CLEARinghouse Chats on Legal Cases

You will have an opportunity to choose your room when the session begins. We encourage you to review the cases that interest you before the session and come prepared to discuss your reactions and questions. Summaries and reference links on the following pages.

Room 1

- *Klickovich v. State Med. Bd. of Ohio, 2025-Ohio-2783 (Ct. App.)* - Examining doctor- patient relationship and whether evidence of exploitation on the part of the licensees is required
- *Texas State Board of Social Worker Examiners v. Youniacutt and Thompson, 15-25-00064-CV (2026)* - Addressing the proper application of an applicant's previous felony convictions when reviewing application for licensure
- *McDonald et al v. Sabando Case No. 23–cv–23044–ESK–EAP (D.N.J. 2025)* - Examining post pandemic telemedicine rules applicable to interstate practice

Room 2

- *Do No Harm v. John Bel Edwards, Governor of Louisiana* - A lawsuit seeking to enjoin the Louisiana governor from following the state law requiring certain appointments to the Louisiana Board of Medical Examiners to be "minority appointees"
- *Hannah Magee Portée v. Mike Morath, Commissioner of Education, Texas Education Agency, and State Board for Educator Certification* - concerning military spouses seeking to work in a licensed profession in an American jurisdiction to which his/her military spouse has been assigned
- *Nightingale College, LLC, Tioney Thomas, and Carolyn Patchett v. Maceo Tanner, President of the Georgia Board of Nursing, and Natara Taylor, Executive Director of the Georgia Board of Nursing* - concerning a policy forbidding students in out-of-state nursing schools from doing clinical externships in Georgia

Room 3

- *Law Society of British Columbia v. British Columbia (Attorney General), 2026 BCSC 779* - Whether British Columbia's Legal Professions Act, which fundamentally restructures the governance and regulation of the legal profession, unconstitutionally compromises the independence of the bar.
- *Law Society of Ontario v. AA, 2026 ONCA 47* - concerning good-character requirements for admission to the legal profession, the public-interest mandate of a professional regulator, and the interaction between confidentiality protections and the open court principle.
- *The Law Society of Upper Canada v. Watson, 2026 ONCA 372* - When can a professional regulator be ordered to pay costs arising from its conduct of disciplinary proceedings, including costs incurred unnecessarily through delay, negligence or other default?

Room 4

- *Healthcare Complaints Commission v. Campbell* [2026] NSWCATOD 12 (January 30, 2026) - Cancellation of Registration; Issue: Cumulative Actions and Professional Misconduct
- *Jensen v. Rhode Island Cannabis Control Commission*, C.A. No. 24-cv-191-MRD - residency requirement for cannabis
- *Montana Academy of Salons v. Montana Board of Barbers & Cosmetologists*, 590 P.3d 408; 2026 LX 257227 (2026) - Compliance with Internal Policies; Issue: Notice for Discipline

CLEARinghouse Chat on Legal Cases
Breakout Room 1

1. ***Klickovich v. State Med. Bd. of Ohio, 2025-Ohio-2783 (Ct. App.)*** ***(Examining doctor-patient relationship and whether evidence of exploitation on the part of the licensees is required)***

- Began dating Patient 1 in April 2017
- At some point early in the relationship, became sexual and continued until 2020
- Subsequently started providing Patient 1 with medical treatments:
    - Dog bite with antibiotics prescribed
    - Sinus infection with antibiotics prescribed
    - Cold sore with antiviral medication prescribed
    - Botox injections administered on at least four occasions
- After investigation, Board issued notice on November 10, 2021, alleging:
    - Klickovich engaged in sexual misconduct with Patient 1 between June 2017 and August 2020
    - Simultaneously, between November 17, 2018, and January 4, 2020, provided medical treatment consisting of prescriptions and sample medications
- On September 12, 2023, hearing officer recommended a fine of $6,000 and license suspension for 60 days followed by probation
- On October 11, 2023, Board issued an amended order imposing a reprimand and probation
- Klickovich appealed
- On July 8, 2024, Court issued decision vacating the Board's order
- Board failed to make a finding as to whether Klickovich exploited the licensee-patient relationship with Patient 1
- Remanded with instructions to review the existing record
    - Determine whether there was exploitation, and
    - Address the reason for its finding
- Klickovich appealed; case should have been vacated rather than remanded, and trial court failed to address all assignments of error
- No requirement for a specific finding of whether Klickovich's conduct exploited his relationship with Patient 1
- Court erred in failing to conduct appropriate review of record to determine whether reliable, probative, and substantial evidence supports the order
- Judgment reversed and remanded to trial court with instructions to perform the proper review of the record

2. ***Texas State Board of Social Worker Examiners v. Youniacutt and Thompson, 15-25-00064-CV (2026)*** ***(Addressing the proper application of an applicant's previous felony convictions when reviewing application for licensure)***

- Youniacutt and Thompson applied for Master Social Worker license
  - Master's degree in social work and otherwise met statutory requirements
  - Strong letters of recommendation and support
  - Previous felony assault convictions
  - 2007: Youniacutt pled guilty to assaulting an off-duty police officer with her car while fleeing a DUI stop
  - 2010: Thompson pled guilty to assaulting a man with a baseball bat
- Prior to 2019, Board discretion to consider a variety of factors when reviewing applications, including:

  > Conviction > Rehabilitation
  > Age at time > Current fitness
  > Time elapsed > Professional recommendations
- Law changed in 2019 to require automatic denial of applicants convicted of a felony involving the use of force or threat of the use of force
- Based on the law, applicants automatically denied licensure
- Applicants sued seeking declaratory and injunctive relief challenging constitutionality of the statute
- Automatic ban violated substantive and procedural due process
  - Liberty interest = the right to earn an honest living in the occupation of their choice
  - No evidence that individualized-determination procedure was insufficient
- Denied equal protection under the law
  - Automatic ban not rationally related to a legitimate government purpose
  - Irrationally discriminates between social workers and professional counselors and marriage and family therapists
- Trial level court found the statute irrational as to its purpose
  - Rationality of the categorical ban based on the risk of danger applicants will be to their potential clients
  - Impossible to determine this risk other than on an individual basis
  - Considering ban as a whole, not rationally related to the relevant government interest
- Board appealed
- Reversed; substantive and procedural due process claims dismissed
- Proponent of challenge to an economic regulation must show
  - Purpose could not arguably be rationally related to a legitimate government interest, and

        - Actual, real-world effect could not arguably be rationally related or is burdensome to the point of being oppressive
- ▶ Legislature's decision not so irrational as to render the statue unconstitutional
- ▶ The purpose rationally related to a government legitimate government interest

3. *McDonald et al v. Sabando Case No. 23–cv–23044–ESK–EAP (D.N.J. 2025)* *(Examining post pandemic telemedicine rules applicable to interstate practice)*

Case Overview & Background

- **Plaintiffs:** Out-of-state physicians (including radiation oncologist Dr. Shannon MacDonald and neurosurgeon Dr. Paul Gardner) alongside New Jersey patient families represented by the Pacific Legal Foundation. [1, 2]
- **Defendant:** The President of the New Jersey State Board of Medical Examiners (Otto Sabando). [1, 2]
- **Core Issue:** Plaintiffs argued that New Jersey's mandatory state licensure rules for interstate telehealth violated the First Amendment (free speech), the Dormant Commerce Clause, the Privileges and Immunities Clause, and Fourteenth Amendment substantive due process rights regarding parental medical decision-making. [1, 2]

Rulings

- **District Court (May 12, 2025):** The U.S. District Court for the District of New Jersey (Hon. Edward S. Kiel) granted the state's motion to dismiss all claims for failure to state a claim. [1, 2]
- **Third Circuit Court of Appeals (August 31, 2026):** A panel consisting of Judges Hardiman, Scirica, and Ambro affirmed the dismissal, ruling that requiring a medical license to practice telemedicine does not unconstitutionally infringe on free speech or interstate commerce, and that states retain core authority to regulate medical practice within their borders.

The U.S. Court of Appeals for the Third Circuit affirmed the dismissal of McDonald et al. v. Sabando (No. 25-2090) on August 31, 2026, upholding New Jersey's requirement that out-of-state physicians must hold a New Jersey medical license to practice telemedicine with patients located in the state.

CLEARinghouse Chat on Legal Cases
Breakout Room 2

1. ***Do No Harm v. John Bel Edwards, Governor of Louisiana***

"Do No Harm," a national organization of medical professionals and other interested parties, sued the Louisiana Board of Medical Examiners, alleging that the Louisiana statute requiring the Governor to make appointments to the Board so that every other physician appointee and consumer appointee would be a minority, violates the Equal Protection Clause of the Fourteenth Amendment. Governor Jeff Landry, successor to Governor John Bel Edwards, stated that he would not enforce the statute when making appointments to the Board of Medical Examiners. In light of this declaration by Governor Landry, the federal district court dismissed the case without prejudice for "want of a proper defendant."

2. ***Hannah Magee Portée v. Mike Morath, Commissioner of Education, Texas Education Agency, and State Board for Educator Certification***

The United States District Court for the Western District of Texas, over the objection of the Texas Education Agency and the Texas State Board for Educator Certification, ruled November 20, 2023, that Plaintiff Hannah Magee Portée, wife of Captain David Portée (an Air Force officer), is entitled to work as a licensed school counselor in that state. The court held that a January 5, 2023, amendment by the United States Congress to the Servicemembers Civil Relief Act (SCRA) should be construed as favorably as possible toward military spouses seeking to work in a licensed profession in an American jurisdiction to which his/her military spouse has been assigned.

3. ***Nightingale College, LLC, Tioney Thomas, and Carolyn Patchett v. Maceo Tanner, President of the Georgia Board of Nursing, and Natara Taylor, Executive Director of the Georgia Board of Nursing***

Nightingale College, an online nursing school that requires the completion of clinical externships/placements ("clinicals") at sites in various locations throughout the United States, sued the Georgia Board of Nursing (GA BON) in federal district court in Atlanta on February 12, 2026. Plaintiff Nightingale College alleges that the GA BON's policy forbidding students in out-of-state nursing schools from doing clinical externships in Georgia "enforces a protectionist policy that erects artificial barriers against out-of-state nursing programs while insulating in-state programs from competition." The Nightingale College complaint asserts that this GA BON policy constitutes a restraint of trade in violation of the

federal Sherman Act and is unconstitutional under the Equal Protection and Commerce Clauses of the United States Constitution.

CLEARinghouse Chats on Legal Cases
Breakout Room 3

1. **Law Society of British Columbia v. British Columbia (Attorney General), 2026 BCSC 779**

Principal issue: Whether British Columbia's Legal Professions Act, which fundamentally restructures the governance and regulation of the legal profession, unconstitutionally compromises the independence of the bar.

Decision: The Court dismissed the constitutional challenges and upheld the legislation. It recognized the independence of the bar as an unwritten constitutional principle with both individual and institutional dimensions but concluded that the statutory framework did not improperly undermine that independence. ***Under appeal***

2. **Law Society of Ontario v. AA, 2026 ONCA 47**

Court of Appeal for Ontario · January 2026 · Sossin, Favreau and Wilson JJ.A.

Principal issues: Good-character requirements for admission to the legal profession, the public-interest mandate of a professional regulator, and the interaction between confidentiality protections and the open court principle.

The decision is particularly relevant to regulators developing identity-protection policies, registration procedures and publication frameworks.

3. **The Law Society of Upper Canada v. Watson, 2026 ONCA 372**

Court of Appeal for Ontario · May 27, 2026 · Tulloch C.J.O., Sossin and O'Marra JJ.A.

Principal issue: When can a professional regulator be ordered to pay costs arising from its conduct of disciplinary proceedings, including costs incurred unnecessarily through delay, negligence or other default?

CLEARinghouse Chats on Legal Cases
Breakout Room 4

1. ***Healthcare Complaints Commission v. Campbell*** **[2026] NSWCATOD 12 (January 30, 2026)**

Cancellation of Registration
Issue: Cumulative Actions and Professional Misconduct
New South Wales Civil and Administrative Tribunal

The New South Wales Civil and Administrative Tribunal (Tribunal), in a January 30, 2026 decision, determined cancellation of a practitioner's registration was appropriate, given a finding of unprofessional conduct based upon nine (9) complaints.

William Joseph Alexander Campbell, (Practitioner) had been registered as a pharmacist since September 2010, and had been a proprietor of three pharmacies. In November 2021, the Pharmacy Council of New South Wales (Council) decided to impose conditions on his registration, requiring he abstain from the consumption of alcohol and comply with drug screening.

The decision of the Council arose from complaints against the Practitioner, including failure to report criminal charges relating to domestic violence, stalking, and harassment in 2018–2019; making a false declaration in his renewal concerning his criminal history; continuing to consume alcohol; making false statements to the Council regarding his sobriety and urine testing; and engaging in unsatisfactory professional conduct that was sufficient to warrant suspension or cancellation of his registration.

The Tribunal considered whether the Practitioner's cumulative actions constituted professional misconduct under s 139BE of the Health Practitioner Regulation National Law (NSW). A considerable amount of underlying conduct was admitted, although Practitioner requested that only findings of unsatisfactory conduct be made. However, the Tribunal determined that there was sufficient evidence to establish each element of the complaints. Additionally, in order to maintain the integrity of regulatory oversight, citing HCCC v Mitchell [2015] NSWCATOD 151, the Tribunal emphasized that the "smooth operation of the system of regulation" requires practitioners to be truthful with authorities. The Practitioner's attempt to mislead the Tribunal via falsified evidence was labeled "particularly egregious." Further, under s 3A of the National Law, the "protection of the health and safety of the public" is the paramount consideration.

The cancellation of the Practitioner's registration is justified, as the totality of his conduct was considered and was found to be "serious, spans several years, and involves offending

and deliberate deception" as well as "self- sabotage." The Tribunal applied s 149C in its determination to cancel his registration and s 149C(5) to issue a limited prohibition order. The Practitioner's conduct would be a "substantial risk" to public health based on the recurrent pattern of deceptive behavior. Notably, the practitioner's legal submissions were found to have likely used Generative AI, as they cited non-existent cases and repealed statutes, which further undermined his credibility. Still, the Practitioner was not prohibited from providing all health services, but rather the limitation is to providing health services as a pharmacy assistant or pharmacy dispensary for three years.

Registration canceled; no application for review for three (3) years; prohibited from providing health services for three (3) years.

2. ***Jensen v. Rhode Island Cannabis Control Commission*, C.A. No. 24-cv-191-MRD**

residency requirement for cannabis
U.S. District Court for the District of Rhode Island

In the matter of *Jensen v. Rhode Island Cannabis Control Commission*, C.A. No. 24-cv-191-MRD-AEM (consolidated with 24-cv-252 and 25-cv-622), the United States District Court for the District of Rhode Island issued its decision on April 8, 2026. Specifically, the Court considered whether provisions of the Rhode Island Cannabis Act (Act) violated the Dormant Commerce Clause of the U.S. Constitution.

Rhode Island established legalization of recreational marijuana in 2022, with the regulatory framework administered by the Cannabis Control Commission (Commission). The Act allowed specific retail licenses for "Social Equity Applicants" and "Workers' Cooperatives." To qualify as a Social Equity Applicant, individuals had to meet criteria tied strictly to residency or by having a prior cannabis-related conviction under Rhode Island law.

Plaintiffs were out-of-state residents and wished to apply for cannabis retail licenses in Rhode Island. They argued the residency-based requirements in the Act prevented them from competing in the market on equal footing with Rhode Island residents.

As a result, this Court considered whether mandates to be Rhode Island residents or "Social Equity Applicants" under the Act to apply for adult-use cannabis retail licenses unconstitutionally discriminated against out-of-state residents. This Court also considered whether the Plaintiffs were entitled to a preliminary injunction to cease the current licensing lottery and application processing as indicated under the Act.

As part of its evaluation, this Court applied the Dormant Commerce Clause, which prevents states from enacting laws that unduly burden interstate commerce or

discriminate against out-of-state economic interests. Under the Clause, this Court determined that the residency requirement was "facially discriminatory" because it explicitly favored residents over non-residents to participate in the Rhode Island Cannabis market. Rhode Island had failed to demonstrate that the residency requirements served a legitimate purpose or that a similar requirement could be achieved through non-discriminatory means. With that, the licensing lottery would prevent the Plaintiffs and other out-of-state residents from competing for a limited number of licenses and thus were unconstitutional. Plaintiffs' preliminary injunction granted; Defendants enjoined from enforcing the residency requirements.

To resolve the constitutional standoff, the Rhode Island General Assembly passed Senate Bill 3313. Signed into law by Governor Dan McKee on June 10, 2026, this amendment removed the in-state residency and ownership preferences from the licensing and social equity frameworks.

Because the law was rewritten to eliminate the discriminatory language, Judge DuBose dissolved the preliminary injunction in August 2026. She ruled that the legislative overhaul rendered the plaintiffs' original constitutional grievances moot, clearing the path for the CCC to rebuild and relaunch its retail application process under the updated rules.

3. **Montana Academy of Salons v. Montana Board of Barbers & Cosmetologists, 590 P.3d 408; 2026 LX 257227 (2026)**

Compliance with Internal Policies
Issue: Notice for Discipline
Supreme Court of Montana

In a June 2, 2026 decision, the Supreme Court of Montana reversed and remanded a decision of the District Court denying a petition for judicial review. (Montana Academy of Salons v. Montana Board of Barbers & Cosmetologists, 590 P.3d 408; 2026 LX 257227 (2026))

Montana Academy of Salons (MAS) operated a licensed cosmetology school in Great Falls, Montana, offering programs in cosmetology, barbering, esthetics, manicuring, and related fields. Watson began working at MAS as a massage therapy instructor in 2012. For approximately two years, students reported inappropriate jokes and physical contact by Watson both on and off campus. MAS investigated several complaints and concluded that Watson's conduct could constitute sexual harassment. It issued him a final written warning for creating an environment of hostility and intimidation and engaging in inappropriate

physical contact. After additional incidents and allegations arose in 2016, MAS ultimately terminated Watson.

In 2020, the Montana Department of Labor and Industry (DLI) initiated disciplinary proceedings against MAS. DLI ultimately alleged that MAS committed unprofessional conduct and failed to meet generally accepted standards of practice when investigating and responding to students' allegations of sexual harassment and violence. Following a four-day hearing, the Hearing Officer concluded that although MAS "could have and should have done better," DLI had failed to prove unprofessional conduct. The Hearing Officer recommended dismissal of the case. The Montana Board of Barbers and Cosmetologists rejected that recommendation, finding MAS guilty of unprofessional conduct, imposing sanctions, and placing its school license on probation for five years. The District Court affirmed the Board, and MAS appealed.

Upon appeal, the parties agreed that the Board had never previously disciplined a salon school for failing to meet the generally accepted standards of practice for responding to claims of sexual harassment." The Court acknowledged that MAS's investigation of the allegations against Watson was inadequate in several respects. The question in a professional licensing proceeding should have been to determine whether the conduct met the statutory definition of "unprofessional conduct." Montana law defined that term as conduct that does not meet the "generally accepted standards of practice" but did not define what constituted the generally accepted standard for such sexual harassment investigations.

The Supreme Court agreed with the Hearing Officer. MAS did not conduct a sufficiently thorough investigation and did not consistently follow its own procedures, however, under Title IX, a school's failure to follow its own policies does not ordinarily establish the high standard of "deliberate indifference" required for liability. The Court rejected the Board's conclusion that failure to follow one's own internal policies automatically constituted unprofessional conduct. The Board never informed licensed salon schools that imperfect compliance with their own internal policies could subject them to professional discipline. Allowing discipline based on such an unwritten standard created a serious risk of arbitrary enforcement. The Court therefore concluded that the Board's rejection of the Hearing Officer's findings and legal conclusions was arbitrary and prejudiced MAS.

Reversed and remanded to grant MAS's petition for judicial review and to direct the Board to adopt the Hearing Officer's recommendation dismissing the disciplinary action.