

MINUTES OF THE BOARD OF GOVERNORS= MEETING
OF THE STATE BAR OF NEVADA
October 20, 1999
RENO, NEVADA

President Ann Bersi opened the meeting at 9:00 a.m. in a meeting room in the Silver Legacy Hotel in Reno, Nevada, with the following members of the Board of Governors present:

Ann Bersi.....President
Dan Polsenberg.....President-Elect
John Mowbray.Vice President
Vince Consul
Cal Dunlap
Patrick Flanagan
Neil Galatz (via telephone)
Rew Goodenow
Alan Lefebvre
Ann McCarthy
Tom Pitaro (via telephone)
John Schlegelmilch (via telephone)
Gloria Sturman
Coe Swobe

EX OFFICIO MEMBERS PRESENT:

Andy Puccinelli
Richard Morgan

STAFF MEMBERS PRESENT:

Ruth Adams
Rob Bare
Wayne Blevins
Chris Boadt
Pat Eichman

SPECIAL GUESTS:

Chuck Gardner (via telephone)
Lynn Kirsch from Young Lawyers Section
Merrilyn Marsh from Legal Assistants Division
Karen Peterson from Board of Bar Examiners

1. APPROVAL OF THE MINUTES OF THE AUGUST 14, 1999 MEETING

A motion was made and seconded to approve the minutes of the August 14, 1999, meeting of the Board of Governors as presented. The motion passed unanimously.

2. INFORMATION RE UPCOMING MEETINGS/FUNCTIONS

Wayne Blevins mentioned an invitation in the October Nevada Lawyer regarding the Supreme Court's holiday function on December 10, 1999. Those interested in attending should contact Ruth Adams.

The January meeting of the Board of Governors, which was originally set for January 13, 2000, has been rescheduled to January 27, 2000, in Carson City.

3. CONSIDER SUSPENSION OF 1999 DELINQUENT MEMBERS

Wayne Blevins reported on the process of notifying all members who had not paid their 1999 bar fees and delinquent penalties.

A motion was made and seconded to order the following members who are delinquent in the payment of 1999 membership dues and late fees, to be suspended from the practice of law in the State of Nevada subject to being reinstated upon the payment of accrued dues and fees:

Tammy Colleen Cain, Sarah T. Clark, Keith C. Galiano, John Neil Gieleghem, Daniel D. Heaton Eric S. Hoshizaki, Gary Michael Jackson, Larry C. Lillie, Francis F. Lin Stephen Victor McCue, Robert A. McLaughlin, Jr. Gregory D. Morrison, Philip A. Murphy, Jr. Thomas E. Stite, Stephen M. Sullivan, Malcolm Templeton, William C. Watters Michael J. Winsor

The motion passed unanimously.

4. DISCUSSION OF COMPLAINT REGARDING PROFESSIONALISM INITIATIVE

Chuck Gardner joined the meeting by phone to discuss his complaint to the Board of Governors regarding the recent professionalism initiative.

Several Board members asked questions about the current public information campaign and shared comments they had received from the general public and other members of the Bar. The Board requested that Pat Flanagan draft an article on the history of the professionalism initiative, its intent and its components. The State Bar will print the article in the December issue of the Nevada Lawyer and it will be posted on the web site to inform the general membership. The discussion will be revisited at the January meeting of the Board of Governors.

A motion was made, seconded and unanimously carried to delay the purchase of any public information airtime (TV or radio) until after the January, 2000 meeting of the Board of Governors.

5. CONSIDER REQUEST OF LEGAL ASSISTANTS DIVISION TO AMEND BYLAWS

Merrilyn Marsh, Chair of the Legal Assistants Division of the State Bar requested that the By-Laws of the Division be amended to allow members in good standing to publicize the fact that they are members of the Division.

After a short discussion, a motion was made, seconded and unanimously approved to adopt the proposed changes to Section 5 of the By-Laws of the Legal Assistants Division. Section 5 will now read as follows:

“No member may use the Division Logo or designate oneself as a member of the Division in any advertisement to the general public. A violation of this provision is grounds for immediate revocation of membership in this Division. Division members in good standing may identify themselves as members in their professional resumes for the purpose of solicitation of employment under the supervision of a licensed attorney. Nothing in this section prohibits a member from stating her/his Division membership in law lists, law directories, public speaking announcements, publication of legal information or articles in law publications, or other intended primarily for use of the legal profession of such information as has traditionally been included in these publications.”

6. CONSIDER APPOINTMENT TO JUDICIAL DISCIPLINE COMMISSION

The Board of Governors decided to delay the appointment to the Judicial Discipline Commission since it appeared that adequate notice had not been made to members of the Bar.

It was decided that a second notice would be faxed to members and published in the November issue of the Nevada Lawyer and also posted on the web site. The appointment to this important commission will be made at the December meeting of the Board of Governors.

7. CONSIDER ADDITIONAL ATTORNEY POSITION FOR UNAUTHORIZED PRACTICE OF LAW

Prior to discussing the issue of adding another attorney, Rob Bare, Bar Counsel, discussed a recent problem which came to his attention regarding non-attorneys practicing law in Justice Court.

A motion was made to request the Justice Court to establish a rule to specifically prohibit non-lawyers from appearing in court. However, it was noted that some of the Justice Court judges allow non-lawyers to appear in their court in a courier capacity.

After further discussion, it was moved, seconded and unanimously approved to table the previous motion. An alternative motion was made that the Board of Governors instruct Bar Counsel to convey the Board's support for a Justice Court policy to prohibit appearances and other practice of law by non-lawyers, except where specifically permitted by statute, and that any unauthorized practice, which comes to the attention of the Justice Court, be referred to the State Bar for prosecution. Bare will report on his meeting with the Justice Court at the December Board meeting at which time the issue will be revisited by the Board.

Steve Klearman gave a report on the need for an additional attorney position to prosecute cases regarding the unauthorized practice of law. Klearman indicated that, while the need was not immediate, the Consumer Protection Committee recommends that an additional attorney be employed by the beginning of 2000 and that the search be started now for an appropriate candidate.

It was moved, seconded and unanimously approved to create an additional assistant Bar Counsel position to prosecute the unauthorized practice of law.

8. CONSUMER PROTECTION COMMITTEE APPOINTMENT

It was moved, seconded and unanimously approved to appoint Matthew Sharp of Reno and Dirk Ravenholt of Las Vegas to the Consumer Protection Committee.

9. REPORT OF YOUNG LAWYERS SECTION

Lynn Kirsch, Chair of the Young Lawyers Section, gave a report on the activities of this section and submitted the Section's annual report. Lynn also discussed proposed changes to the section's By-Laws regarding mainly Section 3.1 (Executive Council-Powers and Members) and Section 3.5 (Executive Council-Removal From Office).

The motion was made, seconded and unanimously approved to approve the proposed changes in the By-Laws for the Young Lawyers Section, a copy of which is attached.

10. ANNUAL REPORT OF THE CLE DEPARTMENT

Rew Goodenow, Board liaison to the CLE Committee, made some initial comments and indicated how encouraged he was with the progress the Committee is making.

Chris Boadt, Director of CLE, reported that the current staff is doing a good job keeping up with the workload, even though new tasks have been added in recent months.

The Board addressed the issue of the printing of the 4th Edition of the Civil Practice Manual by Michie without prior approval from the Bar.

Michie, earlier this year, sent the State Bar a royalty check for approximately \$23,000. The check was not deposited at that time at the direction of the CLE Committee. Since then, the Committee has been discussing what appropriate action should be taken pertaining to the unauthorized printing of the 4th Edition which credited the State Bar's and various members' contributions, even though neither contributed, and the 4th Edition was virtually unchanged from the 3rd Edition. To date, no discussions have been conducted with Michie regarding a remedy to the situation, nor have the members been notified about the problems with the 4th Edition and that the Bar had no involvement with the printing.

Several options were discussed. A motion was made and seconded to authorize the CLE Committee chair

to contact Michie's corporate office and demand a retraction of the 4th Edition, get information to the consumer regarding failure to revise and compensation to the Bar for damages caused by the publication of the 4th Edition. This motion was amended, seconded and unanimously approved that a resolution of this dispute needs to be attempted with Michie by the CLE Committee chair. The CLE Committee will file a report with the Operations Committee on their contact with Michie.

The Board unanimously approved the following appointments to the CLE: Teresa P. Froncek Rankin to one of the two vacancies on the Committee; re-appoint Andy Gordon to a 3-year term and appoint the following individuals as officers: Andy Gordon-Chair; Bob Spretnak-Vice Chair; Sharon Green-Executive Council; Jenny Hubach-Executive Council; and Mace Yampolsky-Executive Council.

11. REPORT OF ADMISSIONS DEPARTMENT

Karen Peterson, Chair of the Board of Bar Examiners, gave a report on the conduct of the July, 1999 Bar Exam. Overall, everything went very well and there were no substantive complaints regarding its administration. The computer software company that assisted in the exam administration this year has agreed to provide software and support for \$100 per person using a laptop for the 2000 bar exam. That charge will be passed through to the applicants desiring to take the exam by computer.

Peterson asked the Board to consider, at some point in the future, the addition of a staff member to the department. Every year the number of applicants increases, therefore increasing the workload and perhaps an additional staff position may be required. The number of SCR 42 applicants has also increased and is requiring more staff attention. Wayne Blevins indicated he did not feel that the workload warranted the addition of staff at this time, but perhaps should be considered in the future.

12. SOUTHERN AND NORTHERN NEVADA DISCIPLINE BOARDS APPOINTMENTS, REAPPOINTMENTS, AND FINAL TERM EXPIRATIONS

A discussion was held regarding the appointments to the Southern and Northern Discipline Boards Chair and Vice-Chair positions. It was moved, seconded and unanimously approved to appoint Richard Pocker as Chair of the Southern Board; James Bradshaw and Bridget Robb Peck as Northern Chair and Vice-Chair, respectively.

With regard to members of the Southern Board, it was moved, seconded and approved to reappoint Karl Armstrong, Kurt Faux, Richard Pocker, James Lisowski, and I.R. Ashelman to a third term and laymember, Dr. Alan Tishk to a second term.

For members to the Northern Board, it was moved, seconded and unanimously approved to reappoint James Bradshaw, Barry Breslow, Rusty Jardine, Robert Lowe, Edward Moran, Mark Sertic, John Springgate and Wallace Stephens for another term, as well as lay members Frank Davis and Janice George.

It was moved, seconded and unanimously approved to appoint Conrad Claus as an alternate member to the Southern Board.

In accordance with Rule 103, it was moved, seconded and unanimously approved to redesignate the 18 alternate members of the Northern Board as “primary” members to bring the total to 30.

13. BAR COUNSEL REPORT

Rob Bare, Bar Counsel, discussed the report provided with the agenda and indicated his appreciation of the staff who do an excellent job in handling the number of grievances that come to their attention.

It was noted that a new law went into effect in the state that those convicted of DUI and lose their drivers' license must actually turn in their licenses. The question was raised whether those attorneys who are disbarred should turn in their license to practice law to the State Bar. Bare indicated he would contact other jurisdictions, see how they handle the situation and report back to the Board at the next meeting.

14. REPORT OF ADR SECTION

Regarding the Supreme Court's request that the Board give their opinion to the Court on the Draft Order Amending Nevada Arbitration Rule 7(c), it is the Board's feeling that it should not be the responsibility of the State Bar to conduct investigations regarding the fitness of non-lawyers to serve as arbitrators for the Court annexed arbitration program. It is the general consensus that such a task would be better managed by the respective Discovery Commissioners. The State Bar has no infrastructure to conduct the required investigation into the background of non-lawyers.

It was moved, seconded and unanimously approved to authorize Ann Bersi and Gloria Sturman to respond to the Supreme Court of Nevada.

A committee was appointed to examine the request by the ADR Section to allow lay people to be associate members of the ADR Section. The Committee will consist of John Mowbray (Chair), Dan Polsenberg and Cal Dunlap. The Committee will study the issue and report back to the Board at the December meeting.

15. CONSIDER APPOINTMENTS TO FEE DISPUTE ARBITRATION COMMITTEE

A motion was made, seconded and unanimously approved (with one abstention) to reappoint members to the Reno panel, and appoint members to the Las Vegas Panels A & B, as follows:

Reno Panel Reappointments: Daniel McCormick, Gerald Young, David DeKay, James Laughton, Jr. and David Morris.

Las Vegas Panel A Appointments: Gregory J. Barlow, Phillip J. Dabney, Loyd P. Derby, Robert E. Marshall and George Bochanis.

Las Vegas Panel B Appointments: Robert M. Ebinger, Kurt C. Faux, E. Paul Richitt, Jr., Lawrence Rouse, Thomas Tanksley and Janet Trost.

A brief discussion was held regarding the request of Geoffrey Roullard for a clarification on the requirements for panel members. It was felt that the matter should be reviewed further by a committee. Committee members appointed were Mike Davidson, Neil Galatz and Geoff Roullard.

A concern was raised regarding liability of fee dispute panel members should a lawsuit ever be filed against them in their capacity as a panel member. Rob Bare discussed Supreme Court Rule 106 which grants immunity to discipline panel members, both lawyers and non-lawyers and felt this might extend to the fee dispute panel as well. It was decided that this issue would be put on the agenda for the next Board meeting and in the meantime, a committee comprised of Ann Bersi (chair), Ann McCarthy and Dan Polsenberg would explore the matter.

16. CONSIDER REQUEST FROM RULE OF LAW RESOLUTION PROJECT

After a brief discussion, it was decided that Wayne Blevins will draft a letter to this entity indicating that the previous resolution of the Board of Governors continues to be the policy of the State Bar.

17. FINANCIAL OPERATIONS REPORT

A brief report was given by Wayne Blevins on the status of the financial operations of the State Bar.

18. EXECUTIVE DIRECTOR'S REPORT

Wayne Blevins gave a report on the status of the State Bar's web site plan and office building maintenance issues.

The Board of Governors convened an executive session to discuss pending litigation and personnel matters.

The Board reconvened in open session and adjourned at 2:00 p.m.

Approved:

Wayne Blevins	Ann Bersi
Executive Director	President