

Attorney regulators dispute poor grade

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By Howard Pankratz

Discipline of lawyers in the United States is a "national disgrace," according to a report by a Washington-based legal reform group called HALT.

Although Colorado was deemed to have the 13th best legal system, it received a "C" grade and was criticized for investigating only a small percentage of the complaints lodged with the state's Office of Attorney Regulation.

"The primary problem in Colorado with regard to adequacy of discipline is that it has one of the worst investigation rates in the country - it looks into less than 10 percent of the grievances coming in the door," said Suzanne Mishkin, HALT's associate counsel.

"The discipline can't be adequate if they aren't looking at the complaints," Mishkin said.

According to a 2000 survey, 4,507 complaints were filed in Colorado, but only 432 investigations were initiated. HALT based its finding on that American Bar Association survey.

"That ends up being less than 10 percent," Mishkin said. "Our feeling is that every consumer grievance deserves meaningful review. Colorado is really at the bottom of the country when it comes to really giving consumer grievances their due. California and Florida look at every single grievance that comes through the door."

But John Gleason, who heads Colorado's Office of Attorney Regulation, criticized the findings, claiming Colorado does more than any state in regulating lawyers and should rank first.

"I agree with a lot they do," said Gleason about HALT. "I think it is good that they hold some of the jurisdictions' feet to the fire. Unfortunately, they don't understand the nature of the Colorado program."

HALT released its "Lawyer Discipline Report Card" late in October and described it as a "scathing indictment of attorney discipline agencies nationwide."

It said the report was the first comprehensive evaluation in 10 years of agencies that regulate attorneys in 50 states and the District of Columbia.

Of the 51 jurisdictions, many received grades of D, and two states - Pennsylvania and North Carolina - flunked.

"To protect the public from unscrupulous, negligent or incompetent attorneys, penalties for misconduct should be swift and certain," said HALT executive director James Turner. "Instead the report card found a wide pattern of delay, secrecy and toothless sanctions that amount to a national disgrace."

HALT's "report card" has six categories and an overall grade. The six categories are "adequacy of discipline imposed"; "publicity and responsiveness"; "openness of the process"; "fairness of disciplinary procedures"; "public participation" and "promptness".

Colorado received a D- for adequacy of discipline; a C+ for publicity and responsiveness; C+ for openness of the process; an A- for fairness of disciplinary procedures; C for public participation; and a D+ for promptness, with an overall C grade.

But Gleason believes the agency should receive a B+. Gleason gave the grievance system A's and B's in the categories.

He is incensed at the claim that Colorado investigates only a small number of complaints. He said he has 14 lawyers. Five of those answer phones up to 12 hours a day and do nothing but listen to inquiries.

Gleason said 50 percent of the calls are simply questions about the system. Many callers have been advised by their lawyers to take certain court action or that certain steps be followed. The five lawyers, using computers and courthouse personnel, can verify whether the information is correct.

"We never blow them off," Gleason said. "We never say we are not going to look into your case. In 50 percent of the cases, what we are doing is helping them understand that everything is okay."

He said another goal is to attempt to keep the attorney-client relationship going. If a consumer has a complaint, his staff will setup a conference call and mediate the dispute.

HALT praised Colorado's telephone grievance system, saying it is the best in the nation. The phone system is toll free, provides translators for a diverse range of people, including those who speak Spanish, Russian and Korean, and gives consumers "clear and comprehensive information."

HALT also praised the openness of the process in Colorado.

Mishkin said consumers in nine states can be held in contempt, sentenced to jail and fined if they talk about their grievance. Another 27 states won't hold consumers in contempt but gag them from speaking about their grievance, said Mishkin.

"Colorado does not do that. It doesn't force consumers to keep their mouths shut," said the HALT lawyer.

She said in a number of states lawyers who are grieved by consumers can turn around and sue the consumer if the allegation is unsubstantiated. But in Colorado individuals are granted immunity from such lawsuits.

HALT also gave the Colorado agency high marks for being tough when it did discipline lawyers. Although it doesn't look into that many grievances when it does it imposes disbarment, suspension or censure at a higher rate than 46 other disciplinary agencies, said HALT.

Gleason said it is only a small group of lawyers who cause problems.

According to the ABA's 2000 statistics, Colorado ranked 7th in the nation for complaints filed, which Gleason attributes to the phone system Colorado pioneered. He said that prior to 1999, all complaints about lawyers had to be in writing. Typically, the office annually mailed 5,000 to 6,000 complaint forms to individuals who inquired about filing a grievance. Generally only one in five forms was returned. That changed dramatically in 1999. Between 1998 and 1999, the number of complaints shot up 237 percent, from the 1,472 written complaints in 1998 to the 4,961 telephone complaints in 1999.

Gleason said the telephone system and other changes have made the Colorado lawyer grievance system the most open and "user-friendly" in the United States.

To promote the grievance procedure, he said, his agency advertises in every major telephone book; provides a 800 phone number; and has a website that has information about every Colorado lawyer.

Gleason calls the web site a "powerful tool" where clients can see if their lawyers have any prior discipline, and other information such as their addresses and when they were admitted.