

**BOARD OF BAR COMMISSIONERS
FRIDAY, JUNE 11, 2021 MEETING MINUTES
Virtual Meeting via Zoom**

MEMBERS PRESENT:	Erin M. Atkins Elias Barela Daniel J. Behles Allison H. Block-Chavez Aja N. Brooks Ernestina R. Cruz Michael Eshleman Judge Kevin L. Fitzwater (ret.) 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 Lucy H. Sinkular Constance G. Tatham Carolyn A. Wolf
MEMBERS ABSENT:	Connie J. Flores Elizabeth J. Travis	
OTHERS PRESENT:	Bobbie Batley Kris Becker Ian Bezpalko Evann Laird Pam Moore	Lyman Paul David Powell Stormy Ralstin Bill Slease Richard Spinello

I. CALL TO ORDER

A. Approval of April 16, 2021 Meeting Minutes

Commissioner Wolf made a motion to approve the minutes; the motion was seconded and it passed.

II. STRATEGIC PLANNING

A. Communications Plan / Elevator Pitches

Director of Communications and Member Services Evann Laird reported that the current elevator pitches in the materials focused on the Annual Meeting, which also included information on the annual awards. The webpage of all of the archived elevator pitches was also included.

The updated Communications Plan was also included in the materials, and she hopes to have it finalized for the October meeting. She is working on content for the Bar Bulletin and looking at the website for what things we want to implement. She's working on a Rapid Action Plan to track what we do when we want to provide a quick response to something, i.e. when a justice passes away, which is different from a public statement. President Martinez noted that the quicker you can put something out the better, but she wants to make sure there is a feedback option for the Board. She noted that former UNM Dean and Professor Fred Hart passed away recently and asked if there were any plans to do something for him. His obituary will be published in the Bar Bulletin, which is a standard practice for prominent members of the State Bar. Commissioner Cruz suggested publishing an article about him in the Bar Bulletin.

B. Strategic Plan Timeline

Executive Director Richard Spinello reported that there were no major developments outside of the Communications Plan. Some of the internal committees have been looking at the strategic plan and will report on their work later in the meeting, and we will be doing a full board retreat next year to start working on the next Strategic Plan.

III. ACTION ITEMS

A. Nomination of 2022 Officers (in accordance with the Bylaws, officers shall be nominated at this meeting and elected at the following meeting)

Commissioner Wolf made a motion nominating Commissioner Atkins as Secretary-Treasurer for 2022; the motion was seconded and it passed. No other nominations were received for the office of Secretary-Treasurer. Commissioner Wolf made a motion nominating Commissioner Sherman as President-Elect for 2022; the motion was seconded and it passed. No other nominations were received for the office of President-Elect. President Martinez made a motion nominating Commissioner Wolf as President for 2022; the motion was seconded and it passed. No other nominations were received for the office of President. Commissioner Cruz recognized President Martinez's efforts this year and thanked her for doing the work on behalf of the State Bar.

B. Proposed Rule for Professional Practice Program

Professional Practice Program Director Bill Slease reported on the proposed Rule 24-112 NMRA on the Professional Practice Program (PPP) included in the materials. The rule is designed to do two things—build in some comfort for lawyers to use the PPP and ensure confidentiality. Once approved, he will present it to the Supreme Court. Commissioner Atkins made a motion to approve the rule, and the motion was seconded. Mr. Slease pointed out that there is a typo--there is no B1; it's just B and he'll correct that. Commissioner Folsie asked how an ethics inquiry might relate to reporting conduct. Mr. Slease stated that he will keep track of the discussion but not report it to anyone and will refer him to the rules on best practices. Commissioner Behles asked how the PPP Advisory Committee is going to work with the Ethics Committee. Mr. Slease responded that if someone wants a formal ethics opinion, then he will refer them to the Ethics Committee. President Martinez asked whether the Advisory Committee reviewed the rule and are in favor of it. Mr. Slease responded that the committee is designed more to assist with the initiatives and brainstorming. Following discussion, the motion passed.

C. Executive Director Compensation and Evaluation Committee / Add the Bar Foundation President to the Committee this Year

President Martinez reported that at the last meeting, the Board voted to add the Secretary-Treasurer to the Executive Director Compensation and Evaluation Committee. Following the meeting, she thought that Bar Foundation President should also be added to the committee, for this year only. She asked the Board to approve adding Commissioner Aja Brooks as the Bar Foundation President to the committee. The committee is planning to review the policies with the outside counsel who will be providing some recommendations. She anticipates a change in the policies to include the Bar Foundation since the Boards are separate now, and it's important for the Foundation to have a voice at the table as they review the executive director's compensation and evaluation. Commissioner Atkins made a motion to approve adding Bar Foundation President Aja Brooks to the committee, and the motion was seconded. President Martinez noted that the committee has to be formed by the end of the second quarter. The committee consists of all of the officers and she has the option to have two non-officers participate on the committee; she intentionally did not have Commissioner Brooks fill one of those slots and opted to have her appointed as the Bar Foundation President instead. Following discussion, the motion passed.

IV. COMMITTEE REPORTS

A. ATJ Fund Grant Commission Report

Executive Director Richard Spinello reported on the Access to Justice Fund Grant report, which was included in the materials, and he provided some background information. The State Bar oversees the Access to Justice Fund and formed an ATJ Fund Grant Commission that disburses money from the fund to the legal service providers as part of an RFP process. Over the years, it was an internal committee and then it went to the ATJ Commission and now the State Bar is charged with disbursing those funds. The money comes from donations on the licensing form, pro hac vice, as well as all of the IOLTA funds. We are one of the very few bar associations that turns over all the grant money to legal services providers; this fund is also used for the local pro bono committees.

The Commission met on May 19 and awarded grants in the amount of \$700,000 to the following: Catholic Charities of Southern NM for \$33,000; Disability Rights of NM for \$30,000, El Calvario United Methodist Church for \$10,000 amounts; Enlace Comunitario for \$66,000; Native American Disability Law Center for \$20,000; NM Center on Law and Poverty for \$214,000; NM Immigrant Law Center for \$55,000; NM Legal Aid for \$209,000; Pegasus Legal Services for Children—Youth Law Project for \$33,000; Pegasus Legal Services for Children—Incarcerated Youth for \$15,000; and Santa Fe Dreamers Project for \$15,000. He noted that there were a couple of new providers that applied for the funds this year, and we're in the process of finalizing the contracts.

Tom Olson is currently the chair and will be stepping down as chair this year but will continue to serve on the Commission through the end of his term, so we will ask Donna Connelly to replace him as Chair.

B. Executive Committee Report

President Martinez reported on the following Executive Committee meetings:

1. April 26th Meeting Regarding MCLE Late Fee Waivers

The committee met on April 26 to consider ten MCLE late fee waiver requests, and one licensing fee waiver request. The committee voted to fully grant four MCLE fee waiver requests, partially grant one MCLE fee waiver request, deny five MCLE waiver requests, and grant the licensing fee waiver request. The waiver requests were granted based on a showing of hardship by the attorneys.

2. Approval of Funding Assistance for Senior Justice Barbara Vigil's Retirement Reception

The committee also considered a request from Senior Justice Vigil to assist with funding for her retirement reception. The committee approved \$3,000 towards her reception to be held on July 3.

3. June 2nd Meeting to Review Agendas

The committee met to review and approve the agendas for this meeting.

C. Finance Committee Report

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

1. Approved the April 16, 2021 Meeting Minutes;
2. Received a presentation by CliftonLarsonAllenLLP on the 2020 Combined Financial Audit; they issued an unmodified "clean" opinion, which is the best opinion an organization can receive. There were no findings of materials weaknesses or significant deficiencies in internal controls or adjusting journal entries proposed by the auditors, so no management letter was issued. The motion out of the committee was to accept the 2020 Combined Financial Audit and the motion passed.

3. Reviewed the April 2021 Financials; Secretary-Treasurer Sherman made a motion to accept the financials and the motion passed;
4. Reviewed the CPF, ATJ and JLAP First Quarter 2021 Financials which were provided for informational purposes only. The CPF options discussion was tabled for a recommendation from the Rules of Professional Conduct Committee.
5. Reported that the State Bate Bar received a PPP loan in the amount of \$300,980, and we anticipate that it will be entirely forgiven, since it will all be expended on payroll.

D. Policy and Bylaws Committee Report

The Policy and Bylaws Committee met on May 25 and Chair Ben Sherman reported on the following:

The committee discussed several items during the meeting that had been accumulating over time, including inactive status members; exempting new admittees from licensing and MCLE for their first partial year; vacancies, nominations and appointments to the BBC; officer nominations, elections and terms; Senior Lawyers Division amendments to be consistent with the rule; whether committee chairs should be active attorneys; defining public statements for sections; reference to Bar Commissioner Districts and judicial districts; and a retired status membership category. The committee will be meeting again to review the amendments to the Bylaws and will present them to the Board at the October meeting.

1. Section Bylaws / YLD Liaison

The YLD brought an issue to the committee's attention regarding a issue with the Solo and Small Firm Section Bylaws and the Section Bylaws template and appointment of the YLD liaison. Commissioner Inman clarified that the issue is in the voting language, not the appointment language. The section added the non-voting provision, but the template states that the YLD liaison is a voting member of the section board, and the YLD chair makes the appointment from applicants. The YLD provided their appointment to the section, and they informed us that the liaison is not permitted to vote. From the YLD Board perspective, it's important to have a vote on that board to be able to participate.

Chair Sherman questioned whether the Section Bylaws are in violation of the template and what action would be needed, since the bylaws and the template were already approved by the Board. Commissioner Atkins made a motion to send it back to the committee and have General Counsel Stormy Ralstin draft a letter to the section addressing the errors in their bylaws and how they can fix them, and the motion was seconded. Since the person is already serving on the section board, the committee needs to come back to the board with a recommendation for the Board's consideration.

Commissioner Behles stated that we just need to write a letter to the Section Board to tell them they're not in compliance with the bylaws template, and if the Board wants the committee to consider further changes, then we can address them. Commissioner Wolf stated that she will vote against the motion because if that's the decision of the Board, then it doesn't need to go back to the committee; the idea of the template was that it would allow the sections to have some leeway. General Counsel Ralstin's role is to negotiate with the sections to make their bylaws consistent, and she had made a decision that the section's bylaws were not out of compliance with the template. General Counsel Ralstin did look at this and agrees with Commissioner Wolf. To the best of her recollection, the intent of the template was that with the exception of not having a YLD liaison at all was that the section did have control over their board.

Commissioner Atkins amended her motion to refer the issue to the Policy and Bylaws Committee to define the role of the YLD liaison and whether it should be voting or non-voting and whether there should be an amendment to the bylaws template, and the motion was seconded. Commissioner Cruz requested an amendment to the motion for the Policy and Bylaws Committee to come back with a recommendation regarding YLD's participation at the October meeting so that it doesn't get postponed to 2022. Following a vote, the motion passed. The Board asked General Counsel Ralstin to look at *Popejoy* and *Keller* issues with regard to non-voting members being on a section board. Commissioner Sinkular stated that it's the section's dues, so that's how we get around those issues.

E. Member Services Committee Report

Chair Erin Atkins reported that the Member Services Committee met and reviewed the Strategic Plan and will be looking at outreach and member services for the out-of-state members. Commissioners Eshleman and Lara were added to the committee. She pointed out that there is a line item in the budget for membership opportunities and for commissioners to host an event in their respective district. We need to look at what that might look like and plan for 2022 as well. Member Services staff have been working on developing ideas and what it would take to plan an event in the districts, so she encouraged board members to think about what they can do in their districts. Staff is also researching a handout of what the State Bar does for you that we can send to members; we're exploring that idea and trying to do some member outreach. President Martinez stated that it would be good for other bar members to participate in other district events and she is happy to attend as many events as she can in person.

F. Statewide / Rural Outreach Committee Report

Chair Joe Sawyer reported that the Statewide / Rural Outreach Committee met and discussed holding member district events in the fall to engage in feedback with members in rural areas of the state and coordinating the events with the Member Services Committee. The committee also discussed the Supreme Court's Ad Hoc Committee on Rural Outreach. A survey was sent out to the membership to find out what would make members go to a rural area, come back to a rural area, etc., to try to get members into the smaller communities. Commissioner Sawyer made a motion out of committee to hold one Board meeting outside of Albuquerque or Santa Fe in 2022, and the motion passed.

G. Special Committee on Sections Report

Chair Lucy Sinkular reported that the committee's report was included in the materials for the Board's information only. The committee focused on helping the sections in providing service to members of the Bar and previously provided recommendations regarding the sections to the Board, which will be under the purview of Member Services. The committee was also charged with looking at the committees of the bar—how are they working, are they efficient, etc. We hope to get some information from these committees and report back to the Board. The committee looked at the Medical Review Committee and talked about maybe they don't need to be a huge committee, but perhaps have a liaison from the group to the Board of Bar Commissioners. The committee was also tasked with looking at lobbying of sections and will be getting some information on the risks and benefits of lobbying.

H. Special Committee on Diversity and Gender Recommendations Report

Chair Aja Brooks reported that the Special Committee on Diversity and Gender Recommendations met on June 1 and discussed the need to clarify the committee's goals. They are looking at instituting and implementing goals, and collaboration is going to be key since there are a lot of different players. Commissioner Block-Chavez is the liaison to the Committee on Women, and Commissioner Brooks is the liaison for the Committee on Diversity. They talked about advancing diverse applicants for the bar exam, and they want to talk with the new executive director of the Board of Bar Examiners. They also discussed the diversity position that will be at the State Bar; not a lot of bars have that position, so it will be exciting to have a person dedicated to diversity. The committee also talked about focus groups and how to address the concerns of specific populations in our bar. We met with the co-chairs of the committees to obtain more information about the recommendations and will need direction from the Board on some of the recommendations. President Martinez asked about the hiring of the diversity position and originally, the thought was that we would share them with the Supreme Court's Commission. Executive Director Richard Spinello stated that the Court no longer has a need for that, but this person will be a liaison to the Supreme Court's Equity and Justice Commission and assist the Commission as necessary.

V. INFORMATIONAL ITEMS

A. **Legal Specialization Commission Report**

Chair Bobbie Batley reported on the Legal Specialization Commission; she noted that it is an active commission and reported on the lengthy review and adoption of the procedures for the Family Law Legal Specialization. They had a meeting with the Family Law Section Board and went over the procedures and received their input. There may be a proposal from the Commission to let them initiate an invitation to another section.

B. **Indian Law Section Update**

Chair-Elect Lyman Paul attended the meeting to provide an update on the Indian Law Section. He reported that they're looking at putting on a symposium in November and collaborating with the Federal Bar Association on their program. In addition, the CLE Committee is looking for people to do a presentation or record a podcast for their CLE in November. The Scholarship Committee is overseeing two scholarship programs and awarded \$14,000 in scholarships under those programs. They are also working on a newsletter for this year and coordinating with the State Bar on the new website. Their Outreach Committee is looking at taking advantage of planning events and those plans will be forthcoming. Their Mentorship Committee is working with UNM to provide assistance to law school graduates. Commissioner Brooks thanked the section for hosting a bar prep session.

C. **Website / AMS Update**

Director of Finance David Powell reported that the iMIS data had been migrated and configured and that the PACLE database is still in process; PACLE is providing the data but it's not integrated yet. Our former project manager with Euclid retired and we're working with a new project manager, so it's been delayed but it's in process and we're in line with the budget.

Director of Communications and Member Services Evann Laird reported that they've been working on tweaking and updating the website and making sure everything is functioning properly and will be getting training on some of the more advanced options.

D. **State Bar President Report**

President Martinez reported on the following:

1. ABA Day

ABA Day was held virtually again this year. There was remote training on the two issues for discussion with the congressional delegation, and those were additional funding for the legal services corporation and judiciary security. The officers and New Mexico ABA House of Delegate members, as well as district court judges met with the New Mexico Congressional Delegation, and the meetings were very successful.

2. Law Well-Being Week

The national CoLAP organization held their second annual conference the first week in May and opened it up to more than just lawyers this year; topics included well-being, spiritual, career, etc.

3. 2021 Annual Meeting

The 2021 Annual Meeting will be a hybrid event with online and limited in-person attendance. All of the commissioners are invited to participate in person. Our keynote is Cory Muscara who is speaking on well-being and there will be a CLE on family friendly policies for the workplace. There will be award announcements dispersed between the CLEs and then a reception and awards presentation at the end of the day. We will also be doing a Mocktail Bar sponsored by the JLAP Committee. The President's Award

will be presented to Senior Justice Barbara Vigil who is a huge supporter of wellness and the Well-Being Committee.

4. Judicial Nominating Commissions

She chaired Balancing Committees for the Second Judicial District, the Court of Appeals and the Supreme Court.

5. Other

She participated in the Well-Being Committee meeting, which meets every other month. She asked Senior Justice Vigil to continue on the committee and she agreed and will also continue on the Judicial Well-Being Subcommittee.

She also participated on the JLAP Funding Oversight Board and several BBC internal committee meetings, as well as the Judicial Clerkship Program meeting. Commissioner Cruz reported that they met with the students and talked about post-bootcamp and maybe having a reception the end of July or August. There has been some talk with the District and Metro Courts on a clerkship that is diversity focused. Justice Thomson indicated that these clerkships would be funded by the Courts, and our focus should be on how to consolidate with the appellate clerkship program. So, we are augmenting the existing clerkship program and are looking at identifying dates for the fall and will be vetting applicants for the courts.

She also participated in the Bar Foundation meeting to introduce herself to the Foundation Board. It ensures that the President of the Foundation and the President of the State Bar are communicating and collaborating. She and Commissioner Inman will be doing a podcast the end of the month, and she will be participating in the NM Compilation Commission meeting and the Judicial Compensation Commission, which the law school coordinates.

E. Bar Foundation President Report

Bar Foundation President Aja Brooks reported that the Foundation met on April 30 and President Martinez attended to introduce herself. We discussed at the last meeting how to keep the Foundation President involved and figuring out a way to communicate between the boards until the MOU is finalized. They discussed the decision not to make the intercompany payment because of the free CLE payment. Grace Spulak and Commissioner Cruz spoke about ATJ and projects they want to collaborate on, including a PSA plan and ways to get lawyers engaged in pro bono. They are also working on a pipeline program to encourage law students to help with legal service providers and using the Foundation as a funding mechanism, so that the donations would be tax deductible. They also discussed the EAJ merger proposal; they met with the new executive director of EAJ, and she said they would like to have a more formalized discussion through Judge York about how to move forward, and they talked about things that need to be ironed out before that meeting. President Martinez asked if we will be looking at a reduction in the liability from the Foundation again this year with the free Annual Meeting. Executive Director Richard Spinello said that we will probably be looking at it during the Foundation retreat. President Martinez noted that the Executive Committee needs to look at the MOU since the Foundation Board is also going to be looking at it.

F. Executive Director Report

Executive Director Richard Spinello's written report was included in the materials. He noted a typo regarding the PPP loans and as was discussed in Finance and the BBC, the forgiveness for the Foundation PPP loan was \$95,600, not \$495,600. We ended the emergency telecommuting but are still allowing partial telecommuting. Staff reported back to the building this week and we had a lunch to welcome them back.

G. State Bar Representative Reports

1. Senior Lawyers Division

SLD Delegate Dan Behles reported that they had a board meeting on May 18 and the Division hasn't spent much of its budget this year, so they provided scholarships to some of their members to attend a CLE. He followed up on the straw poll he conducted regarding lowering the age to 70 for inactive fee waivers; the Division thought it should be allowed on an ad hoc basis. They questioned the reason for the retired member status and suggested inviting them to meet with the Board. The Memorial Scholarship Reception will be held in November and they have a committee trying to come up with a topic this year; one suggestion was who needs the bar exam. They had a suggestion regarding succession planning and those who work for a public agency don't need to wind anything down. They will look at retirement and how a lawyer stays engaged and keeps their identity as a lawyer when they're no longer working for a firm or agency.

2. Young Lawyers Division

YLD Chair Shasta Inman reported that they appointed Ann Tripp with the Hinkle Firm in Roswell to fill their Region 3 vacancy. They held a Wills for Heroes event with 25 people at the State Bar and are still doing their quarterly virtual Veterans Clinics. Commissioner Block-Chavez will be coordinating a return to their annual service project in outlying areas, possibly in Carlsbad later this year, which will include a Wills for Heroes event. They're doing a chips and salsa 5K in September and are having Cindy Zuniga-Sanchez, a national expert on student loans and budgeting, for a brownbag webinar next week. They have had some virtual lunches with judges, in conduction with the Trial and Appellate Practice Sections. They are working on something to support the July bar exam takers and hoping to have an in-person reception for the newly admitted attorneys this fall. They're looking at the Mentorship Program and talked about possibly having Mentorship Circles instead of one-on-one pairings. The Judicial Clerkship Program was submitted for an ABA YLD Embracing Diversity Challenge Award, and they won the top prize which comes with a \$1,500 award toward the stipends for this year's clerks. The ABA YLD Western State Regional Summit contract has been signed and the conference is good to go for November 4-7 at the Eldorado in Santa Fe. They will also do a Wills for Heroes event at that time.

3. Paralegal Division

Paralegal Division Liaison Angela Minefee reported that the Division is moving forward with plans to coordinate an event in conjunction with their September board meeting in Roswell, and they're hoping to get good participation from their members, commissioners and sections. They're working on revamping their scholarship and are going to make some changes to bolster interest, benefit members and the Division as a whole. They're offering a member scholarship so new paralegals are able to join without having to pay dues for the first year. They're working with their IT department to do a self-study program, and they opened them up to non-members as well as members. Their next meeting is July 10 in Las Cruces and they invited President Martinez to attend; they will have a virtual component for all of their meetings to get participation from their outlying members.

4. Bar Commissioner Districts

Commissioner Cruz reported that Michael Aragon was sworn in as the newest member of the 4th Judicial District Court. She will be working to set up an event in the 4th Judicial District later in the year as well as in the 8th Judicial District and suggested combining the events with a CLE offering. President Martinez announced that Commissioner Cruz was just appointed as the Mora County Attorney.

Commissioner Lara reported that the Third Judicial District Court is opening back up and one of the things they are working on is changing the culture of the Third Judicial District Court. They are having an event in the fall, and he invited commissioners to attend in person or remotely. They would like to partner with the Member Services and Statewide/Rural Outreach Committees.

Commissioner Eshleman announced that he was hired by the Sandoval County Attorney's Office to be their new county attorney.

5. Supreme Court Board and Committee Liaison Reports

There were no reports.

6. ABA House of Delegates Report

Bobbie Batley reported that the House of Delegates met virtually in August of 2020 and February of 2021; both were a great success and the process was very efficient. The Annual Meeting for the ABA will be August 4-10 in Chicago as a hybrid with some things virtual and some things in person. She hasn't had a chance to review the agenda yet but will review it and let the Board know if there is anything of interest.

VI. OTHER BUSINESS

A. New Business

Commissioner Lara reported on a recommendation to show value in the State Bar. He stated that he's involved in a lot of political campaign work, and one of the things they did during the pandemic was use a professional production company. He proposed creating mini stories on what the Bar does and shooting them on digital media; we could create our message and send them out to the membership. The proposal was \$5,000 for four videos. Director of Communications and Member Services Evann Laird stated that it would be a good tool to show value proposition. We will want to get some more information and possibly additional proposals and discuss during the budgeting process. Commissioner Cruz stated that the ads should also be for public outreach and not just member specific. Commissioner Wolf stated that we will obtain more information on cost and determine if we want to use mandatory dues for this purpose.

B. Adjourn

There being no further new business, Commissioner Cruz made a motion to adjourn the meeting at 3:20 p.m.; the motion was seconded and it passed.