



# BOARD OF PROFESSIONAL RESPONSIBILITY

of the

## SUPREME COURT OF TENNESSEE

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### TWENTY-NINTH ANNUAL REPORT

*July 1, 2004 through June 30, 2005*

The Board continues to enhance its robust website at [www.tbpr.org](http://www.tbpr.org). Electronic subscriptions to the Board's *Informational Releases, Formal Ethics Opinions, Newsletters* and *Annual Reports* are available. Attorneys with prospective ethical issues may seek personal guidance online. Listings of *pro hac vice* attorneys and *Rule 44 Intermediary Organizations* are available. The texts of the *Rules of Professional Conduct* and *Rules of Disciplinary Enforcement (Tenn.Sup.Ct.R.8 and R.9)* and *Formal Ethics Opinions* are available online, along with other helpful features.

The continuous decline in the opening of complaint files experienced each year during the past seven years has ended. There were 982 files opened this fiscal year, an increase of 6% more than 926 opened the previous year - however being 40% fewer than 1,655 opened in 1998. The Board has received 35,625 complaints during the past twenty-nine years, excluding the consumer assistance concerns noted below, resulting in 155 disbarments, 381 suspensions, 436 public censures and 2,695 private reprimands or admonitions. The nature of the files created and areas from which they arose during this reporting year and the previous year are shown on page two of this report.

The *Consumer Assistance Program*, implemented by the Board in 2002, continues to receive a large volume of consumer contacts. During this year the program addressed 4,820 concerns, an increase of more than 5% over last year. Informal mediation of consumer concerns, not rising to the level of serious ethical violations, occurred in 3,285 instances. Giving general information resulting from inquiries by legal consumers accounted for the highest frequency of other activity. Areas of practice for which the most concerns were received were criminal, domestic, personal injury, general civil, and bankruptcy. There were 1,283 referrals to other entities, such as fee dispute committees, lawyer referral services or to disciplinary counsel when concerns could not be quickly resolved by informal mediation.

The Board's *Ethics Opinion Service*, implemented in 1980 as a proactive program to prevent ethical misconduct, has resulted in 163 formal ethics opinions and 819 advisory opinions. Disciplinary Counsel have responded to 54,742 hotline telephone inquiries from attorneys seeking ethical guidance, including 3,146 inquires during this reporting year. Disciplinary Counsel also participated in 53 bar-sponsored ethics seminars during the year, attended by approximately 2,695 attorneys.

Attorneys are continuing to be proficient in the appropriate maintenance of trust accounts. There were 61 overdraft notices filed this year, representing a 78% decline from 288 filed in 1995, and 25% fewer than the previous year when 82 overdraft notices were filed. The Board's *Overdraft Notice Program* was implemented in 1994, requiring trust accounts to be maintained in financial institutions which agree to report overdrafts to the Board. More than 300 financial institutions are participating in the program.

Tennessee attorneys have contributed \$26.4 million in annual Court assessments to finance the Board's programs, with no contributions from other sources. The annual registration fees provided revenue in FY 04-05 of \$1,808,595. Additional revenues of \$124,133 were received from interest, reimbursement of costs of disciplinary proceedings and prior fees and penalties, providing total Board revenue this fiscal year of \$1,932,728. Expenditures were \$2,037,703. The Board also collected and remitted an additional \$349,210 this year to the Supreme Court's *Lawyer Assistance Program*. In addition, \$166,580, totaling \$2.36 million since 1990, has been collected from attorneys and remitted to the Court's *Lawyers' Fund for Client Protection*.

REGISTRATION INFORMATION <sup>④</sup>									DISCIPLINARY DISTRICTS <sup>③</sup>	DISCIPLINARY INFORMATION <sup>④</sup>													
General Population <sup>①</sup>	Active Attorneys		Exempt Attorneys		Suspended Attorneys <sup>②</sup>		Total Attorneys			Number of Complaints	Disbarments		Suspensions		Public Censures		Private Reprimands		Private Admonitions		Disability Inactive		
	2005	2004	2005	2004	2005	2004	2005	2004		2005	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005	2004		
756,761	912	886	83	81	51	46	1,046	1,013	I	71	69	0	0	0	1	2	2	3	0	4	3	0	1
382,506	452	455	53	49	18	19	523	523	II Excluding Knox Co.	47	56	0	0	1	1	1	2	1	0	2	2	0	0
400,061	1,653	1,599	167	154	72	71	1,892	1,824	II Knox County	98	130	0	0	1	0	2	1	4	6	11	2	0	2
308,876	246	245	30	26	9	9	285	280	III Excluding Hamilton Co.	14	27	0	0	0	0	0	0	0	2	2	1	0	0
310,371	1,076	1,050	91	90	49	44	1,216	1,184	III Hamilton County	57	44	0	0	1	0	4	3	2	0	5	0	0	0
831,392	976	939	110	102	42	42	1,128	1,083	IV	85	66	0	0	0	3	1	5	2	0	7	2	0	0
572,475	3,876	3,739	333	321	195	198	4,404	4,258	V Davidson County	194	184	2	2	3	2	9	3	7	5	13	10	1	1
816,754	1,379	1,327	144	133	78	70	1,601	1,530	VI	92	69	0	2	2	1	4	1	0	1	7	7	1	2
338,347	476	460	41	42	22	22	539	524	VII	54	26	1	1	1	1	0	1	0	0	4	4	1	0
275,244	249	246	29	24	12	12	290	282	VIII	21	20	0	0	0	0	3	1	0	0	1	2	0	0
908,175	3,175	3,112	327	316	243	229	3,745	3,657	IX Shelby County	227	220	1	2	5	5	8	5	5	5	15	17	0	0
	2,919	2,813	904	838	792	745	4,615	4,396	Out of State	22	15	0	0	3	0	1	1	1	1	3	3	1	0
5,900,962	17,389	16,871	2,312	2,176	1,583	1,507	21,284	20,554	--- TOTALS ---	982	926	4	7	17	14	35	25	25	20	74	53	4	6

**NOTES:**

①U.S. Bureau of the Census, 2004 estimated County Population for Tennessee Counties.

②This total includes suspensions for: non-payment of fee (542), non-compliance with CLE (334), disciplinary actions (149) and multiple suspensions (558).

③The Disciplinary Districts contain the following counties pursuant to Rule 9(2):

District I - Johnson, Carter, Cocke, Greene, Hancock, Grainger, Jefferson, Sullivan, Washington, Unicoi, Hawkins, Claiborne, Hamblen and Sevier Counties.

District II - Campbell, Anderson, Roane, Blount, Morgan, Union, Knox, Loudon and Scott Counties.

District III - Polk, Hamilton, Sequatchie, Bledsoe, Meigs, Monroe, Bradley, Marion, Grundy, Rhea and McMinn Counties.

District IV - White, Van Buren, Pickett, Putnam, Overton, Clay, Franklin, Moore, Bedford, Rutherford, Wilson, Trousdale, Warren, Fentress, Cumberland, Smith, Jackson, Coffee, Lincoln, Marshall, Cannon, DeKalb and Macon Counties.

District V - Davidson County.

District VI - Giles, Wayne, Lewis, Maury, Humphreys, Cheatham, Houston, Montgomery, Robertson, Lawrence, Perry, Hickman, Dickson, Stewart, Sumner and Williamson Counties.

District VII - Henry, Carroll, Henderson, Hardeman, Hardin, Benton, Chester, Decatur, Fayette, McNairy and Madison Counties.

District VIII - Weakley, Lake, Gibson, Haywood, Tipton, Obion, Dyer, Crockett and Lauderdale Counties.

District IX - Shelby County.

④Period for 2005 data is July 1, 2004 through June 30, 2005.  
Period for 2004 data is July 1, 2003 through June 30, 2004.

**NATURE OF COMPLAINTS:**

**2005 2004**

<b>TRUST VIOLATIONS:</b> Recordkeeping, Embezzlement, Conversion, Commingling	91	62
<b>CONFLICT OF INTEREST:</b> Personal, As Public Official, Appearance of Impropriety, Business with Clients, Multiple Representation	54	65
<b>NEGLECT:</b> Preparation, Failure to Communicate, File, Appear or Perform	330	348
<b>MISREPRESENTATION OR FRAUD:</b> False Documents, Attestation, Statements, Failure to Clarify	96	83
<b>RELATIONSHIP WITH CLIENT:</b> Limiting Liability, Discussing Confidence, Improper Withdrawal, Not Releasing Documents, Extortion, Harassment, Failure to Protect Client's Interest	302	264
<b>FEES:</b> Overreaching, Excessive, Splitting Fee with Non-Lawyer, Improper Division, Failure to Refund, Improper Fee	27	24
<b>IMPROPER COMMUNICATIONS:</b> Advertising, Solicitation, Trial Publicity, Contact with Witnesses, Officials, Jury, Opposing Party	55	59
<b>CRIMINAL CONVICTION:</b> Felony, Misdemeanor, Other	3	3
<b>PERSONAL BEHAVIOR:</b> Competence, Mental Disability, Aiding Unauthorized Practice, Ineffective Assistance	23	18
<b>OTHER:</b> Reciprocal Discipline, not available	1	0
<b>TOTAL FILES OPENED:</b>	982	926

**ALL ATTORNEYS ARE REQUIRED TO FILE WRITTEN NOTICE OF ANY CHANGE IN RESIDENCE ADDRESS, OFFICE ADDRESS OR STATUS WITHIN 30 DAYS OF SUCH CHANGE AS REQUIRED BY SUPREME COURT RULE 9(20.5).**

**FRIVOLOUS MATTERS ADMINISTRATIVELY DISMISSED PURSUANT TO RULE 9(7.2)(c):** 286 321

**TOTAL MATTERS RECEIVED:** 1,268 1,247