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Regulation of the Practice of Law in Wyoming: A 150-Year Walk Through the History Books

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REGULATION OF THE PRACTICE OF LAW IN WYOMING: A 150-YEAR WALK THROUGH THE HISTORY BOOKS

*Mark W. Gifford**

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I. INTRODUCTION

With the dizzying pace of change in the new millennium, lawyers are confronted with daily challenges in adapting to a world seemingly dominated

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by two themes: technology and globalization. Shock waves from these forces continue to be felt in the Wyoming legal community and elsewhere. Sometimes, in order to determine where we should be going, it may be helpful to consider how we got here. Perhaps we may find inspiration in the examples set by our predecessors and their tireless efforts to assure the provision of quality legal services, to protect the public from unscrupulous lawyers, and to advance the cause of justice for all Wyoming citizens.

This Article reviews the 150-year legislative and judicial history of regulation of the practice of law in Wyoming, beginning with the first legislative assembly of the Territory of Wyoming, which convened in 1869. That initial assembly dedicated a chapter to lawyers, defining unacceptable conduct and providing penalties for such conduct, including the revocation or suspension of a lawyer's license.¹

For seventy years after passage of the 1869 Act, regulation of the practice of law in Wyoming was largely a legislative prerogative. As time passed, however, the Wyoming Legislature (Legislature) gradually ceded its authority over regulation of the profession to the Wyoming Supreme Court (Court). A major shift in how the legal profession is regulated in Wyoming occurred in 1939 when the Legislature passed the Integrated Bar Act. The Integrated Bar Act directed the Court to promulgate such rules as the Court "may see proper," organizing a bar association to act as an administrative agency of the Court for the purpose of enforcing rules to be promulgated by the Court.²

In recent decades, the Court's exercise of authority over the practice of law has not been confined to the traditional mainstays of lawyer regulation such as the basic functions of admission and licensing of lawyers and the discipline of unethical practitioners. Over the past forty-five years, the Court has expanded the scope of its oversight of the legal profession by venturing into new areas. These areas include imposing continuing legal education requirements for lawyers, creating a fund for the reimbursement of clients who fall victim to dishonest lawyers, implementing a system for expeditious resolution of fee disputes between lawyers and clients, and developing substantive and procedural rules to guard against the unauthorized practice of law by non-lawyers. Reflective of the ever-increasing pace of change in the legal services landscape, this article illustrates how the rules applicable to these subjects have been either substantially revised or entirely rewritten in the last five years. In each of these areas, the

¹ GEN. LAWS WYO. ch. 80, §§ 6, 10–17 (1869). These initial statutes were relocated over the two decades that followed, with criminal penalties for embezzlement of client property and provision for compensation for "defending pauper prisoners" being added. REV. STAT. WYO. §§ 3-1-119 to -141 (1887). See COMP. LAWS WYO. ch. 6 (1876). See also JOHN. M. BURMAN, PROFESSIONAL RESPONSIBILITY IN WYOMING § 4.1.1 (2008).

² 1939 Wyo. Sess. Laws 160, ch. 97.

Wyoming State Bar (Bar), operating as an administrative agency of the Court, has played a pivotal role.

One objective of this Article is to provide a detailed roadmap to guide future generations of Wyoming lawyers and judges through the somewhat tortured history of lawyer regulation in Wyoming. Though it may strike the reader as unnecessarily tedious at times, it is offered as a comprehensive survey of the origins and evolution of its subject.

II. REGULATION OF THE LEGAL PROFESSION IN WYOMING: 1869–1939

In territorial days and in the early years of statehood, the regulation of the legal profession was focused on protecting the public from unethical lawyers. Both before and after Wyoming achieved statehood in 1890, the statutory framework left adjudication of lawyer discipline to the district courts, with a right of appeal to the Court.³ It was not until 1899, when the Legislature created the Board of Law Examiners (BLE) to administer the bar exam and oversee the admissions process for Wyoming-licensed lawyers, that a process for obtaining a license to practice law in Wyoming was implemented.⁴ Four years later, in 1903, the BLE was assigned a role in investigating and prosecuting disciplinary complaints against lawyers.⁵ In 1925, the Legislature amplified on this assignment, expanding the duties of the BLE to include “enforce[ment of] laws relating to attorneys at law,” with the board given “general charge of suspension and disbarment proceedings, or proceedings brought to suspend or revoke the license of any attorney or counselor at law in practice in this state.”⁶ Each of these early statutory schemes listed grounds for discipline as well as procedures governing disciplinary actions against lawyers.⁷

In 1931, perhaps in connection with the recent or imminent publication of several lawyer discipline opinions,⁸ three sets of rules regarding lawyer admission and discipline were published in the Wyoming Reporter:

³ GEN. LAWS WYO. ch. 80, §§ 10, 16 (1869); REV. STAT. WYO. §§ 2-1-3318, -3327 (1899).

⁴ 1899 Wyo. Sess. Laws 60, ch. 28; REV. STAT. WYO. §§ 2-1-3304 to -3317 (1899). When first created, the BLE was responsible for administering and grading the bar exam and overseeing the admission process for Wyoming-licensed lawyers.

⁵ 1903 Wyo. Sess. Laws 131, ch. 102. The same legislation assigned responsibility for prosecuting complaints brought by the BLE to the Attorney General “or some other attorney” upon order of the Court, thereby bringing the Executive Branch into the disciplinary fray. In practice, the Attorney General’s office appears to have prosecuted all lawyer discipline actions between 1903 and 1988, when Attorney General Joseph B. Meyer called an end to his office’s involvement.

⁶ 1925 Wyo. Sess. Laws 35, ch. 51, § 1.

⁷ GEN. LAWS WYO. ch. 80, §§ 6, 10–17 (1869); COMP. LAWS WYO. ch. 6, §§ 6, 10–17 (1876); REV. STAT. OF WYO. §§ 3-1-126 to -136, -139 (1887); REV. STAT. OF WYO. §§ 2-1-3315 to -3327 (1899); WYO. COMP. STAT. ch. 79, §§ 967–976 (1910); WYO. COMP. STAT. ch. 87, §§ 1193–1202 (1920); WYO. REV. STAT. §§ 9-111 to -120 (1931).

⁸ See *State Bd. of Law Examiners v. Brown*, 290 P. 1013 (Wyo. 1930); *State Bd. of Law Examiners v. Phelan*, 5 P.2d 263 (Wyo. 1931); *State Bd. of Law Examiners v. Sheldon*, 7 P.2d 226 (Wyo. 1932); *State Bd. of Law Examiners v. Strahan*, 8 P.2d 1090 (Wyo. 1932).

Rules Governing the Admission of Attorneys to the Bar⁹

- Rule 1. Meeting of the State Board of Law Examiners
- Rule 2. Application for Admission—General Provisions
- Rule 3. When Applicant is Member of Bar of Another State
- Rule 4. Proof of Good Moral Character—How Made
- Rule 5. Qualifications of Applicant for Examination
- Rule 6. Petitions Referred to Board of Law Examiners
- Rule 7. Duties of Clerk
- Rule 8. Members of the Bar to Aid in Investigations
- Rule 9. Admission of Applicant Previously Admitted in District Court
- Rule 10. Board May Prescribe Rules
- Rule 11. Report of Examinations

Rules [of the Court] for Suspension, Revocation of License and Disbarment of Attorneys at Law¹⁰

- Rule 38. Clerk of district court to file record of disciplinary proceedings with supreme court.
- Rule 39. Clerk of district court to notify lawyer of judges' decision and transmittal of record.
- Rule 40. Lawyer has 30 days to file objection to judges' findings and recommendations; copy to be served upon lawyer for BLE, which has 20 days to file a response.
- Rule 41. If lawyer fails to file objection, supreme court may enter final order.

⁹ Rules Governing the Admission of Attorneys to the Bar, 42 Wyo. 543, 543–46 (1931). These eleven rules appeared previously as separate sections in the Revised Statutes of Wyoming 1899; the Wyoming Compiled Statutes 1910; and the Wyoming Compiled Statutes 1920. They were omitted from the Wyoming Revised Statutes 1931.

¹⁰ Rules for Suspension, Revocation of License and Disbarment of Attorneys at Law, 42 Wyo. 542, 542 (1931). Rules 1 through 37 were the Rules of the Supreme Court of Wyoming and appeared just before the Rules for Suspension, Revocation of License and Disbarment of Attorneys at Law. *See generally* Rules of the Supreme Court of Wyoming, 42 Wyo. 529, 529–541 (1931).

Rules and Regulations of the State BLE Governing Proceedings for the Suspension, Revocation of License and Disbarment of Attorneys at Law¹¹

- Rule 1. Definitions—Board and Clerk
- Rule 2. Definitions—Complainant and Respondent
- Rule 3. Complaints
- Rule 4. Notice of Filing Complaints
- Rule 5. Plea of Accused
- Rule 6. Evidence
- Rule 7. Trial

Thus, in the decade before the Bar was created in 1939, the Court recognized the need for Court rules to more effectively regulate lawyer admission and discipline, which had been a legislative matter up to that point. All that was missing was a separate body, operating pursuant to the Court's rules, to oversee lawyer regulation.

III. REGULATION OF THE LEGAL PROFESSION IN WYOMING: 1939–PRESENT

A. The Integrated Bar Act of 1939

In 1939, the Legislature passed the Integrated Bar Act,¹² thereby adopting a model for regulating the practice of law that the majority of other states embraced in the 1920s and 1930s. The language of the Integrated Bar Act included:

Section 1. The Supreme Court of Wyoming shall, from time to time, adopt and promulgate such rules and regulations as the Court may see proper:

- (A) Prescribing a code of ethics governing the professional conduct of attorneys at law.
- (B) Organizing and governing a bar association of the attorneys at law of this State to act as an administrative agency of the Supreme Court of Wyoming for the purpose of enforcing such rules and regulations as are prescribed, adopted, and promulgated by the Supreme Court under this Act, providing for the government of the State Bar as a part of the judicial department of the State Government and such divisions thereof as the

¹¹ Rules and Regulations of the State Board of Law Examiners, 42 Wyo. 547, 547–51 (1931).

¹² 1939 Wyo. Sess. Laws 160, ch. 97.

Supreme Court shall determine, requiring all persons practicing law in this State to be members thereof in good standing, and fixing the form of its organization and operation.

- (C) Establishing practice and procedure for disciplining, suspending, and disbaring attorneys at law.
- (D) Fixing a schedule of fees to be paid for the purpose of administering this Act, and rules and regulations to be prescribed, adopted, and promulgated hereunder for the collection and disbursement of such fees, provided, that the annual fees shall not exceed the sum of Ten Dollars (\$10.00).

Section 2. When and as the rules of Court herein authorized shall be prescribed, adopted, and promulgated, all laws and parts of laws in conflict therewith shall be and become of no further force or effect to the extent of such conflict.

Section 3. This Act shall be in full force and effect from and after the date of its passage.¹³

In his professional responsibility treatise, Professor John M. Burman observed of the 1939 Act, “[t]he powers given to the newly formed bar association mirrored those given in previous years to the State [BLE].”¹⁴

There is, however, a critical difference between the BLE and the Bar, a difference that was present from the beginning: funding. The BLE was, and still is, funded entirely from fees paid by applicants to the Court Clerk and deposited with the State Treasurer, with the BLE’s expenses paid by the State Treasurer upon submission of certified vouchers.¹⁵ The BLE must seek spending authority for those funds from the Legislature.¹⁶ On the other hand, the Bar operates pursuant to rules for its “organization and operation” which the Legislature expressly delegated to the Court to promulgate as it “may see proper.”¹⁷ The only parameter placed by the 1939 Legislature on the Bar’s finances was a \$10.00 cap on annual

¹³ 1939 Wyo. Sess. Laws 160, ch. 97, §§ 1–3.

¹⁴ BURMAN, *supra* note 1, § 4.1.1. See REV. STAT. WYO. §§ 2-1-3305, -3309, -3311 (1899); WYO. COMP. STAT. ch. 79, §§ 957, 961, 963 (1910); WYO. COMP. STAT. ch. 87, §§ 1183, 1187, 1189 (1920); WYO. REV. STAT. §§ 9-101, -105, -107, -116 (1931).

¹⁵ See, e.g., REV. STAT. WYO. §§ 2-1-3308, -3311 (1899); WYO. STAT. §§ 33-5-103, -106 (2018).

¹⁶ WYO. STAT. § 33-5-106 (2018).

¹⁷ 1939 Wyo. Sess. Laws 160, ch. 97.

license fees.¹⁸ Over the years, this cap was increased numerous times via statutory amendment and was removed altogether in 2001.¹⁹

B. The 1945 Statutes

Chapter 2 of the 1945 Wyoming Compiled Statutes contained five articles regulating lawyers, four of which were mostly or entirely rules previously promulgated by the Court:²⁰

Article	Sections	Subject
1	2-101– 2-122	General provisions relating to lawyer admission and discipline; substantially similar to prior statutory provisions.
2	2-201– 2-212	Court rules relating to bar admission, adopted and effective April 16, 1935; substantially similar to the eleven rules published by the Court in 1931 at 42 Wyo. 542-46 ²¹ with the addition of a rule allowing withdrawal of an application for admission.
3	2-301– 2-307	Court rules relating to lawyer discipline; identical to Rules and Regulations of the State BLE Governing Proceedings for the Suspension, Revocation of License and Disbarment of Attorneys at Law approved by the Court on January 20, 1926, and published in 42 Wyo. 547-51. ²²
4	2-401– 2-420	Section 2-401 restates Section 1 of the Integrated Bar Act passed by the 1939 Legislature ²³ with Section 2 of the 1939 Act ²⁴ relegated to a “repealing clause” following Section 1. Sections 2-402 to 2-420 restate nineteen rules adopted by the Court, described in an editor’s note following Section 2-420 as follows: “Clause following Rule 19 [§ 2-420] reads: ‘The foregoing rules shall take effect on the first Monday in January 1941, by order so indicating having been entered by the Court the 29th day of October 1940.’”

¹⁸ *Id.* § 1(D).

¹⁹ 1976 Wyo. Sess. Laws 11, ch. 12 (amending WYO. STAT. § 33-55 to increase cap on bar license fees to \$225.00); 2001 Wyo. Sess. Laws 219, ch. 112 (amending WYO. STAT. § 33-5-116 to remove cap and to give authority to bar board of commissioners to set license fees pursuant to WYO. STAT. § 33-1-201); 2015 Wyo. Sess. Laws 533, ch. 162 (amending WYO. STAT. § 33-5-116 to provide that annual license fees are set by the bar board of commissioners pursuant to bar bylaws).

²⁰ WYO. COMP. STAT. §§ 2-101 to -511 (1945).

²¹ *See supra* note 10 and accompanying text.

²² *See supra* note 11 and accompanying text.

²³ *See supra* notes 12–13 and accompanying text.

²⁴ Section 2 of the 1939 act provided, “When and as the rules of Court herein authorized shall be prescribed, adopted, and promulgated, all laws and parts of laws in conflict therewith shall

Article Sections	Subject
5 2-501– 2-511	By-Laws of the Bar covering standing committees, annual meeting, and other subjects; concluding with the statement, “[t]hese by-laws have been approved by the Supreme Court and may, from time to time, be amended by the Board of Commissioners by and with the advice and consent of the Court.”

C. The 1957 Statutes

The 1945 Wyoming Compiled Statutes marked the only occasion when Court rules relating to the practice of law were renumbered and published as statutes. The 1957 Wyoming Statutes returned to the publication of lawyer regulatory provisions as both statutes and Court rules, with one notable exception discussed in the following paragraph. Prior legislative enactments regulating the legal profession were combined in the 1957 Statutes at Title 33 (Occupations and Professions), Chapter 5 (Attorneys at Law). Sections 33-39 to -54 and sections 33-56 to -61 essentially mirrored prior statutory provisions regarding lawyer admissions and discipline,²⁵ with the BLE continuing its role as the entity chiefly responsible for investigating and charging lawyer misconduct.²⁶

The exception was section 33-55, a slightly modified version of Rule 5 of the Court’s October 29, 1940, Rules Relating to the Wyoming State Bar (which appeared in the 1945 Compiled Statutes as Section 2-406).²⁷ Section 33-55 contained specific legislative requirements for the Bar’s financial operations and established a fiscal year for the Bar:

§ 33-55. Payment, etc., of annual license fee; proceedings and suspension for nonpayment; inability to pay; fiscal year of state bar. All members of the state bar, except honorary and retired members, shall, on or before the second week of August, 1941, and annually thereafter, pay to the treasurer of the state bar, as a license fee for the ensuing year, the sum of twenty dollars (\$20.00); provided that if any member has been admitted for a

be and become of no further force or effect to the extent of such conflict.” 1939 Wyo. Sess. Laws 160, ch. 97. Though Section 2 of the 1939 act did not make its way into the text of the published statute, this section was apparently interpreted, when the 1945 Statutes were issued, to require the rules adopted by the Court pursuant to the 1939 act to be renumbered and published as statutes.

²⁵ See REV. STAT. WYO. §§ 2-1-3305 to -3328 (1899); WYO. COMP. STAT. ch. 70, §§ 957–977 (1910); WYO. COMP. STAT. ch. 87, §§ 1183–1203 (1920); WYO. REV. STAT. §§ 9-101 to -121 (1931); WYO. COMP. STAT. §§ 2-101 to -122 (1945).

²⁶ WYO. STAT. § 33-57 (1957).

²⁷ The Legislature’s changes to the Court’s former Rule 5 were made during the 1957 session and appeared in 1957 Wyoming Session Laws, chapter 212.

time less than five years, then said license fee shall be one-half of the regular license fee. Such fees shall constitute a fund to be held and disbursed by the treasurer upon order of the board. As soon as practicable after the second week in July in each year, the secretary-treasurer shall send a written statement to each member of the state bar. If any member remains in default on the first day of December of any year, the secretary-treasurer shall forthwith certify to the judge of the district court of the judicial district wherein such delinquent member resides the name of such member. The judge shall forthwith issue against any such member a citation returnable twenty days thereafter to show cause why such delinquent member should not be suspended from the practice of law in this state. If good cause be not shown in response to such citation, such delinquent member shall be suspended while in default of payment and an order of suspension shall issue forthwith and be certified to the supreme court; provided that if upon hearing, the judge of the district court shall determine that the member in default is unable to pay his license fee, then the judge may remit or suspend in whole or in part the payment of such license fee for that year by order duly entered and certified to the supreme court. The fiscal year of the state bar shall be from August 1st to July 31st.²⁸

Also appearing in the 1957 Statutes and immediately preceding Title 1 were Amended Court Rules Providing for the Organization and Government of the Bar Association of the Attorneys at Law of the State of Wyoming, followed by the By-Laws of the Bar.²⁹ The editor's note following Rule 5—Membership fees; nonpayment; termination of membership—is instructive:

This rule was amended by order of the supreme court dated November 13, 1958. The amendment rewrote the rule so as to make it virtually identical with § 1, ch. 212, Laws 1957 (§ 33-55). The 1957 act amended § 2-406, W.C.S. 1945, which was codified from the former Rule 5 of the Rules of the Supreme Court Relating to the Wyoming State Bar. See § 33-55 and note thereto.³⁰

Thus, what began as a license fee rule adopted by the Court in 1940 and was later assigned statutory designation in the 1945 Statutes ended up being formally adopted by the Legislature in 1957. To this day, the Bar operates as directed by the

²⁸ WYO. STAT. § 33-55 (1957). Section 33-55 was amended in 1965 to change the Bar's fiscal year to October 1 through September 30. 1965 Wyo. Sess. Laws 442, ch. 166, § 2.

²⁹ WYO. R. BAR ASS'N rr. 1-20 (1957); WYO. R. BAR BYLAWS art. I-IV (1957).

³⁰ WYO. R. BAR ASS'N r. 5 annot. (1957).

current version of the 1957 statute, Section 33-5-116 of the Wyoming Statutes, and pursuant to bylaws adopted by the Court.

IV. THE EVOLUTION OF THE RULES OF PROFESSIONAL CONDUCT

As we have seen, early statutory schemes for regulation of the legal profession listed grounds for discipline as well as procedures governing disciplinary actions against lawyers.³¹ In 1926, the Court adopted rules on these subjects, and in 1931 the rules were published in the Wyoming Reporter.³² Thereafter, these provisions were published as either Court rules or statutes.

The 1970s saw the Court and the Bar expand the breadth of programs aimed at assuring the provision of quality legal services and protecting the public from unscrupulous practitioners. As discussed below, at the Bar's urging, the Court adopted continuing education requirements for lawyers. The Court implemented rules for the resolution of fee disputes and assigned that task to a Bar committee appointed by the Court. The Bar created and administered a fund to compensate clients who lost money because of a lawyer's dishonest conduct or death. And the Court and the Bar began to wrestle with the tricky subject of unauthorized practice of law (UPL), developing rules defining the practice of law and prohibiting the provision of legal services by non-lawyers.

First in time among these developments was the Court's 1972 amendment of Rule 20 of the Wyoming State Bar Association Rules. Going back to the 1940s—in accordance with the 1939 Legislature's directive that the Court "prescrib[e] a code of ethics governing the professional conduct of attorneys at law"³³—Rule 20 and its predecessor had provided, "[t]he ethical standards relating to the practice of law in this State shall be the canons of Professional Ethics of the American Bar Association (ABA), including the additional amendments of September 30, 1937, thereto, and those which may from time to time be approved by the Supreme Court of Wyoming."³⁴ By order dated September 18, 1972, the Court amended Rule 20 to provide:

³¹ See *supra* note 7.

³² Rules for Suspension, Revocation of License and Disbarment of Attorneys at Law, 42 Wyo. 542, 542 (1931); Rules and Regulations of the State Board of Law Examiners, 42 Wyo. 547, 547–51 (1931).

³³ 1939 Wyo. Sess. Laws 160, ch. 97.

³⁴ WYO. COMP. STAT. § 2-420 (1945); WYO. R. BAR ASS'N r. 20 (1957). Dating to 1908, the ABA's Canons of Ethics were the first national code of legal ethics. "From its adoption in 1908, until it was superseded by the A.B.A.'s Model Code of Professional Responsibility ('Model Code') in 1970, the Canons of Ethics ('Canons') were the authoritative norms for lawyer conduct in the United States." James M. Altman, *Considering the A.B.A.'s 1909 Canons of Ethics*, 2008 J. PROF. LAW. 235, 235 (2008) (footnotes omitted).

When the Canons were abandoned in favor of the Model Code in 1969 (with amendments following shortly in 1970), the ABA's Committee on Professional Ethics explained, "The previous

The ethical standards relating to the practice of law in this State shall be the Code of Professional Responsibility adopted by the House of Delegates of the American Bar Association on August 12, 1969, and amended February 24, 1970, with such further amendments as may from time to time be approved by the Supreme Court of Wyoming; subject however to the following exceptions, amendments and additions adopted by the Wyoming State Bar at its annual meeting in September 1971³⁵

The ABA Model Code of Professional Responsibility was constructed around a series of “canons,” each of which carried with it certain “ethical considerations” (enumerated EC–) as well as “disciplinary rules” (enumerated DR–).³⁶ The Court’s order adopting the Code of Professional Responsibility made minor amendments to several canons.³⁷ This marked the beginning of a practice that continues to this day. With respect to ethical requirements for its lawyers, Wyoming follows ABA promulgations, but does not hesitate to make modifications that either improve upon the ABA model rules or provide a “better fit” for Wyoming practitioners.

Within a few years of the ABA Model Code’s promulgation in 1969, calls began to ripple through the profession that something better was needed—something more suited to the changing world of the legal profession. Watergate, no doubt, was part of this impetus, as the nation saw lawyer after lawyer embroiled in a scandal that “clearly—perhaps permanently—undermined public trust and confidence in the government and its leaders.”³⁸ But the scandal also spurred a significant decline in the public’s opinion of lawyers from which the profession has never fully recovered.³⁹

John Dean, who served as White House counsel at the height of the scandal, spent four months in prison after pleading guilty to obstruction of justice.⁴⁰ Dean’s cooperation with the Justice Department was key in obtaining convictions

Canons were not an effective teaching instrument and failed to give guidance to young lawyers beyond the language of the Canons themselves. There was no organized interrelationship between the Canons and they often overlapped. They were not cast in language designed for disciplinary enforcement and many abounded with quaint expressions of the past. Those Canons contained, nevertheless, many provisions that were sound in substance, and all of these were retained in the Model Code adopted in 1969.” CODE OF PROF’L RESPONSIBILITY, Preface (AM. BAR ASS’N 1978).

³⁵ Order, Wyo. Rep. 493-501 P.2d XX, XX (Sept. 18, 1972).

³⁶ See CODE OF PROF’L RESPONSIBILITY.

³⁷ Order, Wyo. Rep. 493-501 P.2d at XX.

³⁸ Mark Curriden, *The Lawyers of Watergate: How a “Third-Rate Burglary” Provoked New Standards for Lawyer Ethics*, 98 A.B.A. J. 36, 38 (2012).

³⁹ *Id.*

⁴⁰ *Id.* at 39.

of other Watergate actors, including John Ehrlichman, John Mitchell, and H.R. Haldeman.⁴¹ Dean would later recall:

In 1972, legal ethics boiled down to ‘don’t lie, don’t cheat, don’t steal and don’t advertise’. . . . When I took the elective ethics course at law school, it was one-quarter of a credit. Legal ethics and professionalism played almost no role in any lawyer’s mind, including mine. Watergate changed that—for me and every other lawyer.

After Watergate, schools began to make legal ethics a required class. Bar examinations added an extra section on ethics. And nearly all states started requiring lawyers to attend annual continuing legal education programs focused on ethics and professional conduct.⁴²

Similarly, Arnold Rochvarg, professor at the University of Baltimore School of Law, who served on the defense team for Robert Mardian, a former United States Assistant Attorney General convicted of Watergate crimes, said: “The overwhelming opinion was that, if the lawyers working for President Nixon had acted differently, the nation would have been spared the trauma of the Watergate scandal.”⁴³

In 1977, the ABA created the Commission on Evaluation of Professional Standards, which came to be known as the Kutak Commission after its chair, Robert J. Kutak, a lawyer from Omaha, Nebraska.⁴⁴ Over the next six years, the commission developed ethical standards aimed at correcting perceived deficiencies in the Model Code:

[T]he Kutak Commission was charged with evaluating whether the existing standards of professional conduct provided comprehensive and consistent guidance for resolving the increasingly complex ethical problems in the practice of law. After thoughtful study, the Commission concluded that piecemeal amendment of the [Model Code] would not sufficiently clarify the profession’s ethical responsibilities in light of changed conditions.⁴⁵

⁴¹ *Id.* at 41.

⁴² *Id.* at 42.

⁴³ *Id.*

⁴⁴ See Michael Ariens, *The Last Hurrah: The Kutak Commission and the End of Optimism*, 49 CREIGHTON L. REV. 689, 690 (2016).

⁴⁵ A LEGISLATIVE HISTORY: THE DEVELOPMENT OF THE ABA MODEL RULES OF PROFESSIONAL CONDUCT, 1982–2013 vii (Art Garwin ed., 2013).

The product of the commission's work was an entirely rewritten set of ethical canons in a reoriented format. According to Kutak, "the overriding objective of the Commission . . . [was] to develop professional standards that [were] comprehensive, consistent, constitutional and, most important, congruent with other law of which they are a part."⁴⁶ Renamed the Model Rules of Professional Conduct, the new canons were adopted by the ABA House of Delegates at its August 1983 annual meeting.⁴⁷

States soon jumped on board, abandoning the Model Code in favor of the new and improved Model Rules. Arizona led the way in 1984, followed by Arkansas, Delaware, Minnesota, Missouri, Montana, and Washington in 1985.⁴⁸ The next year saw several western states adopt the Model Rules, including Idaho, Nevada, New Mexico and, on November 7, 1986, Wyoming.⁴⁹ North Dakota and South Dakota followed suit in 1987. Today, all fifty states follow the ABA Model Rules, often, like Wyoming, with variations.⁵⁰

The Court's adoption of the Model Rules was preceded by an eighteen-month study of the new rules undertaken by the Grievance Committee⁵¹ at the Court's direction. An "open hearing" was held for lawyers in Laramie, Wyoming, in August 1985, followed by a "public hearing" in Casper, Wyoming, in October of that year.⁵² By February 1986, the Committee was ready to recommend adoption of the new rules to the Court, albeit with minor variations.⁵³ Following approval by the Court, the new rules became effective on January 6, 1987.⁵⁴ These rules would remain in effect, with minor amendments, for most of the next twenty years.

In the meantime, in 1997, the ABA formed the Commission on Evaluation of Rules of Professional Conduct (Ethics 2000 Commission) to undertake a comprehensive evaluation of the Model Rules in light of recent developments

⁴⁶ *Id.*

⁴⁷ See *Model Rules of Professional Conduct*, AM. BAR ASS'N (Oct. 25, 2018), https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/.

⁴⁸ *Alphabetical List of Jurisdictions Adopting Model Rules*, AM. BAR ASS'N (Mar. 28, 2018), https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/alpha_list_state_adopting_model_rules/.

⁴⁹ *Id.*

⁵⁰ See *id.* California, the last holdout, recently adopted a new set of ethical standards, based largely on the Model Rules, which went into effect November 1, 2018. Order *re* request for approval of proposed amendments to the Rules of Professional Conduct of the State Bar of California, Admin. Order 2018-05-09 (Cal. 2018) (en banc).

⁵¹ See *infra* 105–09, 115 and accompanying text (discussing formation of the Grievance Committee).

⁵² *Grievance Committee*, WYO. LAW., Feb. 1986, at 1.

⁵³ See *id.*

⁵⁴ Mary Beth Senkewicz, *Supreme Court Adopts New Ethical Rules*, WYO. LAW., Jan. 1987, at 3.

in the legal profession in the years since their adoption.⁵⁵ The Commission submitted its report to the ABA House of Delegates in 2001.⁵⁶ Following debate, significant changes were made to the Model Rules in 2002.⁵⁷

Summarizing the Ethics 2000 initiative, Commission member Margaret Colgate Love wrote:

Experience had revealed substantive shortcomings in some rules and lack of clarity in others, and the need to reconcile text and commentary in a number of cases. Moreover, while thirty-nine states and the District of Columbia had by then adopted some version of the Model Rules, there were significant variations in particular rules from jurisdiction to jurisdiction. The desirability of a complete review of the rules to promote national uniformity and consistency was underscored by the extensive and innovative interpretive work of The American Law Institute's Restatement of the Law Governing Lawyers (the "Restatement"), then nearing completion.

In approaching its work, the Commission was mindful of the legal profession's rapidly changing internal and external environment, particularly the expanded scope and complexity of client activities, heightened public scrutiny of lawyers' involvement in those activities, the impact of technology and globalization, and new competitive pressures on law firms including specialization, multidisciplinary practice, and increased use of in-house counsel. These developments have in turn drawn into question traditional jurisdictional limits on the practice of law, the allocation of authority between lawyer and client, ethical restrictions on lawyer mobility and on fee-sharing (with other lawyers and with nonlawyers), the special status of government lawyers under the rules, and the parameters of such time-honored concepts as confidentiality, civility, and conflict of interest. They have raised new issues of law firm responsibility for the conduct of its constituent lawyers and revived the discussion of whether a lawyer's obligation to perform pro bono service should be enforced through the disciplinary process.⁵⁸

⁵⁵ A LEGISLATIVE HISTORY: THE DEVELOPMENT OF THE ABA MODEL RULES OF PROFESSIONAL CONDUCT, *supra* note 45, at xii.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Margaret C. Love, *The Revised ABA Model Rules of Professional Conduct: Summary of the Work of Ethics 2000*, 15 GEO. J. LEGAL ETHICS 441, 441–42 (2002).

In broad terms, the changes made to the Model Rule as a result of Ethics 2000:

1. Clarified and strengthened a lawyer's duty to communicate with the client;
2. Clarified and strengthened a lawyer's duty to clients in certain specific problem areas;
3. Responded to the changing organization and structure of modern law practice;
4. Responded to new issues and questions raised by the influence that technological developments were having on the delivery of legal services;
5. Clarified existing rules to provide better guidance and explanation to lawyers;
6. Clarified and strengthened a lawyer's obligations to the tribunal and to the justice system;
7. Responded to the need for changes in the delivery of legal services to low and middle-income persons; and
8. Increased protection of third parties.⁵⁹

In the wake of the 2002 amendments to the Model Rules, the Court in early 2003 appointed a Select Committee to Review the Rules of Professional Conduct (Select Committee).⁶⁰ The fifteen-member Select Committee, comprised of judges and respected practitioners and chaired by Professor John M. Burman, esteemed author of the treatise *Professional Responsibility in Wyoming*,⁶¹ convened dozens of times by conference call and in-person meetings, conducting a meticulous review of not only the new Model Rules but also rules of other jurisdictions.⁶² The result was a report submitted to the Bar's Board of Officers and Commissioners⁶³ in March 2005, recommending and incorporating many of the changes developed by the Ethics 2000 Commission, rejecting some, and adding new provisions unique to Wyoming.⁶⁴

⁵⁹ *Id.* at 444–74.

⁶⁰ BURMAN, *supra* note 1, § 4.1.1.

⁶¹ BURMAN, *supra* note 1.

⁶² See John M. Burman, *Committee Recommends Changes to the Wyoming Rules of Professional Conduct*, WYO. LAW., Apr. 2005, at 39.

⁶³ The Board of Officers and Commissioners is the Bar's elected leadership, comprised of the president, president-elect, vice president, treasurer, and one commissioner from each of the State's judicial districts. See WYO. R. BAR BYLAWS art. III (2018).

⁶⁴ Burman, *supra* note 62, at 38.

The proposed rule changes were put out for comment to members of the Bar.⁶⁵ After changes were made, the revised rule changes were again put out for comment.⁶⁶ In October 2005, the Board of Officers and Commissioners forwarded the final proposed changes to the Court with a recommendation for adoption.⁶⁷ By order dated April 11, 2006, the former version of the rules was withdrawn and replaced by the revised Rules of Professional Conduct to be effective July 1, 2006.⁶⁸

The new rules made changes in many of the areas addressed by the Ethics 2000 Commission.⁶⁹ In some instances, the language of the new Model Rules was adopted; in others, it was not.⁷⁰ In addition, the new rules added several Wyoming-specific provisions.⁷¹ Notable among these was a change to the confidentiality rule.⁷² This change clarified that a lawyer's duty to protect client information relates only to "confidential information," defined as "information provided by the client or relating to the client which is not otherwise available to the public."⁷³

The ink had scarcely dried on Chief Justice William U. Hill's signature on the 2006 order adopting new Rules of Professional Conduct before the ABA launched another commission on the subject. In 2009, the ABA Commission on Ethics 20/20 was formed and charged with performing a thorough review of the Model Rules and the United States system of lawyer regulation in the context of advances in technology and global legal practice developments.⁷⁴ When the Ethics 20/20 Commission issued its report in 2012, it explained: "[t]echnology and globalization have transformed the practice of law in ways the profession could not anticipate in 2002. Since then, communications and commerce have become increasingly globalized and technology-based."⁷⁵

⁶⁵ *See id.* at 45.

⁶⁶ John M. Burman, *Supreme Court Adopts Changes to the Wyoming Rules of Professional Conduct*, WYO. LAW., June 2006, at 36.

⁶⁷ Order Adopting Revised Rules of Professional Conduct for Attorneys at Law (Wyo. 2006). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

⁶⁸ *Id.*

⁶⁹ *See id.* at 1–122.

⁷⁰ *See id.*

⁷¹ For a more comprehensive discussion of the 2006 changes to the Wyoming Rules of Professional Conduct, see Burman, *supra* note 66, at 36–42.

⁷² *See id.* at 37–38.

⁷³ *Id.* at 37; WYO. R. PROF'L CONDUCT *ET*. 1.0, 1.6. The Model Rules contain no comparable provision.

⁷⁴ *See* A LEGISLATIVE HISTORY: THE DEVELOPMENT OF THE ABA MODEL RULES OF PROFESSIONAL CONDUCT, *supra* note 45, at xiii.

⁷⁵ AM. BAR ASS'N COMM'N ON ETHICS 20/20, INTRODUCTION AND OVERVIEW 1 (2012) (footnotes omitted).

In the end, the Ethics 20/20 Commission's main focus was the impact of technology upon the way law is practiced:

Technology affects nearly every aspect of legal work, including how we store confidential information, communicate with clients, conduct discovery, engage in research, and market legal services. Even more fundamentally, technology has transformed the delivery of legal services by changing where and how those services are delivered (e.g., in an office, over the Internet or through virtual law offices), and it is having a related impact on the cost of, and the public's access to, these services.

Several developments are particularly notable. In the past, lawyers communicated with clients by telephone, in person, by facsimile or by letter. Lawyers typically stored client confidences in paper form, often inside locked file cabinets, behind locked office doors or in offsite storage facilities. Even when confidential client information was maintained electronically, the information was stored on desktop computers that remained within the firm or on servers typically located in the same office. Today, lawyers regularly communicate with clients electronically, and confidential information is stored on mobile devices, such as laptops, tablets, smartphones, and flash drives, as well as on law firm and third-party servers (i.e., in the "cloud") that are accessible from anywhere. This shift has had many advantages for lawyers and their clients, both in terms of cost and convenience. However, because the duty to protect this information remains regardless of its location, new concerns have arisen about data security and lawyers' ethical obligations to protect client confidences.

Technology is also having a related impact on how lawyers conduct investigations, engage in legal research, advise their clients, and conduct discovery. These tasks now require lawyers to have a firm grasp on how electronic information is created, stored, and retrieved. For example, lawyers need to know how to make and respond to electronic discovery requests and to advise their clients regarding electronic discovery obligations. Legal research is now regularly and often more efficiently conducted online. These developments highlight the importance of keeping abreast of changes in relevant technology in order to ensure that clients receive competent and efficient legal services.

In some situations, a matter may require the use of technology that is beyond the ordinary lawyer's expertise.

For example, electronic discovery may require a sophisticated knowledge of how electronic information is stored and retrieved. Thus, another development associated with technology is that lawyers are increasingly disaggregating work by retaining other lawyers and nonlawyers outside the firm (i.e., outsourcing work to lawyers and nonlawyers) to perform critical tasks. Technology also permits the integration of these otherwise disaggregated workstreams, encouraging clients and lawyers to outsource elements of a representation.

Technology is changing the way that clients find lawyers. The Internet provides immediate access to information about lawyers through search engines, websites, blogs, and ratings and rankings services. Lawyers are using various Internet-based client development tools, such as pay-per-click and pay-per-lead services, as well as social and professional networking sites. Technology continues to reshape the form of law offices and change how legal services are delivered. Some firms now exist solely online as virtual law practices. Other firms exist as continuously evolving collaborations of lawyers who come together to handle discrete legal matters for particular clients. Firms use online law practice management systems that are inexpensive and particularly useful to solo practitioners and lawyers in small firms. The Internet also has enabled clients to access law-related services at a very low cost through websites that are not run by lawyers, creating new competitive pressures and potentially transformative consequences for the practice of law.

Technology also has given rise to an increasing number of cross-jurisdictional issues. Lawyers can easily provide legal services to clients wherever they may be. This ability to provide services virtually has raised new ethical issues.⁷⁶

Concluding that the principles underlying the Model Rules remained valid, the Ethics 20/20 Commission settled upon recommendations that were clarifications and expansions of the Model Rules.⁷⁷ The commission proposed a series of “resolutions” including:

1. Changes to the confidentiality rules to make clear that a lawyer has an ethical duty to take reasonable measures to

⁷⁶ *Id.* at 4–5.

⁷⁷ *Id.* at 7.

protect a client's confidential information from inadvertent or unauthorized disclosure and unauthorized access;⁷⁸

2. Changes to the competence rule to make explicit a lawyer's duty to stay abreast of relevant technology, including its benefits and risks;⁷⁹
3. Changes across-the-board to make clear that the rules apply equally to documents and electronic information;⁸⁰ and
4. Changes to address the impact of technology upon client development, lawyer mobility, and outsourcing of support services for lawyers.⁸¹

The commission closed its report with a caveat:

It is important to note that the proposals set forth in these Resolutions reflect the state of the profession during a snapshot in time. Technology and globalization will continue to produce new challenges and opportunities. Indeed, the pace of change has quickened, making it likely that the ABA will want to reexamine the Model Rules and related policies with greater frequency in the years ahead.⁸²

By February 2013, the Commission's 2012 resolutions, along with several more proposed in early 2013, were adopted by the ABA House of Delegates with minor changes.⁸³ The result was the second significant revision of the Model Rules in ten years.

At its April 2013 meeting, the Bar's Board of Officers and Commissioners approved the formation of an Advisory Committee to review Wyoming's Rules of Professional Conduct in light of the changes made to the Model Rules as a result of the Ethics 20/20 initiative.⁸⁴ During several months of bi-weekly conference

⁷⁸ *Id.* at 8.

⁷⁹ *Id.*

⁸⁰ *Id.* at 9.

⁸¹ *Id.* at 9–13.

⁸² *Id.* at 13.

⁸³ See Laurel S. Terry, *Globalization and the ABA Commission on Ethics 20/20: Reflections on Missed Opportunities and the Road Not Taken*, 43 HOFSTRA L. REV. 95, 99 (2014). Professor Terry posits that the commission was much more successful with the technology aspect of its work than with the globalization aspect.

⁸⁴ Minutes of the Meeting of the Wyoming State Bar Board of Officers and Commissioners 3–4 (Apr. 19, 2013) (on file with the Wyoming State Bar). The author served as Advisory Committee chair.

calls, the committee compared the current version of the Wyoming Rules of Professional Conduct and comments to the current version of the Model Rules and comments.⁸⁵ Early in the review process, the committee agreed that it would be beneficial to default to the Model Rules unless there was a good reason to depart.⁸⁶ This approach was grounded in the committee's consensus that having Wyoming rules that match the language of the Model Rules would open a wide variety of resources for Wyoming lawyers seeking guidance with respect to the application and interpretation of those rules.⁸⁷ The Committee's overarching goal was to recommend revisions to update the Wyoming rules where appropriate, but to retain differences that continued to make sense for Wyoming lawyers.⁸⁸

At its April 2014 meeting, the Board of Officers and Commissioners approved publication of the Advisory Committee's preliminary report and recommendations for comment by Bar members.⁸⁹ Numerous comments were received.⁹⁰ Following the close of the comment period, the Committee met, discussed each of the comments, and made appropriate changes to its report and recommendations.⁹¹ The Committee's final report was presented for consideration at the board's June 2014 meeting.⁹² The report was then forwarded to the Court with the board's recommendation for adoption.⁹³ On August 5, 2014, the Court issued its order amending the Wyoming rules effective October 6, 2014.⁹⁴

The 2014 rule revisions included some significant changes with respect to lawyer advertising, special responsibilities of prosecutors, limited scope representation, and deletion of the "intermediary rule."⁹⁵ Some of the changes matched those generated by the Ethics 20/20 initiative. Others were Ethics 2000 changes not recommended by the Select Committee in 2006 but which the Advisory Committee, taking a second look a decade later, deemed appropriate.⁹⁶

⁸⁵ Mark W. Gifford, *What Wyoming Lawyers Need to Know: An Overview of the 2014 Amendments to the Wyoming Rules of Professional Conduct*, WYO. LAW., Oct. 2014, at 14.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Order Amending the Rules of Professional Conduct for Attorneys at Law (Wyo. Aug. 5, 2014). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

⁹⁵ Gifford, *supra* note 85, at 15.

⁹⁶ *Id.* at 14.

Several provisions unique to Wyoming, including the treatment of “confidential information,” were retained.⁹⁷

With minor amendments, the rules adopted by the Court in 2014 remain in effect today. However, if recent history is in any measure a predictor of the future, more changes are certain to come as the legal profession continues to adapt to technological and global change.

V. THE EVOLUTION OF THE RULES OF DISCIPLINARY PROCEDURE

Soon after its 1972 adoption of a slightly-modified version of the ABA Code of Professional Responsibility, the Court set about overhauling rules of procedure for attorney discipline. On March 12, 1973, the Court issued an order adopting the first Disciplinary Code of the Wyoming State Bar.⁹⁸ Chief Justice Glenn Parker’s order provided that “[a]ll previous statutes and rules relating to disbarment of attorneys at law” were thereby “superseded by the disciplinary code.”⁹⁹ The order expressly repealed Court Rule 22 entitled “Proceedings for the suspension, revocation of license and disbarment of attorneys at law.”¹⁰⁰ A cover page to the newly-adopted Disciplinary Code contained the following preamble:

This court declares that it has the inherent power to supervise the conduct of attorneys who are its officers and in furtherance thereof promulgates the following rules pertaining to disciplinary enforcement.¹⁰¹

Shortly after the Court’s promulgation of the Disciplinary Code, an excellent explanation of the events leading to its adoption was published in the *Land and Water Law Review* authored by then-Bar president, Houston G. Williams.¹⁰² By today’s standards, the pre-Disciplinary Code procedures for investigation and prosecution of ethics complaints described by Mr. Williams seem quite quaint:

Before the adoption of the Disciplinary Code, complaints against attorneys for violation of the ethical standards of the profession were processed by the Bar Commissioner of the District in which the attorney was located, and recommendations were made by the District Bar Commissioner to the State Board of Law

⁹⁷ *Id.* at 15.

⁹⁸ *In re Adoption of Disciplinary Code for the Wyoming State Bar*, Wyo. Rep. 502-511 P.2d XXII, XXII (Mar. 12, 1973).

⁹⁹ *Id.*

¹⁰⁰ *Id.* See also WYO. R. SUP. CT. r. 22 (1957).

¹⁰¹ Disciplinary Code Wyoming State Bar Preamble, Wyo. Rep. 502-511 P.2d XXIII, XXIII.

¹⁰² Houston G. Williams, *The New Disciplinary Code of the Wyoming State Bar*, 8 LAND & WATER L. REV. 589 (1973).

Examiners. The State Board of Law Examiners then reviewed the matter, and, if the Board deemed it sufficiently serious, trial before a three-judge panel of district judges was held, and the three district judges determined the merits of the matter and assessed the penalties, if any. The action of the three district judges was then reviewed by the Supreme Court and was either affirmed, modified or remanded, depending upon the Supreme Court's determination.¹⁰³

As a result of Chief Justice Parker's order, the 1977 Wyoming Statutes omitted the following lawyer discipline provisions which had appeared in the 1957 Statutes (and, in one form or another, in statutes going back to territorial days):

Statute	Subject
33-54	Causes for revocation or suspension of license
33-56	Proceedings for disbarment or suspension—Procedure generally
33-57	Same—Complaint and investigation; dismissal or directing prosecution; name in which proceedings brought; notice
33-58	Same—Findings of court or jury and papers to be filed
33-59	Same—Hearing by supreme court; judgment
33-60	Same—Forms, rules and regulations ¹⁰⁴

An editor's note following the table of contents for Title 33, Chapter 5, indicates that the foregoing statutes were omitted from the 1977 edition "as implicitly superseded by the Disciplinary Code, Wyoming State Bar, adopted by the supreme court in 1973."¹⁰⁵

The Court's adoption of the Disciplinary Code ended the role of the BLE (which was created by the Legislature in 1899 and assigned responsibility for lawyer discipline in 1925) in matters of lawyer discipline. Henceforth, investigation and charging of lawyer misconduct would be the province of a Court-appointed Grievance Committee.

¹⁰³ *Id.* at 589.

¹⁰⁴ Compare WYO. STAT. §§ 33-54 to -60 (1957), with WYO. STAT. §§ 33-5-101 to -117 (1977).

¹⁰⁵ WYO. STAT. § 33-5 annot. (1977).

In 1976, Lusk, Wyoming, lawyer William A. Taylor was hired as the first full-time employee of the Bar.¹⁰⁶ Taylor's duties as Executive Director included screening disciplinary complaints on behalf of the Grievance Committee.¹⁰⁷ The Grievance Committee had the authority to issue private reprimands and informal admonitions.¹⁰⁸ If a hearing was required, the Attorney General's office continued to act as prosecutor, as it had since 1903, with the Grievance Committee as a tribunal recommending public discipline, if warranted, to the Court.¹⁰⁹

In the four decades following its promulgation, the Disciplinary Code underwent much revision. The first significant change came in 1981, when the Court added a rule providing for arbitration of fee disputes between lawyers and clients.¹¹⁰ Justice John J. Rooney penned a fiery objection to the new rule, which was adopted as Rule XXI of the Disciplinary Code, and submitted his note for publication in the *Wyoming Lawyer*, with Chief Justice Robert R. Rose, who signed the order adopting the rule, joining:

I do not agree with several provisions of the rule adopted by this order. Without specifying the exact language and the exact lines and paragraphs of the rule with which I am in disagreement, I note that I do not believe it proper or legal to sort out the legal profession to be subject to arbitration proceedings which are not in accord and in some places are in conflict with the statutory proceedings set forth by the legislation for arbitration involving other professions, contracts, etc. Further, I question the use of indirect force to secure an agreement by an attorney to arbitrate his claim, and the maintenance aspect of the matter if he refuses to do so. Further, I believe the procedure has aspects of fee or price control. Finally, I question the wisdom [of] attempting to close the records of an arbitration proceeding to the public¹¹¹

¹⁰⁶ See Al Taylor, *Executive Secretary Writes . . .*, WYO. LAW., Dec. 1976, at 5. Taylor would go on to serve as District Court Judge for the Eighth Judicial District (1980–1993) and as Justice of the Wyoming Supreme Court (1993–2001), including a term as Chief Justice (1997–1998).

¹⁰⁷ See Joe Teig, *Evolution and Attorney Discipline*, WYO. LAW., Dec. 2014, at 47.

¹⁰⁸ See *id.*

¹⁰⁹ Disciplinary Code Wyoming State Bar r. V, Wyo. Rep. 502-511 P.2d at XXVII–XXIX.

¹¹⁰ Order Adopting Rule for the Resolution of Fee Disputes, Wyo. Rep. 626-631 P.2d XVII, XVII (May 21, 1981). In 1989, the fee dispute rule was removed from the Disciplinary Code and given its own domain as “Rules for Resolution of Fee Disputes.” *In re Adoption of Rules for Resolution of Fee Disputes*, Wyo. Rep. 771-774 P.2d. XXIX, XXIX (May 11, 1989).

¹¹¹ John J. Rooney, *Chief Justice Rose and Justice Rooney Dissent from Adoption of Fee Arbitration Rules*, WYO. LAW., Aug. 1981, at 6.

In 1987, the Disciplinary Code was amended to provide a mechanism for stipulated resolution of disciplinary complaints.¹¹² The following year, Attorney General Joseph B. Meyer touched off a maelstrom when he announced that his office would no longer prosecute lawyer discipline cases, citing budget and staff constraints.¹¹³ That decision prompted major revisions to the Disciplinary Code in 1990, including creation of the Bar Counsel position.¹¹⁴ The former Grievance Committee became the Board of Professional Responsibility (BPR).¹¹⁵ Henceforth, disciplinary cases would be investigated and prosecuted by Bar Counsel and heard by the BPR, which would make a report and recommendation for any public discipline to the Court.¹¹⁶

In 2001, the Court appointed a Select Committee to Review Lawyer Disciplinary Functions.¹¹⁷ Professor John M. Burman, an *ex officio* member, described the committee's approach in an October 2003 article in *Wyoming Lawyer*:

The Committee approached its work believing that lawyer discipline in Wyoming could be improved by shifting the focus, at least in cases involving minor misconduct, from punishment to rehabilitation. The Committee looked at other states and recent trends in lawyer regulation. . . .

. . . .

With the benefit of nearly fifteen years of experience since the adoption of Wyoming's Disciplinary Code, the Committee also sought to update and streamline procedures which were not working as well as had been originally hoped. The Committee also sought to both reduce the role of the BPR at the charging stage, and to increase the involvement of disinterested professionals by creating a separate body, the Peer Review Panel, to make charging decisions.¹¹⁸

¹¹² Wyo. Rep. 737-742 P.2d XXIX, XXIX-XXXII. See *In re* Amendments of the Disciplinary Code for the Wyoming State Bar, Wyo. Rep. 737-742 P.2d XXVIII (Sept. 22, 1987).

¹¹³ See Tony Lewis, *A.G. Will No Longer Prosecute Grievances*, WYO. LAW., Apr. 1988, at 1, 26.

¹¹⁴ See WYO. R. DISC. CODE r. IV (1990).

¹¹⁵ See *id.* r. I.

¹¹⁶ Order Approving Amended and Rewritten Rules Relating to the Disciplinary Code and Article IX, Section 3(a)(ii) of the By-Laws of the Wyoming State Bar, Wyo. Rep. 781-785 P.2d XXV, XXV. See WYO. R. DISC. CODE r. IV (1990).

¹¹⁷ John M. Burman, *Wyoming's New Disciplinary Code*, WYO. LAW., Oct. 2003, at 40.

¹¹⁸ *Id.* at 40-41.

As a result of the Committee's work, the Disciplinary Code was significantly revised in 2003, including the creation of a new, Court-appointed committee, the Peer Review Panel (PRP), to oversee Bar Counsel.¹¹⁹

Over the years that followed, individuals working with the Disciplinary Code noted other deficiencies and concerns. In 2012, the Court requested the ABA Committee on Professional Discipline to review Wyoming's attorney discipline system.¹²⁰ "After spending a week in Cheyenne meeting with various individuals involved in the disciplinary process, the ABA's consultation team issued its *Report on Wyoming Lawyer Discipline System* in January 2013."¹²¹

The ABA report and its recommendations prompted a comprehensive rewrite of the Disciplinary Code, which had been amended on a patchwork-quilt basis over the preceding ten years.¹²² In 2015, the Court repealed the Disciplinary Code and replaced it with the Rules of Disciplinary Procedure. In its February 20, 2015, order adopting the new rules effective July 1, 2015, the Court reviewed the history of the work that went into that effort:¹²³

After careful study of [the ABA consultation team's] recommendations and the Disciplinary Code, Bar Counsel, the Board of Professional Responsibility (BPR), and the PRP agreed a rewrite of the Disciplinary Code was needed. Bar Counsel took the lead role in developing the new rules, with the BPR and PRP assisting. In August 2014, the draft rules were presented to the Board of Officers and Commissioners of the Wyoming State Bar, who approved the rules being circulated for comment.

....

Bar Counsel, the BPR and PRP reviewed all comments. Several revisions were made in response to comments from members. With those changes, the BPR and the PRP unanimously endorsed the final draft, which was submitted to the Board of Officers and Commissioners (Board) for approval. In November 2014, the Board met and discussed the proposed rules. The Board was divided on a proposed rule to make lawyer

¹¹⁹ *Id.* at 44. *See also* WYO. R. DISC. CODE *rr.* 7, 12 (2003).

¹²⁰ Order Adopting the Wyoming Rules of Disciplinary Procedure and Order Repealing the Disciplinary Code for the Wyoming State Bar (Wyo. Feb. 20, 2015). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

¹²¹ *Id.*

¹²² *See id.*

¹²³ *Id.*

discipline proceedings public upon the filing of a formal charge. A majority of the Board approved the proposed rules. The Board subsequently submitted the proposed rules to the Court.¹²⁴

The Court approved the proposed rules with one exception: a rule providing that lawyer discipline proceedings be made available to the public upon the filing of a formal charge.¹²⁵ Adoption of this proposed rule would have added Wyoming to the list of more than forty states where disciplinary proceedings become public upon the filing of a formal charge, if not earlier in the disciplinary process.¹²⁶ In rejecting the proposed rule, the Court provided this brief comment:

The Court carefully reviewed the proposed rules. The Court determined that the proposed rule to make disciplinary proceedings public upon the filing of a formal charge required further study and did not adopt proposed rules pertaining to that issue. The Court concluded that the remaining proposed rules, with minor revisions should be adopted.¹²⁷

The new rules implemented significant changes, many of which had been suggested by the ABA consultation team, including imposing on Bar Counsel an ongoing obligation to produce exculpatory information to both the PRP and the respondent, thereby enhancing due process.¹²⁸ *Ex parte* communications were, and still are, expressly prohibited.¹²⁹ A probation rule was adopted which gave the BPR greater flexibility in fashioning discipline for suspension-worthy misconduct.¹³⁰ The name of the PRP was changed to the Review and Oversight Committee (ROC). Bar Counsel was expressly authorized to provide informal ethics guidance to lawyers, opening the door for an Ethics Hotline.¹³¹ However, as a result of the Court's rejection of the proposed confidentiality rule, Wyoming remains one of a handful of states in which the only lawyer discipline information available to the public is what the Court chooses to publish in an order of public censure, suspension, or disbarment.¹³²

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Cf.* Debra Moss Curtis, *Attorney Discipline Nationwide: A Comparative Analysis of Process and Statistics*, 35 J. LEGAL PROF. 209, 209–337 (2011).

¹²⁷ Order Adopting the Wyoming Rules of Disciplinary Procedure and Order Repealing the Disciplinary Code for the Wyoming State Bar.

¹²⁸ *See* WYO. R. DISC. PRO. r. 10(c) (2015).

¹²⁹ *See id.* r. 26(b).

¹³⁰ *See id.* r. 9.

¹³¹ *See id.* r. 4.

¹³² Curtis, *supra* note 126, at 209–337.

Since their adoption in 2015, the Rules of Disciplinary Procedure have undergone only minor amendments. In 2017, the Court adopted clarifying amendments to the probation rule and adopted a rule allowing Bar Counsel to object to the BPR's report and recommendation.¹³³ In prior renditions of the rules—going back to the Disciplinary Code—Bar Counsel could only raise a cross-appeal if the respondent objected to the BPR's report and recommendation.¹³⁴

VI. THE EVOLUTION OF THE ADMISSION PROCESS

As we have seen, the Board of Law Examiners (BLE) was created in 1899, forty years before creation of the Bar.¹³⁵ For most of the 20th Century, the BLE was responsible for administering and grading bar exams, passing on an applicant's character and fitness to practice law, and also handling lawyer discipline.¹³⁶ The Legislature set the composition and terms of law examiners, though they were appointed by the Court.¹³⁷ The board wrote and graded the exam and administered the admission program according to rules adopted by the Court.¹³⁸ When last we visited the BLE, it was being unburdened of its disciplinary function as a result of the Court's creation of the Grievance Committee in 1972.¹³⁹

Over time, the testing process became more professionalized. Beginning in 1972, applicants for admission to the Bar were required to take the Multistate Bar Exam (MBE), which consisted of 200 multiple-choice questions prepared and graded by the National Conference of Bar Examiners (NCBE).¹⁴⁰ Applicants also took an essay examination on Wyoming law which was written and graded by the BLE. Applicants were also required to submit to character and fitness interviews by the BLE to determine whether they met the essential eligibility criteria to practice law.¹⁴¹ Beginning in 1980, Wyoming applicants were required to take and pass the NCBE's Multistate Professional Responsibility Exam (MPRE), an ethics exam consisting of sixty multiple-choice questions.¹⁴²

¹³³ Order Amending the Wyoming Rules of Disciplinary Procedure (Wyo. Nov. 17, 2017). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

¹³⁴ See, e.g., WYO. R. DISC. PRO. r. 16 (2015).

¹³⁵ Mark W. Gifford, *Testing and Screening of Applicants for Admission: A Look Behind the Scenes*, WYO. LAW., June 2017, at 12.

¹³⁶ *Id.*

¹³⁷ See, e.g., WYO. STAT. § 33-5-101 (1977).

¹³⁸ See, e.g., WYO. R. SUP. CT. r. 21. (1957).

¹³⁹ See *supra* notes 105–09, 115 and accompanying text (discussing formation of the Grievance Committee).

¹⁴⁰ See John Eckler & Joe E. Covington, *The New Multistate Bar Examination*, 57 A.B.A. J. 1117, 1117 n.1 (1971).

¹⁴¹ See WYO. STAT. § 33-5-104 (1977).

¹⁴² See Paul T. Hayden, *Putting Ethics to the (National Standardized) Test: Tracing the Origins of the MPRE*, 71 FORDHAM L. REV. 1299, 1299 n.2 (2003).

The screening of applicants for character and fitness evolved more slowly. As recently as the early 1990s, the Court's screening rule simply required the BLE "to make independent inquiry and investigation as to applicant's moral character and fitness to be a member of the Wyoming State Bar."¹⁴³ The Court further provided "[i]t shall be the duty of every member of the Wyoming State Bar to actively aid the [C]ourt and the [BLE] in all investigations concerning the character and standing of applicants and to communicate to the [BLE] any information of a material nature known to them affecting such character and standing."¹⁴⁴

In 1992, the Court created a new set of rules governing the admission process.¹⁴⁵ The new rules included a list of conduct that "may be treated by the Board as cause for further inquiry," including unlawful conduct, academic misconduct, misconduct in employment, neglect of financial responsibilities, and evidence of mental or emotional instability, to name a few.¹⁴⁶ The BLE was given extensive investigative authority. A provision was made for a formal hearing before the board, with a right of appeal to the Court.¹⁴⁷ Since 1994, applicants have been required to undergo a formal background check performed by the NCBE, which submits a report of its findings to the BLE.¹⁴⁸

In 1997, the Court created a separate committee to oversee screening of applicants for good moral character and fitness to practice law.¹⁴⁹ As part of a wholesale re-write of the 1992 rules, the Character and Fitness Committee was created "[t]o assist the Board in conducting character and fitness investigation as it deems necessary."¹⁵⁰ The Committee, consisting of three lawyers appointed by the Court, would review the NCBE character and fitness reports.¹⁵¹ If there were items of concern, the applicant could be interviewed by the committee, in person or by phone.¹⁵² If the Committee was satisfied that the applicant possessed the fitness and moral character to practice law, it would make that recommendation to the BLE.¹⁵³ If the applicant obtained a passing score on

¹⁴³ WYO. R. SUP. CT. r. 5(c) (1991).

¹⁴⁴ *Id.* r. 5(f).

¹⁴⁵ Order Adopting Rules and Procedures Governing admission to the Practice of Law in Wyoming (Wyo. Oct. 5, 1992); WYO. R. ADMIS. rr. 101–407 (1992).

¹⁴⁶ WYO. R. ADMIS. r. 401(c) (1992).

¹⁴⁷ *Id.* r. 402–404.

¹⁴⁸ Gifford, *supra* note 135, at 12.

¹⁴⁹ *In re* Repeal of the Rules and Procedures Governing the Admission to the Practice of Law Adopted by Order Dated October 5, 1992 and Adopting Revised Rules and Procedures Governing Admission to the Practice of Law (Wyo. Nov. 24, 1997); WYO. R. ADMIS. r. 102 (1997).

¹⁵⁰ WYO. R. ADMIS. r. 102(a) (1997).

¹⁵¹ *Id.*; Gifford, *supra* note 135, at 12.

¹⁵² *See* WYO. R. ADMIS. r. 403 (1997).

¹⁵³ *See id.* r. 405.

the exam, he or she would then be recommended for admission by the BLE.¹⁵⁴ Wyoming law provides that if the Court, upon the BLE's recommendation, "find[s] the applicant to be qualified to discharge the duties of an attorney and to be of good moral character, and worthy to be admitted, an order shall be entered admitting [the applicant] to practice in all the courts of this state."¹⁵⁵

In 2012, a major shift in the testing of applicants occurred when, at the direction of Chief Justice Marilyn Kite, Wyoming began transitioning to the Uniform Bar Exam (UBE).¹⁵⁶ First administered in North Dakota and Missouri in February 2011,¹⁵⁷ the UBE is a multipart, two-day exam consisting of the MBE, the Multistate Essay Exam (MEE), and the Multistate Performance Test (MPT). Beginning in 2013, applicants by examination in Wyoming are required to pass the UBE, the MPRE, and character and fitness screening.¹⁵⁸

With thirty-three jurisdictions now administering the UBE,¹⁵⁹ lawyers now have the opportunity to gain admission in multiple jurisdictions by transferring their UBE scores. In Wyoming, an applicant who sat for the UBE elsewhere can use his or her passing score to apply for admission in Wyoming, but must do so within three years of taking the UBE.¹⁶⁰ Attorneys who have engaged in the active, authorized practice of law in another UBE jurisdiction for five out of the preceding seven years may also seek admission on motion.¹⁶¹ Both applicants for admission via UBE score transfer or motion must prove a passing MPRE score and submit to a character report by the NCBE.¹⁶²

BLE members who graded the first UBE given in Wyoming in July 2013 were struck by how rigorous the process was for preparing and grading the national exam. Members of the BLE attended grading sessions in Madison, Wisconsin, twice each year to train on how to grade the written components of the UBE. This was a far cry from the BLE's prior experience, where board members divided the

¹⁵⁴ *Id.* r. 213.

¹⁵⁵ WYO. STAT. § 33-5-104 (1997).

¹⁵⁶ See Order Amending the Rules and Procedures Governing Admission to the Practice of Law (Wyo. Dec. 14, 2012). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

¹⁵⁷ Debra Cassens Weiss, *With Missouri Move, Idea of Uniform Bar Exam Finally Gets Legs*, AM. BAR ASS'N (Apr. 29, 2010, 1:20 PM), http://www.abajournal.com/news/article/with_missouri_move_idea_of_uniform_bar_exam_finally_gets_legs.

¹⁵⁸ See Order Amending the Rules and Procedures Governing Admission to the Practice of Law.

¹⁵⁹ See *Jurisdictions That Have Adopted the UBE*, NAT'L CONF. BAR EXAMINERS (last visited Dec. 7, 2018), <http://www.ncbex.org/exams/ube/>.

¹⁶⁰ See WYO. R. ADMIS. r. 305 (2018).

¹⁶¹ *Id.* r. 302.

¹⁶² See *id.* rr. 302, 305.

task of preparing Wyoming-specific essay questions and sample answers between them and later got together to grade the essay portion of the exam.¹⁶³ Justice Kite, now retired, recently recalled that when she, “learned how much more refined the UBE was in its application of scientific testing methodology, it didn’t take long to realize there was a better way.”¹⁶⁴

As with testing methodology, the character and fitness screening process has become more sophisticated in recent years. In 2014, Wyoming joined twenty-two states in allowing conditional admission—a confidential, probationary admission of sorts for lawyers undergoing substance abuse treatment or working through debt problems.¹⁶⁵ In 2016, the Character and Fitness Committee expanded from three members to five, with one member being “a non-lawyer with special training in substance abuse, mental health, financial management or another area of value to the assessment of good moral character and fitness to practice law of applicants.”¹⁶⁶ Procedural rules were adopted for formal hearings before the Committee, with an applicant given the opportunity to appeal the Committee’s determination to the Court.¹⁶⁷

In recent years, the Bar has taken an active role in updating Wyoming statutes found in Title 33, Chapter 5, relating to the BLE, which had seldom been amended since their original enactment by the 1899 Legislature. The 2015 Legislature passed a bill that removed archaic language from a number of statutes and did away with a seldom-used provision that an applicant could satisfy the education requirement with three years of study in the office of a lawyer or judge. Henceforth, graduation from an ABA-accredited law school would be the only path to admission in Wyoming.¹⁶⁸

Further statutory amendments in 2016 opened the door for application fees to be utilized not only to fund the admissions process, but also for “other regulatory functions pursuant to rules promulgated by the supreme court.”¹⁶⁹ More recently, the 2018 Legislature removed the requirement that the BLE “consist of five (5) members of the bar of at least five (5) years standing,” with “no more than one (1) member [] appointed from the same judicial district,” leaving to the Court

¹⁶³ *The Wyoming State Bar Essay Examination*, WYO. LAW., Feb. 1992, at 15.

¹⁶⁴ Mark W. Gifford, *The UBE in Wyoming: A Five-Year Assessment*, WYO. LAW., June 2018, at 12.

¹⁶⁵ See Order Amending the Rules and Procedures Governing Admission to the Practice of Law (Wyo. Aug. 27, 2014); WYO. R. ADMIS. r. 503 (2014).

¹⁶⁶ See Order Amending the Rules and Procedures Governing Admission to the Practice of Law (Wyo. Mar. 8, 2016); WYO. R. ADMIS. r. 102(a) (2016).

¹⁶⁷ WYO. R. ADMIS. rr. 403–05 (2016).

¹⁶⁸ 2015 Wyo. Sess. Laws 533, ch. 162. For further discussion of Wyoming’s “office study” rule, see Burman, *supra* note 1, § 4.1.4.2.

¹⁶⁹ 2016 Wyo. Sess. Laws 328, ch. 75.

decisions regarding the board's composition and term limits, if any.¹⁷⁰ Collectively, the amendments made in recent years signal the Legislature's willingness to cede control over the attorney admission process to the Court.

As with legal ethics and attorney discipline, regulation of admission is certain to continue to evolve in an effort to keep pace with technology and globalization.

VII. THE EVOLUTION OF REGULATION OF THE UNAUTHORIZED PRACTICE OF LAW

As we have seen, when the Legislature created the Bar in 1939, it charged the Court with promulgating rules "requiring all persons practicing law in this State to be members thereof in good standing."¹⁷¹ In accordance therewith, the Court adopted a rule providing that "[n]o person resident in the State of Wyoming shall practice law in the State of Wyoming except an active member of the State Bar."¹⁷² The Court had occasion to apply the rule in *State ex rel. Wyoming State Bar v. Hardy*, a case involving the drafting of numerous wills over the course of a number of years by a non-lawyer.¹⁷³ The Court held that this conduct indeed constituted the unauthorized practice of law (UPL), but declined to issue an injunction, reasoning:

It appears that the defendant has been engaged in the practices concerning which plaintiff complains for many years. This fact must have been known to members of the Bar residing in the vicinity, and, indeed, the record so indicates. Yet no suggestion of impropriety or warning appears to have been given the defendant and no steps were or have been taken to stop such practices until the present proceeding was instituted. The record clearly indicates also . . . that the defendant did not intend to engage in the unauthorized practice of law. Inasmuch as this is the first case of this character brought to our attention, under all the circumstances disclosed by the record before us, we prefer to refrain from being unduly severe with defendant notwithstanding he has mistakenly transgressed the boundaries that subsist between lay and professional action in the matter of drawing wills.¹⁷⁴

¹⁷⁰ 2018 Wyo. Sess. Laws 157, ch. 92.

¹⁷¹ 1939 Wyo. Sess. Laws 160, ch. 97, § 1(B).

¹⁷² WYO. COMP. STAT. § 2-418 (1945).

¹⁷³ *State ex rel. Wyo. State Bar v. Hardy*, 156 P.2d 309 (Wyo. 1945).

¹⁷⁴ *Id.* at 315.

In 1957, the Legislature passed an act proclaiming, “[i]t shall be unlawful, and punishable as contempt of court, for any person not a member of the Wyoming state bar to hold himself out or advertise by whatsoever means as an attorney or counselor at law.”¹⁷⁵ The statute prohibiting UPL remains on the books today as Wyoming Statute § 33-5-117, but has seldom been utilized.¹⁷⁶

Thus, it has fallen to the Court to define the practice of law and develop a mechanism for guarding against its unauthorized practice. For lawyers, the mechanism is Rule 5.5 of the Rules of Professional Conduct, which generally prohibits the practice of law in Wyoming by lawyers who are not members of the Bar or admitted as counsel *pro hac vice*.¹⁷⁷

For non-lawyers, the Court first addressed these issues in 1986, when, acting on the Bar’s recommendation, it adopted Rules of Procedure Governing Unauthorized Practice of Law.¹⁷⁸ The rules created a UPL Committee of six lawyers and three non-lawyers to investigate UPL allegations and, if necessary, to “initiate litigation in the district court for injunctive relief and/or criminal contempt proceedings.”¹⁷⁹ These rules remained in place until 2014, when they were repealed.

In the interim, the Court turned its attention to defining the practice of law and carving out exceptions to the general prohibition against UPL by non-lawyers. Its initial effort came in 1989, when the Court defined “practice of law” as “advising others and taking action for them in matters connected with law. It includes preparing legal instruments and acting or proceeding for another before judges, courts, boards or other governmental agencies.”¹⁸⁰ The rule went on to limit authority to practice law to active members of the Bar, except for lawyers licensed in another jurisdiction who are admitted *pro hac vice*.¹⁸¹ The rule also provided, “[a]ny person may act pro se in a matter in which that person is a party.”¹⁸²

In 2005, the Court adopted an expanded Rule 11 which defined “practice of law” as:

¹⁷⁵ 1957 Wyo. Sess. Laws 53, ch. 61, § 1.

¹⁷⁶ The statute was applied in *Meyer v. Norman*, 780 P.2d 283, 287–88 (Wyo. 1989) and cited in *Dewey Family Trust v. Mountain West Farm Bureau Mutual Insurance Co.*, 3 P.3d 833, 834 n.1 (Wyo. 2000). Otherwise, it has received little attention.

¹⁷⁷ For admission *pro hac vice*, see WYO. R. BAR AUTH. PRAC. r. 8 (2018).

¹⁷⁸ *In re Adoption of Rules of Procedure Governing Unauthorized Practice of Law*, Wyo. Rep. 725-729 P.2d CII, CII (Dec. 5, 1986).

¹⁷⁹ WYO. R. BAR AUTH. PRAC. r. 3 (1986).

¹⁸⁰ WYO. R. BAR r. XI(a) (1989). See *In re Amendment of Rules and By-Laws, Relating to the Practice of Law and the Wyoming State Bar*, Wyo. Rep. 771-774 P.2d XLI, XLI (June 1, 1989).

¹⁸¹ WYO. R. BAR r. XI(b)(1) (1989).

¹⁸² *Id.* r. XI(b)(2).

providing any legal service for any other person, firm or corporation, with or without compensation, or providing professional legal advice or services where there is a client relationship of trust or reliance, including appearing as an advocate in a representative capacity; drafting pleadings or other documents; or performing any act in such capacity in connection with a prospective or pending proceeding before any court, court commissioner, or referee.¹⁸³

The rule went on to limit the authorized practice of law to active members of the Bar and lawyers licensed in other jurisdictions who have been admitted *pro hac vice* (for which procedures for admission were established).¹⁸⁴ The rule continued to provide that any person may act *pro se* in a matter in which that person is a party.¹⁸⁵ The same order adopted a new Rule 11.1, entitled “Unauthorized practice of law.”¹⁸⁶ The rule set forth a more expansive definition of “practice of law” than the one contained in Rule 11 and prohibited the “unlawful practice of law,” including:

1. A non-lawyer practicing law or holding himself or herself out as entitled to practice law;
2. A legal provider holding an investment or ownership interest in a business primarily engaged in the practice of law, knowing that a non-lawyer holds an investment or ownership interest in the business; and
3. A non-lawyer sharing legal fees with a legal provider.¹⁸⁷

The foregoing framework for regulation of UPL by non-lawyers remained in place until 2014, when the Court repealed both the UPL procedural rules, which had been in place since 1986, and the substantive rule defining UPL. In the years preceding the Court’s adoption of a more robust approach to regulation of UPL by non-lawyers, the UPL Committee found itself with an infrastructure inadequate to carry out its charge. The committee’s sole recourse—to seek a civil injunction or criminal contempt—posed significant logistical problems for an all-volunteer committee. “The Committee got by as best it could, writing threatening ‘cease and desist’ letters to recalcitrant non-lawyers,

¹⁸³ *In re* Amendments to Rule 11 of the Rules of the Supreme Court of Wyoming Providing for the Organization and Government of the Bar Association and Attorneys at Law for the State of Wyoming, Wyo. Rep. 99-102 P.3d XV, XV (Mar. 1, 2005); WYO. R. BAR r. 11(a)(3) (2005).

¹⁸⁴ WYO. R. BAR r. 11(b), (c) (2005).

¹⁸⁵ *Id.* r. 11(d).

¹⁸⁶ *Id.* r. 11.1.

¹⁸⁷ *Id.* r. 11.1(b)(1), (4), (5).

warning that something bad would happen if they didn't knock it off. Usually, those measures worked, but not always."¹⁸⁸

Efforts to overhaul the UPL regulatory system were initiated in 2013, initially at the urging of a former chair of the UPL Committee, who argued for a full re-write of Rule 11.1, citing:

1. The practice of law has changed dramatically since the Court promulgated Rule 11.1. The only Wyoming statute on the subject, Wyoming Statute Section 33-5-117, offers little assistance for the UPL Committee or prosecutors.
2. Societal needs for representation in courts of law have changed dramatically in recent decades. Legal aid organizations have seen their funding cut or eliminated altogether. Access to justice has been impacted by an increasing segment of the population in need of legal services but without the money to hire an attorney.
3. As a result, there has been a substantial increase in the number of complaints filed with the UPL Committee.¹⁸⁹

Faced with these challenges, the UPL Committee collaborated with Bar Counsel and the Court to formulate an improved infrastructure for investigating and acting upon UPL complaints. On March 4, 2014, the Court repealed the 1986 Rules of Procedure Governing Unauthorized Practice of Law and replaced them with Rules of Procedure Governing Unauthorized Practice of Law Proceedings.¹⁹⁰

The [new] rules drastically altered the procedures historically used to review, investigate and act upon UPL situations, all functions which had previously been vested in the Committee itself. The new model roughly followed lawyer disciplinary procedures, with Bar Counsel receiving UPL complaints, investigating them, attempting to work out a stipulated resolution where appropriate and, if no stipulation could be reached, trying the case to the UPL Committee as a hearing body. The UPL Committee would then make a recommendation to the Court, which would be

¹⁸⁸ Mark W. Gifford & Jeremiah N.R. Sandburg, *Overhauling Wyoming's Unauthorized Practice of Law System: What Are Legal Services? And Who Should Be Authorized to Provide Them?*, WYO. LAW., June 2014, at 41.

¹⁸⁹ *Id.*

¹⁹⁰ Order Repealing Rules of Procedure Governing Unauthorized Practice of Law and Order Adopting Rules of Procedure Governing Unauthorized Practice of Law Proceedings (Wyo. Mar. 4, 2014). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

empowered to issue an injunction, impose fines, order restitution and order the offender to pay costs of the proceeding.¹⁹¹

The new rules also contained fully developed procedures for civil injunction, civil contempt, and criminal contempt proceedings against UPL offenders.¹⁹²

The UPL Committee also worked on a complete re-write of Rules 11 and 11.1 with the goal of “crafting a better definition of the authorized practice of law and identifying exceptions for legal services that may be performed competently, though often at less expense, by non-lawyers.”¹⁹³ The resulting proposal was put out for comment by Bar membership in January 2014.¹⁹⁴ In addition, input was sought from non-lawyers:

Given that the proposed definitional rule would impact non-lawyers as well as lawyers, Bar leadership approved venturing into the previously-unexplored ground of putting the proposal out for public comment, which brought responses from landmen, realtors, bankers, title insurance companies, professional engineers and surveyors, accountants and others.¹⁹⁵

The proposed rules submitted to the Court for approval in March 2014 included a slightly modified definition of the practice of law. However, the proposed rules departed drastically from the prior Rule 11.1 in carving out exceptions for certain services encroaching upon the practice of law provided by financial institutions, landmen, licensed realtors, title insurance companies, certified public accountants, and licensed engineers and land surveyors.¹⁹⁶

With the exception of landmen, all these professions are licensed and subject to regulation. From this the [UPL] Committee took considerable comfort. The Committee settled upon the exception for landmen, an unregulated group, in light of substantial, uncontroverted input from lawyers and non-lawyers alike familiar with the industry attesting to the critical functions performed by landmen and the undesirable consequences of limiting or restricting those activities.

Another unregulated industry, the title insurance business, received a relatively more limited exception. The new rule would

¹⁹¹ Gifford & Sandburg, *supra* note 188, at 42.

¹⁹² See WYO. R. UNAUTH. PRAC. r. 7–9 (2014).

¹⁹³ Gifford & Sandburg, *supra* note 188, at 42.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

limit the authorized activities of such companies to preparing closing statements and releases which do not affect judgment liens, and then only on standardized forms prepared by a licensed Wyoming lawyer.¹⁹⁷

Among other exceptions to the general prohibition against UPL by non-lawyers, the rules provided that sales of legal forms are permissible “so long as they do not contain advice about their use or legal effect; such forms must contain a clear and conspicuous disclaimer that they are not a substitute for the advice of an attorney.”¹⁹⁸

On April 29, 2014, the Court issued an order adopting the new rules.¹⁹⁹ As a result, Wyoming is better equipped to deal with allegations of UPL by non-lawyers in the rapidly-changing landscape of legal service providers.

VIII. THE EVOLUTION OF MANDATORY CONTINUING LEGAL EDUCATION

The requirement that Wyoming lawyers obtain continuing legal education (CLE) is rooted in the 1976 report of a Bar committee convened to study the subject. The committee concluded, “it behooves the legal profession within the State of Wyoming to take whatever action it deems necessary to insure that the members of this profession maintain a level of legal competency to insure that the members will serve their clients adequately and professionally.”²⁰⁰

After a year of further study, the matter was put to a vote at the Bar’s 1977 annual meeting in Cheyenne, Wyoming. Members in attendance passed a resolution recommending approval by the Court of rules regarding mandatory continuing legal education. On December 7, 1977, the Court issued an order adopting the Bar’s proposed rules, which included a requirement that members of the Bar complete fifteen hours of CLE annually and provided criteria for accreditation of CLE courses.²⁰¹ The rules established a Court-appointed Board of Continuing Legal Education comprised of six lawyers and three non-lawyers charged with administering the CLE program.²⁰²

¹⁹⁷ *Id.* at 42–43.

¹⁹⁸ *Id.* at 43.

¹⁹⁹ *In re* Repeal of the Rules of the Wyoming Supreme Court Providing for the Organization and Government of the Bar Association and Attorneys at Law of the State of Wyoming and The Adoption of Rules Governing the Wyoming State Bar and the Authorized Practice of Law (Wyo. Apr. 29, 2014). A copy of the order can be found on the Court’s website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

²⁰⁰ Walter C. Urbigkit, Jr., *Education Is on Continuing Basis*, WYO. LAW., Dec. 1979, at 9.

²⁰¹ *In re* Adoption of Rules for Continuing Legal Education of Members of the Wyoming State Bar, WYO. REP. 572-577 P.2d XXI, XXI (Dec. 6, 1977); WYO. R. CLE r. 3 (1977).

²⁰² WYO. R. CLE r. 2 (1977).

The rules have been frequently amended over the years, including a 1997 requirement that at least one of the fifteen required hours be in the field of ethics.²⁰³ Over time, what had evolved into two sets of CLE rules was deemed to be unwieldy. In 2004, the problem was rectified with the repeal of all prior rules on the subject in favor of newly-constituted Rules of the Wyoming State Board of Legal Education.²⁰⁴ In 2013, the ethics requirement was increased to two hours per calendar year.²⁰⁵

Many of the amendments over the years reflect the CLE board's efforts to adapt regulation of mandatory CLE in the face of changing delivery platforms for education of lawyers. The present rules allow for limited CLE credit for self-study programs (i.e., "where audio, video or other online material is used"),²⁰⁶ for providing pro bono public service,²⁰⁷ and for authoring articles of interest to the legal profession.²⁰⁸ In recent years, CLE providers have pushed regulators to adapt accreditation rules to accommodate new technologies, such as gaming modules which may take some lawyers five hours to complete while other lawyers can complete it in thirty minutes. Questions over how such a program can and should be accredited are bound to arise. In short, technology continues to impact every aspect of lawyer regulation, and mandatory CLE is no exception.

IX. THE EVOLUTION OF FEE ARBITRATION

Wyoming Lawyer was a fledgling publication when, in May 1978, it featured the following blurb under the headline, "Pres. Cardine Appoints Fee Arbitration Committee."²⁰⁹

President Cardine has appointed a committee to prepare a Fee Arbitration Rule for submission to the Bar at the September meeting.

²⁰³ WYO. R. CLE § III.A.1. (1997). See Order Adopting Subsection H of Section I and Paragraph A. 1. of Section III; and Amendment to Subsection C of Section III of the Regulations of the Wyoming State Board of Continuing Legal Education, Wyo. Rep. 937-947 P.2d CXIII, CXIII (Oct. 2, 1997).

²⁰⁴ See *In re* Adoption of the Rules of the Wyoming State Board of Continuing Legal Education, Wyo. Rep. 91-98 P.3d XIII, XIII (Jan. 1, 2005).

²⁰⁵ WYO. R. CLE Bd. r. 4 (2013). See *In re* Amendments to Rules 4, 6, and 10 of the Rules of the Wyoming State Board of Continuing Legal Education (Wyo. Sept. 17, 2013).

²⁰⁶ WYO. R. CLE Bd. r. 5(e) (2018).

²⁰⁷ *Id.* r. 5(d).

²⁰⁸ *Id.* r. 5(c).

²⁰⁹ G. Joseph Cardine (1924–1997) was a 1954 graduate of the University of Wyoming College of Law and served as Bar president from 1977 to 1978. From 1966 to 1977, he was a partner in the Casper, Wyoming, firm of Cardine, Vlastos and Reeves. In 1977, Cardine joined the faculty of the University of Wyoming College of Law. He was appointed to the Court in 1983 and served as Chief Justice from 1988 to 1990. Justice Cardine retired from the Court in 1994.

Fee Arbitration has worked successfully in a number of states, notably Montana and Arizona. Most rules require that when there is a fee dispute, both parties must agree to submit to arbitration. If either of the parties desire not to arbitrate the fee, this results in a rejection of the arbitration, no further action is taken and the parties are left to their respective civil remedies. If both parties submit to arbitration, the final decision of the arbitrators is binding. The rules provide for appointment of arbitrators, hearings and appearances. It should be noted that there have been a significant number of complaints to the Grievance Committee of the Wyoming State Bar concerning fees.²¹⁰

Three years in the making, as we have seen, when rules for fee arbitration were adopted in 1981,²¹¹ they were located in the Disciplinary Code and drew sharp criticism from two justices.²¹² The rules' initial placement in the Disciplinary Code is likely attributable to the fact that a significant percentage of complaints about lawyers expressed unhappiness over legal fees. The 1981 rule established a new body, the Committee on Resolution of Fee Disputes, consisting of twenty-seven lawyers appointed by the Bar president from each of the counties throughout the state, with some larger counties having two representatives.²¹³ The executive council, a smaller committee elected by the committee of the whole, was charged with overseeing the work of the committee.²¹⁴

Under this initial version, a fee complainant, presumably a client, was required to sign an agreement to binding arbitration or else the matter would be dismissed. Fee dispute petitions would first be reviewed by the chair of the Grievance Committee to "make an initial determination that no ethical violation [was] stated in the petition."²¹⁵ The petition would then be assigned to a committee member for investigation and a mediated settlement if possible.²¹⁶ If settlement efforts failed, the matter would be set for hearing. If the amount in dispute was \$1,000.00 or less, one member of the Grievance Committee would serve as an

²¹⁰ *Pres. Cardine Appoints Fee Arbitration Committee*, WYO. LAW., May 1978, at 1.

²¹¹ *In re Adopting Rule for the Resolution of Fee Disputes*, Wyo. Rep. 626-631 P.2d XVII, XVII (May 21, 1981).

²¹² *See supra* note 111 and accompanying text.

²¹³ WYO. R. DISC. CODE r. XXI(b) (1981).

²¹⁴ *Id.* r. XXI(c).

²¹⁵ *Id.* r. XXI(d). The rule excluded legal services "which constitute a violation of the Code of Professional Responsibility" from the fee arbitration program and provided further, "[i]f an ethical violation is stated, the petition shall be referred to the Grievance Committee of the Wyoming State Bar." *Id.*

²¹⁶ *Id.* r. XXI(e).

arbitrator; for larger claims, a three-lawyer arbitration panel would be assigned.²¹⁷ Following the hearing, a written award would be made, which was enforceable if both parties signed an agreement to be bound by the arbitrator's decision.²¹⁸ In the absence of such an agreement, if there was an award to the client which the lawyer refused to pay, the arbitrator could file suit against the lawyer on behalf of the client.²¹⁹ With the exception of the arbitration award itself, all records of such proceedings were confidential.²²⁰

The 1981 rule endured until 1989, when the Court adopted a substantially rewritten set of Rules for Resolution of Fee Disputes.²²¹ The new rules did away with the executive council and the initial screening of fee dispute petitions by the Grievance Committee. If the petition was filed within ninety days of the client's receipt of a final bill, the lawyer was obligated to participate in the process and was bound by the result.²²² Participation by the lawyer was elective if the petition was filed outside of the ninety-day window.²²³ However, clients still had to agree to be bound by the outcome of the arbitration.²²⁴ Hearings were to be "electronically transcribed."²²⁵ A party who was unhappy with the outcome could seek judicial review in district court.²²⁶

The 1989 rules held on until 1996, when the Court entered an order repealing them in favor of new rules.²²⁷ The new rules increased the threshold for a three-member arbitration panel from \$1,000.00 to \$2,000.00.²²⁸ The time period for filing a petition was increased from sixty to 120 days after the client's receipt of a final bill.²²⁹ The new rules also contained greater specificity as to how hearings were to be conducted.²³⁰

²¹⁷ *Id.* r. XXI(f)(1).

²¹⁸ *Id.* r. XXI(h)(1).

²¹⁹ *Id.*

²²⁰ *Id.* r. XXI(j).

²²¹ *In re* Adoption of Rules for Resolution of Fee Disputes, Wyo. Rep. 771-774 P.2d XXIX, XXIX (May 11, 1989).

²²² WYO. R. FEE DISPUTES r. 6(a) (1989).

²²³ *Id.* r. 6(b).

²²⁴ *Id.* r. 8(b).

²²⁵ *Id.* r. 10.

²²⁶ *Id.* r. 14.

²²⁷ *In re* Repeal of the Rules for Resolution of Fee Disputes Adopted by Order Dated May 11, 1989, and Adopting Revised Rules for the Resolution of Fee Disputes, Wyo. Rep. 920-929 P.2d LXXVIII, LXXVIII (Jan. 6, 1996).

²²⁸ WYO. R. FEE DISPUTES r. 4(b) (1996).

²²⁹ *Id.* r. 6(a).

²³⁰ *Id.* r. 11.

Over time, dissatisfaction with the fee dispute resolution process festered. The size of the committee proved unwieldy at times. In counties with few lawyers, recruitment of committee members was problematic. It was often difficult to determine when a “final bill” was sent for purposes of determining the timeliness of the petition. Some cases would languish if the committee member assigned to the matter failed to make it a priority. Written decisions were sometimes months in waiting. The hearings themselves, always held by telephone, presented logistical challenges that undermined the parties’ sense of having had their day in court. Audio recordings of the telephone hearings were of uneven quality. Judicial reviews of awards often took months.

On May 10, 2016, the Court entered an order repealing the 1996 Rules for Resolution of Fee Disputes and adopting new Rules for Fee Arbitration.²³¹ The new rules were the product of a collaborative effort between the Committee for Resolution of Fee Disputes and Bar Counsel to address perceived shortcomings in the existing rules. The rules adopted by the Court and effective October 1, 2016, addressed many of them, including:

1. The committee was reduced in size from twenty-seven members to six, with two members being non-lawyers, and renamed the Fee Arbitration Committee. Rather than serving as the pool for hearing panels, the committee was responsible for compiling a list of qualified arbitrators, lawyers and non-lawyers alike, to serve on fee dispute hearing panels. The committee had greater hands-on responsibility for administration of the program.²³²
2. The filing deadline for petitions was changed to one year after the lawyer-client relationship was terminated or one year after the final billing was received by the client, whichever is later.²³³
3. The threshold for appointment of a three-person hearing panel was increased from \$2,000 to \$10,000.²³⁴
4. Before a lawyer sued to collect a fee, he or she was required to give the client written notice that fee arbitration was

²³¹ *In re* Adoption of the Wyoming Rules for Fee Arbitration (Wyo. May 10, 2016). A copy of the order can be found on the Court’s website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

²³² WYO. R. FEE ARB. r. 2 (2016).

²³³ *Id.* r. 1(f)(5).

²³⁴ *Id.* r. 3(b).

available, so long as the client filed a fee dispute petition within thirty days or receipt of the notice.²³⁵

5. Following the fee dispute panel's decision, either party could request a trial *de novo*.²³⁶ This eliminated due process concerns associated with the former rules and did away with an awkward judicial review procedure.
6. With greater flexibility in the formation of hearing panels, hearings by conference call gave way to in-person hearings.
7. The new rules retained the benefits of an expedited procedure for resolving fee disputes while implementing significant improvements in numerous areas.

Now in its third year, those involved in the new fee arbitration program—the Fee Arbitration Committee, members of the arbitration pool, and parties to the proceedings themselves—report an increased level of satisfaction with the process.

X. THE EVOLUTION OF THE CLIENT PROTECTION FUND

What is now the Client Protection Fund finds its roots in a rule adopted by the Court in 1972. The Client Protection Fund provided for the creation of a Clients' Security Committee, consisting of one lawyer from each judicial district, appointed by the Bar president, and charged with determining whether and to what extent a client who had fallen victim to a dishonest lawyer should be reimbursed by the Bar. The Clients' Security Committee was authorized to prescribe rules and procedures consistent with the rules "for management of its funds and presentation, processing and payment of claims, subject to approval of the Board of Commissioners." The rule provided, "[a]ll allowances on claims shall be a matter of grace and not of right." The Bar was free to abolish the committee at any time.²³⁷

In 1989, the Court published a virtually identical rule as the Rules for Clients' Security Fund and Committee of the Wyoming State Bar.²³⁸

In December 1991, the Bar proposed Rules of Procedure for the Clients' Security Fund Committee. The rules were approved and adopted by the Court

²³⁵ *Id.* r. 1(g).

²³⁶ *Id.* r. 7.

²³⁷ Order, Wyo. Rep. 493-501 P.2d XXII, XXII (Sept. 18, 1972).

²³⁸ *In re* Adoption of Rules for Clients' Security Fund and Special Committee of the Wyoming State Bar, Wyo. Rep. 771-774 P.2d XXXVIII, XXXVIII (June 1, 1989).

by order dated February 20, 1992.²³⁹ The new rules did not replace but expanded upon and provided procedural details for the processing of Clients' Security Fund claims that were not contained in the Court's earlier rules. The procedural rules provided that "the loss to be paid to any one client of any one lawyer shall not exceed five thousand dollars per year."²⁴⁰ The rules provided that no publicity was to be given to the rules or the workings of the committee "without the expressed prior approval of the Board of Commissioners of the State Bar of Wyoming."²⁴¹

These two sets of rules lasted until 2017, when the Court issued an order repealing the 1989 Rules for the Clients' Security Fund as well as the Rules of Procedure for the Clients' Security Fund. In their place, the Court adopted Rules for the Client Protection Fund.²⁴² Among other things, the new rules streamlined the claims process and removed the prohibition against publicizing the availability of a fund to reimburse clients for losses inflicted by dishonest lawyers. The new rules increased the cap on payment of claims to \$15,000.00 per calendar year and provided for payment of greater amounts with the prior approval of the Board of Officers and Commissioners.²⁴³

XI. CONCLUSION

The 150-year history of self-regulation of the legal profession in Wyoming is textured and, more recently, multi-layered. From the first territorial legislature's recognition of the need to safeguard against unscrupulous lawyers and to assure accountability for bad conduct by such lawyers, to the adoption of requirements for licensure of lawyers at the turn of the 19th Century, the legal profession has been faithful and devoted to the cause of assuring the availability of quality legal services as an essential component of access to justice for all Wyoming citizens.

Over time, the Legislature has entrusted oversight of the practice of law to the Court and its administrative arm, the Bar. The Bar, with the Court's supervision and support, has risen to the challenge by expanding its mission into such areas as guarding against the unauthorized practice of law by non-lawyers, creating a fund

²³⁹ *In re Adoption Rules of Procedure for the Clients' Security Fund of the State Bar of Wyoming*, Wyo. Rep. 823-832 P.2d XVII, XVII (Feb. 20, 1992).

²⁴⁰ WYO. R. CLIENT SEC. FUND r. I.E.3 (1992). This cap was increased to \$10,000.00 by order dated December 30, 1999. *See* Order Adopting Amendment to the Rules of Procedure for the Clients' Security Fund for the State Bar of Wyoming, Wyo. Rep. 984-991 P.2d XVII, XVII (Dec. 30, 1999).

²⁴¹ WYO. R. CLIENT SEC. FUND r. VII.A. (1992).

²⁴² *In re Adoption of the Rules for the Client Protection Fund of the Wyoming State Bar* (Wyo. May 16, 2017). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.

²⁴³ WYO. R. CLIENT PROT. FUND r. 6(b) (2017).

to compensate clients who fall victim to dishonest lawyers, and administering an affordable, expeditious process to facilitate the resolution of disputes over a lawyer's fee. The advent of continuing legal education requirements as well as the recent launch of the Wyoming Lawyer Assistance Program (WyLAP)²⁴⁴ provide additional channels for assuring lawyer competence. Through the efforts of elected Bar leaders and the service scores of volunteers, court-appointed and otherwise, each of these measures has taken a huge stride forward in recent years. Even as this article goes to print, there are significant revisions to the Rules of Professional Conduct and the Rules of Disciplinary Procedure under consideration. Regulation of the legal profession in Wyoming continues to be a work in progress.

Though daunting are the challenges posed by the pace of technological and global change in the legal services marketplace, Wyoming's lawyers stand on firm ground, founded on basic principles that should serve to guide our profession in the future as they have in the past.

²⁴⁴ See *In re Adoption of the Rules of the Wyoming Lawyer Assistance Program* (Wyo. Apr. 29, 2014). A copy of the order can be found on the Court's website at <https://www.courts.state.wy.us/supreme-court/court-rules/court-rule-amendments/>.