

WASHINGTON STATE BAR ASSOCIATION

Committee on Professional Ethics

Meeting Minutes

February 24, 2023

The meeting was held live and via video conference.

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

The chair called the meeting to order at 10:05 a.m.

Announcements/Updates

- Staff updated the CPE regarding LFW suggested rule amendments before the Supreme Court regarding unidentified funds.
- Staff discussed CPE openings for FY 24 and member terms. Members rotating out will not be eligible after September 1. New applications can be received beginning March 1. Staff are looking for new members with diversity and deep experience in ethics.

The December 2, 2022, minutes were approved.

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

The subcommittee has met with various stakeholders, including Noah Purcell of the AGO, WAPA and WSAMA. It will continue drafting and anticipates presenting a draft at the next meeting.

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

The CPE discussed various options and will wait to review current legislative actions regarding House Bill 1469. The subcommittee will prepare a memo laying out the pros and cons regarding a possible comment to the RPC.

Remote Practice Draft Opinion

The AO is live on the WSBA website and been included in the Ethics FAQs. A blog publicizing the new opinion has been approved and is pending circulation.

Footnotes and Style Sheet

Staff reminded members that the AO site has limited word processing capabilities. Word processing systems for footnotes and endnotes should not be used. Members must manually insert endnotes in the body of the document, and at the end. The style sheet will be updated.

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

The subcommittee will present proposed amendments to the BOG on March 4, 2023.

RPC 1.6 Reporting Data and Client Privacy

The CPE reviewed a draft opinion. The subcommittee will send a revised draft to stakeholders for comment.

RPC 1.4 and Language Access in the Client-Lawyer Relationship

The committee reviewed a draft opinion. The subcommittee will bring an updated draft to the next meeting before sending it out to stakeholders.

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

The CPE reviewed a memo presented by the subcommittee of possible options. The subcommittee will present at the next meeting an outline of what an AO would look like, combining sections 2 and 3 of the memo.

Revisions to Advisory Opinion 181

The CPE discussed format possibilities, including whether to amend 181 versus issuing one or more additional opinions and will continue its research with the intent to start drafting shortly.

AO Request re Rule 1.5

A subcommittee was formed to explore whether to recommend an AO regarding fee splitting with a former firm.

Future Hot Topics

The CPE discussed several current topics including ChatGPT , Oregon's proposed rule revisions re RPC 1.5, and pending amendments to RPC 1.8(e).

The CPE discussed possible updates to the AO bank to conform to 2006 amendments. The decision was made to defer reviewing this until after September.

The meeting adjourned at 2:25 p.m.