

Committee on Professional Ethics

Meeting Minutes

December 2, 2022

The meeting was held via video conference.

Members present were Pam Anderson, (Chair), Lucinda Fernald, Brooks Holland, Michele Carney, Vince Lombardi, Hugh Spitzer, Janice Wang, Monte Jewell, and BOG Liaison Kevin Fay. BOG Liaison Nam Nguyen and Asel Neutze were absent. Also present were Jeanne Marie Clavere (staff liaison), Sandra Schilling, Professional Responsibility Counsel (PRC), and Doug Ende, Director of the Office of Disciplinary Counsel.

The chair called the meeting to order at 10:00 a.m.

Announcements/Updates

- The CPE reviewed possible formatting styles for Advisory Opinions. The CPE decided to keep a menu of itemized sections which drafters can select depending on the needs of the opinion being drafted. Staff will update the style sheet to clarify formatting possibilities.

The October 21, 2022, minutes were approved with one small modification.

Remote Practice Draft Opinion

The final draft has been submitted to the BOG for informational purposes only with the expectation it will be included in its January materials. If it passes through the BOG meeting, it will be uploaded to the Advisory Opinion database and staff will take action to publicize the new opinion with members.

Proposed Amendments to 7.2 (now 7.3), 1.5 (c), and 5.4

The CPE chair reported that she drafted a memo to the BOG and forwarded clean copies of the proposed rule changes to bar staff with the hope they will be included in the BOG January agenda, and if not January, then March. Doug Ende suggested some further clarifying language to the proposed rule changes which the Chair will incorporate and submit to staff. The CPE also discussed expanding the memo to the BOG to include more historical background. The Chair hopes to include the revised materials for the BOG January agenda.

RPC 1.6 Reporting Data and Client Privacy

The subcommittee is in the process of incorporating feedback from the committee's October meeting as well as feedback from completed outreach interviews. It hopes to have a revised draft opinion for the next meeting.

RPC 1.4 and Language Access in the Client-Lawyer Relationship

The committee reviewed a draft opinion and discussed the difficult balance of appropriate language access with affordability and practicality, as well as whether to incorporate practical tips in an ethics opinion. The subcommittee will continue outreach to specialty bars based on the current draft and will present at the next meeting.

WA Attorney General Office Request for Advisory Opinion Re Reproductive Health Care

The Chair wrote to the WA Attorney General's Office with a request that the AGO provide examples of anticipated ethical dilemmas. The AGO did not respond. The subcommittee will report back at the next meeting on recommended action.

WA State Office of Public Defense Request for Advisory Opinion Re Vacating Convictions

The subcommittee is researching the issue and will present an update at the next meeting.

Clarifying RPC 1.7(a)(3) and Government Law Offices Representing Separate Agencies

The subcommittee met with the Solicitor General, another AAG, and other stakeholders. The CPE reviewed and commented on a draft. The subcommittee will incorporate comments and post revisions in the subcommittee folder with the intent to send a draft to stakeholders for further comment.

Revisions to Advisory Opinion 181

The subcommittee has reviewed other states' AOs, the ABA AO, as well as other WSBA opinions and other file management resources. It is considering whether to amend 181 versus issuing a one or more additional opinions and will continue its research with the intent to start drafting shortly.

The meeting adjourned at 12:50 p.m.