



**COLORADO SUPREME COURT
ATTORNEY REGULATION ADVISORY COMMITTEE**

MEETING MINUTES

December 8, 2017, 12:05 p.m. – 1:15 p.m.

Extra Large Conference Room

Office of Attorney Regulation Counsel

1300 Broadway, Suite 500

Denver, Colorado 80203

Members present: Chair David W. Stark, Nancy Cohen, David Little, Melissa Meirink, Barbara Miller, Dick Reeve, Alec Rothrock, Daniel Vigil, and Brian Zall attended via teleconference.

Members absent: Cynthia Covell, Mac Danford, Cheryl Martinez-Gloria, and Richard Nielson.

Liaison Justices present: Justice Nathan Coats and Justice Monica Márquez

Office of the Presiding Disciplinary Judge: Presiding Disciplinary Judge William Lucero

Staff present: James C. Coyle, Attorney Regulation Counsel; Margaret Funk, Chief Deputy Regulation Counsel; Ryann Peyton, Director, Colorado Attorney Mentoring Program (CAMP); Barbara Ezyk, Executive Director, Colorado Lawyer Assistance Program (COLAP); Jonathan White, Staff Attorney, Office of Attorney Regulation Counsel.

I. Approval of September 8, 2017, Meeting Minutes

The Chair convened the meeting and asked if members had read the minutes from the Advisory Committee's September meeting. Mr. Reeve moved to approve the meeting minutes. Ms. Miller seconded the motion. The minutes were approved.

II. Update on New Proposed Rules on Conditional Admission, CLE, as well as Discipline, Disability, and Contempt

Mr. Coyle explained that he has worked with staff attorneys from the Office of the Presiding Disciplinary Judge – Ginette Chapman, Cori Peterson, and Alexa Salg – to improve the disciplinary/disability rule, and to specifically separate disability issues from discipline. This group also reviewed the contempt rule. Beginning in January, a larger working group chaired by Mr. Stark and including Ms. Chapman, Ms. Cohen, Mr. Coyle, Ms. Ezyk, Ms. Peterson, Mr. Reeve,

Mr. Rothrock, Ms. Salg, and Mr. White will beginning meeting every other week to work on refinements to the disciplinary rules to bring them into the 21st century.

The Court, meanwhile, will hold a January hearing to address the recently-submitted proposed amendments to the Rules Governing the Practice of law that create a conditional admissions procedure and revamp the continuing legal and judicial education credit process. The amendments are to C.R.C.P. 208.4, 208.5, 209, 211, 211.2, and 251.28 creating a conditional admissions procedure, as well as to C.R.C.P. 260 and a new C.R.C.P. 250 to update the mandatory continuing legal and judicial education process. The public hearing will take place on January 10, 2018, at 3:00 p.m.

III. Review of proposed amended Rule 252.10

Ms. Funk presented on proposed amendments to C.R.C.P. 252.10, the rule governing the eligibility of claims for the Colorado Attorneys' Fund for Client Protection ("the Fund"). The revisions apply to situations where a lawyer dies unexpectedly and money is missing from the lawyer's trust account but this may not be due to dishonesty. Money could be missing due to the lawyer moving money for administrative reasons. It is also possible that a lawyer had not completed a billing cycle at the time of his or her unexpected death. In these situations, it is not necessarily the case that a lawyer has stolen money, and it is often challenging to prove dishonesty in order for a claim to proceed. Further, the lawyer is not available to speak for him or herself. Accordingly, the Board of Trustees of the Fund recommends the Advisory Committee approve and submit to the Court revisions to C.R.C.P. 252.10. These revisions would allow the Board to consider a claim made in circumstances of a lawyer's death or disability and where a determination cannot be made as to whether the lawyer involved engaged in dishonest conduct or earned the funds. The proposed revisions require a judicial determination of disability in order for a claim to be considered. Mr. Reeve moved to approve the proposed revisions and submit them to the Court. Mr. Vigil seconded. The motion passed.

IV. Hiring process – Executive Director of Colorado Lawyer Assistance Program and Attorney Regulation Counsel

Ms. Ezyk will retire from her position as Executive Director of the Colorado Lawyer Assistance Program (COLAP) on June 30, 2018. Mr. Coyle will also retire from his position as Attorney Regulation Counsel the same day. The Advisory Committee needs to appoint a personnel committee to conduct a search for replacements. Ms. Cohen, Mr. Jacobson, Mr. Reeve, Mr. Vigil, and Mr. Zall volunteered to serve on the committee. Mr. Stark will chair the committee. Justice Márquez will serve as a liaison justice. The court would like this committee to propose one name for Executive Director of COLAP and three names for Attorney Regulation Counsel. Ads for applications for both positions will appear in January 2018 and applications will be accepted through late February.

V. Approval of nominations and reappointments for other permanent committees as follows:

- (a) Board of Law Examiners – Law Committee: Law Committee Chair Richard Nielsen asks the Advisory Committee to recommend attorney Vincent Morscher for appointment to the Law Committee. Mr. Morscher will fill one position on this committee, effective January 1, 2018. He shall serve a seven-year term.
- (b) Board of Law Examiners – Character and Fitness Committee: Character and Fitness Committee Chair Brian Zall asks that the Advisory Committee recommend appointment of David Beller to fill one open attorney position on this committee for a seven-year term beginning January 1, 2018. Mr. Zall also recommends the reappointment of Mr. Reeve to a two-year term on the committee. Mr. Reeve has already served five years on the committee. An additional two-year appointment will fulfill his seven-year term limit. Additionally, Mr. Zall recommended appointment of Dr. Kimberly Nordstrom to a five-year term on the committee, which will fulfill her seven-year term limit.
- (c) Board of Continuing Legal and Judicial Education: Continuing Legal and Judicial Education Board Chair David Little asked the Advisory Committee to recommend Judge Andrew McCallin and Sam Starritt for additional two-year terms on the board.
- (d) Unauthorized Practice of Law Committee: Unauthorized Practice of Law Committee Chair Cheryl Martinez-Gloria recommends that Samantha Halliburton and Charles Spence receive the Advisory Committee’s recommendation for their reappointment to the committee. Each would serve an additional three-year term.
- (e) Board of Trustees for the Client Protection Fund: The Chair of the Board of Trustees for the Client Protection Fund Chair, Charles Goldberg, asks that Katayoun Donnelly be recommended for reappointment by the Court for another three-year term. In addition, Mr. Coyle asked the Advisory Committee to reappoint Mr. Goldberg to an additional three-year term as Trustee and Chair.

Ms. Miller moved to collectively approve these several nominations and reappointments. Mr. Rothrock seconded her motion. The motion passed. Mr. Reeve abstained from voting.

VI. Other Updates

- (a) Colorado Attorney Mentoring Program (CAMP)

Ms. Peyton provided a report on CAMP's metrics. She discussed that there has been substantial progress on the metrics. For example, the number of mentees who applied to CAMP doubled in 2017 over 2016. There was a 63 percent increase in the number of mentees matched over the last year. Ms. Peyton said that she is pleased CAMP has maintained the integrity of matching mentors and mentees within the program's 21-day timeframe while experiencing this increase in volume. Ms. Peyton mentioned that with the program's expansion, CAMP's Chronus mentoring software seats are at capacity. She will need to expand the platform in 2018.

CAMP has an active calendar of events in the new year. There are four categories of events that correspond to CAMP's four main focus areas: Leadership Development, Practice Readiness, Practical Skills Training, and Professionalism & Wellness. Ms. Peyton has developed programs with outside experts in all four focus areas. New programming also includes "BaseCAMP" training for mentees on the mentoring relationship and building a professional identity. Additional programming features "But I'm Not a Mentor" training for mentors to improve mentoring and counseling skills. CAMP is also moving to a webinar-based format for its programs as a complement to live presentations.

CAMP has begun exploration of the "mentoring circles" concept. These give mentees the opportunity to collaborate with each other on mentoring topics and issues. Ms. Peyton also detailed CAMP's 2018 Marketing & Communications Strategy, an aspect of which includes direct word-of-mouth communications. Such an approach tends to be very successful in creating buy-in and interest.

A member asked whether CAMP has sufficient resources available to handle continued growth and expansion. Ms. Peyton said that personnel growth will be important to maintain the integrity of the matching process. Mr. Coyle stated that the current financial resources of the regulatory offices are healthy and would be able to accommodate personnel growth. The Advisory Committee determined to address this issue at upcoming 2018 meetings. The March 2018 committee meeting will be an opportunity to exchange thoughts and ideas about the program's expansion. The May 2018 meeting will provide an opportunity to review the budget going into the 2018-2019 fiscal year.

(b) COLAP

Ms. Ezyk reported that staff member Carrie Bowers has been working to select a new database. COLAP's current database, App River, will not be supported after April 2018. COLAP has selected Abacus Data Systems for its new database, which will hopefully be running by the end of January. The new database unites confidentiality and encryption. It is reasonably priced.

Ms. Ezyk reported that COLAP continues to be a national model for lawyer assistance programs. She has been asked by her counter parts to share information on succession planning for lawyers and lawyer assistance program directors. Ms. Ezyk further detailed that the program has also received international attention. At a Navigating the Bar event at the University of Denver Sturm College of Law this fall, Ms. Ezyk met a visiting professor from China. This introduction has since led to a collaboration between COLAP and delegates from China focusing on programs

to help lawyers succeed. Ms. Ezyk along with Mr. Stark, Ms. Funk, Ms. Peyton, volunteer Scott Meikeljohn, and Colorado Supreme Court Justice Richard Gabriel recently hosted a Chinese delegation and discussed COLAP.

(c) Office of Attorney Regulation Counsel

Mr. Coyle informed the Advisory Committee that Ms. Funk is now Chief Deputy Regulation Counsel. In addition, Greg Sapakoff re-joined the Office on December 1 as Deputy Regulation Counsel in charge of the trial division.

Online registration for Colorado lawyers began December 1 and runs through February 28, 2018.

Mr. Coyle also announced that the new Colorado Lawyer Self-Assessment Program's online platform went live this October. Mr. White mentioned that lawyers can use either the online platform or a print/PDF version of the survey to complete the program and apply for up to three general and three ethics continuing legal education credits. The Office has worked to promote the voluntary program through print publications. Articles and blog posts have appeared throughout the past several months in publications ranging from *The Colorado Lawyer*, *Bloomberg BNA*, the Colorado Trial Lawyers Association blog, CBA-CLE Legal Connection Blog, to a Better Business Bureau (BBB) broadcast to lawyers who belong to the BBB. In addition, the Office of Attorney Regulation Counsel has promoted the program in CLE seminars, including at a University of Colorado Law School alumni homecoming reunion CLE seminar, a Colorado Defense Lawyers Association seminar, and through existing professionalism, ethics, and trust account school programs. Ms. Ezyk has distributed information about the program to her counterparts, and they have responded enthusiastically.

Mr. Coyle said that a working group of the Proactive Management-Based Program (PMBP) subcommittee led by Mark Fogg has drafted a proposed court rule to establish the program and make the process confidential. That working group will be meeting in the coming weeks to make final revisions to the proposal. Their proposal will be presented to the Advisory Committee either at the March 9, 2018, meeting or beforehand over email.

Mr. Coyle further reported that the Colorado Attorneys' Fund for Client Protection remains financially sound. Based on its financial stability, a small portion of the fund will now be used to support inventory counsel programs. Inventory counsel complements the client-protection mission of the Fund. While claims to the Fund drop as the Office promotes proactive practices for lawyers, inventory counsel volume continues to grow as the lawyer population ages.

Mr. Coyle concluded by mentioning that the Office recently received a public records request for all his travel expenses for the last two years from KDVR Channel 31 Denver. The Office plans to submit its response the week of December 11.

(d) PALS Subcommittee

Mr. Rothrock, Chair of the Providers of Alternative Legal Services Subcommittee, reported that the subcommittee continues to explore licensure or certification options that would allow non-lawyers to perform certain legal tasks. The subcommittee continues to gather facts based on members' visitation to courthouses in urban and rural jurisdictions and their assessment of county court needs. Members have interviewed self-represented litigants and spoken to court staff, including judges. At the subcommittee's November meeting, the group developed a list of what they hope non-lawyers can do to help self-represented parties better navigate the court system but also not encroach too far into the practice of law. Mr. Rothrock noted that Washington state's Limited License Legal Technician (LLLT) program remains a program that the subcommittee has looked to guide its thinking.

VII. 2018 Meeting Dates

The Advisory Committee will meet on the following dates in 2018:

- March 9;
- May 11;
- September 7;
- December 7.

The meeting adjourned at 1:15 p.m.

s/s James C. Coyle

James C. Coyle

Attorney Regulation Counsel