

Wyoming State Bar Officers & Commissioners Meeting

April 17 – 18, 2015
Buffalo Bill Center of the West
Cody, Wyoming

In Attendance: Bradley D. Bonner, President; Devon O'Connell, President-Elect; John A. Masterson, Vice President; Weston T. Graham, Treasurer; Melinda S. McCorkle, First Judicial District Commissioner; Dawnessa A. Snyder, Second Judicial District Commissioner; Monica J. Vozakis, Third Judicial District Commissioner; Nicholas T. Haderlie, Fourth Judicial District Commissioner; Bobbi D. Overfield, Fifth Judicial District Commissioner; James L. Edwards, Sixth Judicial District Commissioner (via teleconference/Friday only); J. Kenneth Barbe, Seventh Judicial District Commissioner (Saturday only); Nate Hibben, Eighth Judicial District Commissioner; Erika M. Nash, Ninth Judicial District Commissioner; Blake A. Klinkner, President, Young Lawyers Section; Sharon Wilkinson, Executive Director; Mark Gifford, Bar Counsel; Marie Ellis, CLE Director (Saturday only); and Brandi Robinson, Lawyer Referral Service Coordinator/Clerk to the Board of Professional Responsibility (Saturday only)

Absent: Patrick W. Korell, Immediate Past President

Guest: Tenille L. Castle, President, Wyoming State Bar Foundation

President Brad Bonner called the meeting to order at 1:42 p.m. on Friday, April 17, 2015.

Approval of Agenda

Executive Director Sharon Wilkinson asked for two additional items to be included on the agenda. Those items were 1) proposed amendments to the Bylaws of the Wyoming State Bar and 2) the quarterly report from the Wyoming Professional Assistance Program (WPAP) as well as the appointment of a representative to the WPAP Board of Directors. Commissioner Snyder made a motion to approve the agenda with the additional items; Commissioner Haderlie seconded the motion. All voted in favor of the motion.

Approval of Minutes

Commissioner Edwards brought the Board's attention to a typo in the January minutes. Executive Director Wilkinson mentioned that she will correct the typo. Vice President Masterson made a motion to approve the corrected January 23 – 24, 2015, meeting minutes as well as the February 18, 2015 teleconference minutes; President-Elect O'Connell seconded the motion. All voted in favor of the motion.

Treasurer's Report

Treasurer Weston Graham walked the Board through the budget and mentioned that we are half-way through the fiscal year. Executive Director Wilkinson brought the Board's attention to line item 5104 – Website, which is currently 283.3% over budget. Wilkinson again explained that due to the transition to the new website and new membership database, there is still much work to be done. She shared that the previous programmer did not charge much and oftentimes did not bill the Bar at all. In January, the Bar began using Cheyenne Technology and the cost has increased dramatically. It was agreed that Wilkinson will continue to keep the Board abreast of these developments.

Treasurer Graham brought the Board's attention to the "dashboard" that Executive Director Wilkinson distributed. Her goal is to distribute one of these dashboards to the board on a monthly basis after Cathy reconciles the books. She will also prepare these reports after the end of the fiscal year.

After discussion, the Treasurer's Report was accepted.

Admissions Information

Fee for Motion Applicants

Vice President John Masterson reminded the Board that it had a discussion about possibly increasing the fee for motion applicants (lawyers admitted on reciprocity based upon having at least five years' experience in another state). Wyoming currently charges \$600 to be admitted on motion. He mentioned that other states charge considerably more to be admitted on motion. Vice President Masterson discussed the research he, Mark Gifford, and Sharon Wilkinson undertook to find what authority the Board of Law Examiners (BLE) has to set the fee. That research revealed that a statute requires that all licensing boards establish application fees through a rule-making process that differs from what has actually been done over the years, with the Supreme Court ordering periodic increases upon the recommendation of the BLE. Mark Gifford briefly discussed a recent meeting with the Supreme Court, which was attended by John Masterson (in his capacity as BLE Chair), Sharon Wilkinson and others. The Court's take on this issue is that this is a judicial branch issue and not the Legislature's concern.

Vice President Masterson also shared that we recently learned that 2014 HB 62 requires board members to be reimbursed \$109/day, the same per diem as legislators. This new legislation was also discussed with the Supreme Court during the recent meeting. The Court indicated that members of the BLE, like members of other Court-appointed boards, should continue to be reimbursed for actual out-of-pocket expenses, and not based upon the legislative per diem.

Uniform Bar Exam (UBE) Cut Score

Vice President Masterson shared that the BLE has been having discussions about possibly increasing the cut score for the exam. He provided an overview of the grading process and the ranking the BLE uses. These discussions will continue at this summer's grading session.

The Future of the Wyoming Educational Component

Mark Gifford provided the background on the Wyoming Educational Component, the mandatory continuing legal education program required for new admittees in their first year of admission. He discussed the lessons learned throughout the years. Vice President Masterson shared that the BLE has recommended to the Wyoming Supreme Court that it adopt a necessary rule to eliminate the Wyoming Educational Component. Pathways to Professional Practice will still be a required course of newly admitted lawyers and that program will be revamped to make it more effective. He shared that the Court supports this decision. As a result, beginning with the Pathways course at this year's Annual Meeting, there will be no Wyoming Educational Component and Pathways will be expanded to a 6-hour, broad-based course covering the ABCs of the practice for brand new lawyers.

Amendments to Bylaws

Mark Gifford distributed a memo outlining amendments to the current Bylaws of the Wyoming State Bar. He discussed the administrative headache caused by the requirement that suspended members continue to pay license fees and have the same CLE requirements as their status prior to suspension. Mr. Gifford asked for authority to distribute the proposed changes to the members for comment.

After discussion, Commissioner Snyder made a motion to authorize Executive Director Wilkinson to distribute the proposed bylaw amendments to the membership for comment. Commissioner Haderlie seconded the motion. All voted in favor of the motion.

Wyoming Professional Assistance Program (WPAP)

Executive Director Wilkinson brought the Board's attention to the quarterly report that she distributed from WPAP, which indicates that there is currently one attorney in the program. She also shared that Candice Cochran, the Executive Director of WPAP, has brought to her attention that WPAP's bylaws indicate that each organization contracting with WPAP is authorized to appoint a representative to be a voting member to their board.

Commissioner Nash made a motion to authorize Executive Director Wilkinson to distribute an "expression of interest" to the membership to gauge interest in serving in this capacity. Commissioner McCorkle seconded the motion. All voted in favor of the motion.

SOLACE Program

Executive Director Wilkinson referred the Board to the memo and implementation plan she had provided in the Board notebook. She discussed the basics of the program. After discussion, the Board members were in favor of implementing this program.

Credible – Student Loan Refinancing Proposal

Executive Director Wilkinson referred the Board to the proposal from Credible, a student loan refinancing company which provides “one-stop-shopping” for members to refinance their student loans. Several Board members shared their concerns about this proposed member benefit. After much discussion, the Board members thought it might be a good idea to invite them to exhibit at the Annual Meeting but not sign the proposal to endorse them specifically.

License Fee Statement

Executive Director Wilkinson brought the Board’s attention to the sample license fee statement and shared that the Wyoming State Bar Foundation has requested that the Bar consider changing the “Foundation Dues” line item on the statement to an opt-out instead of an opt-in. Commissioner Snyder spoke in opposition of the opt-out due to the fact that it will appear that the Wyoming State Bar increased license fees. Executive Director Wilkinson agreed. Executive Director Wilkinson recommended giving the Foundation only one line item on the statement and using the other to raise money for Lawyers Helping Lawyers. Commissioner Haderlie spoke in favor of raising money for WyLAP due to the importance of the program. He shared that he feels it is misleading to have two line items because it appears that the money is going to two different entities and it is not – especially considering the Wyoming Center for Legal Aid recently changed its name to Equal Justice Wyoming. Treasurer Graham agreed with Commissioner Haderlie.

Commissioner Nash made a motion to include something on the license fee statement giving members an opportunity to make a contribution to the Wyoming Lawyer Assistance Program (WyLAP), leave #5 – Equal Justice Contribution the same, and change the word “dues” in #4 to “contribution.” President-Elect O’Connell seconded the motion. Blake Klinkner recommended changing the word “optional” in both #4 and #5 to “suggested.” The motion passed.

Wyoming State Bar Foundation

Tenille Castle, President of the Wyoming State Bar Foundation, joined the meeting via teleconference. Ms. Castle shared with the Board that she feels the Foundation is experiencing somewhat of an identity crisis and is wondering what the future of the Foundation looks like. She discussed the decrease in revenue to the Foundation over the years. President Bonner asked Executive Director Wilkinson to provide a bit of background on the Foundation’s existence over the years. Executive Director Wilkinson provided that. Mark Gifford referred to the Foundation’s financial statements and noted that the Foundation has close to \$500,000 in the bank. He inquired as to why the foundation does not hire an executive director who can take the lead with fundraising.

After discussion, Vice President Masterson recommended tasking a sub-committee to review the ins and outs of the Foundation’s history and its inner-workings. The sub-committee would then come back and report its findings and recommendations to the Board of Officers & Commissioners. Erika Nash volunteered to serve on that committee, as did Devon O’Connell and Monica Vozakis. This group will meet and bring back information to this Board.

Salary Ratifications

Executive Director Wilkinson directed the Board to the memo she prepared regarding her recommended salary adjustment for the Executive Assistant and the Lawyer Referral Service Coordinator/BPR Clerk. The Executive Committee had previously approved this request and Executive Director Wilkinson was seeking ratification from the full Board. Vice President Masterson made a motion to ratify the salary increases; Commissioner Snyder seconded the motion. All voted in favor of the motion.

Policy Regarding Western States Bar Conference

President Bonner shared that, prior to the Western States Bar Conference, he had concerns regarding the number of Board members attending the conference in Hawaii this year. He wondered if there should be a policy limiting the attendance. President Bonner felt strongly about making the most of the conference and making sure the Bar benefited from it. He felt it was important for the Board to discuss this.

There was much discussion about the benefits of the conference and each shared his/her own perspective on this year's conference. The Board members chose not to implement any sort of policy but to encourage each commissioner to use his or her discretion about costs budgeted for their individual travel.

Young Lawyers Section Report

Blake Klinkner shared that he had attended the "Four Corners Conference" last week in Aspen, Colorado. He provided an overview of the program offerings.

President Bonner adjourned the meeting at 5:47 p.m. on Friday, April 17, 2015.

President Bonner reconvened the meeting on Saturday, April 18, 2015, at 8:10 a.m.

President's Report

Equal Justice Wyoming

President Bonner reported that he had recently met with Angie Dorsch, the Executive Director of Equal Justice Wyoming (EJW). EJW has funding for a new position in Park County, and President Bonner is helping her coordinate these efforts.

Annual Meeting

President Bonner asked the Board to give some thought to inviting Luke Bell, a musician from Cody, Wyoming, and his band to perform at this year's Annual Meeting & Judicial Conference. After much discussion, Commissioner Nash recommended that The Cowboy Bar in Jackson be contacted to see if Luke Bell could possibly perform there, and the Bar could encourage members' attendance.

President-Elect's Report

Legislative Wrap-Up

President-Elect O'Connell discussed a few of the bills that the Legislative & Law Reform Committee tracked during the legislative session and commented that things were quiet overall.

Bar Leadership Institute (BLI)

President-Elect O'Connell shared that she, Treasurer Graham and Executive Director Wilkinson attended the Bar Leadership Institute in Chicago. She discussed some of the programs that were offered and felt it was a fantastic conference.

History Day

President-Elect O'Connell represented the Bar in presenting the award money that the Bar provides to the kids who participate in History Day. She mentioned that the Bar's contribution is the largest and she is in favor of the Bar continuing this.

Women's Legal Forum

President-Elect O'Connell heard rave reviews about the Women's Legal Forum. She recognized the planning committee and thanked everybody for their hard work.

Executive Director's Report

Executive Director Wilkinson went through the draft of the Bar Member Survey and shared that she would like to distribute the survey to the membership on May 1st and give them the month of May to participate. The results will be tallied and distributed to the Board of Officers & Commissioners prior to the June Strategic Planning to gauge what the membership wants from the Bar.

After much discussion, Executive Director Wilkinson will include some additional questions recommended by the Board.

Bar Counsel Report

Discipline Status Report

Mark Gifford, Bar Counsel, provided an overview of the open, active investigation files in regard to his discipline cases. He shared that he continues to increase his efforts to help lawyers be better and more effective, and he thinks it is paying off. With two cases in formal charge, he commented that the numbers are pretty steady. His caseload remains consistent with 14 – 17 disciplines per year.

Mr. Gifford also shared that there was a significant cost recovery this year that resulted from two disciplinary cases.

Adoption of New Rules of Disciplinary Procedure

Mr. Gifford reported that the Wyoming Supreme Court issued an order in February approving all proposed changes to the Rules of Disciplinary Procedures with the exception of making the disciplinary proceedings public once a formal charge is filed. Those new rules go into effect July 1, 2015. He shared that he is pleased with the increased due process that is included in the new rules.

House Bill 214 – Admissions Statutes

Mr. Gifford shared with the Board that he worked closely with Kermit Brown, Speaker of the House, to amend the Wyoming statutes governing admissions. He shared that it was a very interesting process. Mr. Gifford and Randy Reed, who serves on the Board of Law Examiners, presented to both the Senate and House Judiciary Committees. These statutes were enacted in 1889 and were in need of some updating. HB 214 passed and was signed into law by the Governor with one minor amendment to the original bill.

Ethics Hotline Report

Mr. Gifford directed the Board to his “Office of Bar Counsel” column that was published in the April *Wyoming Lawyer*. He mentioned that he receives four to five calls per day from attorneys needing ethics advice. He feels strongly about taking these calls and enjoys taking them.

CLE Presentations - Office of Bar Counsel/Rule Revisions

Mr. Gifford discussed the presentations he has been providing to members regarding the 2014 amendments to the Rules of Professional Conduct and the new rules of disciplinary procedure. Attendance has reached over 500 members for these CLE programs.

National Organization of Bar Counsel (NOBC) Semi-Annual Meeting

Mr. Gifford served on three panels at the NOBC semi-annual meeting in Houston. He has also been asked to teach at a week-long school for disciplinary counsel for NITA in October. He will present for two days, but not the whole week.

Attorney Lien Statute Update

Mr. Gifford shared that he worked with Devon O’Connell, Weston Graham, Ken Barbe and Erika Nash as a sub-committee of this Board to review the attorney lien statute. A proposed, much revised statute was sent out for member comment and Mr. Gifford shared the comments received. He was pleased with the comments and believes the recommended statute is more reasonable and sensible. He commented that lawyers who have tried to utilize the current statute have oftentimes found themselves in trouble. This sub-committee met recently to review all of the comments. As a result of the comments, they removed the “lien on papers” portion, which allows a lawyer to hold client files hostage. He requested the Board’s authority to put these amendments back out for member comment after the proposed bylaw amendments have gone out for comment.

President-Elect O'Connell shared that Mark Gifford and Ken Barbe worked very hard on this project and the outcome is very well thought-out. She thanked them for their hard work.

Treasurer Graham made a motion to authorize Mr. Gifford to distribute the proposed attorney lien statute to the membership for further comment; Commissioner Snyder seconded the motion. All voted in favor of the motion.

CLE Director's Report

Marie Ellis, CLE Director, shared that attendance at the webinars continues to be high. President Bonner inquired as to how it is decided what programs are being offered. Ms. Ellis shared that she receives suggestions from the membership quite often. Executive Director Wilkinson shared that the practice sections of the Bar have also stepped up to provide some of those programs. Treasurer Graham commended Ms. Ellis for all of her efforts in communicating these offerings to the membership.

Ms. Ellis reported that 50 attorneys have been recommended for suspension due to failure to satisfy their 2014 CLE requirements. Many of those attorneys have already cured their delinquency and paid their penalty fees. Those who do not will be suspended by the Wyoming Supreme Court.

Lawyer Referral Program Report

Brandi Robinson, Lawyer Referral Program Coordinator, reported that she is in the initial stages of implementing a Moderate Means Program to supplement her Lawyer Referral Service. Executive Director Wilkinson and Ms. Robinson walked the board through the process starting with the calls to the intake hotline and going through the financial screening process. Executive Director Wilkinson reported that this fills a necessary gap between those who do not qualify for legal aid but cannot afford to pay an attorney's full fee. Attorneys signing up for the program would agree to charge a reduced rate of \$75/hour.

Treasurer Graham congratulated Ms. Robinson on the LRS member profiles on the website and spoke in favor of the moderate means program.

Vice President Masterson made a motion to go into Executive Session; Treasurer Graham seconded the motion. All voted in favor of the motion.

Minutes Submitted by:

Sharon Wilkinson
Executive Director