



The Florida Bar

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THE FLORIDA BAR PROFESSIONAL ETHICS COMMITTEE

AGENDA

**Friday, June 28, 2019
2:00 p.m. until 5:00 p.m.
Boca Raton, Florida**

1. Approval of the minutes of the January 18, 2019 meeting.
2. Report on the Masters Seminar on Ethics 2019 by subcommittee chair Carolyn Johnson Levine. No backup.
3. Report on Standing Committee on Advertising action regarding the Professional Ethics Committee request to amend Rule 4-7.18 on solicitation. The Standing Committee on Advertising voted 7-0 at its April 3, 2019 meeting to request that staff draft revisions to the proposal for its consideration at its June 27, 2019 meeting. Backup includes the Subcommittee on Solicitation's January 29, 2019 memo, the Solicitation Subcommittee's draft amendments, and the amendments as redrafted at the direction of the Standing Committee on Advertising at its April 3, 2019 meeting.
4. Review of a request to amend the Florida Bar Procedures for Ruling on Questions of Ethics by the Standing Committee on Unlicensed Practice of Law to give ethics opinions to foreign and out-of-state lawyers who are subject to the Rules Regulating The Florida Bar. The committee voted 26-0 to direct staff to draft amendments to the procedures to allow staff to give oral opinions to out of state lawyers, to allow staff to give written opinions to out of state lawyers that the bar keeps registration information for, and clearly indicate that staff will not determine whether the out of state lawyer is authorized to provide the services or whether the Rules Regulating The Florida Bar apply to the out of state lawyer. Backup includes letter from Standing Committee on Unlicensed Practice of Law Chair Dwayne Dickerson (dated November 1, 2018), list of authorized legal activity in Florida for out-of-state lawyers (dated December 27, 2019), and alternative drafts (the first draft allows only oral advisory staff opinions to be given to out of state lawyers who are providing authorized legal services; the second draft allows oral advisory staff opinions to be given to out of state lawyers who are providing authorized legal services and allows written advisory staff opinions to be given only to Florida authorized house counsel and foreign legal consultants).

5. Review of Florida Bar Staff Opinion 39264 at the request of the inquirer. The staff opinion concludes that a law firm may not be held in trust, even if all trustees are Florida Bar members, nor may the law firm be held as tenants in the entirety by 2 spouses who are both Florida Bar members. The inquirer seeks review only of whether the 2 spouses may hold their interests in the law firm as tenants by the entirety. Backup includes the original inquiry, Florida Bar Staff Opinion 39264 (dated February 11, 2019), the inquirer's request for Professional Ethics Committee review (dated February 21, 2019), Florida Statutes Chapter 621, and relevant Florida case.

6. Consideration of withdrawal of Florida Ethics Opinion 76-37 at the request of bar staff in light of amendments to Rule 4-1.5(h). The opinion concludes that a lawyer may accept payments through credit plans and must absorb the fee charged against the funds by the credit plan. Rule 4-1.5(h) was amended effective March 5, 2019 to permit lawyers to pass the actual cost of credit plans to clients. Backup includes official notice of intent to consider withdrawal, new Rule 4-1.5(h) and Florida Ethics Opinion 76-37.

7. Consideration of a request by committee member Anne Dalton to post Florida Bar staff opinions on The Florida Bar's website. Backup includes Bylaw 2-9.4, Rules Regulating The Florida Bar; Florida Statutes 16.01 (Attorney General Opinions); and Florida Attorney General FAQ.

8. Discussion of other items at the direction of the chair. No backup materials.

9. Discussion of the future meeting schedule. The next meeting of the Professional Ethics Committee is tentatively scheduled for Friday, October 18, 2019 from 9:00 a.m. until 12:30 p.m. at the Tampa Airport Marriott. Professional Ethics Committee 2019-20 Meeting Schedule is attached.