ADVANCE SHEET HEADNOTE
March 24, 2025

2025 CO 12

No. 24SA216, *In re Raykin*—Colorado Rules of Professional Conduct—American Bar Association's Standards for Imposing Lawyer Sanctions—Court Rules Interpretation—Colo. RPC 4.4(a).

In this case, the supreme court reviews the Office of the Presiding Disciplinary Judge's ("PDJ") finding that attorney Igor Raykin violated Colo. RPC 4.4(a) and its imposition of sanctions for that violation. The court considers whether the PDJ's Hearing Board properly relied on the American Bar Association's ("ABA") Standards for Imposing Lawyer Sanctions ("ABA Standards") when determining the appropriate sanction for Raykin. The court holds that the ABA Standards are a guide for determining sanctions in attorney discipline cases, but that the Colorado Rules of Professional Conduct are ultimately determinative and that the Hearing Board's finding of a violation and imposition of sanctions are proper.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2025 CO 12

Supreme Court Case No. 24SA216
Original Proceeding in Discipline
Appeal from the Presiding Disciplinary Judge, 23PDJ046

In the Matter of Attorney-Respondent:

Igor Raykin.

Judgment Affirmed
en banc
March 24, 2025

Attorney-Respondent Igor Raykin, pro se
Aurora, Colorado

Attorneys for the People of the State of Colorado:
Jessica E. Yates, Attorney Regulation Counsel
Jonathan P. White, Assistant Regulation Counsel
Denver, Colorado

JUSTICE HART delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD**, **JUSTICE GABRIEL**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined**.**

JUSTICE HART delivered the Opinion of the Court.

¶1 This matter asks us to consider the relationship between the Colorado Rules of Professional Conduct and the American Bar Association's ("ABA") Standards for Imposing Lawyer Sanctions (Am. Bar Ass'n, 2d ed. 2019) ("ABA Standards"), when the Office of the Presiding Disciplinary Judge ("PDJ") imposes sanctions on an attorney for violating our rules of professional conduct.

¶2 In May 2022, during a meeting with the staff of the Mesa County Valley School District 51 (the "school district"), attorney Igor Raykin directed several inappropriate expletive-laden outbursts at the staff in the presence of his minor client and his client's parents. Raykin's conduct at the meeting was reported to the Office of Attorney Regulation Counsel ("OARC"). OARC investigated and filed a complaint with the PDJ, (1) alleging that Raykin had violated Colo. RPC 4.4(a), which addresses an attorney's respect for the rights of third persons, and (2) seeking sanctions for the violation.

¶3 A Hearing Board concluded that Raykin's conduct at the meeting violated Colo. RPC 4.4(a) because the conduct had no substantial purpose other than to delay, embarrass, or burden the school district's staff. After weighing the aggravating and mitigating circumstances, the Hearing Board determined that the appropriate sanctions were a public censure and an independent medical examination ("IME").

¶4 Raykin appealed the Hearing Board's determination, as well as two other PDJ orders, to this court. Raykin's primary objection to the Hearing Board's sanctions relies on the language and structure of the ABA's Standards for Imposing Lawyer Sanctions, which we use as "our guiding authority" in determining appropriate sanctions. *In re Rosen*, 198 P.3d 116, 119 (Colo. 2008). We take this opportunity to make clear that the ABA's standards are a starting point—an important guiding authority—but not a text that supersedes the Colorado Rules of Professional Conduct. In this case, the PDJ correctly determined that Raykin's conduct violated his duties as a professional. The sanctions imposed are appropriate, and we affirm the Hearing Board's final decision and the PDJ's denial of both prehearing motions.[1]

[1] Raykin raised six issues in his C.R.C.P. 242.33 Notice of Appeal. Four of the issues relate to the merits of the Hearing Board's finding that Raykin violated Colo. RPC 4.4(a) and the imposition of sanctions for the violation. Of the other two issues raised, one is a challenge to the PDJ's denial of Raykin's motion to dismiss the complaint. We affirm the PDJ's denial without opinion, deferring to the PDJ's discretion to rule on such dispositive motions pursuant to C.R.C.P. 242.6(c)(3). And, in any event, the matter is moot. The other issue Raykin presents challenges the PDJ's denial of the parties' Stipulation to Discipline. We likewise affirm without opinion, deferring to the PDJ's authority to make such decisions. This opinion is therefore focused on the Hearing Board's order finding that Raykin violated Colo. RPC 4.4(a) and the accompanying sanctions.

I. Facts and Procedural History

¶5 This matter involves events that occurred during a May 18, 2022 meeting with the school district's staff to review the Individual Education Plan ("IEP") of one of Raykin's clients. The meeting was hybrid, with Raykin, his client, and the client's parents attending remotely.

¶6 The school district's representatives in attendance included Tammy Eret Lynch, the school district's outside counsel; Walter Fox, a special education instructor; and Jan Blair, a special education consultant who led the meeting.

¶7 Over the course of the approximately eighty-minute call, Raykin made several profane and disparaging comments directed toward the school district's staff that started about twenty-three minutes into the meeting. During an argument with Blair, Raykin said, "Shut up, Jan." A few seconds later, he pointed his finger at the screen and again said, "Shut up, Jan." A minute later, Raykin told Blair again to shut up.

¶8 Soon after, apparently having received an incorrect document by email, Raykin said the following to Blair and Lynch: "You people can't even send the right f**king document." Lynch told Raykin that he should not be cursing in the meeting, to which he replied, "I sure as f*** am." Blair muted Raykin the next time he began cursing. Raykin unmuted himself and said, "Every time I unmute myself, I'm going to say f*** again. That's how I am going to start every sentence."

¶9 A few minutes later, Raykin called Blair a "miserable person." He then said, "One of us is a lawyer, and the other one is you." Approximately two minutes later, Blair told Raykin, "We wish you would be quiet," to allow the meeting to continue. Raykin replied to Blair, saying, "I wish you would actually stop working here and go work where you really belong, which is in the gutter, ok? So please go ahead and get yourself employed where you need to be."

¶10 About sixty-two minutes into the meeting, Blair interrupted Raykin. Raykin responded by saying, "My God, Jan, you really don't know how to shut up, do you? I mean, it is unbelievable how little you actually listen to people. You are an incredible person." A few seconds later, Raykin said, "Jan, really, I feel so bad for your ex-husbands," after which someone snickered. Toward the end of the meeting, Raykin shook his finger at Blair and Fox and said, "I don't like you." Raykin went on to say he was frustrated and his frustration was why he continued using the word "f***." A few minutes later, Raykin commented, "You guys are full of s***," followed by him telling Lynch and Blair to "shut the f*** up" shortly before the meeting ended.

¶11 The next day, Raykin sent an email to Lynch referring to Blair as a "despicable creature and a cancer to kids."

¶12 After a request for investigation was filed with OARC, Raykin submitted his initial response on August 24, 2022. In this response letter he wrote, "I did call

Blair a 'despicable creature and a cancer to kids.' Ok, I like to call things what they are." Raykin further wrote, "If I have to scream at someone or intimidate them or release my anger in order to get what's best for a [child with special needs], then so be it." In the same response letter, Raykin stated, "I have attention deficit disorder, intermittent explosive disorder, and oppositional defiant disorder. Frankly, I don't think any of these things are 'disorders.' I have dealt with these things since adolescence." Raykin also wrote, "But sometimes these conditions are useful. And if these conditions are necessary to represent kids more effectively, then I suppose that having them is better than not having them." He further commented, regarding the school district, "If they want to bully my clients by smiling in their faces while preparing to screw them over, then I'm going to bully them back."

¶13 On November 23, 2022, Raykin wrote a supplemental response to OARC. In it, he mentioned again that he has been diagnosed with various disorders, including intermittent explosive disorder. He said he understood how his earlier response letter could be "hurtful," and that it was "unproductive," "dumb," and "selfish."

¶14 On February 29, 2024, Raykin wrote a letter of apology to Blair, Lynch, Fox, and the other school district employees who attended the May 18, 2022 meeting. In it, he acknowledged victimizing people in the room. He admitted to being "a

bully, an immature person who couldn't control himself, a hypocrite, a person who was setting a terrible example for the kid he was representing." He also wrote, "I'm not the kind of person who changes through positive rewards. I'm much more likely to change when the consequences of not doing so are simply too heavy." He described working on his anger, including through cognitive behavioral therapy, to help with self-control. He said he took medication for his disorder, including on the day of the IEP meeting, but that "didn't stop [him]." He commented that working on his anger would be an "ongoing process" and one "without end."

¶15 OARC scheduled a two-day disciplinary hearing, during which Raykin testified to the Hearing Board. He explained that growing up, "yelling was just normal in my family" and was how they expressed themselves. He recalled having anger issues in adolescence that included breaking things. He spoke of his anger costing him jobs, relationships, and friendships. He testified that when he started practicing law and representing students in special education, he took a conciliatory approach. He believed this approach was ineffective, so he changed his approach to "bringing the fight."

¶16 Raykin acknowledged he previously had "other outbursts" in his legal practice, but none like that at the IEP meeting. Raykin said that approximately ten years ago he began to accept that he has a mental health issue. He detailed for the

Hearing Board taking medication to treat his anger issues and how this helped but did not fully resolve the episodes. He began seeing an anger management specialist during OARC's investigation, and he argued that he viewed his mental health issues as a mitigating factor in the case.

¶17 The Hearing Board asked Raykin if he was amenable to an IME. Raykin responded, "I am amenable to everything. So regardless of whether this is a private admonition or a public censure, you know, that's not my primary concern here. My primary concern is I don't want to have these episodes, outbursts, again, in my private life or my professional life . . . ."

¶18 The Hearing Board concluded that Raykin violated Colo. RPC 4.4(a) during the meeting with the school district. And in determining the appropriate sanctions, the Hearing Board appropriately noted that the ABA's standards and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.

¶19 The Hearing Board first identified the relevant ABA Standards for consideration: 3.0 (duty, mental state, and injury), 4.0–7.0 (presumptive sanctions), and 9.0 (aggravating and mitigating factors). After articulating the relevant aggravating factor and various mitigating factors, the Hearing Board began its analysis with ABA Standard 7.2, noting that it was the proper starting point based on three other Colorado disciplinary cases where the PDJ had imposed suspension

as a sanction for a violation of Colo. RPC 4.4(a).[2] However, the Hearing Board found that ABA Standard 7.2—while it presumes a sanction of suspension—was a starting point, but did not dictate which sanction should be imposed in Raykin's case. Instead, after applying mitigating credit, the Hearing Board concluded that a public censure and an IME would most appropriately address Raykin's conduct and support his continuing work as an attorney.

¶20 The PDJ ultimately issued an opinion that ordered Raykin be publicly censured, and that he obtain, at his own expense, an IME by a qualified examiner to address his diagnoses.

¶21 Raykin filed a notice of appeal with this court pursuant to C.R.C.P. 242.33.

II. Standard of Review

¶22 This court has plenary power "to review any determination made in a [lawyer disciplinary] proceeding . . . and to enter any order in such a proceeding." C.R.C.P. 242.2. We review the Hearing Board's conclusions of law de novo and its findings of fact for clear error. C.R.C.P. 242.33(c). "We will affirm a hearing board's decision unless we determine that its findings of fact are clearly erroneous or that the form of discipline imposed is manifestly excessive, bears no relation to

[2] *People v. Raines*, 510 P.3d 1089 (Colo. O.P.D.J. 2022); *People v. Piccone*, 459 P.3d 136 (Colo. O.P.D.J. 2020); *People v. Beecher*, 224 P.3d 442 (Colo. O.P.D.J. 2009).

the complained-of conduct, or is otherwise unreasonable." *In re Abrams*, 2021 CO 44, ¶ 13, 488 P.3d 1043, 1050.

¶23 We review questions of court rules interpretation de novo. *People v. Maes*, 2024 CO 15, ¶ 11, 545 P.3d 487, 490. In so doing, we employ the same techniques used to interpret statutes. *Id.* We first look to the language of the rule, reading the words and phrases in context and construing them according to rules of grammar and common usage. *People v. Cali*, 2020 CO 20, ¶ 15, 459 P.3d 516, 519. If a rule is unambiguous, we apply it as written. *Id.* at ¶ 18, 459 P.3d at 519.

III. Analysis

¶24 Raykin appeals the Hearing Board's conclusion that he violated Colo. RPC 4.4(a) and challenges the sanctions that the Hearing Board imposed. We address each issue in turn.

A. Finding that Raykin Violated Colo. RPC 4.4(a)

¶25 Raykin challenges the Hearing Board's ultimate finding that he violated Rule 4.4(a). But he does not challenge the factual findings of the Hearing Board and, indeed, admits that his behavior at the IEP meeting was inappropriate. Instead, he argues that Rule 4.4(a) does not prohibit his conduct because the rule applies only to lawyer conduct involving methods of obtaining evidence. We conclude that the rule is not limited in this way for two reasons.

¶26 Colo. RPC 4.4(a) states, "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person."

¶27 This rule does contain a limitation: its application is limited by the opening clause to conduct that occurs when a lawyer is representing a client. Raykin argues that the entire rule is further limited by its final clause to conduct that pertains to a lawyer's methods of obtaining evidence. He is incorrect.

¶28 As we have previously explained, when the word "or" is used in a statute, "it is presumed to be used in the disjunctive sense, unless legislative intent is clearly to the contrary." *Armintrout v. People*, 864 P.2d 576, 581 (Colo. 1993). In other words, by separating the first set of prohibitions in Colo. RPC 4.4(a)—using "means that have no substantial purpose other than to embarrass, delay, or burden a third person,"—from the second—using "methods of obtaining evidence that violate the legal rights of such a person"—with the word "or," the rule indicates two different prohibitions. Nothing in Rule 4.4(a) supports a reading that prohibits lawyer conduct that has "no substantial purpose other than to embarrass, delay, or burden a third person" only when such conduct relates to obtaining evidence.

¶29 A second indicator is the use of different words to describe the actions prohibited under the rule—"methods" rather than "means." Rule 4.4(a) prohibits a lawyer from using (1) "means that have no substantial purpose other than to embarrass, delay, or burden a third person"; *and* (2) "methods of obtaining evidence that violate the legal rights of such a person." When a lawyer engages in either type of conduct, each instance is individually sufficient to support a finding that the lawyer violated the rule.

¶30 Here, the Hearing Board reasonably concluded that Raykin's conduct at the IEP meeting served no purpose other than to embarrass, delay, or burden a third person. Raykin himself described his conduct during the OARC process as "hurtful," "dumb," and "selfish," and admitted to having been a "bully" and a "terrible example" to his client. We therefore affirm the Hearing Board's conclusion that Raykin violated Colo. RPC 4.4(a).

B. Imposition of Sanctions

¶31 Raykin further argues that the sanctions he received were both excessive and impermissible. His argument starts with a somewhat technical but very important premise. Raykin asserts that ABA Standard 7.2, which the Hearing Board relied on as a starting point to determine the appropriate sanction, cannot apply to him because it is a subcategory of ABA Standard 7.0, "Violations of Duties Owed as a Professional," and because the language of ABA Standard 7.0 limits

those duties to a particular set of conduct. His conduct, he argues, is not covered in that set. Importantly, however, we have been clear that the ABA Standards are a *guide* for when the PDJ imposes sanctions, and we review sanctions. They are not the final word.

1. Violation of Duties Owed as a Professional

¶32 ABA Standard 7.0 is the only ABA Standard that specifically addresses the duties attorneys owe as professionals. That standard reads as follows:

> Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct.

ABA Standard 7.0.

¶33 The ABA Standards are structured such that 7.1, 7.2, 7.3, and 7.4 are listed underneath 7.0 as the sanction types that are "generally appropriate" for different levels of misconduct listed in 7.0. The Hearing Board's starting point for Raykin's sanction was ABA Standard 7.2, which provides, "Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system."

¶34 But the Colorado Rules of Professional Conduct include many other duties owed as a professional beyond those listed in ABA Standard 7.0. Some of them are covered by other ABA Standards, but not all. Raykin's conduct here is a good example. No one—not even Raykin himself—would argue that his behavior met professional standards. He has admitted as much. It would be absurd to conclude that because the ABA Standards do not specifically prohibit acting like "a bully, an immature person who couldn't control himself, a hypocrite, [and] a person who was setting a *terrible* example" at a meeting while representing a minor client, such behavior does not violate an attorney's professional duties.

¶35 Moreover, while the text of the ABA Standards themselves might suggest a closed set of professional duties, the annotations explain otherwise. "Courts impose suspensions under Standard 7.2 for *various other kinds of misconduct* that violates the lawyer's duty owed as a professional." ABA Standard 7.2 annotation (*Other Misconduct*) (emphasis added).

¶36 Both our court and others have relied on ABA Standard 7.2 to impose sanctions on a lawyer who violated a duty not enumerated in ABA Standard 7.0. For example, in *People v. Easley*, 956 P.2d 1257, 1259 (Colo. 1998), we relied on ABA Standard 7.2 to suspend a lawyer who engaged in a sexual relationship with a client who was a plaintiff in a sexual harassment lawsuit. In a Louisiana case, a lawyer contributed to the legislative campaign of a judge's niece following a

favorable judgment entered by that judge. *In re LeBlanc*, 972 So. 2d 315, 319 (La. 2007). The Supreme Court of Louisiana imposed sanctions, relying on ABA Standard 7.2 as a starting point to determine the appropriate sanction and concluded that the lawyer had "violated duties owed to the legal system and to the profession." *Id.*

¶37 In *Rosen*, we held that while the ABA Standards enumerate aggravating and mitigating factors in prescribing discipline, those factors are intended as *illustrative* and "are not to be applied mechanically in every case." 198 P.3d at 121. We conclude similarly here that the ABA Standards are a guiding authority, but they do not limit sanctions under ABA Standard 7.2 to conduct enumerated in ABA Standard 7.0.

IV. Conclusion

¶38 Here, after thoroughly considering the mitigating factors and the aggravating factor in its opinion imposing sanctions, the Hearing Board explained that it was "more than impressed with the level and extent of [Raykin's] genuine contrition." And rather than imposing the presumptive sanction of a suspension, the Board found public censure more appropriate, in part because "the mitigating evidence here overwhelms the lone factor in aggravation."

¶39 The Hearing Board's reliance on ABA Standard 7.2 as a starting point in determining the appropriate sanction for Raykin's violation of Colo. RPC 4.4(a) was appropriate, and we affirm the sanctions imposed.