

BOARD OF BAR COMMISSIONERS
August 9, 2018 MEETING MINUTES
Hyatt Regency Tamaya Resort, Santa Ana Pueblo, NM

MEMBERS PRESENT:	Joshua A. Allison Erin M. Atkins Christina G. Babcock Aja N. Brooks John P. Burton Ernestina R. Cruz Gerald G. Dixon Sean M. FitzPatrick Judge Kevin L. Fitzwater (ret.) Scotty A. Holloman Jared G. Kallunki	Robert Lara David P. Lutz Carla C. Martinez Clara Moran Wesley O. Pool Joseph F. Sawyer Benjamin I. Sherman Constance G. Tatham Elizabeth J. Travis Carolyn A. Wolf
MEMBERS ABSENT:	Mick I. R. Gutierrez	
STAFF PRESENT:	Kris Becker Breanna Henley Evann Kleinschmidt Christine Morganti	David Powell Stormy Ralstin Richard Spinello
OTHERS PRESENT:	Ian Bezpalko Hon. Gary L. Clingman Deborah Dungan Horatio Moreno-Campos	Hon. Judith K. Nakamura Jim Noel Greg Saunders

A. Call to Order

President Pool called the meeting to order at 8 a.m.

1. Approval of May 18, 2018 Meeting Minutes

Commissioner Dixon made a motion to approve the May 18, 2018 meeting minutes as submitted; the motion was seconded and it passed.

I. STRATEGIC PLANNING

A. SOPA Update / Other Court Initiatives

Chief Justice Nakamura, Justice Clingman, Greg Saunders, Chair of the Judicial Information Division, and Jim Noel, Chair of the Online Access Subcommittee, attended the meeting to provide an update on SOPA (Secure Odyssey Public Access) and went through revisions to the SOPA Policy pursuant to the Board's concerns addressed in a letter to the Court. Three areas of change are as follows: 1) there will no longer be a difference in the process between lawyers and non-lawyers in the appeals process and all appeals will now go to the chair of SOPA; 2) a new application will be installed by the end of the year which will provide notice that the password will expire and instructions on how to reset the password; if a lawyer doesn't renew at that time, he/she can reapply later; and 3) they will define "aggravating circumstances" regarding the sharing of credentials; there needs to be a balance in providing public access without violating the rules; the Federal Court rules allow the sharing of passwords, and they anticipate having redaction software by July of 2019 if funded by the Legislature.

The Court requested assistance in getting the message out and educating members on the policy and the sharing of passwords. There was a suggestion to create a guide for things to do when a staff member leaves, which should include notifying the Court and changing passwords. Bill Sleese and Richard Spinello send out a joint letter to members when they leave firms or transfer from public to private practice with instructions on what they need to do which also includes information on trust accounts, and they could add instructions regarding the SOPA policy to the letter.

Following the update and discussion, President Pool created a committee consisting of Sean FitzPatrick, Clara Moran, Josh Allison and Erin Atkins, who will also chair the committee, to participate in the Online Access Subcommittee meetings and make recommendations on the revised policy.

B. Regulatory Committee Report

Chair Travis reviewed the draft mission statement of the committee, which will be presented for the Board's approval at the October meeting.

Due to the discontinuation of Legal Specialization, the Board charged the committee with looking at options for Legal Specialization, including: 1) creating a new program, which the committee determined could not be accomplished before the end of the year; 2) resuming the program and recertifying the specialists; and 3) not creating a program and looking at certifications provided by other entities. Two percent of our members are specialists, and the majority of states don't have legal specialization. The committee discussed polling sections and voluntary bars to inquire whether they would like to have a role in the certification process. The committee discussed how to fund a program and whether it would be financially feasible. The committee also discussed how to measure success of a program. Staff will research revenues and expenses of the program and certifications of other organizations, and the committee anticipates having more information for the Board's consideration at the October meeting.

C. MCLE Update

General Counsel Stormy Ralstin reported on the status of the MCLE transition and distributed the new brochure. The Order from the Court transitioning the program hasn't been received from the Court yet, but we do have a letter that instructs the State Bar to move forward. Anita Otero, the former administrator of MCLE, has left and the two existing employees have been brought on as State Bar staff. The 2017 compliance season has ended and 148 names were sent to the Supreme Court which resulted in 54 suspensions with only 28 who are currently non-compliant. She anticipates considerably fewer next year due to new procedures. They will be streamlining some of the processes and anticipate having online credit filing and course approval by the end of the year. She attended a recent CLEREG Conference at which 36 states were represented. She noted that 80 percent of the programs are under the Supreme Court but many are transitioning under the state bars.

II. COMMITTEE REPORTS

A. Finance Committee Report

The Finance Committee met prior to the Board meeting, and Secretary-Treasurer Cruz reported on the Committee's discussion and recommendations regarding the following:

1. Approved the May 18, 2018 meeting minutes as submitted;
2. Reported on the highlights of the June 2018 Financials and recommended acceptance; Secretary-Treasurer Cruz made a motion to accept the financials and the motion passed;
3. Director of Finance David Powell explained the separate financials for the CPF, JLAP and ATJ Fund Financials; while they are programs of and part of the State Bar, they have their own separate sources of funding, so they need to be kept separate from the State Bar financials; these financials will be provided to the Board quarterly;
4. Received a presentation from the Committee on Women and the Committee on Diversity on a survey of the membership; the two committees are working on the survey together

to reduce costs; Secretary-Treasurer Cruz was appointed liaison and has been working with the two committees. The committees received three proposals and recommended the proposal from Latino Decisions in the amount of \$58,000, which included online focus groups. The Finance Committee did not take a vote on the survey proposal; there was consensus that the survey should be conducted, but there was concern over the cost, and the committee recommended speaking with Chief Justice Nakamura to find out if the Board of Bar Examiners and the Disciplinary Board would be able to assist in funding the survey;

5. Reported that staff will begin working on the 2019 Budget following the Annual Meeting, and it will be presented for approval at the October meeting; and
6. Reported that revisions to the financial policies are in the process of being completed, and they will be presented for approval before the end of the year.

B. Executive Committee Report

President Pool reported that the Executive Committee met on May 29 to discuss the Blue Sky eLearn Webcasting proposal. At the May Board meeting, the Board authorized the Executive Committee to approve the proposal pursuant to staff's feedback received from bar associations and other legal organizations that use Blue Sky. Pursuant to the positive feedback received, the proposal was approved. The committee met on June 11 to review and approve the Annual Awards Committee's recommendations for the 2019 award recipients, which were presented on August 10. The committee met again on July 30 to review and approve the agendas for the meetings.

C. Policy and Bylaws Committee Report and Recommendations

Chair Carolyn Wolf reported on the July 10th meeting of the Policy and Bylaws Committee regarding the following:

1. Amendments to State Bar Bylaws, Article IX, Section 9.1, Sections

The committee made amendments regarding the creation of Sections to Article IX, Section 9.1, of the State Bar Bylaws for which 30 days' notice was provided at the May meeting. Chair Wolf made a motion to approve the amendments and the motion passed.

2. Cannabis Law Section Bylaw Amendments

The amended Cannabis Law Section Bylaws were included in the materials. The main changes were in section membership, officers and inclusion of language from the State Bar Bylaws regarding public positions and statements. Commissioner Burton requested an amendment in Section 6.2(d) to change the word "their" to "its." Chair Wolf made a motion to approve the amended bylaws with the additional amendment and the motion passed.

3. Bankruptcy Law Section Bylaw Amendments

The committee recommended approving the section's proposed amendments to 6.2 and 10.1 but rejected 8.3. Commissioner Burton requested an amendment to add a period to the end of section 6.2(c). Chair Wolf made a motion to approve the committee's recommendations with the additional amendment and the motion passed.

4. Trial Practice Section Proposed Bylaw Amendments

Chair Wolf reported that the committee is working on model bylaws that contain options for certain articles, such as board composition, absenteeism, etc., so the Trial Practice Section's proposed bylaw amendments were tabled in anticipation of the model bylaws.

5. Executive Director Evaluation and Compensation Policies

The committee discussed proposed changes to the timeline for the evaluation and compensation of the executive director, and the amended policies will be presented for approval at the October meeting.

D. Client Protection Fund Commission Annual Report

Client Protection Fund Commission Chair Drew Cloutier provided the history and role of the CPF and presented the 2018 Annual Report. He noted that there is currently a \$50,000 limit for claims.

E. Immigration Law Section Update

Immigration Law Section Past Chair Horatio Moreno-Campos provided an update on the section. They sent out a survey to the membership to identify where the section's resources should be spent. There is now a student organization for immigration law and they have had several get-togethers. They have participated in quarterly citizenship fairs. The board has been in the process of updating its bylaws and the section is holding a full-day CLE in December plus three brown bag CLEs this fall.

III. OTHER ACTION ITEMS

A. 2019 Board Officer Nominations

President Pool requested nominations for the 2019 Board officer positions of Secretary-Treasurer and President-Elect. Commissioner Cruz nominated Carla Martinez for the position of Secretary-Treasurer; no other nominations were received. Commissioner Lara made a motion to close nominations; the motion was seconded and it passed. Commissioner Dixon nominated Tina Cruz for the position of President-Elect; no other nominations were received; Commissioner Lara made a motion to close nominations; the motion was seconded and it passed.

IV. INFORMATIONAL ITEMS

A. Print Shop / Bar Bulletin Update

Evann Kleinschmidt, Director of Communications, informed the Board of some opportunities for changes in the *Bar Bulletin*. The Board of Editors is in the process of sending out an informal survey to the membership, which we hope will provide information about what they typically look at and what they would like to see. The impact of the *Bar Bulletin* changes on the Digital Print Center has been considered. The lease expires October of 2019, so staff is in the process of receiving proposals for the Board's consideration.

B. Annual Meeting Highlights

Kris Becker, Director of Governance and Administration, provided highlights on the Annual Meeting and reviewed the new program and schedule formats.

C. President Report

President Pool reported that he attended the Jackrabbit Bar Conference in Medora, North Dakota in June and the NCBP Annual Meeting in Chicago in July. The State Bar / Bar Foundation Committee, which will be looking at the implications of creating a separate Bar Foundation Board, hasn't met yet and no one contacted him after the last Board meeting. He will be scheduling a meeting soon and reminded commissioners to contact him if they are interested in serving on the committee. He serves on Chief

Justice Nakamura's Innovation Team which is exploring Online Dispute Resolution (ODR). The team met in July and the AOC has been involved in creating the program.

D. President-Elect Report

President-Elect Jerry Dixon reported on the following:

1. 2019 Annual Meeting

The 2019 Annual Meeting is scheduled for August 1-3 at Hotel Albuquerque at Old Town, and he anticipates that the schedule will be similar to this year. He has reached out to a couple of keynote speakers, but doesn't have any confirmations yet.

2. Local and Voluntary Bar Outreach

He is working on outreach to local and voluntary bar associations to begin a discussion among the leadership. He has contacted them by mail and will be following up to schedule site visits beginning with a collaborative mixer with sections in Las Cruces in October.

E. Executive Director Report

Executive Director Richard Spinello reported that there may be an increase in challenges against mandatory bar associations because of the recent decision in the *Abood* case. He recommended that he and President-Elect Dixon meet with the Court on this issue to begin discussions on a contingency plan.

F. Bar Commissioner Division / District Reports

1. Senior Lawyers Division

SLD Delegate Jack Burton reported that the Division approved a bylaw amendment that would allow members who entered the practice of law later in life to join the Division, in addition to the automatic membership requirements. The amendment will be presented to the Board for approval at the October meeting.

2. Young Lawyers Division

YLD Chair Sean FitzPatrick reported on a recent Wills for Heroes event and Veteran's Legal Clinic. The Division's events include a Chips & Salsa 5K Fitness Event, Constitution Week starting September 17, a Public Service Event in Farmington in collaboration with the San Juan County Bar Association, a reception for new admittees on September 25, and a YLD/UNM Mentorship Program on September 27.

3. Paralegal Division

Paralegal Division Chair Christina Babcock reported that they received 10 new members between June and July, and the State's Risk Management Division now requires their paralegals to belong to the Paralegal Division.

4. District Bar Commissioners

Commissioner Brooks announced that October is Pro Bono Month and she asked for help in getting the word out and recruiting volunteers. She thanked commissioners who have attended and supported recent events.

V. OTHER BUSINESS

A. New Business

There being no new business, Commissioner Holloman made a motion to adjourn the meeting; the motion was seconded and the meeting was adjourned at 12:20 p.m.

VI. PARKING LOT (issues for future planning and discussion)

- A. Communications Plan**
- B. Client Protection Fund Commission Recommendation Regarding a Mandatory Fee Arbitration Program for Lawyer / Client Fee Disputes**