

Oregon State Bar



2016 COMMITTEE
Annual Reports

2016 Committee Annual Reports

The Oregon State Bar would like to thank all Committee volunteers for their service. Committees are vital to the ability of the bar to provide both member and public services and to keep the organization responsive to the needs of its members, the courts, and the bar. To all 2016 Committee members, thank you for your time and expertise.

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Advisory Committee on Diversity & Inclusion

Activities and accomplishments:

The 19th Annual OLIO Orientation was held on August 4-7, 2016 in Hood River and was a great success. A total of 57 students attended this year (including one prospective law student), with 47 attorneys and 16 judges also participating. Our free CLEs for this OLIO Orientation included a Microaggressions and Race presentation by Barbara Diamond of Diamond Law and an Elder Abuse Reporting presentation by Sibylle Baer of Cartwright Baer Johansson PC. OSB President Ray Heysell presented welcoming remarks. Other BOG member volunteers and attendees included Ramon Pagan and Vanessa Nordyke. Keynote speakers included Erious Johnson, Susan Marmaduke, and the Honorable Youlee You. Thanks to the continuing support from the legal community, including new sponsorships from the Oregon State Lottery, Ogletree Deakins, and Bullard Law, we are on track to exceed our sponsorship projections for 2016, raising \$65,081 versus our projected budget of \$63,000, our most ambitious OLIO sponsorship goal to date.

The ACDI continues to support law students and prospective through the administration of the D&I Department's pipeline, mentorship, scholarship, and summer employment programs. This year, we awarded nine Clerkship Stipends to Oregon law students, three of whom engaged in clerkship opportunities with employers that had not previously participated in D&I programs. We also awarded seven Public Honors and Access to Justice Fellowships for students to explore summer employment opportunities in the public sector or with non-profit organizations. As for other awards, we awarded nine bar exam grants for the February and July bar exam cycles, ten scholarships for continuing law school students, and six LSAT Scholarships for prospective law students. ACDI members helped by reviewing applications and helping D&I staff in the selection of program recipients.

The ACDI expanded its efforts to connect with the law students from our three Oregon law schools by hosting a study break on each of the campuses following their September, October, and November meetings. The study breaks were well-attended and provided our OLIO students and other D&I participants to meet the volunteer attorneys that support them

during their law school career. The ACDI hopes to continue this tradition in upcoming years.

Matters considered/Matters pending:

The ACDI considered several changes to the summer fellowship application process to open eligibility to all law students, instead of limiting eligibility to upper division students. The ACDI is also in the process of considering several other changes in how it reviews applications for its fellowship programs with the purpose of saving time and avoiding redundant grading.

The ACDI has also expressed significant interest in two new issues due to recent events. First, with the two-year drop of pass rates both nationally and in Oregon for the bar exam, the ACDI sought more information about the bar exam process from Admissions, and has engaged in discussion about whether Oregon should consider changing its cutoff score for the bar exam, particularly with Oregon's adoption of the UBE. Furthermore, the ACDI is considering what kind of support it can provide to students who did not pass the bar exam and are taking it again, in addition to the support the D&I Department provides through the Bar Exam Grant Program. Second, the ACDI has continued discussions it started at the end of 2015 about race and/or bias-based harassment in Oregon law schools, what support it should provide to students affected by such harassment, and what consequences should result from such actions, with reflection upon the character and fitness requirements to practice law.

Recommendations for 2017:

Continue with established programs. Continue focusing on joint program opportunities with the Diversity section.

Respectfully submitted: Jacqueline Alarcon (CH), Daniel Simon (SEC), Irina S. Batrakova, Bryson E. Davis, Sherisa Davis-Larry, Jammel Gamboa Rose, Gary W. Glisson, Claudia G. Groberg, Jonathan S. Liou, Connie Elkins McKelvey, Gabriel Elias Moses, Kyle Kazuo Nakashima, David P. O'Brien, Jollee Faber Patterson, Janathan A. Patterson, Yazmin Wadia, Alex Cook (PM), Shari R. Gregory (OAAP), Jaimie A. Fender (ONLD), Charles A. Wilhoite (BC), Christopher Ling (BL).

Bar Press Broadcasters Council

Activities and accomplishments:

The Council hosted the annual Building a Culture of Dialogue event in March. The gathering brought together 45 professionals – journalists, lawyers and judges – for a facilitated discussion of the coverage of high profile criminal cases in Oregon. Facilitated by the Honorable Michael Simon of United State District Court, the program helped participants discuss areas of conflict and tension that have arisen over the past several years in the state.

Additionally, the Council drafted significant amendments to UTCR 3.180, which directs courts on the use of electronic recording equipment in Oregon courts. The amendments seek to modernize the rule to account for modern electronic devices such as cell phone cameras, and evolving mediums such as Twitter, which are increasingly in use by media outlets. Current expectation is that the rule will be presented for public comment throughout early 2017 and considered by the Oregon Supreme Court in late spring or summer.

Recommendations for 2017:

The Council will host its annual event in March, and planning is under way at the close of 2016. The Council will continue to be engaged in the discussion of its proposed UTCR amendments. Should the Supreme Court revise the rule, and the Council has additional plans to educate the public and stakeholders regarding the changes.

Respectfully submitted: Lisa J. Ludwig (CH), Dawn Andrews, Steve Bagwell (Press), Duane Bosworth, Therese Bottomly (Press), Nick Bradshaw (Broadcaster), Nancy Cozine, Patrick Joseph Ehlers, Tim Gleason (Press), Corey Hanson (Broadcaster), Erik V. Hasselman, Laurie Hieb (Press), Kyle Iboshi (Broadcaster), Chad A. Jacobs, Shannon Johnson (Broadcaster), Dennis C. Karnopp, Steven L. Krasik, Kevin Ray McConnell, Mike McNally (Press), Rachel Philips, Sarah Rothenfluch (Broadcaster), Brad Thompson (Press), John Tierney (Broadcaster), Dan Tilkin (Broadcaster), Vance Tong (Press), Rodney Dale Underhill, Honorable Nan G. Waller, John R. Bachofner (BC), Kateri Walsh (BL).

Legal Ethics Committee

Activities and accomplishments:

The Legal Ethics Committee considered several important matters presented by the bar, submitted six formal opinions to the Board of Governors for approval, and proposed one change to the Rules of Professional Conduct. The Committee also reduced the number of previously pending projects by analyzing the issues in depth and determining that a formal opinion or proposed rule change was not necessary for the Bar.

Matters considered/Matters pending:

The Legal Ethics Committee currently has the following 12 pending Projects:

Three 2012 Projects that relate to: (i) Elective share advice in estate planning and elder law; (ii) 3rd Party insurance billing (revision of Formal Opinion 2005-157); and (iii) Conflicts of interests in third party actions under Oregon workers compensation statute. Substantial work has been completed on each of these projects.

Three 2014 Projects that relate to: (i) Amendment of RPCs to prohibit a bar complaint to gain an advantage in a civil matter; (ii) Guidance on affidavits of prejudice; and (iii) Definition of “real-time” electronic contact. Substantial work has been completed on each of these projects.

Two 2015 Projects that relate to: (i) Interpretation of RPC 8.5; and (ii) Lawyer Referral Services. Substantial work has been completed on each of these projects.

One 2016 Project that relates to conflicts of interest under the decision in *Crimson Trace*.

Recommendations for 2017:

The Legal Ethics Committee will continue to focus on reviewing prior projects to make thoughtful recommendations that will help the Bar. In addition, the Legal Ethics Committee will: (a) Provide timely responses to inquiries from Oregon State Bar members and the Board of Governors; (b) Prepare Formal Opinions for the Board of Governors’ approval; (c) Study and recommend changes to the RPCs arising out of issues considered by the Legal Ethics Committee or directed by the Board of Governors; (d) Review existing Formal Opinions in light of changes made to the Oregon RPCs; and (e) Make nominations to the Board of Governors for the Oregon State Bar Award of Merit, President’s Public Service Award,

Membership Service Award, Affirmative Action Awards, Joint Bench Professionalism Award, as well as any other state, local and national awards for lawyers who make a contribution to serving the legal needs of Oregonians.

Respectfully submitted: Kristin Asai (CH), Ankur Hasamukh Doshi (SEC), Summer R. Baranko, Jay Daniel Brody, David J. Elkanich, Laurie R. Hager, Sarah E. Harlos, Kyann C. Kalin, Daniel L. Keppler, John Klor, W. Greg Lockwood, Jonathan W. Monson, Michelle Marie Sweet, Justin M. Thorp, Corey B. Tolliver, Alexander S. Wylie, Per A. Ramfjord (BC), Helen M. Hirschbiel (BL).

Legal Heritage Interest Group

Activities and accomplishments:

During 2016, LHIG scheduled and held three business meetings at the Oregon State Bar Center: January 30th, May 14th, and October 22nd. Matters discussed at these meetings include the 2016 CLE, outreach and education opportunities including Bar Bulletin articles or shorter-form materials, and future field trips. Members participated in a field trip on March 5th, attending the Uprooted exhibition at the Oregon Nikkei Legacy Center in Portland, Oregon. The topic of the traveling photography exhibit was the Japanese American Farm Labor Camps During World War II. The exhibit examined farm labor camps and the use of Japanese Americans as a labor source, specifically in the sugar beet industry. By annual tradition, members also attended the U.S. District Court of Oregon Historical Society picnic on August 7th.

From March through June, a small subcommittee of members met to schedule and plan the 2016 CLE. This included finding deciding of a topic, finding appropriate speakers for the event, finding a co-sponsor, and finding a location for the CLE. The LHIG coordinated with the Seminars Department of the Oregon State Bar to co-sponsor a CLE that will discuss the history of the death penalty in Oregon. The CLE is scheduled to occur on December 8, 2016 at the Oregon State Bar building. The event will begin with a talk by former Chief Justice Paul De Muniz on the history of the death penalty and will be followed by a panel discussion with Jeffrey Ellis and Josh Marquis to discuss issues surrounding the death penalty.

Matters considered/Matters pending:

The LHIG was contacted by the OSB Board of Governors' Board Development Committee to determine if there were any possible "micro-volunteering" opportunities for volunteers. These micro-volunteering opportunities could be short-term tasks or projects that would allow busy professionals to give a few hours of their time to support the mission of the LHIG. The LHIG did not have any opportunities available at the time but it will keep these volunteers in mind for the future.

Recommendations for 2017:

LHIG recommends Elizabeth Jessop as Chair and does not have a recommendation for Secretary.

Respectfully submitted: Jamie L. Dickinson (CH), Mary Anne Anderson (SEC), David B. Avison, Gabriel Mead Biello, Alfred Frank Bowen, Bill Y. Chin, Ning Fu, Michael T. Harvey, Susan Hogg, Elizabeth Jessop, Katerina Kogan, Janet D. Kreft, Mark Douglas Monson, Spencer Q. Parsons, Robert S. Raschio, Adam Schenker, Jacqueline A. Tommas, Paul Martinez (PM), Jay Mullen (PM), Elisabeth A. Zinser (BC), Paul Nickell (BL).

Legal Services Committee

Activities and accomplishments:

The Legal Services Program Committee (LSP Committee) met four times over the course of the year and it is anticipated it will meet again in December.

The LSP Committee forwarded a recommendation to the Board of Governors (BOG) for the disbursement of two different sources of funds. One source was unclaimed funds which included the amount collected annually in addition to the *Strawn v Farmers* class action. The second source was \$200,000 in general fund dollars awarded to the Legal Services Program during the 2016 Legislative Session to be distributed for services relating to housing issues.

The LSP Committee continued to monitor and receive updates from the subcommittee established in 2015 to review delivery of legal services at Lane County Legal Aid (LCLAC). The subcommittee concluded its work and forwarded a report and recommendations to the Director of Legal Services Program and the LSP Committee. The report and recommendations were also presented to the executive directors and board members for LCLAC,

and several meetings occurred, culminating in a joint decision by LCLAC and the Oregon Law Center to merge their programs, a process that will be complete at the end of this calendar year.

The Director of Legal Services Program completed her review of the legal aid program and forwarded the Accountability Report to the LSP Committee for their review. The report was reviewed and it was then approved for forwarding to the BOG.

Matters considered/Matters pending:

LCLAC and the Oregon Law Center continue to take steps to merge the two organizations with a January 1, 2017, completion goal. The Director of Legal Services Program and LSP Committee will continue to receive updates on the merger's implementation and will include it in the 2017 Accountability Process and Report.

Recommendations for 2017:

Monitor the 2017 Legislative Session in the event funds are appropriated to the LSP for distribution to the legal aid programs.

The LSP Committee will make a recommendation to the BOG about the disbursement of any unclaimed funds and any recommendations for changes to the current disbursement policy.

Review the Standards and Guidelines for revisions and updates. Make revisions and updates as needed.

Conduct 2017 Accountability Process and make a report to the BOG.

Monitor and support the merger of OLC and LCLAC, and receive updates regarding the transition for clients and staff throughout the year.

Respectfully submitted: Kamala Hollander Shugar (CH), Andrea H. Thompson (SEC), Kristin L. Bremer Moore, Brent H. Hall, Ari D. Halpern, Timothy C. Gerking, Sara Kobak, Jenifer S. Billman (PM), Josh Newton (ADV), Judith Baker (BL).

Loan Repayment Assistance Program Committee

Activities and accomplishments:

In May, 2016 the LRAP Advisory Committee met and reviewed 40 applications for forgivable loans submitted by Oregon attorneys working in public interest. From those applications, the Advisory Committee selected 24 attorneys to award loans

ranging from \$2,000 to \$7,500 to assist them in re-paying their student loan debt. Attorneys working as legal services staff attorneys, public defender and deputy district attorneys were all represented. Attorneys selected work throughout the state. Each attorney selected has made a commitment to public service, and this Program allows them to continue to do that work.

Matters considered/Matters pending:

At the November, 2016 meeting, the Advisory Committee reviewed input from members of the Bar, reviewed all of the Policies and Guidelines, and determined that the Policies and Guidelines should remain the same.

Recommendations for 2017:

The Advisory Committee will ensure that potential applicants are aware of the Program and its requirements, will strive to ensure that a complete financial picture of each applicant is available, within the extent allowed by law, and will again endeavor to select participants who have proven their commitment to public service.

Respectfully submitted: Richard L. Wesenberg (CH), Lori Alton, Andrea J. Anderly, Jennifer Geller, Amanda Summer Husted, Micah S. Moskowitz, Jennifer Nicholls, Vanessa A. Nurdyke, Courtney L. Quale, William C. Penn (ADV), Catherine Petrecca (BL).

Minimum Continuing Legal Education Committee

Activities and accomplishments:

The Committee met on March 18, June 17, and September 9. The Committee's final meeting of 2016 will be on December 9. The meetings were held at the Oregon State Bar Center in Tigard, and the Robertson Building in Salem. The specific matters the Committee considered are set out below. As a general summary, the Committee considered and recommended changes to the MCLE Rules and Regulations, provided oversight of the revenue and expenses of the MCLE program, and monitored developments in the area of MCLE regulation in other states.

Matters considered/Matters pending:

In 2016, the Committee considered revisions to the MCLE rules and regulations to allow CLE credit for various activities.

The Committee considered, discussed, and voted to recommend an exemption from general MCLE credit requirements for OSB members serving in non-judicial elective office. The amendment is consistent with existing regulations under which OSB members may earn MCLE credit for legislative service.

The Committee discussed a request to provide MCLE credit for teaching an undergraduate law course, and a request to provide MCLE credit for teaching full-time at a law school. In each of those situations, the Committee voted against extending MCLE credits under current MCLE rules/regulations and voted against recommending any amendments to expand current rules/regulations, respectively.

The Committee was invited to try an online educational program that employs game design elements. Members of the Committee tried, reviewed, and commented on the potential for such types of programs to enhance education of Oregon lawyers and to meet MCLE requirements for accreditation in the future.

The Committee considered the MCLE rules, regulations, and processes in light of the forthcoming association management software which is anticipated to streamline the MCLE accreditation and reporting process.

At the December meeting, the Committee is expected to discuss proposed amendments and clarification to MCLE regulations that discuss MCLE credit for programs regarding substance abuse and mental health of lawyers.

Recommendations for 2017:

In the year ahead, the Committee will continue to assist the MCLE administrator with the evaluation of requests for review of the administrator’s decision concerning CLE accreditation and earned credits by program providers and OSB members. The Committee will also continue to hear requests, evaluate and recommend revisions to the MCLE rules on an as-needed basis. The Committee may also continue to discuss and monitor any MCLE regulations or rules for potential amendments to reflect the new capabilities and member access that may become available through the new association management software.

Respectfully submitted: Allison W. Banwarth (CH), Katherine Michelle Zerkel (SEC), Adam Tyler Adkin, K. William Gibson, Linda K. Gouge, John R. Mellgren,

Douglas R. Olsen, Eugene M. Thompson, Karen M. Elliott (PM), Kerry L. Sharp (BC), Denise Cline (BL).

New Lawyer Mentoring Committee

Activities and accomplishments:

The New Lawyer Mentoring Committee oversaw the creation and finalization of a new Law Firm Certification Policy. The change will allow law firms or organizations with well established, structured mentoring programs expedite the completion process for participating members.

In late 2016, the committee proposed and the BOG approved a sunset of the committee effective 12/31/16. The group was vital in creating the new program in 2011 and providing valuable guidance in its first years of operation. However, in the past two years as the program continued to mature, the committee was playing a less active role in continued development. The BOG approved the sunset at its November 19th public meeting.

Respectfully submitted: Sarah M. Petersen (CH), Lolly B. Anderson, Patricia Asrani Arjun, Kathryn Bourn, Alfred Frank Bowen, G. Valerie Colas, Ariel J. Dreher, Paul R. Duden, Scott D. Eads, Monica Martinez, Kelsie Davis McDaniel, Martin J. McKeown, Lisa J. Norris-Lampe, Bob L. O’Halloran, David E. Smith, Jessica Wilcox, Maria Zlateva, Joshua L. Ross (BC), Kateri Walsh (BL).

Pro Bono Committee

Activities and accomplishments:

The full committee met the second Tuesday of every other month at Wyse Kadish LLP.

Each subcommittee met during the months when the full committee was not scheduled to meet. The subcommittees included: The Events Subcommittee chaired by Jerry Rowe, The Publicity Subcommittee chaired by Brent Berselli, and The Special Projects Subcommittee chaired by Peter Willcox-Jones.

Accomplishments included: Drafting and proposing language to the MCLE committee to amend the rules to allow attorneys to earn MCLE credit for Pro Bono work performed. In 2016 the Oregon Supreme Court approved CLE credits for Pro Bono work. Proposing to adopt the Pro Bono website, developed in association with the Tennessee Bar Association, that is being supported by the

ABA, which the committee will be responsible for administering. Discussing whether the committee should adopt the ABA's "Second Season of Service Initiative" program which will engage and encourage retiring and retired attorneys to do Pro Bono work. Investigating how and in what form the committee can publish pro bono-related articles and information in OSB's publication, *The Bulletin*. Investigating and discussing the possible interaction between the New Lawyer Mentoring Program and Pro Bono. Strengthening the committee's ties with the Pro Bono efforts of other committees/sections of the OSB, for example that of the ONLD. Planning, conducting, and participating in panel presentations and events at law schools to increase awareness regarding Pro Bono opportunities. Planning and conducting the annual Pro Bono Celebration Week.

Matters considered/Matters pending:

The committee is continuing with its efforts to adopt and promote the ABA's "Second Season of Service Initiative" program which will engage and encourage retiring and retired attorneys to do Pro Bono work. Investigating and discussing the possible interaction between the New Lawyer Mentoring Program and Pro Bono. The committee will continue to promote use and awareness of the ProBonoStudent@OSBAR.org email address, presentations at law schools, and Pro Bono Celebration Week.

Recommendations for 2017:

In addition to following up on the progress and accomplishments discussed above, the committee intends to 1) Adopt and promote the ABA's "Second Season of Service Initiative" program which will engage and encourage retiring and retired attorneys to do Pro Bono work; 2) Support the development and implementation of the Pro Bono website hosted by the ABA, and developing programs to increase awareness of the initiative among OSB members; 3) Publicize the approval by the Oregon Supreme Court of CLE credits for Pro Bono work; 4) Continue to investigate and discuss the possible interaction between the New Lawyer Mentoring Program and Pro Bono; 5) reassess subcommittees to determine whether we are fulfilling the full committee's mission and if any changes should be made.

Respectfully submitted: Christo J. de Villiers (CH), Sarah Rose Dandurand (SEC), R. Brent Berselli, Beth Ariel Eiva, Stephen H. Galloway, David M. Goldfried, Sandra S. Gustitus, William P. Haberlach, Melissa Marie Haggerty, Natalie A. Hedman, Kyung Duk

Kevin Ko, Sara L. Mader, Alison G M Martin, Meagan E. Robbins, Gerard P. Rowe, Davis N. Smith, Shalini Vivek, Peter S. Willcox-Jones, Maya R. Crawford (ADV), Robert J. Gratchner (BC), Catherine Petrecca (BL).

Procedure & Practice Committee

Activities and accomplishments:

The Committee will have met four times in 2016 by the end of the year (an upcoming meeting in December is scheduled for the 15th). The Committee prepared a letter to the Council for Court Procedures suggesting clarifying changes to ORCP 15 regarding the time to answer a crossclaim under that rule.

Matters considered/Matters pending:

The Committee discussed: ORCP 15, governing the time to answer a crossclaim; amendments to UTRC 5.100, governing the service and submission of proposed orders and judgments in the state's trial courts; and the Council for Court Procedures' proposed changes to the ORCP, to be submitted to the 2017 Legislative Assembly. On the agenda for the December meeting is legislation proposed by the Oregon Department of Justice regarding the taking of testimony by telephonic or other electronic means.

Respectfully submitted: Chin See Ming (CH), Kristian Spencer Roggendorf (SEC), Kirstin L. Abel, William A. Boaz, Ben Cox, Erin Galli, Loren Andrew Gramson, Ryan Cresswell Kaiser, Sarah Mae Kutil, W Greg Lockwood, Samantha D. Malloy, Anna S. Malmberg, Susan D. Pitchford, Rachele R. Selvig, Amanda C. Thorpe, Per A. Ramfjord (BC), Matthew Shields (BL).

Public Service Advisory Committee

Activities and accomplishments:

In 2016, the Public Service Advisory Committee (committee) continued its focus on advancing the Oregon's State Bar's (Bar) public service and outreach goals. It continued to oversee the administration of the following six programs: (1) Lawyer Referral Service (LRS), (2) Modest Means Program, (3) Lawyer-to-Lawyer, (4) Military Assistance Panel, (5) Problem Solvers, and (6) FEMA Response.

The committee considered whether the Bar should add LRS panels on elder law and appellate law to the Modest Means program.

The committee provided advice and support on the Bar's development of a video series with five-minute Q&A videos and expansion of "30-Second Law School" for the public on the Bar's website, oregonstatebar.org.

The committee advised the Bar on the redevelopment of the LRS publication, "Legal Issues for Older Adults."

The committee discussed whether to bring back an annual OSB Law Day program, such as an online quiz about the Oregon Constitution, in coordination with the ABA's national project to celebrate the rule of law.

The committee discussed whether the LRS could or should limit participation by panelists who have been subject to disciplinary action by the Bar.

Matters considered/Matters pending:

The committee will continue to monitor and advise the Bar on all of the issues described above.

Recommendations for 2017:

The committee will recommend a \$200 trigger to the BOG, continue its oversight of LRS practices and procedures, and continue its review and oversight of bar materials and information designed to convey information about the law to the general public.

Respectfully submitted: Debra Cohen Maryanov (CH), Shayna M. Rogers (SEC), Steven R. Bennett, Gary Firestone, Kamron L. Graham, Sybil Hebb, Ann Y. Lechman-Su, Keith Leitz, Bonnie Marie Palka, Vittal Patel, Richard H. Rizk, Diana Winther, Leanne T. L'Hommedieu (PM), Sheila Malone Blackford (PLF), Kathleen J. Rastetter (BC), Eric McClendon (BL).

State Lawyers Assistance Committee

Activities and accomplishments:

During 2016, the committee received approximately 7 new traditional referrals from attorneys, judges, the SPRB, and members of the public. Each referral was investigated in accordance with the OSB Bylaws and the SLAC authorizing statute, ORS 9.568. The committee continues to accept jurisdiction and to monitor remedial programs for a number of attorneys. Much of the business conducted by the committee involved confidential discussions surrounding these cases. Those confidential discussions cannot be revealed

in this report. The committee continues to monitor approximately 4 other traditional referrals.

Additionally, the committee evaluates and monitors lawyers who are referred from Disciplinary Counsel's Office (DCO) as part of the conditional admission/reinstatement and diversion/probation process. In 2016, the Committee took on the role of monitor for 4 lawyers who were placed on probation, while continuing to monitor 5 other probation referrals. No lawyer entered into a diversion agreement this year, but we continue to monitor 1 diversion agreement. Two lawyers are currently being monitored who are conditionally admitted to practice, while two lawyers are continuing their monitoring for conditional admittance.

SLAC continues to utilize the assistance of former committee members and attorneys throughout the state to assist in monitoring lawyers in areas where the current members don't reside, such as Bend and Medford.

Matters considered/Matters pending:

The committee continues to weigh how to best evaluate and monitor referred attorneys experiencing age-related cognitive impairments. In 2016, the committee invited Dr. Polly Fisher to present on Neurocognitive Impairments to aid in its understanding of these cases.

For the first time in fall 2016, the SLAC Secretary, who is functionally the SLAC Chair-Elect, attended the ABA National Conference on Lawyer Assistance Programs. He reported that the programming was on point and helped him place the SLAC efforts in context.

Recommendations for 2017:

Continue to develop protocol for evaluating and assisting lawyers who may be experiencing cognitive decline. Explore partnerships with local medical research facilities on these issues.

Continue the training for the committee chair and/or secretary related to ABA CoLAP programs.

Continue to look for and implement improvements to the SLAC monitoring process such that SLAC becomes a reliable and skilled resource for monitoring agreements between impaired lawyers and DCO.

Continue to improve communication and cooperation between SLAC and OAAP.

Continue to improve communication and cooperation between SLAC and the Board of Bar Examiners.

Continue to seek creative ways to help impaired lawyers and protect the public.

Respectfully submitted: Vaden B. Francisco (CH), John D. Parsons (SEC), Sara L. Butcher, Michael Cougar, Cynthia Botsios Danforth, Stephen J. Doyle, William M. Horner, Jerilyn Ann Krier, Kevin E. Lucey, Robert (Kim) M. Lusk, Sharon D. Maynard, Teri L. Plagmann, Josh Soper, Keyunna L. Baker (PM), Edward B. Versteeg (PM), Douglas S. Querin (OAAP), John R. Bachofner (BC), Amber A. Hollister (BL).

Uniform Criminal Jury Instructions Committee

Activities and accomplishments:

The Committee identified the year's crop of new and revised crimes and began the necessary revisions to the uniform instructions. New or revised instructions this year include: 1044/1044A (split "physical injury" from "serious physical injury" and updated comments to both); 1225 (resisting arrest) (*expected this year*); 1422 - 1427, 1444 (updated fourth-degree assault and strangulation instructions); 1600 (sex crimes definitions); 1640 - 1640A (second-degree invasion of personal privacy); 1641 - 1641B (first-degree invasion of personal privacy); 1648 - 1652 (WITHDRAWN instructions related to furnishing sexually explicit material to a child); 1653 (luring a minor); 1657 (WITHDRAWN instruction related to luring a minor); 2300, 2302 (updated definitions and instruction related to first-degree disorderly conduct); 2411 (unlawful possession of a firearm in a vehicle); 2726 (injury hit-and-run)(*expected this year*)

Culpable mental states have been a frequent issue both for users and the Committee, because the criminal statutes and the uniform instructions do not always specify them. To address that problem, the Committee added a section to the Users' Guide describing the current law governing culpable mental states and warning users that necessary mental states are not always included in the uniform instructions.

Matters considered/Matters pending:

The Committee undertook but has not yet completed a comprehensive revision of the instructions on marijuana-related crimes.

The Committee has also been working on a uniform concurrence instruction (*Boots* instruction) for use when the record supports multiple, separate occurrences of a charged crime.

Recommendations for 2017:

The Committee should complete the marijuana project.

The Committee should complete the uniform concurrence instruction currently under discussion. In that regard, the Committee should also revise the section of the Users' Guide on "*Boots* Instructions" to reflect current case law.

As always, the Committee should watch for and respond to legislative developments.

More broadly, the Committee should try to increase judicial participation. This year, there was no judge on the Committee. Because the instructions in a given case are ultimately the trial court's responsibility, it seems appropriate for the bench to play a larger role in drafting the uniform instructions.

Respectfully submitted: Andrew D. Robinson (CH), Erik M. Blumenthal (SEC), David J. Amesbury, Erin Nicole Biencourt, Barry W. Engle, Graham C. Fisher, D Aaron Jeffers, Paul T. Maloney, Amanda Nadell, Ryan T. O'Connor, Stacey Michael Reding, Gregory A. Rios, Paul L. Smith, Alix Wicks, Holly N. Winter, Guy B. Greco (BC), Dean P. Land (BL).

Unlawful Practice of Law Committee

Activities and accomplishments:

In 2015, the Board of Governors adopted amended bylaws which redefined the committee's authority and increased the committee's focus on consumer outreach and education. Under its new bylaws, the committee continues to investigate reports of the unlawful practice of law ("UPL"). After investigation, the committee may close the file, refer the complaint to another agency or department, or recommend that the Board of Governors authorize the initiation of a civil suit. The committee no longer sends cautionary letters or negotiates cease and desist agreements. While this new approach is understandable and prudent, it has resulted in many more cases being closed relative to the committee's operation under the old bylaws.

In recognition of these limitations, the committee established two subcommittees to focus on issues

apart from the investigation and disposition of allegations of UPL. One of the committees focuses on advocacy issues. The goal of this subcommittee is to educate members of the public through a variety of means as to the issues surrounding UPL. Notario fraud continues to be a focus of this subcommittee, particularly as it relates to immigration services provided by non-lawyers to vulnerable immigrant populations. The subcommittee has focused on community outreach to these populations, notifying them of the problems of notario fraud and the consequences of such actions may have on their legal rights. This has involved meetings with various stakeholders and bringing media attention to the notario fraud issue and of the passage of HB 4128, which added unlawful actions of notarios to the crime of obstructing governmental or judicial administration in Oregon. The other subcommittee focuses on UPL advisory opinions. The subcommittee has completed two advisory opinion drafts and is working to complete a third related to paralegals.

In order to increase efficiency, the committee began tracking a 60-day due date on all cases assigned to investigators. Members request extensions as necessary. The committee also began using a new short form report for cases where the investigator recommends closure.

Matters considered/Matters pending:

43 cases were opened this year as of November 11, 2016. There are 15 matters still currently open with two of those cases being from the end of 2015. The committee will dispose of at least four of those matters at its December 9, 2016 meeting. We issued 4 closure letters, 6 Information letters, 3 dismissal letters, 2 advertisement letters, 1 debt collection letter, 2 cases we recommended prosecution, 6 cases were referred to other agencies. We also took no action on 4 cases.

Recommendations for 2017:

The Committee encourages members stay on top of the sixty day turnaround rule. This keeps investigations fresh, and provides timely resolution to the complainant and respondent.

The Committee will continue its efforts to educate the public about the dangers of the unlawful practice of law, especially in the notario and debt reduction contexts. The committee will retain the subcommittees as these provide an efficient way to address public outreach and the creation of advisory opinions.

The amended bylaws provide that no more than one quarter of the committee membership can be lawyers in private practice. To this end, the 2016 Committee Roster included an increased number of government and non-profit lawyers.

Because complaints of notario fraud often involve Spanish speakers, we recommend that the BOG continues to appoint members with Spanish language skills to the Committee. Fraud among Russian speakers is also an issue, and ideally the BOG will continue to take this into account when selecting members. A current member of the committee is fluent in Russian.

To the extent possible, the Committee also encourages members to be present for meetings in lieu of telephonic appearances. While that is not always feasible, particularly in light of the distances some members would have to drive, in-person meetings are always much more helpful in terms of engaging in meaningful discussions about investigations.

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