

**BOARD OF BAR COMMISSIONERS  
FRIDAY, APRIL 16, 2021 MEETING MINUTES  
Virtual Meeting via Zoom**

<b>MEMBERS PRESENT:</b>	Erin M. Atkins Elias Barela Allison H. Block-Chavez Aja N. Brooks Daniel J. Behles Ernestina R. Cruz Michael Eshleman Connie J. Flores Parker B. Folse Shasta N. Inman Robert Lara	Jesus L. Lopez David P. Lutz Carla C. Martinez Mitchell Mender Angela Minefee Joseph F. Sawyer Benjamin I. Sherman Constance G. Tatham Elizabeth J. Travis Carolyn A. Wolf
<b>MEMBERS ABSENT:</b>	Judge Kevin L. Fitzwater (ret.) Lucy H. Sinkular	
<b>OTHERS PRESENT:</b>	Chief Justice Michael E. Vigil Kris Becker Evann Laird Pam Moore David Powell	Stormy Ralstin Bill Slease Richard Spinello Gretchen Walther

**I. CALL TO ORDER**

**A. Welcome New Board Members**

President Martinez welcomed new members Elias Barela and Jesus Lopez to the Board.

Chief Justice Michael E. Vigil attended the meeting virtually to swear-in the new and recently appointed commissioners as follows: Allison H. Block-Chavez, 2<sup>nd</sup> Judicial District; Robert Lara, 3<sup>rd</sup> and 6<sup>th</sup> Judicial Districts; Elias Barela and Jesus L. Lopez, 7<sup>th</sup> and 13<sup>th</sup> Judicial Districts; Mitchell Mender, 9<sup>th</sup> and 10<sup>th</sup> Judicial Districts; Michael Eshleman, Out-of-State District; Shasta N. Inman, Young Lawyers Division Chair; and Angela Minefee, Paralegal Division Liaison.

**B. Approval of February 5, 2021 Meeting Minutes**

Commissioner Travis made a motion to approve the February 5, 2021 meeting minutes; the motion was seconded and it passed.

**II. STRATEGIC PLANNING**

**A. Memorandum of Understanding between the State Bar and the Bar Foundation**

There was a discussion at the Policy and Bylaws Committee meeting regarding the MOU that was created to memorialize the relationship between the State Bar and the Bar Foundation; now that we're separate boards, it is in need of updating. Commissioner Wolf noted that it made sense for the Policy and Bylaws Committee to draft the MOU in consideration of the new Bylaws, but now that the boards are separate, both boards should make the necessary changes. Commissioner Brooks, as the Bar Foundation President, agreed and stated that the Bar Foundation has a meeting on April 30, so they can briefly discuss it at that time. General Counsel Stormy Ralstin will prepare a draft redlined version of the technical changes that need to be made, so that the committees can

discuss more substantive changes, and she will send it out before April 30. Commissioner Behles recommended that General Counsel Ralstin and Executive Director Spinello be involved in the negotiations. General Counsel Ralstin stated that she can't advise both boards in that context, but once the boards have agreed on changes, then she can do the drafting. Following discussion, Commissioner Behles made a motion to refer the MOU to the Executive Committee to begin discussions with the Bar Foundation Board; the motion was seconded and it passed.

#### **B. Communications Plan / Elevator Pitches**

Director of Communications and Member Services Evann Laird reported that the most current elevator pitches were included in the materials. She reminded the Board that the elevator pitches were one of the communication tools that came out of the 2019 Board Retreat, and they contain updates on programs and departments for commissioners to use in communicating with their constituents. She tries to make them timely and include things that are happening between meetings, but if there are questions or something that isn't contained in them to let her know and she will provide that information. Commissioner Behles noted that Law Day is coming up and asked for a list of all of the Law Day events and activities to be compiled and sent to the Board.

#### **C. Strategic Plan Timeline**

Executive Director Richard Spinello reported that the Strategic Plan is provided at every Board meeting, and he reviewed the updates since the last Board meeting, including the new AMS and the website. The first stage of the dashboard is underway and we'll be making adjustments as necessary. We're also working on a dashboard for the BBC which will include all of the board materials, bylaws, policies, etc. We haven't set up regular meetings with the Court yet, but have made good progress with the Court on the various rule changes. He reviewed it with the Senior Staff and noted that the Board's internal committees will be meeting to discuss some of the tasks contained in the plan. We will start planning for the next three-year plan in 2022.

### **III. ACTION ITEMS**

#### **A. UNM School of Law Contribution/Donation Request**

Executive Director Richard Spinello reported that a request was received from the UNM School of Law for a sponsorship for their annual Golf Classic. The request and the State Bar's Contribution/Donation Policy were included in the materials. He noted that funds are set aside annually in the budget to be used for these types of requests and the limit for requests is \$1,000. Commissioner Sherman stated that he is on the committee and they have two major fundraisers each year, and the funds raised go towards scholarships. He noted that they took a hit because of COVID last year, and this will be the first fundraiser since COVID. Commissioner Cruz stated that she also sits on the alumni board and UNM is always supportive of State Bar activities, and she encouraged the Board to vote in favor of it. Commissioner Wolf made a motion to approve a breakfast sponsorship in the amount of \$1,000, and the motion was seconded. Following discussion of the types of sponsorships and recognition, the motion passed.

#### **B. Executive Director Compensation and Evaluation Policies**

President Martinez reported that she needs to form the Executive Director Compensation and Evaluation Committee by the end of the second quarter pursuant to the policies. In reviewing the policies, she felt that the current secretary-treasurer should be included on the committee, since it impacts the budget and the longer the officers can be involved in those discussions, the more important it is, and she asked the Board to approve the change. The redlined amendments were included in the materials. Commissioner Lara made a motion to add the secretary-treasurer to the Executive Director Compensation and Evaluation Committee; the motion was seconded and it passed.

#### **C. Professional Practice Program**

President Martinez reminded the Board that at the February meeting, the Board authorized the formation of the Professional Practice Program Advisory Committee and for the Board to vote on the members at this meeting; the member list was included in the materials. Professional Practice Program Director William Slease stated that he reached out to a great group of individuals who encompass various backgrounds and practice areas and they

agreed to serve on the committee. Commissioner Eshleman made a motion to approve the Advisory Committee members; the motion was seconded and it passed.

**D. Appointment to NM Legal Aid Board from First Congressional District**

One candidate applied for the vacancy on the New Mexico Legal Aid Board from the First Congressional District. Luz Valverde was appointed by acclamation.

**E. Appointment to DNA-People's Legal Services, Inc., Board**

Three candidates applied for the vacancy on the DNA-People's Legal Services, Inc. Board. President Martinez reported that we sent the applicants to DNA-People's Legal Services, and they recommended appointing Chad Abeyta. Commissioner Cruz noted that it's important for the Board to consider the recommendation of DNA, since these organizations need to have a cohesive system in place. There was a question as to whether Mr. Abeyta was eligible to be appointed. Staff researched it and reported that he did meet the requirement as contained in the 45 CFR 1607.2(a), which is an attorney admitted to practice in a state within the recipient's service area. Following a vote by secret ballot, Chad Abeyta was appointed to the DNA-People's Legal Services, Inc. Board.

**F. Appointment of Young Lawyer Delegate to the ABA House of Delegates**

One candidate applied for the vacancy for a young lawyer delegate on the ABA House of Delegates. Shasta Inman was appointed by acclamation.

**IV. COMMITTEE REPORTS**

**A. Executive Committee Report**

President Martinez reported that the Executive Committee met on April 6 to review the agendas for the Board meeting and Finance Committee meeting. The committee also discussed the following: 1) the MOU between the State Bar and the Bar Foundation, which was discussed previously; 2) recruitment and appointment on this Board and other committees and boards for which the Board has appointing authority; and 3) the role of the president of the BBC in relation to the Foundation Board, which will be discussed later in the meeting.

**B. Finance Committee Report**

The Finance Committee met prior to the Board meeting, and Secretary-Treasurer Sherman reported on the following:

1. Approved the February 5, 2021 Meeting Minutes;
2. Reviewed the February 2021 Financials; Secretary-Treasurer Sherman made a motion to accept the financials and the motion passed;
3. Reviewed the updated Electronic Payments Schedule; at the last meeting, the committee approved adding three leases to the recurring payments; the list was updated and included in the materials for informational purposes only;
4. Discussed the Client Protection Fund, which is funded through a \$15 annual assessment that the State Bar collects with the licensing fees and it's used to reimburse claimants who are harmed by lawyer's dishonesty or fraud. The CPF Commission is a commission of the Board of Bar Commissioners pursuant to the Supreme Court rule, and the Commission determines whether to reimburse the claimants and how much; there is a cap of \$50,000 per claim. The fund has over a million dollars, and the committee discussed whether it should be capped, whether the assessment should be suspended, or whether it should be used for something else, including mandatory arbitration for fee disputes. Executive Director Spinello stated that any change would need to be approved by the Supreme Court. No action was taken at this time; more information will be obtained and it will be discussed at future Finance Committee meetings;
5. Received an update on licensing renewals and reported that 294 active members are outstanding at this time, of which 158 are out-of-state and 136 are in-state, and there are 173 inactive members outstanding; 429 members are non-compliant for MCLE; and

6. Reported that the 2020 Audit is behind schedule due largely to the new AMS, but they anticipate it will be finalized for presentation to the committee next month and the committee will report to the Board at the June meeting. We're in the fourth year of our contract with CLA and it can be extended for two more years, so we will be going out for bid in 2023.

### **C. Policy and Bylaws Committee Report**

Policy and Bylaws Committee Chair Sherman reported on the following:

1. The Cannabis Law Section requested an amendment to their bylaws to increase the attorney members of the section board from five to six and the committee recommended approval. Chair Sherman made a motion to approve the change and the motion passed.
2. The committee reviewed pending items for 2021 and prioritized the list, which included BBC liaisons to Supreme Court Boards, Committees and Commissions, and general revisions to several sections of the bylaws. Commissioner Cruz noted that vacancies following the election should be appointed at the December meeting rather than waiting until the first meeting of the year, and changes to that section should be addressed soon, so that they can be approved prior to the election.

### **D. Regulatory Committee Report**

Included in the materials were Rule 18-204. Earning credits; credit type, procedures for requests for self-study credit for legal activities, and requests for MCLE self-study credit from the Disciplinary Board, Medical Review Committee, Ethics Committee and the Client Protection Fund Commission. Regulatory Committee Chair Travis reported that the committee met on February 25 to review the requests. The Disciplinary Board requested two hours and the others requested one hour. The motion out of committee was to approve all four as they requested with the specificity that the policy requires and for the credits to be ethics credit for the Disciplinary Board, Ethics and CPF, and the credit to be general for the Medical Review Committee. Commissioner Brooks stated that some legal service organizations may want to use this rule for pro bono legal clinics and other pro bono work, so the committee might want to look into developing guidelines for that type of work. Following a vote, the motion passed. President Martinez opposed the motion.

The Legal Specialization Commission is meeting and proceeding with the development of the program. The Regulatory Committee will be coming to the next meeting to talk about the MCLE and licensing rule merger.

### **E. Member Services Committee Report**

Member Services Committee Chair Atkins reported that the Member Services Committee met on April 5 and reviewed the Strategic Plan. They met with the Bar's new social media coordinator; she has some exciting plans for social media and is working with the young lawyers and how to push social media. They reviewed the website and she congratulated staff for all of their work on it.

### **F. Special Committee on Sections Report**

In the absence of Special Committee on Sections Chair Lucy Sinkular, Commissioner Atkins reported that the committee discussed the issue of committee membership and whether the Medical Review Committee should actually be a committee since they have 200 plus members. They had discussed possibly shifting them from a committee or modifying the name and maybe asking them to come to speak with the Board at a future meeting. She reached out to Chair Ellen Kelly but hasn't heard back yet.

### **G. Governmental Affairs Committee Update**

Governmental Affairs Committee Chair Cruz reported that we received notice from two sections—the Family Law Section and the Cannabis Law Section—regarding intended lobbying. Pursuant to our bylaws, a section is required to inform the committee when they intend to lobby. General Counsel Stormy Ralstin forwarded the information to the committee, which was included in the materials, and the committee did not formally meet to consider the information, but it was properly processed pursuant to our bylaws. General Counsel Ralstin noted that while the bylaws require the sections to notify the committee, they don't give the committee any authority over the lobbying.

Paralegal Division Chair Angela Minefee inquired whether the Paralegal Division can lobby. Divisions and Committees are not allowed to lobby since they are funded by the State Bar as opposed to sections who receive their funding from their own members; however, the Paralegal Division is not funded by their members and not the State Bar. Following discussion, it was decided to wait until the Special Committee on Sections brings back a recommendation regarding lobbying and then get back to the Paralegal Division. There was a question as to whether the officers should be made aware of lobbying activities in addition to the Governmental Affairs Committee, and it was determined that the entire Board should be notified of lobbying activities.

## **V. INFORMATIONAL ITEMS**

### **A. Family Law Section Update**

Family Law Section Board member Gretchen Walther provided an update on the section. They have a group of very committed practitioners devoted to the improvement of the practice. The section is very active and Sarah Armstrong, the immediate past chair, did a great job at helping move family law issues along, as well as this year's chair, Amber Macias-Mayo. One of their main committees is the legislative committee which spent a lot of time and energy to support several bills in this year's legislative session, most of which were tabled, but the significant bill that passed was SB140 regarding child support. The section also puts on an annual Family Law Institute which is being held in a couple of segments this year due to the pandemic. The section is also working on a guardian ad litem training and bringing family law CLEs to different areas of the state. The section also collected articles on family law for the New Mexico Lawyer.

### **B. NM State Bar Foundation Update**

NM State Bar Foundation President Aja Brooks provided an update on the newly created Bar Foundation Board and reported that they have had two meetings so far, one in February and one in April. They had their elections and discussed the new bylaws, the composition of the board, and the MOU. They also had presentations by the Bar Foundation staff and discussed the intercompany debt and the EAJ merger proposal. They are planning to have a Strategic Planning session in the summer. The Board decided to have the officers engage with EAJ, which has hired a new executive director, and she and Executive Director Richard Spinello met with her last week. They are going to have a meeting with the EAJ Board representatives, ATJ Co-Chairs and the Foundation Board officers to discuss the EAJ merger again. Either way, the Foundation is going to move forward and take on more of a fundraising goal, and they have another meeting set for April 30.

### **C. Communication Between the BBC and the Bar Foundation Boards**

President Martinez stated that the State Bar Executive Committee meets prior to each meeting to review the agendas and that isn't happening with the Bar Foundation Board. The separation of the Boards is a very recent thing, and the perception of the members is that they are interlocking and she wouldn't want there to be an issue that she wasn't aware of. She could foresee a time in the future that the president of the Foundation Board is not a BBC member or on the Executive Committee. Commissioner Brooks stated that President Martinez not knowing about the meetings was an oversight; she should come to the meetings and there needs to be formalized structure to report back to each entity. We need to think about how the State Bar president and the Foundation president can be informed, and it needs to be addressed sooner rather than later. Following discussion, it was decided that this should be addressed in the MOU between the two organizations along with other changes that need to be made, including the shared committees when the boards were interlocking.

### **D. Website / AMS Update**

Director of Finance David Powell reported that one of the primary goals of the new AMS was to combine the iMIS and PACLE databases into one central database after taking over the MCLE program. The migration and configuration of the membership data from the iMIS database has been completed, and the migration and configuration of the MCLE data from the PACLE database is currently in process. License renewals are being processed through the new website and it's working well. It's a better member experience as well as a better staff experience. Other areas of the project such as Mentorship and Pro Hac Vice are still in process.

Director of Communications and Member Services Evann Laird reported that they have been working on the website. We launched a couple of weeks ago and have received a really good response and positive feedback so far. We went live with just a portion of the features and will be implementing some of the other bells and whistles we've been looking at in the future, including some digital advertising, and we'll be making improvements as we go.

## **E. President Report**

President Martinez reported on the following:

### **1. ABA Day**

ABA Day is scheduled for April 20-22 and is being held virtually again this year. The conference has been retooled to include programming on Tuesday and Wednesday. On Thursday, we will be meeting with the congressional delegation and their staffers to discuss funding for the legal services corporation and judiciary security. She will be meeting with Chief Judge Whitaker, Judge Barela Shepherd and Judge Noel who have been active in security issues as it relates to our courts.

### **2. Law Well-Being Week**

The Institute for Well-Being in Law is holding the second annual law well-being week the second week in May, and they have expanded it to anyone in the legal profession.

### **3. 2021 Annual Meeting**

The plan is to hopefully do a hybrid event with a limited in-person piece at the State Bar and it will be virtual for all members. We will provide five credits free of charge, and the focus is on diversity and well-being topics. We are also planning to have a balloon breakfast for the in-person attendees, a reception and presentation of our annual awards.

### **4. Judicial Nominating Commissions**

She chaired the Balancing Committees for the Seventh and Fourth Judicial District Court Nominating Commissions.

### **5. Other**

She attended the first annual conference on lawyer well-being in early April, and there were a variety of speakers and programs on mental health, alcohol abuse, and COVID. It was a well-done conference, and she thanked JLAP Director Pam Moore for inviting her to attend.

## **F. ABA Bar Leadership Institute**

Commissioner Wolf attended the virtual Bar Leadership Institute last month and also the NCBP Midyear Meeting in February. One of the topics was on Diversity, Equity and Inclusion (DEI), and it's not enough to reach out to the specialty bars but also reach out to the individuals; making a personal connection is really important. Also, getting board members engaged and the importance of letting people know why you're doing something helps get them more engaged in the project. She plans to get involved with social media during her presidency.

Commissioner Sherman reported that he also attended the NCBP as well as the BLI conferences, and he found them helpful. His main takeaways overlap with the social media presence, and he would like to see the State Bar increase its efforts. Director of Communications and Member Services Evann Laird stated she and her staff will be happy to put something together and they plan to increase the Bar's social presence over the next couple of years.

## **G. Judicial Clerkship Program Update**

Commissioner Cruz reported that the Supreme Court asked the State Bar to develop a Judicial Clerkship Program in August of 2019. The inaugural program was launched in 2020, but it was unable to move forward at that time due to COVID. Applications were received for 2021 and six students were accepted and they have attended bootcamp with Justice Thomson. The program will start in June; half of the students will spend their time with the Supreme Court and the other half with the Court of Appeals. The bulk of it will be virtual, but there may be some in-person component as well.

## **H. Discussion Regarding Recruitment**

President Martinez stated that she was thinking about how we can be more diverse and that the Board should put some thought and effort into recruitment on the Board and the various boards and committees to which we make appointments. We have taken the approach that when we only have one applicant, we appoint them whether we know them or not. She also comes from the perspective of sitting on another non-profit board and they look for diversity either from geographic or practice area, etc., and she wanted to get the Board's thoughts on it.

Commissioner Lara noted that as an attorney, he struggles with what the bar does for him and how it can make him a better lawyer and for him it's coming to the Board meetings and there's no effort on the part of the bar for that to happen. He would be happy to be a part of a committee that educates members on what the bar does and educates people on how to become leaders in the bar. Commissioner Atkins stated that one of the roles of the Member Services Committee could be how to get more involvement and provide information to members, and she invited Commissioner Lara to join the Member Services Committee. President Martinez stated that the personal touch is how she got started and some of the other commissioners had the same experience; she likes the idea of educating people and there is a membership piece of it; maybe have a recruitment team meet with members around the state. Following discussion, Commissioner Atkins made a motion to create a Recruitment Committee for bar leaders; the motion was seconded and it passed. Commissioners Lara, Eshleman, Travis, Atkins, Wolf and President Martinez volunteered to serve on the committee, and President Martinez will appoint a chair at a later time.

## **I. Executive Director Report**

Executive Director Richard Spinello's written report was included in the materials, in addition to a document on the current status of the integrated bar litigation. Most of the cases are trending in favor of integrated bar positions. There was an interesting development in the Oregon State Bar case where the Ninth Circuit has allowed the issue regarding the freedom of association to proceed, so that may be an issue for the Supreme Court. Utah has since joined the states that have been sued; they raised the bar's support of opposing the taxation of legal services as a part of the lawsuit. New Mexico is the one of the only states that taxes legal services.

Commissioner Wolf asked about an issue in Executive Director Spinello's report regarding transferring money from the Disciplinary Board and the former Lawyer's Succession and Transition Committee. Mr. Spinello stated that the committee was disbanded by the Court. The rules that were promulgated have been approved, but the Court has not issued them yet. They are trying to figure out how to educate the attorneys regarding the new rules. That was something Bill Sleese was working on as Chief Disciplinary Counsel, and the Disciplinary Board might continue to provide education on the rule when the Court issues it. That issue would fit within the Professional Practice Program, and we would be willing to educate members on the new rule. The Court has approved moving the money for two purposes—expansion of the JLAP program as well as the potential for hiring a diversity and equity and justice coordinator at the State Bar. Commissioner Wolf noted that they have also talked about is a lot of states are addressing non-lawyer ownership of firms and some other kind of basic changes in the way that the practice of law is being thought of in other states, and this is something that the PPP can look at and inform the Board about.

## **J. State Bar Representative Reports**

### **1. Senior Lawyers Division**

Senior Lawyers Division Delegate Dan Behles reported that they had their last board meeting in March, and Jocelyn Torres filled their remaining board position. They are ramping up the oral histories, and if

anyone has ideas for senior lawyers to be interviewed, he asked that they pass them along to him. The Division sponsors four scholarships through an essay contest every November in conjunction with their in memoriam program for those members who have passed away during the year, and they hope to have it in person at the Bar Center this year. There were two issues that came up at the Policy and Bylaws Committee meeting on which he polled the SLD Board. The first issue was whether the age for the inactive fee waiver should be lowered from 75 to 70, and the SLD Board thought that was a great idea, depending on the impact to the budget. The other issue was whether a new classification for retired lawyers should be created, and the SLD Board was not in favor of that because it really only impacts lawyers in the Second Judicial District regarding the mandatory arbitration program.

2. Young Lawyers Division

Young Lawyers Division Chair Shasta Inman reported that their last meeting was on March 6 and the next one is scheduled for May 15. The Fit2Practice and UNMSOL Mentorship Subcommittees are working on monthly virtual wellness events and have connected with State Bar staff on social media posts. They are having their first in-person Wills for Heroes event in over a year, with CDC COVID-Safe practices, on April 24 at the State Bar with the Bernalillo County Fire Department, and they have another event scheduled for June 5. Their virtual Veterans Clinics are also underway and the Law Day Call-In is scheduled for May 1. The ABA YLD Spring Meeting was this week, and they won the Embracing Diversity Challenge for the Judicial Clerkship Program, which comes with a \$1,500 award.

3. Paralegal Division

Paralegal Division Chair Angela Minefee reported that the Division held its second quarter meeting on April 3 and are continuing to make progress with their goals set for this year, including holding two meetings outside of the Albuquerque and Santa Fe area, so they are holding meetings in Las Cruces and Roswell. The Division is putting together some swag bags for their division members and they have three new board members this year. They are also working on holding brown bag CLEs on a monthly basis for free because of COVID. They removed the self-study cap for 2021 but aren't allowing any carryover.

4. Bar Commissioner Districts

There were no reports.

5. Supreme Court Board and Committee Liaison Reports

There were no reports.

6. ABA House of Delegates Report

There was no report.

**VI. OTHER BUSINESS**

**A. New Business**

There was no new business.

**B. Adjourn**

Commissioner Cruz made a motion to adjourn the meeting at 3:54 p.m.; the motion was seconded and it passed.