



WSBA

Committee on Professional Ethics

Meeting Minutes

June 23, 2017

The committee met at the offices of the Washington State Bar Association, 1325 4th Avenue, Suite 600, Seattle, WA 98101.

Members present were Mark Fucile (Chair), Tom Andrews, Natalie Cain, Peter Jarvis, and Anne Seidel. Excused were Callie Castillo, Colin Folawn, Ted Stiles, Mario Cava (BOG Liaison. Also present were Jeanne Marie Clavere (staff liaison), Doug Ende, Office of Disciplinary Counsel, Luis Beltran, OGC intern, Maia Crawford-Bernick OGC intern, Jenna Mark, ODC intern, and Darlene Neumann paralegal.

The meeting began at 10:04 a.m.

1. **Minutes**

The minutes were approved as amended.

2. **Info & Updates:**

- Callie Castillo, who replaced departing member Chris Lanese, will be joining the CPE at the August meeting.
- Proposed amendments to the LLLT rules have been published on bar's website with the comment period ending July 17, 2017. The amendments expand the role of LLLTs in court proceedings. Members briefly discussed whether to comment on the proposed amendments.
- APR 19, which includes the Professional Responsibility Program and the bar's Ethics Line, was amended to include LLLTs and LPOs, effective September 1, 2017.
- Proposed amendments to RPC 1.6, 7.3, and 8.4 (g)-(h) will be published for comment by the Court. The comment period ends April 30, 2018.
- The Court has published for comment proposed amendments to RPC 1.0A, 1.10, and 1.11 (public defender imputation of conflicts). The comment period ends July 28, 2017.

3. **Lawyer Mobility Subcommittee** (Ted-chair, Natalie, Mark)

Tabled to the next meeting.

4. **Communication with Client Represented by Government Agency** (Tom-chair)

Callie Castillo was added to the subcommittee.

5. Retired Lawyer and Trust Account (Anne-chair, Ted, Colin)

The subcommittee is waiting on feedback from the bar auditors. In the meantime, they will draft a memo to the LLLT Board regarding the LLLT trust account rule. Before it is forwarded to the Board, the committee will review the memo. Doug Ende reported that the bar auditors have given considerable thought on how to address this complicated issue and will be drafting a suggested rule for the subcommittee to consider.

6. Advisory Opinion 2223 Subcommittee (Natalie-chair, Tom, Anne)

The subcommittee reported on the public comment session held at the Bar on May 9. The overarching issue voiced by those who attended was a concern about access to justice and practice of law issues. The subcommittee hopes to have a draft memo by the next meeting.

7. Quadripartite Subcommittee (Colin-chair, Peter, Natalie, Ted)

Tabled to the next meeting.

8. Lawyer Advertising Workgroup (Mark-chair, Natalie, Peter, Doug Ende, Jean McElroy, Art Lachman, Bruce Johnson)

The workgroup is continuing to work on updating the APRL proposals and hopes to have a memo to present at the August meeting—or at least by the following meeting in October.

9. Arlene’s Flowers and the RPC

The committee discussed the follow-up response from the inquirer, concerns raised by the inquirer about the nexus between the state’s discrimination laws and the RPCs on withdrawal and the prohibition against discrimination. Following discussion, the committee voted 3-2 to accept the inquiry. Subcommittee members are Anne-chair, Peter, and Tom.

10. Advisory Opinion 1965

Peter Jarvis brought AO 1965 (2001) to the committee’s attention and suggested the opinion be revised consistent with Comment [10] of RPC 7.3. Rather than choosing to modify the 2001 opinion, the committee voted unanimously to withdraw it.

11. Review of Trust Account Advisory Opinions

The committee created a subcommittee to further review the trust account opinions following committee member comments received after the April meeting. The subcommittee will review the opinions in “small batches” and return to the committee with recommendations for minor fixes, those requiring a broader treatment, or for withdrawal. The Small Batch subcommittee members are Tom-chair, Anne, and Mark.

The meeting adjourned at 11:20 a.m.