

OREGON STATE BAR
MEETING OF THE BOARD OF GOVERNORS
Schedule of Events
February 22-24, 2007
2/21/2007 11:25 AM

Meeting Place Salem Conference Center **Phone:** 503-589-1700
200 Commercial Street SE
Salem, OR 97301

Thursday, February 22, 2007

12:00 p.m. – 1:00 p.m. **Lunch with the Supreme Court** – Croisan A and B
Salem Conference Center

4:00 p.m. – 6:00 p.m. **President’s Reception – Legislators, Leadership College,
BOG, and Local Bar** - Salem Conference Center Main Lobby

6:00 p.m. – 8:00 p.m. **Dinner with Leadership College**
j. james restaurant
325 High St. SE
Salem, OR 97301
503-362-0888

Friday, February 23, 2007

7:00 a.m. – 8:00 a.m. **Breakfast** – Croisan B and C and Pringle Creek

8:00 a.m. – 8:30 a.m. **Appointments Committee** (Wright, Evans, Eyerman, Gerking,
Skerjanec, Vieira, Yugler) Croisan B and C
Call in Number: 888-737-5834
Conference ID: 934254

8:30 a.m. – 9:00 a.m. **Executive Director Evaluation Special Committee** (Skerjanec,
Fisher, Gaydos, Greene, Menashe) Pringle Creek
Call in Number: 888-737-5834
Conference ID: 934254

9:00 a.m. – 10:00 a.m. **Public Affairs Committee** (Gaydos, Eyerman, Fisher, Hill,
Newell, Vieira, Yugler) ** Room
Call in Number: 888-891-0496
Conference ID: 254704

Oregon State Bar
Meeting of the Board of Governors
February 23-24, 2007
Default Agenda

- | 9. Default Agenda | Inform | blue |
|--|----------------|-------------|
| A. Executive Director | | |
| 1. BOG Retreat Summary | Inform 141-148 | |
| 2. Correspondence | | |
| a. Thank You Letter to Frank Hilton for His Donation of Furniture and Paintings to the OSB | Inform 149 | |
| b. Thank You for Donation in Honor of Wallace P. Carson to Family Building Blocks | Inform 151 | |
| 3. Articles | | |
| a. <i>Disbarred Florida Attorney's Clients to Reap No Rewards from State Bar</i> | Inform 153-155 | |
| b. <i>ABA Study Shows Minority Female Lawyers Being Excluded and Harassed</i> | Inform 157-158 | |
| c. <i>End Billable Hour Goals...Now</i> | Inform 159-164 | |
| 4. Operations Report | Inform 165-172 | |
| 5. Status of Actions from Past Board Meetings | Inform 173 | |
| 6. Status of Actions from HOD Meeting | Inform 175-176 | |
| B. General Counsel | | |
| 1. Correspondence | | |
| a. Letter to Chief Justice De Muniz Regarding Unlawful Practice of Law by Out-of-State Lawyers | Inform 177-178 | |

- b. Letter from and Response to Ronald Inform 179-184
D. Schenck

- *General Counsel's denial of Mr. Schenck's request for independent review of Disciplinary Counsel's Office's handling of his disciplinary case. The exhibit also includes Mr. Schenck's letter of request.*

- c. Letter to John Breiling - IOLTA Inform 185-187
Compliance Certification

- d. Letter from State Court Administrator - Inform 189-195
Government Standards and Practices
Commission Staff Opinion on Fee
Waivers and Discounts for Professional
Development Programs

- e. Letter from Charles Isaak Inform 197-201

C. BOG Handbook Update

- 1. Past BOG Members and BOG Presidents Inform 203

- *This is a new section and should be inserted after the State Bar Act ORS Chapter 9.*

D. Access to Justice Committee [Ms. Eyerman]

- 1. Minutes - November 18, 2006 Inform 205-206
- 2. Minutes - January 18, 2007 Inform 207-208

E. Budget and Finance Committee [Mr. Greene]

- 1. Minutes - November 18, 2006 Inform 209-210
- 2. Minutes - January 18, 2007 Inform 211-213

F. Member Services Committee [Mr. Yugler]

- 1. Minutes - November 18, 2006 Inform 215
- 2. Minutes January 18, 2007 Inform 217-218

G. Policy and Governance Committee [Mr. Gerking]

- 1. Minutes - November 18, 2006 Inform 219
- 2. Minutes - January 18, 2007 Inform 221-223

H. Public Affairs Committee [Mr. Gaydos]

- 1. Minutes - November 18, 2006 Inform 225

- 2. Minutes - January 18, 2007 Inform 227-228
- I. CSF Claims Report Inform 229

Oregon State Bar
Meeting of the Board of Governors
February 23-24, 2007
Consent Agenda

8. Consent Agenda

Action pink

10:20 a.m.

A. Approve Minutes

1. Minutes of Open Session

- | | | | |
|----|-------------------|--------|---------|
| a. | November 18, 2006 | Action | 109-116 |
| b. | December 19, 2006 | Action | 117 |
| c. | January 18, 2007 | Action | 119-120 |

2. Minutes of Executive Session

- | | | | |
|----|-------------------|--------|-----|
| a. | November 18, 2006 | Action | 121 |
|----|-------------------|--------|-----|

3. Minutes of Judicial Proceedings

- | | | | |
|----|-------------------|--------|---------|
| a. | November 18, 2006 | Action | 123-124 |
|----|-------------------|--------|---------|

B. Appointments

- | | | | |
|----|---|--------|-----|
| 1. | Appointment to the Certified Public Accountants-Joint Committee | Action | 125 |
|----|---|--------|-----|

➤ *Recommendation: Vivian Lee, term expiring, 12/31/2009*

- | | | | |
|----|--|--------|-----|
| 2. | Appointment to the Quality of Life Committee | Action | 125 |
|----|--|--------|-----|

➤ *Recommendation: Theodore Heus, term expiring, 12/31/2008*

- | | | | |
|----|---------------------------------------|--------|-----|
| 3. | Appointment to the Pro Bono Committee | Action | 125 |
|----|---------------------------------------|--------|-----|

➤ *Recommendation: Bruce Rubin, term expiring, 12/31/2008*

- | | | | |
|----|--|--------|-----|
| 4. | Appointment to the Uniform Civil Jury Instructions Committee | Action | 125 |
|----|--|--------|-----|

➤ *Recommendation: William Kirby, term expiring, 12/31/2007; The Honorable Thomas Ryan, term expiring, 12/31/2009*

- | | | | |
|----|---|--------|-----|
| 5. | Appointment to the Unlawful Practice of Law | Action | 125 |
|----|---|--------|-----|

Committee

➤ *Recommendation: Todd Siegel, term expiring, 12/31/2009; Gordon Zehrung (public member), term expiring, 12/31/2009*

6. Appointment to the House of Delegates Region 5 Action 125

➤ *Recommendation: Jacinta Kilber, term expiring, 4/14/2008*

7. Appointment to the Disciplinary Board Action 125

➤ *Region 3: Recommendation: Action 127*

Region 5: Recommendation: John Rudoff (public member), term expiring, 12/31/2008; Patricia Martin (public member), term expiring, 12/31/2009; Ulanda Watkins, term expiring 12/31/2009.

8. Appointment to the Local Professional Responsibility Board Action 125

➤ *Clatsop/Columbia/Tillamook Counties: Recommendation: Sarah Hanson, term expiring, 12/31/2009*

Douglas County: Recommendation: Samuel Hornreich, term expiring, 12/31/2009

Harney/Malheur: Recommendation: Mitchell Martin, term expiring, 12/31/2009

Union/Wallowa Counties: Recommendation: Alyssa Slater, term expiring, 12/31/2009; Paige Sully, term expiring, 12/31/2009

9. Appointment to the Oregon Law Commission Action 126

➤ *Recommendation: Mustafa Kasubhai, term expiring, 10/31/2008*

C. Client Security Fund [Mr. Newell]

1. CSF Claims Recommended for Payment

a. 06-09 Zaragoza v Morey - \$535.00 Action 129

b. 06-02 Vincent v. Bowles - \$1,048.75 Action 129-130

c. 06-11 Shook v. Kent - \$1,150.00 Action 130-131

d. 06-12 Borden v. Vause - \$6,937.13 Action 131

e. 06-13 Butler/Dalke v. Doyle - \$10,000.00 Action 131-132

f. 06-04 Casey v. Tripp - \$50,000.00 Action 132-133

D. Policy and Governance Committee

1. Changes to MCLE Rules and Regulations Action 135-138

- *The committee is recommending changes to MCLE Rule 5.2 (d) that would allow MCLE credit to those bar members who represent accused lawyers in disciplinary proceedings on a volunteer basis. The second recommendation removes the specific timeline for staff approval of a sponsor's application from Rule 4.3(c) and places it in the Regulations (4.300 (e)). The board's recommendation will need to be sent to the Supreme Court for their approval for the rule changes. The regulation can be adopted by the full board pending the Court's approval of the rule change.*

2. HOD Video/Audio Recording Instead of Action 139
Transcript

- *The committee is recommending using video with audio for the record of the HOD meeting rather than having a written transcript.*

Oregon State Bar
Meeting of the Board of Governors
February 23-24, 2007
Open Session Agenda

The Open Session Meeting of the Oregon State Bar Board of Governors will begin at 1:00 p.m. on February 23, 2007, and continue to the morning of February 24, 2007, if necessary to complete business; however, the following agenda is not a definitive indication of the exact order in which items will appear before the board. Any item on the agenda may be presented to the board at any given time during the board meeting.

Friday, February 23, 2007

1:00 p.m.

1. Executive Session

- *The board will meet in Executive Session to discuss proposals for sale of the OSB Center in Lake Oswego. Discussion of items on this agenda is in executive (closed) session pursuant to ORS 192.660(2)(f) and (h) to consider exempt records and to consult with counsel. This portion of the meeting is open only to board members, staff, other persons the board may wish to include, and to the media except as provided in ORS 192.660(5) and subject to instruction as to what can be disclosed. Final actions are taken in open session and reflected in the minutes, which are a public record. The minutes will not contain any information that is not required to be included or which would defeat the purpose of the executive session.*

2. Report of Officers

- A. Report of the President [Mr. Menashe]

2:00 p.m.

1. Investitures Inform
 - *Mr. Menashe will update the board on the investitures he attended – Justice Virginia Linder (January 4), Judge Judith Matarazzo (January 5), Judge Cheryl Albrecht (January 18), and Judge Leslie Roberts (January 31).*
2. Meetings with Chief Justice Paul R. De Muniz
 - a. January 4, 2007 Inform
 - b. January 30, 2007 Inform
 - c. February 20, 2007 Inform Handout

3. Meetings and Speaking Engagements
 - a. Presentation to Lawyers - *101 Things about Civil Litigation* – November 20 Inform
 - b. Taught Professional Responsibility Class at Lewis and Clark – November 21 Inform
 - c. Classroom Law Project at Pioneer Courthouse – November 29 Inform
 - d. Met with Leadership College, Judge Aiken and Nena Cook Inform
 - *Mr. Menashe will update the board regarding the focus of the discussion with Judge Aiken and Ms. Cook, which was raising funds for the Leadership College.*
 - e. Staff Meeting – January 7 Inform
 - f. Karen Lee, CLE Seminars – January 10 Inform
 - g. Washington County Bar – January 10 Inform
 - h. Bar Leader Conference – January 19 Inform
 - i. Marion County Bar – January 25 Inform
 - j. Hispanic National Bar Association – Inform February 1
 - *Mr. Menashe will update the board on a meeting with Jimmie Reyna, President of the Hispanic National Bar Association.*
 - k. Portland Business Journal – February 2 Inform
 - l. Oregon Association for Black Affairs - February 6 Inform
 - *Mr. Menashe will update the board regarding a meeting with the president of the Oregon Association for Black Affairs.*
 - m. The Oregonian – February 21 Inform
 - n. Meeting with Barbara Fishleder - PLF Inform
 - *Mr. Menashe will update the board regarding a meeting with Ms. Fishleder of the PLF to discuss OAAP and SLAC.*
4. NCBP in Miami – February 7 – 10 Inform

5. OSB Ground Breaking Ceremony – February 19 Inform
6. Recent Communications Regarding Public Inform
Discipline

2:25 p.m.

B. Report of the President-elect [Mr. Yugler]

1. Attendance at the NCBP Inform
2. Attendance at the National Caucus of Inform
State Bar Associations – ABA Mid-year
Meeting
3. Planning for Presentation at the Bar Leadership Inform
Institute
4. OSB Leadership College Advisory Board – Inform
Selection of 2007 Fellows
5. Address to OSB Leadership College Fellows Inform 1-3
6. Media Visit and Interview with the Portland Inform
Business Journal Regarding Judicial Salaries
7. Investitures Inform
8. Miscellaneous Inform

C. Report of the Executive Director [Ms. Garst]

2:40 p.m.

1. NABE Conference Inform

3. Professional Liability Fund [Mr. Zarov]

2:45 p.m.

A. General Update

1. Report on Recommended Actuarial Values for Claim Liabilities - 2007 Inform 5-18
 - *Twice each year PLF claims experience is reviewed by actuaries who then make a recommendation setting the value of claims for the next six months. The PLF Board approves these values at the first meeting of the year. The BOG is not required to approve the recommendations.*
2. 2007 Excess Program Preliminary Results Inform 19
 - *Preliminary results for the 2007 program.*
3. Approve Change to PLF Policy 4.400 Claim Action Settlement Procedures 21-25
 - *On occasion the PLF engages in repairs that involve the purchase of real property, usually in the context of a residential foreclosure that was the result of malpractice, this change sets out specific BOD notification and approval procedures for these transactions.*
4. Approve Changes Relating to Board Member Conflicts and Removal Procedures from PLF Board -- Articles 3 and 11 of PLF Bylaws Action 27-32
 - *PLF Policies have strict conflict rules relating to the activities of board members and their firms. These amendments clarify the procedures that apply when conduct prohibited by the conflict rules occurs.*

4. Rules and Ethics Opinions

3:15 p.m.

A. Proposed Formal Ethics Opinions

1. Issues Conflicts/Positional Conflicts No. 2005-144 and 2007-XXX Action 33-42
 - *The Legal Ethics Committee is asking the board to issue a new formal ethics opinion and to revise Formal Ethics Opinion No 2005-144.*

3:20 p.m.

- B. Proposed Amendments to Bar Rules of Procedure Action 43-53

➤ *Staff proposes a number of amendments to the Bar Rules of Procedure. The amendments update, correct, or address deficiencies in the existing rules*

5. BOG Committees, Special Committees, Task Forces and Study Groups

3:30 p.m.

- A. Access to Justice Committee [Ms. Eyerman]

1. Approval of the Loan Repayment Assistance Program's Advisory Committee Action 55

➤ *The BOG will be asked to approve the nine member Loan Repayment Assistance Program's Advisory Committee as recommended by the Access to Justice Committee.*

3:40 p.m.

- B. Budget and Finance Committee [Mr. Greene]

1. Future Bar Center Inform 57-58

➤ *The board is updated with the latest events of various matters on the new bar center project.*

2. 2007 OSB Budget – Revisions Action 59

➤ *Four changes to the 2007 budget are recommended by the Budget & Finance Committee.*

3. Revision to Bylaw 7.401, Investment Management Action 61

➤ *A revision to the bylaw is recommended to correspond with the reasonable practice for the oversight of the bar's investment portfolio. Any new bylaw is subject to the one meeting notice rule (Article 26 of the Bar Bylaws), unless two-thirds of the entire board waive the notice requirement.*

4:15 p.m.

6. Special Appearances

A. Oregon New Lawyers Division [Josh Newton]

1. Update Inform

7. Closed Session Agenda

4:30 p.m.

A. Reinstatements (Judicial proceeding pursuant to ORS 192.690(1) – separate packet) Discuss/ Action lavender agenda

B. General Counsel/UPL Report (Executive Session pursuant to ORS 192.660(1)(f) and (h) - separate packet) Discuss/ Action green agenda

Saturday, February 24, 2007

5. BOG Committees, Special Committees, Task Forces and Study Groups (continued)

A. Policy and Governance Committee [Mr. Gerking]

9:00 a.m.

1. Revision of Bar Bylaw 16.200 Regarding Federal and Tribal Court Judges Action 63

➤ *The committee is recommending adding federal and tribal court judges to the bar’s free CLE Seminar policy. Judicial clerks for these positions would be the same as allowed under the current policy (one per trial court judge and two for an appellate court judge) and the clerk entitlement would be embodied in the revised bylaw. Any new bylaw is subject to the one meeting notice rule (Article 26 of the Bar Bylaws), unless two-thirds of the entire board waive the notice requirement.*

9:05 a.m.

2. Creation of UPL Contested Admonition Action 65-75

➤ *The committee will review this exhibit at its February 23 meeting and bring a recommendation to the full board. The committee discussed this issue on January 18 but requested more information prior to making a decision. The UPL Committee would like to create a new sanction called “contested admonition” that would be issued to a person accused of UPL who refused an admonition. The P and G Committee is concerned about issues of due process.*

9:20 a.m.

3. Membership Vote on Military Ad Issue Action 77-80

➤ *The bar has received sufficient verified signatures from bar members to trigger a membership vote on whether the Bulletin should carry ads for the U. S. Armed Forces. The committee recommends that the bar conduct a membership vote in conjunction with the HOD election through a combination of electronic voting for those with bar e-mails and mail ballot for those without.*

9:35 a.m.

4. Officer Election Process Action 81-82

➤ *The committee recommends a new process for election of officers that would create a nominating committee consisting of the fourth year class (lawyers and the public member) plus the president-elect who would present one candidate to the board. Any other eligible lawyer member could place his/her name in opposition to that candidate after presenting a petition with six signatures from other board members. Any new bylaw is subject to the one meeting notice rule (Article 26 of the Bar Bylaws), unless two-thirds of the entire board waive the notice requirement.*

9:50 a.m.

B. Public Affairs Committee [Mr. Gaydos]

1. HOD Public Defender Task Force Report Inform 83-87

➤ *HOD Resolution 15 required the bar to participate with the Public Defense Services Commission's Office of Public Defense Services (PDSC) and the Oregon Criminal Defense Lawyers Association (OCDLA) in creating a plan to achieve fair compensation for public defense providers.*

10:05 a.m.

2. Court Facilities Task Force Report Inform 89-106

➤ *A Task Force was formed to address the crucial infrastructure needs of court facilities across the state.*

8. **Consent Agenda** Action pink
9. **Default Agenda** Inform blue
10. **Good of the Order (Non-action comments, information and notice of need for possible future board action)**

- 9:30 a.m. – 10:00 a.m. **Policy and Governance Committee** (Gerking, Evans, Fabien, Greene, Lehner, Worcester) ** Croisan B and C
Call in Number: 888-737-5834
Conference ID: 934254
- 10:00 a.m. – 11:00 a.m. **Access to Justice Committee** (Eyerman, Fabien, Fisher, Gerking, Skerjanec, Vieira, Wright) Pringle Creek
Call in Number: 888-737-5834
Conference ID: 934254
- 11:00 a.m. – 12:00 p.m. **Budget and Finance Committee** (Green, Gaydos, Hill, Lehner, Newell, Skerjanec, Worcester) * Croisan B and C
Call in Number: 888-891-0496
Conference ID: 254704
- 11:00 a.m. – 11:30 a.m. **Member Services Committee** (Yugler, Evans, Fabien, Fisher, Wright) * Pringle Creek
Call in Number: 888-737-5834
Conference ID: 934254
- 12:00 p.m. – 1:00 p.m. **Lunch** – Croisan A
- 1:00 p.m. – 5:30 p.m. **Board Meeting** – Croisan B and C
- 6:00 p.m. – 8:00 p.m. **ONLD/BOG Dinner** – Croisan A and B

Saturday, February 24, 2007

8:00 a.m. – 10:00 a.m. **Breakfast** - Croisan B and C

9:00 a.m. – 10:30 a.m. **Board Meeting**

* and ** indicate committees which have no overlap and can meet at the same time.

NO MEETING **Appellate Screening Committee** (Hill, Evans, Eyerman, Gaydos, Gerking, Lehner, Worcester) Room
Call in Number: 888-891-0496
Conference ID: 254704

NO MEETING **Public Member Selection Committee** (Worcester, Fabien, Hill, Vieira, Yugler) Room
Call in Number: 888-891-0496
Conference ID: 254704