

**BOARD OF BAR COMMISSIONERS
May 17, 2019 MEETING MINUTES
State Bar Center, Albuquerque, NM**

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| MEMBERS PRESENT: | Aja N. Brooks
Gerald G. Dixon
Sean M. Fitzpatrick
Judge Kevin L. Fitzwater (ret.)
Parker B. Folse
Mick I. R. Gutierrez
Jared G. Kallunki (phone)
David P. Lutz
Carla C. Martinez
Clara Moran | Wesley O. Pool (phone)
Lynette Rocheleau
Sonia R. Russo (phone)
Benjamin I. Sherman
Joseph F. Sawyer
Lucy H. Sinkular
Constance G. Tatham (phone)
Elizabeth J. Travis
Bradford H. Zeikus |
| MEMBERS ABSENT: | Erin M. Atkins
Ernestina R. Cruz
Carolyn A. Wolf | |
| STAFF PRESENT: | Kris Becker
Evann Kleinschmidt
Chris Morganti
David Powell | Stormy Ralstin
Kate Sexton
Richard Spinello |
| OTHERS PRESENT: | Sarah Armstrong
Bobbie Batley
Ian Bezpalko | Andrew J. Cloutier
Dorene Kuffer
Tom Olson |

I. CALL TO ORDER

A. Welcome and Introductions

President Dixon welcomed everyone and introductions were made.

B. Approval of February 22, 2019 Meeting Minutes

Commissioner Pool made a motion to approve the February 22, 2019 meeting minutes as submitted; the motion was seconded and it passed.

II. STRATEGIC PLANNING

A. Regulatory Committee Report on Legal Specialization Discussion

The Regulatory Committee met on April 23, and Chair Liz Travis reported that the committee could not reach a consensus and therefore could not provide a recommendation to the Board regarding establishing a Legal Specialization Program of the State Bar. She went through the pros and cons for the Board's information. Executive Director Richard Spinello reviewed the draft Implementation Plan provided to the committee as a guide and stated that it was the most feasible model should the Board decide to create a Legal Specialization Program. He provided two possible mission statements for the program. In the new model, there would be one certifying board, which would be the Board of Bar Commissioners, with representatives from the various practice sections. Following discussion, Commissioner Fitzwater made a motion for the State Bar to create a Legal Specialization Program that includes testing; the motion was seconded and passed with three nays.

B. New MCLE-Board Role and Policy Discussion

General Counsel Stormy Ralstin and Regulatory Programs Director Kate Sexton presented an overview of MCLE and the current deadlines and fees. The State Bar just completed its first year of running MCLE. They reviewed the duties of the Board of Bar Commissioners, which replaced the former MCLE Board as the entity that reviews and approves requests for waivers. They will be making some policy and rule changes to the fines structure and will bring them to the Board for approval. Following discussion of whether they would go to the Regulatory or Policy and Bylaws Committee first, staff was directed to submit the proposed changes to the Regulatory Committee.

C. Policy and Bylaws Committee Report and Recommendations

In Chair Carolyn Wolf's absence, Commissioner Sawyer reported on the committee's April 24th meeting and recommendations as follows:

1. Memorandum of Understanding Between the State Bar and the NM State Bar Foundation

Commissioner Sawyer made a motion to approve the Memorandum of Understanding between the State Bar and the NM State Bar Foundation and enter into the agreement, and the motion passed.

2. Survey Results of Supreme Court Board, Committee, and Commission Liaisons

A survey of the Board was conducted on commissioners' individual experiences serving as liaisons on the Supreme Court Boards, Committees and Commissions. The committee divided them into two categories, those that don't need an active voting member, such as the rules committees, and those that are more regulatory and would be beneficial to have official voting members. Staff will draft a recommendation for a rule change for the committee's consideration.

III. ACTION ITEMS

A. ABA House of Delegates Appointment of One Young Lawyer Member for a Two-Year Term

A notice was published in the *Bar Bulletin* for one position for a young lawyer member on the ABA House of Delegates. Allison Block-Chavez, the current appointee, submitted a letter of interest. Commissioner Lutz made a motion to reappoint Allison Block-Chavez to the ABA House of Delegates for a two-year term; the motion was seconded and it passed.

B. Civil Legal Services Commission Appointment of One Member for a Three-Year Term

A notice was published in the *Bar Bulletin* for a position on the Civil Legal Services Commission, and Simone M. Seiler and Mary H. Smith, the current appointee, submitted letters of interest. Following a vote by secret ballot, Mary H. Smith was reappointed to the Commission for a three-year term.

C. DNA – People's Legal Services, Inc. Appointment of Two Members for Two-Year and Four-Year Terms

A notice was published in the *Bar Bulletin* for two positions on the DNA – People's Legal Services, Inc. Board. The following submitted letters of interest:

1. Veronica Hill
2. Peter N. Ives (current appointee)
3. Earl Mettler (current appointee)
4. Troy D. Ward

Following a vote by secret ballot, Peter N. Ives and Earl Mettler were reappointed to the DNA Board for two-year and four-year terms, respectively.

IV. COMMITTEE REPORTS

A. Executive Session

The Board went into Executive Session to discuss a personnel issue. In open session, Commissioner Pool made a motion to accept the new executive director job description as modified; the motion was seconded and it passed.

B. ATJ Fund Grant Commission Report

ATJ Fund Grant Commission Chair Tom Olson reported that the Commission received 14 applications to their RFP and they approved funding for 10 legal service providers in the amount of \$650,000 with an additional \$25,000 to the ATJ Commission.

C. Client Protection Fund Annual Report

Client Protection Fund Commission Chair Drew Cloutier presented the 2018 Annual Report, which was distributed to the Board. The Commission is administered by the State Bar and received 31 claims against 20 lawyers and paid 11 claims against five lawyers totaling \$43,053.76.

D. Finance Committee Report

The Finance Committee met prior to the Board meeting, and Secretary-Treasurer Carla Martinez reported on the discussion and recommendations regarding the following:

1. Approved the February 22, 2019 Meeting Minutes as submitted;
2. Received a presentation on the 2018 Audit by CliftonLarsonAllen; received an unmodified “clean” opinion and there were no errors, misstatements or past audit adjustments, so no management comment letter was issued, and the Finance Committee recommended that it be accepted; Secretary-Treasurer Martinez made a motion to accept the 2018 Audit and the motion passed;
3. Received the 2018 State Bar Financial Dashboard and Five-Year Historical Comparison;
4. Secretary-Treasurer Martinez made a motion to accept the April 2019 State Bar Financials and the motion passed;
5. Received the CPF, ATJ and JLAP First-Quarter 2019 Financials; and
6. Received an update on the 2019 Licensing; the final number of suspended attorneys for nonpayment of dues was four; MCLE submitted an initial list of 96 attorneys for non-compliance.

E. Executive Committee Report

President Dixon reported on the following Executive Committee meetings:

1. April 26th Meeting
 - (a) A notice was published in the *Bar Bulletin* for two vacancies on the Board in the First Bar Commissioner District. Fourteen candidates applied for the two vacancies, and the committee appointed Sean M. FitzPatrick and Lucy H. Sinkular for the remainder of the year.
 - (b) A notice was published in the *Bar Bulletin* for the vacancy on the ATJ Fund Grant Commission. Five candidates applied for the vacancy, and the committee appointed Donna M. Connolly through the remainder of the year.
 - (c) Received eight MCLE Waiver requests and approved staff’s recommendations, with the exception of one from which the committee requested additional information.
2. The committee met again on May 9 to review and approve the meeting agendas.

F. Annual Awards Committee Report and Recommendations

In Chair Erin Atkins absence, Commissioner Brooks reported on the May 16th Annual Awards Committee meeting and the committee's recommendations for the 2019 Annual Award recipients, which will be presented during the Annual Meeting. Commissioner Brooks made a motion to approve the committee's recommendations and the motion passed.

V. INFORMATIONAL ITEMS

A. Family Law Section Update

Family Law Section Chair Sarah Armstrong and Dorene Kuffer attended the meeting to provide an update on the section's activities. The FLS is one of the largest sections and holds a Family Law Institute each fall, which enables members to get all of their credits for the year. The section proposed two bills during the Legislative Session; however, neither made it out of committee. The section provided content for a Family Law Insert, which will be published in the *Bar Bulletin* in August and is working with the Tax Section on a breakout session for the Annual Meeting. She noted that case law is always changing, and the section is providing complimentary registration for judges and hearing officers to come to their training. The section developed an informal mentorship program on family law for ECL participants. She emphasized the importance of Legal Specialization for family law practitioners. She stated that members would benefit statewide and legal specialization protects the public and asked the Board to consider creating a program.

B. Bar Commissioner Districts Annual Events Updates

Commissioners reported on events that they are planning in their districts. Commissioner Sawyer will organize an event in San Juan County. Commissioner Atkins is organizing an event in conjunction with the 12th Judicial District Bench & Bar Conference. Commissioner Folse will be planning an event in Roswell. Commissioners Lutz and Gutierrez are planning to do an event outside of Las Cruces in conjunction with a Veteran's Clinic.

C. Member Association Software Evaluation Update

Director of Finance David Powell reported that they have met with staff and the consultant to complete Phase I, which established needs for the new database in order of priority, and they will be meeting with the consultant to finalize the RFP the end of this month. Staff will be attending a vendor fest next month to meet with and get demos from vendors to narrow down the options.

D. Bar Bulletin Update

Director of Communications Evann Kleinschmidt reported that there are now online tutorial videos explaining how to use the website for the *Bar Bulletin* and various content types, including news about events.

E. President Report

President Dixon reported on the following:

1. He attended the Western States Bar Conference in March and ABA Day in April at which he met with representatives of the New Mexico congressional delegation on supporting legal services.
2. He spoke at the New Admittee Swearing-In Ceremony on April 25.
3. He met with members of the NM Medical Review Committee regarding receiving CLE credit for service on panels; they are also looking at other ways to get credit, e.g. pro bono or getting volunteers and will make a presentation to the Board at the August meeting.

4. The 2019 Annual Meeting starts on Wednesday afternoon with the Finance Committee meeting followed by the Past Presidents' Dinner that evening. The Board will meet on Thursday morning and the programming kicks off at 1 p.m.
5. There is still availability for the 2019 CLE Cuba trip, and he encouraged commissioners to attend.
6. The Supreme Court's Online Dispute Resolution project will be rolling out in the next two weeks in Albuquerque, Portales and Silver City.

F. President-Elect Report

No report was provided.

G. Executive Director Report / First Quarter Newsletter

The Executive Director report and first quarter newsletter were included in the materials.

H. Bar Commissioner Division / District / Supreme Court Liaison Reports

The Young Lawyers Division report was distributed at the meeting. Paralegal Division Chair Lynette Rocheleau reported that the division board met in March. They surveyed members and received 83 responses. They put on a CLE a couple of weeks ago at which President Dixon and Bill Slease presented.

VI. OTHER BUSINESS

A. New Business / Adjourn

There being no new business, Commissioner Pool made a motion to adjourn the meeting at 3:35 p.m.; the motion was seconded and it passed.

VII. PARKING LOT (issues for future planning and discussion)

A. Client Protection Fund Commission Recommendation Regarding a Mandatory Fee Arbitration Program for Lawyer / Client Fee Disputes