

**CODE OF REGULATIONS
OF
THE TOLEDO BAR ASSOCIATION**

Revised June 2015

PREAMBLE

Whereas, the Bench and the Bar stand in intimate relation with the social, business and judicial affairs of our community and exercise an important influence therein: and,

Whereas, the greatest good and best results can be achieved by promoting reform in the law, by facilitating the administration of justice, by elevating the standard of integrity, honor and courtesy in the legal profession and by maintaining the spirit of a common purpose and congeniality among the members of that profession in the accomplishment of all commendable ends;

Therefore, to maintain and to continue an organization formed December, 1878, in the County of Lucas and State of Ohio, for such purposes, and with such objects in view, the following amended Code of Regulations of the Toledo Bar Association ("Association") are made and adopted.

ARTICLE I

Name

The name of the corporation is "The Toledo Bar Association."

ARTICLE II

Membership

Section 1. Full Membership. Any person of good moral character duly admitted to the practice of law and a member in good standing of the Bar of Ohio or any other state or the District of Columbia who has legal residence or professional office in Lucas County, Ohio, or any adjacent county, shall be eligible upon written application to apply for Full Membership in the Association.

Section 2. Affiliate Membership. Any person who would otherwise be eligible for Membership in the Association, but who does not have a legal residence or a professional office in Lucas County, Ohio or any adjacent county, shall be eligible upon written application for Affiliate Membership in the Association. Affiliate Members do not have voting privileges, cannot hold office in the Association, and cannot serve on Standing Committees.

Section 3. Retired Membership. A Member of the Association who retires from the practice of law in accordance with Supreme Court Rules for governance may continue to be a Member of the Association.

Section 4. Associate Membership. Any person of good moral character not admitted to the practice of law, but who is a legal assistant or paralegal qualified through education, training or work experience, and is employed or retained by a lawyer, law office, governmental agency or other business entity, and is sponsored by a Member of the Association for Associate Membership, shall be eligible upon written application for Associate status to be designated as an "Associate" in the Association. Associate Members, when citing their membership, may only indicate, state or publicize that they are Associate Members of the Association. Associate Members do not have voting privileges, cannot hold office in the Association and cannot serve on Standing Committees.

Section 5. Student Membership. Any student in good standing at an ABA accredited law school, or recent graduate awaiting completion of a bar examination, who has legal or temporary residence or professional office in Lucas County or any adjacent county shall be eligible upon written application for Student status to be designated as a "Student Member" in the Association. Student Members of the Association, when identifying their membership, may only indicate, state or publicize that they are Student Members of the Association. Student Members do not have voting privileges, cannot hold office in the Association and cannot serve on Standing Committees. The Board of

Directors (hereinafter the "Board") may establish special membership rules and regulations for Student Members, as it, from time to time, deems appropriate.

Section 6. Termination of Membership. Membership shall be terminated by resignation from the practice of law, suspension or permanent disbarment. Membership may be terminated (i) by resignation, (ii) by nonpayment of dues, (iii) or by expulsion by a three-fourths vote of the Board. There shall be an opportunity for a hearing before a vote to expel is taken.

Section 7. Termination of Associate and Student Members. An Associate or Student Member may be removed at any time by a majority vote of the Board for failure to comply with the membership requirements set forth herein.

ARTICLE III Dues

Section 1. Annual Dues. Annual dues for Membership in the Association shall be assessed against each Member payable in advance. Annual dues shall be assessed against each Member according to membership category and in accordance with a dues schedule to be set by the Board.

Section 2. Administration of Dues. The Board shall have authority to increase or decrease annual dues, to make rules respecting default in payment of dues, reinstatement fees, suspension of dues for cause, proportionate dues for new Members and allowance for period of military service.

ARTICLE IV Officers

Section 1. Officers. The officers of the Association shall be a President, a First Vice-President who shall become President the succeeding year, a Second Vice-President, a Third Vice-President, a Secretary and a Treasurer, all of whom shall hold their offices for one year commencing on July 1 following their election, and until their successors are elected and qualified. The Board may also appoint one or more Assistant Secretaries and one or more Assistant Treasurers and such other officers and agents of the Association as it may from time to time determine. All officers, except the Executive Director, shall be Full Members of the Association.

Section 2. President. The President shall preside at all meetings of the Association and shall be the Chairperson of the Board. The President shall perform all duties ordinarily incident to the office and such other duties as the Board or the Association may from time to time prescribe.

Section 3. Vice-Presidents. In the temporary absence of the President, the First, Second or Third Vice-President, in that order on the basis of availability, shall act as President.

The Vice-Presidents shall perform such other duties as may be assigned to them by the President with the approval of the Board.

Section 4. Secretary. The Secretary shall be the custodian of the records of the Association; shall keep an accurate record of the proceedings of the Association and of the Board, and a roster of the names and addresses of the Members. The Secretary shall perform such other duties as the President, the Board or the Association may from time to time prescribe.

Section 5. Treasurer. The Treasurer, subject to the control of the Board, shall be responsible for overseeing the collection and disbursement of all money of the Association. Under the direction of the Treasurer, the Association shall keep a true and accurate account of all of its financial transactions. The Treasurer shall fully report to the Members on an annual basis the amount of the funds received and disbursed by the Association.

Section 6. Executive Director. An Executive Director shall be appointed by, and shall serve at the pleasure of the Board. The Executive Director, who may or may not be a Member of the Association, shall have such authority and perform such duties as may be assigned to that office from time to time by the President or the Board and shall report to the President and the Board. All other employees of the Association shall report to the Executive Director

Section 7. Executive Committee. The President, Vice-Presidents, Secretary, Treasurer and Executive Director shall comprise an Executive Committee of the Association. The Executive Director shall be an ex-officio member with voice but without vote. The Executive Committee shall meet in advance of the monthly meetings of the Board, setting the agenda and performing such other tasks on behalf of the Board as may be necessary between meetings of the Board. Actions taken by the Executive Committee between meetings of the Board shall be reported to the Board at the next meeting.

Section 8. Terms of Office. The First Vice-President, Second Vice-President, Third Vice-President, Secretary and Treasurer shall be elected for one year terms in the manner hereinafter described. The First Vice-President shall automatically succeed to the office of President for a one year term. A President, after having served one full term as such officer of the Association, shall be ineligible to hold such office again.

Section 9. Vacancies. If the office of President should become vacant, the First Vice-President shall serve the unexpired term of the President and, in addition, shall serve the full succeeding term as President. Any vacancy in the office of the President not so filled and any vacancy in the office of the First Vice-President may be filled by the board from among the other Vice-Presidents.

ARTICLE V Directors

Section 1. Directors. There shall be twelve (12) Directors, four (4) of whom shall be elected each year, in the manner hereinafter described. Each Director so elected shall hold office for a three year term commencing on July 1 following their election and until a successor is elected and qualified. Each Director shall serve no more than two (2) consecutive terms. The President, First Vice-President, Second Vice-President, Third Vice-President, Secretary, Treasurer and immediate Past President shall be a Director ex officio with both voice and vote. The Dean of the University of Toledo College of Law and the President of the Toledo Junior Bar Association shall also be Directors ex officio with voice, but no vote. All voting Directors shall either be Full or Retired Members.

Commencing with the 2013-2014 fiscal year, following the election of Directors, if the incoming President determines the elected Directors do not reflect the diversity of the legal community, the incoming President, with the approval of the Board, may appoint one Member of the Association as an additional Director for a three year term to commence on July 1 to ensure representation of the diversity of the legal community. For the 2012-2013 fiscal year, the incoming President, with the approval of the Board, may appoint up to three Members as additional Directors for a term to commence on July 1, one Member for a one year term, one Member for a two year term, and one Member for a three year term. The individual(s) appointed shall have full voting rights.

Section 2. Duties. The Board shall generally oversee the management and control of the affairs of the Association, and counsel and advise the President and other officers; the Board shall appoint the Executive Director; approve and confirm all committee appointments made by the President and fill, by appointment, any vacancy occurring in the offices or any of the committees of the Association, except in the case of the office of President which shall be filled by the First Vice-President succeeding to the duties of that office. The Board shall approve all expenditures on behalf of the Association; fix the compensation to be paid to the Executive Director; direct the activities of the Association; determine questions of policy; provide such office accommodations for the Association as the Board may deem proper; and, with the President, direct and supervise the work of the Executive Director.

Section 3. Vacancies. Vacancies in the office of a Director will be filled by the Directors remaining on the Board.

Section 4. Action. A majority of the Board shall constitute a quorum for the purpose of conducting the business of the Association. The Board may take action without a meeting by a majority vote of its members, which vote may be taken by voting in person, by mail, or by electronic means, so long as the Board assures that the chosen method is reliable and appropriate. The Board shall hold its Annual Meeting in June of each year.

Section 5. Removal of Directors. A Director may be removed for good cause by the vote of three quarters of the remaining Directors.

ARTICLE VI Committees

Section 1. Appointments. The incoming President, promptly after the annual election, with the advice and approval of the Board, shall appoint the Chairperson, Secretary and members of all Standing Committees and all special committees of the Association. The judges of the courts during their respective terms of office shall not be eligible to serve on the Judicial Candidates Committee. Affiliate, Associate and Student Members shall not be eligible to serve on Standing Committees or the following committees: Admissions to the Bar; Fee Arbitration; and Unauthorized Practice of Law. Associates may be appointed to such other committees and may have such voting rights on committee matters as the Board, from time to time, determines appropriate.

Section 2. Standing Committees. The Standing Committees of the Association shall be:

1. The Nominating Committee
2. The Judicial Candidates Committee
3. The Grievance Committee
4. The Finance Committee

Section 3. Special Committees. The Special Committees of the Association shall be such committees as shall, from time to time, be authorized by the Board. The Board shall review the purposes of each Special Committee annually and, on the basis of such review, continue, merge, or abolish it.

Section 4. Conduct of Business. The members of a committee in attendance at a meeting shall constitute a quorum for the transaction of, and report upon, any business assigned to it.

Section 5. Reports. The committees shall report each year to the Association a summary of their proceedings except as to such matters as are by such committee deemed to be improper to be recorded or made public, together with any suggestions or recommendations which their observation may prompt. They shall, at the request of the President, make such reports to the Board as may be in the interest of the Association.

ARTICLE VII Nominating Committee

Section 1. Organization of the Committee. The Nominating Committee shall annually consist of the immediate Past President of the Association, who shall serve as Chairperson, and six (6) other voting Members of the Association selected by the current Executive Committee and approved by the Board prior to July 1 of each year. Two Members shall be current Directors who shall serve one year terms. All non-Director members shall serve two year terms. No member of the Nominating Committee shall be eligible for any nominations made by the Committee.

Section 2. Diversity. The Nominating Committee shall strive to select nominees who reflect the diversity of the legal community. The Nominating Committee shall use all means reasonably available to call for nominations, including email, and print requests for nominations as frequently as it deems appropriate.

Section 3. Qualifications of Nominees. All nominees must be Full Members of the Association.

Section 4. Purpose. The Nominating Committee shall:

- A. Perform the duties described in Article VIII (Elections) herein;
- B. Identify and recommend qualified nominees to boards of community organizations;
- C. Identify and recommend, with Board approval, suitable candidates for Association awards, and
- D. Such other duties as the Board may, from time to time, determine appropriate.

ARTICLE VIII Elections

Section 1. Nominations. Not more than sixty-five (65) or less than forty (40) days prior to the annual meeting, the Nominating Committee shall submit a written list of its nominees to the Membership of the Association. The Nominating Committee shall nominate one or more qualified Members of the Association for the offices Third Vice-President, Secretary, Treasurer and for each of the Directors to be elected. At least two (2) Members shall be nominated for Third Vice-President. At least twice as many Members shall be nominated as there are vacancies on the Board. Additional nominations may be made by nominating petitions filed with the Chairperson of the Nominating Committee within ten (10) days after the Nominating Committee's list of nominees is submitted to the Membership. Each petition shall contain the signatures of at least five Full or Retired Members of the Association. In the event that a nominee is unable or unwilling to serve, the Nominating Committee shall, at a special meeting, select a replacement nominee.

Section 2. Voting. Not more than thirty-five (35) nor less than fifteen (15) days prior to the annual meeting, the Nominating Committee, under the direction of the board, shall cause ballots to be prepared which shall include the names of all nominees for each office and one such ballot, with appropriate instructions for voting, shall be sent by mail or other reliable manner, including electronic means, to each Member of the Association. The Board shall direct the tabulation of the votes and shall cause the results of such election to be reported to the Association at the annual meeting. Associate Members shall not be eligible to vote in elections.

ARTICLE IX Toledo Bar Association Certified Grievance Committee

Section 1. Purpose. The Grievance Committee of The Toledo Bar Association is a Certified Grievance Committee as that term is defined in Rule V of the Supreme Court Rules for the Government of the Bar of Ohio. It is responsible for the investigation of allegations of misconduct by attorneys and of allegations that an attorney is mentally ill, is suffering from alcohol and other drug abuse, or is suffering from a disorder. The Grievance Committee shall also be responsible for the initiation of complaints as a result of attorney misconduct or mental illness, alcohol and other drug abuse, or disorder. The Grievance Committee of The Toledo Bar Association shall conduct all proceedings in accordance with Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.

Section 2. Bar Counsel. The Toledo Bar Association shall employ legal counsel, identified as "Bar Counsel." Bar Counsel shall be an attorney licensed in Ohio and a Member of The Toledo Bar Association. Bar Counsel shall be responsible for supervising the intake and investigation of grievances, administration of the disciplinary process within The Toledo Bar Association, maintaining the minutes and records of the Grievance Committee, providing advice and counsel on disciplinary matters to the Grievance Committee, and such other duties as may be designated by the Board. Bar Counsel may appear as counsel of record for The Toledo Bar Association in disciplinary proceedings, and in other proceedings as designated by the Board, provided, however, that nothing in this Section shall preclude members of the Grievance Committee from acting as counsel in disciplinary matters, as designated by the Chairperson of the Grievance Committee.

Section 3. Investigation and Processing of Grievances. The investigation and processing of grievances shall be conducted in accordance with the Supreme Court Rules for the Government of the Bar of Ohio and in accordance with rules adopted by the Grievance Committee, so long as those rules do not conflict with the Supreme Court Rules for the Government of the Bar of Ohio. No investigation conducted by the Grievance Committee shall be completed,

and no formal complaint shall be filed with the Board of Professional Conduct, without first giving the attorney who is the subject of the complaint or investigation notice of each allegation and the opportunity to respond to each allegation.

This section does not apply to a proceeding seeking to impose an interim remedial suspension from the practice of law upon an attorney pursuant to Rule V, Section 19 of the Supreme Court Rules for the Government of the Bar of Ohio.

Section 4. Appearance by Attorney before Grievance Committee. If the Grievance Committee makes a preliminary determination that probable cause exists for the filing of a formal complaint, the attorney involved shall, upon reasonable notice, be given the opportunity to appear before the Grievance Committee, with counsel if desired, and present relevant, material evidence or argument of fact or law, in defense or in mitigation, to show cause why a complaint shall not be filed with the Board of Professional Conduct.

Section 5. Action of the Committee. After such hearing, if any, or if no hearing is requested by the attorney, the Committee shall either:

- A. Cause a complaint to be filed pursuant to the Supreme Court Rules for the Government of the Bar of Ohio if it finds there is “probable cause” to believe that misconduct has occurred or the attorney is mentally ill, is suffering from alcohol and other drug abuse, or is suffering from a disorder; or
- B. Enter on the minutes of the Grievance Committee a finding of lack of “probable cause” and thereby dismiss the grievance.

“Probable cause” shall mean that there is available substantial credible evidence that misconduct has been committed or that the attorney is mentally ill, is suffering from alcohol and other drug abuse, or is suffering from a disorder.

For purposes of this Article, “mental illness” has the same meaning as in R.C. 5122.01(A); “alcohol and other drug abuse” has the same meaning as in R.C. 5119.90; and “disorder” means a mental disorder, substance use disorder, or nonsubstance-related disorder.

Section 6. Expenses. The Grievance Committee shall have the authority to incur reasonable expenses in its proceedings.

Section 7. Membership. Lawyer membership on the Grievance Committee shall not be restricted to lawyers who are Members of The Toledo Bar Association.

Section 8. Non-lawyers. After consultation with the chairperson of the Grievance Committee, the President of The Toledo Bar Association, with the advice and approval of the Board, shall appoint at least the minimum of non-lawyer members required by the Supreme Court Rules for the Government of the Bar of Ohio to serve on the Grievance Committee. However, the majority of the committee members of the Grievance Committee shall consist of attorneys-at-law admitted to the practice of law by the Supreme Court of Ohio. The non-lawyer members shall be counted in determining a quorum and will have full voting privileges on the Grievance Committee. Non-lawyer members will participate in all work of the Committee, except to the extent such participation constitutes the practice of law. Non-lawyers shall not serve as Chairperson or Secretary/Vice-chair of the Grievance Committee.

Section 9. Statement of Principle. Because of the nature and scope of the duties of The Toledo Bar Association Certified Grievance Committee as contained in the Code of Regulations of The Toledo Bar Association, and as defined in Rule V of the Supreme Court Rules for the Government of the Bar of Ohio, the President of The Toledo Bar Association, after consultation with the Chairperson of the Grievance Committee, shall appoint lawyer members of the Grievance Committee, giving consideration to the diverse backgrounds of the members of the Bar in Lucas County, Ohio. In implementing the policy, the Chairperson and the President may consult with other associations of lawyers in Lucas County, Ohio.

ARTICLE X
Judicial Candidates Committee

Section 1. Organization of the Committee. The Judicial Candidates Committee shall consist of:

A. Twelve permanent positions to be filled by Members of the Association, four (4) of whom shall be appointed by the President each year for three year terms;

B. Temporary positions consisting of two (2) Members of the Association from each Court committee for which a judicial vacancy is under consideration; these positions shall be filled by appointment of the respective Court Committee Chairperson only for that period during which the Committee has the vacancy for that Court under consideration.

C. Not more than 50% of the total membership of the Committee shall be members of any one political party. Further, a good faith effort shall be made to appoint lawyers to serve on the Committee who shall reflect the diversity of the Bar in terms of race, gender, practice specialty, firm size and other relevant matters. Subject to Section 3 herein, no member of the Committee shall be sitting as a magistrate or acting judge, no member shall be an officer of either political party, nor shall any member be permitted to serve on any judicial candidate's campaign committee.

Section 2. Purpose. It shall be the purpose of the Committee to create and promote within the electorate a true sense of the importance of electing honest and able judges, and to carry out impartially the procedure provided herein regarding candidates for judicial offices.

Section 3. Duties. In each year in which a judge or judges of the Municipal Court of Toledo, the Municipal Court of Maumee, the Municipal Court of Oregon, the Municipal Court of Perrysburg, the Municipal Court of Sylvania, the Common Pleas Court of Lucas County and its divisions, the Common Pleas Court of Wood County and its divisions, or the Court of Appeals of the Sixth District are to be elected, the Association, in the manner hereinafter prescribed, shall ascertain and report to the Board its composite opinion, as to its recommendations for such judicial offices.

Section 4. Biographies of Candidates. Prior to the submission of any questionnaire, the Committee shall request from the candidates such biographical information as, in the opinion of the Committee, shall be desirable and necessary. If any candidate fails and refuses to supply such information, the Committee may obtain such information and publish the same, or it may state the facts of such failure or refusal in the questionnaire. The Committee, in submitting biographical information, shall not be limited to the information supplied by the candidates.

Section 5. Procedure Relating to Candidates. For all candidates for judge who have qualified either by petition or primary election, the Committee shall, not later than September 1 of the election year, submit by mail or other reliable manner, including electronic means, the following questionnaire to each Member of the Association, together with the biographical information of each candidate, taking into consideration the candidate's integrity, legal ability, legal experience, fair-mindedness, public and community service and judicial temperament, and other qualities bearing upon fitness for the office sought, ranking the candidates as either Highly Recommended, Recommended, or Not Recommended.

As soon as possible after the date fixed for the return of the questionnaires, the answers thereto shall be tabulated by or under the direction of the Chairperson of the Committee. The numerical results of the tabulation of the votes as to each candidate shall be announced by the President.

Section 6. Vacancies in Judicial Offices. When a vacancy to be filled by appointment occurs in a judicial office in any of the Courts mentioned in this Article, or in the United States District Court or in the United States Bankruptcy Court for the Northern District of Ohio, Western Division, the Committee shall, if practicable, notify all Members of the Association of the vacancy and the Committee shall interview and screen all applicants seeking the Association's recommendation for the appointment. No fewer than eight members of the Committee shall, as early as it is practicable, interview and screen all applicants taking into consideration the candidate's integrity, legal ability, legal experience, fair-mindedness, judicial temperament, diligence, promptness, professionalism, public and community service, and other qualities bearing upon fitness for the office sought, and shall thereafter submit, forthwith, a

recommendation to the Board as to whether each applicant is either highly recommended, recommended or not recommended.

The Board may, if it desires, conduct such further investigation or interview of any applicant as they see fit. In cases where time does not permit the Committee to screen an applicant, the Board may do so. The Board shall then review the Committee recommendation, and the results of their own investigation, interviews and screening proceedings, and then shall report to the appointing authority as to whether each applicant is highly recommended, recommended or not recommended.

In any proceedings under this Section, a questionnaire need not be submitted to the members of the Association.

Section 7. General Provisions. The Board shall make public information concerning proceedings hereunder.

The Committee is empowered, subject to the approval of the Board, to employ such means as it may deem necessary and proper to carry out the intent and purposes of these provisions.

ARTICLE XI Finance Committee

Section 1. Purpose. The Committee shall review the Association's financial reports and audits, investment policy and portfolio, and provide guidance and assistance in long range financial planning to the Board. The Committee will make financial recommendations as necessary, or as assigned, to the Board. The Committee will meet quarterly or as necessary.

The current Treasurer of the Association shall be Chairperson. Four (4) additional Full Members of the Association shall be appointed by the Executive Committee and approved by the Board, who shall serve two year staggered terms. The immediate past Treasurer of the Association shall serve for one year following the election of a new Treasurer.

ARTICLE XII Meetings of the Association

Section 1. Annual Meeting. The annual meeting of the Association shall be held each year on such date and at such hour and place as the Board shall determine. Such meeting shall be as near as is convenient, before the beginning of the Association's fiscal year on July 1.

Section 2. Special Meetings. Special meetings of the Association shall be held at such time and place as the President or Board shall provide. Special meetings may be held upon the call of the President or of the Board, or upon the written request of any twenty (20) Members addressed to the President, who shall forthwith issue the call and notice thereof to the Members of the Association.

Section 3. Quorum. Fifty (50) Full Members shall be necessary to constitute a quorum at any meeting of the Association.

ARTICLE XIII Amendments

This Code of Regulations may be amended at any meeting of the Association by a two-thirds vote of the number of Full Members present at such meeting; provided, however, that the proposed amendment shall have been proposed by the Board or shall have been proposed and signed by at least twenty (20) Full Members, and that written notice of the time and place of taking the vote thereon, together with a copy of such proposed amendment, shall be sent by mail or other reliable manner, including electronic means, to Full Members of the Association at least thirty (30) days prior to such meeting.

The Toledo Bar Association

The Fee Arbitration Rules

Effective 8/19/2004

1. **Committee.** The Fee Arbitration Committee of the Toledo Bar Association consists of a Chair and Secretary or Vice-Chair as determined and appointed by the President, and volunteer members of the Toledo Bar Association appointed by the President in consultation with the Chair. The President may, but need not, appoint nonlawyers to be members.
2. **Filing and Notice.** Upon notice from the Grievance Committee, the Grievance Screening Committee, Bar Counsel, or other appropriate source that a dispute regarding legal fees exists, a letter of notification will be sent to the parties that such a complaint has been filed. The client will be requested to sign a "Consent and Agreement" form agreeing to binding arbitration, with no right of appeal. No obligation exists on the client to consent. Fee arbitration is mandatory for an attorney whose client consents. Failure of an attorney to cooperate in a fee arbitration proceeding may be considered a violation of Gov. Bar R. V(4)(G).
3. **Pending Litigation.** TBA fee arbitration will not be mandatory if litigation between the parties is pending before the fee dispute first comes to the attention of the TBA, or if fee arbitration is required by another forum, e.g. Workers Compensation. A lawyer may not file a suit after receiving notice of a referral for fee arbitration. Litigation started after a fee dispute has been presented to the TBA may be stayed pending arbitration.
4. **Hearing Scheduling.** When a signed Consent and Agreement form is received from the client, the Bar Counsel will attempt to determine the amount in dispute, will set the matter for hearing before a regularly scheduled meeting of the Committee, and will notify the parties. At any meeting, the full Committee may act as a hearing panel or the Committee Chair may divide the Committee into two or more hearing panels, each of which shall consist of at least three members of the Committee. One member will be designated as Chair of each panel. A majority of each panel shall be lawyers. If fewer than three members appear for the hearing, the parties may consent to proceed with the members present or may reschedule.
5. **Settlements.** Negotiated settlements and compromises are encouraged, and the parties may agree to settle their dispute at any time prior to the conclusion of the hearing.
6. **Hearings.** At the hearing, the parties may introduce any testimony, including that of witnesses, documents, or other evidence supporting their positions. The panel members may ask questions to gain a full and complete understanding of the nature and extent of the dispute. No cross-examination by one party of the other party or the other party's witnesses is allowed. The parties are asked to limit their presentation to thirty minutes. Hearings are usually held at the Bar Association offices at noon and are completed by 1:30 p. m.
7. **Counsel.** Parties may have their own attorneys present at the hearing to assist them in presenting their positions, but it is not necessary and in fact not encouraged.
8. **Evidence.** There are no formal rules of evidence. The panel will consider all relevant information to give the panel a complete understanding of the nature of the dispute as it relates to fees charged.
9. **Decision and Award.** Following the hearing, the panel meets immediately to reach a decision based upon a majority agreement of the panel. A written decision is then prepared and signed by the Chair of the panel, or Bar Counsel on behalf of the Chair of the panel, and distributed to the parties by mail within ten days. Copies are sent to the Chair of the Committee and to Bar Counsel. There is no right to appeal the decision.

10. **Small Disputes.** If the Chair or Bar Counsel determines that the amount of a fee dispute is less than One Thousand Dollars (\$1,000), the Chair may order that the matter be heard and determined by a single member of the Committee, acting as a sole arbitrator. The hearing on a small dispute may be scheduled at any time reasonably convenient to the arbitrator and the parties. The Committee will not generally hear disputes under Two Hundred Dollars (\$200).

11. **Large or Complex Disputes.** With the consent of both parties, the Chair may assign any case to a special panel of three arbitrators, appointed by the Chair, if the Chair determines that the complexity or size of the case warrants it, or for other good cause. A special panel hearing may be scheduled at any time reasonably convenient to the panel and the parties.

12. **Effect.** The decision is a final determination by binding arbitration as to the amount owed by one party to the other. It may be enforced in a court of law under O.R.C. Chapter 2711. By signing the consent and agreement form the client is consenting to such a result.

13. **Collection.** The Committee has no control over when or how the fee or refund is to be collected by the party to whom it is owed.

14. **Authority.** Fee Arbitration is part of an Alternative Dispute Resolution program adopted by the Toledo Bar Association under Gov. Bar Rule V(3)(c) and regulations thereunder. The authority of the Fee Arbitration Committee is limited to determining the amount of the fee or refund. The hearing panel may consider the quality of the services rendered and anything else that impacts on the fee. The Committee does not make any decisions regarding possible legal malpractice. If, during the course of the hearing, a possibility of unethical behavior by the attorney arises, the fee arbitration will cease and the matter will be referred to the Toledo Bar Association Certified Grievance Committee.

The Toledo Bar Association
Summary of Rules for
Attorney-Client Mediation

- 1. Basis for the ACM Program.** In an effort to reduce conflicts and improve communication between the client and the attorney, the Supreme Court of Ohio has authorized Certified Grievance Committees to establish procedures to address areas of client dissatisfaction that are not violations of the Code of Professional Responsibility. The Board of Commissioners on Grievances and Discipline has established three different categories of disputes that are eligible for referral to mediation:

 - A. Failure to adequately communicate** with a client or to inform the client of progress of legal matters, including without limitation, missed appointments, conferences or unreturned telephone calls;
 - B. Inactivity on a case, short of neglect;** attorney lack of diligence or a failure to provide the client with updated information; or
 - C. A failure to timely return client files** or documents; an attorney unilaterally asserting a retaining lien on client files or documents.
- 2. Referral to ACM.** After initial screening, matters eligible may be referred to the Toledo Bar Association Attorney-Client Mediation (ACM) Program Committee for processing. Bar Counsel will select a mediator who is a member of the Attorney-Client Mediation Committee. The mediator shall not have any conflict or relationship to the dispute in question. The mediator shall, to the extent available, have knowledge of the area of law involved in the dispute. The Bar Counsel will also consider any other special quality that may assist in the mediation process. The Bar Counsel will contact the chosen mediator. If the mediator accepts the assignment, the Bar Counsel will inform the grievant and the attorney of the appointment of the mediator.
- 3. Objections to mediator.** Either party will have 5 days within which to lodge an objection to the mediator appointment. If no objection is entered, the mediator will contact the parties to schedule the appropriate mediation. Any objection to a mediator appointment shall be placed in writing with the Bar Counsel. If an objection by either party is presented, the Bar Counsel shall decide whether the objection is appropriate. If the objection is upheld, a new mediator will be selected. If an objection is denied, the grievant and the attorney will be notified and the chosen mediator will contact all parties to schedule the mediation.
- 4. Scheduling the Conference.** The chosen mediator will make initial contact with the grievant and the respondent by phone, fax or letter. The mediator shall establish a time and place for the mediation conference. The grievance shall be scheduled for mediation at a date and time convenient with the grievant and the respondent attorney. The mediation shall be held in accordance with these rules. The chosen mediator may require written statements by the participants. If written statements are required, the parties will decide as to whether the position statements will be exchanged between the parties or whether the statements will be submitted to the mediator *ex parte*. Further, the chosen mediator will decide if third parties will be allowed to participate. The mediator shall make all reasonable efforts to gain cooperation of all parties involved.
- 5. Failure to cooperate.** If mediation does not proceed due to the failure of the respondent attorney to cooperate, the nature and extent of non-cooperation will be reported to Bar Counsel. Bar Counsel shall bring any instance of non-cooperation to the attention of the Toledo Bar Association Certified Grievance Committee or the screening subcommittee for a potential violation of non-cooperation pursuant to Rule V(4)(G) of the Rules for the Government of the Bar. Any non-cooperation of the grievant will be reported to Bar Counsel. If the grievant does not cooperate, the mediation shall be identified as unsuccessful due to failure of the grievant to cooperate and the grievance shall be dismissed.
- 6. Code violations.** If, during the mediation process, or during the course of mediation proceedings, the chosen mediator receives information suggesting that a violation of the Code of Professional Responsibility has occurred, the mediator shall immediately terminate the mediation. The matter shall be returned to Bar Counsel. Bar Counsel will refer the matter to the Grievance Investigation Subcommittee of the Toledo Bar Association Certified

Grievance Committee. In so doing, the mediator will maintain strict confidentiality and will not reveal any information regarding the substance of the attempted mediation.

- 7. Confidentiality.** With the exception of statistical reporting requirements mandated under the Rules for the Government of the Bar, all information received by a mediator in the course of conducting a mediation is deemed to be privileged and confidential under the Rules for the Government of the Bar. The mediator will not be asked to reveal any confidential information or to provide any documents regarding the substance of any mediation held. Any knowledge obtained by the mediator shall be privileged for all purposes under DR 1-103 so long as the knowledge was obtained while the mediator was acting as mediator.
- 8. Effect of mediation.** The results of mediation are binding. The results may not be appealed. At the conclusion of the mediation process, the mediator shall be responsible for drafting an agreement memorializing the mediation result. All parties to the mediation shall sign the agreement and a copy shall be given to the grievant and to the respondent lawyer.
- 9. Reporting of results.** The mediator will report the results of the mediation to the Bar Counsel. If mediation fails, the matter shall be referred to Bar Counsel who shall refer the matter to the screening subcommittee for determination as to further proceedings. At the conclusion of the ADR process, a grievant may not bring the matter back into the grievance process.

Statement of Principles Governing Certain Physician-Lawyer Relationships

In the interest of facilitating the harmonious pursuit of matters involving physicians and lawyers, the Toledo Bar Association and The Academy of Medicine of Toledo and Lucas County developed a Statement of Principles Governing Certain Physician-Lawyer Relationships in 1957. The Principles have been amended from time to time to reflect legislative and practice changes.

Whereas, physicians and lawyers are members of professions dedicated to furnishing professional skill and service to the public; and

Whereas, a substantial part of the practice of medicine, and of the practice of law is concerned with medico-legal problems connected with, or arising out of, injuries to, illness or disability of members of the public; and

Whereas, certain problems frequently arise in each profession in connection with these medico-legal problems affecting the relationship between the physician and the lawyer, the physician and his patient, and the lawyer and his client; and

Whereas, the public interest, the interests of the physicians and their patients, and the interests of the lawyers and their clients will best be served by an understanding on the part of members of each profession as to the functions, scope, rights, duties and responsibilities of the other profession in connection with such medico-legal problems, and by the cooperation of the members of both professions in the solution of such problems;

Now, therefore, the following Statement of Principles is hereby adopted by The Toledo Bar Association and The Academy of Medicine of Toledo and Lucas County, with the caveat that these principles are intended as guidelines for physicians and lawyers in their interrelated practice. They are not legally binding on physicians or lawyers, and they do not create a standard of practice. Further, nothing contained in this Statement of Principles is intended to alter the rules of law with reference to the attendance of witnesses and fees for their attendance, nor the rules of law with reference to privileged communications:

RELEASE OF PROTECTED HEALTH INFORMATION

1. Provision of Protected Health Information

Upon receipt of an appropriate authorization for release of a patient's Protected Health Information from a lawyer, a physician should provide the requested information. A physician should provide complete copies of all records requested. Fees for provision of medical records are governed by statute.

2. Reports to Patient or Lawyer

The patient or the patient's lawyer, when duly authorized by the patient (or the patient's authorized representative), shall be entitled upon written request to a prompt report from the attending or treating physician concerning the patient's history, findings, treatment, diagnosis and prognosis. The lawyer requesting the report should make clear in his request the specific information desired. The physician shall be entitled to a reasonable fee for the preparation of detailed reports requiring an analysis or study of the patient's medical records, or for a consultation with the patient's lawyer. In every instance where a lawyer requests a report, it shall be the duty of the lawyer to assure adequate arrangements for the payment of the fee.

3. Examination of Adverse Party or Employee

If a medical examination is requested or arranged by a party adverse to the individual to be examined, or by a prospective employer as a pre-employment medical examination, the report of such examination should be made directly to the person requesting the medical examination.

PHYSICIANS CALLED AS WITNESSES; PREPARATION AND ARRANGEMENTS

4. Conference Before Testimony

It is the duty of each profession to present fairly and adequately the medical questions involved in legal controversies. To that end, the practice of pretrial discussions between the physician who is to testify and the lawyer calling such a physician as a witness concerning the medical questions involved is encouraged and recommended. It is recognized that it is always proper, and in most instances quite desirable from the standpoint of the physician and lawyer, that a conference should be held between the patient's physician and lawyer at some mutually convenient time before the physician is to testify. Likewise, the physician who has made an examination of a person at the request of a party adverse to the person examined and the lawyer planning to call such a physician as a witness, should confer at some mutually convenient time before such physician is to testify. A reasonable charge, if any, should be directed to the requesting party.

Cooperation by both physician and lawyer in scheduling should be attempted to prevent issuance of a subpoena for a randomly selected date for deposition testimony.

5. Cooperation with Court

It is recognized that the proper and efficient dispatch of the business of the courts can not depend upon the convenience of the litigants, the lawyers or the witnesses, including physicians who may be called to testify. Both the lawyer and the physician should recognize, accept and discharge their obligation to aid and cooperate with the courts in the presentation of medical testimony at trial or by deposition.

6. Fee for Time for Testimony

When a physician is called to testify as a witness, either in court or by deposition, a reasonable charge, if any, should be directed to the requesting party. It shall be the duty of the lawyer to assure adequate arrangements for payment of the fee.

7. Contingent Fees

Neither the physician called as a witness nor the lawyer shall invite or enter into any arrangement whereby the charge for the physician's appearance, testimony or assistance shall be contingent on the outcome of the litigation or on the amount of damages awarded in the case.

JOINT CONFERENCE COMMITTEE

8. Appointment and Function of Committee

For the purpose of improving and revising from time to time this Statement of Principles, a Joint Conference Committee, composed of five lawyers and five physicians, shall be appointed by the Presidents of the Toledo Bar Association and The Academy of Medicine of Toledo and Lucas County, respectively. The Joint Conference Committee shall select its own Chairman from among the Committee's members.

The Statement of Principles was promulgated March 29, 1957, by the Joint Conference Committee of the Toledo Bar Association and The Academy of Medicine of Toledo and Lucas County, and was approved by the Executive Committee of the Bar Association and the Council of The Academy. Revised and approved, June 1, 1977. Revised and approved, February 9, 2006.