

**MINUTES OF THE SUPREME COURT'S  
ADVISORY COMMITTEE ON THE RULES OF PROFESSIONAL CONDUCT**

January 14, 2019

The meeting commenced at 5:10 p.m.

**Committee Members Attending:**

Steven G. Johnson, Chair  
Daniel Brough (by telephone)  
Tom Brunner  
Simon Cantarero  
Tim Conde (by telephone)  
Hon. James Gardner  
Joni Jones (by telephone)  
Hon. Darold McDade (by telephone)  
Hon. Trent Nelson (by telephone) (emeritus)  
Vanessa Ramos (by telephone)  
Cristie Roach (by telephone)  
Cory Talbot  
Katherine Venti (by telephone)  
Billy Walker

**Guests:**

None

**Members Excused:**

Phillip Lowry  
Amy Oliver  
Austin Riter  
Gary Sackett (emeritus)  
Padma Veeru-Collings

**Staff:**

Nancy Sylvester

**Recording Secretary:**

Adam Bondy

## **I. Welcome and Approval of Minutes**

Mr. Johnson determined quorum and welcomed the committee.

### **Motion:**

*Mr. Walker moved to approve the minutes from the December 3, 2018 meeting subject to one correction: Hon. Trent Nelson should have been listed as an emeritus member. Mr. Brough seconded the motion. The motion passed unanimously.*

## **II. Update: Supreme Court Comments on Rule 8.4(g)**

Mr. Johnson reported on the Supreme Court's concerns regarding proposed Rule 8.4(g) and Mr. Johnson and Mr. Cantarero proposed some changes to the rule. Mr. Cantarero explained the effect of the changes, which was to limit the scope of the rule to the listed laws. The committee discussed several possible new wordings for the rule. The committee proposed the following new wording:

(g) engage in conduct that is an unlawful, prohibited, or discriminatory employment practice under Title VII of the Civil Rights Act of 1964 or the Utah Antidiscrimination Act, except that for the purposes of this Rule and in applying those statutes, "employer" shall mean any person or entity which employs one or more persons; or

### **Motion:**

*Tom Bruncker moved to approve the new wording of proposed Rule 8.4(g). Hon. James Gardner seconded the motion. The motion passed unanimously.*

## **III. New Business: Attorney Advertising**

The advertising rules need to be reviewed to determine what changes, if any, are needed in light of reports that they are too restrictive.

### **Action:**

*New subcommittee formed: Daniel Brough (chair), Billy Walker, Hon. Trent Nelson, Steven Johnson, Joni Jones, Hon. Darold McDade*

## **IV. New Business Multi-Disciplinary Practice (MDP)**

Mr. Johnson reported on the ABA changing its course regarding allowing non-attorneys to own law firms, fee-splitting with non-lawyers, and other MDP issues. Accordingly, Utah is reevaluating its rules regarding MDP.

### **Action:**

*New subcommittee formed: Tom Bruncker (chair), Hon. James Gardner, Cory Talbot, Simon Cantarero, Gary Sackett, Tim Conde*

## **V. New Business: Rule 1.11 and Intern Policy**

Ms. Sylvester noted that we have been asked to examine Rule 1.11 to determine its impact on interns working for the court. Specifically, there is concern that supervising attorneys for outside employment may ask the intern to comment on current cases or other court internal processes.

### **Action:**

*New subcommittee formed: Cristie Roach (chair), Katherine Venti, Vanessa Ramos, Padme Veeru-Collings, Phillip Lowry*

## **VI. Comments re: Military and Military Spouse Practice Rules**

Mr. Johnson summarized the comments received regarding the proposed military and military spouse practice rules. Forty-seven comments in favor of the rule were received. Six comments against the rule were received, including from two members of the admissions committee members. The gist of the negative comments was that the rule risked lowering the standards for attorneys practicing in Utah by lowering the bar score needed to practice.

Mr. Johnson noted that Utah's required bar score is 270, that roughly half the states have passing scores lower than Utah's, and that the lowest passing score is Mississippi at 258—12 points less than Utah's. Mr. Bruner noted that even under the proposed rule, the subject lawyer would have to be supervised by an admitted Utah attorney (with a bar score over 270) and would have to maintain malpractice insurance. Mr. Walker noted that these conditions largely addressed the issues of protecting clients.

### **Motion:**

*Tom Bruner moved to recommend that the Court adopt the rule as written. Hon. James Gardner seconded the motion. The motion passed unanimously.*

Mr. Johnson noted that the definitions in the proposed rule need to be reordered to make logical sense.

### **Motion:**

*Cory Talbot moved to amend the order of the definitions list. Tom Bruner seconded the motion. The motion passed unanimously.*

## **VII. Comments re: RPC Rules Affected by Licensed Paralegal Practitioners**

Mr. Johnson reported that the proposed rules were published for comment and would come back to the committee at the next meeting.

## **VIII. Next Meeting**

The next meeting is scheduled for February 25, 2019, at 5:00 p.m.

**IX. Adjournment**

The meeting adjourned at 6:31 p.m.