



The State Bar of California

A.5. Action Summary
04-15-21 Meeting
Open Session

Committee on Professional Responsibility and Conduct
Friday, February 26, 2021
10:00 am – 4:30 pm

TELECONFERENCE

Members Present: Ms. Roche (Chair), Mr. Bacon, Ms. Banola, Prof. Bundy (Advisor), Mr. Carr, Mr. Fields, Ms. Inlender, Mr. Koss, Mr. Krueger, Mr. Mark, and Ms. Rowe.

Not Present: Ms. Lee and Mr. Starr.

Others Present: Ms. Lee (State Bar staff), Mr. Tuft (State Bar staff), Mr. Difuntorum (State Bar staff), Melanie Walker.

The order of business is approximate and subject to change.

Members of the public may access this meeting as follows:

Zoom: <https://calbar.zoom.us/j/99427292220>

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

Meeting ID: 994 2729 2220

ACTION SUMMARY

A. Remarks from the Chair

1. Roll Call

2. Public Comment

None.

3. Announcements

None.

4. Staff Report

Mr. Tuft reported that: (1) on January 23, 2021 the Board considered COPRAC's recommendation on the DA's request and voted to monitor future legislation and to reach out to the legislature for technical assistance during the next legislative session; on February 18 the Supreme Court approved the recommended amendments to rules 1.1 and 5.4, effective March 22, 2021; (2) 13-0002 returned from a 90-day public comment period with a deadline of February 16, 2021; (3) Arbitration Advisory 2020-0XB returned from a 90-day public comment period with a deadline of February 22, 2020; (4) colleague impairment and duties to prospective client out of public comment; (5) in regards to the Ethics Symposium, moderators and panelists have been secured, outreach efforts have commenced, and gave an update on the status of Symposium planning; and (6) the application period for the 2021-2022 Committee is coming to close soon and that the Committee should encourage colleagues to apply.

5. Approval of Open Session Action Summary from the January 8, 2021 Meeting
The Action Summary was approved (10-0-0).

B. Discussion and Possible Approval of Draft Opinions Previously Circulated for Public Comment

1. 13-0002 [re Attorney with a Vulnerable Client]
Mr. Bundy presented the public comments received 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.

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

1. 19-0003 [re Improper Contract Provisions]
Mr. Carr 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 subject to Mr. Carr drafting the conclusion (10-0-0).
2. 19-0004 [re Client File Release and Retention Duties]
This item was not discussed.
3. 20-0001 [re Lawyer as Expert Witness]
Mr. Koss 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. 20-0002 [re Succession Planning]
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.
5. 20-0003 [re Flat Fees and Termination]
This item was not discussed.
6. 20-0004 [re Ethical Obligations when Working Remotely]
Ms. Banola presented a draft 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.
7. 20-0005 [re Contingency Fee Agreements and Earning an Hourly Rate When Terminated]
Mr. Krueger presented a draft opinion 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.

D. Discussion and Possible Approval of Arbitration Advisories Previously Circulated for Public Comment

1. 2020-0XB [re Arbitration Advisory on Costs]
Mr. Krueger presented the public comments received and gave an oral report. Following discussion by the Committee, the Committee voted to approve the advisory for publication (9-0-0).

E. Oral Report on Opinions Currently Circulating for Public Comment

1. 14-0001 [re Colleague Impairment]
This item was not discussed.
2. 17-0003 [re Duty of Confidentiality to Prospective Client]
This item was not discussed.

F. Discussion of Special Projects

1. Ethics Symposium Planning
This item was covered in the Staff Report.
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>.