

**Committee on Professional Ethics**

Meeting Minutes

October 21, 2022

The meeting was held in person and 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 Liaisons Kevin Fay and Nam Nguyen. BOG Liaisons excused themselves after initial announcements. Asel Neutze was excused. Also present were Jeanne Marie Clavere (staff liaison), Sandra Schilling, Professional Responsibility Counsel (PRC), Kevin Plachy, Director of Advancement and Doug Ende, Director of the Office of Disciplinary Counsel.

The chair called the meeting to order at 10:01 a.m.

**Announcements/Updates**

- PRC informed the committee that the Advisory Opinion website does not have word processing capability to input footnotes, and that footnotes must be entered manually. Members are encouraged to use footnotes judiciously, and perhaps to try end notes as a work around.
- Staff will work on a style sheet to address formatting expectations. The CPE will review the draft memo at the December meeting.

**The June 10, 2022, minutes were approved.**

**Remote Work Advisory Draft Opinion**

The committee moved to approve a final draft, subject to minor grammatical “tweaking” by the subcommittee, for submission as an advisory opinion, with forwarding to the BOG for informational purposes only. The final version should be sent to staff by middle November, in advance of the BOG December 5 deadline.

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

The committee moved to submit the final proposed rule changes to the BOG for its January meeting. The CPE chair will draft a memo to the WSBA Board of Governors and a draft GR 9 for a BOG presentation and approval. The memo will include a clean and redlined version of the proposed rule changes.

### **RPC 1.6 Reporting Data and Client Privacy**

The subcommittee reported that, in addition to its previous outreach to funders and academics knowledgeable about technology and privacy, it is in the process of interviewing legal aid providers. It is working on integrating information from its interviews into a draft to share with the committee. Suggestions were made to the subcommittee to ensure the structure is related to specific RPCs and that it is drafted as a resource for legal professionals.

### **RPC 1.4 and Language Access in the Client-Lawyer Relationship**

The subcommittee continues to meet and hopes to present at the next meeting.

### **Future Topics and Requests**

- a. The committee discussed the WA Attorney General Office request for an advisory opinion related to reproductive health care. The Chair will respond with a request that the AGO provide a narrower request with examples of specific ethical dilemmas. A subcommittee was formed to review the anticipated response and advise the full committee.
- b. A subcommittee was formed to update advisory opinion 181 regarding the duty to provide former client files. The subcommittee will communicate with an ODC representative.
- c. A subcommittee was formed to draft an opinion clarifying RPC 1.7(a)(3) and government law offices representing separate agencies.
- d. A subcommittee was formed to draft an opinion re defense counsel obtaining orders for vacating convictions in the absence of an established attorney-client relationship.

The meeting adjourned at 2:29 p.m.