

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

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

MINUTES

CALL TO ORDER

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

In attendance: Chairman M. Lewis Kinard; Claude Ducloux; Amy Bresnen; Rick Hagen; W. Carl Jordan; Vincent Johnson; Timothy Belton; Hon. Dennise Garcia and Jane King. Also present: Michelle Jordan, Staff Attorney; Cory Squires, Staff Liaison, Ray Cantu, Assistant Deputy Director; Gene Major, Division Head for Advertising Review.

A. APPROVAL OF MINUTES

The Committee reviewed the minutes from the June 11, 2018 meeting. Mr. Ducloux made a Motion that the Committee approve the minutes. The Motion was seconded by Ms. Bresnen. The Committee voted in favor of the Motion.

B. ADVERTISING RULES

Mr. Kinard informed the Committee that he has requested Mr. Johnson to chair a subcommittee concerning the advertising rules. Mr. Johnson presented to the Committee a description of the history of lawyer advertising and its rules.

Steve Tatum, immediate past Chair of the Advertising Review Committee spoke to the Committee about the history of his Committee's work on the new proposed rules. Mr. Tatum stated that he believes the newly proposed rules reflect more of what other jurisdictions are doing with advertising rules. He also stated that the newly proposed rules make it easier for attorneys to understand and comply with the rules. Chuck Noteboom, another past Chair of the Advertising Review Committee was also present and agreed with Mr. Tatum's statements. Mr. Tatum, Mr. Noteboom, and Mr. Major answered questions from the Committee concerning the advertising rules.

The Committee discussed whether, in a referendum vote, the entire group of newly proposed advertising rules should be voted on together as one subject, considering the one subject rule pursuant to the statute, or if each should be considered separately in a referendum vote.

Mr. Kinard requested that Mr. Johnson head a subcommittee to consider whether to initiate the proposed advertising rules and to submit a report on their findings. The report should be provided to the Committee at its August meeting and a decision on initiation will be made at the Committee's September meeting. The subcommittee members will be Mr. Johnson, Mr. Ducloux and Ms. Bresnen.

C. PROPOSED RULES - INITIATED

The Committee discussed proposed rules docketed as 18-3 and 18-4, which have already been initiated. Mr. Ducloux made a Motion to publish the latest draft of these rules. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion.

The Committee decided to follow the timeline for these rules as proposed in the July meeting materials packet.

D. PROPOSED RULES – NOT INITIATED

The Committee discussed the proposed rules that had not been initiated, specifically docketed 18-1, 18-2 and 18-5. Mr. Hagen reported speaking to different groups regarding these rules. Mr. Ducloux and Mr. Hagan will comprise a subcommittee concerning these proposed rules. The subcommittee will draft potential comments and will submit their recommendations to the Committee at the next meeting. If the Committee feels that comments should be proposed, then the subcommittee will draft a document to be sent to the Supreme Court requesting the Court's permission to submit comments to it.

E. COMMENTS

Mr. Johnson suggested that the proponent of any rule be responsible for drafting any necessary comments and the Committee agreed to this proposal. As such, Mr. Johnson will prepare any necessary comments to his initiated rules docketed as 18-3 and 18-4.

F. ANNUAL REPORT

Mr. Kinard proposed that at the next meeting, the Committee should divide and assign to individual Committee members the task of reviewing parts of the current Rules of Professional Conduct and the Rules of Disciplinary Procedure for the annual report. He encouraged members to review the rules so that they could state their preferences as to assignments.

Mr. Hagen volunteered to review the Section 3 Rules of Professional Conduct. Mr. Johnson volunteered to review the Section 1 Rules of Professional Conduct. Mr. Jordan volunteered to review the Section 5 Rules of Professional Conduct.

Cory Squires stated that he had been working on a draft format for the annual report which he will provide to Mr. Kinard.

ADJOURNMENT

Mr. Ducloux made a Motion to Adjourn. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion and the meeting adjourned at 11:30 a.m.