

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

April 15, 2019

The meeting commenced at 5:04 p.m.

Committee Members Attending:

Steven G. Johnson, Chair
Daniel Brough
Tom Brunker
Simón Cantarero
Tim Conde
Hon. James Gardner (by telephone)
Joni Jones
Hon. Trent Nelson (by telephone) (emeritus)
Amy Oliver (by telephone)
Vanessa Ramos
Cristie Roach
Gary Sackett (emeritus)
Cory Talbot
Padma Veeru-Collings (by telephone)
Katherine Venti
Billy Walker

Guests:

Members Excused:

Phillip Lowry
Hon. Darold McDade
Austin Riter

Staff:

Nancy Sylvester

Recording Secretary:

Adam Bondy

I. Welcome and Approval of Minutes

Mr. Johnson determined quorum and welcomed the committee.

Motion:

Mr. Conde moved to approve the minutes from the February 25 meeting subject to two amendments: the April meeting was scheduled for April 15 and will not have discussion of intern policies. Ms. Jones seconded the motion as amended. The motion as amended passed unanimously.

II. Update: Regulatory Reform

Mr. Johnson discussed the recent non-committee meetings regarding reform and noted the call for non-lawyer ownership of law practices. Mr. Johnson explained that the current focus must be on who is to be protected and how. The committee will continue tracking the proposed reforms and offer input as needed.

III. Update: Committee Consistency Checklist

Ms. Sylvester reported that the committee consistency checklist has been created and is available on the committee's website at: <http://www.utcourts.gov/utc/rulespc/wp-content/uploads/sites/27/2019/04/RPC-Consistency-Checklist.pdf>.

IV. Update: RPC 14-802, URGLPP Rules 15-510, LPP Rules 1.13, 5.04, 6.01

The proposed rules were adopted by the Utah Supreme Court.

V. Update: RPC 14-302, 14-303, 14-510

Several suggestions and comments were received and reviewed. Two technical edits were proposed (change order of civility and professionalism, change complainant to complaint) and adopted. One comment in favor of allowing "a little verbal abuse" was considered. The committee discussed the fact that the proposed rule merely codifies Utah Supreme Court Standing Order 7, which has been in existence for quite awhile. No change was proposed.

Motion:

Judge Gardner moved to submit the proposed rules as amended to the Supreme Court. Mr. Brunner seconded the motion. The motion passed unanimously.

VI. Report: Attorney Advertising Subcommittee

Mr. Brough reported from the subcommittee and presented two alternative proposals from the subcommittee. The committee discussed attorney advertising including Legal Match regarding the line between advertising and a referral service. The rules on person-to-person advertising do not seem to implicate referral services. The committee also discussed the likelihood of coerciveness and how many discipline cases have actually

occurred. The rules are currently aimed at the alignment of a vulnerable client, an unethical lawyer, and incompetent or unprofessional representation resulting in harm.

A vote was taken as to which proposed rule to recommend to the Supreme Court. Option 1 would allow face-to-face advertising while option 2 would not. Option 1 received 7 votes, Option 2 received 6 votes, 1 member abstained.

VII. Report: MDP Subcommittee

Mr. Bruner reported from the subcommittee. The committee discussed the impact of non-lawyers offering legal services such as expungement of juvenile records and non-lawyers investing in upgrading or augmenting a law firm's IT capabilities. The committee discussed the possibility of relaxing the rules regarding sharing of legal fees versus the rules forbidding upfront investment. The committee recommended further review of Rule 1.5(e) to be discussed at the May meeting.

VIII. New Business: MDP Under Rule 5.5

New subcommittee formed to study issue. Chair: Ms. Roach. Members: Mr. Lowry, Ms. Ramos, Ms. Veeru-Collings, and Ms. Venti.

IX. New Business: Committee Membership

Mr. Johnson noted the committee members whose second terms are expiring and those whose terms are expiring but are eligible to serve another term. Mr. Johnson will send the eligible names to the Supreme Court. Mr. Johnson also asked that committee members encourage their small firm and solo practitioner colleagues to apply for the committee's vacancies when they are announced. Mr. Johnson mentioned that he has reached the end of his term as chair and will be stepping down.

X. Next Meeting

The next regular meeting is scheduled for May 20, 2019, at 5:00 p.m.

XI. Adjournment

The meeting adjourned at 6:39 p.m.