

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

May 8, 2019
Texas Law Center, Room 102
Austin, Texas
And by Teleconference

MINUTES

CALL TO ORDER; ROLL CALL

The meeting was called to order at 10:30 a.m.

Members Present: Chairman M. Lewis Kinard; Timothy Belton; Amy Bresnen; Claude Ducloux; Hon. Dennise Garcia; Rick Hagen; Prof. Vincent Johnson; Karen Nicholson.

Members Not Present: W. Carl Jordan

State Bar of Texas Staff Present: Ray Cantu, Deputy Executive Director; Brad Johnson, Disciplinary Rules and Referenda Attorney; Cory Squires, Staff Liaison.

A. COMMENTS FROM THE CHAIR

Mr. Kinard thanked those who have provided public input in the rule proposal process and encouraged additional public feedback. Mr. Kinard addressed the Committee regarding the State Bar of Texas Board of Directors' recent approval of rule proposals dealing with clients with diminished capacity and confidentiality in seeking ethics advice for a future petition to the Supreme Court of Texas.

B. APPROVAL OF THE MINUTES OF THE LAST MEETING

Mr. Kinard addressed the Committee on this agenda item. Mr. Belton made a motion that the Committee approve the minutes from the April 18, 2019, meeting. Mr. Ducloux seconded the motion. The Committee voted in favor of the motion.

C. PROPOSED ADVERTISING RULES, TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT (TDRPC) – DOCKET NO. 19-1

Mr. Kinard and Mr. Ducloux addressed the Committee regarding the advertising subcommittee's revised draft of the proposed lawyer advertising rules. Ms. Bresnen addressed the Committee regarding pending legislation dealing with lawyer advertising and Vincent Johnson responded with comments. The Committee discussed the advertising subcommittee's revised draft, including changes to make prior to publication. Brad Johnson addressed the Committee on issues related to the advertisement of verdict or settlement amounts. The Committee further discussed the revised draft of the proposed rules, including the issue of trade names. Professor Robert Schuwerk provided feedback to the Committee regarding the proposed rules.

The Committee discussed including a summary of the revised proposal on lawyer advertising rules in the publication of the revised proposal. Vincent Johnson will prepare the summary.

Mr. Ducloux made a motion to publish the revised proposal on lawyer advertising rules with the changes discussed and a public comment period to run through August 6, 2019. Vincent Johnson seconded the motion. The Committee voted in favor of the motion. The Committee will hold public hearings on the proposed advertising rules on June 6, 2019, and on July 23, 2019.

D. PROPOSED RULE 1.01. COMPETENT AND DILIGENT REPRESENTATION, TDRPC – DOCKET NO. 18-8

Mr. Kinard addressed the Committee on proposed changes to Rule 1.01 (Competent and Diligent Representation), TDRPC, including the timeline for action by the Committee. Vincent Johnson addressed the Committee regarding the rule proposal and the Committee responded with comments. The Committee discussed public comments received regarding the proposed rule. Professor Schuwert provided feedback to the Committee on the proposed rule. Vincent Johnson discussed the draft proposed comments to the proposed rule.

Mr. Ducloux made a motion to recommend the proposed changes to Rule 1.01 to the Board of Directors. Vincent Johnson seconded the motion. The Committee voted in favor of the motion.

E. PROPOSED RULE 6.05. CONFLICT OF INTEREST EXCEPTIONS FOR NONPROFIT AND LIMITED PRO BONO LEGAL SERVICES, TDRPC – DOCKET NO. 18-7

Mr. Kinard addressed the Committee on proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services), TDRPC. Professor Schuwert provided feedback to the Committee on the proposed rule and the Committee responded with comments. The Committee further discussed the proposed rule and public comments received. The Committee will conduct a second public hearing on the proposed rule at its June 6, 2019, quarterly meeting.

F. PROPOSED RULE TIMELINES

Mr. Kinard addressed the Committee regarding proposed rule timelines.

G. AGENDA ITEMS FOR NEXT MEETINGS

Mr. Kinard addressed the Committee regarding the schedule for remaining meetings in 2019. The Committee rescheduled its July monthly meeting. The Committee will meet on July 23, 2019, and will hold a second public hearing on the proposed advertising rules on that date. The Committee will hold a quarterly meeting on September 3, 2019. The other scheduled meeting dates for 2019 did not change.

ADJOURNMENT

Mr. Ducloux made a motion to adjourn. Mr. Hagen seconded the motion. The Committee voted

in favor of the motion and the meeting adjourned at 11:45 a.m.