

May 10, 2006

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 May 10, 2006, 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
Ann Price McCarthy	Immediate Past President
Constance L. Akridge	
Bruce T. Beesley	
James Bradshaw	
Kathleen J. England	
Cam Ferenbach	
Francis Flaherty	
Dara J. Goldsmith	
Gregory J. Kamer	
Bradley L. Kenny	
Richard Morgan	
Hon. Bridget Robb Peck	<i>(left at 11:30 a.m.)</i>
Bryan K. Scott	
William C. Turner	
Robert W. Witek	

STATE BAR STAFF PRESENT:

Allen W. Kimbrough
Rob Bare
Christopher Boadt
Marc Mersol
Gale Skala

GUESTS PRESENT:

Richard Bowler
John Hope
Adrienne Yeung

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1. CALL TO ORDER AND INTRODUCTIONS

The President called the meeting to order at 9:05 a.m. and a quorum was declared.

2. REPORT OF DIRECTOR OF FINANCE & INFORMATION SYSTEMS

Ms. Goldsmith spoke on behalf of the Audit Committee and the Report was reviewed. Richard Bowler addressed the Board and a number of issues were discussed, including NBFA's status as a bad debt. Mr. Bowler thanked the Board for the opportunity to speak. Report unanimously approved.

3. CONSENT ITEMS

The Board agreed that items 3, 4, and 5 should be removed from the list of Consent Items. The remainder of the following Consent Items were accepted or approved unanimously, as follows:

Tab 6. Report of Director of Operations and Education

Request for lobby logo for Northern Nevada Bar Center approved, funding up to \$1,300.

Tab 7. Report of Law Related Education Coordinator

Status reports on LRE Conference, We The People competition, Street Law for Juvenile Justice, mock trial, Community Works (Reno), Project Citizen, and Law Day 2006.

Tab 8. Report of Member Services Coordinator

Status on Bar Dues and pro bono reporting forms.

Tab 9. Report of Fee Dispute/Client=s Security Fund Coordinator

Status report on implementing new By-law provision making arbitrations mandatory under certain conditions.

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Tab 10. Appointments to Disciplinary Boards

Patrick Fagan re-appointed as Chair of the Northern Board through 08/08/06.
Paul Matteoni re-appointed as Vice Chair of the Northern Board through 06/01/07.
Walter Cannon re-appointed to a second term on the Southern Nevada Disciplinary Board through 06/30/09.

Tab 11. Appointment of State Bar Delegate to ABA House of Delegates

Margo Piscevich approved to serve another two-year term as State Bar Delegate to the ABA House of Delegates.

Tab 14. Consider Vacancy on Board of Governors

Motion to forward to the Supreme Court Mr. Bradshaw's appointment renewal by acclimation unanimously approved. Mr. Kimbrough to send letter to Supreme Court.

Tab 15. Consider Request of Public Lawyers Section

Section request to carryover surplus funds approved.

Tab 16. Consider Request of Access to Justice Section

Request to provide free membership for new admittees through next billing cycle approved.

Tab 17. Consider Endorsement of Judicial Candidates by State Bar Leadership

Board of Governors members may endorse judicial candidates provided it is made clear such endorsement is made in an individual capacity and not as a Board member or on behalf of the State Bar.

Tab 20. Consider Endorsement of Resolution of Western States Bar

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Conference

Ann Price McCarthy reported on the Conference resolution, which was approved by Ms. England and Ms. Akridge.

Tab 21. Consider Matters Related to Nevada Lawyer

Ms. Allf reported on the April 2006 retreat. Discussion regarding respective duties of the editor versus the editorial board and its officers.

Beau Sterling re-appointed to editorial board.

Action items approved upon Motion by Mr. Ferenbach and seconded by Mr. Goodnow: approval of elected Editorial Board Officers; Mission Statement approved for immediate dissemination; revised by-laws; and disclaimer for the Table of Contents page.

Further discussion regarding duties of staff editor tabled to June meeting.

Tab 22. Consider Matters Related to Lawyer Referral and Information Service

Motion by Mr. Ferenbach seconded by Mr. Goodnow carries to approve distribution of public service grant monies:

Boys and Girls Clubs.....	\$ 900
Trial by Peers.....	\$7,000
Ask A Lawyer (CCLS)	\$6,000
Debtor Assistance (CCLS).....	\$5,800
Mock Trial.....	\$2,000
NLS.....	\$2,000
Senior Citizens Law Project.....	\$8,000
Washoe Bar.....	\$1,500
Washoe Legal Homeless Prev...\$	7,000
Washoe Legal Immigration.....\$	4,000

Suicide Prevention Network, United State Coast Guard Auxiliary, and Villasenor Production grants were denied.

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Tab 24. Report of Bar Counsel

Report of Standing Committee on Ethics and Professional Responsibility on SCR 165 (trust accounts)

Draft language as proposed not approved. Task Force appointed to work with the Standing Committee on Ethics & Professional Responsibility regarding this initiative. Ms. Akridge, Chair; Ms. England; Mr. Turner; and Mr. Witek comprise this task force and are requested to provide a status report in August.

EXECUTIVE SESSION on pending and threatened litigation.

Oral report on Task Force on Disciplinary Board Term Limits

25. Report of Executive Director

Allen Kimbrough provided the results of the Board elections.

Clark County: Akridge, Alf, Kamer, and Turner re-elected.
Washoe County: Beesley re-elected.

26. Report of the President-Elect

Board members asked to fill out and return forms indicating preferences for liaison and committee assignments in the coming year.

27. Report of the President

Update on the Committee on Judicial Independence. Senator Bryan and John Desmond approved for appointments to the Committee on Judicial Independence.

4. MINUTES OF PRIOR MEETING 3/15/06

Approved after correction of typos at pages 8, 13, and 15

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5. REPORT OF DIRECTOR OF FINANCE AND INFORMATION SYSTEMS

Dues reserve to be broken down into operating cash and dues sinking fund. Suggested that the Board may wish to revisit policy regarding restrictions on investments in future.

6. REPORT OF DIRECTOR OF ADMISSIONS

Reviewed and approved.

7. CONSIDER REPORT OF YOUNG LAWYERS SECTION

Oral presentation by Ms. Yeung. New council members Micheline Fairbank, Paola Armeni, and Michael Reitzell approved. "Coming of Age" materials to be posted in PDF format to the State Bar's website. The Section also requested an ex-officio appointment to the Board, which was deferred to the August meeting.

8. SECTION POLICIES AND PROCEDURES

Mr. Kimbrough presented a draft of amended *Policies on Funding and Operation of Sections*. The draft had been discussed with the State Bar Directors and their input considered.

Recommended changes included a \$5 per section member administrative fee replacing escheating funds of some sections into the Bar's general revenue, and removing the requirement that sections have to petition the Board to carry-over funds.

Rew Goodenow spoke on the general policies. President Consul suggested that the section chairs be sent a letter requesting input on the Draft Polices, responses to be considered at the Board meeting in June with a view towards final draft and vote at the August meeting.

Motion by Ms. Allf seconded by Mr. Ferenbach to send letters to section leadership for input on proposed changes carried unanimously. State Bar to report responses in June with a view towards a vote on the draft Policies at August 2006 meeting.

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**9. CONSIDER MATTERS RELATED TO SUPREME COURT STUDY
COMMITTEE ON LAWYER ADVERTISING**

Mr. Kimbrough noted the tremendous interest in this area and provided an oral report on his meeting with Chief Justice Rose regarding the SCLA's progress.

Mr. Turner noted his emphatic support for Concurrent Review and its relevance to uniform enforcement of the rules.

Mr. Kamer stated the issue is about free speech and stated he did not support Concurrent Review, but does support adopting the ABA standards. Mr. Goodenow stated there is a void between the ABA standards and real-world application. Mr. Turner noted the burden shifts to the State Bar without peer review and the scope is simply too large to be effective with that model. Mr. Bare provided the background of the SCLA and an overview of how concurrent review is anticipated to work in practical application.

Dean Morgan opined that the SCLA proposals should withstand Constitutional attack. The proposed language relies on US Supreme Court decisions and has strong precedent. Mr. Morgan prefers the ABA Model Rule standard with some form of concurrent review. The fight on advertising regulation is among competing lawyers, not about public protection.

Ms. England opposes the entire proposal. She opined a prior restraint problem with concurrent review, and expressed a concern that overreaching will result in more litigation. The ABA standard is preferred.

Ms. Peck stated she gives great deference to the SCLA, however she supports the idea of enforcement of the current rules. Mr. Beesley noted the good work of the SCLA but was concerned about prior screening and the fact the research shows the public is not concerned about lawyer advertising. He supported the ABA Model Rule standard. Mr. Ferenbach expressed a concern about regulating websites and legal service providers. Mr. Kamer stated a sensitivity to the rights of advertising lawyers and noted there is not a clear showing of public harm.

Motion by Mr. Kamer, seconded by Mr. Goodenow, to bifurcate the vote separating concurrent review and Rules 7.1-7.5 carried 8-5.

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Concurrent review

Yeah- Bradshaw, Ferenbach, Flaherty, Goodenow, Kenny, Scott, Turner,

No- Akridge, Alf, Beesley, England, Goldsmith, Kamer, Witek

Concurrent review failed 7-8, tie broken by President Consul against.

Rules 7.1-7.5

By a vote of 6-8, the Board rejected the SCLA proposal on rules 7.1-7.5

After several motions for specific language changes were brought and defeated, Mr. Goodenow brought a motion seconded by Mr. Turner to revisit this at the June meeting.

Bar Counsel to provide a report with the current ABA Model Rules and comments, with a comparison to the current RPCs. The Board will take up RPCs 7.1-7.5 *de novo* using the ABA Model Rules as a jumping off point. The consensus was that the Board is inclined to adopt the ABA Model Rule standard.

10. CONSIDER MATTERS RELATED TO FEE DISPUTE ARBITRATION COMMITTEE

Reno Chair John Hope appeared and noted that he anticipated providing a report at the August 2006 meeting.

The following applicants were approved:

- Panel A: Brad Englert, Steven Goldstein, Michael Kristof, Dawn Throne
- Panel C: Gregory Barlow, George Bochanis, William Buchanan, Leland Luffy, Robert Marshall, Howard Roitman, Ara Shirinian, Shari Tomas, Wolfe Thompson, George Trachtman, Lew Wolfbrandt
- Reno: Bruce Breslow, Thomas Erwin
- Carson City: Patrick Fagan

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CiCi Cunningham reappointed to a one-year term a Regional Chair effective May 2006.

Erica Wong was not approved because she resides out of state.

11. **CONSIDER REQUEST FROM NATIONAL CENTER FOR COURTS AND THE MEDIA**

A request for a \$2,500 monetary grant denied (no grant funds available), however State Bar may participate in program.

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ADJOURNMENT

The meeting was adjourned at 3:42 p.m.

Respectfully submitted,

Vincent A. Consul
President

*/Kristina Marzec, CLA
/Gale Skala*