

# DRAFT MINUTES

FOR THE

## ATTORNEY ETHICS ADVISORY COMMITTEE

February 20, 2020

9:30 a.m.

State Courts Building, 1501 West Washington Street, Phoenix, Arizona  
Conference Room 109

### **Present**

Hon. Paul McMurdie (Chair)  
Hon. John Napper (Vice Chair)  
Kimberly Demarchi  
Anne Schrock  
Charles Thomson  
Geoffrey Trachtenberg  
Angela Woolridge

### **Telephonically Present**

Sheena Singh Chiang  
Maria Hubbard  
Regina Nassen  
Maret Vessella  
Michael Aaron

### **Absent**

Hon. Kim Ortiz  
Jon Sands

### **Staff**

Michelle Martinez  
Brianna Farmer  
Christine Davis  
Ashley Mahoney  
Ashleigh Hansen  
Dominique Cidro

### **Guests**

Ann Ching  
Patricia Sallen  
Nancy Greenlee

**No. 1 Review and Approve January 30, 2020 Minutes**

**Motion:** Approve January 30, 2020 Minutes  
**Moved by:** Charles Thomson  
**Second:** Geoffrey Trachtenberg  
**Motion Passed** 9-0-5

**No. 2 Discussion and possible action regarding:**

- Ethics Opinion Request EO-20-0003

Hon. Paul McMurdie presented.

EO-20-0003 addresses the question of whether it is ethical for a bankruptcy lawyer to use a credit line to pay for funding for bankruptcy fees.

**Motion:** Establish a subcommittee to further review EO-20-0003.  
**Moved by:** Geoffrey Trachtenberg  
**Second:** Charles Thomson  
**Motion Passed** 9-0-5

Subcommittee will include Geoffrey Trachtenberg, Hon. Paul McMurdie and Charles Thomson.

**Note:** Hon. John Napper joined the meeting after vote.

- Ethics Opinion Request EO-20-0004

Hon. Paul McMurdie presented.

EO-20-0004 addresses the question of whether it is ethical for a lawyer to become involved in a case revolving around the use of medical marijuana when there is conflict between state and federal law.

The Committee requested State Bar Ethics Counsel, Christine Davis, to conduct research on what other jurisdictions have done regarding conflict between the state's Medical Marijuana Act and federal law.

**Motion:** Establish a subcommittee to further review EO-20-0004  
**Moved by:** Hon. John Napper  
**Second:** Charles Thomson  
**Motion Passed** 10-0-4

Subcommittee will include Hon. Paul McMurdie, Hon. John Napper, Regina Nassen and Maret Vessella.

**Note:** Sheena Chiang joined the meeting after vote.

- EO-19-0003 Public Comments

Angela Woolridge discussed the public comments received regarding EO-19-0003.

The comments generally revolved around the limitations of social workers and defined what constitutes a need for mandatory reporting. When a third-party professional must be engaged, the lawyer must acknowledge the possibility the professional may have a duty to report and disclose this to the client.

The Committee requested the subcommittee further review the submitted comments and provide an edited draft at the next scheduled meeting.

**Note:** Michael Aaron joined the meeting.

- Former State Bar Ethics Opinion 15-02

Agenda item deferred.

**No. 3 Update and possible action regarding Ethics Opinion drafts:**

- EO-19-0004/0005/0007

Brianna Farmer presented EO-19-0004/0005/0007 final draft with the dissenting members' comment added.

The Committee approved the draft to be posted for public comment.

- EO-19-0006

Hon. John Napper and Regina Nassen presented EO-19-0006 final draft for discussion and approval.

**Motion:** Approve draft and post for public comment.

**Moved by:** Geoffrey Trachtenberg

**Second:** Charles Thomson

**Motion Passed** 12-0-2

- EO-19-0010

Sheena Chiang presented.

The Committee suggested the subcommittee add citations to the states mentioned in the draft and edit the language to clarify what constitutes a waiver by the client for confidential information to be released.

The Committee will provide the subcommittee any additional edits within the next 2 weeks. Charles Thomson will draft a dissent.

**Motion:** Subcommittee edit draft opinion and provide a final draft.

**Moved by:** Hon. John Napper

**Second:** Geoffrey Trachtenberg

**Motion Passed** 11-1-2

- EO-20-0001

Charles Thomson presented.

EO-20-0001 reviews State Bar's Ethics Opinion 09-02, which addresses the issue of confidentiality when a lawyer is fired or withdraws from a case regarding transfer to new council.

The Committee will provide the subcommittee any additional edits within the next 2 weeks.

**Motion:** Subcommittee edit draft opinion and provide a final draft.

**Moved by:** Hon. John Napper

**Second:** Kimberly Demarchi

**Motion Passed** 12-0-2

- EO-20-0002

Angela Woolridge presented.

EO-20-0002 reviews State Bar's Ethics Opinion 95-03, which addresses recordings of telephonic conversations of opposing council.

The Subcommittee will develop an outline to provide to the Committee.

**No. 4 Discussion and possible action regarding topics to be addressed at future meetings**

No new topics discussed.

**No. 5 Call to Public**

None.

**Next Meeting:**

**Thursday April 30, 2020**

**9:30 a.m.**

**Adjourned:** 10:44 am