



The Ethics Committee

Not So Mysterious After All

BY AMY DEVAN

It has been an honor to serve as chair of the CBA Ethics Committee for the past year. One of the things I've enjoyed the most is the interaction I've had with CBA members about the work we do. The most common question I've been asked is, "How does the Ethics Committee work?" In fact, I've answered this question so often I thought it might be nice to give CBA members some insight into the Ethics Committee—why we exist, how we function, and how we're here to serve you.

Who We Are

The Ethics Committee consists of CBA members who volunteer to serve the association and the

legal community overall. Unlike most CBA sections and committees, people cannot simply sign up to participate. Because of the workload and commitment involved, members must send a letter of interest along with a résumé or curriculum vitae to the CBA Sections and Committees staff indicating their desire to join the Ethics Committee.¹

Requests to join the Ethics Committee are reviewed in the summer, and new members usually begin their terms in August so they can attend the first meeting of the fiscal year in September. Membership decisions are based in part on the number of spots available in a given year.

All Ethics Committee members serve one-year terms and are officially appointed or reappointed each year by the incoming CBA president. As long as a member is attending meetings and participating, there is no limit to the length of time he or she can serve. One of the valuable benefits of Ethics Committee membership is the ability to work alongside people who have been on the committee for many years; every interaction is a learning experience.

Member Expectations

The Ethics Committee meets on the third Saturday of every month at the CBA offices. Members are expected to attend at least half of the regularly scheduled meetings.

Because the Ethics Committee is a service-oriented commitment, members are also expected to:

- work on subcommittees to draft informal letter opinions requested by members;
- work on subcommittees to draft formal opinions issued by the committee;
- volunteer for the Calling Subcommittee to field ethics questions from lawyers calling the Ethics Hotline;
- travel around the state giving CLE presentations on ethics issues;
- write articles about ethics and professional responsibility for *Colorado Lawyer*, *Docket*, and other legal publications; and
- volunteer to serve the CBA in other capacities as needed.

Ethics Committee members who do not regularly attend meetings and contribute to the committee's work are not reappointed for additional terms.

What We Do

The Ethics Committee provides advice to lawyers on issues of ethics and professional responsibility. This advice is based primarily on the Colorado Rules of Professional Responsibility, supplemented by case law, American Bar Association (ABA) resources, opinions from other states, and other resources as appropriate.

The most frequent and immediate interaction lawyers have with the Ethics Committee is through the Ethics Hotline, which is staffed

by members of its Calling Subcommittee. The Ethics Hotline typically receives more than 1,000 calls each year and is one of the most valuable services the Ethics Committee provides.²

Most lawyers in Colorado are also aware that the Ethics Committee issues formal opinions, another valuable resource. Located on the Ethics Portal of the CBA website,³ the formal opinions cover a wide array of topics and are the best place to start when lawyers have questions about the Colorado Rules of Professional Conduct. Formal opinions issued by the Ethics Committee are often cited by other states and the ABA in their opinions, and we work hard to make sure the advice we are giving is helpful and sound. The committee decides on formal opinion topics based on a variety of factors, among them calls to the Ethics Hotline—if there is a trend around a specific topic, that often will find its way into a formal opinion.

CBA members sometimes voice understandable frustration about how long it takes the Ethics Committee to issue opinions. It's helpful to remember that the process of issuing the opinions can be lengthy because we are working hard to get it right. We don't always agree, and not all opinions are unanimous. But opinions are passed by a majority of the Ethics Committee and, once passed, represent the opinion of the full committee. That doesn't mean we won't revisit the opinions if a need arises later, and several opinions on the website have been withdrawn or updated to reflect changes in the law or in the Colorado Rules of Professional Conduct.

What's New?

To achieve greater efficiency, the Ethics Committee recently passed changes to our rules to streamline some of our procedures. We hope these new procedures help us become more nimble in meeting the needs of CBA members.

As discussed above, the Ethics Committee, through its Calling Subcommittee, staffs the popular Ethics Hotline to field—often urgent—questions from lawyers on issues of ethics and professional responsibility. Many people may not know that the committee also drafts informal letters in response to member inquiries.⁴ While most questions can be answered in one phone

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call, some questions require greater thought or detail, and some members prefer a letter that they can refer back to if their question is a bit more complicated. In the past, it could sometimes take members one or two months to receive their letter, as all letters were subject to full committee review. Under the newly revised Ethics Committee rules, each letter need not be reviewed by the full committee; the chair or a small subcommittee may prepare and send a response. This ensures members receive a more timely response to their ethics questions. The Ethics Committee's new goal is to send a response within 21 days.

Additionally, we continue to explore topics in the field of ethics and professional responsibility that we think will be useful to members in their daily practice. We have implemented shorter opinions covering more discrete topics, while limiting longer, more thorough opinions to topics that require greater depth and discussion. Our hope is to get pertinent, time-sensitive information to our members more efficiently than we have in the past.

We encourage members to share with the Ethics Committee opinion topics that would be

helpful to practitioners generally. This furthers our goal of ensuring that we give members the information they need.

How to Participate

I am proud to be a member of the Ethics Committee, and I count the people who sit in that room with me each month as among my dearest friends and most influential mentors. I have learned something from every one of them. We welcome interest in the Ethics Committee, and we hope to continue to attract members who want to volunteer to join us and bring new energy and a new perspective.

Furthermore, we always welcome feedback from members about the work we are doing. If you have questions about the Ethics Committee, please reach out to me—or any committee member. We look forward to talking with you! 



Amy DeVan oversees Wheeler Trigg O'Donnell's conflicts clearance review and analysis system, and serves as ethics counsel for the firm. Before joining WTO in 2016, she founded and managed Principle Legal Consulting, which proactively helped lawyers and law firms comply with ethical rules and regulatory requirements—devan@wtotrial.com.

NOTES

1. CBA staff liaisons for the Ethics Committee are Melissa Nicoletti, melissan@cobar.org, and Amy Sreenen, asreenen@cobar.org.
2. CBA members can access the Ethics Hotline by calling the CBA at (303) 860-1115 or (800) 332-6736 (in-state).
3. www.cobar.org/ethics.
4. CBA members can submit a letter inquiry by emailing the Ethics Committee at ethicsinquiry@cobar.org.

CONTRIBUTE

Bar News Highlights feature law-related events and news around Colorado. Please send articles (or article ideas) to Susie Klein at sklein@cobar.org for consideration.