

**BOARD OF BAR COMMISSIONERS
DECEMBER 8, 2021 MEETING MINUTES
La Fonda Hotel, Santa Fe, NM**

MEMBERS PRESENT:

Erin M. Atkins	Robert Lara (phone)
Elias Barela (phone)	David P. Lutz (phone)
Daniel J. Behles	Carla C. Martinez (phone)
Allison H. Block-Chavez (phone)	Mitchell Mender
Aja N. Brooks	Angela Minefee
Ernestina R. Cruz	Joseph F. Sawyer
Michael Eshleman	Benjamin I. Sherman (phone)
Judge Kevin L. Fitzwater (ret.)	Lucy H. Sinkular
Connie J. Flores	Elizabeth J. Travis (phone)
Parker B. Folse	Carolyn A. Wolf
Shasta N. Inman	

MEMBERS ABSENT:

Jesus Lopez
Constance G. Tatham

OTHERS PRESENT:

Emmalee Atencio	Pam Moore
Kris Becker	Jessica Perez
Ian Bezpalko (phone)	David Powell
Nathan Eckberg	Stormy Ralstin
Evann Laird	Richard Spinello

I. CALL TO ORDER

A. Approval of October 7, 2021 Meeting Minutes

Commissioner Folse made a motion to approve the October 7, 2021 meeting minutes; the motion was seconded and it passed.

II. STRATEGIC PLANNING

A. Adoption of State Bar Bylaw Amendments

Policy and Bylaws Committee Chair Ben Sherman reported that the Bylaws were presented at the October Board meeting at which additional revisions were requested by the Board. The committee met on October 26 and made the revisions to the Bylaws, and they were emailed to the Board on October 28 in compliance with the 30-day notice requirement. Commissioner Lara made a motion to accept the amendments to the Bylaws; the motion was seconded and it passed.

1. Approve Proposed Recommendation from Policies and Bylaws Committee and Special Committee on Sections Regarding Lobbying

General Counsel Stormy Ralstin reported that the Board voted to suspend lobbying at the October meeting, but the Bylaws didn't provide a mechanism by which lobbying could be suspended, so that has now been added to the Bylaws and the Board needs to take action on that at this time. Commissioner Sinkular reported that the recommendation of the Special Committee on Sections was to temporarily suspend lobbying by sections as it would be the most protective thing for the State Bar, so she made a motion to approve the committee's recommendation to suspend lobbying, and the motion passed.

B. Communications Plan / Elevator Pitches / Licensing Promos re: New Rule

Director of Communications and Member Services Evann Laird reported that information on the licensing renewal and MCLE compliance was included in the materials. There were multiple changes to the rules this year and a link to the new rule is on the website. The launch of the new website has been successful and it's been going well.

General Counsel Stormy Ralstin reported that the Supreme Court adopted the new rule effective December 31, 2021, which combined licensing, MCLE, and the certifications into one bundle; instead of having a December 31 compliance date, all members will have until February 1 to complete their MCLE compliance requirements. Everything has been rolled into a single compliance deadline, and members now have until the end of April to comply. The overall fines have been reduced from \$450 to \$275. We don't know what the effect of the new fee structure will be on budget revenue, but we will monitor it.

C. 2022 Internal Committees and Structure

President-Elect Wolf proposed changes to the internal committees structure, including the Regulatory Committee which was charged with getting Legal Specialization up and running. The Legal Specialization Commission was created which will develop the policies and the test, so she proposed moving the committee under the Policy and Bylaws Committee. The Special Committee on Sections seems more related to Member Services, so she proposed abolishing the committee and moving its functions to the Member Services Committee. She had originally thought the Statewide/Rural Outreach Committee should be under Member Services as well, but decided to postpone any change since the committee was created as part of the strategic plan approved in 2019. The Supreme Court Rural Outreach Committee had done a survey and those results were sent to the Supreme Court, but it hasn't been released yet. The Bylaws say that the president can create committees, and President Martinez supported President-Elect Wolf's request to change committees at this time; however, we need to look at the Bylaws regarding the timing of the appointment of committees. Regulatory Committee Chair Travis and Special Committee on Sections Chair Sinkular supported the proposed changes. Commissioner Atkins made a motion to approve the changes to the internal committees; the motion was seconded and it passed. The internal committees sign-up sheet was passed around, and President-Elect Wolf stated that commissioners interested in leadership should volunteer for committees to learn more about the Board and the State Bar.

D. Strategic Plan Timeline

Executive Director Richard Spinello reported that no changes were made to the Strategic Plan since the October meeting. He will be doing a wrap up of the plan for the February meeting in order to develop the Strategic Plan for the next three years at the retreat in May.

III. ACTION ITEMS

A. Appointments to Board of Bar Commissioners

1. Uncontested Judicial Districts

The following were elected to the Board by acclamation for three-year terms:

- a. First Judicial District - Olga Serafimova
- b. Second Judicial District - Allison Block-Chavez and Tomas J. Garcia
- c. Fourth and Eighth Judicial District – Brett Phelps
- d. Out-of-State District – Sean M. FitzPatrick

2. Seventh and Thirteenth Judicial District

There were no nomination petitions received for the two positions in this district, so a notice was published in the Bar Bulletin, and the following submitted letters of interest for the vacancies:

- a. Catherine Cameron (Sandoval County)
- b. JoHanna Cox (Valencia County)

- c. Anne E. Gibson (Sierra County)
- d. Simone M. Seiler (Valencia County)

Following a vote by secret ballot, Catherine Cameron and Simone Seiler were appointed to the Board for a one-year term.

3. Eleventh Judicial District

There were no nomination petitions received for the one position in this district, so a notice was published in the Bar Bulletin, and Commissioner Sawyer submitted a letter requesting appointment to fill the vacancy. President Martinez made a motion to appoint Commissioner Sawyer to the Board for a one-year term; the motion was seconded and it passed.

B. Appointments to New Mexico State Bar Foundation Board

1. BBC Directors

NM State Bar Foundation Board President Aja Brooks reported that Commissioners Erin Atkins, Judge Fitzwater and Constance Tatham were going off of the Foundation Board and she thanked them for serving over the last year. There are five commissioner positions on the Foundation Board, and she encouraged commissioners to get involved and volunteer for the vacancies. Commissioner Atkins nominated Commissioner Mender, and Commissioners Block-Chavez and Travis volunteered to serve on the Board. Commissioner Sinkular made a motion to appoint all three commissioners by acclamation; the motion was seconded and it passed.

2. Non-BBC Director

There was one non-BBC Director vacancy and a notice was published in the Bar Bulletin. Judge Carl J. Butkus served the one-year term on the Board and submitted a letter of interest requesting reappointment. President Brooks also submitted a letter to the Board on behalf of the Bar Foundation requesting that he be reappointed and stated that he's been very involved and served as vice president this year. Commissioner Brooks made a motion to reappoint Judge Butkus to the Bar Foundation Board; the motion was seconded and it passed.

C. Appointment of One Member to the Client Protection Fund Commission

There was one vacancy on the Client Protection Fund Commission, so a notice was published in the Bar Bulletin, and Mick I. R. Gutierrez submitted a letter of interest for the vacancy. Commissioner Inman made a motion to appoint Mick I. R. Gutierrez to the CPF Commission for a three-year term; the motion was seconded and it passed.

D. Reappointments of Two Members to Legal Specialization Commission

There were two vacancies on the Legal Specialization Commission. Current Commissioners David V. Jones and Twila B. Larkin submitted letters requesting that they be reappointed, which were included in the materials as well as a letter from Chair Bobbie Batley requesting that they be reappointed to another term. Commissioner Sawyer made a motion to reappoint David V. Jones and Twila B. Larkin to the Legal Specialization Commission for three-year terms; the motion was seconded and it passed.

E. Supreme Court Board and Committee Liaison Appointments

There was a discussion regarding the liaisons to the Supreme Court Boards and Committees. General Counsel Ralstin reported that the Policy and Bylaws Committee looked at the issue and determined that the membership of the rules committees include experts working on the rules, so a liaison makes sense for those committees. The rest are regulatory boards to which there should be a voting member appointed, not a liaison, which would require rule changes, so the committee is going to look at it again. No changes have been finalized this year, so the list of boards and committees will be sent out to the Board requesting volunteers following the meeting, as has been done in previous years, and once finalized, the appointments will be forwarded to the Supreme Court who will notify the board and committee chairs.

F. Teen Court of Lea County, Inc. Donation Request

A donation request was received from the Teen Court of Lea County, Inc. for \$1,000; the request and Contribution/Donation Policy were included in the materials. Commissioners Folse and Atkins spoke on behalf of the program and stated that it's a valuable program and worthwhile cause to support. Commissioner Atkins made a motion to donate \$1,000 to the Teen Court of Lea County; the motion was seconded. Judge Fitzwater expressed concern regarding the religious references in the donation request letter, but Commissioner Folse assured the Board that it isn't a religious program; that was just the style of the person who made the request. Following a vote, the motion passed.

G. Executive Session / Executive Director Evaluation and Compensation Committee Report

Commissioner Atkins made a motion to go into executive session; the motion was seconded and it passed. President-Elect Wolf reported that the Executive Director Evaluation and Compensation Committee completed its work in evaluating the executive director and reviewed salary comparables. The committee recommended the compensation for the executive director for the upcoming year, and it was approved by the Board in Executive Session.

IV. COMMITTEE REPORTS

A. Executive Committee Report

President Martinez reported on the following:

1. November 29th Meeting

The committee met on November 29 to review the agenda for this meeting. The committee also discussed the Internal Committees restructure and a complaint from a member regarding out-of-state personal injury firms. There was no action taken by the Executive Committee, so no ratification was necessary.

B. Finance Committee Report

Secretary-Treasurer Sherman reported on the following:

1. Approved the September 30, 2021 Meeting Minutes;
2. Reviewed the October 2021 Financials; Secretary-Treasurer Sherman made a motion to accept the October 2021 financials, and the motion passed;
3. The 2022 Budget Disclosure was included in the materials; reported that there were no challenges received to the 2022 Budget;
4. Discussed the reimbursement from the State Bar to the Bar Foundation for the free CLE provided to members for the 2021 Annual Meeting which totaled 4,507 credits and recommended that the State Bar reimburse the Bar Foundation at the 20 percent discount rate for a total of \$169,463.20; Secretary-Treasurer Sherman made a motion to approve the reimbursement amount at the 20 percent rate, and the motion passed;
5. Reported that the Board had approved removing Jerry Dixon and adding Commissioner Sherman as signers on the bank accounts last year, but it hadn't gotten changed at that time, so we need a new resolution for the bank. The committee also recommended adding Commissioner Atkins as the incoming Secretary-Treasurer for 2022. The motion out of the committee was to remove Jerry Dixon and add Commissioners Sherman and Atkins as signers on the bank accounts, and the motion passed.
6. Reported that 700 active and 370 inactive members have renewed their licenses for a total of 1,100, which doesn't include the fee waivers; there are currently 48 percent, or 3,600 members, compliant for MCLE for 2021; and
7. Reviewed the CPF, ATJ and JLAP Third Quarter 2021 Financials, which were provided for informational purposes only.

C. Special Committee on Sections Report

Special Committee on Sections Chair Lucy Sinkular reported that they are going to be having roundtables with the sections. in 2022. The committee also recommended a referral to the Policy and Bylaws Committee to consider the drafting of an amendment for the section carryover funds. Chair Sinkular made a motion to refer the section carryover amendment to the Policy and Bylaws Committee, and the motion passed.

D. Special Committee on Diversity and Gender Recommendations Report

Special Committee on Diversity and Gender Recommendations Chair Aja Brooks reported that the Committee on Diversity and the Committee on Women are supposed to submit an annual report to the Board. The State Bar's Equity in Justice Manager, Dr. Amanda Parker, is the liaison between those two committees, and she prepared an update that was emailed to the Board prior to the meeting. She developed a strategic plan that encompasses the recommendations from both reports and lays out the long and short-term goals. In addition, she will be developing educational events on equity and inclusion in the coming year. The Subcommittee on Advancing Diverse Applicants to the Bar has been meeting to examine disparities in bar passage rates and obtain more specific demographic data collection on bar examinees. Chair Brooks would like to remain on the committee to continue working on the recommendations.

E. Membership Survey Committee Report

Membership Survey Committee Chair Carolyn Wolf reported that the committee had its first meeting and reviewed the 2004 membership survey and set a schedule for sending the survey out to the membership by April 1. The committee will be meeting on a regular basis in January and February to develop the questions and are trying to decide whether to include compensation. There was a request from the Well-Being Committee to include some well-being questions, since they didn't have a very good response to their survey. We're going to use the Strategic Plan to develop the questions and will have the results for our Strategic Planning Retreat in May. We're going to use our new survey system, instead of Research and Polling, which will save us a significant amount of money. We're hoping to have a set of questions for the Board's review at the February meeting. Dr. Parker has some expertise on drafting surveys and is going to be assisting with the development of the questions and targeting groups.

V. INFORMATIONAL ITEMS

A. Public Law Section Update

Public Law Section Chair-Elect Nathan Eckberg attended the meeting to provide an update on the section. The section coordinates the Public Lawyer of the Year Award annually and they held an in-person ceremony at the rotunda that was also streamed live. They also presented their fellowship recipient, which is one of the programs for which they provide funding. They did a procurement code CLE virtually and had good attendance. They also held their section annual meeting following that and held two social events for public law section members. They also did a brownbag and a networking event at the law school. The section is very active and has 98 members.

B. Legal Specialization Commission Update

Legal Specialization Commission Chair Bobbie Batley reported that the Commission had their initial specialization committee appointed on Family Law; they had huge interest in that specialty, but not a lot of applicants; the section thought there would be a higher number of applicants but that it's a really busy time, so they extended the deadline to January 15. If they don't get enough interest by that time, they will ask the Board to open it up to another specialty. Two of their commissioners appointed by the Board of Bar Commissioners, David Jones and Twila Larkin, received two-year terms and sent letters requesting reappointment to the Commission, and she also submitted a letter in support of their reappointments.

C. State Bar President Report

President Martinez reported that she has been dealing with her husband's cancer diagnosis and has taken a step back from the Board. She thanked President-Elect Wolf and others who have really stepped up to help.

D. President-Elect Report

1. 2022 BBC Meeting Dates—February 25, May 20-21 (Las Cruces, in conjunction with full board retreat and member district event), August 11 (Tamaya, in conjunction with the Annual Meeting), October 21, and December 7 (Supreme Court; date to be confirmed)
2. 2022 Annual Meeting – We have been turned down by Deb Haaland and Bryan Stevenson. Commissioner Brooks and others have given her some other suggestions for keynote speakers. The Public Law and Cannabis Law Sections will be holding their annual institutes during the Annual Meeting, and there will be a track on Equity in Justice.
3. She participated in the Section Orientation Training and talked with them about the roundtables that we will be scheduling.

E. NM State Bar Foundation President Report

NM State Bar Foundation President Aja Brooks reported that the board met on November 4 and approved the 2022 Budget, which includes funding for a consultant to assist with establishing a fundraising program and maximizing our efforts. Another facilitation with Judge York to discuss the EAJ merger proposal was scheduled for December 6, but EAJ wasn't ready at that time for the facilitation. The Executive Committee met to discuss the merger, and we are waiting on EAJ's response as to whether they want to pursue another facilitation. Executive Director Spinello stated that once we hire the consultant, we can ask for their input regarding the merger. The MOU Committee also met and identified several things that need to be addressed; the committee will be meeting with the BBC Executive Committee to discuss the amendments to the MOU. Commissioner Atkins thanked Commissioner Brooks for serving as president of the Bar Foundation this year.

F. Executive Director Report

Executive Director Spinello's written report was included in the materials. He reported that the Supreme Court has been pushing the district courts to hold more trials. There are a lack of courtrooms for the Second Judicial District and a lack of a place to hold full jury panels, so they approached the State Bar to use the Auditorium to house the jury panels. They will need some security and metal detectors.

Nan Nash had contacted President Martinez earlier in the year regarding assisting the courts when there are public media issues with judges. The issue was discussed with the Supreme Court's Innovation Team and we're going to be looking at what the State Bar can do to create a more formal process to assist with technical information for when courts can't respond on their own. We're also going to look at what other bar associations do to support judges and will be discussing it further with the Court's I-Team.

Attached to his report was a letter received from Deian McBryde, Solo and Small Firm Section Chair, regarding the lobbying suspension, and he will be advised following this meeting that the Policy and Bylaws Committee will be taking that up next year and will include him in the discussions.

The Innovation Team has been looking at Limited Licensed Technicians (LLTs) for New Mexico, and will not recommend a program for New Mexico, but suggested continued study of the issue. Commissioner Cruz reported that we will be hearing feedback from members to provide a push for a regulatory sandbox. There will be a presentation on this at the NCBP meeting, and there's a big push in Utah and Arizona. Executive Director Spinello stated that we're going to be inviting representatives from Utah and Arizona to the Annual Meeting to speak on a professional practice panel to address this. Incoming Paralegal Division Liaison Emmalee Atencio stated that the Washington Bar came and spoke to NM, but it wasn't the right time to do the program in NM. CA is in a comment period for their limited licensed professionals, and we may want to reach out to CA as well for the Annual Meeting. She had done some extensive research on Washington's program and it wasn't a popular program in Washington, but the Paralegal Division is in favor of it and will continue to monitor it.

G. State Bar Representative Reports

1. Senior Lawyers Division

Senior Lawyers Division Delegate Dan Behles reported that they held their Memorial Scholarship Ceremony last month. They have an essay contest to provide scholarships in memory of deceased attorneys during the year, and they awarded three scholarships this year. There was an issue with the quality of the essays this year and they may not have selected a topic that resonated with the third year law students. The Division will look at the topic and hope to have more responses next year. He thanked the Board for approving the change in the age for fee waiver for inactive lawyers from age 75 to 70, but questioned the provision in the new rules that if they don't pay the fee, they are automatically disenrolled from the Bar. General Counsel Ralstin clarified that when we send out the licensing notice, we send out an inactive fee waiver and ask that they recertify their information. As long as they respond to us with their certifications, then they retain their inactive status; it's only if they're not in good standing for five years that they are withdrawn.

2. Young Lawyers Division

Young Lawyers Division Chair Shasta Inman reported that the Division has been doing joint CLEs with the SLD and they spoke at their In Memoriam Ceremony as well. They didn't receive any applications for their Region 3 and 4 directors, so applications are open and those appointments will be made at their first meeting next year. The Western States Regional Summit was held at the Eldorado and was a big hit; they had 65 registrants and 63 actually attended in person. They had attendees from Colorado, South Dakota, Utah, Oklahoma, Wyoming and Arizona as well as a couple of speakers from D.C. and South Carolina. Lauren Riley helped with sponsorships and did a great job. Jessica Perez stated that she'll be the incoming chair for 2022 and was reelected as the Region 5 director and looks forward to serving on the Board next year.

3. Paralegal Division

Paralegal Division Liaison Angela Minefee thanked the Board for allowing her a seat on the Board this year. She has learned so much from serving on the Board on how to run the Paralegal Division meetings. The Division offered 12 CLEs, eight paid and four free, and all were offered with a virtual component; the brown bag had the highest participation and they've gotten great feedback. They had scheduled a paralegal retreat in Roswell; the SLD was going to do a CLE on the oral history project, but unfortunately, they had to do it virtually due to the increasing COVID numbers. Their pro bono committee has worked with the YLD on several events, including Wills for Heroes. They have also implemented their own strategic plan and pinpointed several areas for growth and development and review the plan at every meeting. They are also going to be taking a hard look at their bylaws. They want to focus on member engagement and bridge the gap with their members in the outlying areas. She introduced Emmalee Atencio who is the incoming chair for 2022.

4. Bar Commissioner Districts

Commissioner Atkins reported that they held their annual 12th Judicial District Bar Meeting virtually last month and Executive Director Richard Spinello, Pam Moore, and Bill Slease spoke. She had her district event and purchased gift cards for drawings throughout the day, and she mailed them to the winners.

Commissioner Lara reported that they had their local district event last month; they had wanted to do an in-person CLE but decided to do it virtually due to COVID which was attended by several staff members, and he thanked staff for assisting with the event.

Michael Eshleman attended the SLD In Memoriam Scholarship Ceremony which honored Barry Crutchfield. It was a good ceremony and he enjoyed it.

5. Supreme Court Board and Committee Liaison Reports

Commissioner Atkins reported on the Code of Judicial Conduct Committee; the committee is considering whether a judge can receive free or reduced fee representation from a lawyer before the Judicial Standards Commission. Currently the Code of Judicial Conduct prohibits any judge from accepting any benefits or other things of value from a lawyer that has ever come before the judge, so they are looking at ideas on how they build a rule system that allows a judge to accept representation from an attorney when they are going through a process where they need a lawyer.

Commissioner Inman reported that she served on the Children's Court Rules Committee this year and helped them set up their google drive, so they're disappointed that she won't be serving next year.

6. ABA House of Delegates Report

ABA House of Delegates representative Bobbie Batley reported that the ABA had their annual meeting in August and there wasn't anything to report. The ABA Midyear Meeting will be held in February and she didn't see anything on the agenda regarding New Mexico at this point, but if she sees anything for the Board, she'll forward it. She noted that it's an honor to serve on the ABA House of Delegates.

VI. OTHER BUSINESS

A. Presentation of Outgoing Commissioner Awards

President-Elect Wolf presented awards to commissioners whose terms expire at the end of the year in appreciation of their service, and they included the following: Ernestina R. Cruz, Judge Kevin Fitzwater, Constance Tatham, Elias Barela, Michael Eshleman, Jesus Lopez, YLD Chair Shasta Inman, and Paralegal Division Liaison Angela Minefee. A gift of appreciation was also given to President Martinez for her service this year, and a proper recognition will be had when President Martinez can be present.

B. New Business

There was no new business.

C. Adjourn

Commissioner Cruz made a motion to adjourn the meeting at 2:25 p.m.; the motion was seconded and it passed.