



## Utah Supreme Court's Advisory Committee on the Rules of Professional Conduct

### Meeting Minutes

June 6, 2023

Utah Law and Justice Center & Zoom

16:00 Mountain Time

*J. Simon Cantarero, Chair*

**Attendees:**

J. Simon Cantarero, Chair

Jurhee Rice

Joni J. Jones

Billy Walker

Austin Riter

Alyson McAllister

Hon. James Gardner

Robert Gibbons

Mark Hales

Hon. Trent Nelson

Hon. Amy Oliver

Julie J. Nelson

Phillip Lowry

Adam Bondy

Dane Thorley

Christine Greenwood

Hon. Mike Edwards

Hon. M. Alex Natt, Recording

Secretary

**Staff:**

Nancy Sylvester

**Guests:**

Justice John Pearce, Beth Kennedy, J.D. Lauritzen

Excused: Cory Talbot, Vice Chair

1. **Welcome, fond farewell to members, and approval of the May 2023 meeting minutes (Chair Cantarero)**

Chair Cantarero recognized the existence of a quorum, called the meeting to order at 16:07.

Justice John Pearce joined the meeting to thank Simon, Joni, and Phil on behalf of the Utah Supreme Court for their excellent service to the Court and the Bar.

Chair Cantarero asked the committee if everyone had an opportunity to review the minutes from the May 9 meeting. He noted that Judge Gardner should be added as an attendee to the meeting minutes and Scotti Hill will be removed as she did not attend the meeting.

Further he asked that in Section 2. rule 7.1. the minutes be corrected to show that the subcommittee recommended keeping 7.1(b).

With those changes, Judge Oliver moved to approve the minutes; Jurhee Rice seconded. The Motion passed by acclamation.

The Committee welcomed new Bar Ethics counsel Beth Kennedy and guest JD Lauritzen.

## **2. Rule 1.2 (Mr. Riter)**

The Chair asked Mr. Riter to update the Committee on cannabis advising rules. It is reported that the Supreme Court asked for a narrower rule. The Committee focused on the Virginia rule (line 147-149) of Tab 3. Judge Oliver suggested that the Committee keep the first sentence only of the Virginia rule. The Committee agreed. Lines 20-25, comment 12(a) on 120 and line 147-149 would be presented to the Supreme Court for its review.

Judge Oliver made the motion to amend rule 1.2 and comment 12a as described above. Mr. Riter seconded the motion. The motion passed by acclamation.

Mr. Lauritzen thanked the Committee for its work and was excused.

## **3. Rule 7.1 (Mr. Gibbons)**

The Committee turned its attention to Rule 7.1 and focused initially on in-person solicitation. Mr. Gibbons addressed the Committee and referenced the comments made regarding 7.1(c).

Chair Cantarero spoke to ABA model rule 7.3(b)(2) and asked if the subcommittee thought moving back to that rule would satisfy the Utah Supreme Court's concerns. Ms. Sylvester informed the Committee that the Supreme Court's concerns would not be satisfied.

The Committee discussed the proposed rule at length. Issues debated include whether the rule is intended to address specifically personal injury solicitation or any other instance where potential clients are particularly vulnerable. A

question was posed about who would make a subjective determination of vulnerability.

It was suggested that the issue of “initiation of communication” was key but that prospective clients should be able to obtain counsel at their initiation or has a familial, close personal, or prior business or professional relationship with the lawyer.

The Committee substantially redrafted the proposed rule section (c) during the meeting.

Ms. Jones made a motion to adopt the redrafted 7.1 (c) language and comment 12. Mr. Walker seconded. The Motion passed and this language will be forwarded to the Supreme Court for review.

The Committee moved on to 7.1(d) regarding referrals. It is decided that proposed 7.1(d) will not move forward.

#### **4. Rule 8.4(c) (Ms. Jones)**

Ms. Jones updated the Committee on the status of the review of the proposed rule and the comments received from the Supreme Court to date.

Ms. Jones made a motion to adopt the language suggested by Justice Pohlman. Mr. Walker seconded the motion. The motion passed unanimously. The language will be referred back to the Supreme Court for its consideration.

August 1, 2023 is the next meeting of the Committee.

The meeting adjourned at 5:51 pm.