



The State Bar of California

A.5. Action Summary
07-30-21 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, Mr. Koss, Mr. Krueger, Ms. Lee, Mr. Mark, Ms. Rowe, and Mr. Starr.

Committee Members Not Present: Ms. Inlender.

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: 976 0020 4238

Zoom: <https://calbar.zoom.us/j/97600204238>

ACTION SUMMARY

A. Chair's Report

1. Roll Call
2. Public Comment
None.
3. Announcements
None.
4. Staff Report
Mr. Tuft reported that: (1) CAL 2021-205, CAL 2021-206, and Arbitration Advisory 2021-01 were approved at the May 13th RAD meeting; (2) the Basic Fee Arbitrator Training will take place on June 15, 2021 and committee members are encouraged to attend; and (3) COPRAC leadership has prepared a letter to the Board requesting the reinstatement of the advisor position.
5. Approval of Open Session Action Summary from the April 15, 2021 Meeting
The action summary was approved unanimously (11-0-0).

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

1. **13-0002 [re Attorney with a Vulnerable Client]**
Mr. Bundy gave an oral report and presented a revised opinion. Following discussion, the Committee voted to approve the opinion for an additional 60-day public comment circulation (10-0-0).
2. **19-0003 [re Improper Contract Provisions]**
Mr. Carr gave an oral report on the comments received. Following discussion, the drafting was asked to prepare a revised opinion in accordance with the discussion.

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

1. **19-0004 [re Client File Release and Retention Duties]**
Ms. Lee 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.
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 carried over.
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. Discussion of New Opinion and Arbitration Advisory Topics

1. **Consideration of New Opinion and Arbitration Advisory Requests**
(Staff/Leadership)
Ms. Roche led a discussion on opinion and arbitration advisory requests. Following discussion, Mr. Starr was assigned to prepare an issue outline on trial publicity, Ms. Rowe was assigned to prepare an issue outline on attorney as an advocate, and Ms. Banola and Ms. Roche were assigned to prepare an issue outline on ethics of in-house counsel.

E. Discussion of Special Projects

1. **Post-Ethics Symposium Report**

Mr. Tuft gave an oral report on the feedback received on the MCLE evaluation forms.

2. **Discussion of the Committee's Advisor Role**

The committee approved the letter as modified and requests Staff to submit the letter to the Board for consideration (11-0-0).

3. **Outreach Working Group Report**

(Leadership/Staff)