

Wyoming State Bar Board of Officers & Commissioners Meeting

August 16, 2024
Hampton Inn & Suites
Buffalo, Wyoming

In Attendance: Anna M. Reeves Olson, President; James T. Whiting, Vice President; Kelly M. Neville, Treasurer; Stefanie L. Boster, First Judicial District Commissioner; Jason Petri, Third Judicial District Commissioner; Kevin K. Kessner, Fourth Judicial District Commissioner; Jennifer L. Kirk, Fifth Judicial District Commissioner; Alison O. Gee, Sixth Judicial District Commissioner; P. Craig Silva, Seventh Judicial District Commissioner; Shawn G. Wilde, Eighth Judicial District Commissioner; Clayton M. Melinkovich, Ninth Judicial District Commissioner; John P. Fritz, Chair, Young Lawyer Section; Sharon Wilkinson, Executive Director; Mark W. Gifford, Bar Counsel, and Cathy Duncil, Admissions Director

Absent: Christopher H. Hawks, Immediate Past President; and Dona Playton, Second Judicial District Commissioner

Guests: Hon. Kate Fox, Chief Justice of the Wyoming Supreme Court (via Zoom); Elisa Butler, State Court Administrator (via Zoom); Heather Kenworthy, Chief Application Officer (via Zoom); Anne Sutton, Teton County Clerk of District Court and a member of the District Court Clerks Association (via Zoom); and Alaina Stedillie, Chair, Review and Oversight Committee

President Anna M. Reeves Olson convened the meeting at 12:38 p.m. on Friday, August 16, 2024.

Approval of Consent Agenda

Vice President James Whiting made a motion to approve the consent agenda. Commissioner Jennifer Kirk seconded the motion. The motion carried unanimously.

Admissions Update

Cathy Duncil reminded the Board that she reported about a hearing before the Character and Fitness Committee during the June meeting. She shared that the Committee did recommend admission for the applicant, and she was pleased with that decision. Mark Gifford commended Ms. Duncil for the good job she did testifying at the hearing.

Cathy Duncil shared that she administered the July bar exam to 52 applicants. Unfortunately, one of the applicants violated Admission Rule 209—Misconduct by Applicants—of the Admission Rules by continuing to type on his laptop well after time was called. Ms. Duncil shared that all applicants are provided written instructions and are read the instructions verbally so they are well aware of the rules. She shared that she thoroughly investigated the

matter and worked with ExamSoft to see its report which showed how many characters he typed after time was called. Ms. Duncil shared the evidence with the Board of Law Examiners (BLE) and it voted unanimously to disqualify the applicant pursuant to Admissions Rule 209. Ms. Duncil worked with the National Conference of Bar Examiners (NCBE) to embargo his score and mentioned that his exam will not even be graded. She has notified the applicant by email and mail and Executive Director Sharon Wilkinson has submitted a recommendation for denial to the Supreme Court. Ms. Duncil shared that this action is not appealable.

Commissioner Kirk asked if the applicant was a graduate of the University of Wyoming College of Law. Ms. Duncil shared that all applicant information is confidential.

Mark Gifford shared that another exam applicant had a seizure during the exam. Cathy Duncil shared that the applicant disclosed the seizure disorder on her application so she was able to address the possibility in her proctor training prior to the exam. She reported that the incident was handled appropriately according to NCBE guidelines.

Mark Gifford shared that the BLE will grade exams on Monday and Tuesday in Laramie. The staff plans to join the BLE for dinner. The new dean of the law school will also join them.

Mark Gifford shared that he accompanied Executive Director Wilkinson, Cathy Duncil and Cody Jerabek, WyLAP Director, over to the law school to speak to the incoming class yesterday during orientation. He shared that the students were very interested and engaged.

Mr. Gifford reported that Darin Scheer, a member of the BLE, stepped up as Chair of the NCBE Board of Trustees. In this role, he appointed Mr. Gifford to the Multistate Professional Responsibility Exam (MPRE) Committee. He shared that the Bar is fortunate to have such a national presence at the NCBE.

Mark Gifford shared that there is a lawyer at Hathaway & Kunz, LLP that wishes to be admitted to practice law in Wyoming even though she does not meet the eligibility requirements (she did not graduate from an ABA accredited law school). The lawyer obtained her legal education in Brazil. He shared that while the BLE has authority to waive certain requirements, this is a statute and the Admission Rules expressly prohibit the BLE from waiving a statutory requirement. He shared that the firm petitioned the Wyoming Supreme Court to allow her to apply for admission but it denied the request. Mr. Gifford then worked with members of the firm to consider amending the statute. There were discussions with Senator Tara Nethercott and she indicated that she would support any effort the Bar and the BLE were behind. Mr. Gifford had some discussion with Justice Fenn to provide more background about the situation. Out of the blue, the Court issued an Order Amending Rule 105 of the Rules and Procedures Governing Admission to the Practice of Law, which essentially says the Court is no longer obligated to apply the statute. Mr. Gifford shared that we thought we had a good plan in place for a statutory amendment and favored giving the Court discretion in these types of situations; however, now he is not sure anything needs to be done. He did share that the Chief Justice called him following the issuance of the Order and acknowledged that perhaps the Court should have consulted with the BLE first.

Mark Gifford shared that he is in favor of alternative paths to admit more lawyers considering the shortage we have in certain areas of the state.

Mandatory CLE

Executive Director Wilkinson shared that Marie Ellis, CLE Director, was currently attending the CLereg Annual Meeting in Chicago. She was pleased to report that for the first time in quite some time, the Chair of the Board of CLE, Kevin Cook, joined Ms. Ellis for the conference.

Office of Bar Counsel

Mark Gifford shared that his office has received 96 complaints so far this year, which puts them on pace to hit 150 complaints this year, an unusually large number.

Mr. Gifford shared that one development in the office is he and Executive Director Wilkinson have made the decision to move the role of the Clerk of the Board of Professional Responsibility (BPR) from Kim Robért's desk due to the part-time nature of her position as Lawyer Referral Service Coordinator. He shared that the duties will now fall to Marie Ellis. He reported that Ms. Ellis has been handling the Fee Arbitration program, but Executive Director Wilkinson is going to transition those responsibilities to Shannon Howshar's desk.

Strategic Plan Progress Report

Executive Director Wilkinson directed the Board's attention to the progress report she maintains. She offered to answer any questions. She also pointed out that she included the survey results from the Chronus mentorship platform, which were overall very positive.

President-Elect Vacancy

Executive Director Wilkinson shared that former President-Elect Erin Weisman resigned from her position effective August 1st as a result of her appointment to the Circuit Court bench. She reminded the Board that the Bylaws require it to fill the vacancy within 30 days.

Commissioner Kirk made a motion to appoint Vice President James Whiting to serve as the Bar's President-Elect. Commissioner Stefanie Boster seconded the motion. The motion carried unanimously.

Executive Director Wilkinson shared that this now leaves a vacancy in the office of Vice President; however, she reminded the Board that Alison Gee is currently in an uncontested election and will step up as Vice President on September 13th at the conclusion of the Annual Meeting & Judicial Conference. She encouraged the Board to take formal action to leave the seat vacant.

Commissioner Kirk made a motion to leave the Vice President's seat vacant. Commissioner Alison Gee wondered if the Board wished for her to step into the Vice President's seat immediately instead of waiting a month. This would ensure that there is a full Executive Committee. Executive Director Wilkinson reminded the Board that this action would result in a vacancy in the Sixth Judicial District and the same Bylaw requirement would kick in the 30-day window. She could get a call for expressions of interest out to the members in that judicial

district next week and then schedule a Zoom meeting so the Board could make its appointment. She reminded the Board that the appointee would complete Commissioner Gee's term, which expires in September 2025.

After discussion, Commissioner Kirk withdrew her motion. Commissioner Kirk made a motion to appoint Commissioner Gee to serve as the Vice President effective immediately. Commissioner Clayton Melinkovich seconded the motion. The motion carried unanimously.

2024/2025 Proposed Budget

Treasurer Kelly Neville thanked the staff for all its work getting everything together for the proposed budget. She acknowledged that it is quite a process. Treasurer Neville reminded the Board that the Office of Bar Counsel (OBC) budget is the responsibility of the Review and Oversight Committee (ROC). She shared that we did not budget for a separate website for the OBC because the bid came in over \$30,000.

Treasurer Neville shared that a big factor in the proposed budget's bottom line is due to the Court's decision in the Richard disciplinary matter and the need for new special bar counsel.

Executive Director Wilkinson went through her recommended adjustments to the proposed budget and explained each. Her recommendations change the bottom line by approximately \$4,000. She also mentioned that the staff factored in another \$40,000 matching grant for the Equal Justice Wyoming Foundation even though she has not received a formal request from Angie Dorsch, the Foundation's Executive Director.

Vice President Gee shared that the Bar has significant net assets and she thinks it is important to carry through with some of the things we said we would do. She reported that she would like to pursue a separate website for the OBC. She reiterated that the Bar has a strong cash position.

Executive Director Wilkinson reminded the Board that the Board directed the staff to consider separating the OBC'S website from the Bar's, but the staff continues to struggle to determine exactly what comes off the Bar's website. She assured the Board that great consideration had gone into this, but the ROC agreed that it could be put on a wish list for the time being.

President Olson asked when we need to be concerned about a potential \$150,000 loss. Vice President Gee shared that she thinks it is more about the optics. Treasurer Neville stated that if we start to realize actual losses, that could cause concern; however, we have been budgeting to be in the red for a while now and we have still net revenue at fiscal year's end.

Cathy Duncil referred the Board to the dashboard report included with the Treasurer's Report and noted that cash on hand is currently at \$1.173 million plus our investments and the building. She shared that we need approximately \$500,000 to get through the end of this fiscal year.

Vice President Gee shared that she thinks separate websites would be really beneficial to Bar members. She indicated that putting it off until next year is acceptable to her.

Mark Gifford shared that he is not opposed to separating the two websites; however, when the staff sits down to discuss it, they cannot come up with clear direction for what information is housed on which website (i.e., Client Protection Fund, Fee Arbitration, etc.) He shared that he would feel more comfortable putting this on hold while we convene a working group to consider this. Currently, he feels like it will carry a significant cost and he does not yet understand what would be gained. Mr. Gifford shared that he does not want to be perceived as a hindrance to this process, but he likes the idea of a working group. He shared that all discussions thus far have resulted in the same information linking back and forth to both websites, and he does not see any sense in that.

Commissioner Kirk shared that she likes the idea of a working group and recommended that members of this Board could serve. President Olson shared that the working group could even determine that the site is fine as is. Treasurer Neville recommended not budgeting for a potential website this year and consider it again next year.

Vice President Gee made a motion to have President Olson and Mark Gifford form a working group to assess the need for a separate website for the Office of Bar Counsel. Commissioner Boster seconded the motion. The motion carried unanimously.

Commissioner Kirk thanked Mr. Gifford for being so cooperative during these discussions.

President Olson wondered what the Board thought of the \$40,000 matching grant for the Equal Justice Wyoming Foundation (EJWF) again this year.

Executive Director Wilkinson explained that Angie Dorsch does not know yet if they met the match for the current fiscal year, as she is waiting to hear from the Hughes Charitable Foundation to learn how much they'll receive from it this year. That will determine whether or not they have met the Bar's match.

Mark Gifford shared that there is a restructuring of Equal Justice Wyoming, as the Wyoming Judicial Council has pulled it under the authority of the Administrative Office of the Court. Executive Director Wilkinson reminded the Board that the match pertains to the Foundation.

Commissioner Kirk shared that she would like to budget for the \$40,000 match in the proposed budget even though we do not have a formal request from Ms. Dorsch.

Commissioner Shawn Wilde recalled that years ago when we challenged EJWF to a matching grant, it was because they were not doing any fundraising at the time. Now that they are actively fundraising, he is a bit leery of offering the same amount.

Treasurer Neville clarified that they did meet the match the last few years. Vice President Gee agreed about the amount and recommended a \$25,000 matching grant. Commissioner Craig

Silva shared that he does not want to punish the organization; however, the Bar's proposed budget is in the red. Treasurer Neville agreed that we do have some budgetary constraints this coming year.

Vice President Gee mentioned the budgeted \$100,000 for special bar counsel due to the Court's decision in the Richard matter and asked if the Bar would recover any of that money. Mark Gifford indicated that it would not.

2024/2025 Board Meeting Schedule

Executive Director Wilkinson shared that she worked with President-Elect Whiting on his chosen locations for the Board meetings in the next fiscal year. After discussion, dates were chosen for all meetings.

Cranfill Status Change Ratification

Executive Director Wilkinson shared that she and Mark Gifford received a call from Steve Cranfill, retired District Court judge from the Fifth Judicial District, last month inquiring about the need for a status change. She explained that he has an opportunity to step into the role of the Treatment Court judge in Park County on a permanent basis but wondered if he needed to reactivate his license. Executive Director Wilkinson walked the Board through the clause in the Bylaws that governs this process and shared that the Board has the authority to waive, modify or impose conditions on the requirements. She shared that Mr. Cranfill's waiver request was approved by the Executive Committee last month, so she was seeking ratification of the Executive Committee's decision.

Commissioner Boster made a motion to approve the Executive Committee's decision to waive the Bylaw requirements and allow Mr. Cranfill to change his status to Active. Commissioner Kirk seconded the motion. The motion carried unanimously.

Executive Session

President-Elect Whiting made a motion to convene an Executive Session. Commissioner Boster seconded the motion. Executive Session was convened at 2:35 p.m.

President-Elect Whiting made a motion to adjourn the Executive Session. Commissioner Melinkovich seconded the motion. The motion carried unanimously.

Commissioner Kirk made a motion to approve the salary recommendations made by Executive Director Wilkinson in Executive Session. President-Elect Whiting seconded the motion. The motion carried unanimously.

President's Report

President Olson shared that she and Executive Director Wilkinson attended the ALPS Bar Leaders Retreat in Missoula, Montana, last month and it was very enjoyable.

President-Elect's Report

President-Elect Whiting shared that he attended the National Conference of Bar Presidents (NCBP) Annual Meeting in Chicago earlier this month. He shared that it was good to see how other bar organizations operate and found it eye-opening to learn of the numerous Keller challenges impacting bars around the country.

Young Lawyer Section Report

John Fritz thanked the Board for allowing him to attend the Jackrabbit Bar Conference in Carson City, Nevada, in June. He also reminded the Board that the section is sponsoring a legal writing CLE at this year's Annual Meeting & Judicial Conference.

Executive Director's Report

Executive Director Wilkinson reported that she was approached by the representatives from Decisis at the Jackrabbit Bar Conference in June. She shared that Decisis is a sister company of LexisNexis and several states have transitioned away from Fastcase to Decisis as a member benefit (Ohio, Nebraska, Maine, Delaware, New Jersey, Massachusetts, Kentucky, Utah and Pennsylvania). She shared that following the conference, she received a call from Decisis to discuss further.

Executive Director Wilkinson reported that we currently spend \$44,265 per year in order to offer free, unlimited access to our membership to Fastcase, which will soon upgrade to the vLex Fastcase platform. She reported that in her discussions with Decisis, the annual fee would be closer to \$30,000 per year. She shared that Decisis has all 50 states in its library and has over 50 million trial court decisions.

Executive Director Wilkinson shared that she would like to put a focus group together with some of the Bar's most frequent Fastcase users. Decisis has offered to do a live demo of the platform for the focus group and then give those members a 30-day free trial so they can use the platform and compare it to Fastcase. She also shared that she visited with some of the Executive Directors from the states that have switched to Decisis at her recent National Association of Bar Executives (NABE) conference and learned that everyone was very pleased with the switch.

Commissioner Melinkovich shared that he uses Fastcase on a regular basis and he has really experienced a decline in its performance. Executive Director Wilkinson shared that she has looked into that and learned that performance will improve with the launch of the new vLex Fastcase platform.

After discussion, President-Elect Whiting, Commissioner Jason Petri and Commissioner Melinkovich volunteered to serve on the focus group to review Decisis.

Executive Director Wilkinson reported that in compliance with Article IX, Section 1 of the Bylaws, she put out a notice to the membership on July 15th with information pertaining to the Annual Business Meeting and the call for resolutions. She reminded the Board that any resolutions to be considered by the Board must be received by her 30 days prior to the

meeting. She reported that she received a resolution from Brad Boone that same day. She read the resolution aloud to the Board. Mark Gifford shared that has a hard time fitting such a resolution into the Bar's Keller policy. After discussion, the Board asked Executive Director Wilkinson to thank Mr. Boone for the proposed resolution, but it chose to take no formal action.

Member Suggestion

Executive Director Wilkinson directed the Board to the suggestions she received from Turner Rouse, a member of the Bar who resides in Florida. Mr. Rouse is recommending that the Bar consider a permanent, plastic bar card instead of the current cards that are of lesser quality and issued each year. He also recommends that the Bar consider offering its members a variety of Wyoming State Bar branded merchandise.

Executive Director Wilkinson shared that she has been in touch with a representative from PermaCard to see what her options are. She reported that she received samples of the Bar cards the Florida Bar uses as well as the Nebraska State Bar Association. She learned that Nebraska issues a new card each year, which includes a new design and the current Bar President's signature. She shared that Florida, on the other hand, issues one lifetime card and then processes a few fulfillments as they are admitting new lawyers.

Executive Director Wilkinson shared that Wyoming admits an average of 15 lawyers per month, so it would be cost prohibitive to fill that order each month. She shared that every other month would work better and, in the meantime, the lawyer could rely on his or her mobile bar card that is accessible through the Member Login on the Bar's website. Board members were overall surprised to learn that a mobile bar card was available. Executive Director Wilkinson shared that the mobile bar card was the reason behind opting all members out of receiving a print copy of the bar card this fiscal year and that decision was to be made when members paid their license fees. She acknowledged, however, that she is aware that very few lawyers pay their license fees and rely on their assistants to pay instead.

With the knowledge of the mobile bar card, all agreed to check to see if it is possible to store the mobile bar card in the mobile device's wallet. Executive Director Wilkinson indicated that she would check on that. After discussion, it was decided to pursue a permanent, plastic bar card with a QR code that would take the scanner to the individual's mobile bar card if possible. Executive Director Wilkinson indicated that she would report back.

There followed discussion of Mr. Rouse's suggestion that the Bar consider offering Bar-branded merchandise for sale. Executive Director Wilkinson shared that she has also looked into an online company called CafePress, which is what the Florida Bar utilizes to sell its branded merchandise. She shared that you simply set up an account, which is free, set up your shop and design whatever products you would like to sell. The Bar would have the ability to mark up the base price so the Bar would receive a commission on each sale. She shared that the Bar's products would also be available on partner sites such as Amazon, eBay, Walmart and Etsy where the Bar would receive 5% of the sale price as commission. Executive Director

Wilkinson shared that the products available are vast—clothing, accessories, drinkware, items for pets, etc.

Treasurer Neville liked this idea and thought perhaps the proceeds from these sales could go towards the law school endowment in support of the Bar's rural practice initiative. Commissioner Kevin Kessner agreed that we do need more money for the endowment.

Executive Director Wilkinson will pursue this and report back.

eFiling Discussion

Wyoming Supreme Court Chief Justice Kate Fox joined the meeting via Zoom and introduced Elisa Buter, State Court administrator; Heather Kenworthy, Chief Application Officer; and Anne Sutton, Teton County Clerk of District Court and a member of the District Court Clerks Association.

Vice President Gee thanked the Chief Justice and other guests for being willing to discuss eFiling with the Board. She shared that at the June Board meeting, there was much discussion about the challenges that attorneys who are using eFiling are experiencing. She also acknowledged that the Court has its hands full with this and recognized the importance of moving to an electronic system. Vice President Gee thought it might be helpful to bring some of the issues to the group's attention and also wondered if there was a place for the Bar to assist with the communication side of eFiling.

Chief Justice Fox shared that there is an eFiling committee that meets frequently. She reported that four members of the Bar serve on that committee—Tom Lubnau, Billie Addleman, Marty Oblasser and Devon Petersen. She encouraged the Board to talk to these lawyer members if/when issues come up. Vice President Gee thought it might be helpful to have somebody on the Board of Officers & Commissioners to be in communication with them.

The Board members were each given an opportunity to share a variety of concerns, scenarios and frustrations with eFiling. There was also some high praise of the system voiced by certain Board members.

Executive Director Wilkinson reported that she is seeing information being shared on the individual county bar listservs about eFiling and shared that only those lawyers who reside in that county receive those. She wondered how lawyers outside of those counties learn of the individual nuances of policies and procedures in the counties where they do not reside but they indeed practice. She offered to set up a specific listserv just for eFiling if that would be helpful.

Chief Justice Fox indicated that Elisa Butler could send Executive Director Wilkinson a link to be distributed to the membership. She also encouraged her to share the names of the lawyers serving on the eFiling committee. Heather Kenworthy also recommended encouraging lawyers to register early for eFiling, as the onboarding takes time.

John Fritz commended the Court for how quickly it is making eFiling mandatory. President-Elect Whiting agreed.

Executive Director Wilkinson shared that Heather Kenworthy and Anne Sutton are taking part in an eFiling program at this year's Annual Meeting and Ms. Sutton will have a presence as an exhibitor with the District Court Clerks Association.

Executive Session

Commissioner Boster made a motion to convene an Executive Session. Vice President Gee seconded the motion. The motion carried unanimously. Executive Session was convened at 5:09 p.m.

Commissioner Boster made a motion to adjourn the Executive Session. Commissioner Petri seconded the motion. The motion carried unanimously. Executive Session was adjourned at 5:37 p.m.

Commissioner Melinkovich made a motion to adjust Bar Counsel's salary to \$171,200 per year to be consistent with a District Court judge; adjust Deputy Bar Counsel's salary to 75% thereof; and adjust the Executive Director's salary to reflect a 5% increase. Commissioner Shawn Wilde seconded the motion. The motion carried unanimously.

Commissioners' Reports

- ***First Judicial District*** – Commissioner Boster shared that the announcement about Judge Lee's retirement came out yesterday. She also shared that Inns of Court will start meeting again soon.
- ***Third Judicial District*** – Commissioner Petri shared that he continues to see a real dissatisfaction with the practice of law in his district. He knows of one government attorney who has decided to give up the practice of law altogether due to eFiling. He also reported that the judges and attorney do not get along very well.
- ***Fourth Judicial District*** – Commissioner Kessner shared that things have been fairly quiet in his district since the county commissioner debacle. He reported that the District Court judge there is doing a great job and the local bar association began holding monthly meetings.
- ***Fifth Judicial District*** – Commissioner Kirk shared that her district is also fairly quiet. Like Commissioner Petri, she has heard stories of judges telling the attorneys in her district how badly they are doing. She reported that the Park County Animal Shelter was going to have to shut its doors, but the Park County Bar Association stepped in to do some fundraising.
- ***Sixth Judicial District*** – Even though Vice President Gee now serves in a different role, she reported that her community saw 60,000 people arrive in town for Camporee. She reported that they got heavy rain and the community really stepped up. Overall, the event went well and they plan to return in 2029. Vice President Gee reported that Chief Justice Fox is coming to speak to the Campbell County Bar next week. She shared that their County Bar President tried to resign, but since nobody else wants to serve in that capacity, he is still serving.

- ***Seventh Judicial District*** – Commissioner Craig Silva reported that he had a county bar meeting with some of the young leaders and learned they will soon have a new County Bar President, Jared Holbrook. These leaders will be publishing a newsletter every month. Commissioner Silva shared that since they no longer have a funding source, he wishes to speak with Commissioner Wilde about having a county law library. He shared that once they get back up to speed, they will ask lawyers to begin paying dues. He reported that the Supreme Court is coming for oral argument in September.
- ***Eighth Judicial District*** – Commissioner Wilde shared that his annual district conference was scheduled for today; however, it was cancelled at last minute. They usually get a very good turnout and even had an eFiling program planned for today. He reported that his county's funding source has been an additional filing fee for every case filed. He thinks that may disappear with eFiling, so they may have to reassess that. Commissioner Wilde shared that the Converse County Bar is still getting together. He reminded the Board that this would be his last meeting and shared that he has enjoyed his service on the Board.
- ***Ninth Judicial District*** – Commissioner Melinkovich shared that things are going smoothly in his district other than a similar sentiment with the dissatisfaction with the practice of law. He is hoping that will change.

Board/Committee Liaison Reports

- ***Civil Pattern Jury Instructions Committee*** – Commissioner Kessner shared that the committee just issued a new set of instructions.

President Anna Olson adjourned the meeting at 6:18 p.m. on Friday, August 16, 2024.

Minutes Submitted by:

Sharon Wilkinson
Executive Director