

**BOARD OF BAR COMMISSIONERS  
MAY 12, 2023 MEETING MINUTES  
State Bar Center, Albuquerque, NM  
In Person and Zoom**

<b>MEMBERS PRESENT:</b>	Erin M. Atkins Allison H. Block-Chavez Aja N. Brooks Rosenda Chavez-Lara Sean M. FitzPatrick Connie J. Flores Parker B. Folse Tomas J. Garcia Damon J. Hudson David P. Lutz	Mitchell Mender Jessica A. Perez Brett Phelps Joseph F. Sawyer Steven S. Schöll Simone M. Seiler Olga Serafimova Benjamin I. Sherman Elizabeth J. Travis Carolyn A. Wolf
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**MEMBERS ABSENT:** Daniel J. Behles  
Linda Sanders  
Lucy Sinkular

<b>OTHERS PRESENT:</b>	Kris Becker Ian Bezpalko Hon. Carl Butkus Bill Kramer Jerry Miller	Pam Moore David Powell Stormy Ralstin Joaquin Sanchez Richard Spinello
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**I. CALL TO ORDER**

**A. Approval of February 24, 2023 Meeting Minutes**

Commissioner Wolf made a motion to approve the February 24, 2023 meeting minutes; the motion was seconded and it passed.

**II. STRATEGIC PLANNING**

**A. Review of Rule 24-101(A) NMRA, Rules Governing the New Mexico Bar**

President Sherman reported that Rule 24-101(A) sets forth the purpose for the State Bar, and the Board made a commitment at its Strategic Planning Retreat last May to look at the rule to see if it still applies to the State Bar and if the objectives meet the Bar's current mission and values. It was included in the Strategic Plan, so the Board just needs to decide how it wants to proceed. Executive Director Richard Spinello stated that traditionally, this would have been sent to a committee and then the committee would bring recommendations back to the Board. At the Western States Bar Conference, they talked about providing a space for strategic planning at full Board meetings and we've created that, so this is an opportunity to do more strategic planning with everyone participating. We would provide a packet with the goals that will be discussed at each meeting with some background information, so we just need to know if the Board prefers to look at this as a group or send it to a committee.

Commissioner Atkins made a motion to review the rule with the Board and look at a couple of the objectives at each meeting from here on out, and the motion was seconded. There was a suggestion to review it annually at the Annual Meeting, but it was decided not to require it to be reviewed annually at the Annual Meeting. Following discussion and a vote, the motion passed for the Board, as a whole, to look at the objectives in the rule and not refer it to a committee.

Commissioner Wolf suggested inviting outside people to talk with the Board about some of the objectives. Regarding the first objective, we should invite the Supreme Court to meet with us and discuss whether we're doing a good job or if we should be doing something else. Commissioner Atkins suggested asking section, committee and division chairs to attend a meeting or submit something in writing on what would promote the interests of the legal profession in New Mexico. Executive Director Spinello stated that we'll combine objectives if they go together and invite the Chief Justice to the July Board meeting during the Annual Meeting to discuss the first objective regarding aiding the courts in the administration of justice. Commissioner Chavez-Lara suggested that commissioners talk with local district court judges in their districts. Executive Director Spinello stated that we had previously drafted a letter to make those introductions to the judges in the local districts, so we'll send it out to the Board to use as a template.

#### **B. State Bar IT Security Update**

IT Director Jerry Miller attended the meeting to report on cyber security for the State Bar and the need to invest time and money into security and how we can better prepare ourselves. He attended a live webinar at which the executive directors of both North Carolina and Georgia State Bars spoke about their experiences with ransom ware attacks. He reviewed the statistics, types of threats and the costs associated with cyber attacks, which are in the trillions of dollars. Director Miller reviewed the systems that North Carolina and Georgia had in place and the improvements they made following the attack. He then compared their current systems to the systems we currently have in place. Our systems are all in the cloud with daily backups, including email, better spam malware detection, and we have cyber insurance. Our outsourced IT organization Lighthouse can provide us with assistance in the event of an attack, and we'll start discussing that with them. Another goal is to help develop a CLE for the membership on this topic, and he encouraged commissioners to contact him for more information.

Executive Director Spinello reported that we do have cyber insurance and it includes money to pay a ransom, and we'll include a list of all of our insurance coverages for the next meeting.

#### **C. 2023-2025 Three-Year Strategic Plan**

Executive Director Spinello reported that he updated the Strategic Plan for the case summaries. He met with the Chief Judge and Clerk of the Appellate Court and explained how we envision the project. They have a backlog of appellate cases, so we presented an option and talked about how we can get their cases out. They seemed excited about the project and we're solving an issue that they've been dealing with. There's a delay getting it to OneSource and a further delay getting it to Fastcase. We're looking at an average of six appellate cases a week, and they would prefer that we send the cases as they come out. Chief Judge Attrep requested some time to discuss it with the judges, so we're just waiting for the court to confirm that they want us to do this for them.

### **III. ACTION ITEMS**

#### **A. Executive Session**

Commissioner Brooks made a motion to go into executive session to discuss a personnel matter; the motion was seconded and it passed. The Board adjourned for lunch. Commissioner Seiler made a motion to go back into executive session; the motion was seconded and it passed.

#### **B. DNA – People's Legal Services, Inc. Board Appointment**

There was a vacancy on the DNA – People's Legal Services, Inc. Board, so a notice was published for the vacancy, and two letters of interest were received: one from Nadine Padilla, and the other from Susan Kery which was received after the deadline. Both letters of interest, as well as an email from DNA – People's Legal Services, were included in the materials. Commissioner Wolf made a motion to accept the late application from Susan Kery; the motion was seconded and it passed. Following a vote by secret ballot, Nadine Padilla was appointed to the DNA – People's Legal Services, Inc. Board for a four-year term.

**C. Request for Funding from the NM Youth & Government Program for the National Judicial Competition**

A request was received from the NM Youth & Government Program for funding to take two students to Minneapolis for the National Judicial Competition. The total amount for the competition is \$7,200, and they are requesting \$1,000 which is the limit in our policy. The Board approved this request the last two years. Commissioner Atkins made a motion to approve a donation in the amount of \$1,000 for the National Judicial Competition; the motion was seconded and it passed.

**IV. COMMITTEE REPORTS**

**A. Executive Committee Report**

President Sherman reported on the Executive Committee meetings as follows:

April 14<sup>th</sup> Meeting:

1. Reviewed the Licensing Late Fee Waiver requests and approved management's recommendations;
2. Discussed the Committee on Women and the Legal Profession issues with their Pamela Minzner Award and whether to create a policy or let the committee sort it out; they requested written comments from the committee and will meet with Amanda Parker who is the liaison to the committee; since it may involve the creation of a policy, it was referred to the Policy and Bylaws Committee;
3. Received a sponsorship request for the UNM School of Law 75<sup>th</sup> Anniversary Gala, and approved a sponsorship in the amount of \$1,000.

May 2<sup>nd</sup> Meeting:

1. Reviewed and approved the agenda for this meeting;
2. Received a sponsorship request for the UNM School of Law Golf Classic, and approved a sponsorship in the amount of \$1,000.

Commissioner Seiler made a motion to ratify the action taken by the Executive Committee; the motion was seconded and it passed.

**B. Finance Committee Report**

The Finance Committee met prior to the Board meeting, and Secretary-Treasurer Aja Brooks reported on the following:

1. Approved the February 24, 2023 Meeting Minutes;
2. Received a presentation on the 2022 Combined Financial Audit by CLA; this is the sixth year they have prepared our audit and our policy requires us to go out with an RFP every six years, so we'll be doing that this year. It was a clean audit and there weren't any significant issues, so no management letter was issued. They noted that we should try to get a better rate for our CDs, and management is going to work on that. The Foundation may be eligible for a gross receipts tax exemption for the utilities, as a 501(c)(3); the State Bar pays for the utilities but isn't eligible as a 501(c)(6), so CLA is going to research it and get back to us. We have had discussions about possibly moving CLE to the State Bar, so CLA is also going to advise us on the tax implications of doing that. Secretary-Treasurer Brooks made a motion out of committee to accept the 2022 Combined Financial Audit, and the motion passed;
3. Reviewed the March 2023 Financials; Director of Finance provided the highlights in the revenues and expenses, noting that the cost of the resource deskbook was higher than was anticipated and had an impact on several areas of the financials; licensing fees were budgeted at \$2.18 million and we received \$2.093 million, so we're about \$89,000 short; the licensing late fees were budgeted at a higher rate and came in a little under budget. Secretary-Treasurer Brooks made a motion out of the committee to accept the March 2023 financials; the motion was seconded and it passed;

4. Provided the CPF, ATJ and JLAP First Quarter 2023 Financials for the informational purposes only;
5. Received a memo regarding the Employee Retention Credit explaining that the State Bar didn't meet the requirements for the credit, so we didn't apply for it; and
6. New Business – Executive Director Spinello reported that management has been discussing the current banking crisis and wanting to diversify our funds, so we'll come back to the Board with a recommendation.

**C. Policy and Bylaws Committee Report**

In Chair Lucy Sinkular's absence, President Sherman reported on the April 26<sup>th</sup> Policy and Bylaws Committee meeting as follows:

1. Draft Letter to NMLA Board Regarding Appointments

A letter was drafted in follow up to NMLA's new process for Board of Bar Commissioners appointments to the NMLA Board in follow up to the Board's direction at the October meeting. President Sherman made a motion out of the committee to accept the letter and send it to NMLA, and the motion passed.

2. Draft Policy for BBC/President Appointments/Nominations under Section 13.1 of the State Bar Bylaws

The Board requested the committee to draft a policy for BBC/President Appointments/Nominations under Section 13.1 of the State Bar Bylaws. President Sherman made a motion out of the committee to approve the policy, and the motion passed.

**D. Bar Leader Recruitment Committee Report**

Bar Leader Recruitment Committee Chair Erin Atkins that the committee discussed that it can be a pipeline for leadership recruitment for the State Bar and the Bar Foundation. They also want to work with the Board to make sure the district events are being scheduled. If commissioners want to say something about a candidate for a position that the Board is appointing but would prefer not to share it at the meeting, they can email their comments to Chair Atkins. It's not a group that needs to meet all the time, but if there is an issue, then they will meet.

**E. Member Services Committee Report**

Member Services Committee Chair Liz Travis reported that a survey was sent out to the committee chairs about how their meetings are operating. The committee is going to look at the comments and the committee policy. They discussed developing protocols to create a better understanding of what level of support the committees can expect from staff. The committee's goal is to bring the policy to the Board for its consideration by the end of the year.

**V. INFORMATIONAL ITEMS**

**A. Business Law Section Update**

Joaquin Sanchez, Chair of the Business Law Section, attended the meeting to provide an update on the section. They hold an Annual Institute in November, and it's an opportunity for business law practitioners to come together and build a network; it was well attended with 50 participants last year. He became the chair of the section last year, and they built consensus on their mission for the year and decided to engage and educate their members. They published a newsletter last year and asked attorneys to submit articles. They awarded four scholarships of \$500 each this year, and they would like to do a scholarship drive and provide more funding to students preparing for the bar exam. They're doing networking events around the state, with one at Meow Wolf in Santa Fe.

## **B. State Bar President Report**

President Sherman reported on the following:

1. He attended a Public Interest Panel at the Law School on March 2; each of the legal service organizations attended and spoke about going into a public service career following law school;
2. He attended the Western States Bar Conference and heard from a lot of other bar associations in the western part of the country about issues coming down the pike, including alternatives to the traditional bar exam and LLLTs. Chief Justice Bacon would like to have the LLLT program in New Mexico and is looking for volunteers to serve on a committee to develop the program;
3. He attended the UNM School of Law 75<sup>th</sup> Anniversary Gala on April 14 at the Museum of Natural History;
4. He spoke at the Bar Leaders Breakfast with ABA President-Elect Mary Smith on April 17;
5. He met with Chief Justice Bacon on April 19; they discussed JPEC, LLLTs and the role the State Bar, Judicial Nominating Commissions and how judges are appointed, and the bar exam and minorities;
6. He attended the Albuquerque Bar Association Law Day Luncheon on April 28 at the Clyde Hotel; the speaker was the ABA President, and there were a lot of community leaders in attendance;
7. He attended a reception for the new Executive Director of NM Legal Aid, Sonya Bellafant, on April 28;
8. There was a vacancy on the Judicial Performance Evaluation Commission due to the retirement of Judge Frank Wilson, and we published a notice and received 15 names and nominated three from which the Supreme Court will make the appointment;
9. He chaired two Balancing Committees for the Fifth and Twelfth Judicial District Court Judicial Nominating Commissions;
10. The Annual Meeting will be held July 27-29 at the Hyatt Regency Tamaya; and
11. He'll be speaking at the New Admittee Swearing-in Ceremony and participating in the ATJ Fund Grant Commission meeting the following week.

## **C. ABA Day Report**

Allison Block-Chavez reported that she and Kris Becker attended ABA Day in Washington, D.C. in March and they met with the New Mexico Delegation to lobby for funding for the Legal Services Corporation. Last year, \$560 million was requested and this year they were requesting \$1.2 billion. NM Legal Aid, NM Law and Poverty and DNA People's Legal Services receive funding from the Legal Services Corporation. They also had questions about the Hermit's Peak/Calf Canyon Fires and how we could assist.

## **D. NM State Bar Foundation President Report**

Bar Foundation President Judge Butkus noted that the MOU Indemnity Clause was included in the materials. He had previously found the language confusing and there was a potential for an issue between the two organizations, so a small committee was appointed to review it. Language was drafted by General Counsel Stormy Ralstin, and the Bar Foundation Board approved it at their last meeting, so it just needs to be approved by the Board of Bar Commissioners. The Bar Foundation Board had a mini retreat on April 24 with a facilitator and came up with a draft mission statement, which will be finalized at the next meeting, and they decided to proceed with hiring an outsourced independent fundraising company rather than hire its own employee. They discussed mCLE and decided that this isn't the time to make any changes, but they'll review it on an annual basis. They also established a small fundraising committee to plan a fundraising event for the Annual Meeting.

## **E. Executive Director Report**

Executive Director Spinello's written report was included in the materials. He highlighted a couple of items, including that the Chief Justice and the Court's Equity and Justice Commission is working on a proposal for a new MCLE requirement to create an equity and justice CLE requirement for all attorneys; they're anticipating that the rule and requirement will be implemented by the end of this year, which means it will be a requirement for all attorneys next year. At this point, it looks like they're going to take one of the 10 general and turn it into this new equity and justice credit. Bill Slease and Amanda Parker will be assisting the Commission with the definitions.

He also noted that the list of 127 members who were non-compliant for licensing or MCLE requirements was sent to the Court this week.

#### **F. State Bar Representative Reports**

1. Senior Lawyers Division – Senior Lawyers Division Delegate Dan Behles was not in attendance, so there was no report for the SLD.
2. Young Lawyers Division – Chair Damon Hudson reported that the division hosted the Ask a lawyer call in on April 30; they had over 200 calls and hope to be able to do another one later in the year. They are holding a Fit2Practice Hot Yoga on May 27, a Veteran’s Clinic on May 30, a Wills for Heroes event in Las Cruces on July 22. They’re hosting a couple of events during the Annual Meeting, including a Fit2Practice Walking Meditation and Poolside Yoga as well as a trivia contest. They are planning a volunteer appreciation event in August and they’re having a lunch with the justices in September.

3. Paralegal Division – Paralegal Division Chair Linda Sanders was not in attendance and submitted a written report on the Division’s activities, which was emailed to the Board.

4. Bar Commissioner Districts –

Commissioner Chavez-Lara reported on a free legal clinic in Anthony; they assisted 22 pro se litigants and answered questions.

Commissioner Lutz reported on the Sixth Judicial District Bench & Bar Meeting at the Lescombes Winery on June 2, which the State Bar co-sponsored.

Commissioner Brooks reported that they reached out to the young lawyers division in her office to try and put on a panel and invited the Federal PDs, the Second Judicial District Attorney’s Office and the 13<sup>th</sup> Judicial District; it may be a hybrid event with a reception and the panel which will talk about what their office does and the job opportunities available.

Commissioner Wolf reported that the district commissioners were invited to speak at the First Judicial District on June 19 which is a state holiday now, so they’re looking at another date.

5. Supreme Court Board and Committee Liaison Reports

Commissioner Atkins reported that she serves on the Supreme Court Commission on Judicial Ethics and they’ve been working on a proposed rule that has been sent out for comments; it has to do with judges’ requirements to disclose receiving anything including prior representation.

Commissioner Travis reported that the Disciplinary Board is very busy with cases, and they’re going to be exploring better interest rates for their accounts and splitting up some of the accounts for safety. They’re putting on a mock panel at the Annual Meeting.

#### **G. Client Protection Fund Commission 2022 Annual Report**

The 2022 Annual Report was included in the materials for the Board’s information.

### **VI. OTHER BUSINESS**

#### **A. New Business**

General Counsel Ralstin reported that the new MCLE Rule regarding DEI gets confusing when you add it to the current requirements. It’s very confusing for our members, and the majority of the phone calls received have to do with the four hours of self study credit. A number of states are eliminating the limit on self study, and she proposed

asking the Court to remove the limit on the four-hour self-study credits for our state. We would need to ask the Court since it's in their rule. Commissioner Wolf made a motion to ask the Supreme Court to eliminate the limit on the self study. The motion was seconded and it passed.

**B. Adjourn**

There being no new business, Commissioner Wolf made a motion to adjourn the meeting at 4:44 p.m.; the motion was seconded and it passed.