

Oregon State Bar
Meeting of the Board of Governors
February 23, 2024
Salem Convention Center
200 Commercial Street SE
Salem, OR 97301

Open Agenda Minutes

President David Rosen called the open session meeting to order at 9:03 a.m. on February 23, 2024. The meeting adjourned at 12:30 p.m. Members present in-person and by videoconference or teleconference from the Board of Governors were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, President-Elect, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, President, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. Not present were Lee Ann Donaldson, Stephanie Engelsman, Matt McKean, and Apolinar Montero-Sánchez. PLF Staff present were Megan Livermore and Heather Bowman. ONLD President, Erik Bonn was present by videoconference. Staff present in-person or by videoconference or teleconference were Richard Appleyard, Cassandra Dyke, Ankur Doshi, Danielle Edwards, Keren Farkas, Susan Grabe, Helen Hirschbiel, David Johnson, Cathy Petrecca, Matt Shields, Kateri Walsh, Mike Williams, and Amy Zubko.

[BOG Meeting Rules](#)

Friday, February 23, 2024, 9:00 a.m.

1. Call to Order

2. 2024 Strategic Areas of Focus

Inform

[Exhibit](#)

A. Oregon Law Help Demonstration

Inform

[Exhibit](#)

[Oregon Law Help website](#)

Keren Farkas gave a presentation on the new Oregon Law Help website. This was a coordinated multi-stakeholder project.

Kateri Walsh shared how communications regarding public awareness will be rolled out. They are waiting for a single site experience to be ready later this year. They are in the process of combining all the duplicative information out there.

3. BOG Committees

A. Policy and Governance Committee [Myah Kehoe]

1. Sunset Fee Arbitration Program

Action

[Exhibit](#)

The committee asked for more information before a decision was made. It will be brought back at the April meeting.

~~**MOTION: to approve the Policy and Governance Committee's recommendation to sunset the Fee Arbitration Program, Committee Motion; No second needed.** Those in favor were. None opposed. No abstentions. The motion passes.~~

2. Sunset Leadership Institute Advisory Committee

Action

Exhibit

Myah Kehoe presented the recommendation to sunset the Leadership Institute Advisory Committee and utilize ad hoc planning groups to support the Diversity & Inclusion Department staff when planning Leadership Institute sessions.

MOTION: to approve the Policy and Governance Committee's recommendation to sunset the Leadership Institute Advisory Committee, Committee Motion; No second needed. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes.

3. Sunset Legal Heritage Interest Group and Procedure & Practice Committee Action

Exhibit

Myah Kehoe presented the recommendation to sunset the Legal Heritage Interest Group and Procedure and Practice Committee.

MOTION: to approve the Policy and Governance Committee's recommendation to sunset Legal Heritage Interest Group and Procedure & Practice Committee, Committee Motion; No second needed. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes.

4. Consider whether to comment on ABA Proposal to Amend RPC 5.5

Action

Exhibit

Myah Kehoe presented the recommendation of having staff finalize and submit comments for the ABA Model Rule 5.5 Issue paper as drafted.

MOTION: to approve the Policy and Governance Committee's recommendation to submit comments on the ABA Model Rule 5.5, Committee Motion; No second needed. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes.

- B. Board Development Committee [Chris Cauble]
 - 1. BOG and HOD Election Recruitment Update Inform

Chris Cauble updated the board on the BOG and HOD election recruitment.

- 2. Consider comments for BBX regarding co-grader appointments Inform **Exhibit**

Chris Cauble presented the comments for the BBX regarding co-grader appointments. There were no comments from the board about the selections. They will be sent to the Supreme Court for appointment.

- C. Budget & Finance Committee [Candace Clarke]
 - 1. Financial Update Inform **Exhibit**

Candace Clarke and Mike Williams gave an update on the OSB Financials.

- 2. Approve adding Myah Kehoe to the Umpqua Bank signature list and removing Lee Ann Donaldson Action **Exhibit**

Candace Clarke presented the recommendation to remove Lee Ann Donaldson's name from the authorized list or signatures on the Umpqua Bank Account and add Myah Kehoe's as President-Elect.

MOTION: to approve the Budget and Finance Committee's recommendation to remove Lee Ann Donaldson and add Myah Kehoe to the Umpqua Bank signature list, Committee Motion; No second needed. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes.

- D. Public Affairs Committee [Curtis Peterson]
 - 1. Legislative Update Inform

Curtis Peterson updated the board on legislative issues that may affect the Oregon State Bar. He addressed three issues: first, SB 1574, the Omnibus Safety bill, and an amendment to clarify statutory language relating to the creation of IOLTA accounts for public defenders under the Oregon Public Defense Commission; second, the 2025 Law Improvement Program deadline is April 1, 2024, for submission of bar group legislative proposals for the bar; and, third, ABA Lobby Days to seek funding for federal Legal Services Corporation (federal funding for legal aid) and support for federal public defender will be April 10-11, 2024 in Washington, DC to seek funding for federal Legal Services Corporation (federal funding for legal aid) and support for federal public defenders.

- 2. Ratify Positions taken on Bills of Interest Action **Exhibit**

Curtis Peterson and the Public Affairs committee asks the board to ratify the positions taken on bills of interest, as set forth in the Exhibit.

MOTION: to approve the Public Affairs Committee’s recommendation to ratify the positions taken by the board on bills of interest, Committee Motion; No second needed. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes.

4. Professional Liability Fund [Megan Livermore]

A. 2023-December-31 Draft Financial Statement Inform Exhibit

Megan Livermore and Heather Bowman presented information regarding the financial statement of the PLF through December 2023.

B. 2023-December-31 Rudd and Wisdom Actuarial Analysis Inform Exhibit

Megan Livermore presented the Actuarial Analysis of PLF claims experience.

C. Primary Claims Reserves and Cost of New Claims Memo Inform Exhibit

Megan Livermore presented the Actuarial Review of PLF Primary Program Claim Liabilities and Cost of New Claims.

D. 2023 Claims Attorney and Defense Counsel Evaluations Inform Exhibit

Megan Livermore presented the 2023 Claims Attorney and Defense Counsel Evaluations.

David Rosen asked for a report from the OAAP programming from the PLF. Staff provides this information to the PLF Board, so it can easily be provided to the BOG as well.

5. OSB Committees, Sections, Councils and Divisions

A. ONLD Report [Erik Bonn] Inform Exhibit

Erik Bonn updated the board on all the activities that the ONLD has been doing so far in 2024. Major focus for the year is going to be member wellbeing and the rural practice program.

B. MCLE Committee [Ankur Doshi]

1. Proposed Amendment to MCLE Regulation 9.200 Action Exhibit

Ankur Doshi presented the proposed amendment to MCLE Regulation 9.200 to increase the New Lawyer Mentoring Program Accreditation Fee Exemption salary threshold.

MOTION: to approve the amendment to the MCLE Regulation 9.200. Elizabeth Inayoshi moved, and Chris Cauble seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik

Yanchar. None opposed. No abstentions. The motion passes. None opposed. No abstentions. The motion passes.

2. Proposed Amendment to MCLE Rule 3.6(b) Action Exhibit

Ankur Doshi presented the proposed amendment to MCLE Rule 3.6(b) to match the requirements in the Rules of Admission.

MOTION: to approve the amendment to the MCLE Rule 3.6(b) and send it to the Supreme Court for adoption. Myah Kehoe moved, and Kyle Sciuchetti seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes. None opposed. No abstentions. The motion passes.

C. Legal Ethics Committee [Ankur Doshi]

1. Proposed update to OSB Formal Op No 2015-190 Action Exhibit

Ankur Doshi presented the proposed update to OSB Formal Op No. 2015-190.

MOTION: to approve the update to OSB Formal Op No. 2015-190 Kellie Furr moved, and Gabe Chase seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes. None opposed. No abstentions. The motion passes.

2. Proposed Amendment to RPC 1.16 Action Exhibit

Ankur Doshi presented the proposed amendment to RPC 1.16.

MOTION: to approve the amendment to RPC 1.16 and present it to the House of Delegates and recommend adoption in 2024. Chris Cauble moved, and Elizabeth Inayoshi seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes. None opposed. No abstentions. The motion passes.

D. Client Security Fund

1. Appeal of Denial from CSF Case 2023-8 CARL(Brooks) Action Exhibit

Ankur Doshi presented the denial of the CSF claim and asks the board to affirm the CSF Committee's decision of denial.

MOTION: to affirm the Client Security Fund Committee’s denial of claim in re: 2023-8 CARL(Brooks). Nik Yanchar moved, and Eddie Passadoré seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, John Marandas, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. No abstentions. The motion passes.

2. Appeal of Denial from CSF Case 2023-1 BOYD (Schwind)

Action

Exhibit

Ankur Doshi presented the denial of the CSF claim and asks the board to affirm the CSF Committee’s decision of denial.

MOTION: to affirm the Client Security Fund Committee’s denial of claim in re: 2023-1 BOYD (Schwind) Nik Yanchar moved, and Curtis Peterson seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. John Marandas abstained. The motion passes.

6. **President’s Report** [David Rosen]

Inform

He attended the Institute for Well-Being in Law annual conference in January. He learned that very few states are taking a strategic approach to addressing lawyer well-being. There is plenty of room for Oregon to be a leader in Lawyer Well-Being.

He attended the OLIO Employment Retreat, and ONLD retreat in January, both of which were great.

Law students and new lawyers are where change will come in the legal profession and its culture.

He attended the Supreme Court Leadership meeting and was impressed with OSCCIF and what they are doing.

He is looking forward to strategic planning for the future and is hopeful that those efforts will help to address the lawyer curve.

Would like to talk about marketing outside of Oregon to help with the effort.

7. **CEO Update** [Helen Hirschbiel]

Inform

She also attended the Institute for Well-Being in Law Conference and learned that while OAAP is critical to the work, they are not what drives strategic planning. The bars need to take a leadership role as well.

Working internally on developing a framework for multiple arenas in which the board wants to do strategic planning. Intend to get input from the Policy & Governance Committee as well as external stakeholders.

She gave updates on the implementation of the Supervised Practice Program and the Licensed Paralegal Program. The bar held the first LP exam on family law scope of practice and ethics. The

Supreme Court approved the pass rate last week, and we are finishing character and fitness evaluation of the applicants. We hope to recommend admission to the Court the first week of March and hold a swearing-in ceremony later in the month.

The first LP exam on landlord tenant law scope of practice will be held in April. There will be another family law exam in June and there should be more applicants. There is momentum building around it and it should drive our numbers up.

We plan to provide the board with the annual regulatory report in April as well as the new Impact Report.

The bar's operations were impacted by the ice storm. OSB and PLF were down for a week. The cable broke somewhere between the bar and the vendor. There were a lot of people who were able to work and continue the work they could do. They are brainstorming and finding solutions to the problems we faced.

The bar was also recently hit with a phishing email scam. These scams are getting more sophisticated. Please be cautious and if in doubt about the validity of an email, send it to Richard Appleyard or David Johnson to verify.

8. Closed Sessions – CLOSED Agenda

David Rosen announced going into Closed session at: 12:05 PM

The Board of Governors will now meet in executive session pursuant to ORS 192.660(2)(f), which allows the Board to meet in executive session to consider information or records that are exempted by law from public inspection. The Board of Governors will consider a written attorney-client communication that is exempted from public inspection by ORS 192.355(9)(a).

The Board of Governors will also meet in executive session pursuant to ORS 192.660(2)(h), to consult with its General Counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Representatives of the news media and designated staff shall be allowed to attend the executive session, with the exception of any representatives of the news media involved in pending or potential litigation per ORS 192.660(5). All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session.

12:30 p.m. back into Open Session

9. Consent Agenda

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|----|---|--------|----------------|
| A. | Appointment of various Committees, Councils, and Boards | Action | <u>Exhibit</u> |
| B. | Proposed update to OSB Formal Op No 2005-106 | Action | <u>Exhibit</u> |
| C. | 2024 Board Development Committee Work Plan | Inform | <u>Exhibit</u> |
| D. | 2024 Budget & Finance Committee Work Plan | Inform | <u>Exhibit</u> |
| E. | 2024 Policy & Governance Committee Work Plan | Inform | <u>Exhibit</u> |
| F. | 2024 Public Affairs Committee Work Plan | Inform | <u>Exhibit</u> |
| G. | DCO February Status Report | Inform | <u>Exhibit</u> |
| H. | Approval of Meeting Minutes | | |
| | 1. November 19, 2023 open and Closed minutes | Action | <u>Exhibit</u> |

MOTION: to approve the consent agenda. Curtis Peterson moved, and Elizabeth Inayoshi seconded. Those in favor were Chris Cauble, Gabe Chase, Candace Clarke, Kellie Furr, Tomás Hernandez, Joseph Hesbrook, Megan Houlihan, Elizabeth Inayoshi, Myah Kehoe, Eddie Passadoré, Curtis Peterson, Dave Rosen, Kyle Sciuchetti, Rob Welsh, and Nik Yanchar. None opposed. John Marandas abstained. The motion passes.