

Committee on Professional Ethics

Meeting Minutes

February 4, 2022

The meeting was held virtually.

Members present were Lucinda Fernald (Acting Chair), Brooks Holland, Michele Carney, Vince Lombardi, Hugh Spitzer, Janice Wang, Asel Neutze, and Monte Jewell. Pam Anderson (Chair), was excused and Brett Purtzer (BOG Liaison) was absent. Also present were Jeanne Marie Clavere (staff liaison), and Sandra Schilling, Professional Responsibility Counsel.

The chair called the meeting to order at 10:06 a.m.

Announcements/Updates

- All members introduced themselves and welcomed new member Michele Carney.
- Jeanne Marie Clavere informed members of the Bar Structure Study Group and encouraged members to look at the bar's website for more information and meeting dates.
- Jeanne Marie Clavere also introduced the preliminary timeline for volunteer applications for the 2023 fiscal year. The application process will begin on March 15th. There will be three openings on the Committee and the three CPE members who have completed their first terms are eligible and encouraged to reapply for their second terms.
- Sandra Schilling discussed style issues regarding the use of "RPC" vs. "RPC's" and it was decided that that issue should be put on the next meeting agenda.

The December 3, 2021 minutes were approved.

RPC 4.2 Reply All Email to Opposing Counsel with Opposing Client cc'd

The advisory opinion was included in the BOG Book at their January meeting as "information only." Sandra Schilling informed the CPE that the AO is now published on the database and that she will be working on a blog to inform members. A reminder was made for the Chair to inform the initial inquirer of the issue that the AO was live.

RPC 1.4(c) Insurance Malpractice Disclosure Requirement

The committee reviewed the latest draft, discussed suggestions, and moved to adopt it and forward it to the BOG. The motion carried.

RPC 1.8(e) Financial Aid Exception

The subcommittee presented that after some discussion at the January BOG meeting the proposed rule amendments were adopted by the BOG. Jeanne Marie Clavere reported that the GR 9 was drafted and sent to the WSBA Office of General Counsel for review before it is submitted to the Washington State Supreme Court.

Remote Work Advisory Draft Opinion

The committee reviewed a draft, discussed several edits, and agreed to initially send the revised preliminary draft out to various stakeholders: the WSBA Practice of Law Board, the WSBA General Counsel and the Attorney General's Office. The subcommittee will report at the next CPE meeting the stakeholder comments. Consideration was made as to the date of the opinion, whether 2016 or 2022. Staff will check on the capabilities and practices used with the AO database when advisory opinions are amended.

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

The subcommittee discussed the options of 1) leaving the rules as they are; 2) proposing clarifications to the rules; or 3) proposing significant revisions to the rules. No decisions were made. The subcommittee continues to explore if amendments would advance access to justice. It will contact stakeholders and review at the next meeting.

RPC 1.4 and Language Access in the Client-Lawyer Relationship

The subcommittee continues to work on this and hopes to present more substantive progress at the next meeting.

Supreme Court Amendments

The subcommittee reported that they did not recommend a CPE recommendation to the BOG regarding two pending Supreme Court Rules: 25700-A-1375 and 25700-A-1372. A motion was passed to make no recommendation. The Chair will communicate this to Terra.

RPC 1.6 Reporting Data and Client Privacy

The subcommittee will proceed with the plan outlined in its written report, including consultation with a law professor knowledgeable about technology and privacy and with additional stakeholders. It will present an updated report and possible draft advisory opinion at the next meeting

The meeting adjourned at 12:22 p.m.