

**BOARD OF BAR COMMISSIONERS
AUGUST 11, 2022 MEETING MINUTES
Hyatt Regency Tamaya Resort & Spa, Santa Ana Pueblo**

MEMBERS PRESENT: Erin M. Atkins Mitchell Mender
Daniel J. Behles Jessica A. Perez
Allison H. Block-Chavez Brett Phelps
Aja N. Brooks Linda Sanders
Catherine A. Cameron Simone M. Seiler
Sean M. FitzPatrick Joseph F. Sawyer
Connie J. Flores Olga Serafimova
Parker B. Folse Benjamin I. Sherman
Tomas J. Garcia Lucy H. Sinkular
David P. Lutz Elizabeth J. Travis
Carla C. Martinez Carolyn A. Wolf

MEMBERS ABSENT: Robert Lara

OTHERS PRESENT: Kris Becker David Powell
Ian Bezpalko Stormy Ralstin
Hon. Carl Butkus Bill Slease
Evann Laird Richard Spinello
Pam Moore

I. CALL TO ORDER

A. Approval of May 20, 2022 Meeting Minutes

Commissioner Garcia made a motion to approve the May 20, 2022 meeting minutes; the motion was seconded and it passed. Commissioner Martinez abstained since she wasn't at the meeting.

II. STRATEGIC PLANNING

A. Three-Year Strategic Plan

Executive Director Richard Spinello provided an overview of the next three-year 2023-2025 Strategic Plan from the Board's Retreat in May. He explained that the plan starts with the mission which is set out in Rule 24-101A. The plan establishes an overall commitment to look at the rule to determine if it's still applicable and whether anything is missing that the State Bar should be doing. Five core goals were identified during the strategic planning session, including Enhanced Education, Annual Meeting, the State Bar and Bar Foundation Relationship, the Public outreach, and Communication. For each of those goals, the action items were included. Once the Board determines the core goals of the State Bar for the next three years and that all of the core goals are included in the document, a timeline will be developed and responsibilities assigned. The Board was asked to review the plan and bring any questions or comments prior to or at the October meeting for discussion prior to the Board's approval of the plan.

III. ACTION ITEMS

A. 2023 Officer Nominations

President Wolf requested nominations for the 2023 Secretary-Treasurer and President-Elect. Commissioner Atkins nominated Commissioner Brooks for Secretary-Treasurer for 2023. No other nominations were received. Commissioner Sinkular made a motion to close nominations; the motion was seconded and it passed. Commissioner Sherman nominated Commissioner Atkins for President-Elect for 2023. No other nominations were received. Commissioner Lutz made a motion to close nominations; the motion was seconded and it passed. The 2023 officers will be elected at the October meeting.

B. Revised Memorandum of Understanding

President Wolf reported that the joint committees met on August 2 to finalize the amendments to the Memorandum of Understanding between the State Bar and the Bar Foundation. The original MOU was entered into with the Foundation in 2019, and it was drafted to reflect how things were handled between the organizations at that time. Amendments were made to the MOU to reflect the new relationship between the State Bar and the Bar Foundation, including the governance section and communication between the boards. The State Bar will be handling the administrative work for the Bar Foundation, and the two Executive Committees will meet twice a year to discuss joint issues between the organizations. The other major section was the addition of an informed consent to waive general counsel conflicts and other senior staff, including the executive director and the director of finance, as well as board members who serve on the boards of both organizations. Judge Butkus reported that one of the other issues discussed was the indemnification clause and the problems that might arise if both organizations are involved in a joint lawsuit. They decided to leave it in for now and each organization will research the issue and make recommendations, if necessary. Commissioner Sinkular made a motion to approve the revised MOU; the motion was seconded and it passed. It was noted that now that new MOU has been approved, the two subcommittees will be disbanded.

IV. COMMITTEE REPORTS

A. Executive Committee Report

President Wolf reported on the following Executive Committee meetings and action taken by the committee:

1. The committee met on June 29 to approve the Annual Awards Committee's recommendations for the 2022 award recipients.
2. The committee approved an additional late fee waiver request by email.
3. The committee approved a request from Executive Director Spinello for an inflation adjustment through an additional paycheck for staff in June.
4. The committee approved a resolution to amend the 401(k) plan to bring it into compliance with the new laws that were passed; the deadline to submit the new resolution was July 1.
5. The committee discussed a recent RFP issued by the AOC in regards to administration of the Medical Review Commission and decided to not submit a proposal in response to the RFP and to tell the AOC that if there is an opportunity in the future, we would be happy to consider assisting at that time.

Commissioner Travis made a motion to ratify the action taken by the Executive Committee; the motion was seconded and it passed.

B. Annual Awards Committee Recommendations for 2022 Award Recipients

Annual Awards Committee Chair Robert Lara was unable to attend the meeting, so Commissioner Lutz reported on the 2022 award recipients, which were included in the materials, to be presented during the Annual Meeting. He noted that Pam Moore was selected to receive the new Excellence in Well-Being Award. The other recipients include: Juan Abeyta, Distinguished Bar Service Non-Lawyer Award; Michael P. Fricke, Judge Sarah M.

Singleton Distinguished Service Award; Judge James J. Wechsler and Quentin P. Ray, Justice Pamela B. Minzner Professionalism Award; Pojoaque Pueblo Tribal Court, Outstanding Legal Organization Award; Intellectual Property Law Section Pro Bono Fair, Outstanding Legal Program Award; Outstanding Young Lawyer of the Year Award, Lauren E. Riley; Darlene T. Gomez, Robert H. LaFollette Pro Bono Award; and Judge Henry A. Alaniz, Seth D. Montgomery Distinguished Judicial Service Award.

C. Finance Committee Report

The Finance Committee met the day before the Board meeting, and Secretary-Treasurer Atkins reported on the following:

1. Approved the May 18, 2022 Meeting Minutes;
2. Reviewed the June 2022 Financials; Director of Finance Powell presented the highlights and noted that the first half of the ATJ awards were disbursed in June. There was a significant increase in prepaid expenses, which is due to the insurance policies being renewed. PDC rentals are under budget, but staff is evaluating the rentals and assessing technology needs. Compensation is at 54 percent due to the additional payroll. Secretary-Treasurer Atkins made a motion to accept the June 2022 Financials and the motion passed;
3. Reviewed the CPF, ATJ and JLAP Second Quarter 2022 Financials which were provided for informational purposes only. Director of Finance Powell noted that the CPF contributions were so high because of an attorney who passed away and the Commission paid the claims to the clients. Three of the deceased attorneys didn't have a proper balance in their IOLTA accounts. Other states require audits of their trust accounts to increase compliance. President Wolf reported that there have been discussions about the large balance, but just three attorneys can increase the number of claims, so the CPF Commission isn't supportive of reducing the large cash balance. There is a big difference in the amount of claims filed and approved and there are a significant number of claims that are denied. The other reason to not reduce the amount of the CPF is if the Commission decides to take some proactive steps reduce the number of claims, including trainings.
4. The next Finance Committee meeting is the budget meeting and is a longer meeting, so it will need to be held separately from the Board meeting scheduled for October 21; a Doodle poll will be sent out for that week.

D. Policy and Bylaws Committee Report

Co-Chair Sherman reported that the committee met on June 21 to discuss amendments to Article IX of the State Bar Bylaws regarding the carryover of section funds. Current bylaws require that the amount left in the sections' accounts on December 31 reverts to the State Bar general fund. The Board allowed sections to carry over their funds the last two years due to COVID. The committee recommended a bylaw change so that the funds rollover automatically without the sections having to request a carryover of their funds at the end of each year.

The sunset provision was also amended to require a review of the sections every four years. The committee anticipates that the Member Services Committee would do the initial evaluations of the sections, review their reports and determine whether they're spending their dues money and then come back to the Board with recommendations. Commissioner Sherman made a motion out of committee to approve the Bylaw amendments to Article IX and the motion passed.

E. Legal Specialization Commission Report

Chair Bobbie Batley wasn't able to attend the meeting, so General Counsel Ralstin reported that the Legal Specialization Commission established two paths to specialization, one of which encourages attorneys to partner with national legal specialization organizations, while the other path requires subcommittees of the Specialization Commission to write specialized exams specific to the practice area for which specialization is offered. The extensive accomplishments of the Commission so far include writing specialization specific policies and procedures, establishing relationships with testing experts, the ABA Legal Specialization Commission, and other state Legal Specialization programs.

V. INFORMATIONAL ITEMS

A. ATJ Fund Grant Commission Recommendations

The Access to Justice Fund Grant Commission report was included in the materials. General Counsel Stormy Ralstin reported that the Commission met in May and awarded \$900,000 in grants to 10 civil legal service providers. There were a couple of new providers this year, and the grants ranged from \$15,000 to \$266,000. The recipients included Access to Justice Commission, Disability Rights of NM, DNA People's Legal Services, El Calvario United Methodist Church, Enlace Comunitario, NM Center on Law and Poverty, NM Immigrant Law Center, NM Legal Aid, Pegasus Legal Services for Children, and Santa Fe Dreamers Project.

B. State Bar President Report

President Wolf reported on the following:

1. She reappointed Quinn Lopez to the Risk Management Advisory Board for a four-year term.
2. She reported on the Annual Meeting programming and events, and she thanked Commissioner Sinkular for hosting the Oklahoma State Bar President and his wife. She also thanked Commissioner Lutz for agreeing to serve as the emcee for the Annual Awards Ceremony in Commissioner Lara's place.
3. She attended the Jackrabbit Bar Conference in Deadwood, South Dakota. It was a smaller group of attendees, but they had very good programming. She reported on two programs that South Dakota is doing, one of which is a Native American outreach program where a group of individuals talk to high school students about higher education and going to law school. They have also received approval and an appropriation from their legislature to subsidize lawyers in rural areas. This program requires the county where the attorney wants to practice to also contribute to the subsidy.
4. The October Board meeting will be followed by a member appreciation reception since that week is member appreciation week. The UNM Alumni Dinner is that evening as well, so the Board meeting will start earlier and the Finance Committee meeting will be held on a different day that week. She also noted that the December meeting was changed from December 7th to the 14th due to the Court's availability.

C. NM State Bar Foundation President Report

Judge Butkus reported that the Bar Foundation Board met the day before the Board meeting and approved the revised MOU. The Board is assessing their functions and will be meeting with the fundraising consultant in November. He attended the National Conference of Bar Foundations virtually and there was programming on the relationship between Bar Foundations and State Bars nationally.

D. Executive Director Report

Executive Director Richard Spinello's written report was included in the materials. He reported on the expansion of the Volunteer Attorney Pool Program that is run by NM Legal Aid. At the last Legislative Session, the AOC received an appropriation to expand the program, and the AOC issued an RFP for the expansion. The Bar Foundation was asked to apply to take on the role of expanding the VAP Program, so a proposal was submitted and the Bar Foundation was selected. The Bar Foundation will be hiring three new employees to administer the program. General Counsel Ralstin reported that anyone that has a conflict or that doesn't meet the requirements of Legal Aid will be referred to this expanded program. The program is specifically designed to cater to modest and moderate-income people. It will be modeled after LREP and former LREP Director Kasey Daniel has been hired to run the program; she has a wide background of working with legal service providers and the court. The program will also assist small business owners.

E. State Bar Representative Reports

1. Senior Lawyers Division

Senior Lawyers Division Delegate Dan Behles reported that the Division met on July 19 and is focusing on their memorial scholarship program. The ceremony will be at the State Bar on Nov. 15. The Division awards scholarships to students who write essays in memory of deceased members and they invite the families of the deceased attorneys to the ceremony. They would like to try to increase the scholarship amount that they award. The other project of the Division is the oral history project and he asked the Board to forward names of attorneys or judges to interview.

2. Young Lawyers Division

Young Lawyers Division Chair Jessica Perez reported that their next meeting is Saturday. They'll be discussing their budget to be presented to the BBC at the October meeting. With the fires in the state, there have been more requests for disaster relief assistance and Wills for Heroes Clinics, so they are going to request an increase in their budget for those next year. They sent three members to the ABA Annual Meeting and will continue to send members to that conference. They awarded rebate scholarships for the annual meeting this year; they had 13 applicants and randomly awarded 10 partial scholarships.

3. Paralegal Division

Paralegal Division Chair Linda Sanders reported that the Division held an Indian Law CLE and had good attendance including five attorneys. Their CLEs are a lot less expensive and their May CLE was free. They have a full day CLE in December and offer lunch and learns throughout the year at no cost to their members with about a third of their members attending the luncheons. They have 14 new members and are doing several networking events in the fall. They will have an exhibitor table at the Annual Meeting and a luncheon for their members with about 50 paralegal members attending. They're also finalizing plans for their second annual Paralegal Symposium in person in Roswell.

4. Bar Commissioner Reports

- a. President-Elect Sherman reported that he attended the National Conference of Bar Presidents in Chicago. The conference is an opportunity for current, future and past bar presidents and leaders to get together and learn about what the other bar associations are doing. He also served on the ATJ Fund Grant Commission and the ATJ Commission which meets periodically and deals with access to justice issues in NM; they're working on a website where people can get information and assistance. Other bars are discussing the sandbox and other options for providing assistance to people.
- b. Commissioner Brooks reported that she also attended the National Conference of Bar Presidents since she served on the planning committee. It was a good conference with a lot of great takeaways. She also noted that she's excited that the Bar Foundation is going to be taking up the new VAP Program initiative.
- c. Commissioner Atkins reported that there was an officer killed in the line of duty in Alamogordo and his will was done through Wills for Heroes. In the wake of the anniversary of his passing, the fallen officer memorial was destroyed, so the 12th Judicial District Bar is working with fallen officer's memorial board which is run by retired Judge Irene Counts. They voted to donate money to that and are planning a Wills for Heroes event in conjunction with the donation in the fall.
- d. Commissioner Lutz reported that Commissioner Lara won the primary election; he had no opponent so he will become a judge in Las Cruces on January 1. He also reported that Commissioner Lara is planning Legal Aid Clinics throughout Dona Ana County in September. Commissioner Sherman noted that the Strategic Planning Retreat in Las

Cruces and the CLE with the judges panel were great, and he thanked them for their assistance with the planning. President Wolf reiterated that the retreat was great, and the BBC will be looking at doing more regional events and mini annual meetings.

- e. Commissioner Sawyer reported that Justice Zamora and Judge Baca came to Farmington to speak to their local bar members. He also reported that he served on the Supreme Court's Ad Hoc Committee for the Recruitment and Retention of Attorneys in Rural New Mexico. His part of the committee was a rural practice survey with which Bill Slease assisted. They received the survey results in December and issued a report and recommendations which the Supreme Court accepted. The big three recommendations were a rule change for remote court appearances, a rural justice initiative and rural opportunity program, and a student loan repayment act. Judge Mowrer leads a Supreme Court committee to implement these recommendations, and the new committee has been focusing on the rural practice externship.

Commissioner Atkins reported that the committee met yesterday and the AOC is going to take over the administration of the externship incubator program, which Judge Mowrer is finalizing and presenting to the Supreme Court. They flushed out ideas and issues at their meeting, and it will require long-term placement rather than short term and will require the attorney to live in that area. The timing to get this approved is for the next Legislative Session.

- f. Commissioner Phelps reported that he represents the 4th and 8th Judicial Districts and they've been dealing with the fires, and he thanked the YLD which organized a legal fair to help with FEMA claims and insurance.

5. Supreme Court Board and Committee Liaison Reports

Commissioner FitzPatrick reported that he serves on the UJI Civil Committee and they often have trouble getting a quorum. He understands that the Policy and Bylaws Committee will be looking at the issue of whether liaisons serving on Supreme Court Boards and Committees should have a vote, which would be helpful in serving on that committee. He also mentioned the mandatory arbitration requirement in the Second Judicial District for cases under \$50,000 and that the rule was approved and most of the comments are negative. Members brought it up to him so he wanted to mention it to the Board. He chairs the Well-Being Committee which is a busy committee and he encouraged everyone to listen to the podcast.

6. ABA House of Delegates Report

ABA House of Delegates representative Bobbie Batley submitted a written report that was emailed to the Board prior to the meeting.

F. Cannabis Law Section Update

Cannabis Law Section member Brett Phelps reported that Cannabis is the newest section. It was formed in 2018 and they've grown from 100 members to 145 members. They're focused on educating members who are getting involved in this area; there have been a lot of interesting issues arise with cannabis. They've held the Annual Cannabis Institute during the Annual Meeting the last three years. This year they have some national speakers who are some of the pioneers of cannabis around the country, including Dr. Tiffany Bowden who will be providing an interesting perspective on cannabis. They have a couple of non-attorney members on their board and they provide practical knowledge on what can be done do to assist the cannabis industry. The section has gotten more involved with the law school and they now have a law school section. They've sponsored a couple of scholarships and sent them to national conferences. One of the biggest issues is water use related to cannabis production and two of the Annual Meeting panels are related to water law.

VI. OTHER BUSINESS

A. New Business

It was announced that the 2023 Annual Meeting is scheduled for July 26-29 and will be at the Hyatt Regency Tamaya again.

B. Adjourn

Commissioner Martinez made a motion to adjourn the meeting at 11:40 a.m.; the motion was seconded and it passed.