

# WASHINGTON STATE BAR ASSOCIATION

## Committee on Professional Ethics

### Meeting Minutes

June 10, 2022

The meeting was held virtually.

Members present were Pam Anderson, (Chair), Lucinda Fernald, Michele Carney, Vince Lombardi, Hugh Spitzer, Janice Wang, Asel Neutze, and Monte Jewell. Brooks Holland and Brett Purtzer (BOG Liaison) were 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 10:01 a.m.

#### **Announcements/Updates**

- Staff gave an update regarding several Supreme Court rule amendment adoptions; none were specific to prior CPE involvement.
- Staff informed the CPE regarding positive feedback she received regarding her blog on the recently published Advisory Opinion RPC 1.4, Insurance Malpractice Disclosure Requirements.
- The CPE meeting calendar was discussed, and whether to hold hybrid as well as remote meetings. The Chair will email proposed dates, with alternates, and asked the CPE to respond as to their availability by June 13. The August meeting will be remote, with the possibility of a hybrid meeting in October.
- Expectations regarding uploading materials in Box were discussed. It was agreed:
  - 1) Subcommittees will put material in the Meeting folder for each meeting, even if it is a short memo, or timely notify staff of an oral update prior to the agenda being published. Subcommittees will also upload all material necessary for CPE review in the Meeting folder. Hyperlinks are helpful.
  - 2) Staff will update Box to add a file specific to CPE submissions to the BOG.
  - 3) Subcommittees will file correspondence in their folders, or the Correspondence folder.

**The April 1, 2022 minutes were approved.**

#### **Remote Work Advisory Draft Opinion**

The subcommittee will address comments provided by Doug Ende and review if there are other stakeholder comments. It will also circulate a recent NY state ethics opinion.

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

The CPE discussed the prevalence of fee sharing by not-for-profit lawyer referral services. The Chair will follow up further with the subcommittee to explore future action.

### **RPC 1.4 and Language Access in the Client-Lawyer Relationship**

The subcommittee is continuing work on a draft opinion and hopes to present one at the August meeting.

### **RPC 1.6 Reporting Data and Client Privacy**

The subcommittee reported that King County had sent a letter to the CPE in May clarifying its data reporting expectations, stating that there was no expectation that lawyers violate RPC 1.6, and that aggregate data reporting was acceptable. The CPE reviewed a subcommittee draft response letter. The subcommittee will send an updated version to staff and the Chair, with consent that the letter be sent out following their review. Staff noted that the letter must include a disclaimer that the letter is not a statement from WSBA.

### **Advisory Opinion Requests**

CPE reviewed a request for an opinion regarding waiving First Step Act compassionate release motions and a request for an opinion regarding defense waiving witness interviews in criminal trials. Both inquire as to what kind of conditions can be set on a plea bargain. The CPE determined as to both inquiries that it will not form a subcommittee to explore the matter and will not issue an advisory opinion. The Chair will inform the inquirers of the CPE decision. As a side matter, staff reminded the CPE that opinion requests should remain confidential.

The meeting adjourned at 1:48 p.m.