

Wyoming State Bar Board of Officers & Commissioners Meeting
April 8, 2016
Hampton Inn & Suites
Casper, Wyoming

In Attendance: Devon O'Connell, President; John A. Masterson, President-Elect; Robert C. Jarosh, Vice President; Weston T. Graham, Treasurer; Melinda S. McCorkle, First Judicial District Commissioner; Dawnessa A. Snyder, Second Judicial District Commissioner; Teresa S. Thybo, 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); J. Kenneth Barbe, Seventh Judicial District Commissioner; Nathaniel S. Hibben, Eighth Judicial District Commissioner; Bradley D. Bonner, Immediate Past President; Caitlin F. Young, Young Lawyers Section President (via teleconference); Sharon Wilkinson, Executive Director; Cathy Duncil, Admissions Director; and Mark Gifford, Bar Counsel

Absent: Erika M. Nash, Ninth Judicial District Commissioner

President O'Connell called the meeting to order at 12:30 p.m. on Friday, April 8, 2016.

Approval of Agenda

President O'Connell asked for any additions or changes to the agenda. Commissioner Snyder made a motion to approve the agenda. Commissioner Haderlie seconded the motion. The motion carried unanimously.

Approval of Minutes

President-Elect Masterson made a motion to approve the January 22, 2016, meeting minutes. Commissioner Snyder seconded the motion. Commissioner Thybo pointed out an error on page 6 in the Modest Means Program section. Executive Director Wilkinson will correct the error. The motion carried unanimously to approve the minutes as corrected.

Treasurer's Report

Treasurer Graham shared that we are almost halfway through the fiscal year. He discussed that we have less income now than we did at this same time last year. He discussed some of the contributing factors to that—one of those being the disciplinary costs recovered last year.

Commissioner Snyder inquired about budget line item 5055—O & C Meeting Expense—and wondered why it was so high only halfway through the fiscal year. Executive Director Wilkinson explained that a deposit had already been paid for the upcoming June meeting at Jackson Lake Lodge. Cathy Duncil, Bookkeeper, also shared that the Bar received the invoice

from the August 2015 meeting in Buffalo in this fiscal year rather than the last fiscal year in which the meeting took place.

President-Elect Masterson asked Treasurer Graham if there was anything in the financial report that gives him a concern about the Bar's financial health. Treasurer Graham shared that he did not have any concerns.

Regulatory Updates

Admissions

Cathy Duncil, Admissions Director, shared that 34 people took the February 2016 exam. Results will be out next week. So far, the Bar has 17 applicants for the July 2016 exam.

She reported that the majority of the members of the Board of Law Examiners (BLE), all three members of the Character & Fitness Committee, and three staff members will be attending the National Conference of Bar Examiners (NCBE) conference in Washington D.C. next week.

President-Elect Masterson (who also serves as Chair of the BLE) shared that the BLE graded the Bar exams on March 7th and also met with Klint Alexander, the Dean of the UW College of Law, to discuss what they see as graders and shared observations. He shared that it was a very productive meeting.

President O'Connell shared that as a result of the new admission rules going into effect April 15, 2016, she is in the process of recommending two additional members to the Character & Fitness Committee—one attorney and one layperson who will hopefully have a mental health background.

Mandatory CLE

In Marie Ellis's absence, Executive Director Wilkinson shared that the Bar had submitted recommendations for suspension for 19 attorneys who failed to comply with their CLE requirements. Those attorneys each received an Order to Show Cause from the Court and will have until April 15, 2016, to respond.

Office of Bar Counsel

Mark Gifford, Bar Counsel, directed the Board to his materials in the notebook and provided an overview of the status of attorney discipline. Vice President Jarosh asked if the two incidents requiring Special Bar Counsel were the result of those attorneys calling the Ethics Hotline. Mr. Gifford clarified that neither were.

Clients' Security Fund

Mr. Gifford shared that his office is where he thought it would be in regard to claims paid when we had the budget discussion back in August. He has received the claims he

expected to receive and knows the Bar is going to pay \$20,000 before the end of the year. He recommended discussing ways to replenish the fund in the next fiscal year.

Fee Dispute Resolution

Mr. Gifford shared that this program continues to keep his assistant, Shannon Howshar, very busy. Shannon and all involved are looking forward to the new Rules for Fee Arbitration being in effect.

Unauthorized Practice of Law

Mr. Gifford again directed the Board to the materials in the notebook and briefly discuss the two UPL matters currently being investigated.

Proposed Keller Policy and Other Changes to Bylaws

Mark Gifford directed the Board to the comments he received from members as a result of the comment period that was approved at the January meeting. He shared that there were a few changes made to the Bylaws as a result of some very good comments from our members. Mr. Gifford also provided a sample of the budget report that was published in the December 2015 *Wyoming Lawyer* and noted that we will have to tweak that to be in compliance with the new Bylaws. He requested approval from the Board to submit the Bylaws to the Wyoming Supreme Court for adoption.

President-Elect Masterson made a motion to submit the proposed Bylaws of the Wyoming State Bar to the Wyoming Supreme Court for adoption. Commissioner Barbe seconded the motion. The motion carried unanimously.

Proposed Rules for Fee Arbitration

Mark Gifford shared the comments received from members on the proposed Rules for Fee Arbitration. Mr. Gifford requested approval from the Board to submit the Rules for Fee Arbitration to the Supreme Court for adoption.

Commissioner Snyder made a motion to submit the proposed Rules for Fee Arbitration to the Wyoming Supreme Court for adoption. Commissioner Haderlie seconded the motion. The motion carried unanimously.

Pro Bono Reporting

Commissioner Haderlie shared that he learned at the Western States Bar Conference that other states are considering implementing a mechanism for lawyers to report their pro bono hours. He did not have anything more to report, as he is still gathering information, but he would like this topic on the agenda for the June 2016 meeting.

Bill to Amend Attorney Lien Statute

Commissioner Barbe shared that this proposed attorney lien statute failed introduction during the recent legislative session; he indicated that it failed by one vote. Mark Gifford shared that Representative Kermit Brown had cautioned that amending this statute would be a tough sell.

Mr. Gifford shared that he thinks we need to educate members of the Legislature as to why this amended statute would be in the public's best interest.

Commissioner Overfield wondered if the committee did any evaluation to see why the amended statute failed to get introduced. Mr. Gifford shared that one factor was that it was a budget session.

Wyoming Professional Assistance Program (WPAP) Annual Report and First Quarter Report
Executive Director Wilkinson directed the Board's attention to the annual report provided by the Wyoming Professional Assistance Program. She also distributed the first quarter report.

Vice President Jarosh asked if an attorney is on a monitoring agreement and moves out of state, is there some sort of reciprocal agreement? Mark Gifford indicated that he has not encountered that situation yet.

President-Elect Masterson asked Executive Director Wilkinson about the life coaching for stress and burnout and wondered if that was new. Executive Director Wilkinson shared that it was fairly new and came as a result of a 2014 statute change to provide confidentiality for the mental health issues.

Bar Infrastructure Proposals

Executive Director Sharon Wilkinson reminded the Board that Goal 1 of the Bar's Strategic Plan is to strengthen the infrastructure backbone of bar operations through investment in necessary information technology. As a result, she reported that she and the staff have worked hard to gather appropriate resources to meet this goal. Executive Director Wilkinson shared that they had been in contact with seven different companies and had seen demonstrations from two. She shared that out of all the proposals, demos and discussions, West Edge Collective, LLC out of Cheyenne was the most impressive and shared that the Bar is moving forward into the first phase of exploration and discovery so that it can learn what West Edge Collective proposes for the future.

Executive Director Wilkinson discussed the steps that led her to the decision to move forward with West Edge Collective, LLC and asked Mark Gifford, Bar Counsel, to discuss his thoughts about the written agreement that has been proposed.

Mr. Gifford echoed Executive Director Wilkinson's sentiments about what an impressive company it is and provided additional background on the history of contract negotiations, including the engagement of Chris Hawks of Jackson, a lawyer with specific experience with contracts of this type, to review the contract on the Bar's behalf, that have culminated in a contract that he endorses as acceptable for the Bar's purposes.

Treasurer Graham shared that he thinks it behooves the Bar to outline some of the deliverables in the minutes so that nobody is under the impression that phase 1 will be anything but exploration. (See Exhibit A)

New Wyoming State Bar Employee Handbook

Executive Director Wilkinson shared that she had rewritten the Bar's Employee Handbook. In preparation for this project, she requested employee handbooks from other bar associations around the country. She modeled this draft mostly after Arizona's with a few changes and additions. Executive Director Wilkinson also shared that this draft had received the approval of the Executive Committee; however, one item of discussion was the Family Medical Leave Act (FMLA). The Executive Committee asked Executive Director Wilkinson to remove the FMLA clause from the handbook but wanted to discuss this with the full board. Executive Director Wilkinson clarified that FMLA was included in the current personnel manual.

Vice President Jarosh shared that the Wyoming State Bar is not subject to the FMLA. He feels the inclusion of it in the handbook provides a benefit that the law does not require. He further stated that by putting it in, the Bar is essentially creating a contract saying it is going to provide that. Commissioner Haderlie wondered if removal of the FMLA was essentially taking a benefit away from the Wyoming State Bar staff. Vice President Jarosh shared that technically it was taking a benefit away.

After much discussion Commissioner Haderlie made a motion to adopt the Employee Handbook without the Family Medical Leave Act. Commissioner Overfield seconded the motion. The motion carried unanimously.

Proposed Amendments to W.R.P.C. Rule 1.15 (Lawyer Trust Accounts)

Mark Gifford reminded the Board that the Wyoming State Bar Foundation used to administer the IOLTA program. In recent months, those responsibilities have shifted over to the Equal Justice Wyoming Foundation (EJWF). The Foundation received an overdraft notice on an attorney's IOLTA account. That investigation revealed significant issues with the account and Mr. Gifford is trying to help this lawyer straighten this out. He shared another example where this proposed rule would have avoided some of the damage that was done last year by a lawyer who converted trust account funds. Past President Bonner asked if these lawyers are knowingly violating the rules. Mr. Gifford clarified that he has only seen two incidents—one was an oversight and the other was a lawyer stealing from his clients.

Mr. Gifford reminded the Board that the ABA Consultation Team recommended mandatory overdraft reporting of trust accounts. As a result of those circumstances, he has prepared this draft. The proposed amendments to the rules have received the approval of the Board of Professional Responsibility and the Review and Oversight Committee. Mr. Gifford requested approval from this Board to put these proposed rules out to the membership for comment.

Past President Bonner made a motion to put the proposed amendments to Rule 1.15 of the Wyoming Rules of Professional Conduct out to the membership for comment. Commissioner Snyder seconded the motion. The motion carried unanimously.

Appointment of O & C Representative on Equal Justice Wyoming Foundation Board

Executive Director Wilkinson shared that Angie Dorsch, Executive Director of Equal Justice Wyoming, requested that the Board of Officers & Commissioners appoint one of its members

to serve on the Equal Justice Wyoming Foundation (EJWF) Board for a one-year term. Executive Director Wilkinson reminded the Board that the Wyoming State Bar Foundation dissolved and transferred everything over the EJWF.

Commissioner Overfield made a motion to nominate Commissioner Nick Haderlie to the Equal Justice Wyoming Foundation Board for a one-year term. Commissioner Thybo seconded the motion. The motion carried unanimously.

President's Report

President O'Connell shared that she, Executive Director Wilkinson and three commissioners attended the Western States Bar Conference in San Diego, California. There was much discussion about the future of legal services. She shared some of the troubling statistics that she heard regarding access to justice as well as new lawyers being prepared for the practice of law. There was much discussion about *Keller*. President O'Connell asked Mark Gifford, Bar Counsel, to provide an update on *Freidrichs v. California Teachers Association* and *North Carolina Board of Dental Examiners v. Federal Trade Commission*. Mr. Gifford provided some background on *Keller* as well as *Abood* and explained how that lead to the *Freidrichs* case. Mr. Gifford shared that there is a more immediate threat to bar associations and that is *Fleck v. McDonald*, the North Dakota case with the Goldwater Institute.

President O'Connell also shared that there was some discussion about bar associations having uniform section bylaws. Executive Director Wilkinson shared that she has requested these bylaws from some other bars and has only received Idaho's so far. She will put this on the June agenda for discussion.

President O'Connell also reminded the Board that Law Day is May 1st. Executive Director Wilkinson has distributed a guest column written by President O'Connell to all newspapers. President O'Connell encouraged all of the Officers and Commissioners to get involved in Law Day in their communities.

President-Elect's Report

President-Elect Masterson reported that he attended the Bar Leadership Institute in Chicago in March. He truly found this to be interesting and educational. He shared some of the discussions and common themes at the conference.

Vice President's Report

Vice President Jarosh shared that he serves on the Equal Justice Wyoming Board, and he shared that it's a very good group of hard-working people. He is impressed with the group and especially Angie Dorsch, the Executive Director.

Executive Director's Report

Executive Director Wilkinson reported that she again received a request from the Dean of the UW College of Law for additional funding for the February issue of the Wyoming Law Review. She took this request to the Executive Committee and it decided to stay within budget and send the remaining balance of the \$3,500 that was budgeted for this fiscal year. Executive

Director Wilkinson directed the board to the minutes from the February 17, 2016, Executive Committee meeting, at which this decision was made. As a result of this discussion, Executive Director Wilkinson was directed to contact the Dean and request a budget proposal for the Wyoming Law Review for the 2016-2017 fiscal year.

Young Lawyers Section Report

Young Lawyers Section President Caitlin Young shared that the Young Lawyers Section Executive Council had decided to cancel this year's Young Lawyers Conference. The leadership of the section felt that young lawyers need to be networking with older, veteran lawyers and not other young lawyers. Ms. Young discussed the changed focus to sponsor some CLE activities and events at this year's Annual Meeting.

Ms. Young also shared that the section is moving forward with a pro bono mentoring program similar to the I'll Do One campaign. An experienced lawyer will mentor a young lawyer on a specific pro bono project. Ms. Young shared that she tried to get the Attorney General's Office to lift the ban on government lawyers doing pro bono work; unfortunately, that was unsuccessful.

Ms. Young shared that she and Executive Director Wilkinson had a meeting with the local CBS affiliate in Cheyenne about hosting an "Ask a Lawyer" night. Unfortunately, they learned that the endeavor was quite expensive. As a result, the leadership of the Young Lawyers Section decided not to pursue that.

Ms. Young also reported that the section leadership is working on an interview program with the law school.

Board/Committee Liaison Reports

Bench-Bar Relations Committee

Treasurer Graham reminded the Board that Executive Director Wilkinson had wondered if this committee would be interested in reviewing the categories on the Judicial Advisory Poll. Treasurer Graham contacted Kathleen Dixon, the chair of the committee, to encourage her to get her committee involved in this.

Civil Pattern Jury Instructions Committee

Vice President Jarosh had nothing to report.

Clients' Security Fund Committee

Treasurer Graham reported that this committee does routinely approve the incoming claims. The committee is aware that the rules that govern this process and the committee need overhauled. Mark Gifford, Bar Counsel, will take the lead on the draft rules and the committee will be involved in that process.

Criminal Pattern Jury Instructions Committee

Commissioner Snyder shared that this committee is currently going through the reviews from the legislative session and should have some recommended updates soon.

Diversity & Inclusion Committee

Commissioner Thybo reported that this committee had its most recent meeting yesterday. The initial goals of the committee are 1) diversity training for the committee; 2) joining national groups where appropriate; and 3) working with the UW College of Law. The committee is also considering a mentorship program with the law school. The committee will also submit a budget request to the Bar for the next fiscal year.

Juvenile Pattern Jury Instructions Committee

Commissioner Overfield reported that the instructions are in final draft and should be available for purchase very soon.

Law School Liaison Committee

Commissioner McCorkle reported that the committee did have a face-to-face meeting in Laramie at Pence & MacMillan. She thought it was a very good meeting, which also included law school personnel including the Dean. Commissioner McCorkle shared some of the discussions of what the committee should focus on. President O'Connell shared that she thought that the committee could be so proactive in helping the College of Law. Members of that committee have agreed that when top students apply, lawyers on that committee are going to contact those prospects personally.

Legislative Developments Committee

President O'Connell reported that there was not much activity in the Legislature this year that affected the legal profession, so the committee did not meet.

Treasurer Graham made a motion to adjourn the meeting. Commissioner Snyder seconded the motion. The motion carried unanimously.

President O'Connell adjourned the meeting at 4:00 p.m. on Friday, April 8, 2016.

Minutes Submitted by:

Sharon Wilkinson
Executive Director

EXHIBIT A: SCOPE OF WORK

This Scope of Work is attached to, and is made a part of, that certain Marketing and Technology Services Agreement between West Edge Collective, LLC (“Agency”) and Wyoming State Bar (“Client”) dated May 1, 2016 (the “**Agreement**”). Unless explicitly stated otherwise in this Scope of Work, any capitalized terms shall have the meaning given to them in the Agreement.

1. Project Objective and Scope	a. Client intends to work with Agency to migrate current website (www.wyomingbar.org) and back end technology to a modern, sustainable system. The first step of this process, and the scope of this initial Scope of Work, is a 90-day phase focusing on exploration of existing technology, user roles and business requirements of their member-management system and public website..
2. Deliverables	<p>a. Project Plan</p> <ul style="list-style-type: none">i. Upon execution of the contract and this SOW, Agency will work with Client to create a plan with milestones describing the timeline of other deliverables (the project plan).ii. Target deadline for the project plan will be approximately one week after kickoff meeting post-Agreement-execution.iii. Timely milestone delivery will depend on Client ability to provide subject matter experts and users for interviews, and stakeholders for deliverable sign-off. <p>b. User Interviews</p> <ul style="list-style-type: none">i. Agency will conduct interviews with primary users and stakeholders of the existing system within Client staff.ii. Agency will conduct up to 3 interviews with non-staff users if appropriate.iii. Agency will document distinct user roles and common objectives for each user role. <p>c. Business Requirements</p> <ul style="list-style-type: none">i. Agency will prepare business requirements that describe the features needed in different areas of the website and back-end system. <p>d. Information Architecture</p> <ul style="list-style-type: none">i. Agency will explore structure of existing content.ii. Agency will utilize professional experience and industry best practices to create a suggested information architecture that describes content categorization, organization and navigation. <p>e. Technical Recommendations</p> <ul style="list-style-type: none">i. Agency will document recommendations for technologies that support the business requirements, information architecture and design of the site.ii. Agency will recommend hosting that satisfies documented business requirements and any discovered integration needs.iii. Agency will include information about the licensing and development history of recommended libraries. <p>f. Phase II Statement of Work</p> <ul style="list-style-type: none">i. Agency will validate existing assumptions about the effort and duration of full project.ii. Agency will prepare an Additional Statement of Work describing the next phase of the project. <p>Agency will prepare plan for support or debugging and maintenance of existing technology during the transition.</p>

3. Schedule / Term Length	a. 90 days
4. Fees (Fixed Rate)	a. \$11,500 per month, \$34,500 this phase
5. Payment Terms	a. Invoices will be submitted to the billing contact between the 1st and 10th of each month using NET 15 terms.
6. Agency Key Resources	a. Account Director - Linda Finnerty b. Project Manager - Caitlin Rooney c. Digital Director / Developer - Justin Johnson d. Developer / Data Scientist - Jason Hammock e. Production Director - Designer - Jason Berner
7. Client Key Resources	a. Executive Director - Sharon Wilkinson b. Continuing Legal Education Director - Marie Ellis