



The State Bar of California

A.5. Action Summary
09-11-20 Meeting
Open Session

Committee on Professional Responsibility and Conduct

Friday, July 24, 2020

10:00 am – 4:30 pm

TELECONFERENCE

Members Present: Prof. Bundy (Chair), Mr. Bacon, Ms. Banola, Ms. Basner, Mr. Carr, Mr. Fields, Ms. Inlander, Mr. Koss, Ms. Lee, and Ms. Roche.

Not Present: Mr. Krueger, and Mr. Whitney.

Others Present: Ms. Lee, Mr. Tuft, Mr. Difuntorum, and Ms. McCurdy (State Bar staff)

The order of business is approximate and subject to change.

Members of the public may access this meeting as follows:

Toll-Free Dial-In Number: 1-669-900-9128

Meeting ID: 955 0953 1580

Zoom: <https://calbar.zoom.us/j/95509531580>

ACTION SUMMARY

A. Remarks From the Chair

1. Roll Call

2. Public Comment

Multiple individuals gave public comment testimony in support of or in opposition to the District Attorneys' request for a new Rules of Professional Conduct or ethics opinion.

3. Announcements

The Chair welcomed the Committee and thanked them for all their hard work for this meeting.

4. Staff Report

Mr. Tuft reported that: (1) the Board approved the new Comment to rule 1.1 at the July Board meeting; (2) the Board issued for a 45-day public comment circulation of revised rule 5.4 with a public comment deadline of August 28, 2020; (3) a public hearing will be held on August 11 on the District Attorneys' request; (4) the 2020-2021 COPRAC appointments were approved by the Board (3 new members, Mr. Fields as Vice-Chair, and Ms. Roche as Chair); and that Mr. Bundy has been appointed as an Advisor for 2020-2021 to assist with the District Attorneys' request.

5. Approval of Open Session Action Summaries from the June 5, 2020 and June 25, 2020 meeting

*The Action Summary from the June 5, 2020 meeting was approved (10-0-0).
The Action Summary from the June 25, 2020 meeting was approved (9-0-1).*

B. Discussion of Draft Opinions Previously Circulated for Public Comment

1. 14-0002 [re Alternative Litigation Funding]
Mr. Fields gave an oral report on the public comments received. Following discussion, the Committee voted to approve the opinion for submission to the Board of Trustees for publication approval (10-0-0).
2. 16-0002 [re the Ethics of Responding to Cyber Risks]
Ms. Roche gave an oral report on the public comments received. Following discussion, the Committee voted to approve the opinion for submission to the Board of Trustees for publication approval (9-0-0).

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]
This item was not discussed.
2. 14-0001 [re Colleague Impairment]
Ms. Basner presented a revised opinion and gave an oral report. Following discussion by the Committee, the Committee voted to approve the opinion for a 90-day public comment circulation (9-0-0).
3. 17-0003 [re Duty of Confidentiality to Prospective Client]
Ms. Roche 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.
4. 19-0003 [re Improper Contract Provisions]
This item was not discussed.
5. 19-0004 [re Client File Release and Retention Duties]
This item was not discussed.
6. 20-0001 [re Lawyer as Expert Witness]
This item was not discussed.
7. 20-0002 [re Succession Planning]
Ms. Roche presented a revised opinion outline 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.

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

1. 2020-0XB [re Arbitration Advisory on Costs]
This item was carried over.

E. Oral Report on Advisories Currently Circulating for Public Comment

1. 2020-0XA [re Arbitration Advisory on Awards of Interest by Arbitrator]
This item was not discussed. Public Comment deadline is: October 15, 2020.

F. Special Projects

1. Discussion of a Proposed Rule or Ethics Opinion Regarding Prohibitions on Elected Prosecutors from Seeking or Accepting Political or Financial Support from Law Enforcement Unions
Mr. Bundy gave an oral report and led a discussion on the various factors to consider in regards to the District Attorneys' request.
2. Outreach Working Group Report
This item was not discussed.

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