

**BOARD OF BAR COMMISSIONERS  
October 25, 2019 MEETING MINUTES  
State Bar Center, Albuquerque, NM**

**MEMBERS PRESENT:** Erin M. Atkins  
Allison Block-Chavez  
Aja N. Brooks  
Ernestina R. Cruz  
Gerald G. Dixon  
Sean M. FitzPatrick  
Judge Kevin L. Fitzwater (ret.)  
Parker B. Folse  
Jared G. Kallunki (phone)  
David P. Lutz  
Carla C. Martinez

Clara Moran  
Wesley O. Pool  
Lynette Rocheleau  
Joseph F. Sawyer  
Benjamin I. Sherman  
Lucy H. Sinkular  
Constance G. Tatham  
Elizabeth J. Travis (phone)  
Carolyn A. Wolf  
Bradford H. Zeikus

**MEMBERS ABSENT:** Mick I. R. Gutierrez

**STAFF PRESENT:** Kris Becker  
Pam Moore  
David Powell

Stormy Ralstin  
Richard Spinello

**OTHERS PRESENT:** Ian Bezpalko  
Jack Brant  
Briggs Cheney  
Spring Schofield

**I. CALL TO ORDER**

**A. Approval of August 1, 2019 Meeting Minutes**

Commissioner Zeikus made a motion to approve the August 1, 2019 meeting minutes as submitted; the motion was seconded and it passed.

**II. STRATEGIC PLANNING**

**A. Board Retreat Follow up / Three-Year Strategic Plan**

In follow up from the Board Retreat last month, the three-year Strategic Plan was included in the materials for the Board's approval. President Dixon asked commissioners for input as to what was of value and what could have been done differently. Two changes were requested to the Strategic Plan in number 1 to add "statewide"/rural outreach and add an E.Out-of-State Member Outreach. Commissioner Brooks made a motion to approve the plan with the two amendments; the motion was seconded and it passed.

1. Discussion Regarding Statewide Outreach and Member Services Committees

The Board discussed whether to create one committee regarding Statewide/Rural Outreach and Member Services or two separate committees and decided that they should be two separate committees. President Dixon requested volunteers to serve. Commissioners Martinez, Brooks, Sawyer, Lutz and Folse volunteered for the Statewide/Rural Outreach Committee, and Commissioner Atkins, Block-Chavez, Moran, Tatham, Sinkular and Wolf volunteered for the Member Services Committee.

**B. 2020 Proposed State Bar Budget**

Senior Lawyers Division Delegate Brad Zeikus reported on the SLD Budget and noted that the Division increased their scholarships from three to four next year resulting in an increase to their total budget of \$2,500 from 2018 to 2019. Commissioner Martinez made a motion to approve the SLD Budget with the increase; the motion was seconded and it passed. The Finance Committee recommended approval of changes to the Young Lawyers Division Budget, which included an increase in the summer fellowship program from \$4,000 to \$6,000 and eliminating the section conference collaboration line item in the amount of \$3,000 for further review by the Division. Commissioner Martinez made a motion to approve the YLD Budget in the amount of \$67,150 with the amendments; the motion was seconded and it passed.

Director of Finance David Powell went through the State Bar Budget and highlighted the new line items. Commissioner Martinez made a motion to approve the Budget with the amendments to the YLD Budget; the motion was seconded and it passed.

**III. ACTION ITEMS**

**A. Elect 2020 BBC Officers**

At the August Board meeting, Commissioner Martinez was nominated President-Elect for 2020. Commissioner Cruz made a motion to elect Commissioner Martinez President-Elect for 2020 by acclamation; the motion was seconded and it passed. Commissioner Wolf was nominated as Secretary-Treasurer for 2020; Commissioner Cruz made a motion to elect Commissioner Wolf as Secretary-Treasurer for 2020 by acclamation; the motion was seconded and it passed.

**B. Endorsement of Liability Insurance Carrier Discussion**

President Dixon provided background on the Bar's previously endorsed liability insurance provider and the issues that resulted from that endorsement. The committee met with ALPS and The Bar Plan last month and the committee is looking for guidance as to a preferred or favored carrier. Other states are endorsing carriers and the committee will look into their reasons for doing so. The Board asked what the benefit would be to the State Bar. The carriers have benefits through programs and resources available to members but only if we create a partnership. The downside is the possible liability to the State Bar. Instead of endorsing a carrier, the committee could come up with a list of things to look for when shopping for a policy and then we could say that they have met all of the criteria, so that we can get the resources and benefits for our members. The committee is going to do further research and talk to LPL committees in other states about their experience with their endorsement of carriers. Commissioner Cruz expressed concern with the other brokers and having some kind of option available to the local brokers.

**C. Digital Print Center Proposals and Outsourced Bar Bulletin**

Executive Director Richard Spinello reported that the leases on the print center equipment are up at the end of this year. Staff reviewed three proposals and recommended that we remain with Konica Minolta for the lease of a new color printer; it's an upgrade from the printer we currently have and we will be able to do more than we are able to do with the existing printer. Commissioner Zeikus made a motion to approve the recommendation to proceed with the proposal from Konica Minolta; the motion was seconded and it passed.

**D. Executive Session**

Commissioner Atkins made a motion to go into executive session to discuss a personnel issue; the motion was seconded and it passed. No action was reported in open session.

#### **IV. BBC COMMITTEE REPORTS**

##### **A. Executive Committee Report**

President Dixon reported that the Executive Committee met on the following dates:

1. September 16 at a joint meeting with the Policy and Bylaws Committee on the Bar Foundation Bylaws.
2. September 26 at the retreat to discuss the budget, i.e. 2020 officer travel, new initiatives, and setting committee dates.
3. October 15 to review and approve the meeting agendas and preview the 2020 Budgets for the State Bar and the Bar Foundation.

##### **B. Finance Committee Report**

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

1. Approved the July 31, 2019 Meeting Minutes;
2. Reviewed the September 2019 State Bar Financials; Secretary-Treasurer Martinez made a motion to accept the September 2019 financials and the motion passed;
3. Received the CPF, ATJ and JLAP Third Quarter 2019 Financials; and
4. Discussed the 2020 Finance Committee meeting dates and determined that two should be separated from the Board meetings and those are June 17 and September 24; the rest of the meetings will be held prior to the Board meetings.

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

1. LPLIC Recommendation Regarding Requests for Professional Liability Insurance Information

Policy and Bylaws Committee Chair Carolyn Wolf reported that the Policy and Bylaws Committee presented the Lawyers Professional Liability and Insurance Committee's (LPLIC) recommendation at the August meeting to request the Supreme Court to revise the rule to permit the State Bar to disclose professional liability insurance information to members and the public upon request. Upon a vote at the August meeting, the recommendation did not pass and the item was tabled for further review. LPLIC Chair Jack Brant noted that the committee felt the information doesn't need to be kept confidential and the State Bar should be able to release the information upon request; he also noted that many states publish the information. Following discussion, Commissioner Tatham made a motion to request the Supreme Court to just ask the question whether members have liability insurance and not collect all of the other information; the motion was seconded, but it failed following a vote. Commissioner Sawyer made a motion to ask the Supreme Court to only collect information on whether members have insurance in the amounts required under Rule 16-104(C) and the name of the insurance carrier, and that the State Bar only disclose whether they have insurance and the name of the carrier; the motion was seconded and it passed.

2. Supreme Court Liaisons Proposal

The committee reviewed and discussed a proposal for Supreme Court liaisons and will be proposing rule changes for an actual voting position on several of the regulatory boards, committees and commissions. The committee will also propose a rule change to the Client Protection Fund Commission to replace the Secretary-Treasurer with another member of the Board on the Commission for a term rather than an annual appointment.

#### **D. Regulatory Committee Report and Recommendations**

The Regulatory Committee met on October 8 and Chair Liz Travis reported on the meeting and the committee's recommendations as follows:

1. Legal Specialization
  - (a) Development Plan
  - (b) Testing
  - (c) Letter to Current Specialists

The development plan with the timeline, minimum standards, and application, as well as testing information from the North Carolina State Bar, were included in the materials. A letter to the current specialists addressing comments and questions was also included in the materials. The committee is planning to conduct town hall meetings to explain the new program. Commissioner Sinkular asked about extensions for the current specialists. Chair Travis explained that the Court's program was eliminated, so there is no program to extend them to at this time. She noted that the proposal is for a new program, not a continuation of the Court's previous program. The committee recommended approval to send out the letter to the current specialists and section chairs. Chair Travis made a motion to approve the recommendation and the motion passed.

2. MCLE / Licensing Rule Changes
  - (a) Change to credit submission deadline
  - (b) Merge deadlines for licensing and MCLE
  - (c) Self-Study Credit

In follow up from the August meeting at which the NM Medical Review Committee requested a rule change for self-study credit to serve on panels, the committee decided that all rule changes regarding deadlines and self-study credit should be submitted as one submission, rather than piecemeal. This was just for the Board's information, so no motion was necessary.

#### **E. Annual Awards Committee Report and Recommendation Regarding Recognition for Judge Sarah Singleton**

The Annual Awards Committee met on October 21 and Chair Erin Atkins reported that the committee recommended renaming the Distinguished Bar Service Award in memory of Judge Sarah M. Singleton and adding language to the criteria to include service to the public.

#### **F. Special Committee Charged with Reviewing Solo and Small Firm Section's Request to Become a Division Report and Recommendation**

The Special Committee charged with reviewing the Solo and Small Firm Section's request to become a division met on October 15, and Chair Wolf reported that the committee discussed the section's proposal and appointed a subcommittee to meet with the Section's Board to obtain more information. Staff will draft a letter to the section requesting a meeting to discuss the section's proposal further.

### **V. INFORMATIONAL ITEMS**

#### **A. Judges and Lawyers Assistance Program Update**

1. Discussion Regarding Wellness Committee

JLAP Committee Chair Briggs Cheney and Program Director Pamela Moore attended the meeting to report on and provide an update on the activities of JLAP. The committee is starting two more support groups in Santa Fe and Albuquerque on anxiety and they had four mocktail bars this year. They also held a town hall meeting which Briggs moderated on fear and anxiety with the practice of law and will hold those twice a year. There needs to be coordination with JLAP and YLD and the committee needs the Board's and YLD's assistance in getting the word out to the membership. The Board is interested in

creating a committee to look at the health side and focus on wellness and well-being issues statewide and maybe add YLD and BBC members to JLAP. Briggs suggested adding members to JLAP rather than creating another committee. Commissioner Cruz stated that she thought having commissioners participate in JLAP would make more sense, and the Statewide Outreach Committee will work well for the other issues. We need to engage in a dialogue to see how we can expand it and the officers will meet with Briggs and Pam to talk about the next steps and how the Board can participate on and assist the committee. Commissioner Block-Chavez suggested having someone from YLD also work with JLAP.

**B. New Association Management Software Application Update**

Director of Finance David Powell reported that staff is in the process of reviewing and scoring the proposals and selecting the top candidates for demos and will send out the demo dates to the Board, if anyone is interested in attending the demos. He stated that staff may be ready to make a recommendation earlier than the December Board meeting and asked if the Board wanted to delegate the decision to approve the recommendation to the Executive Committee. Commissioner Sawyer made a motion to allow the Executive Committee to make the decision if the process is completed and a recommendation can be made prior to the December meeting; the motion was seconded and it passed.

**C. Client Protection Fund Commission Recommendation Regarding a Mandatory Fee Arbitration Program for Lawyer/Client Fee Disputes Update**

Executive Director Richard Spinello reported that this item has been removed from the parking lot, since the CPF Commission is exploring recommending that fee disputes go through the ODR program first before going to mandatory arbitration.

**D. Bar Commissioner Districts Annual Events Updates**

Commissioners reported on events in their districts, including the 12<sup>th</sup> Judicial District Conference in Ruidoso last month, a trust accounting CLE in Las Cruces, a reception in Los Alamos on October 10, Law-la-Palooza events in Albuquerque and Curry-Roosevelt County, and a CLE in conjunction with the local bar lunch meeting in Farmington in December. Commissioner Folse reported on the Chaves County Bar Luncheon and he requested input from members on what the State Bar can do; he stated that there is a huge need for kinship guardianship; he suggested reaching out to those communities to put on a CLE or legal fair to walk them through the process. Director of Finance David Powell reported that the budget for the district events was increased from \$500 to \$1,000 next year.

**E. President Report**

1. He spoke at the new admittee swearing-in ceremony last month.
2. He chairs the Supreme Court's Business Courts/Complex Litigation Committee which met on September 24 with Paula Hannaford-Agor with the National Center for State Courts who provided background on complex litigation courts around the country. The Supreme Court asked the committee to look at whether this would be appropriate for New Mexico. The committee is divided on whether this is needed in New Mexico and will conduct further research and contact states with business courts.
3. He attended the Bar Commissioner district events in Ruidoso and Los Alamos and hopes to attend the remaining events for 2019.
4. He reported that ODR has moved from a pilot project to all districts. The program isn't getting the participation they had expected, since a lot of defendants are pro so, and a lot of the cases are settling outside of the program so they aren't being counted. The LLT working group has met and is working on a report. Some of the working group members are opposed to LLT, so there may be a minority report in conjunction with the recommendation from the working group.

## **F. President-Elect Report**

1. The 2020 Board Meeting dates are scheduled for February 7, April 17, June 18 (Santa Fe, in conjunction with the Annual Meeting), September 25, and December 9 (Supreme Court). President-Elect Cruz recommended that there be a two-day Board meeting in 2020, so that the Board could have more in-depth discussions on Strategic Planning issues. The Board decided to hold the two-day meeting on April 17 and 18. The Finance Committee will be meeting on two separate dates on June 17 and September 24.
2. The new officer swearing-in ceremony and reception are scheduled for December 11; the swearing-in will be held at the Supreme Court and the reception will be held at the Governor's Mansion.
3. She is working with Senior Justice Barbara Vigil and Justice David Thomson on the 2020 Annual Meeting which will be held in conjunction with the Judicial Conclave, June 17-20 in Santa Fe. The committee is meeting again next week to discuss the joint programming and plenary speakers.
4. She met with Justice Thomson on a Judicial Pipeline initiative to develop a judicial clerkship program; all five justices are interested in having a law clerk serve next year in an internship capacity at the Supreme Court. The Committee on Diversity, which currently administers the Art Jaramillo Summer Clerkship Program, and the YLD will be assisting with the program. A meeting is scheduled for next week with YLD and the Committee on Diversity Co-Chairs. Additionally, we will be hosting panels and interviews with judges and justices to start encouraging attorneys to consider applying for judicial positions, and there will be a judicial pipeline program at the Annual Meeting.

## **G. Executive Director Report / Third Quarter State Bar Newsletter**

Executive Director Richard Spinello's written report and the third quarter Newsletter were included in the materials for the Board's information.

## **H. Bar Commissioner Division / District / Supreme Court Liaison Reports**

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

SLD Chair Brad Zeikus reported that the Division will be providing four scholarships next year. This year's event is scheduled for November 12 and he invited commissioners to attend. He announced that he will be retiring the end of the year.

### **2. Young Lawyers Division**

YLD Chair Allison Block-Chavez reported that the Division held a reception following the new admittee swearing-in ceremony last month, participated in Constitution Week and held a mentorship barbecue at the law school last month. They are holding a speed networking event on November 7 at Casa Rondena, and they held Wills for Heroes events in Santa Fe, Roswell and Silver City in conjunction with their board retreat. The Division presented to the Supreme Court on their activities, and they were asked to assist with solving the student debt crisis. The Division is cosponsoring a CLE with the IP Section in Santa Fe on December 6 on the legal aspects of the craft brewery business.

### **3. Paralegal Division**

Paralegal Division Liaison Lynette Rocheleau reported that the Division held a 2020 planning session last month and they are presenting a CLE on December 13 at the State Bar Center.

## **I. Rocky Mountain Mineral Law Foundation Report**

Elizabeth Ryan, the Board's representative to the Rocky Mountain Mineral Law Foundation, submitted a written report on the Foundation's activities for the Board's information.

## **VI. OTHER BUSINESS**

**A. New Business**

President-Elect Cruz reported that during the last Executive Committee meeting, the committee discussed the need to identify a new president for the Bar Foundation. The President-Elect of the State Bar would typically serve as the President of the Bar Foundation, and recognizing some of the issues we have with independence, the committee decided not to have a BBC officer serving in a leadership capacity on the Bar Foundation. Commissioner Wolf was elected President of the Bar Foundation this year, but she is transitioning into a leadership position on the State Bar in 2020, so a new slate of officers is being proposed for the Bar Foundation. The current Memorandum of Understanding includes a provision that the Secretary-Treasurer of the Board of Bar Commissioners shall serve as the Secretary-Treasurer of the Bar Foundation, so the Board needs to approve an amendment to the MOU to have a separate Secretary and Treasurer. Commissioner Wolf made a motion to approve the amendment; the motion was seconded and it passed.

**B. Adjourn**

There being no further new business, Commissioner Wolf made a motion to adjourn the meeting at 4:50 p.m.; the motion was seconded and it passed.