

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

September 4, 2018
Texas Law Center, Room 101
Austin, Texas

MINUTES

CALL TO ORDER

The meeting was called to order at 10:35 a.m.

In attendance: Chairman M. Lewis Kinard; Claude Ducloux; Amy Bresnen; Rick Hagen; Timothy Belton and Jane King. Also present: Ray Cantu, Director; Linda Acevedo, Chief Disciplinary Counsel; Michelle Jordan, Staff Attorney and Cory Squires, Staff Liaison.

Not Present: Hon. Dennise Garcia; W. Carl Jordan; and Vincent Johnson.

A. PUBLIC COMMENT

The Committee held a period for public comment. Marc Vockell and Trish McAllister spoke concerning a proposed rule 6.05 concerning conflicts of interest and pro bono representation. Richard Hile spoke concerning the proposed changes to the advertising rules.

B. APPROVAL OF MINUTES

The Committee reviewed the minutes from the August 8, 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.

C. MEETING DATES

Cory Squires reviewed with the Committee their future meeting dates. Mr. Squires will schedule and add a May 2019 meeting date to the list as well.

The Committee noted that it would have its first public hearing on October 10, 2018 and that the Chairman had ensured that it would be appropriately staffed.

D. ADVERTISING RULES

Speaking for the Advertising Rules Subcommittee, Mr. Ducloux discussed the changes made to the advertising rules. Specifically he spoke regarding rule 7.03(b) and the exception created regarding experienced users of legal services

Mr. Ducloux made a Motion to adopt the latest version to update 18-6 with the Subcommittee's latest changes regarding 7.03. The Motion was seconded by Ms. Bresnen. The Committee voted in favor of the Motion.

Mr. Ducloux made a Motion to initiate the rules changes docketed as 18-6. The Motion was seconded by Mr. Belton. The Committee voted in favor of the Motion.

The Committee discussed when it might be appropriate to make a Motion to publish these proposed rules under 18-6. The Committee decided that they would like to have the public hearing for these rules on the same day as their January 2019 meeting date.

E. PROPOSED RULES 18-3 and 18-4– INITIATED

The Committee discussed the status and the publication of these docketed requests.

F. PROPOSED RULES 18-1, 18-2, and 18-5– NOT INITIATED

The Committee reviewed the updated docketing statements for these docketed requests which note that the proposed rule changes are now to be only recommended comment changes.

G. PROPOSED COMMENT CHANGES

The Committee discussed Mr. Ducloux's memo as to suggested changes to the rule 1.05 comments. There was discussion about whether the comments should cite to specific statutes.

Mr. Hagen will review all the rules' comments to know where changes need to take place to eliminate references as to outdated rules or statutes.

Mr. Kinard will draft a document that can be used to recommend changes to the comments to the Supreme Court. The Committee plans to make reports to the Supreme Court suggesting comment changes and possibly minority views on the subject.

The Committee discussed the difference between suggesting comment changes before versus after a referendum.

The Committee decided that it was not necessary to send proposed comment changes to the Board of Directors prior to sending them to the Supreme Court. The Committee also discussed the possibility of acquiring a Board of Directors Liaison to this Committee.

H. RULES PROCESS

The Committee discussed the format of and policies concerning the redlining of proposed rules and comments.

The Committee discussed having the Committee webpage contain additional information about docketed requests. Mr. Squires will work with the IT department concerning including different types of additional information on the Committee webpage.

The Committee discussed timelines and when a referendum could possibly occur. The Committee also discussed logistics of the public hearing to be held October 10, 2018.

I. ANNUAL REPORT

The Committee discussed Cory's mock-up of an example of an annual report and discussed what the Committee would like to see in the annual report. Mr. Squires will ask for materials for the annual report from the Committee members. It was suggested that the report include some illustration of how the Committee fits into the overall rulemaking process.

J. AGENDA ITEMS FOR NEXT MEETING

The redline version of 18-6 should be completed and provided at the next meeting in October. The Advertising Rules Sub-Committee will provide redlining for 18-6, Rules 7.01 through 7.07.

An agenda item regarding a proposed rule 6.05 should be included for the next meeting.

There should be an agenda item concerning whether a Motion to publish 18-6 should be made.

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 1:05 p.m.