

# Understanding the Pending Changes to the Texas Disciplinary Rules *Rules Vote Referendum 2021: **Passed!***

**A look at the Process**  
**What are the Next Steps?**  
**How Will Law Practice Change in Texas?**

*Presenters:*

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**Members, Committee on Disciplinary Rules and Referenda  
and Brad Johnson, Staff Counsel**



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## Process: How The CDRR was Created



- **HISTORICAL FAIL:** The 2011 referendum required an “up or down” vote on several complex packages of amendments.
- The entire referendum failed.
- As part of the Sunset review process for the SBOT, the Legislature in 2017 passed Senate Bill 302, which created the CDRR.
- The CDRR is tasked with considering all ethics-reform proposals, and moving good proposals forward through an open process that welcomes comments from lawyers and members of the public.
  - CDRR proposals are submitted to the SBOT Board for possible approval.
  - Ultimately, each proposal approved by the SBOT Board is submitted to the lawyers of Texas through a referendum.

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# Objectivity and Perspectives



- Makeup of the Committee: lawyers and non-lawyers.
- Multiple perspectives and opinions on proposed changes.
- Each proposed rule is reviewed from the perspective of a busy practicing attorney:
  - Do I understand the rule?
  - Does this change make sense for the profession and the public?
  - Will the proposed rule unnecessarily complicate law practice?
  - And ... finally ... can we teach others what the rule means and how it applies?

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# Purpose of the Changes



- Modernize the ethics rules for the Digital Age.
- Review ethics-reform proposals from all sources:
  - Lawyers, the public, sections of the bar, the courts, and the SBOT.
- Improve, clarify, and simplify the ethics rules applicable to all Texas lawyers.
- Protect the interests of the public.
- Replace or eliminate provisions that are not working.
- Address the needs and issues faced by aging lawyers and clients.

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# Robust Input From Texas Lawyers



The CDRR has benefited from:

- Extremely thoughtful input from the lawyers of Texas.
- Hundreds of comments received from the public.
- Detailed advice and insight offered by law professors and private practitioners.
- Numerous proposed edits from many sources, many of which have been implemented to improve the drafts.
- Valuable guidance from staff counsel, Brad Johnson, who provides legal and ethical expertise to the CDRR.

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# Eight Ballot Items Lawyers Voted On



- **A: Scope and Objectives of Representation**
  - Clients with Diminished Capacity.
- **B: Confidentiality of Information**
  - Exception to Permit Disclosure to Secure Legal Ethics Advice.
- **C: Confidentiality of Information**
  - Exception to Permit Disclosure to Prevent Client Death by Suicide.
- **D: Conflict of Interest**
  - Exceptions for Nonprofit and Limited Pro Bono Legal Services.

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