



**COLORADO SUPREME COURT
ADVISORY COMMITTEE ON THE PRACTICE OF LAW**

MEETING MINUTES

March 17, 2023, 12:07 p.m. – 2:14 p.m.

Hybrid meeting conducted in person and via Zoom

Members present in person: Chair David W. Stark, Hon. Adam Espinosa, Dr. Carolyn Love, Hon. Andrew McCallin

Members present via Zoom: David Beller Cynthia Covell, Steve Jacobson, Henry (Dick) Reeve (joined at 1 p.m.), Sunita Sharma, Brian Zall

Members absent: Nancy Cohen, Alison Zinn

Office of the Presiding Disciplinary Judge: Presiding Disciplinary Judge Bryon Large

Staff present: Jessica Yates, Attorney Regulation Counsel; Margaret Funk, Chief Deputy Regulation Counsel; Dawn McKnight, Deputy Regulation Counsel; Ryann Peyton, Executive Director, Colorado Attorney Mentoring Program (CAMP); Amy Phillips, Assistant Director, Colorado Lawyer Assistance Program (COLAP) (via Zoom); Jonathan White, Assistant Regulation Counsel, Office of Attorney Regulation Counsel

Guests: Hon. David Furman, Colorado Court of Appeals (via Zoom); Ret. Hon. Angela Arkin

1. Approval of the December, 2022 Meeting Minutes

The Chair asked if members had any suggested revisions to the draft minutes of the December meeting. Hearing none, he requested a motion to approve the minutes. Dr. Love so moved, and Judge Espinosa seconded. The committee unanimously approved the minutes.

2. Consideration of Five-Year Budget and Revenue Projection and Possible Registration Fee Increase

Ms. Yates included information in the packet of materials distributed prior to the meeting showing five-year financial projections for the Office of Attorney Regulation Counsel (OARC), the Office of the Presiding Disciplinary Judge, COLAP, and CAMP. Collectively, the projections point to the need to increase annual registration fees for active and inactive attorneys to avoid unsustainable reserve spending in coming years. The Colorado Supreme Court last raised the annual registration fee in 2014, and through prudent fiscal measures and growth in the number of active attorneys in Colorado, an increase has not been necessary until now.

Some of the factors necessitating an increase include vendor expense increases, IT security, maintaining competitive staff salaries, and system upgrades, which include replacement of the JustWare case management software used by OARC and the Office of the Presiding Disciplinary Judge. OARC also anticipates costs associated with administration of the Colorado bar examination will increase with time. Moreover, should the number of active attorneys decline, which is a possibility given the number of active Colorado attorneys over age 70, it will impact registration revenues.

Ms. Yates presented two scenarios for raising the annual registration fee. One involves an increase in the annual registration fee by \$60, and another proposal increases the annual registration fee by \$100. Neither contemplates that the registration fee for lawyers licensed three years or less would rise beyond the current \$190 fee set in C.R.C.P. 227(1)(a).

Members discussed various scenarios and the issue generally, including whether to increase fees for inactive attorney registration. There were several comments that Colorado's registration fees are relatively low compared to those in other jurisdictions. Judge McCallin moved to propose the court increase the annual attorney registration fee to \$425 while leaving the fee at \$190 for lawyers with three years or less of licensure. Ms. Covell amended the motion to add that in addition to raising the fee for active attorney registration to \$425, the inactive attorney registration fee should increase from \$130 to \$150. Mr. Beller seconded the motion. The motion passed unanimously.

3. Consideration of Forming a Subcommittee to Develop Proposed Changes to the Student Practice Rule, C.R.C.P. 205.7.

Members formed a subcommittee to explore changes to the Student Practice Rule to address two distinct issues. One would be allowing law student interns or externs to practice in appellate courts. The other would extend the time a student could practice under the rule to include a second bar exam administration. The subcommittee would meet quickly with the goal of proposing changes for the Advisory Committee's consideration at its May meeting.

4. Discussion and Approval of Advisory Committee's Proposed Changes to Protocols

Mr. Reeve joined the meeting at 1 p.m.

In the packet of materials sent in advance of the meeting, members received a set of protocols for complaints regarding employees of OARC, the Office of the Presiding Disciplinary Judge, CAMP, and COLAP. Ms. Yates explained that the protocol changes do not significantly change or add to current procedures. Currently, a personnel subcommittee of the committee addresses these complaints.

Under the proposed protocols, the Chair receives all complaints. Complaints pertaining to conduct of the Presiding Disciplinary Judge, Attorney Regulation Counsel, or attorneys of their offices, and that involve violations of the Colorado Rules of Professional Conduct, will be forwarded to the Chair of the Legal Regulation Committee. Other complaints involving the executive directors of either CAMP or COLAP and that involve violations of the Colorado Rules of Professional Conduct, will be referred to OARC. Meanwhile, complaints falling outside the Colorado Rules of Professional Conduct related to the conduct of the Presiding Disciplinary Judge,

Attorney Regulation Counsel, or the executive directors of CAMP and COLAP will be reviewed by a personnel subcommittee of this committee, whose members the Chair appoints. General complaints regarding an employee of any of the four separate offices will be referred to the head of the office for review, a possible personnel investigation, and any further action.

Members discussed potential modifications. These included adding the word “also” to the paragraph concerning personnel investigations. The intent is to allow the head of the office to receive notice of any complaint against an attorney employed by that office when the conduct involves the Colorado Rules of Professional Conduct.

Mr. Reeve moved to approve the protocols and recommend them to the Colorado Supreme Court with inclusion of the word “also” in the paragraph concerning personnel complaints about employees of an office. Mr. Jacobson seconded. The motion passed unanimously.

5. Legal Regulation Committee’s Proposed Changes to Practices

Mr. Jacobson discussed recent changes to the Legal Regulation Committee (LRC’s) List of Practices. The changes memorialize procedures in place for many years. An intent behind them is to clarify LRC’s practices so that respondent lawyers and their counsel understand the practices better. The revisions also changed the applicable rule citations to those under C.R.C.P. 242, which became effective July 1, 2021. Mr. Jacobson noted that the Advisory Committee did not need to approve these practices, however, he wanted to apprise members of these changes.

6. Licensed Legal Paraprofessional Program Update

The Colorado Supreme Court opened a public comment period on proposed rules to create a licensed legal paraprofessional (LLP) program. It also held a public hearing on the proposed rules last November. The rules remain under review by the court. Members received copies of the proposed rules in the packet of materials distributed before the meeting. These include proposed rules of professional conduct, and rules outlining the scope of authority for LLPs. Judge Arkin noted that the scope of authority removes a previously-proposed income and asset cap.

Judge Arkin told members that assuming the court decides to implement a program, it will be important to form an implementation committee. In addition, the proposed rules to implement a LLP program include an oversight committee, the Licensed Legal Paraprofessionals (LLP) Committee, that would have eleven members. At least six members of the LLP Committee must be licensed attorneys, and at least two of them must be non-lawyers. The Chair and Ms. Yates have started outreach to fill some of the positions on the LLP Committee. The committee formed a subcommittee for input on nominations for member positions on the LLP Committee.

7. Discussion of Bar Exam Concerns Raised by Recent Law School Graduates

Several recent graduates of the University of Denver Sturm College of Law have met with Justice Márquez, Justice Hart and Justice Samour concerning their experiences taking the bar exam. These recent graduates provided suggestions for certain changes to the process. Among their suggestions are making available example essay answers, as well as reconsidering the timing of when individual score results become available as opposed to the entire pass list. Ms. Yates mentioned the Law Committee may consider certain suggestions in the future.

8. Discussion of Proposed Language to C.R.C.P. 242.5 Defining a Standard for Disqualification of Attorney Regulation Counsel in Certain Matters

The Chair discussed proposed language to add to C.R.C.P. 242.5 that would create a standard for when Attorney Regulation Counsel shall disqualify themselves or a member of their staff from an investigation or prosecution. Members received a copy of the proposed addition to C.R.C.P. 242.5, which would create a new subparagraph (f), in the packet of materials distributed prior to the meeting. The standard is the same as that used for a prosecutor's disqualification. The proposed language references screening devices, and it notes that Attorney Regulation Counsel may request the Legal Regulation Committee appoint a special prosecutor.

Judge McCallin moved to approve the proposed language and recommend it to the Colorado Supreme Court. Mr. Reeve seconded the motion. The motion carried unanimously.

9. Update on Mandatory Pro Bono Reporting Project

The Chair reported that a proposal arising out of the Delivery Committee of the Access to Justice Commission to require mandatory pro bono reporting with a lawyer's annual registration has been put on hold. The proposal requires allocation of resources not available at this time. The Chair said the Delivery Committee may revive the proposal next year.

10. Consideration for Renewed Approval of the Colorado Lawyers Helping Lawyers (CLHL) for Designation as a Peer Assistance Program

The Chair received a request from CLHL for renewed approval as a peer assistance program pursuant to C.R.C.P. 253. Members received information regarding CLHL's mission and funding in the materials provided before the meeting. Mr. Reeve moved to reapprove CLHL as a peer assistance program and recommend its reapproval to the court. Judge McCallin seconded. The motion carried unanimously.

11. Consideration for approval of the Office of the State Public Defender's (OSPD) Peer Support Team (PST) for designation as a Peer Assistance Program (Stark).

The Peer Support Team of the Office of the State Public Defender also submitted an application for renewed approval pursuant to C.R.C.P. 253 as a peer assistance program. Members received information on the organization's application with materials distributed prior to the meeting. Mr. Reeve moved to approve the Peer Support Team's application and recommend it to the court. Mr. Beller seconded the motion. The motion carried unanimously.

12. Discussion of 2023 Volunteer Celebration

Ms. Yates sought input on the timing and location of the 2023 celebration recognizing volunteers serving on committees that assist court-supported offices. The celebration held in September 2022 was well-received. Members recommended a similar format and timing.

13. Committee Appointment – Attorneys' Fund for Client Protection

Judge Espinosa, Chair of the Attorneys' Fund for Client Protection, sought members' approval to recommend Kim Van Dyke, a Grand Junction lawyer, for appointment to the Fund's

board of trustees. Ms. Van Dyke has practice experience in criminal law, which will provide helpful insights to the board of trustees. She also has experience running her own law firm. Mr. Reeve moved to recommend the court appoint Ms. Van Dyke to the board of trustees. Judge McCallin seconded. The motion carried unanimously.

14. Other Updates

a. Office of the Presiding Disciplinary Judge

Judge Large continues efforts to identify companies to perform necessary courtroom upgrades, including making technological enhancements.

Judge Large requested the committee approve the nomination of Daniel Vigil to the list of hearing board volunteers. Mr. Vigil is Assistant Dean Emeritus at the University of Denver Sturm College of Law, and he is a former member of this committee. The committee approved Mr. Vigil's nomination unanimously.

Judge Large continues to seek additional hearing board members.

b. CAMP

Ms. Peyton provided a report to the committee in advance of the meeting. She commented that CAMP has seen greater demand for peer-to-peer group mentoring than one-on-one mentoring, and CAMP's metrics for 2022 reflect this shift. Also in 2022, CAMP saw a 33% increase in the number of requests for CLEs and professional development events. Overall, she reported CAMP has seen growing interest in education surrounding professionalism and diversity topics.

In January, CAMP welcomed the largest Legal Entrepreneurs for Justice (LEJ) cohort since the program's inception, consisting of six participants. Also in January, the Colorado Well-Being Recognition Program for Legal Employers launched. CAMP manages and leads this program, and is working to engage Colorado legal employers. So far, 20 legal organizations consisting of over 1,000 Colorado lawyers have committed to the program. Information on the program can be found at coloradolawyerwellbeing.org.

CAMP will release its 2022 annual report in April.

c. COLAP

Ms. Phillips reported COLAP saw an increase in contacts after the holidays, which the organization expected. COLAP has also seen a rise in the number of requests for presentations. COLAP continues efforts to enhance services and support for law students who did not pass the bar examination. Meanwhile, COLAP will be cross-training COLAP volunteers with some CAMP mentors.

d. OARC

Ms. Yates said OARC seeks additional members for the Character and Fitness Committee's pool of hearing board volunteers.

15. Remaining 2023 Meeting Dates

- May 19, 2023
- September 22, 2023
- December 8, 2023

16. Executive Session

The meeting concluded at 2:14 p.m. after which members met in Executive Session pursuant to supreme court rules to discuss a confidential matter.

/s/ Jessica E. Yates _____
Jessica E. Yates
Attorney Regulation Counsel