

**UTAH SUPREME COURT ADVISORY COMMITTEE
ON THE RULES OF EVIDENCE**

MEETING MINUTES

**Tuesday – February 13, 2018
5:15 p.m.-6:45 p.m.
Council Room**

Mr. John Lund, Presiding

<u>MEMBER PRESENT</u> Adam Alba Hon. Matthew Bates Deborah Bulkeley Mathew Hansen Ed Havas Chris Hogle John Lund Hon. Linda Jones Hon. David Mortensen Nicole Salazar-Hall Lacey Singleton Jacey Skinner Michalyn Steele Vernice Trease Teresa Welch Dallas Young	<u>GUESTS PRESENT</u>
<u>MEMBERS EXCUSED</u> Tenielle Brown Matt Hansen Terry Rooney	<u>STAFF PRESENT</u> Nancy Merrill Richard Schwermer

1. WELCOME AND APPROVAL OF MINUTES: (Mr. John Lund)

Mr. Lund welcomed everyone to the meeting.

Motion: Ed Havas moved to approve the minutes from the Evidence Advisory Committee

meeting on January 9, 2018. Chris Hogle seconded the motion. The motion carried unanimously.

2. Report to the Supreme Court

Mr. Lund reported that Rule 504 and the Committee note were approved by the Supreme Court and are out for public comment.

3. Rule 507 First Responder Peer Review (attached)

Ms. Skinner reported to the Committee that the legislature is proposing to create a statute defining what constitutes a peer support counselor. The Committee agreed to draft a parallel privilege rule. The Committee discussed the following concepts that should be included in the rule:

(a) Definitions:

- reference who qualifies as a peer support team members
- define trained by referring to 78B-5-901
- delete (5) "Trained" means.....in the proposed rule

(b) Statement of Privilege.

- after the word "firefighter" include the language "who has received peer support services"
- at the end of (b) delete "made by a person participating in peer support services to the peer support team member, including group therapy sessions."

(d) Exceptions.

- (1) and (2) delete the word "indicative" replace with the language "evidence"
- (3) delete the language "has a mental illness" replace it with "is mentally unfit"
- (4) will read "communication to the peer support team member that is evidence that the person receiving peer support team services has committed, plans to commit or conceals the crime."
- delete (5)

The Committee agreed that this should not be included in Rule 506, but should be a separate rule 507.

Motion: Judge Mortensen made a motion to recommend the revised draft of Rule 507 to the Supreme Court. The motion was seconded. The motion passed unanimously.

Ms. Skinner will take the revised draft to the Supreme Court for them to review.

4. H.B. 298 Victim Advocate Confidentiality Amendments (attached)

Ms. Skinner reviewed proposed H.B 298. She noted that the privilege in the proposed bill is broad. The Committee requested that Ms. Skinner talk to the sponsor to get more information about the impetus behind the bill before they agree to work on drafting a victim advocate confidentiality provision.

5. Rule 617 Eyewitness Identification (*attached*)

Mr. Lund updated the Committee on the meeting about Rule 617 with the Supreme Court. The Committee had further discussion about the Supreme Court's direction. The Supreme Court reviewed the criteria in subsection (b) and recommended revising some of the language; Judge Jones reviewed the edits to the language in subsection (b) (2), (4), (5) and subsection (D).

Mr. Lund and Judge Jones agreed to work together and circulate the new language to the Committee by email before bringing Rule 617 back to the Supreme Court.

6. Other Business

Next Meeting:

June 19, 2018
5:15 p.m.
AOC, Council Room