

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

August 8, 2018
Texas Law Center, Room 102
Austin, Texas

MINUTES

CALL TO ORDER

The meeting was called to order at 10:05 a.m.

In attendance: Chairman M. Lewis Kinard; Claude Ducloux; Amy Bresnen; Rick Hagen; W. Carl Jordan; Vincent Johnson; Timothy Belton and Jane King. Also present: Michelle Jordan, Staff Attorney and Cory Squires, Staff Liaison.

Not Present: Hon. Dennise Garcia

A. APPROVAL OF MINUTES

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

B. MEETING DATES

Cory Squires reviewed with the Committee their future meeting dates as well as the date of the public hearing concerning 18-3 and 18-4, which is October 10, 2018 at 10:00 a.m.

C. ADVERTISING RULES

Mr. Johnson delivered the Advertising Rules Subcommittee's report on the proposed new advertising rules. Mr. Johnson stated that the Subcommittee did recommend changes to the version that the Advertising Review Committee proposed. However, he noted the CDRR Subcommittee's version is highly consistent with the Advertising Review Committee's version.

Mr. Johnson discussed the Subcommittee's version of rules 7.01, 7.02, 7.03, 7.04 and 7.05. The Committee discussed the Subcommittee's versions of these rules. Mr. Johnson will redraft part of rule 7.03 to follow the ABA Model Rule concerning experienced users of legal services and forward those changes to the Committee. In rule 7.05, Mr. Johnson will correct a typo that has (a) (1) (xii) listed twice.

Mr. Johnson explained that the Subcommittee proposes the addition of a rule, rule 7.06, to the Advertising Review Committee's proposed version of advertising rules. He noted that the Advertising Review Committee did contain similar provisions in its proposed rule 7.03. The Subcommittee, however, recommends the retention of rule 7.06 as it exists today in the current Texas Disciplinary Rules of Professional Conduct.

Mr. Ducloux moved that, for docketing purposes, all of the Advertising Rules be consolidated as Docketed Request 18-6. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion.

D. COMMENTS TO PROPOSED RULES 18-3 and 18-4– INITIATED

Mr. Johnson discussed his draft comments to docketed proposed rule 18-3. Mr. Johnson noted that the draft comments are consistent with the ABA Model Rules and the Texas 2011 Referendum.

Mr. Ducloux made a Motion to adopt these comment changes as a recommendation to the Texas Supreme Court. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion.

Mr. Kinard will create a document that is a draft memo template that the Committee can use to send to the Texas Supreme Court recommending comments to the rules and he will circulate that document to the Committee.

Mr. Johnson discussed his draft comments to docketed proposed rule 18-4. Mr. Johnson noted that draft comments 1 through 8 were taken from the ABA Model Rules comments and the Texas 2011 Referendum. He also noted that comments 9 and 10 come from the ABA Model Rules comments. Mr. Ducloux made a Motion to adopt the comments and recommend them to the Texas Supreme Court at an appropriate time. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion.

E. COMMENTS TO PROPOSED RULES 18-1 and 18-2– NOT INITIATED

Mr. Ducloux discussed his draft comments to docketed proposed rules 18-1 and 18-2. The Committee discussed the proposed comments. Mr. Ducloux and Mr. Hagen will work on these comments together and they will give the Committee an update at the next meeting.

F. RULES PROCESS

Cory Squires gave the Committee an update on the status of the publication of 18-3 and 18-4. He also reminded the Committee that they would vote whether to initiate the advertising rules at the September meeting.

G. ANNUAL REPORT

Cory Squires stated that he has created a template for the annual report which he has provided to Mr. Kinard. Mr. Squires will add some substantive material as a partial draft and will circulate the document to the Committee.

ADJOURNMENT

Mr. Belton made a Motion to Adjourn. Mr. Johnson seconded the Motion. The Committee voted in favor of the Motion and the meeting adjourned at 11:25 a.m.