

Committee on Professional Ethics

Meeting Minutes

April 1, 2022

The meeting was held virtually.

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

The chair called the meeting to order at 10:03 a.m.

Announcements/Updates

- The Chair thanked Lucinda Fernald for acting as chair at the last meeting and thanked the rest of the committee for coming together in her absence.
- The Chair gave an update that the Supreme Court will put the proposed amendment to RPC 1.8 on its website and the comment period will end in April 2023, and thanked the committee for its work on that proposal.
- Staff reminded members about volunteer applications for the 2023 fiscal year. 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.
- The Chair informed the committee that she will be out of the country from April 8 until the end of April.
- Staff updated the committee that the Advisory Opinion RPC 1.4 Insurance Malpractice Disclosure Requirement passed the BOG without comment and they will be posting the AO on the CPE website as well as drafting a blog and possible FAQ.

The February 4, 2022 minutes were approved.

Remote Work Advisory Draft Opinion

The subcommittee presented a draft and is still seeking feedback from various stakeholders as well as incorporating amendments to Title 7. The WSBA Practice of Law Board will review this at its next meeting on April 21; it has also been sent to the WSBA General Counsel. The subcommittee hopes to present a final [JMC1][pa2] draft incorporating stakeholder suggestions at the CPE June meeting.

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

The subcommittee will redraft the proposed rule changes in line with the discussion of the committee and also circle back to the Director of the Office of Disciplinary Counsel Doug Ende. It hopes to bring final proposals to the June meeting, with a potential for submission to the BOG July meeting. If so, it will also prepare a draft memo for the BOG.

RPC 1.4 and Language Access in the Client-Lawyer Relationship

The subcommittee received feedback from the committee and will continue drafting an opinion for review at the June meeting, with intended circulation to stakeholders during the summer^[pa3].

RPC 1.6 Reporting Data and Client Privacy

The subcommittee reported it had consulted with a law professor knowledgeable about technology and privacy, as well as contacting various stakeholders. It plans additional research, including reviewing other jurisdictions and further outreach. The technology issue of data sharing adds additional complexity to this legal analysis.

Inquiry Procedure

A CPE member inquired if a CPE member may propose a topic of inquiry. Staff consulted the rules of procedure and confirmed that a member may submit an inquiry proposal; and added that proposals are favorably considered by the CPE if they address an inquiry beneficial to many WSBA members.

Style issues

Professional Responsibility Counsel addressed a grammar style inquiry and confirmed that WSBA prefers use of the Oxford comma. The committee also addressed the issue of using RPC, versus RPCs, when referencing multiple rules, and decided it preferred the use of RPCs (without the apostrophe). Staff indicated they may still use the singular RPC for Supreme Court and BOG submittals.

Next meetings

The June meeting will be virtual. The August meeting may be hybrid.

The meeting adjourned at 11:59 a.m.