The meeting was called to order by President Kathleen Evans at 1:00 p.m. on September 24, 2010, and adjourned at 1:45 p.m. Members present from the Board of Governors were Barbara DiIaconi, Kathleen Evans, Ann Fisher, Michael Haglund, Derek Johnson, Christopher Kent, Ethan Knight, Steve Larson, Mitzi Naucler, and Stephen Piucci. Staff present included Helen Hierschbiel, Rod Wegener, Jeff Sapiro, Susan Grabe, and Teresa Wenzel. Also, present were Lauren Paulson and Charlie White.

1. Open Session
   A. Approve HOD Agenda
      1. Amendment of HOD Rules 5.5 – Board of Governor Resolution No. 2
         Ms. DiIaconi will be the presenter for the board.
      2. Resolutions Regarding Veterans Day Remembrance – Board of Governors Resolution No. 3
         Mr. Kent will be the presenter for the board.
      3. Amendment of ORPC 1.5 and 1.15-1 – Board of Governors Resolution No. 4
         Mr. Johnson will be the presenter for the board.
      4. Amendment of ORPC 1.2 and 3.4 – Board of Governors Resolution No. 5
         Mr. Knight will be the presenter for the board.
      5. Amendment of ORPC 3.3 – Board of Governors Resolution No. 6
         Ms. Naucler will be the presenter for the board.
      6. Resolution for Repeal of ORS 419B.010 and 9.114 – House of Delegates Resolution No. 2
         Ms. Hierschbiel presented information about the history of the rules and indicated that the national trend is to expand the mandatory child abuse reporting obligations, not to limit them. Ms. Grabe informed the board of the legislative history and implications of the resolution indicating that it would be an uphill battle and politically unwise to advance the proposed legislative changes.
Motion: Mr. Larson moved, Mr. Kent seconded, and the board voted unanimously to oppose the resolution.

Mr. Piucci will present the opposition for the board.

7. Resolution to Amend ORPC 7.1 – 7.3 – House of Delegates Resolution No. 3

Motion: Mr. Larson moved, Ms. DiIaconi seconded, and the board voted unanimously to oppose the resolution.

Ms. DiIaconi will present the opposition for the board.

8. Resolution to Amend Bar Rule 8.2 – House of Delegates Resolution No. 4

Motion: Ms. DiIaconi moved, Mr. Kent seconded, and the board voted unanimously to oppose the resolution.

Mr. Haglund will present the opposition for the board.

9. Resolution to Amend ORS 133.060 – House of Delegates Resolution No. 5

After discussion, the board concluded it would be more appropriate to have the resolution vetted through the appropriate channels before being presented to the HOD.

Motion: Ms. Fisher moved, Mr. Kent seconded, and the board voted unanimously to oppose the resolution.

Mr. Knight will present the opposition for the board.


This resolution is supported in concept by the Sole and Small Firm Practitioners Section. The board expressed concerns that this resolution interferes with marketing aspects of the CLE programs and indicated, once the cost-free BarBooks™ program is rolled out to the entire bar and other pricing adjustments are concluded, this resolution may become a moot point.

Motion: Mr. Kent moved, Mr. Larson seconded, and the board unanimously voted to oppose the resolution.

Mr. Kent will present the opposition for the board.

11. Resolution to Encourage the Effective and Efficient Administration of Justice – late House of Delegates Resolution (Exhibit 1)
The board opposed the resolution on the grounds that it arrived after the HOD resolution deadline and further discussed the merits determining that the resolution was inappropriate due to *Keller* guidelines.

**Motion:** Mr. Kent moved, Ms. DiIaconi seconded, Ms. Fisher added a friendly amendment, and the board unanimously voted to omit the resolution from the preliminary HOD Agenda and should the late resolution make it onto the HOD Agenda from the floor of the HOD, to oppose it under *Keller*.

Ms. Fisher will present the opposition for the board should the resolution make it to the HOD Agenda from the floor of the HOD.

**Motion:** Mr. Piucci moved, Mr. Haglund seconded, and the board unanimously voted to adopt the preliminary HOD Agenda for distribution to the membership.

B. Executive Director Evaluation Committee

**Motion:** The board unanimously voted to approve the committee motion to accept the contract with Sylvia Stevens for the position of Executive Director.

C. Nominating Committee

The Nominating Committee recommended Mitzi Naucler to the board as its 2011 President-elect. Final approval for the position will come before the board at its November 2010, meeting.

D. Appointments Committee

**Motion:** The board unanimously voted to approve the Appointments Committee’s recommendation to appoint Jennifer Gates to the Council on Court Procedures.

E. Budget and Finance Committee

The committee informed the board that the bar’s tenant, 20/20 Eye Clinic, has terminated its lease and that the bar is in negotiations with another eye clinic to take over the lease and possibly continue the lease new until 2021.
Resolution to Encourage the
Effective and Efficient Administration of Justice

WHEREAS, the State of Oregon is currently, and for the foreseeable future will be, faced with significant budget deficits, and,

WHEREAS, life without the possibility of parole is both an adequate deterrent, serves retributive purposes, and satisfies concerns related to public safety, and,

WHEREAS, the family members of victims of capital crimes are not well served by ongoing litigation as is evidenced and supported by groups such as Murder Victim’s Families for Reconciliation, and,

WHEREAS, a sentence of death and the related state and federal post-conviction litigation, has been shown in numerous studies, to cost far more than a sentence of life without the possibility of parole, and,

WHEREAS, the elimination of state and federal post-conviction litigation concerning death sentenced inmates would result in significant cost savings for the State of Oregon, and,

WHEREAS, those cost savings could be applied to public safety concerns, education, and other vital State interests such as improving access to justice for those in need who could not otherwise afford adequate legal services, as well as re-entry services, and needed state-wide drug treatment programs, and,

WHEREAS, there have been only two executions in Oregon since 1976, and,

WHEREAS, both of those executions were the result of death row inmates who abandoned their appeals and were executed without full review of their convictions and sentences, and,

WHEREAS, the last Oregon execution took place fourteen years ago in 1996, and,

WHEREAS, the death penalty has been shown in numerous studies to be disproportionately applied to the poor, to minorities, and to those who do not have access to quality legal assistance, and,

WHEREAS, the death penalty has been shown in numerous studies to be disproportionately applied in cases where the victim(s) were white, and,

WHEREAS, there is a disproportionate use of the death penalty among different counties within the State of Oregon, and,

WHEREAS, a 2009 survey of police chiefs conducted by the Death Penalty Information Center resulted in the conclusion that the police chiefs rated the death penalty as the least effective means of reducing violent crime and the least effective use of taxpayer dollars used to reduce crime, and,
WHEREAS, the Oregon State Bar Association is an organization committed to equality, fairness and access to justice, as well as the protection of human rights of all citizens regardless of race, gender, economic standing, and sexual orientation,

NOW THEREFORE BE IT RESOLVED, that the House of Delegates urges the Board of Governors, in the strongest possible terms, consistent with ongoing efforts to improve access to justice, and consistent with the pursuit of the effective and efficient administration of justice, to encourage, by any means available, including legislative action and other action, to make a top priority in the pursuits of the Board of Governors, the commutation of all Oregon death sentences presently imposed on Oregon’s thirty-four death sentenced inmates, to life without the possibility of parole.

Submitted by:  
Printed Name: Patrick J. Ehlers  
Bar Number: 04118  

Background:

In more than thirty years, Oregon has carried out only two executions. During that time violent crime has consistently declined and is presently at record lows. There are only thirty-four people currently on Oregon’s death row and yet the litigation regarding those thirty-four cases is costing the State millions of dollars in litigation costs. Simultaneously, Oregon is experiencing one of the worst budget deficits in State history. Commutation of Oregon’s entire death row to life without parole sentences will significantly reduce, if not eliminate completely, state and federal post-conviction litigation costs, while at the same time maintaining public safety. The Governor retains exclusive commutation power and has sole discretion to exercise that power.

There have been, to date, a total of one-hundred-thirty-eight death row inmates exonerated from death rows across the United States who were determined to be innocent although they had been previously convicted and sentenced to death after trial. In 2009, there were nine death row exonerations in the United States of individuals who were freed after having served a combined total of one-hundred and twenty-one years in prison. Access to justice is a persistent problem in capital litigation at all levels. This is consistently evidenced by the number of ineffective assistance of counsel claims that prevail on appeal in both state and federal courts both across the country and in Oregon.

Bangladesh, China (People's Republic), Cuba, Egypt, Iran, Iraq, Jordan, North Korea, Laos, Lebanon, Libya, Pakistan, Palestinian Authority, Saudi Arabia, Somalia, Sudan, Syria, and Yemen. And, in 2009 the following countries ignored both evolving standards of decency and human rights by leading the world in executions of their citizens: China (1000+), Iran (388), Iraq (120), Saudi Arabia (69), United States (52), Yemen (30), and Sudan (9), Viet Nam (9), Syria (8), and Japan (7).

There is precedent for elimination of death row through the commutation of all death sentences to life without the possibility of parole. On January 13, 2003, the death sentences of one-hundred and fifty-six death row inmates in Illinois were commuted to life without the possibility of parole.

There are thirty-four death row inmates in Oregon whose cases are costing, and will continue to cost the State of Oregon, millions of dollars in both state and federal post-conviction litigation costs. That litigation would be substantially reduced, if not completely eliminated, by commutation of all Oregon death sentences to life without the possibility of parole.

The facts stated in this resolution were obtained from the publications of the Death Penalty Information Center, Amnesty International, Murder Victim’s Families for Reconciliation, The Oregonian, and the Oregon Department of Corrections.

Financial Impact (if any): None