



The State Bar of California

A.5. Action Summary
06-11-21 Meeting
Open Session

Committee on Professional Responsibility and Conduct

Thursday, April 15, 2021

10:00 am – 4:30 pm

TELECONFERENCE

Questions regarding any agenda item should be directed to the Committee Coordinator, Andrew Tuft at 415-538-2172, 180 Howard Street, San Francisco, CA 94105, or Chair, Dena Roche at 415-538-2116. Committee members are requested to notify the Committee Coordinator as early as possible in advance of the meeting if they wish to remove any item/s from the consent agenda.

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

Others Present: Andrew Tuft, Mimi Lee, and Randall Difuntorum (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: 960 3038 0286

Zoom: <https://calbar.zoom.us/j/96030380286>

ACTION SUMMARY

A. Chair's Report

1. Roll Call

2. Public Comment

None.

3. Announcements

Mr. Fields reported that the advisor position has been eliminated going forward, but leadership feels very strongly about having an advisor going forward. Leadership plans on working with staff to ask the Board for special dispensation.

4. Staff Report

Mr. Tuft reported that: (1) the 24th Annual Statewide Ethics Symposium will be held tomorrow April 16, 2021 and thanked the panelists for their hard work; (2) 14-0001 and 17-0003 returned from public comment since the last meeting; (3) on February 18 the Supreme Court approved the revisions to 1.1 and 5.4 effective on March 22, 2021; (4) in regards to the DA request, proposed legislation Senate Bill 710 was introduced

by Stephen Bradford and is currently in committee; (5) any 2nd or 3rd year members who are interested in applying for vice-chair should let staff know and submit an appointment statement; and (6) the committee received 44 applications for next year.

5. Approval of Open Session Action Summary from the February 26, 2021 Meeting
The action summary was approved (11-0-1).

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

1. **13-0002 [re Attorney with a Vulnerable Client]**
Mr. Bundy gave an oral report on the comments received and presented a revised opinion. Following discussion, the drafting was asked to prepare a revised opinion in accordance with the discussion.
2. **14-0001 [re Colleague Impairment]**
(Banola (L), Bundy, Roche (A))
Ms. Banola gave an oral report on the comments received and presented a revised opinion. Following discussion, the Committee voted to approve the opinion for publication (12-0-0).
3. **17-0003 [re Duty of Confidentiality to Prospective Client]**
Mr. Bundy presented a revised opinion and gave an oral report. Following discussion, the Committee voted to approve the opinion for publication (11-0-0).

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

1. **19-0004 [re Client File Release and Retention Duties]**
This item was not discussed.
2. **20-0001 [re Lawyer as Expert Witness]**
Mr. Koss presented a revised opinion and gave an oral report. Following discussion, the drafting was asked to prepare a revised opinion in accordance with the discussion.
3. **20-0002 [re Succession Planning]**
This item was not discussed.
4. **20-0003 [re Flat Fees and Termination]**
This item was not discussed.
5. **20-0004 [re Ethical Obligations when Working Remotely]**
Ms. Banola presented a revised opinion and gave an oral report. Following discussion, the drafting was asked to prepare a revised opinion in accordance with the discussion.
6. **20-0005 [re Contingency Fee Agreements and Earning an Hourly Rate When Terminated]**
Mr. Krueger presented a revised opinion and gave an oral report. Following discussion, the drafting was asked to prepare a revised opinion in accordance with the discussion.

D. Oral Report on Opinions Currently Circulating for Public Comment

1. **19-0003 [re Improper Contract Provisions]**
(Carr (L), Banola, Roche (A))
This item was not discussed and is circulating for a 90-day public comment with a deadline of June 8, 2021.

E. Discussion of Special Projects

1. **Ethics Symposium Planning**
Ms. Lee and Mr. Tuft gave an oral report on the Zoom logistics for tomorrow's Ethics Symposium.
2. **Outreach Working Group Report**
(Leadership/Staff)