

## **Meeting Minutes: Joint Committee on Attorney Standards**

**August 29, 2025 Meeting  
10:00 a.m. Call to Order**

**Zoom**

### **Members Present**

Prof. Michael McGinniss, Chair  
Taylor Olson  
Hon. Jerod Tufte  
Judge Charles Neff  
Tom Dickson  
David Barrett  
Kayla Effertz Kleven  
Joe Morrissette  
Leah Carlson  
Peter Zuger  
Mike Krumwiede  
Abby Siewart  
Kara Erickson

### **Members Absent**

### **Others Present**

Sara Behrens, Staff Attorney  
Tony Weiler, Staff, Executive Director, State Bar Association of North Dakota  
Petra Hulm, Clerk of the Court and Secretary/Treasurer, Board of Law Examiners  
Travis Finck, Executive Director, Commission on Legal Counsel for Indigents

Chair McGinniss called the meeting to order and welcomed new member Kara Erickson. He then directed members' attention to the minutes from the May 23, 2025 meeting. No corrections were needed and the minutes were approved.

Justice Tufte was difficult to hear as he was traveling, so agenda item two was held until Justice Tufte reached an area with better reception.

### **Board of Governors' Letter – North Dakota Rules of Professional Conduct 1.2 and 1.7, and Rule for Lawyer Discipline 3.1**

The Board of Governors was satisfied with the proposed amendments but did offer a suggestion regarding the comment to North Dakota Rule of Professional Conduct 1.2. The suggestion was to add language mirroring the requirements in the comment to Professional Conduct Rule 1.7 regarding disclosure of conflicts. Mr. Finck explained the Commission on Legal Counsel for Indigents does not see an issue with the comment as is. He stated that piece was omitted because

Rule 1.2 is discussing the scope of representation and Rule 1.7 is discussing conflicts of interest. Ms. Erickson tends to agree with Mr. Finck, but also does not think it hurts anything to include the sentence. Mr. Dickson believes it should be left out if it is not needed. Mr. Zuger moved to send a letter to the Supreme Court with a recommendation to adopt the proposed changes in Professional Conduct Rules 1.2 and 1.7, and in Rule for Lawyer Discipline 3.1 without revisions. Ms. Carlson seconded. Ms. Erickson suggested providing an explanation of why the Committee does not think inclusion of the conflict provision is necessary. Mr. Zuger accepted the friendly amendment to his motion as did Ms. Carlson and the motion carried.

### **Amendments to North Dakota Rules of Professional Conduct 1.4 and 1.15**

Chair McGinniss confirmed that the proposed amendments to North Dakota Rule of Professional Conduct 1.4 and the new referral of proposed amendments to Professional Conduct Rule 1.15 are closely related and would be discussed together.

As requested at the last meeting, Ms. Hulm had provided information regarding the number of lawyers reporting that they do not carry malpractice insurance. Regarding the proposal to add a question to the licensing renewal statement requiring the name of the malpractice insurer and a policy number, she confirmed it would be an easy addition; but she also explained the Board of Law Examiners is still of the opinion that this is not the correct place to gather such information. She noted that it only provides information for that snapshot in time, as there is no requirement to update the information throughout the year. She stated most people do not know that the information is collected, and they receive very few requests for the information.

Mr. Dickson's issue with the Supreme Court's numbers provided by Ms. Hulm is that lawyers are saying they have insurance when they do not. That is why he made the suggested amendment to Rule 1.15. He does not believe the rules are enacted in order to punish lawyers who violate them; rather, the rules are enacted to encourage lawyers to perform the actions they direct them to do. He stated the question could easily be added to the renewal form and may encourage lawyers to tell the truth. He explained there are two major carriers in North Dakota: ALPS and Minnesota Lawyers Mutual. The minimum coverage available is \$200,000. He does not know if the required question would encourage lawyers to get insurance, but he does believe it will encourage them to be truthful.

Mr. Weiler stated this is something that has been discussed at the State Bar Association for quite some time. Two states require malpractice insurance and a number require disclosure. There are 104 lawyers indicating they "go bare." He had a conversation with Insurance Commissioner Godfreed, who expressed his view there should be something requiring disclosure to a client if malpractice insurance is not carried. Mr. Weiler is not sure that coverage limits need to be specified.

Mr. Barrett agreed with Mr. Dickson that the insurance carrier and policy number should be disclosed on the form. He is unsure, however, that requiring written disclosure to clients is

needed at this point. He noted that Minnesota collects this information, and when a lawyer's name is searched on the court website, the attorney's malpractice carrier is disclosed. Chair McGinniss asked Ms. Hulm if it is correct that an individual can request the information that a lawyer has provided on the form, but that it is not something an individual could look up on their own. Ms. Hulm confirmed that is correct.

Ms. Erickson noted the form would just be a snapshot in time. Chair McGinniss asked if there is a duty to notify the Board if licensing information changes. Ms. Erickson stated they would have ten days. Ms. Hulm agreed that certain licensing information has to be updated within ten days, but this information is not licensing information. She does not receive updated IOLTA information.

Mr. Dickson moved to recommend adoption of the proposed amendment to Rule 1.15 and send the recommendation to the Board of Governors for its comments. Mr. Barrett seconded and the motion carried.

Mr. Zuger asked Mr. Dickson if he had objections to the proposed changes to Rule 1.4. Mr. Dickson does not believe the Rule, as currently proposed to be amended, would be workable. He does not believe any lawyers will actually provide such a disclosure when meeting with a client for the first time. He stated the problem is with solo practitioners. Government lawyers do not have to have insurance and large firms provide insurance and receive reduced rates. Mr. Zuger suggested that the Rule require the lawyer to inform the client if the lawyer does not maintain insurance rather than getting into the coverage details. Mr. Dickson believes it is a bad idea, period, and that lawyers will not do it.

Chair McGinniss noted that most attorneys utilize a retainer agreement and the disclosure could be added to that agreement. The proposal does not require an oral notification or explanation. Mr. Dickson explained not every lawyer on every case uses a retainer agreement. He simply sends a letter on flat fee criminal matters. Mr. Zuger believes lawyers should tell clients if they do or do not maintain insurance in writing, but he does not think they should be required to go into coverage details. Ms. Effertz Kleven is in favor of the disclosure requirement, but indifferent to the minimum coverage levels.

Mr. Zuger moved to recommend part of the revision. He recommends keeping lines 19-21 up to "liability insurance" on page 48 of the materials, and striking the remainder of subsection (c). Additionally, he recommends striking lines 86-91 on page 50 of the materials and comment 7 after "disclosed to clients" on page 51 of the materials. Ms. Siewart seconded and the motion carried.

### **Re-referral of North Dakota Admission to Practice Rule 3**

Justice Tufte explained the Supreme Court reviewed the proposed amendments to Admission to Practice Rule 3 and noted what appears to be a error in proposed amended Rule 3(C) whereby certain business agencies appeared to have been inadvertently excluded. Justices Tufte and Bahr drafted proposed corrections for this Committee to review. Justice Tufte believes that with these corrections, the proposed amendments to the rule better express what was intended. Ms. Erickson moved to send the version of Rule 3(C) drafted by Justices Bahr and Tufte to the Supreme Court to replace the prior version. Mr. Barrett seconded and the motion carried.

### **Purdue Global Law School Petition to Amend the North Dakota Admission to Practice Rules**

Purdue Global submitted a petition to amend Admission to Practice Rules 1, 3, and 3.3 to allow a graduate of a non-American Bar Association (ABA)-accredited law school to sit for the bar exam. The Committee's staff attorney drafted a memorandum with further information, and both the Board of Law Examiners and the Office of Disciplinary Counsel submitted written comments as invited by the Committee.

Chair McGinniss summed up the comments, stating the existing system allows applicants who have graduated from a non-ABA-accredited law school to petition for an approval to sit for the North Dakota Bar Exam; but this is done on an applicant-by-applicant basis. Though not historically successful, it has not been attempted often. The recommendation from the Board is to keep the current process rather than making a rule change. Ms. Hulm confirmed that Chair McGinniss had correctly summarized the comments. She added that the comments were directed at the proposal for allowing graduates of non-ABA-accredited law schools to take the bar exam and not at motion practice, which could be considered separately.

Justice Tufte noted the memorandum mentioned the Chief Justice potentially reconstituting the commission on lawyer licensing. He expressed the view that would be an appropriate venue for consideration of the proposal and a change to motion practice. He is quite confident the Chief intends to put that commission back together. It may be better to send this back with no recommendation for approval or denial.

Mr. Krumwiede moved to report back to the Supreme Court that the Committee does not recommend adopting any rule changes based on the petition at this time, but that further consideration, if any, could perhaps be taken up by the other workgroup. Justice Tufte seconded and the motion carried.

The next meeting will be on December 8, 2025 at 10:00am.