

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

April 11, 2018
Texas Law Center, Room 102
Austin, Texas

MINUTES

CALL TO ORDER

The meeting was called to order at 10:10 a.m.

Those in attendance at the meeting were: Chairman M. Lewis Kinard; Claude Ducloux; Amy Bresnen; Rick Hagen; W. Carl Jordan; and Vincent Johnson. Also present were: Linda Acevedo, Chief Disciplinary Counsel; Michelle Jordan, Staff Attorney; Anne Davis, Executive Administrative Manager; Cory Squires, Staff Liaison, Ray Cantu, Assistant Deputy Director, and Brad Powell, Information Technology Division Director.

Not present were Timothy Belton; Hon. Dennise Garcia; and Jane King.

A. APPROVAL OF MINUTES

The Committee reviewed the minutes from the March 7, 2018 meeting. Ms. Bresnen made a Motion that the Committee approve the minutes. The Motion was seconded by Mr. Ducloux. The Committee voted unanimously in favor of the Motion.

B. WEBPAGE

Cory Squires introduced and described the Committee's webpage and how it is organized. He noted that the website is prepared to go live on Friday, April 13, 2018. Cory Squires will forward the webpage link to the Committee members. The Committee discussed the organization of the webpage.

C. BASECAMP

Cory Squires introduced and described the organization of the Committee portal called Basecamp. The Committee was informed that only Committee members and staff have access to this portal.

D. PROPOSED FUTURE MEETING DATES

The Committee discussed proposed future meeting dates. Cory Squires will send out the proposed meeting date document which was included in this meeting's packet to the members again and will poll the members about September meeting dates. The Chairman set an agenda item for the May meeting about whether the committee will meet over the summer months. Cory Squires will propose to the members possible July and August dates and get feedback from the Committee.

E. ANNUAL REVIEW

The Committee discussed the annual review of the rules and how they wanted to proceed with that. It was proposed that the rules be divided among the nine Committee members to be reviewed and reported on. Other suggestions were also discussed. Questions were raised as to how the reviews and reports were to be done and what is required. Ms. Bresnen will seek more information on legislative history about what the review and reports require. Ray Cantu will seek information from the State Bar Board of Directors as to their expectations concerning the review and annual report.

F. MEETING ACCESS OPTIONS

The Committee discussed public input opportunities in teleconference versus quarterly in person meetings. The Committee also recommended that Committee members bring back and report to the Committee any feedback or comments that they have received since the last meeting.

G. OUTLINING THE DRAFTING PROCESS/PARAMETERS

The Committee discussed the Rule Proposal Docketing Statement drafted by Mr. Ducloux. The Committee discussed the Resolution Initiating the Rule Proposal Process drafted by Mr. Ducloux. The Committee decided not to adopt the resolution, but rather to incorporate necessary information into the Docketing document. Staff will make those changes. Mr. Ducloux made a Motion to adopt the Docketing Statement as amended. The Motion was seconded by Mr. Hagen. The Committee voted unanimously in favor of the Motion. The Committee discussed what will go into the drafting process and whether to have subcommittees. The Committee discussed the possibility of soliciting comments from experts to serve in advisory roles during the drafting process and the Committee believed it important that any experts used should have their names and participation disclosed publicly to ensure transparency.

H. PRIORITIZING THE LIST OF TOPICS FOR CONSIDERATION

Mr. Ducloux suggested the need for changes in the confidentiality rule in two respects. Ray Cantu discussed the process of recommended changes to the advertising rules that is occurring with another Committee. Ms. Bresnen may reach out to the Advertising Review Committee Chair about progress that the Committee is making and see if the Chair has an interest in speaking to the Committee about the Advertising Review Committee's work on the advertising rules at some time. Mr. Johnson noted rules contained in the ABA rules which have no counterpart in the Texas Rules and Mr. Kinard discussed rules upon which the previous Rules Committee had been working. The Committee discussed whether all topics need to be made into disciplinary rules or just be provided by the State Bar as best practices through, for example, the Law Practice Management Department. Linda Acevedo suggested that staff put together a packet of information concerning a potential list of topics. Cory Squires will poll the members on their preferences of working on the rules contained in the packet. Ms. Bresnen will look into what the term "subject", as contained in the statute, means.

I OLD BUSINESS

Ms. Bresnen raised the issue again of whether the Committee members were required to take and file an oath. Linda Acevedo stated that she had consulted with Bar Counsels John Sirman and Don Jones and that they had come to the conclusion that the members were not required to take or file an oath and she explained their reasoning for that conclusion.

ADJOURNMENT

Mr. Hagen made a Motion to Adjourn. The Motion was seconded by the Ms. Bresnen. The Committee voted unanimously in favor of the Motion and the meeting adjourned at 11:50 a.m.