



NEW JERSEY STATE BAR ASSOCIATION

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VIA EMAIL -- DCAProposal@dca.lps.state.nj.us
Sean P. Neafsey, Acting Director
State of New Jersey
Division of Consumer Affairs
Office of the Director
PO Box 45027
Newark, New Jersey 07102

Re: Proposed New Rules: N.J.A.C. 13:45C-4.1, 4.2, and 4.3 /
Proposal Number: PRN 2022-031

Dear Acting Director Neafsey:

The New Jersey State Bar Association (NJSBA) joins in the comments submitted by the New Jersey Business and Industry Association (NJBIA) in connection with the proposed regulations that address discipline imposed by New Jersey's numerous licensing boards. Like NJBIA, the NJSBA supports efforts to ensure that licensed professionals do not harass, discriminate or retaliate against their clients, employees and other members of the public. Indeed, NJSBA members are subject to the Rules of Professional Conduct contained in the Rules Governing the Courts of New Jersey, which prohibit discrimination in a lawyer's professional capacity. However, the proposed regulations here that would apply to other licensed professionals raise some unique issues of concern.

As noted in the comments, members of the licensing boards, while competent in their fields of expertise, may lack the necessary training or knowledge to adequately evaluate the complex legal issues presented by the types of matters addressed in this proposal. As a result, with the loss of a professional license at stake, we are concerned these regulations will lead to additional and unnecessary litigation and costly damages as professionals seek restoration of their licenses. If the regulations are adopted, we agree that substantial resources should be devoted to ensuring that licensing boards are equipped to make the potentially career-ending determinations envisioned by the proposal.

There are already numerous avenues in place to provide sanctions if licensed professionals engage in discriminatory, harassing or retaliatory conduct and that offer remedies for the victims of such conduct. While the goal of these regulations is laudable, we believe deference should be given to those existing mechanisms, particularly when a lawsuit is filed that will ultimately be adjudicated in the courts. We agree that any action by a licensing board should be suspended while such a lawsuit is pending.

Finally, we agree that there should be some protection in the regulations that provides license holders with an avenue for recourse against false allegations.

Thank you for the opportunity to provide these comments. The NJSBA urges the Division to reconsider the proposal in light of the comments submitted by NJBIA and with the comments noted above.

Sincerely,



Domenick Carmagnola, Esq.
President

cc: Jeralyn L. Lawrence, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director