

**BOARD OF BAR COMMISSIONERS  
DECEMBER 9, 2020 MEETING MINUTES  
Virtual Meeting**

|                         |                                 |                      |
|-------------------------|---------------------------------|----------------------|
| <b>MEMBERS PRESENT:</b> | Erin M. Atkins                  | Yolanda K. Hernandez |
|                         | Allison Block-Chavez            | David P. Lutz        |
|                         | Aja N. Brooks                   | Carla C. Martinez    |
|                         | Daniel J. Behles                | Joseph F. Sawyer     |
|                         | Ernestina R. Cruz               | Benjamin I. Sherman  |
|                         | Gerald G. Dixon                 | Lucy H. Sinkular     |
|                         | Michael Eshleman                | Constance G. Tatham  |
|                         | Judge Kevin L. Fitzwater (ret.) | Elizabeth J. Travis  |
|                         | Parker B. Folse                 | Carolyn A. Wolf      |
|                         | Tomas J. Garcia                 |                      |

**MEMBERS ABSENT:** Connie J. Flores  
Mitchell Mender

|                        |                |                  |
|------------------------|----------------|------------------|
| <b>OTHERS PRESENT:</b> | Kris Becker    | Brent Moore      |
|                        | Ian Bezpalko   | Pam Moore        |
|                        | Shasta Inman   | David Powell     |
|                        | Evann Laird    | Stormy Ralstin   |
|                        | Angela Minefee | Richard Spinello |

**I. CALL TO ORDER**

**A. Approval of September 24, 2020 Meeting Minutes**

Commissioner Eshleman made a motion to approve the September 24, 2020 meeting minutes; the motion was seconded and it passed.

**II. STRATEGIC PLANNING**

**A. Communications Plan**

Director of Communications and Member Services Evann Laird reported on the following:

1. Elevator Pitches

The current elevator pitch contains information on licensing and MCLE renewals regarding compliance and deadlines. All of the previous elevator pitches are archived and can be accessed through the link at the top of the document.

2. Logo

In follow up from the September meeting, staff took the Board's comments and feedback on the proposed logos and incorporated them into a couple of new logo designs and polled the Board and staff. The logo in the materials had the most support both from the Board and staff, and staff felt that it was a good compromise. We are planning to move forward with the logo refresh and in the future, if the Board decides that it wants to do a full rebrand, it will be better suited for a design firm rather than our in-house graphic designer. The new color will also be the color scheme that will be used for the website.

## **B. Strategic Plan Timeline**

Executive Director Richard Spinello reported that the Strategic Plan timeline was updated prior to the 2021 Executive Committee and Senior Staff Strategic Planning Session held in November and again after that meeting, and the latest version is in the materials. We want to provide the plan to the Board at each meeting and provide an update as to how things are progressing. Chris Newbold, the facilitator for the Board's Strategic Planning Retreat last year, has been in contact to review how we're doing with the Strategic Plan, and he'll pass on any thoughts from that meeting at the next Board meeting.

## **III. ACTION ITEMS**

### **A. Executive Session**

Commissioner Dixon made a motion to go into executive session; the motion was seconded and it passed.

### **B. Appointments to the NM State Bar Foundation Board (Five members of the BBC, three non-BBC active members of the State Bar, and one member of the public who is a non-attorney)**

Commissioners Atkins, Brooks and Sinkular indicated that they would like to serve on the Bar Foundation Board. Commissioners Tatham and Fitzwater volunteered to serve on the Board. Commissioner Travis made a motion to appoint all five commissioners to the Bar Foundation Board by acclamation; the motion was seconded and it passed.

A notice was published in the Bar Bulletin for three active State Bar members who were not members of the Board of Bar Commissioners. Four applicants applied for the three positions and following a vote by secret ballot, Judge Carl Butkus, Stefanie Davis, and Jerry Dixon were appointed to the Bar Foundation Board.

A notice was published in the Bar Bulletin and interest was solicited from the community for a public member on the Bar Foundation Board. Two applicants applied for the position and following a vote by secret ballot, Stephanie Wagner was appointed to the Bar Foundation Board.

### **C. Appointments to NM Legal Aid Board**

A notice was published in the Bar Bulletin for four vacancies on the New Mexico Legal Aid Board. Four applicants applied for the vacancies. Commissioner Travis made a motion to appoint all four applicants by acclamation to the NM Legal Aid Board; the motion was seconded and it passed.

### **D. Appointments to Access to Justice Commission**

A notice was published in the Bar Bulletin for two vacancies on the Access to Justice Commission. A letter of interest was received from a member who applied for both the Access to Justice Commission and the NM Legal Aid Board, and he was appointed to the NM Legal Aid Board. Commissioner Behles made a motion not to appoint the member to both the ATJ Commission and the NM Legal Aid Board; the motion was seconded and it passed. The notice will be republished and commissioners were asked to encourage members to apply to fill the two vacancies.

### **E. Appointment to Access to Justice Fund Grant Commission**

A notice was published in the Bar Bulletin for one vacancy, but no applications were received. Following discussion, Commissioner Wolf made a motion to appoint Commissioner Sherman to the Commission; the motion was seconded and it passed.

#### **F. Supreme Court Board and Committee Liaison Appointments**

The 2020 roster was included in the materials, and commissioners were requested to notify staff if they wanted to continue on their current board or committee or if they wanted to serve on a different board or committee by December 16. Once the appointments are finalized, the appointments will be provided to the Supreme Court, which will prepare rosters and notify the chairs.

#### **G. 2021 BBC Internal Committees Sign-up Sheet**

The sign-up sheet with the committee descriptions and the current roster was included in the materials. Commissioners were requested to notify staff which committees they would like to serve on by December 16.

#### **H. Committee on Diversity in the Legal Profession and Committee on Women and the Legal Profession Compartmentalized Recommendations**

President Cruz reminded the Board that the Committee on Diversity in the Legal Profession and the Committee on Women and the Legal Profession presented their reports to the Board in September, and those reports were accepted by the Board. The reports contained a significant number of recommendations and staff was asked to compartmentalize them. Director of Communications and Member Services Evann Laird reported that staff divided the recommendations into internal and external and identified which groups would be responsible for them. The recommendations were presented to the 2021 Executive Committee during last month's Strategic Planning Session, and the committee felt that there was a need for a special committee to work through them. Commissioner Atkins made a motion to approve the creation of the special committee to review the recommendations of both committees, and the motion was seconded. Following discussion of whether it should be a committee of the Board or whether others should be invited to participate outside of the Board, President Cruz stated that it would be an internal special committee of the BBC that would review the recommendations and then determine how to move forward as to what recommendations would be passed on to external groups and what recommendations are under the Board's purview. Once the special committee has reviewed the recommendations, it could request that other individuals be invited to visit with the committee. Following a vote, the motion passed. The special committee will be added to the list of internal committees for which commissioners could volunteer.

### **IV. COMMITTEE REPORTS**

#### **A. Executive Director Evaluation and Compensation Committee Report**

President Cruz reported that the Executive Director Compensation Committee met with the Board during the Executive Session and voted to approve the recommendation coming out of the committee. The recommendation and vote will be shared with Executive Director Richard Spinello, and in accordance with the policies, the work of the committee will be reported appropriately.

#### **B. Executive Committee Report**

President Cruz reported that the Executive Committee met on November 30 to review and approve the meeting agendas.

#### **C. Finance Committee Report**

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

1. Approved the September 23, 2020 Meeting Minutes;
2. Accepted the October 2020 State Bar Financials and presented them to the Board;
3. Reported that no challenges were received to the 2021 Budget Disclosure; the officers met with the Supreme Court prior to the BBC meeting and approved the 2021 Budget;
4. Discussed reimbursement from the State Bar to the Bar Foundation for the free CLE offered to members this year in response to the COVID-19 pandemic, which included the entire on-demand

course catalog from April to August, a wellness CLE on Racial Trauma and the virtual Annual Meeting. The number of credits filed for the free CLE were approximately 6,600. Staff provided the committee with a range of values calculated using the full retail price and an estimated break-even rate, which is \$28 per credit hour, and discount options of 10, 20 and 30 percent. Chair Wolf made a motion out of the Finance Committee to recommend approval of the 20% discount, or \$250,503.68, to reimburse the Foundation for the free CLE. This will be processed through the intercompany receivable on the Foundation side and the State Bar payable side and will bring the State Bar to a break-even year. This is for one year only as it's not sustainable over the long run, but the State Bar can afford to do it this year. Following discussion, the motion passed.

5. Recommended approval to remove Commissioner Dixon and to add Commissioner Sherman as a signer on the State Bar bank accounts; Commissioners Wolf and Martinez and Executive Director Richard Spinello will remain as signers on the accounts; Chair Wolf made a motion out of the Finance Committee to approve the recommendation, and the motion passed;
6. Reported that 660 active and 460 inactive members have completed their licensing requirements and renewed their membership; and
7. Reviewed the CPF, ATJ and JLAP Third Quarter 2020 Financials, which were provided for informational purposes only.

#### **D. Policy and Bylaws Committee Report and Recommendations**

The Policy and Bylaws Committee met on November 9, and Chair Sherman reported on the following:

##### **1. Reserve Fund Policy**

The Board requested the committee to develop a Reserve Fund Policy with two reserve funds, one for a rainy day fund and one for a building and equipment fund. The committee used a draft 2005 policy as a starting point and made necessary revisions to it. The committee limited the building fund to \$100,000 and the rainy day fund to \$50,000. Those can be changed later, if the Board so chooses, but they will be decided on an annual basis during the budgeting cycle, and the Board must approve any release of these funds prior to their being utilized. Commissioner Lutz added that the hope is to tackle some of the larger projects identified by the Bar Center Committee if we ever get to the point that we have a larger surplus. Commissioner Behles made a motion to approve the Reserve Fund Policy; the motion was seconded and it passed.

##### **2. State Bar Bylaw Amendments to Article IV, Section 4.4, Elections**

The Board approved amendments to Article IV, Section 4.4, Elections, of the State Bar Bylaws at the September meeting to be in compliance with the redistricting rule amendments approved by the Supreme Court. Chair Sherman reviewed the redlined changes which were included in the materials. Commissioner Lutz made a motion to approve the changes; the motion was seconded and it passed.

It was noted that there is some confusion with the new redistricting rules which now follow the judicial districts and where there are two districts combined into one and whether they should be singular or plural. The Policy and Bylaws Committee will review and make a recommendation to the Board.

#### **E. Regulatory Committee Report**

##### **1. Draft CPF Rule Revision**

General Counsel Stormy Ralstin reported that the Client Protection Fund Commission has requested the Board to consider a change to Rule 17A-010 to enable the Commission to also be able to hear complaints from people being damaged by the unauthorized practice of law. The current rule is limited to someone who is engaged in the practice of law, so the Commission does not feel the rule allows them to have jurisdiction. The Commission feels that such circumstances fall under what they have been tasked with and asked the Board to consider supporting the revised rule change before it's sent to the Supreme Court.

There was a question as to whether the draft rule had been vetted by the Regulatory Committee, which it had not; it was noted that the CPF Commission is a Commission of the State Bar, so the Board would need to approve it before it's submitted to the Court. Commissioner Sinkular made a motion to table it until the Regulatory Committee can discuss it; the motion was seconded. Commissioner Garcia requested a friendly amendment for the committee to address it as soon as possible in order to get it to the Court before January. There was a question as to whether the Executive Committee would need to approve it. Commissioner Sinkular withdrew her motion and made a new motion to refer it to the Executive Committee; the motion was seconded and it passed.

## 2. Legal Specialization Commission Update / Appointment of Chair

The Commission recommended appointing Bobbie Batley as the chair of the Legal Specialization Commission. She is on the American Academy of Matrimonial Lawyers and is on the exam committee. Commissioner Brooks made a motion to appoint Bobbie Batley as the chair of the Legal Specialization Commission; the motion was seconded and it passed. The Commission is meeting monthly and has set a deadline to finalize the procedures by February 1. We will begin advertising for the Family Law Committee with the hope that by late fall 2021 the Family Law specialty group will be ready to start certifying specialists.

### **F. Member Services Committee Report**

Member Service Committee Chair Atkins reported that the committee has met several times and is working on a roadmap. She'll provide more information at the next meeting.

### **G. Statewide / Rural Outreach Committee Report**

Statewide / Rural Outreach Committee Chair Sawyer reported that the committee met on October 29 and started looking at the Strategic Plan. They discussed how to reach out to the rural attorneys and continuing to use Zoom to enable them to participate on committees and in meetings. The committee also discussed the vacancies on the BBC and in the new districts and will encourage members to apply for those vacancies.

### **H. Special Committee on Sections Report / Lobbying Update**

Special Committee on Sections Chair Sinkular reported that she submitted a written report of the committee's activities which was included in the materials and noted that there will be continuing work to do in the future. The purpose of the committee was to examine the sections and how they're functioning and what we can do to better serve them. She reviewed the four recommendations included in the report for the Board's consideration. Commissioner Tatham made a motion to approve the four recommendations and the motion was seconded. Executive Director Richard Spinello requested that in light of the time constraints, the lobbying presentation be deferred to the February meeting. Commissioner Travis stated that without the lobbying presentation, she would recommend not adopting recommendation number 4 at this time and made a friendly amendment to adopt recommendations 1 through 3. Mr. Spinello asked the commissioners to review Article XI of the State Bar Bylaws on lobbying before the February meeting. Following a vote, the motion passed with the friendly amendment.

### **I. Past Presidents Committee Report**

Chair Jerry Dixon reported that the Board established the Past Presidents Committee in December of 2019, and a letter of invitation to the past presidents was drafted in early 2020; however, due to the COVID-19 pandemic, the initial meeting of the committee was postponed. As plans were made in the fall to schedule a meeting of the committee, concerns were expressed regarding the committee's purpose, so he decided not to move forward with the formation of the committee in 2020. He would encourage the Board to consider moving forward with the organization of the committee in the future, as it could be a useful tool for the officers and the Board.

## **V. INFORMATIONAL ITEMS**

### **A. Well-Being Committee Report**

Well-Being Committee Chair Martinez reported that a written report was included in the materials. The committee is working on a campaign on what a healthy lawyer looks like. JLAP Director Pam Moore is chairing the long-term subcommittee. The Judicial Subcommittee has been very active, and the short-term committee has been focused on COVID-19. Sean FitzPatrick and Bonnie Stepleton will be co-chairing the committee in 2021.

### **B. Client Protection Fund 2019 Annual Report**

The Client Protection Fund 2019 Annual Report was included in the materials, and the chair will be attending the February meeting to present the report.

### **C. Association Management Software Update**

IT Manager Jerry Miller reported on the new AMS. All of the phases are going very well and we're on track with the timeline and the budget. We're still on track for a February launch date.

### **D. President Report**

President Cruz reported on the following:

1. The Annual Meeting and Member Appreciation Event was held virtually and was free to all members. The event was held on September 24 and 1,100 members participated. A survey of the attendees was sent out following the event and an Executive Summary was included in the materials. It was very well received by the members; some of the comments received noted that they would have liked an opportunity for more interaction with Q & A and they found the awards presentations lengthy. Attendees would like to have more virtual and free events in the future.
2. The Judicial Clerkship Program is underway and the students that will be participating in 2021 have been selected. A fundraising initiative will be undertaken in 2021 to fully support the program.
3. The president serves on the Judicial Compensation Commission, which makes a recommendation to the Legislature regarding judiciary salaries. The Commission met last month, and the report generated by the AOC was included in the materials.
4. There were a significant number of Judicial Nominating Commissions this year due to judicial vacancies. President Cruz made improvements to the process, which will be incorporated into the leadership handbook, and have been communicated to President-Elect Martinez.

### **E. President-Elect Report**

President-Elect Martinez reported on the following:

1. The 2021 BBC meeting dates are scheduled for: February 5, April 16, June 11 (New Date), October 7 (New Date), October 8 (New Date--Annual Meeting), and December 8.
2. A Strategic Planning Session of the 2021 Executive Committee and the Senior Staff was held on November 20. The committee started out with the goals of the officers and then focused on the Strategic Plan. It also reviewed the compartmentalized recommendations of the Committee on Diversity and Committee on Women and decided that a committee should be formed to review them more thoroughly. The committee also looked at the Bar Foundation and the reimbursement of the free CLE.

3. The 2021 Annual Meeting is scheduled for October 8. The hope is to be able to hold it in person at the Bar Center with a virtual component; it's being held in conjunction with the Balloon Fiesta, and the plan is to provide free CLE during the event. The Eldorado Hotel let the State Bar out of the 2021 contract without any penalty, and the Court is interested in hosting the Conclave jointly with the State Bar at the Tamaya in 2022.
4. The officers met with the Supreme Court regarding the 2021 Budget prior to the Board meeting, and the Court approved the budget.

#### **F. Executive Director Report**

Executive Director Richard Spinello's written report was included in the materials. He reported that the ABA Benchmark Survey will be coming out later this month. They have preliminarily released their pandemic report, and he noted that we handled the pandemic much like every other bar association and it seems like we did more than some of the mandatory state bars. Two of the mandatory bars made adjustments to their dues structure to lengthen the amount of time that attorneys had to pay; no other bars made changes to that structure.

#### **G. State Bar Representative Reports**

##### 1. Senior Lawyers Division

SLD Delegate Dan Behles reported that the Division held their Memorial Scholarship Ceremony virtually on November 17 and it was a very successful event. He noted that the legal community lost a number of attorneys this year, and the Division awarded four scholarships to law students.

##### 2. Young Lawyers Division

YLD Chair Allison Block-Chavez reported that the Division had a successful call-in in the fall and hope to do it twice a year. The ABA Regional Conference was scheduled for April next year, but they didn't think a virtual component would work, so they decided to reschedule it for November.

##### 3. Paralegal Division

Paralegal Division Chair Yolanda Hernandez reported that they have 128 active and 11 inactive members. The Division highlighted its 25<sup>th</sup> anniversary this year and division members who have been active for 25 years. They also held a CLE on trial preparation free of charge to its members.

##### 4. Bar Commissioner Districts / Supreme Court Board, Committee, and Liaison Reports / ABA House of Delegates Report

No reports were presented.

## **VI. OTHER BUSINESS**

#### **A. Presentation of Outgoing Commissioner Awards**

Awards were distributed prior to the meeting to commissioners with terms expiring this year, including Commissioners Jerry Dixon; Tomas Garcia; Michael Eshleman; Allison Block-Chavez, YLD Chair; and Yolanda K. Hernandez, Paralegal Division Liaison. President Cruz offered comments thanking the outgoing commissioners for their service to the State Bar. Gifts of appreciation were also provided to all members of the BBC and Senior Staff by President Cruz.

**B. Passing of the Gavel**

President Cruz, Past President Brent Moore and Immediate Past President and Commissioner Jerry Dixon spoke on behalf of incoming President Carla Martinez.

**C. New Business**

There was no new business.

**D. Adjourn**

Commissioner Dixon made a motion to adjourn the meeting at 2:56 p.m.; the motion was seconded and it passed.



**MEMORANDUM**

**TO:** New Mexico Board of Bar Commissioners  
**FROM:** Lucy Sinkular, Chair of Special Committee on Sections  
**DATE:** November 30, 2020  
**RE:** Report of the Special Committee & Recommendations

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Who: Our Special Committee is comprised of Commissioners Erin Atkins, Dan Behles, Tina Cruz, Lucy Sinkular and Carolyn Wolf. We have appreciated the assistance of State Bar Staff members Kris Becker, Evann Laird, Morgan Pettit, Stormy Ralstin and Richard Spinello.

What: We received the two fold task of:

1. Look into State Bar Sections and determine what might be done to improve the member services via the Sections, learn what we could do better for the Sections, what we are doing well and identify any pitfalls associated with our Sections.
2. We were also asked to look into the State Bar’s “committees” outside the BBC and see if there is some room for improvement to their functioning and in their ability to meet their purposes. Some of the committees have over 100 members, and this is an area the State Bar has perhaps not reviewed for a time.

Chronology of Work Accomplished:

In late August 2020, State Bar President Tina Cruz asked if I might serve as the chair for the Special Committee on Sections and I accepted.

On September 2, 2020, we met as a committee to develop a plan.

On October 15 and 23, 2020, we held two Roundtable (virtual) meetings to which all the sections were invited. We had participation from six of our 20 Sections: NREEL, Trial Practice, Solo & Small Firm, Business Law, Cannabis Law and Public Law. The first meeting was one large session with all together, the second session was via Zoom and we made break out rooms for smaller discussions. We agreed the breakout rooms were useful.

On November 12, 2020, we met as a committee to discuss what we learned and develop recommendations to the Board of Bar Commissioners.

General Summary: Sections are working well. The Sections are very happy with Staff. The greatest challenge seems to be increasing their awareness of what is already available to them for marketing and communications assistance by the State Bar. Some expressed an interest in members only website content when the new AMS comes online. The Committee believes that implementation of the AMS and the accompanying training and education given to Sections will naturally provide a great deal of benefits.

### Regarding State Bar Sections

Recommendation #1: on New Chair Training.

- a. We suggest the annual “new chair training” held for Section chairs be rebranded slightly to be called a Celebration of New Leadership (or something similar).
- b. We suggest that the prior year’s leaders be invited along with the incoming officers. This might facilitate the development of a leadership track among sections similar to that found for the Bar Commissioners. These meetings would acquaint leaders earlier with the expectations for leaders as well as the many resources of the State Bar available to help Sections.

Recommendation #2: conduct twice a year “meet and greet” round table style discussions between Section leadership and Bar Commissioners, augmented by State Bar Staff participation.

- a. These sessions would have a similar theme as to the ones we conducted, focusing on the questions. What is working for your section? What can we do better? What do you need in terms of State Bar support to assist your Section in meeting its goals?
- b. These sessions would improve communication between the Bar and the Sections, increase the Section leaders’ awareness of all the State Bar can do for them and would mitigate the perception that the BBC is involved with Sections only for governance.

Recommendation #3: Transition the BBC oversight and participation in #1 and #2 to the Member Services Committee, once the Special Committee disbands. The Member Services Committee should be aware that at some point the purpose of some Sections might be better suited to the Section

branching off into Voluntary Bar Association. That possibility should be always balanced with the value and strength Sections contribute to State Bar and its members by being a part of the State Bar.

Recommendation #4: We identified concerns and potential pit falls accompanying lobbying efforts of Sections. State Bar Bylaws and the individual Section bylaws do permit this activity. We request further information from State Bar Staff on both the value of lobbying to Sections their members and the citizens, as well as the potential detriment to the State Bar associated with lobbying. We are not prepared to make a recommendation concerning lobbying at this time.

Regarding State Bar Committees

The State Bar website identifies 11 "committees" our Members may join. In fact, there are eight. We propose to gather information about these committees, such as what is their size, who is the leadership and what is their function. Then we plan informal conversation with leadership similar to what occurred with the Sections to discern how the State Bar is meeting the needs of each committee, what is being done well and what might be improved. After that, we would like to decide whether to recommend things to the BBC.

Respectfully submitted,



Lucy H. Sinkular  
Commissioner, Second Judicial District  
Committee Chair