



WSBA

Committee on Professional Ethics

Meeting Minutes

December 13, 2013

The committee met at the offices of the Washington State Bar Association, 1325 Fourth Avenue, Suite 600, Seattle, WA 98101.

Members present were Mark Fucile (Chair), Tom Andrews, Colin Folawn (phone), Peter Jarvis, Kevin Michels (phone), Anne Seidel, Sumeer Singla (phone), Ted Stiles, and Robin Haynes (BOG Liaison). Natalie Cain was excused.

Also present were Jeanne Marie Clavere (staff liaison), Joanne Abelson, Office of Disciplinary Counsel, and Darlene Neumann, paralegal.

The meeting was called to order at 10:12 a.m.

1. Minutes

The minutes of October 18, 2013 were approved.

2. Subcommittee on ABA Ethics 20/20 Amendments

Subcommittee Chair Tom Andrews reported the subcommittee met by phone and is presently working through the ABA Model Rule amendments and expects to have a report or update to the committee by the next meeting.

3. Subcommittee on Initiative 502 Washington's Marijuana Law

The I-502 subcommittee reported the results of its work on the draft advisory opinion discussed at the Committee's October meeting. Following extensive discussion, the Committee determined to proceed in concept with an integrated, cross-referenced proposed package of Washington-specific comments to RPCs 1.2 and 8.4 and an accompanying advisory opinion. The Committee did not favor a change in the text of the RPCs themselves.

The Subcommittee indicated that it would both refine the draft advisory opinion discussed and draft the accompanying comments for further discussion via Committee conference call. (The call subsequently took place on December 31 and the Committee approved a final version of the package noted above for consideration by the Board of Governors at its January meeting.)

The Chair will prepare a corresponding report to the BOG forwarding the Committee's recommendations. (The Chair's draft report was also discussed on the subsequent December 31 Committee conference call and was forwarded to the BOG along with the package noted.)

4. Discretionary Items

a. RPC 1.10 and 1.11 as Applied to Washington Public Defender Associations

The committee received a request for an advisory opinion concerning the interplay between RPC 1.10 and 1.11 as applied to Washington public defender associations (PDAs). The issue centers which rule applies. Previously, PDAs were private organizations and RPC 1.10 applied whenever conflicts arose. Since PDAs have become public employees with private clients, the question is whether they fall under rule 1.10 or 1.11. The inquirer noted in his submission that it is a broad issue affecting many county PDAs in Washington.

One member recused himself and several others made disclosures before the committee determined whether to accept or decline the inquiry. The general consensus of the committee was to accept the inquiry. Members Ted Stiles, Colin Folawn, and Anne Seidel have agreed to work on the issue.

b. Potential Comment to RPC 1.8

The Chair informed the committee that case no. 89334-9, *Defoor v. Rafel Law Group PLLC*, pending Petition Review, has been scheduled for the Supreme Court's January 2014 calendar. The item was tabled to the next meeting in February.

5. Adjournment

The meeting adjourned at 1 p.m.