

Oregon State Bar



2019 COMMITTEE
Annual Reports

2019 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 2019 Committee members, thank you for your time and expertise.

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Bulletin Editorial Advisory Committee

Activities and accomplishments:

2019 saw the inauguration of the BEAC, as appointed by the BOG. The purpose of the BEAC is to identify and develop topics for feature articles and columns of general interest to OSB members. The BEAC also worked with the bar publishing staff to ensure that multiple and diverse perspectives were considered in publishing editorial content. Because BEAC has only met three times this year, we have not had much more substantive accomplishments. This chair would note, though, that we have had robust conversations about issues of fairness, diversity, and access to justice.

Matters considered/Matters pending:

The BEAC had the sad opportunity to address what might otherwise be an internal decision for publication guidelines: what happens when a member of the bench or bar passes away but a family member does not supply an obituary. Does the *Bulletin* staff write the obituary? What is included? Who edits them? This matter pends.

Recommendations for 2020:

The BEAC will continue to fulfill its charge as directed by the BOG.

Any other comments:

The BEAC is grateful for the service of departing member Craig Crispin.

Respectfully submitted: Judith Parker (CH), Craig Crispin (SEC), Pete Meyers, Elizabeth Rosso, Carol DeHaven Skerjanec, Teresa Statler, Sara Urch, Christine Moses (PM), Julia Rice (BC), Mike Austin (BL), Kay Pulju (BL), Gary Stein (BL).

Client Security Fund Committee

Activities and accomplishments:

The Client Security Fund (the "Fund") is established under ORS 9.625 to relieve or mitigate pecuniary losses incurred by the clients of Oregon lawyers and caused by the dishonest conduct of lawyers in their practice of law. The Client Security Fund Committee ("CSF Committee") oversees the Fund, investigates claims, and either takes final action on claims (of less than \$5,000) or makes a recommendation to the Board of Governors (claims of \$5,000 or more). The Fund is an important component of the Oregon State Bar's obligation to

protect the public. The ability to reimburse clients (in full or in part) for losses caused by their lawyers promotes confidence in the profession and improves the public view of lawyers.

The Fund is comprised entirely of annual member assessments and earnings on invested reserves. The maximum award is \$50,000 on any one claim. Clients are expected to exhaust their remedies against the lawyer before seeking an award from the Fund. In exchange for a reimbursement from the Fund, claimants assign all of their rights against the defalcating lawyer; the bar attempts to recoup on those assigned claims to the extent possible.

In 2019, the CSF Committee developed a template for reporting the results of investigations of claims. This allowed new CSF Committee members to more quickly become comfortable with their roles as investigators, as well as allow the entire CSF Committee to more efficiently review and analyze investigation reports. The CSF Committee also considered and approved two recommendations to the Board of Governors in light of the significant financial effect of claims associated with attorney Lori Deveny. First, the CSF Committee recommended increasing the claim cap from \$50,000 to \$100,000, as well as increasing the Fund's reserve from \$1 million to \$1.5 million. In addition, the CSF Committee voted to recommend that the claim cap increase apply only to misconduct occurring on or after January 1, 2022. Second, the CSF Committee recommended including the enactment of a "Third-Party Payee Notification" law as part of the OSB's priorities for the 2021 session of the Oregon Legislature.

Matters considered/Matters pending:

As of November 27, 2019, the Fund had received 46 new claims in 2019, involving 18 lawyers. In addition, 82 claims were carried over from prior years. During 2019, the CSF Committee approved or recommended approval of 52 claims, totaling \$1,135,595.92. The CSF Committee also denied or recommended denial of 18 claims. Thirty-six claims, requesting a total of \$625,305.04, will be carried over to 2020.

Claims associated with attorney Lori Deveny have had an unprecedented effect on the financial health of the Fund. As of October 24, 2019 (the most recent period for which financial statements are available to the CSF Committee), 40 claims associated with Lori Deveny had been submitted. Their total dollar amount

is over \$1,178,370. Of that, the CSF Committee recommended payment in 21 claims totaling over \$727,179. As a result, the total dollar amount of all open claims exceeded the remaining CSF reserve by approximately \$285,000.

Recommendations for 2020:

CSF Committee members are committed to the timely investigation and resolution of claims. In 2020, the CSF Committee will continue to work through the large number of claims associated with attorney Lori Deveny. With an increased Client Security Fund assessment for 2020, the Fund should be on track to reestablish its \$1 million reserve.

Respectfully submitted: Douglas Stamm (CH), Daniel Steinberg (SEC), Jennifer Hisey, David Hytowitz, Melissa May, David Roy, Lucille Sage, Michelle Teed, Stephanie Thompson, Richard Whitlock, Valerie Wright, Raymond Young, Steve Bergmann (PM), Joseph Hesbrook (BC), Amber Hollister (BL).

Legal Ethics Committee

Activities and accomplishments:

The committee held six meetings in 2019. It continued work on ten projects from prior years and initiated five new projects. The committee completed work on five projects, including submitting revisions to Rule of Professional Conduct 7.2 and submitting two new ethics opinions. It decided to remove two projects from the agenda.

Matters considered/matters pending:

The committee took action on the following projects:

Project 15-02, removed this item from consideration, a draft opinion on choice of law in multi-state transactions;

Project 17-04, approved a new formal ethics opinion regarding allocation of settlement authority between lawyer and client;

Project 18-02, approved revisions to OSB Formal Ethics Ops 2005-70 and 2005-106;

Project 18-03, approved a new formal ethics opinion regarding solicitation rules;

Project 18-06, removed this item from consideration, involving potential revisions to OSB

Formal Op. Nos. 2005-130 re lawyer's solicitation to a witness;

Project 18-08, approved revisions to OSB Formal Ethics Op 2005-2; and

Project 18-10, approved revisions to RPC 7.2.

The following projects remained pending as of December 1, 2019:

Project 17-01, responding to social media posts;

Project 18-05, combining OSB Formal Op. Nos. 2005-171 and 2005-63 re fee agreements;

Project 18-09, disclosure of non-privileged client information in advertising;

Project 19-01, request to the OSB to sponsor a lawyer referral service;

Project 19-02, whether a lawyer may agree to provide a percentage of attorney fee recovery to a referral source;

Project 19-03, possible revisions to ethics opinions in light of change to RPC 7.2;

Project 19-04, inquiry about whether lawyer may deposit own money into a client trust account; and

Project 19-05, consideration of tripartite relationship when it comes to client reporting.

Recommendations for 2020:

I recommend that the committee dropbox include a list of each work group that is handling projects between bimonthly meetings, including the lead for each work group.

Respectfully submitted: Justin Thorp (CH), Jonathan Monson (SEC), Susan Alterman, A Vada Camacho, Lorelei Craig, Walter Fonseca, Andrea Goodwin, Tara Millan, Channa Newell, Barbara Smythe, Eugene Thompson, Guy Thompson, Corey Tolliver, AJ Wahl, Jenny Cooke (BC), Amber Hollister (BL).

Legal Heritage Interest Group

Activities and accomplishments:

During 2019, the LHIG met at the Bar Center in February, March and July, in The Dalles in May and by telephone in October. The group enjoyed robust discussion of ideas and interests and a few donuts. The highlight of the year was a well-planned, well-

executed and well-attended walking tour of the three historic courthouses in The Dalles

The Dalles is the county seat of Wasco County, and site of inestimable historic Oregon events – many of which have occurred in these historic courthouses. Wasco County boasts not just one or two courthouse buildings, but THREE, all of which are standing and were open to us for a memorable tour on May 11. At Wasco County’s first courthouse, now a museum, we heard stories and lore about the area’s settlement and growth illustrated by the locally famous and infamous court cases. We were fortunate to have Susan Buse, a local historian, to be the group’s guide (courtesy of Paul Nickell) and a local attorney to show us around the current courthouse. We concluded with lunch, and a short meeting in one of these historic sites – now a brewpub!

Matters considered/Matters pending:

The LHIG considered a variety of ideas for projects and goals including generating topics for articles for the bar *Bulletin*, identifying opportunities to collaborate on CLEs or other presentations through outreach to other bar sections or interest groups and development of historical walking tours in other cities. Members are continuing to collaborate on development of a walking tour of Eugene with an opportunity to meet with Judge Coffin and a focus on the constitutional cases. Member Jessica Price is leading the effort and has outlined a proposal that we anticipate will be implemented in 2020.

Recommendations for 2020:

Complete the planning for a Eugene walking tour and use the annual field trip to test the materials.

Any other comments:

The LHIG discussed the possibility of additional public members.

Respectfully submitted: Darsee Staley (CH), Michael Turner (SEC), Charles Allen, Marc Brown, Breckenridge Cartwright, Jack Kinsley, Rachel Kotkin, Nicole Krishnaswami, Abby Miller, Andrew Narus, Jessica Price, Hollis Ransom, Megan Reuther, David Roy, Michael Vergamini, Leslie Wolf, Paul Nickell (PM), Eddie Medina (BC).

Minimum Continuing Legal Education Committee

Activities and accomplishments:

The Committee met on March 8, June 7, and September 27. The final meeting of the year is scheduled for December 6. The June 7 meeting was held at the Western Environmental Law Center in Eugene. All other meetings were held at the Oregon State Bar Center in Tigard. The subcommittee formed in 2018 met on July 17, 2019 to discuss revising the Minimum Continuing Legal Education (“MCLE”) purpose and rules in furtherance of the OSB Diversity Action Plan (“DAP”).

During 2019, the MCLE committee worked on proposed amendments to the MCLE Rules and Regulations and considered and resolved appeals and other requests for guidance on the interpretation of the MCLE Rules. The MCLE Committee worked on several rule amendments that were approved by the BOG and Supreme Court and became effective November 1, 2019. Effective November 1, there is a \$25 charge to purchase or submit a comity certificate, credit may be claimed for service as a pro tem judge, and the MCLE noncompliance timeline is condensed so as to align with other bar noncompliance timelines.

Matters considered/Matters pending:

In addition to the accomplishments listed above, the committee approved extensive amendments which integrate the New Lawyer Mentoring Program into the MCLE Rules. These amendments are expected to be approved by the BOG and the Supreme Court in late 2019. The committee also approved an amendment to Regulation 5.200 to clarify the credits allowed for committee and council service. This amendment will be presented to the BOG in November 2019.

The committee worked extensively and in conjunction with ACDI to amend the MCLE Rules to facilitate the goals of the DAP. This year, the committee approved an amended Statement of Purpose of the MCLE Rules and an amendment to Rule 1 to add the definition of “equity.” These amendments will be presented to the BOG in November 2019. At the September MCLE Committee meeting, ACDI presented additional amendments to the MCLE Rules and Regulations to further align with the DAP. The MCLE Committee will discuss these amendments at its December meeting.

The MCLE Committee voted to approve a policy or regulation to ensure the MCLE sponsor fee is applied equally to all MCLE program sponsors. The committee requested bar staff draft policy and regulation language to be considered for a vote at the committee's December 2019 meeting.

Recommendations for 2020:

MCLE Committee is recommended to continue working with the MCLE Program Manager and bar staff to resolve appeals and issues relating to the interpretation of the MCLE Rules, to continue its diligent work on pending matters, and to receive and consider recommendations for further evolution of the MCLE Rules to promote the mission of the bar.

Respectfully submitted John Mellgren (CH), Camilla Thurmond (SEC), Nicole Abercrombie, Denise Fjordbeck, Sandy Lyon Kuenzi, Laura Markham, Michael McNichols, Joshua Orem, Oksana Davletshina (PM), Eddie Medina (BC), Sean Pank (ONLD), Jade Priest (BL).

Oregon Bench and Bar Commission on Professionalism

Activities and accomplishments:

The Professionalism Commission is engaged in numerous activities to advance the professionalism, equality and efficiency of Oregon's justice system. The commission met bimonthly, with committees meeting as needed throughout the year.

2019 accomplishments:

Participated in Law School Orientation programs at all three Oregon law schools, welcoming new students to the study of law and introducing them to the concepts and importance of professionalism in their chosen profession.

Presented numerous CLE programs on professionalism throughout the state, including CLE programs presented in cooperation with local bar associations in the following counties: Deschutes County; Douglass County; Jackson County; Lane County; Marion County and Umatilla County.

Presented the Edwin J. Peterson Professionalism Award to the Honorable Rives Kistler, in conjunction with the Oregon State Bar Awards Luncheon.

Continued a collaboration with OSB Legal Publications Department, with goal of including

professionalism content into all OSB BarBooks through annual updating calendar.

Obtained approval from the Board of Governors and Oregon Supreme Court of a revision to the OSB Statement on Professionalism, and posted the new Statement to the OSB website.

Created a working group to dialogue with Lewis & Clark Law School regarding the potential adoption of a professionalism pledge for law students.

Continued to have the commission featured through a speaking role at all OSB Swearing-in ceremonies.

Matters pending/recommendations for 2020:

There is one outstanding action item for 2020, which is to continue a dialogue with Lewis & Clark Law School regarding the potential adoption of a professionalism pledge for law students.

The agenda for 2020 will otherwise track the above mentioned activities, and will address new business/new projects as needed.

Respectfully submitted: Joseph Franco (CH), John Acosta, Carol Bernick, Lianne Butterfield, Dominic Campanella, Nadia Dahab, Eric Dahlin, Jennifer Espinola, Meagan Flynn, James Fun, John Haroldson, Helen Hirschbiel, Kathleen Johnson, Steve Johnson, Melina Martinez, Parna Mehrbani, Susia Norby, Edwin Peterson, Thomas Powers, Alycia Sykora, Yvonne Tamayo, Douglas Tookey, Lisa Umscheid, Jade Priest (BL).

Pro Bono Committee

Activities and accomplishments:

- The full committee met the second Monday of every other month at McGaughey Erickson. The committee formed two subcommittees, the Day of Service and Outreach subcommittees. Kevin Kress chaired the Day of Service subcommittee and David Avison chaired the Outreach subcommittee. The subcommittees held independent meetings on an as-needed basis.
- Day of Service began exploring connections with Portland and Wilsonville-area libraries, including county and law libraries. They also began talking with Portland nonprofits, and other organizations to partner with, in order to figure out the best methods for the committee to help Lawyers in Libraries programs get established, remain

ongoing, and have the support and resources needed. They spoke with other programs and explored potential technology uses for more outreach.

- Outreach looked at the bar's website and provided feedback on the available information regarding pro bono efforts. They looked at topics that could use more publicity and brainstormed ideas for future publications on pro bono topics.
- The committee assisted with preparation for the Pro Bono Fair and Celebration, through obtaining donations for the celebration, contacting award recipients and helping advertise the event. The committee also volunteered with the Ronald McDonald House.

Matters considered/Matters pending:

The Lawyers in Libraries project is ongoing. In the upcoming year, members will be moving forward with getting the project started with one or more locations in Portland hosting events, with a goal of expanding the reach to other cities through in-person or electronic outreach. There are also ideas/drafts that can be completed and proposed for publication.

Recommendations for 2020:

In addition to continued work on the Lawyers in Libraries project, and working toward more publications on pro bono efforts, the committee should continue to try to partner with the ONLD and other groups, in order to promote pro bono efforts and partner on CLEs, pro bono work, and other projects. The committee has hoped to host an annual event that takes place during the Pro Bono Celebration Week; partnering with other groups would allow for wider impact if multiple events took place statewide for the week.

Respectfully submitted: Tiffany Blackmon (CH), Natalie Hedman (CH), Estate of Kevin Kress (SEC), Mary Beth Allen, Kristine Almquist, Rachel Anne Wood Arnold, David Avison, Rio Capper, John Clarke, Mathew dos Santos, Amanda Guile-Hinman, Nicholas Reed, Adele Ridenour, Kelli Russell, Michael Shin, Laura Westmeyer, Heather Kemper (Adv. Member), Eric Foster (BC).

Public Service Advisory

Activities and accomplishments:

The Public Service Advisory Committee was active in various projects in 2019.

LRS was transformed into a fee-sharing model to allow it to be self-sufficient. It has met and exceeded that goal, with significant revenue. The committee decided that additional revenue would best be used for projects that provide greater access to justice for the public.

We further developed the Refugee Civil Assistance Panel. It was renamed the Refugee, Immigrant, Asylee Panel at our December, 2018, meeting. We have over 200 pro bono panelists signed up to pair with immigration attorneys. Mentorship panel and low-cost interpreter services have been explored. A form to sign up has been drafted. Currently waiting on BOG final approval.

Further progress was made on the SFLAC Remote Facilitation Project. This would provide services to pro se family law litigants to assist them in completing forms and thus taking some of the burden off of court staff. Different ideas were considered, from call in, to live webcasts, to online programs, to having a staff member at LRS. Ultimately, the BOG decided that even though LRS was profitable the last several years, it was too soon to add a new staff position. The BOG encouraged the committee to pursue lower risk projects in this area, such as a tenant eviction app, how to family law videos, etc.

The committee continues its Public Education Projects, including how to videos and updating bar website materials to an 8th grade reading level. Updating the immigration and landlord tenant materials were deemed of high importance this year. The committee also produced a video for how to complete the Judicial Department's family law forms, a test model project for the family law facilitator program discussed above.

With a grant from the Housing Authority, the committee put on a live webcast public legal education seminar in partnership with Oregon Housing and Community Services. It was well attended (155 participants from all sides) and there was not enough time to answer all questions. A follow up video to answer questions was also made and is available on the website with a google-translate feature for the transcript of both videos. Three Q&A videos have been produced and posted

in various languages. Hardcopy materials on changes in the law are available for free from the CLE service desk in a variety of languages, and DVDs of videos have been distributed to community groups and local cable access channels in rural areas.

Matters considered/Matters pending:

The PSAC considered several requests from LRS panelist throughout the year.

Several attorneys without PLF coverage because their primary office is out of state requested an exception to join LRS. The committee considered this request, including the administrative difficulty of monitoring an attorney without PLF coverage, the public protection that the PLF affords, the changing landscape of legal services not tied to geography, and the needs of the public to find attorneys who can assist in their legal matters. Ultimately, the committee decided not to make an exception to the rule that LRS participation requires PLF coverage.

A LRS panelist was removed from LRS by the RIS Manager and the committee was briefed on this in the event of an appeal, but no appeal was received.

The committee considered amending the LRS policies and procedures to address class action lawsuits. The language regarding these could be confusing on whether remittance is due from all class members or only the referred class member. A panelist contacted LRS for clarification. OSB's general counsel informed the committee that the language as it currently read was too ambiguous to cover the remittance to all class members. The committee decided the policy should limit remittance obligation to the fees collected on any LRS-referred client (not to any other clients or the class action generally) and that staff should work on developing policy language, conferring with bar's general counsel as needed.

In 2018, this committee recommended to the BOG to set a \$200 minimum fee for LRS remittance to be triggered. The BOG approved a \$250 minimum fee, effective September 1, 2019.

The committee considered moving the meeting date to a weekday, as some committee members struggle to attend on Saturdays. However, other committee members would have trouble making time for the 2-hour meeting during the week day, and bar space is limited throughout the week. Ultimately, the committee decided to continue to meet quarterly on Saturdays.

Recommendations for 2020:

In 2020, the committee should strive to complete and implement the Refugee, Immigrant, Asylee Panel. The committee should continue to update Public Education Projects, with a focus on the most needed areas of law, which have been family law, landlord/tenant, and immigration. The committee should also work on videos and written content for areas that do not have them at this time, including torts (personal injury or product liability) and missed deadlines (SOL, minors, government body issues).

The committee should continue to consider proposals to make the LRS program as profitable, streamlined, and useful and clear to panelists and the public.

The committee should continue to strive for greater committee member attendance at meetings. We have struggled to meet quorum and it can be difficult to reach committee members on Saturdays when they do not attend when they say they will. Obtaining committee member commitment to attend at least 3 of the 4 meetings a year, and getting cell phone numbers to follow up at the meeting time with those not present, may help with that goal.

Respectfully submitted: Jovanna Patrick (CH), Rachel Bertoni (SEC), Steven Boender, Andrew Kalloch, Loretta Mabinton, Karen Mockrin, Victoria Moffet, Joel Overland, Emily Pringle, SreeVamshi Reddy, David Schor, Andrew Teitelman, Lisa Umscheid, Carrie Wineland, Theresa Winebarger (Public Member), John Bachofner (BC), Matthew Borrillo (PLF Liaison), Ralph Gzik (NLD Liaison).

State Lawyers Assistance Committee

Activities and accomplishments:

During 2019, the committee received approximately sixteen 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 six other traditional referrals. The committee closed five traditional referrals in 2019.

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 2019, the Committee took on the role of monitor for three new lawyers who are conditional admittees. We continued to monitor five conditional admission cases from the previous year. The committee received two new probation assignments, and continued to monitor three probation referrals from previous years. The committee continued to monitor one lawyer who entered into diversion agreements two years ago. SLAC continues to utilize the assistance of former committee members and attorneys throughout the state to assist in lawyer monitoring.

Also in 2019, the committee refined the process in using Reliant Behavioral Health to provide uniform substance abuse testing procedures and access throughout the state. A sub-committee was established to identify providers and programs offering drug and alcohol assessment and treatment.

Matters considered/Matters pending:

The committee continues to weigh how to best evaluate and monitor referred attorneys experiencing age-related cognitive impairments. In fall 2019, the SLAC Secretary, who is functionally the 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. We continued that practice this year, again sending the committee secretary to this important conference.

Recommendations for 2020:

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.

Endeavor to let bar members know what SLAC is, why it exists, and how it can help.

Respectfully submitted: Edward Versteeg (CH), Jonathan Strauhull (SEC), Tamala Argue, Mark Baskerville, Sara Butcher, Robert Cleland, William Horner, Kevin Lucey, Sharon Maynard, Jered Reid, Laura Rufolo, Elizabeth Schwartz, Josh Soper, Michael Villanueva (PM), Douglas Querin (OAAP), Katherine Denning (BOG), Nik Chourey(BL).

Uniform Civil Jury Instructions Committee

Activities and accomplishments:

The Committee accomplished its goal of overhauling and reorganizing the entire set of disability-discrimination instructions. As part of the overhaul, the Committee approved revisions to 59.01 and 59.02 and approved several new instructions (59.03A, 59.05, 59.06 and 59.07). The Committee made substantial progress in reviewing instructions that have not been reviewed since 2005. To that end, the Committee approved changes to the breach of fiduciary duty instructions (50.03 and 50.04) as well as one of the condemnation instructions (60.09). The Committee spent considerable time working on the liquor-liability instructions (47.01 and 47.02), several condemnation instructions (60.10, 60.13 and 60.16), and the Unlawful Trade Practice instructions (43.01, 43.02 and 43.03).

Matters considered/Matters pending:

In 2020 the Committee's goal is to finish the condemnation, liquor-liability and Unlawful Trade Practice instructions. The Committee will also complete its review of instructions that have not been reviewed since 2005, and will begin reviewing instructions that have not been reviewed since 2007 and 2008.

Respectfully submitted: Jeffrey Young (CH), Sheri Browning (SEC), Bridget Donegan, Grant Engrav, Michael Hallinan, Kelly Huedepohl, Katie Jo Johnson, Anthony Kuchulis, Daniel Le Roux, Eva Marcotrigiano, David Park, David Rosen, Gregory Skillman, Blair Townsend, Robert Beatty-Walters, Colin Andries (BC), Lorraine Jacobs (BL).

Unlawful Practice of Law Committee

Activities and accomplishments:

The Committee continues to investigate reports alleging the unlawful practice of law (“UPL”) and make recommendations for disposition of such reports under the Oregon State Bar Bylaws as amended by the Board of Governors.

This year, several changes went into effect regarding the work of the Committee. First, the bar implemented a change as it relates to two subcommittees established in 2016 – advocacy and advisory. Specifically, these two subcommittees would no longer exist and the Committee would instead focus more broadly on public education and outreach. At our kick-off meeting in January, the Committee brainstormed a number of ideas in line with this objective of educating and protecting the public from UPL, by reaching out to immigrant, low-income, and elderly populations; attorneys via continuing legal education programs; and presiding judges, trial court administrators, law schools and non-profit organizations throughout Oregon via formal educational training and/or written materials. However, given the change in meeting schedule (discussed below), the Committee was unable to devote resources to such public education and outreach efforts this year.

Second, the bar recommended a slightly different approach to the way Committee members conduct UPL investigations. Namely, to streamline the investigation process and expedite final disposition of UPL complaints, the Committee endeavored to make preliminary reports on each complaint to determine at the outset whether further investigation was warranted or whether a closure letter should be issued. If the former, the new format followed the sixty (60) day turnaround rule from the date the preliminary report was made. Though this suggested format offers Committee members the potential for expedited investigative work and disposition of UPL complaints, seasoned Committee members preferred to investigate complaints before making any report or recommendation as to disposition. This newly suggested format may more easily be adopted as new Committee members are appointed.

Third, the bar changed the Committee meeting schedule from monthly to quarterly. The Committee initially welcomed this change because it reduced the overall time commitment for meeting attendance, especially for those members traveling to attend in

person as opposed to telephonically, with the goal of increasing Committee participation overall. In practice, however, the reduced meeting schedule seemed to negatively impact meeting attendance as well as the Committee’s timely disposition of UPL complaints. By way of example, the October meeting had to be canceled due to lack of a quorum to conduct Committee business.

Matters considered/Matters pending:

31 cases were opened this year as of December 3, 2019. 13 cases remain open with 2 of those cases having been carried over from 2018. The Committee issued 3 closure letters, 4 informational letters, and referred 3 cases to other agencies. No advertisement letters were issued and no cases were recommended for prosecution. The Committee took no action in 8 cases. 4 cases were in active prosecution in 2019, as follows:

1. Dubuque/A-1 Quality Paralegal (2017 case): Ongoing discovery; depositions; dispositive motions. Trial is scheduled in circuit court for January 16-17, 2020.
2. Khullar A.P (2018 case): General Judgment received December 10, 2019. Khullar’s appeal of the denial of a motion to reconsider default is pending. General Counsel’s Office is working to distribute settlement funds pro rata to a pool of victims. Khullar filed federal suit in Florida; however, this suit was dismissed.
3. Wagner aka Perfectly Legal Paralegal (2018 case): General Counsel’s Office is conducting a financial investigation to determine the cost-effectiveness of pursuing collections of judgment.
4. Scott (2018 case): A settlement agreement was procured in August 2019 and the case has been fully resolved.

Recommendations for 2020:

The Committee encourages members to adhere to the bar’s recommended approach for conducting UPL investigations by making preliminary reports and thereby weeding out complaints that do not merit further investigation. The Committee encourages members to stay on top of the sixty (60) day turnaround rule for disposition of all UPL complaints. The Committee also encourages members to submit written reports to the bar at least one week before the meeting date to ensure timely distribution of materials to Committee members.

Additionally, the Committee encourages reverting back to a more engaging meeting schedule, such as every other month. A more frequent meeting schedule will help keep members engaged in Committee work, including conducting investigations, submitting timely reports, and participating in public education and outreach efforts, without a more demanding monthly commitment.

The Committee encourages the Bar to send RSVP meeting notices to members in advance of each meeting, as well as meeting agendas and written reports, so a quorum can be determined and members have a reasonable opportunity to review materials before meetings.

Finally, the Committee continues to encourage members to personally attend meetings in lieu of telephonic appearances, to the extent possible. While this is not always feasible, particularly considering the distances some members would have to travel, in-person meetings are always much more helpful in terms of engaging in meaningful discussions about the Committee work – investigations and education and outreach efforts.

Each of these recommendations for 2020 will help advance the overall goal of the Committee – keep investigations fresh and provide timely resolution to the complainant and respondent. For matters referred for prosecution, timely resolution of the complaint is vital.

Any other comments:

The bar staff liaison and administrative support for the Committee changed in 2019. This is worth noting here as it impacted the Committee's work. The Committee continued to receive the necessary support from the bar staff liaison; however, the level of necessary administrative support declined. Specifically, member RSVPs were neither requested nor tracked in advance of meetings and meeting agendas and written reports were not distributed with sufficient time in advance of meetings to allow for thoughtful preparation. The bar quickly responded to the Committee's feedback in this regard and reinstated appropriate administrative support.

Respectfully submitted: Mary E. Briedé (CH), John Marandas (CH-Elect), Jennifer Schade (SEC), Vanessa Crakes, Travis Flynn, Martin Fisher, Brentley Foster, Jacob Kamins, Andrea Malone, Mitzi Naucner, Stephen Rahe, Terry Wright, Morad Noury (Public Member), Samuel Reese (Public Member), Jason Specht (Ex Officio Member), John Grant (BC), Mark Johnson-Roberts(BL).



16037 SW Upper Boones Ferry Rd
PO Box 231935, Tigard, OR 97281
(503) 620-0222 or (800) 452-8260