

**Committee on Professional Ethics Special Meeting**

Meeting Minutes (Amended)

July 2, 2018

Members present on the teleconference were Don Curran (Chair), Tom Andrews, Natalie Cain, Lucinda Fernald, Colin Folawn, Mark Fucile, Anne Seidel, and Kyle Sciuchetti (BOG Liaison). Excused were Brooks Holland and Callie Castillo.

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

The meeting began at 4:00 p.m.

**1. Minutes**

The April 20, 2018 minutes were approved as amended.

**2. Quadripartite Advisory Opinion**

The committee reviewed the one edit made to the opinion. Tom Andrews moved, seconded by Lucinda Fernald, to approve the amended opinion. The motion passed unanimously.

**3. Suggested Amendment to RPC 4.2, Comment 13 (Pro se lawyer)**

The committee reviewed the chair's draft letter to the Bar's Executive Director regarding the committee's response to public comments related to suggested Comment 13. Colin Folawn moved, seconded by another member, to approve the draft. The motion passed unanimously. The chair will forward a final version of the letter to the ED.

**4. WSBA Lawyer Referral Service**

The committee reviewed the chair's draft letter to the Executive Director in response to a member inquiry regarding RPC 1.5(e)(2) (division of fees between lawyer and WSBA lawyer referral service). The committee will take up the issue again when it meets in August. Anne Seidel moved, seconded by Natalie Cain, to approve the committee's response. The motion passed unanimously.

**5. RPC 1.2, Proposed Amendment to Comment 18 and RPC 8.4, Comment 8**

The committee reviewed the final version of the subcommittee's report which incorporated the changes to Comment 18 as discussed at the June 22, 2018, CPE meeting. Don Curran moved, seconded by Natalie Cain, to approve the changes to Comment 18. The motion passed unanimously.

The committee reviewed two versions of new Comment 8 to RPC 8.4. Following a brief discussion, the committee voted 5-2 to recommend the narrow version. The report will include the 50 state survey as an appendix and note the dissenting opinion in favor of the broader version of the comment. The committee agreed it should delay revision of Advisory Opinion 201501 until after the Court takes action, but will flag it in the report to the Board.

**6. RPC 4.2 and Government Contacts**

A majority of the subcommittee in their June 14 report agreed that an advisory opinion would not resolve the issue of ex parte contacts with a represented government employee and that the existing rules and comments are sufficient resources. The report included a dissenting opinion from one of the subcommittee members. Discussion followed on reconsidering the report's recommendation to decline issuing an advisory opinion. The chair expressed concern about further delaying an answer to the inquirer. Anne Seidel moved, seconded by Lucinda Fernald, that the committee try to draft an opinion and she volunteered to work on it. The members discussed the problem of trying to clarify the existing rule and comments and the lack of helpful guidance by other bars who have written opinions on the subject. The question was called. The vote was 4-3 in favor of having an opinion drafted and seeing what the result will be. Following the vote, the committee discussed various responses to the inquirer which the chair will draft in a letter for review.

The meeting adjourned at 4:51 p.m.