expedited action under the procedures for emergency suspension cases.

New Georgia Advisory Opinions

A recent Georgia Advisory Opinion answered the question: “May a sole practitioner use a firm name that includes “group,” “firm,” or “& Associates”? Formal Advisory Opinion 16-3 said that it is misleading for a sole practitioner to use the terms “group” or “& Associates” and these terms violate Georgia Rules of Professional Conduct 7.1 and 7.5. However, using the term “firm” in the firm name is allowed.

Another recent Georgia Advisory Opinion discusses whether under Rule 1.6 there is an obligation of confidentiality between jointly-represented clients. Formal Advisory Opinion No. 16-1 states that an attorney must honor a client’s request that information be kept confidential from the other jointly-represented client. However, in almost all cases, honoring this request requires the attorney to withdraw from joint representation.

Yet another Georgia Advisory Opinion addresses whether an attorney who is appointed to serve as both legal counsel and guardian ad litem for a child in a termination of parental rights case can advocate termination over the child’s objection. Formal Advisory Opinion No. 26-2 states that when it is obvious that there is an irreconcilable conflict between the child’s and attorney’s desires, the attorney must withdraw from their role as the child’s guardian ad litem.

Trends in Lawyer Disciplinary Investigations

In 2017, the Bar received 1842 requests for Grievance, a decrease from 2016. Of these, 188 were sent to the Investigatory Panel, a decrease from 231 in 2016.

About the Presenter

Paula Frederick is General Counsel for the State Bar of Georgia, a unified bar organization with 48,000 members. The Office of General Counsel is responsible for interpreting the ethics rules for lawyers, prosecuting lawyer discipline cases, and providing legal advice to the officers and directors of the State Bar.

Paula is a 1982 graduate of Vanderbilt University School of Law and a 1979 graduate of Duke University. Before joining the Office of the General Counsel she spent six years as a staff attorney with the Atlanta Legal Aid Society.

Paula is a Past President of both the Atlanta Bar Association and the Georgia Association of Black Women Attorneys. She is an active member of the American Bar Association, where she serves as Chair of the Standing Committee on Professional Discipline, Georgia delegate to the Nominating Committee, and a member of the House of Delegates. She is a member of the Executive Committee of the Lawyers Club of Atlanta and serves on the Board of Georgia Appleseed.

About the Author



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[More information about Ethics for Estate Planning and Probate Lawyers may be found in the handout for this presentation, which is available for download on the Estate Planning and Probate Section page of the Atlanta Bar Association website. The Georgia Rules of Professional Conduct and archived issues of the Georgia Bar Journal can be found on the State Bar website.]