

WASHINGTON STATE BAR ASSOCIATION

Committee on Professional Ethics

Minutes

February 24, 2020 Special Meeting

The committee met telephonically.

Members present were Don Curran (Chair), Pam Anderson, Lucinda Fernald, Brooks Holland, Jeffrey Kestle, Vince Lombardi, Hugh Spitzer, Monte Jewell, and Asel Neutze. Kyle Sciuchetti (BOG Liaison) was absent. Also present were Jeanne Marie Clavere (staff liaison), Doug Ende, Office of Disciplinary Counsel, and Darlene Neumann, paralegal.

The chair called the meeting to order at 9:02 a.m. With consent of the members, the chair revised the order of the agenda.

RPC 7.3 Revised Proposed Amendment

The subcommittee discussed their analysis of the revised proposed amendment, the affect on the proposed comments, and experience of other jurisdictions. The subcommittee recommended the committee not support the Court's proposed revision to exclude specific practice areas because among other concerns, the practice areas are not well defined. However, if the Court adopted the revision, the subcommittee recommended several of the rule's old comments, originally proposed for deletion, should remain intact since they would be valuable and necessary.

The subcommittee contacted Virginia, which reported their new advertising rule, which did not include the exceptions, was working well. They have received no complaints concerning the practice areas identified by our court. The subcommittee had not yet heard back from Oregon. The subcommittee also found no studies or articles supporting an exception to the solicitation rule for specific practice areas. Other discussion included correcting the placement of the revised language in paragraph (a), identifying discrepancies between the court's version and the original proposed amendments to the BOG, formatting edits, and suggesting the four practice areas be highlighted in the comments rather than in the rule. The committee unanimously approved the draft report subject to modifications by the subcommittee, including a friendly amendment to add background information on the original proposed amendments for context.

Karstetter Proposed Comment

Following discussion on the GR coversheet, the subcommittee will revise the cover sheet to

reflect the placement of the proposed comment in the redline rule. The committee unanimously approved the corrected GR 9 and redline rule.

RPC 6.5 Proposed New Comment 8

The subcommittee reported on their meetings with the proponents, who were receptive to the CPE's concerns. The subcommittee noted that it will not be drafting a proposed rule and is only providing guidance to the proponents. The subcommittee also spotted another issue dealing with the other party/person obtaining legal aid services that implicates RPC 1.7. The subcommittee will continue to communicate with the proponents as they update their proposal to the court.

Other

The committee discussed the timetable for providing reports to the BOG and committee members who would present at the BOG meetings. The chair noted that another special meeting will be necessary to take action on RPC 6.5. Staff will follow up with committee members on a date for the special meeting.

The meeting adjourned at 10 a.m.