1	OVERTURE 10 from Northern New England Presbytery (to CCB, OC)
2	"Amend BCO 32-19 to Clarify Use of Professional Counsel in Cases of Process"
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4 5	Whereas, BCO 32-19 currently dates to the 1925 PCUS Book of Order; and
6 7 8	Whereas , <i>BCO</i> 32-19 places restrictions on representation for both parties, though a portion of it refers directly to the Accused; and
9 10	Whereas, the current language uses "counsel" and "representative" interchangeably, which causes confusion; and
11 12 13	Whereas, the phrase "as such" is subject to different interpretations; and
14 15	Whereas, there is currently no codified definition of professional counsel in the BCO, and
16 17 18 19 20	Whereas , the Committee on Constitutional Business of the 27th General Assembly advised that " <i>BCO</i> 32-19 forbids professional counsel from formal involvement (that is, acting in an attorney/client relationship)" and otherwise being compensated for their assistance in ecclesiastical cases;
20	Whereas, professional attorneys today may engage in ecclesiastical cases "pro bono," which
22	may unlock firm-wide resources, including access to associates for assistance, may
23	allow significant reimbursement for expenses, may be accounted toward an attorney's
24	annual billable hours requirement, and may have other potential non-monetary
25	benefits; and
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27 28	Whereas, the courts of the Church are comprised of volunteers in their offering of their Christian service to the Lord Jesus Christ, the Head of the Church; and
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30	Whereas, it is a principle of ecclesiastical process, and justice in general, that process be
31	conducted equitably between respective parties, and not advantage one party or another (<i>BCO</i> 32-13, "In order that the trial may be fair and impartial"); and
32	another (BCO 32-13, In order that the trial may be rail and impartial), and
33 34	Whereas, a professional attorney may gain significant advantages over the other party in the
35	prosecution or defense of a case of process by virtue of the corporate resources
36	available to him;
37	uvanable to min,
38	Therefore be it resolved that <i>Book of Church Order</i> 32-19 be amended by deleting the current
39	language (indicated by strikeouts) and replacing it with new paragraphs (indicated by
40	underlining), which results in standardized languages and delineates: a) what is
41	forbidden of professional representation and what constitutes such; b) who may
42	represent respective parties and how; and c) who may assist representatives of said
43	parties and how such assistants are employed.

1	Existing BCO paragraph:
2	32-19. No professional counsel shall be permitted as such to appear and plead
3	in cases of process in any court; but an accused person may, if he desires it, be
4	represented before the Session by any communing member of the same
5	particular church, or before any other court, by any member of that court. A
6	member of the court so employed shall not be allowed to sit in judgment in the
7	case.
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9	Proposed BCO paragraphs:
10	32-19.a. In cases before any church court, no professional representative
11	(attorney admitted to the bar or employee of a law firm) shall be permitted to
12	appear on behalf of any party, assist with oral or written arguments, or engage
13	in communications regarding the case, when
14	
15	i. the representative is functioning in an attorney/client relationship;
16	<u>or</u>
17	ii. the representative is remunerated in any form, including, but not
18	limited to, fees, billings, reimbursement, or other non-monetary
19	compensation; or
20	iii. the representative is engaged as a "pro bono" case; or
21	iv. the representative is otherwise utilizing corporate resources.
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23	b. Representatives for either party shall be any communing member of the
24	same particular church if before a Session, or before any other court, any
25	communing member of the court of original jurisdiction (BCO 11-4) and may
26	continue through appeal until the conclusion of the case. A member of the court
27	so employed shall not be allowed to sit in judgment in the case.
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29	c. Representatives for either party may appoint assistants according to these
30	same requirements.
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32	Adopted by Northern New England Presbytery at its stated meeting, February 4, 2023
33	Attested by /s/ TE C.S. Per Almquist, stated clerk