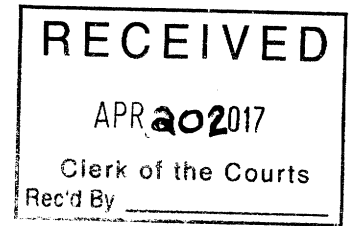
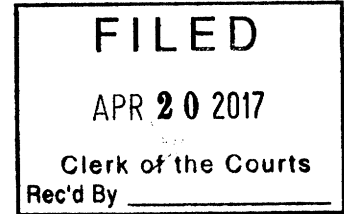


**TODD  
FLOYD** PLC  
ATTORNEYS AT LAW



April 19, 2017



James M. Hivner, Clerk  
Re: Tenn. Sup, Ct. R. 9, section 32  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407

RE: No. ADM2017-00554

Dear Mr. Hivner:

As a Hearing Committee Member for the Board of Professional Responsibility, I write in general opposition to the proposed amendment making disciplinary hearings public. By their very nature, these hearings typically involve underlying attorney-client relations and attorney work-product, all of which should qualify as confidential and/or privileged. Moreover, unrepresented witnesses and involved third parties may well have concerns that will not be addressed without proper legal representation.

At a minimum, I would suggest that R. 32.6 be amended to provide ample notice to all persons involved that each such person must apply for protection but my concern is that the amendment would have a chilling effect on the participation of such involved parties. Unrepresented witnesses and third parties cannot fairly be expected to know their rights in this regard and would probably be disinclined to secure legal representation due to expense and time issues.

Since the hearings are already recorded and transcribed, I would think that a better solution might be to require the Hearing Panel, as part of its judgment, to address any issues regarding portions of the hearing to be designated as confidential and privileged. Thereafter, the ruling could be challenged, briefed and argued before the Panel's Final Order is issued and any appeal could be expedited. However, I can envision circumstances where I would be uncomfortable as a Panel Member when confronted with these issues for an unrepresented witness or third party. In those circumstances, an attorney *ad litem* may be required.

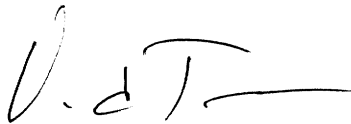
James M. Hivner, Clerk

April 19, 2017

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While I am generally in favor of "transparency" in the judicial process, I cannot see how this amendment would solve more problems than it would create.

Sincerely,

A handwritten signature in black ink, appearing to read "D. C. Todd", with a long horizontal flourish extending to the right.

Daniel C. Todd, #013442