

October 19, 2005
MINUTES OF THE MEETING OF THE BOARD OF GOVERNORS

A Regular Meeting of the Board of Governors of the State Bar of Nevada was convened on October 19, 2005 at the Northern Nevada Bar Center in Reno, Nevada.

The following members were in attendance:

Vincent A. Consul	...	President	
Rew R. Goodenow	...	President-Elect	
Nancy L. Alf	...	Vice President	(by telephone)
Ann Price McCarthy	...	Immediate Past President	
Constance L. Akridge			
Bruce T. Beesley			
James Bradshaw			
Michael Buchanan			
Kathleen J. England			
Cam Ferenbach			
Francis Flaherty			
Dara J. Goldsmith			
Gregory J. Kamer			
Bradley L. Kenny			
Richard Morgan			
Bridget Robb Peck			
William C. Turner			(by telephone)
Robert W. Witek			

STATE BAR STAFF PRESENT:

Allen W. Kimbrough
Rob Bare
Marc Mersol
Christopher T. Boadt
Audrey Bath

GUESTS PRESENT:

Dora Djilianova
The Hon. Robert Johnston
Margo Piscevich

(by telephone)

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1. CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by the President at 9:40 a.m. and a quorum was declared. Mr. Consul welcomed the Board to Reno.

2. CONSENT ITEMS

The Board agreed that the following items should be removed from the list of Consent Items: 2A, 3, and 4. The remainder of the Consent Items were accepted or approved unanimously, as follows:

2B. Minutes of August 25, 2005 Meeting

5. Appointments to Disciplinary Boards

- Howard Miller as Chair of Southern Board through October 2006
- Reappointment of Conrad Claus to Southern Board for term ending October 2008
- Redesignation of Joseph Chenin to primary laymember panel of Southern Board
- Redesignation of John P. Echeverria and Michael A. Pintar to primary attorney panel of Northern Board

6. Appointments to Fee Dispute Arbitration Committee

- Reappointments for terms ending October 2008:

Ronald Warren	Las Vegas Panel A
James Wilkerson, Sr. (lay)	Las Vegas Panel A
Philip Dabney	Las Vegas Panel A
Robert Ebinger	Las Vegas Panel B
Kurt Faux	Las Vegas Panel B
E. Paul Richitt, Jr.	Las Vegas Panel B
Lawrence Rouse	Las Vegas Panel B
Thomas Tanksley	Las Vegas Panel B
Marianne Gatti	Las Vegas Panel C
Jack Hegeduis, Sr. (lay)	Las Vegas Panel C
David Dekay (lay)	Reno Panel
Gila Dekay (lay)	Reno Panel
Nicholas Frey	Reno Panel
James Laughton, Jr. (lay)	Reno Panel
David Morris (lay)	Reno Panel
Sandra Wilson	Reno Panel
Jarold Young	Reno Panel
Keith Loomis	Carson City Panel

7. Report of Director of Admissions

8. Report of Director of Bar Services

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9. Report of Director of Operations and Education

- Approved requested amendments to the CLE Seminar Committee's bylaws
- Adopted new registration policies
- Approved furniture purchases for and modifications to the Las Vegas offices of the State Bar
- Approved online CLE partnership agreement with West LegalEd Center

Item 2A (Revised Minutes of June 22, 2005 Meeting).

In part 9, the purpose of the task force being formed and chaired by the Hon. David Hagen is "to study the bar exam process to determine if some sort of apprenticeship component should be incorporated."

In part 11, the charge of the Executive Committee is "to meet with officials of the Nevada Law Foundation and discuss areas of concern."

In part 17 in the third paragraph on page 6, the word "contribute" should be changed to "allocate."

With those revisions made, the Revised Minutes were approved unanimously.

Item 3 (Report of Director of Finance and Information Systems)

Mr. Mersol responded to questions regarding the accounting for the settlement with Herb Michel, and the account receivable from the Supreme Court in connection with the CLE program for settlement judges.

5. CONSIDER MATTERS RELATED TO CLIENTS' SECURITY FUND

The Board reappointed Lawrence E. Mitten and appointed Jon S. Greene (laymember) to the Clients' Security Fund Committee for terms ending October 2008.

The Board discussed at length the report provided by the CSF Task Force, chaired by Mr. Kamer, which indicated that the additional \$10 allocation to the Fund adopted by the Board in June (subject to the pending request for an increase in active member dues) was not sufficient to meet the increasing needs of the Fund and that \$35 would be a preferable figure. It was also suggested by the Task Force that the removal of the "per lawyer" cap would be desirable.

A motion was made and seconded that the allocation from active member dues to the Clients' Security Fund be increased to \$35 and that \$35 also be allocated from the fees for appearances *pro hac vice* (subject to the Court granting of a \$100/\$50 increase in active member dues and \$100 increase in SCR 42 fees). That motion failed by a vote of 6-8.

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A motion was made and seconded to reaffirm the Board's decision in June to increase the allocation to the Fund to \$25 per active member (subject to the dues increase of \$100/\$50 being granted) and to provide a place for a voluntary contribution to the Fund (suggested at \$10) on the dues statements. A motion to divide the question was successful. The Board thereafter approved the allocation to the Fund at the \$25 level and, separately, determined that the 2006 dues invoices should provide a place for a voluntary contribution of a suggested \$10, with both actions subject to the dues increase being granted.

A motion was made and seconded that the allocation from SCR 42 fees (assuming the Court increases those fees from \$350 to \$500) be set at \$35 per *pro hac vice* applicant. The Board adopted an amendment to that motion to set the allocation at \$50 by a vote of 7-6. The main motion, as amended, was approved by a vote of 12-1.

The President dismissed the Task Force with the thanks of the Board for its diligent work.

The Board returned to the subject of the Clients' Security Fund following Item 8 below. A motion made and seconded to allow the Committee to publish the names of those against whom claims are made was tabled by a vote of 11-2.

6. CONSIDER REPORT OF MEMBER SERVICES COMMITTEE

Ms. Peck, Chair of the Member Services Committee, presented the Committee's report and recommendations to the Board.

The Board approved the selection of SunTrust Bank to provide student loan consolidation programs to our members and their families.

The Board approved the following insurance plans as member benefits of the State Bar:

Dental/Vision Coverage
Disability Coverage
Long Term Care

Orgill-Singer & Associates
Berkshire/Guardian
Marsh*

*subject to the coverage being written with a carrier holding not less than an "A" rating.

7. REPORT OF STATE BAR DELEGATE TO ABA HOUSE OF DELEGATES

Past President Margo Piscevich, the State Bar's delegate in the American Bar Association's House of Delegates, provided the Board with oral comments in supplementation of her written report.

8. CONSIDER POLICIES REGARDING SALE OF MEMBERSHIP DATA

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Following a discussion initiated by President Consul, the Board unanimously reaffirmed its current policies on the sale of data regarding State Bar members and agreed that the name should be changed from "Sale of Mailing Lists" to "Sale of Membership Data."

9. CONSIDER APPOINTMENTS TO COMMITTEE ON JUDICIAL INDEPENDENCE

The Board authorized the President to appoint the following persons to the newly-formed Committee on Judicial Independence:

Senior Justice Deborah A. Agosti, Co-Chair
John Wanderer, Co-Chair
Martha Ashcraft
John Bailey
Cal Dunlap
Frances Forsman
Leonard Gang
Jennifer Sloan Hilsabeck
Sam Lionel
Margo Piscevich
Tom Pitaro
The Hon. Andrew Puccinelli
John Shook
Karen Winckler

Mr. Ferenbach abstained as to the appointment of Mr. Lionel.

10. CONSIDER APPOINTMENTS TO CHARACTER AND FITNESS AND FUNCTIONAL EQUIVALENCY COMMITTEES

The Board reappointed Kevin Kelly, Lori Story, Dr. Michael Levy (layperson), and Dr. Gregory Brown (layperson) to the Character and Fitness Committee for terms ending October 2008.

The Board appointed Past President Gloria J. Sturman to an unexpired term on the Functional Equivalency Committee ending October 2006.

11. CONSIDER AMENDMENTS TO SCR 49.1 AND SCR 49.5 REGARDING LIMITED PRACTICE FOR CLINICAL LAW SCHOOL FACULTY AND STUDENTS

Dean Morgan presented the request of the Boyd School of Law (as approved by the Board of Bar Examiners) that certain changes be made in the rules governing the limited practice of law in Nevada by clinical law school faculty and the law students under their supervision.

A motion was made and seconded to approve the recommendation. A motion to amend to add a new section 2(f) in SCR 49.1 that would required such persons to have passed a written bar examination was defeated by a vote of 4-9. The main motion was thereafter approved unanimously.

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12. REPORT OF YOUNG LAWYERS SECTION

Dora Djilianova appeared on behalf of the Section to brief the Board on various activities and programs being undertaken by the Section.

13. CONSIDER SPECIAL BAR EXAMINATION FOR LICENSED ATTORNEYS

By unanimous vote, the Board postponed indefinitely any further discussion of this matter.

14. REPORT OF EXECUTIVE DIRECTOR

Mr. Kimbrough made an oral report to the Board in supplementation of his written report.

The Board approved unanimously the creation of the position of Pro Bono Coordinator at the State Bar, subject to the dues increase being granted.

15. CONSIDER MATTERS RELATED TO NEVADA LAWYER

The Board welcomed the Hon. Robert Johnston, a member of the Nevada Lawyer Editorial Board, by telephone to participate in the discussion regarding the cover of the October 2005 issue of the magazine featuring representatives of the Boy Scouts of America, the concerns raised by certain members regarding same, and whether a specific retraction or disclaimer should be run in a future issue.

A motion was made and seconded to appoint Ms. Goldsmith and Vice President Allf to work on a "beefed up" general disclaimer for the magazine. This motion was amended to provide that this matter be referred to the Editorial Board for its recommendations to the Board designees, and, as amended, was approved unanimously.

A discussion of the extent of the Executive Director's authority with respect to the magazine was postponed to the December 8 meeting with one dissent.

16. CONSIDER MATTERS REGARDING INCREASE IN ACTIVE MEMBER DUES AND PRO HAC VICE FEES

President Consul and the Executive Director reported to the Board regarding comments received to date from members regarding the proposed increase in active member dues and *pro hac vice* fees and reviewed with the Board the proposed ADKT Petition to be filed.

The Board discussed whether the State Bar should permit reduced dues to be paid by members with genuine economic hardships. A Task Force was established (by a vote of 9-5) to study this issue composed of the following members: Ms. England, Chair, Mr. Kamer, Ms. Peck, and Mr. Turner.

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On motion made and seconded, the Board unanimously approved the filing of the ADKT Petition as drafted, subject to cosmetic changes and revisions regarding the allocation of \$50 from SCR 42 fees to the Clients' Security Fund.

17. CONSIDER REVISION OF PROCEDURAL RULES IN DISCIPLINARY MATTERS

Bar Counsel presented the proposed revisions to the procedural rules in disciplinary matters (SCR 99-123.5).

The Board voted unanimously to approve the Rule regarding permanent disbarment with no possibility of reinstatement.

By a vote of 8-5, the Board approved the Rule requiring the taking and passing of the Nevada bar examination as a condition of reinstatement if the individual has been suspended for a period of five (5) years or more or if required in the discretion of the Disciplinary Board.

The Board discussed at length the confidentiality provisions of SCR 121, and its potential impact on the public's right to know information regarding a bar member. Upon motion made and seconded, the Board voted to add a new section 3 to SCR 121 permitting the State Bar to provide information to be public regarding the procedural status of a disciplinary matter and/or the final disposition a disciplinary complaint. The exact language was to be developed by a committee composed of President-Elect Goodenow, Mr. Beesley, Ms. Goldsmith and Ms. Peck and shared with the Board by Friday, October 21.

The Board also discussed media access to public disciplinary proceedings. Upon motion made and seconded, the Board by unanimous vote determined that the portion of the proposed ADKT Petition dealing with the issue of media access be deleted at this time and that a Task Force (composed of Lance Coburn, a representative of the Boyd Law School, Dick Frame, Ms. England and Mr. Flaherty) would review this issue and report back to the Board at its December 8 meeting.

18. REPORT OF BAR COUNSEL

Mr. Bare made an oral report to the Board in supplementation of his written report. In Executive Session, the Board discussed pending and threatened litigation matters and appropriate responses thereto.

19. REPORT OF THE PRESIDENT

President Consul gave a report to the Board regarding his investigation pursuant to SCR 104(2) of a complaint lodged by Allen Wisdom against the office of Bar Counsel. It was determined that there was no merit to Mr. Wisdom's claims against the office of Bar Counsel and that he would respond accordingly to Mr. Wisdom. The Board accepted the report and

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ratified the proposed actions to be undertaken by a unanimous vote.

The meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Vincent A. Consul
President

Allen W. Kimbrough
Executive Director