

WASHINGTON STATE BAR ASSOCIATION

Committee on Professional Ethics

Meeting Minutes

August 23, 2024

The meeting was held via video conference.

Members present were Monte Jewell (Chair), Pam Anderson, Hugh Spitzer, Janice Wang, Michele Carney, and Mark Fucile. BOG Liaison Mary Rathbone was absent. Asel Neutze, Sara Ayoubi, and Vince Lombardi were excused. Also present were Jeanne Marie Clavere (staff liaison), Sandra Schilling, Professional Responsibility Counsel (PRC), Doug Ende, Chief Disciplinary Counsel, and Kevin Plachy, Advancement Department Director.

The chair called the meeting to order at 10:00 a.m.

Announcements/Updates

- The committee reviewed subcommittee assignments, and new subcommittee chairs were appointed for the subcommittees with chairs whose terms are ending. The question of additional staffing for subcommittees was deferred until the next meeting when new committee members will begin their terms.
- The committee thanked Janice Wang and Pam Anderson for their service as they are transitioning off the committee. Staff and Chair have already thanked Vince Lombardi who is also ending his term.
- Staff reminded members that advisory opinions should include a short title of 3 to 6 words in the subject section. (A sample AO is in the Forms folder.)
- Staff updated members that the Supreme Court has published for comment proposed rule amendments regarding potential conflicts arising from lawyers in a government law office representing separate government agencies in adjudicated disputes.
- Staff informed members about technical issues regarding comments on the Supreme Court web page.

The April 19, 2024, minutes were approved.

RPC 1.6 Reporting Data and Client Privacy

A motion was passed to approve the proposed advisory opinion and BOG memo for presentation to the BOG. Staff pointed out that minor edits will be made to the memo.

RPC 1.15A Refund of Disputed Advance Fee Deposit

The committee reviewed and gave suggestions to a draft opinion. The subcommittee intends to present a new draft at the next meeting.

RPC 1.4 Language Access in the Client-Lawyer Relationship

Michele Carney was appointed chair of this subcommittee because Vince Lombardi is ending his term. The subcommittee will circulate a discussion draft to stakeholders.

ABA Amendment to RPC 1.16 re Clarifying Ethical Obligations and Conducting Reasonable Inquiry

Mark Fucile was appointed chair of this subcommittee because Vince Lombardi is ending his term. The subcommittee will make a recommendation whether RPC 1.16 should be amended per the ABA resolution and amendment.

Vacating Convictions in the Absence of an Established Attorney-Client Relationship

Asel Neutze was appointed chair of this subcommittee because Janice Wang is ending her term. The subcommittee has reviewed feedback from stakeholders and decided to leave the draft opinion without material change. The committee asked the subcommittee to prepare a final draft and BOG memo for the next meeting.

Fee Splitting with a Former Firm

The subcommittee will continue working on a draft opinion.

Advisory Opinion re Contingency Fee Agreements in Committed Intimate Relationships

The committee reviewed and suggested edits to a draft memo to the BOG proposing an amendment to comment 6 of RPC 1.5. The committee approved a motion for the subcommittee to finalize the memo for presentation to the BOG.

CPG Representation and RPC 1.7 Implications

Mark Fucile was appointed chair of this subcommittee because Janice Wang is ending her term. The subcommittee made substantial changes to a draft advisory opinion after receiving comments from stakeholders. The committee reviewed and made suggestions regarding the draft, including review of stakeholder feedback from the attorney for the Washington State Long-Term Care Ombudsman Program. The two departing members of the subcommittee will incorporate suggestions into a new draft and consider whether to send out the revised draft to stakeholders again.

Ethics Issues and the Use of Large Language Model AI/ChatGPT

The subcommittee has made substantial changes to a prior draft based on previous committee input. The committee considered the timing of issuing the opinion with the WSBA Task Force and sharing the opinion with the Practice of Law Board. The committee agreed that the subcommittee could share a discussion draft with stakeholders, including the WSBA Task Force, and to hold off completing the opinion until it can

Commented [JMC1]: Deleting names and putting in roles since the minutes are public.

receive further information from the Task Force survey which will be issued next month to WSBA members.

Lawyers Employing Licensed Mandatory Reporters, RPC 1.6 and 5.3

The subcommittee is continuing to research and investigate the issues raised by this advisory opinion and a draft advisory opinion is expected prior to the next meeting.

Future Hot Topics and Projects

Future meeting dates are in Box. The October meeting will be in person and hybrid.

The meeting adjourned at 1:30 PM.