

Oregon State Bar
Meeting of the Board of Governors
April 25, 2014
Open Session Minutes

The meeting was called to order by President Tom Kranovich at 12:40 p.m. on April 25, 2014. The meeting adjourned at 5:30 p.m. Members present from the Board of Governors were James Chaney, Patrick Ehlers, Hunter Emerick, R. Ray Heysell, Matthew Kehoe, Theresa Kohlhoff, John Mansfield, Audrey Matsumonji, Caitlin Mitchel-Markley, Joshua Ross, Richard Spier, Timothy L. Williams and Elisabeth Zinser. Staff present were Sylvia Stevens, Helen Hierschbiel, Rod Wegener, Susan Grabe, Mariann Hyland, Judith Baker, Dawn Evans, Kateri Walsh, Dani Edwards and Camille Greene. Also present was Ben Eder, ONLD Chair; Ira Zarov, PLF CEO, Bruce Schaffer, PLF Director of Claims, Betty Lou Morrow, PLF CFO, and Cindy Hill, PLF Executive Assistant; Tim Martinez, Guy Greco, John A. Berge, Dennis Black, Theresa Statler, and Valerie Saiki, PLF Board of Directors; Mark Wada, Sandra Hansberger and David Thornburg, Campaign for Equal Justice; Michael Mason, Legal Aid; Norman Williams, Oregon Law Foundation; Dean Curtis Bridgeman, Willamette University College of Law, Dean Robert Klonoff, Lewis & Clark Law School, and Dean Michael Moffitt, University of Oregon School of Law. Honored guest, Chief Justice Thomas Balmer, was in attendance for the second half of the meeting.

1. Call to Order/Adoption of the Agenda

Motion: Mr. Kehoe moved, Ms. Mitchel-Markley seconded, and the board voted unanimously to accept the agenda as presented.

2. Report of Officers & Executive Staff

A. Report of the President

Mr. Kranovich reported on several activities not included on his written report, including his participation in ABA Lobby Day and at the swearing-in of Judge Chris Garrett to the Oregon Court of Appeals.

B. Report of the President-elect

As written.

C. Report of the Executive Director

Ms. Stevens introduced Dawn Evans, new Director of Regulatory Services and Disciplinary Counsel. She announced that Amber Bevacqua-Lynott has been appointed to a new position in the discipline department: Chief Assistant Disciplinary Counsel & Deputy Director of Regulatory Services. She reminded the BOG that the ABA will be conducting its evaluation of the OSB disciplinary system during the week of June 9. . Finally, Ms. Stevens announced that she will be retiring effective January 1, 2016.

D. Director of Regulatory Services

As written. Ms. Evans updated the board on her activities during her first week at the Oregon State Bar.

E. Director of Diversity & Inclusion

Ms. Hyland reported that the annual OLIO Spring Social at Willamette was a success. The Diversity & Inclusion department has noticed a drop in student applications to participate in their program.

F. MBA Liaison Reports

Ms. Kohlhoff attended the March 5, 2014 MBA board meeting and Mr. Spier attended the April 2, 2014 MBA meeting. Mr. Spier reported that the MBA is discussing the future viability of the group health insurance. Ms. Kohlhoff reported that the MBA is always interested in what is happening at the bar.

G. Oregon New Lawyers Division Report

Mr. Eder briefly reported on a variety of ONLD projects and events described in his written report.

3. Professional Liability Fund [Mr. Zarov]

Mr. Zarov submitted a general update on the PLF's financial status **[Exhibit A]** and Ms. Morrow reported that the annual audit went well. The PLF does not anticipate seeking an increase in the assessment for 2015. The long-term goal is to lower the assessment. Mr. Greco outlined the profile for the open CEO position and the hiring process. September 1 is the target date for the new CEO to begin. **[Exhibit B]**

4. CEJ and OLF Presentations

Appearances were made by Mark Wada and Sandra Hansberger (CEJ), David Thornburg (Oregon Law Center), Michael Mason (President, Legal Aid Services of Oregon Board of Directors), and Norman Williams (Oregon Law Foundation). Mr. Wada congratulated the bar on its long history of supporting funding for Legal Aid. CEJ is a support arm for Oregon's legal aid programs. The Task Force on Legal Aid Funding was formed this year to take a comprehensive look at legal aid funding and how other states were funding their legal aid programs. Their goal is to double their funding. Mr. Williams explained how IOLTA funds are dispersed in the form of grants to direct service providers and to programs educating the public on the rule of law and diversity. IOLTA income has declined precipitously since 2008. Mr. Mason thanked Ms. Grabe for her lobbying work in Salem on behalf of legal aid and Kateri Walsh for her PR efforts.

5. Law School Deans Presentations

Mr. Kranovich introduced honored guest, Chief Justice Thomas Balmer.

Mr. Kranovich expressed the board's concern about the changes taking place in the profession and the impact the changes have had and will continue to have on the career prospects for Oregon's law school graduates, the pressure for law schools to modify their curriculums to produce "practice ready" graduates, and the reality that solutions to the current employment drought are not so simple.

Dean Curtis Bridgeman, Willamette University College of Law, talked about how Willamette emphasizes the importance of students getting practical experience while they are in law

school. Their academic programming is creative with adjusted rules to encourage participation in externships. Full-time externship programs are encouraged and enrollment has tripled over the past year. They have boosted their mentoring program for 2L and 3L students. They teach their students to understand clients and be business-minded. Dean Bridgeman asked the board to continue its outreach to young lawyers and law students. He also invited the board to let him know how he can help the board.

Dean Robert Klonoff, Lewis & Clark Law School, addressed the current crisis in legal education. There have been massive cuts in big law firm jobs, associate programs and new hires. The government jobs have been cut back and replaced by volunteers. Outsourcing of jobs and internet services are replacing jobs in the U.S. The high cost of tuition is adding to the crisis by causing enormous debt loads. In the past four years they have seen applications drop by 50%. They have nine practice areas that they teach through clinics. They have over 200 externships per year all over the world. These programs and the bar's mentoring have helped the law students upon graduation. To help reduce their budget they cut costs through the use of adjunct professors, reducing staff through attrition and reducing class size. He suggested that the bar could establish scholarships and encourage big firms, agencies and the courts to hire Oregon law school graduates.

Dean Michael Moffitt, University of Oregon School of Law, stated that all three Oregon law schools face the same difficulties, admit similar students, and are up against the same job market. The fundamental changes in the profession are causing them to look at their current funding models. The incoming students' skill sets and aptitudes are very different from years past, requiring additional training. It is troubling that fewer students of diversity are applying, nationwide. Skills classes are required at law schools by the ABA. The average student graduating from U of O has over four skills classes in their second and third year. Dean Moffitt had five requests for the board: help the law schools make relevant connections in the legal community; balance the desire for experiential learning against affordability; help make practical experiences available earlier in the educational process; continue UBE discussions; and help make access to education available to a broader population.

Chief Justice Balmer made two observations: we need to make more radical changes than have been discussed, such as less-expensive night school, two-year law schools, and a broader range of legal education; and the great irony is law schools are giving good students scholarships so they graduate with no debt and have an easier time finding a job, yet the other students who struggle to quickly find a good job will graduate with a high debt burden. He indicated a willingness to consider a student appearance rule that would allow students to get real courtroom experience earlier in their legal education. Mr. Kranovich asked the three deans to send rule proposals to the board for consideration.

6. OSB Committees, Sections and Councils

A. Client Security Fund

Ms. Stevens withdrew the request for the board to consider the Client Security Fund Committee's recommendation that Claim No. 2013-48 BERTONI (Monroy) be approved in the amount of \$5,000. Ms Stevens will be present the request at a future board meeting.

CSF Committee Response to BOG Workgroup Recommendations

Mr. Emerick asked the board to consider the recommendations of the BOG CSF Workgroup to increase the reserve to \$1 million and revise the CSF ~~operating policy~~rules to enhance the integrity and sustainability of the Fund.

[Exhibit C]

Motion: Mr. Hunter moved, Mr. Ross seconded, and the board voted unanimously to approve the rule changes as recommended by the work group.

B. MCLE Committee

Ms. Hirschbiel presented the committee's proposed amendment to MCLE Rule 5.2(d) to include participation on the Oregon Judicial Conference Judicial Conduct Committee to the list of activities that qualify for legal ethics credit. **[Exhibit D]**

Motion: Mr. Heysell moved, Mr. Mansfield seconded, and the board voted to approve MCLE Rule 5.2(d) changes as requested.

Ms. Hirschbiel presented the committee's proposed amendments to MCLE Regulation 7.200(a) regarding late fees. **[Exhibit E]**

Motion: Mr. Mansfield moved, Ms. Mitchel-Markley seconded, and the board voted unanimously to approve MCLE 7.200(a) regulation changes as requested.

C. Legal Ethics Committee

Ms. Hirschbiel asked the board to decide whether to adopt the proposed amendments to the formal ethics opinions. **[Exhibit F]**

Motion: Ms. Mitchel-Markley moved, Mr. Spier seconded, and the board voted unanimously to approve the various proposed amendments as requested.

D. Legal Services Program Committee

Ms. Baker asked the board to approve disbursing the annual unclaimed client funds for 2014 as outlined in the chart titled 2014 Distribution. This includes approving the current reserve policy. Ms. Baker asked the board to approve disbursing the unclaimed client funds from the Strawn v Farmers class action as outlined in the chart titled 2014 Distribution. **[Exhibit G]**

Motion: Ms. Mitchel-Markley moved, Mr. Williams seconded, and the board voted unanimously to approve the disbursement of funds as outlined.

E. Unlawful Practice of Law Committee

Ms. Hirschbiel asked the board to approve the Unlawful Practice of Law Committee's advisory opinion regarding unlawful practice of law issues that arise in the context of non-lawyer representation of friends and family. **[Exhibit H]**

Motion: Mr. Spier moved, Mr. Heysell seconded, and the board voted unanimously to approve the advisory opinion as requested.

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

A. Board Development Committee

Ms. Mitchel-Markley updated the board on the committee's actions and discussed the HOD election results, public member recruitment and the BOG outreach packet. She encouraged the board to take a packet and fill out their quarterly activity report.

B. Budget and Finance Committee

Mr. Wegener updated the board on bar-related financial matters and reported that he had selected a consultant to assist with the selection of a database vendor. **[Exhibit I]**

C. Governance and Strategic Planning Committee

Mr. Spier presented the committee motion to amend the standard section bylaws to clarify acceptable spouse and guest reimbursements. **[Exhibit J]**

Motion: The board voted to approve the committee motion to adopt the policy language as presented. Ms. Kohlhoff was opposed.

Mr. Spier presented the committee motion to amend the Diversity Action Plan by adding a new Strategy 9 for Goal 7 which addresses accessibility. **[Exhibit K]**

Motion: The board approved the committee motion on a unanimous vote.

Mr. Spier presented the committee motion to amend the Diversity & Inclusion Department's diversity definition to include evolving language and distinctions used to describe the concepts of sex, gender, gender identity and expression. **[Exhibit L]**

Motion: The board approved the committee motion on a unanimous vote.

D. Public Affairs Committee

Mr. Emerick asked the board to approve the committee's Law Improvement Legislation Package Recommendations. **[Exhibit M]**

Motion: The board approved the committee motion on a unanimous vote.

E. Appointments to CLNS Committee

Mr. Kranovich informed the board of the members of the newly formed committee. Mr. Ehlers and Mr. Prestwich will co-chair the committee composed of board members Jenifer Billman, Theresa Kohlhoff, Tim Williams and Josh Ross. The committee will be charged with finding a notice system everyone can agree upon, who will run it, and who will build the political coalition necessary to make it work.

F. Indigent Defense Practitioners

Mr. Emerick asked the board to adopt proposed changes to the Standards for Representation in Adult Criminal and Juvenile Delinquency Cases to provide guidance to practitioners. **[Exhibit N]**

Motion: The board voted unanimously to adopt the proposed changes as recommended by the Public Affairs Committee.

8. Other Action Items

Ms. Edwards asked the board to approve the appointments to various bar committees and boards. **[Exhibit O]**

Motion: Ms. Mitchel-Markley moved, Mr. Ehlers seconded, and the board voted unanimously to approve the various appointments.

9. Consent Agenda

Motion: Ms. Mitchel-Markley moved, Mr. Mansfield seconded, and the board voted unanimously to approve the consent agenda of past meeting minutes.

10. Closed Sessions – see CLOSED Minutes

A. Judicial Session (pursuant to ORS 192.690(1)) – Reinstatements

B. Executive Session (pursuant to ORS 192.660(1)(f) and (h)) - General Counsel/UPL Report

11. Good of the Order (Non-action comments, information and notice of need for possible future board action)

None.