



The State Bar of California

A.5. Action Summary
02-28-20 Meeting
Open Session

Committee on Professional Responsibility and Conduct
Friday, January 17, 2020
10:00 am – 4:30 pm

The State Bar of California
State Bar Office – Los Angeles
845 S. Figueroa Street, Room 2FG
Los Angeles, CA 90017

Members Present: Mr. Bacon, Ms. Banola, Ms. Basner, Prof. Bundy, Mr. Carr, Mr. Fields (by telephone), Ms. Inlender, Mr. Koss, Mr. Krueger, Ms. Lee, Ms. Roche, and Mr. Whitney.

Not Present: None.

Others Present: Ms. Lee, Mr. Tuft (State Bar staff), Jose Casteneda, and James Blume.

The order of business is approximate and subject to change.

To Join by Conference Call
Toll-Free Dial-In Number: 1-855-520-7605
Conference Code: 800-238-4427#

Additional Locations
One Market Plaza, Suite 2200, San Francisco, CA 94105-1127

ACTION SUMMARY

A. Remarks From the Chair

1. Roll Call
2. Public Comment
Mr. Blume and Mr. Casteneda gave public comment.
3. Announcements
4. Staff Report
Mr. Tuft reported that: (1) ATILS met on January 10 and voted on several recommendations including: (i) consideration of technology-driven practice of law reforms in a regulatory sandbox, (ii) a revised rule 5.4(a)(5) which would allow fee-sharing with non-profit legal services organizations absent court approval, (iii) consideration of a rule of professional conduct based on ABA Model Rule 5.7, (iv) consideration of revisions to the advertising rules in line with recent revisions to the ABA advertising and solicitation rules; and (v) a LLLT program; (2) ATILS report and presentation to the presentation is tentatively scheduled for March 12; (3) ATILS' next meeting will be on February 4th in Los Angeles; (4) Board has a planning session on January 23 in Los Angeles where they will consider a LLLT program; (5) 13-0003 and

the 2 revised rules related to AB1987 will go to the Board for consideration next week; and (6) deadline to submit applications to COPRAC for the 2020-2021 year is March 15, 2020.

5. Approval of Open Session Action Summary from the December 6, 2019 Meeting
The Action Summary was approved (10-0-2).

B. Discussion of Draft Opinions Previously Circulated for Public Comment

1. 14-0002 [re Alternative Litigation Funding]
Ms. Roche gave an oral report on the public comments received. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. Mr. Fields will be the lead drafter going forward.

C. Discussion and Possible Approval for Public Comment of Draft Opinions Not Yet Released for Public Comment

1. 13-0002 [re Attorney with a Vulnerable Client]
Prof. Bundy gave an oral report on the history of the opinion. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. Drafting team: Ms. Inlender, Mr. Carr, Mr. Koss, and Mr. Bundy
2. 13-0004 [re Collecting Unpaid Fees]
Prof. Bundy gave an oral report on the history of the opinion. Following discussion by the Committee, the Committee voted to abandon this opinion (9-3-0).
3. 14-0001 [re Colleague Impairment]
Ms. Basner presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. Drafting team will present revised opinion at the April meeting.
4. 17-0003 [re Duty of Confidentiality to Prospective Client]
Mr. Whitney presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion outline in accordance with the Committee's discussion.
5. 19-0003 [re Improper Contract Provisions]
Mr. Carr presented a revised issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised issue outline in accordance with the Committee's discussion. Ms. Banola to join the drafting team.
6. 19-0004 [re Client File Release and Retention Duties]
This item was not discussed.

D. Discussion and Possible Approval of Arbitration Advisories Not Yet Release for Public Comment

1. 2019-0XA [re Arbitration Advisory on Awards of Interest by Arbitrator]
This item was not discussed.
2. 2019-0XB [re Arbitration Advisory on Costs]
Mr. Bacon presented an issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised issue outline in accordance with the Committee's discussion. Drafting team will present revised opinion at the April meeting.

E. Oral Report on Opinions Currently Circulating for Public Comment

1. 17-0001 [re Advising a Cannabis Business]
This item was not discussed.
2. 16-0002 [re Data Breaches]
This item was not discussed.

F. Consideration of New Opinion Topics

1. Consideration of New Opinion Requests
2 new opinion topics were selected:
 - *Lawyer as Expert Witness (Lead drafter: Carr)*
 - *Succession Planning (Lead drafter: Roche)*

G. Special Projects

1. 2020 Annual Statewide Ethics Symposium Planning
This item was not discussed.
2. Outreach Working Group Report
This item was not discussed.
3. ATILS Working Group Report
This item was not discussed.

In compliance with the Americans with Disabilities Act, those requiring accommodations at this meeting should notify Lauren McCurdy at (415) 538-2107. Please provide notification at least 72 hours prior to the meeting to allow sufficient time to make arrangements for accommodations at this meeting.

The notice and agenda is available at: <http://board.calbar.ca.gov/Committees.aspx>.