



WSBA

WASHINGTON STATE BAR ASSOCIATION

DISCIPLINARY ADVISORY ROUND TABLE (DART)

Meeting Minutes

July 15, 2016

Members present: The Hon. Charles Wiggins (Chair), Julie Anderson, Stephanie Bloomfield, Michele Carney, Doug Ende, Jerry R. Ford, Paula Littlewood, Leland Ripley, G. Kim Risenmay, Jacky Sabin, Julie Shankland and Darlene Neumann (Staff Liaison). Excused were Andrew Bohrsen, James Horne, and Patrick Sheldon. Interested parties were Jean McElroy, General Counsel/Chief Regulatory Counsel, Chris Gray, Associate Director Litigation, and Danielle Ollero (law intern).

The meeting was held at the WSBA offices in Seattle.

The meeting was called to order at 1:32 p.m. Introductions were made around the table and over the phone.

I. Update re ABA Model Rule on Payee Notification

Doug Ende gave an update on the proposed payee notification rule pending before the Office of Insurance Commissioner (OIC). After OIC held a public hearing on the rule, Mr. Ende contacted the Commissioner's office and found out there was strong opposition to the rule from the insurance industry. Action on the rule is awaiting a decision by OIC. The opposition seems to be based on the perception that the proposed rule would impose an administrative burden on the insurance industry.

II. Disciplinary Board Approval of Stipulations

Julie Shankland distributed copies of ELC 9.1, Stipulations, 10.12, Scheduling of Hearing, and discussed data from 2010 to the present showing the percentages of stipulations approved, rejected and conditionally approved by hearing officers and the disciplinary board. DART briefly discussed having the Supreme Court directly approve all stipulations and whether settlement conference stipulations should be treated differently.

III. Coordinated Regulatory and Disciplinary Systems

Paula Littlewood, Doug Ende, and Jean McElroy led a discussion of coordinated regulatory and disciplinary systems for Washington lawyers, limited practice officers, and limited license legal technicians, a continuation of a presentation made at the April 2016 DART meeting. Presentations have also been made to the Supreme Court and a number of the regulatory boards. The purpose of the initiative is to develop recommendations to improve the efficiency and consistency of admissions, licensing, and discipline processes by handling all license types in a similar fashion. A set of proposed rules on admissions and licensing will be presented to the Board of Governors in July as a first reading, followed by a second reading in August. If the BOG approves, the proposal will be forwarded to the Supreme Court.

The changes being considered on the disciplinary side include merging the investigation and prosecution systems into a “single portal” arrangement and transitioning from a volunteer-driven adjudicative system to an office of paid, professional adjudicators. Members discussed the current volunteer review committee process, which results in unmanageably heavy workloads on volunteers and delays decisions. DART also discussed the approach to professional adjudication used in Colorado and California, including their systems for review of dismissals. There was consensus among DART members that some form of review process of initial ODC grievance dismissals is warranted. It was noted that an internal “second look” review by ODC would be expedient since the department is experienced in evaluating disciplinary allegations and has direct access to the file. Members then discussed the idea of a professionalized adjudicative office and how it might handle the appellate function. It was noted that since the 2014 ELC amendments, the number of full-record appeals to the Disciplinary Board has diminished, and there have been fewer appeals to the Supreme Court. The chair asked if the statistics on appeals could be gathered and shared at the next meeting when the discussion is taken up again.

The meeting adjourned at 3:31 p.m.