

Oregon State Bar
Meeting of the Board of Governors
June 24, 2005
Open Session Minutes

For ease of future research efforts for the minutes, the minutes are written to reflect information as it appears on the agenda. Items in the minutes were not necessarily considered by the board in the order in which they appear below.

The meeting of the Oregon State Bar Board of Governors was called to order Friday, June 24, 2005, by President Nena Cook and commenced with a Work Session presented by George Riemer, OSB General Counsel, from 11:20 a.m. to 11:45 a.m. and continued with a full board meeting from 11:45 a.m. to 5:40 p.m. Board members present were Phyllis Edmundson, Jon Hill, Albert Menashe, Mark Comstock, Carol Skerjanec, Bette Worcester, Tim Gerking, Linda Eyerman, Rick Yugler, John Enbom, Lauren Paulson (11:20 a.m. – 1:40 p.m.), Marva Fabien, Nena Cook, Dennis Rawlinson (by phone 11:20 a.m. – 1:00 p.m.), Frank Hilton (by phone 1:15 p.m. – 5:40 p.m.) and Gerry Gaydos (by phone 12:20 p.m. – 5:40 p.m.). Staff present was Karen Garst, George Riemer, Sylvia Stevens (1:30 p.m. – 2:20 p.m.), Kay Pulju (3:20 p.m. – 4:20 p.m.), Jeff Sapiro (4:00 p.m. – 5:40 p.m.) and Susan Grabe. Present from the PLF were Robert Cannon (11:45 a.m. -1:00 p.m.), Tom Cave (12:15 p.m. – 1:00 p.m.) and Ira Zarov (12:15 p.m. – 1:00 p.m.). Also present were Christine Meadows, Oregon New Lawyers Division (12:00 p.m. – 12:55 p.m.); Adrienne Nelson, OSB ABA Delegate (1:25 p.m. – 1:30 p.m.); Greg Lusby, representing Mr. and Mrs. Turnberg (1:30 p.m. – 2:10 p.m.); Tom and Bonnie Turnberg, claimants (1:30 p.m. – 2:10 p.m.); and Scott Howard, Client Security Fund Committee Secretary (1:30 p.m. – 2:20 p.m.).

1. Work Session – General Counsel

George Riemer, General Counsel, and Sylvia Stevens, Senior Assistant General Counsel, outlined the various programs and services that are run through the General Counsel's Office. The programs consist of the Client Assistance Office, the MCLE Program, the ethics assistance given by staff to bar members, service to the board and staff as the bar's legal counsel, Client Security Fund, Fee Arbitration Program, and the Disciplinary Board Clerk.

The ethics assistance service entails calls, e-mails, or requests for written opinions. A recent survey indicated that the written ethics opinion process has been very well received. 100% of the respondents felt that the responses were timely. The bulk of the people felt the opinion they received was helpful, some thought it was somewhat helpful, and there were a few who felt that it was not helpful. Almost all who answered the question, "Would you recommend the written ethics advice service to a colleague?" indicated they would recommend the service to a fellow bar member.

The Fee Arbitration is a voluntary program. It is fairly inexpensive. The case is heard before a panel of volunteers. It is not highly utilized. Questions posed were whether fee arbitration should be mandatory and whether the fees for participating should be higher.

The Client Security Fund deals with claims regarding the misappropriation of client funds by lawyers. There is a \$50,000 per claim cap. Fund reserves are higher than the minimum amount required.

The Disciplinary Board Clerk function is fairly new and this office is like a trial court clerk. This office keeps all the records of formal disciplinary proceedings and monitors the progress of cases.

Two part-time people staff the MCLE Program and process all program approvals, compliance reports, etc. This will be the second year of transcript reporting to bar members. MCLE providers are required to give the bar their attendance records. More information is now available online.

2. Report of Officers

A. Report of the President

1. Meeting with the Douglas County Bar Association – April 11, 2005

Ms. Cook met with the Douglas County Bar Association. The president of the Douglas County Bar, who is also a member of the California State Bar, discussed a pamphlet for 18 year-olds produced by the California State Bar setting out legal information pertinent for young adults. The OSB already has developed such a pamphlet.

2. Professionalism Speech to Third Year University of Oregon Law Students

Ms. Cook gave a professionalism speech to third-year University of Oregon law students.

3. ABA Lobby Day – April 26-29, 2005

Ms. Cook participated in the Oregon delegation to ABA Lobby Day in Washington, D.C. They met with several of the state's congressional delegation. They focused on additional funding for legal services to the poor.

4. Update on the House of Delegates List Serve Discussion Regarding the February Bar Exam

There was a communication with the House of Delegates regarding the passage rates of the February bar exam.

5. Jury Appreciation Day – May 4, 2005

Following up on BOG Member Linda Eyerman's support for honoring Jury Day, Ms. Cook participated in some of the activities associated with that event. There will also be additional items such as books for juries and posters for which the bar will contribute a portion of the cost. BOG Member Rick Yugler stated that he hoped this will be an annual event. The Judicial Administration Committee is going to suggest the same.

6. Meeting with the Columbia County Bar Association – May 9, 2005

Ms. Cook met with the Columbia County Bar Association. Attendee commented on the costs of the Online CLE Publications proposal and some were not in favor of a mandatory fee.

7. Testify for the Oregon Judicial Department Budget – May 10, 2005

Ms. Cook provided testimony in support of the Oregon Judicial Department's budget at the state legislature.

8. Commission on Professionalism – May 12, 2005

The Professionalism Commission is soliciting candidates for the Edwin J. Peterson Professionalism Award.

9. The Vanishing Trial – June 2, 2005

The *Business Journal* is publishing an article on "The Vanishing Trial." Ms. Cook commented on the changing nature of litigation.

10. Meeting with the Cascade Women Lawyers - June 21, 2005

Ms. Cook met with members of the Cascade Women Lawyers in Bend. They were supportive of the proposed leadership college.

11. Meeting with Chief Justice Carson on June 22, 2005

The minutes of the meeting with the Chief Justice were provided to the board. The issues centered on the OJD budget and an ABA Judicial Index project.

B. Report of the President-Elect

1. Eastern Oregon Swing

Mr. Rawlinson reported on the trip to local bars in Eastern Oregon. Karen Garst and Mr. Rawlinson attended meetings at all seven local bars and visited three newspapers. Ira Zarov, PLF CEO, and Carol Skerjanec, Region 1 BOG member, attended some of the meetings. Issues raised included the lack of compensation for indigent defense lawyers and lack of funding for court facilities. There was overwhelming support for the Online CLE Publications proposal. There was a suggestion to consider a subscription service if the proposal did not go ahead as currently planned.

2. Strategic Planning Retreat

Mr. Rawlinson indicated that the strategic planning retreat is scheduled for this fall. He proposed having a facilitator who would assist the board in linking the board's planning to the bar's program measures. The board would then set goals and action plans for 2006.

C. Report of the Executive Director

1. ASQ Leadership Conference

Ms. Garst reported on a conference she attended sponsored by the public section of the American Society of Quality in Seattle. She indicated that the bar's program measure project stands out among public organizations.

2. Media Relations Work

Ms. Garst reported on recent work of the bar's Media Relations Coordinator, Kateri Walsh, in countering some of the negative reporting of legal issues.

3. Changes in 2006 BOG Meeting Schedule

Ms. Garst noted the date changes and updates to the 2006 BOG meeting schedule.

D. Oregon New Lawyers Division

Christine Meadows presented the ONLD report. Chief Justice Carson sent a letter to the winners of the high school essay contest. There was good geographic diversity in the winners. The ONLD will work on the Jackson County Fair but they will not be doing the State Fair this year. They are working on pro bono service with a number of other groups. This fall the ONLD will be doing Casemaker™ demonstrations at the law schools. They are looking at revamping the communications materials they use in an effort to bring in more volunteers. They just completed a Legislative Leadership Program in Salem where the participants shadowed an assigned legislator/mentor for the day. The participants remarked about how few lawyers were in the legislature. They have had ongoing discussions about how to tie into a proposed larger bar leadership program and they are very interested in the bar's proposed Leadership College and Ms. Cook remarked that the board is very interested in partnering with the ONLD. The ABA has chosen Portland as its site in May 2006 for its annual Young Lawyers Conference. The ONLD is in the process of locating a site for the conference and encouraging ONLD members to attend.

3. Professional Liability Fund

A. General Update

Bob Cannon gave the PLF Report. The number of claims is about the same as last year. The claims seem to be smaller for the first quarter than in the past. He commented on the great staff at the PLF. There is very good coordination between the PLF and OSB staff. The program is running smoothly. R. V. Kuhns has assisted the PLF in providing a very balanced portfolio for PLF invested funds. Ten percent is invested in a hedge fund with 45% in bonds and 45% in equities. The combined balance sheet showed the primary and excess plans were in the red for 2004, but for this type of business, this is not unusual and does not reflect the \$400 increase in the assessment in 2005. Taken individually the excess plan has a surplus while the primary plan does not. However, the primary plan made a small amount of money in 2004 and if it continues on its current course, it will have a gain of approximately \$1 million in 2005. The next actuarial report is due in August and the PLF Board of Directors will bring any assessment request to the BOG at its September meeting.

The PLF is cautiously optimistic that there will not need to be an assessment increase for 2006. The PLF Board and staff are following up on the request by the BOG to review any other savings that might be gained to avoid another assessment increase in the near term.

Sheila Blackford has been hired as a new Law Practice Management Attorney. In August, there will be a biennial defense counsel training program where attendees will review ethics issues and issues of how the PLF wants claims handled in terms of professionalism.

There was a modest increase in the reinsurance program costs. There may be an increase in one of the excess programs.

PLF has been working with bar staff regarding the new bankruptcy bill passed at the national level. There is some thought that a portion of the legislation might be revised because malpractice coverage would not extend to certain new provisions of the act. A letter has been sent by the PLF regarding coverage for claims under the new act as currently written.

B. April 30, 2005 Fiscal Report and Report on 2004 Audit

The audit report indicated that there were no problems. The IRS audited the PLF. The PLF speculates this was because of the many 1099s that it issues for paying defense costs. In addition, they questioned some other issues, but they have all been resolved. At one point, the IRS auditor indicated that she thought that PLF board members were employees for the purpose of the reimbursement of expenses and that there were some luncheon expenses that should not be reimbursed. However, the PLF's tax attorney indicated this was not accurate.

C. Revision of PLF Bylaws Relating to Indemnity - Article 10

The PLF Board of Directors proposed a change to Article 10 of its Bylaws to provide volunteers and staff with defense and indemnification for civil claims and disciplinary complaints. Mr. Yugler indicated that he did not support the change allowing for defense and indemnification of disciplinary complaints because the bar would be prosecuting someone and also providing for the defense of that person. He indicated a concern with the case of John Davenport: How would that have been handled? Mr. Comstock asked a question about Section 10.5(C) that would ostensibly allow an accountant member of the BOD to be defended for a complaint brought by the Board of Accountancy. Mr. Zarov said that it would have to be in the context of a PLF action. Ms. Eyerman wanted to be sure that this was consistent with the board's similar bylaw. Mr. Zarov indicated that the only difference was language that provided, "When considering whether to waive the reimbursement requirement the Board of Directors will consider as a mitigating factor whether the action upon which the reprimand is based was a policy or procedure of the PLF."

Action: Ms. Worcester moved, Mr. Enbom seconded, and the board passed a motion to accept the changes to the PLF Bylaws as recommended by the PLF Board of Directors (yes, 12; no, 2 [Yugler, Eyerman]; absent, 1 [Rawlinson]).

D. Removal of Directors – Article 3

The PLF Board of Directors proposed a revision to its bylaws (Article 3) to allow the removal and/or suspension of PLF board members for actions that are inconsistent with the best interests of the PLF. They want to review this proposal further and bring it back to the BOG at a later date. Ms. Cook indicated that the BOG already has authority to remove a PLF BOD member without cause.

E. Revision of PLF Policy Manual Relating to Practice Management

The PLF proposed changes to the PLF Policy Manual (Policies 2.300 and 6.150) relating to Practice Management. These were technical changes to conform to statutory language and OSB bylaws.

Action: Mr. Comstock moved, Ms. Edmundson seconded, and the board unanimously approved a motion to accept the PLF Policy Manual revisions relating to Practice Management as recommended by the PLF Board of Directors.

Executive Session

The board adjourned to Executive Session to consider litigation against the bar and PLF.

Open Session

Action: In Open Session, Mr. Hill moved, Mr. Enbom seconded, and the board unanimously approved a motion to authorize the PLF to hire and pay for the services of Janet Schroer to represent the BOG and PLF in responding to John Winston's motion to join the BOG as a party in the case of *Ramis, Crew, LLP v. Robert J. Claus, et. al.*, Washington County Circuit Court Case No. C05-0444CV.

4. Special Appearances

A. ABA Update

Adrienne Nelson, OSB ABA Delegate, stated that the ABA Annual Meeting in August will be held in Chicago. There do not appear to be any controversial items on the House of Delegates agenda except for a right to life resolution that is periodically presented. There is a resolution to support the Voting Rights Act of 1965. Ms. Cook asked whether Ellen Rosenblum would be

running for ABA president. Ms. Nelson stated that Ms. Rosenblum is not going to run for president of the ABA because of her new position on the Oregon Court of Appeals.

5. OSB Committees, Sections, Councils, Divisions and Task Forces

A. Client Security Fund

1. William Judy

Mr. Comstock introduced the claims against lawyer William Judy. Mr. Judy had a friend, Mr. Notter, who had developed several investment schemes. There were various loans made to Mr. Judy that were turned over to Mr. Notter for investment in these schemes.

Mr. Lusby appeared on behalf of the Turnbergs. He asked the board to reverse the decision of the Client Security Fund Committee denying his clients' claim. He reported that after the committee denied his clients' claim, the Josephine County Circuit Court entered a judgment against Mr. Judy in favor of the Turnbergs. They were also awarded court costs and attorney fees. It is not anticipated that Mr. Judy will pay the judgment because he is incarcerated. Ms. Lusby provided an affidavit by one of the lawyers who prosecuted Mr. Judy, which stated that Judy's conduct was dishonest and that the Turnbergs were victims of Judy even though their situation was not a part of the criminal charges filed against Judy. The CSF Committee decided against paying the Turnbergs' claim because (1) it believed that the Turnbergs would have loaned money to Judy regardless of whether Mr. Judy was their lawyer and (2) Mr. Judy was not aware of the fraud at the time the Turnbergs gave him money. Mr. Lusby stated that the Turnbergs would not have loaned money to Mr. Judy but for the fact that Mr. Judy was their lawyer and working with them on their estate planning. Mr. Judy presented the scheme to the Turnbergs as an excellent business opportunity. He suggested the idea of investing their money in this project. They trusted him as their lawyer. The other key issue was Mr. Judy's knowledge of the fraud. Mr. Lusby argued that the facts showed Mr. Judy had that knowledge when he got the Turnbergs to invest in the scheme in question. Mr. Fitzgerald, the criminal prosecutor, indicated he believed that Mr. Judy knew about the fraud when he approached the Turnbergs. Mr. Lusby requested that the board pay the claim. He argued finally that CSF Rule 2.11 gives the board broad discretion to approve claims based on extreme hardship or special and unusual circumstances.

Mr. Howard, secretary of the CSF Committee, stated that the committee spent hours on the Judy claims; some of which were easily paid or easily denied, while other were quiet difficult. The two issues regarding the four remaining Judy claims were (a) was there an attorney/client relationship and (b) was dishonest conduct involved? The issue of dishonest conduct turned on whether there was a “willful act of defalcation.” The committee also considered whether the indictment and the plea were sufficient to indicated dishonest conduct. They looked at the knowledge Mr. Judy had at the time the loans were made. The committee also discussed whether he should have known at the time of the Turnbergs’ loan that they were not going to be repaid. They discussed the ethical implications, securities law violations, and rules regarding payment of such claims in other states. In the end, the CSF Committee voted to deny the Turnberg and Calkins claims considering all these factors.

Action: Mr. Comstock moved the committee’s recommendation to pay claims of Newcombe and Dunken, but not to pay the Turnberg and Calkins claims. There was no second.

Mr. Enbom did not agree with the CSF Committee’s recommendation on the Turnbergs’ claim. He felt the situation reflected a lawyer taking advantage of very vulnerable clients.

Action: Mr. Gerking moved, Ms. Worcester seconded, and the board passed a motion to reverse the CSF Committee’s denial and to pay the Turnberg claim (yes, 13; no, 1 [Comstock]; absent, 1 [Rawlinson]).

Mr. Yugler supported the motion and did not believe that the Turnbergs would have made the loan had they not had an attorney/client relationship with Mr. Judy. Ms. Eyerman asked whether CSF Rule 2.11 allowed the board to take into consideration that the claimants are all the victims of the same lawyer and to treat them the same. Mr. Riemer indicated that each claim had to be considered on its own facts and paying one claim did not necessarily justify paying all similar claims. Ms. Skerjanec asked Mr. Lusby about the special circumstances of his clients. Mr. Lusby indicated that his clients’ financial loss was clear and that it involved a significant part of their savings. He indicated that the committee acknowledged that it struggled with this claim. He felt it was the right thing to do to pay this claim. Ms. Stevens stated that any claim paid sets a precedent. The board has been very careful with loans and this is not the practice of law. She said there is no evidence that Mr. Judy benefited from these loans. It appears he genuinely believed they all would get rich. She

added that the board nevertheless had significant discretion to waive the requirements of the rules. Mr. Comstock stated that Mr. Judy essentially was an “investment advisor” when he approached the Turnbergs about the loan. Mr. Gerking added that he made the motion because he was satisfied that the Turnbergs would not have made the loan but for the attorney/client relationship. He also believed that Mr. Judy must have known about the fraud involved in the investment and that denying the claim was not the right thing to do.

Action: Mr. Yugler moved, Ms. Eyerman seconded, and the board approved the payment of the Newcombe, Dunken, and Calkins claims (yes, 13; no, 1 [Comstock]; absent, 1 [Rawlinson]).

Ms. Stevens indicated that the board should discuss at some point its philosophy in paying CSF claims. The board should clarify its philosophy on the payment of claims to assist the CSF Committee in deciding, in the first instance, whether to approve or deny claims. Ms. Cook directed the Policy and Governance Committee to review the CSF rules. Staff was directed to review the rules in other states to aid the Policy and Governance Committee in its review of the current CSF rules.

B. MCLE Committee

1. Review of MCLE Committee Denial of Credit

Ms. Skerjanec presented information concerning the denial of MCLE credits to Mr. Adamson. Ms. Edmundson said the committee’s arguments were persuasive. Mr. Enbom concurred. There must be something of substance *vis a vis* legal education as opposed to commenting on legal issues of the day.

Action: Ms. Skerjanec moved, Mr. Gerking seconded, and the board unanimously passed a motion to uphold the denial of Barry Adamson’s request for MCLE credit.

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

A. Access to Justice

1. Appointments to Oregon Legal Aid Planning Commission

Linda Eyerman introduced the first issue: The appointments to the Legal Aid Planning Commission. The Commission has been created by the shared governance agreement developed from the merger required

by the Legal Services Corporation. Five of the eleven members are to be appointed by the Board of Governors. The committee is recommending Lisa LeSage (4 year term), Steve Walters (4 year term), Merrily McCabe (3 year term), the Honorable David Brewer (3 year term), and the Honorable Lorenzo Mejia (2 year term). Mr. Enbom commented that there is no public member being proposed.

Action: The committee motion to approve five at-large BOG appointments to the Oregon Legal Aid Planning commission was passed unanimously by the board.

2. Request for Amicus Curiae Participation of Oregon State Bar in *Velazquez v. Legal Services Corporation*

The committee also discussed a request that the OSB sign on to an *amicus* brief in *Velazquez v. Legal Services Corporation*. The committee is recommending against signing on to this brief because litigation that the Oregon Attorney General anticipates filing against the LSC regarding the restrictions on the use of LSC funds to provide legal services to the poor could be undercut by so doing.

Action: No action was taken by the board on this matter.

3. Miscellaneous

The committee is also exploring a Loan Repayment Assistance Program similar to that used in nine other states.

B. Budget and Finance Committee

1. Future Bar Center

Albert Menashe introduced the discussion of the bar's facilities. In January the architects, Yost, Grube, and Hall, presented a plan to add 15,000 square feet to the bar center. They then investigated further and in June, they informed the bar that it was not feasible to add to the current bar center because of parking requirements and other city regulations. Other options were discussed including the continued interest in the ODS building and partnering with other associations like the Oregon Medical Association in a joint venture. A conference center could be shared. The OMA was interested. There was a meeting with it at the ODS building. It showed interest in a joint venture and was going to ask other associations to partner. Cal Souther made a presentation to the committee to have a building built near Wilsonville. Mr. Menashe outlined the options in the board's exhibit.

The committee recommended that the board approve spending up to \$10,000 on an expert to help the board make a decision.

Ms. Eyerman stated that she appeared to have failed to communicate adequately to the board the emotionally charged relationship between trial lawyers and the OMA. There is another initiative that the OMA may pursue to cap attorney fees. She felt any effort to partner with the OMA regarding facilities would generate a great deal of antagonism from trial lawyers and could even generate an effort to abolish the mandatory bar in Oregon.

Mr. Hill stated that we should begin with a discussion of what the bar needs in the future. Mr. Menashe said that OSB CFO, Rod Wegener, has given the committee a great deal of information on future needs. One of the impetuses to discussing this issue at the present time is the value of the current building. At some point, there will be a need for a new facility. One of the things the committee will do is to present the information Rod Wegener prepared to the full board. Mr. Menashe felt that something must be done in the next five years.

Ms. Garst reviewed the history of the consideration of new bar facilities and stated that if the bar does wait for five years the opportunities for land near Portland and the suburbs will be limited. She also recommended that the board formally decide that the current facility cannot be remodeled.

Mr. Yugler said that he would prefer a building near downtown and that the issue of the PLF participating in any new building should be decided by the board. He also recommended the remodel idea be put to bed. There may be other organizations with which to partner. Without a huge dues increase, the bar is going to need a partner. He agreed with Ms. Eyerman that it should not be the OMA. Mr. Menashe said that the board needs to give the committee direction, otherwise committee members will be running around exploring opportunities that the full board may not endorse. Mr. Hill stated that we need to quantify what we need.

Ms. Edmundson emphasized the original motion to have a consultant assist the board in this deliberation. Options for choices could be presented to the board.

A consensus was reached that time should be set aside on the August board meeting agenda to discuss this issue in more depth. A consensus was also reached that the board was not going to try to remodel the

current facility and would not attempt to partner any building project with the OMA. Mr. Enbom suggested sharing the material prepared by Rod Wegener with the full board. Ms. Eyerman suggested that big decisions like sharing space with the PLF or having a conference center would drive the discussion. Mr. Hill supported the committee's recommendation to engage a consultant that does this work for a living. He did not support waiting until the November board retreat to consider hiring someone to assist the board in considering its options. Ms. Garst suggested engaging the services of Gordon Davis, a former member of the board who does consulting on construction issues. Ms. Edmundson suggested an RFP to determine who should be engaged. Mr. Yugler said that there is a limited group of people who have the expertise to assist the bar in analyzing public/private partnerships. Mr. Hilton thought it was pretty simple – do we do nothing or do we proactively look for a suitable partner. The reactions he received from his *Bulletin* article were positive about the bar pursuing the issue of upgrading its facilities, but there was a consensus not to go downtown and not to raise bar dues.

The Budget and Finance Committee was asked to consider, at its July 15 meeting, a process to have more board discussion on this issue and share the information that the committee already has. There will be a committee presentation on this issue at the August board meeting.

C. Committee on the Judiciary

Mr. Hill reported on the ABA Judicial Index Project discussed earlier by Ms. Cook. The committee decided against endorsing Oregon's participation in this project to the Chief Justice. The committee thought the project was worthwhile, but it would challenge the current efforts and resources of the Oregon Judicial Department. Mr. Hill will send a letter to this effect to the bar's Judicial Administration Committee that endorses the project.

Bar Bylaw 2.703 (Statewide Judicial Appointments) will be discussed by the committee in July. The board has reviewed this issue previously.

D. Member Services Committee

1. Participation in the Bar

Ms. Cook introduced the concept of a Leadership College. The committee will develop the concept and present it in August to the full board.

2. Recruitment

All of the BOG and HOD races have been completed. Gerry Gaydos was reelected in his region and Terry Wright and Ward Greene will be new board members from Region 5.

3. Online CLE Publications

The committee has decided to send an e-mail to the HOD list serve, which sets forth the reasons why the Online CLE Publications proposal should not be brought to the HOD this year in order to start a dialogue with the HOD on this issue. Staff will create a bulletin board to discuss the issue. Ms. Eyerman and Ms. Skerjanec felt the issue should be before the HOD this fall or the solos will think the big firms won. Mr. Yugler said there are future fee increases that might be in jeopardy if this proposal is approved as currently envisioned. There may be an option to allow people to subscribe as opposed to requiring every lawyer to pay to support the proposal.

Action: The board unanimously approved the committee recommendation to send a communication to the HOD list serve.

4. Joint Bench/Bar Professionalism Commission

Ms. Cook presented Albert Menashe with a plaque from the Joint Bench/Bar Professionalism Commission stating its appreciation for his service as chair in 2003.

E. Policy and Governance Committee

1. Section Donations/Change to Bar Bylaws

Mr. Comstock introduced the recommendation of the committee to approve the request from the Labor and Employment Section to make a donation to the Carlton Snow scholarship fund and also to make a change to the bylaws to allow scholarships to law students who are not necessarily the top students in their classes. The committee recommended a change to Bar Bylaw 15.401 to allow the executive director to approve such requests instead of the board.

Action: The board unanimously approved the committee recommendation to approve the donation request from the Labor and Employment Section and to change Bar Bylaw 15.401. The motion included the waiver of the one meeting notice requirement pursuant to Article 26 of the Bar Bylaws.

2. Change to Diversity Bar Bylaw to Add Religion

Mr. Comstock introduced the second item, which was a recommendation to change the Diversity Bar Bylaw, Article 10, to add “religion”.

Action: The board unanimously approved the committee recommendation to change the Diversity Bar Bylaw, Article 10, to include religion. The motion included the waiver of the one meeting notice requirement pursuant to Article 26 of the Bar Bylaws.

3. Adoption of an Appointment Process for Bar Bylaw 18.6 Suspensions

Mr. Comstock introduced the revisions to Bar Bylaw 18.6 regarding suspension of a board member who is being prosecuted by the bar for disciplinary reasons. The board has been provided with the language it reviewed at the April meeting and the changes the committee has made since then. At the April meeting in Bend, there were some revisions presented to the board and the board reviewed them, but decided to wait until this meeting for a final vote. This new language provides a mechanism for a temporary replacement of a board member suspended under Bar Bylaw 18.6. Ms. Cook thanked the Policy and Governance Committee for its work and commented that she remains in favor of bylaw 18.6, but does not support the adoption of proposed bylaw 18.602. Ms. Skerjanec indicated the changes are good for the board and protects all of the regions and if the board suspends a board member, the region members must be notified. Mr. Yugler and Mr. Gerking expressed concern about the need to notify all members of an affected region of a board member’s suspension. Ms. Worcester said that this process exists because of the leadership position of the board member. Ms. Eyerman believed that there should be a replacement and the board should make the decision to replace and who to appoint.

Action: Ms. Edmundson called for the question.

Action: The board unanimously approved the committee motion to waive the one meeting notice requirement pursuant to Article 26 of the Bar Bylaws.

Action: Mr. Comstock indicated that while this was a committee motion, he would appreciate a second of his motion. Ms. Worcester seconded the motion and the board passed the motion to amend Bylaw 18.6 and adopt Bylaw 18.600, 18.601, and 18.602 as they appear on page 115 of the board’s June 24, 2005 agenda and to change the name to *Suspension of Service* (yes, 9 [Comstock, Edmundson, Enbom, Fabien, Gaydos, Hill, Menashe, Skerjanec, Worcester]; no, 5 [Cook, Eyerman, Gerking, Hilton, Yugler]; absent, 1 [Rawlinson]).

4. SLAC Changes

Mr. Comstock presented the committee's motion to adopt Bar Bylaw changes regarding the State Lawyers Assistance Committee in order to conform them to the legislation submitted by the bar this legislative session.

Action: The board unanimously approved the committee motion to waive the one meeting notice requirement pursuant to Article 26 of the Bar Bylaws.

Action: The board unanimously approved the committee motion to adopt Bar Bylaw changes for SLAC.

5. Election Date in Uncontested Elections

Mr. Comstock presented the change to the bylaws to reflect the election date for board members who run unopposed. The committee's recommendation is to revise the Bar Bylaws to set a date thirty-one days after the closing date for nominating petitions or, in the case of a challenge to a candidate's service, at the end of that process. The statute requires the board to set an election date in the case of uncontested elections.

Action: Mr. Comstock moved, Mr. Yugler seconded, and the board unanimously approved the waiver of the one meeting notice requirement pursuant to Article 26 of the Bar Bylaws.

Action: The board unanimously approved the committee motion to revise the Bar Bylaws concerning uncontested elections and set the date of election as thirty-one days after the closing date for nominating petitions or, in the case of a challenge, at the end of the process.

6. Redistricting

Mr. Comstock reported on the committee's decision to defer until 2008 consideration of a redistricting plan for BOG and HOD regions or until a decision is made to add an additional board member. The current numbers are at least as good as those done at the last redistricting.

Action: The board unanimously agreed to defer decisions on redistricting until 2008.

7. Employment Ad Policy for the *Bulletin*

The final committee motion was not to allow the military to place advertisements in the *Bar Bulletin* because of the bar's editorial policy

for advertisements that requires non-discrimination on the part of the advertiser. This decision was made because of the military's policy in regard to sexual orientation. The committee is going to review the bar's existing policy to determine if any changes should be recommended to the board.

Action: The board approved the committee motion not to allow the military to place advertisements in the *Bulletin* and to review the policy (yes, 12; no, 2 [Skerjanec, Yugler]; absent, 1 [Rawlinson]).

F. Public Affairs Committee

1. General Political Update and Status of Bar Sponsored Package of Legislation

Susan Grabe told the board that the legislative session was winding down with a possible *sine die* at the end of July. The budget of the Oregon Judicial Department is doing fairly well given the current configuration of budget committees at the legislature. Also on the table are new judgeships and judicial salaries. The Public Defense Services Commission will have a reduction, but not as much as originally anticipated. The reduction is targeted at the indigent verification program. The Council on Court Procedures drafts the rules of civil procedure. It appears it will be funded. In terms of the law improvement legislation, four bills have died in the process, two are still in play, and the rest have passed through the process. The bar's bills on taxation, the independent contractor bill, and changes to administrative law may be used to incorporate other amendments.

2. Alternative Minimum Tax Draft BOG Resolution

Mr. Comstock introduced an action item from the committee to pass a resolution to endorse and forward to the Oregon congressional delegation. The proposal was distributed as a handout and numbered pages 146A and 146B of the board's June 24, 2005 agenda. The resolution seeks modification of the Alternative Minimum Tax to permit individual taxpayers to claim a miscellaneous itemized deduction for the attorney fees paid from certain compensatory damage awards.

Action: The board unanimously approved the committee motion to endorse the resolution concerning AMT.

G. Public Member Selection

1. Appointment of New Public Member

Mr. Enbom explained the committee's decision to move the timeline and the committee has received more nominations as a result. Interview decisions will be made in August with the interviews held in September. The committee recommended Jon Hill as a replacement to fill out Ms. Edmundson's remaining term.

Action: The board unanimously approved the committee motion to appoint Jon Hill to complete Phyllis Edmundson's term as a BOG Public Member.

7. Consent Agenda

Action: Mr. Hill moved, Mr. Comstock seconded, and the board unanimously approved a motion to waive the one meeting notice requirement pursuant to Article 26 of the Bar Bylaws for purposes of adopting the proposed bylaw amendment in the Consent Agenda.

Action: Mr. Menashe moved, Ms. Edmundson seconded, and the board unanimously approved the Consent Agenda.

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