

Wyoming State Bar Officers & Commissioners Meeting
January 23 – 24, 2015
County Government Annex Building
Thermopolis, Wyoming

In attendance: Bradley D. Bonner, President; Devon O’Connell, President-Elect; John A. Masterson, Vice President; Weston T. Graham (via teleconference, Saturday only), Treasurer; Patrick W. Korell, Immediate Past President; Melinda S. McCorkle, First Judicial District Commissioner; Dawnessa A. Snyder, Second Judicial District Commissioner; Nicholas T. Haderlie, Fourth Judicial District Commissioner; Bobbi D. Overfield, Fifth Judicial District Commissioner; James L. Edwards, Sixth Judicial District Commissioner; J. Kenneth Barbe, Seventh Judicial District Commissioner; Nathaniel S. Hibben, Eighth Judicial District Commissioner; Erika M. Nash, Ninth Judicial District Commissioner; Sharon Wilkinson, Executive Director; Marie Ellis, CLE Director; Cathy Duncil, Admission Director; Brandi Robinson, Lawyer Referral Coordinator; and Mark Gifford, Bar Counsel

Absent: Blake A. Klinkner, President of the Young Lawyers Section

Guests: Wayne Herr, McGee, Hearne & Paiz; Candice Cochran, Wyoming Professional Assistance Program; John Ordiway (via teleconference), Wyoming Professional Assistance Program; Jack Speight (via teleconference), Wyoming Lawyer Assistance Program; Hon. Michael K. Davis, Lily Sharpe and Steven Dreher (via teleconference), Wyoming Supreme Court; Walter Eggers (via teleconference), Access to Justice Commission

President Brad Bonner called the meeting to order at 12:30 p.m. on Friday, January 23, 2015.

Approval of Agenda

President-Elect O’Connell made a motion to approve the agenda; Commissioner Snyder seconded the motion. All voted in favor of the motion.

Approval of Meeting Minutes

Commissioner Snyder made a motion to approve the November 7 – 8, 2014, meeting minutes; Vice President Masterson seconded the motion. All voted in favor of the motion.

Resignation of Commissioner

President Bonner announced that Commissioner Tammy Burt resigned from the Board of Officers & Commissioners due to some unfortunate health concerns. Executive Director Wilkinson will distribute a call for expressions of interest in the Third Judicial District and schedule a special meeting of the Board in order to make that decision about her replacement.

Treasurer's Report

In Treasurer Graham's absence, Cathy Duncil, Bookkeeper, gave the Treasurer's Report. Executive Director Wilkinson shared her concerns about the increased costs associated with the launch of the Bar's new website and membership database. She provided significant background about the project to explain how the Bar arrived in this position. Executive Director Wilkinson asked for some direction in regard to future spending. All agreed that it was too soon to make a decision. Executive Director Wilkinson was asked to bring more information and updated cost figures to the April 2015 meeting for further discussion.

Commissioner Snyder made a motion to accept the Treasurer's Report; Commissioner Overfield seconded the motion. All voted in favor of the motion.

2014 Annual Audit Report

Wayne Herr, Partner from McGee, Hearne & Paiz, LLC, discussed the Wyoming State Bar's 2014 audit report with the Board. After a review of the written report, Mr. Herr gave the Board a heads-up about a new governmental accounting requirement that will affect next year's audit that is related to Wyoming's retirement plan. All participating employers will be required to take their share of the unfunded liability and show it on their organizations' books. Mr. Herr's rough estimate of the Bar's liability is \$500,000. He clarified that even though the Bar would never be expected to pay the liability, it will be required to show it on the books.

Past President Korell made a motion to approve the annual audit report. Commissioner Overfield seconded the motion. All voted in favor of the motion.

Wyoming Professional Assistance Program

Candice Cochran, Executive Director of the Wyoming Professional Assistance Program (WPAP), joined the Board meeting to provide an overview of the services offered by WPAP as well as an update specifically relating to the legal profession since the Bar contracted with WPAP in 2014.

Clients' Security Fund

Executive Director Wilkinson provided the board an overview of what the Clients' Security Fund (CSF) is. She also shared that in this fiscal year (2014/2015), the Bar has reimbursed clients a total of \$7,775. Last fiscal year (2013/2014), the Bar reimbursed clients a total of \$9,550. A large percentage of these reimbursements is due to one attorney. Executive Director Wilkinson shared that while there is money set aside for this purpose, there is currently no plan to replace the funds that have been spent. She encouraged a larger discussion regarding how to fund CSF.

Mark Gifford, Bar Counsel, shared that this program was assigned to him in the 2013 office restructure and he has every intention of overhauling it.

Past President Korell made a motion to transfer \$14,000 out of reserves and designate it for Clients' Security Fund in order to get that fund back up to around \$75,000. Commissioner Edwards seconded the motion. Cathy Duncil, Bookkeeper, clarified that she would take unrestricted funds and restrict \$14,000 to CSF. All voted in favor of the motion.

Judicial Learning Center

President-Elect O'Connell reminded the Board about the construction of the Judicial Learning Center (JLC) at the Wyoming Supreme Court. There is currently a fundraising effort under way to fund this project. The first phase goal is \$85,000, which will be matched by a legislative appropriation. President-Elect O'Connell shared that the Executive Committee has agreed that the Bar should make a significant contribution to the JLC. She provided an overview of what the Bar's contributions have been in the past for other organizations and/or causes.

Past President Korell shared that he is very involved in the fundraising efforts of the JLC. He recommended channeling any contribution through the Wyoming State Bar Foundation. President Bonner shared that there has been a lot of push to make some of the exhibits mobile so they can be taken on the road. Cathy Duncil, Bookkeeper, brought the Board's attention to the overall collection of all funds and what they are designated for. Commissioner Snyder suggested designating \$50,000 out of the Marketing & Special Projects budget. There was discussion about some members of the Bar not being in support of the Bar contributing to the Judicial Learning Center. Commissioner Edwards wondered if this should be discussed with the membership at a larger level.

Commissioner Barbe shared that he was nervous about a significant contribution affecting the overall fundraising goal. If the Bar contributed, other lawyers may say, "Why should I?" Commissioner Overfield wondered about putting an option on the license fee statement so that each member is making his/her own choice to donate or not and at what level. President-Elect O'Connell wondered if the money does not get raised, will the Legislature think lawyers do not support the project.

President Bonner wondered if we want to seek the input from the members of the Bar, would we want to do it from a judicial district level or should we do it on a statewide level from the Bar office. Commissioner McCorkle felt that if we could show that savings from the Wyoming Law Review went towards funding the JLC, that would go over more smoothly. Commissioner Haderlie felt that this Board's mission is to provide value to the membership and not to fund this kind of project. He cautioned against polling the members for fear of politicizing the project.

President Bonner recommended gathering more information regarding any urgency to this matter and putting on the agenda again for discussion in April.

Electronic Filing

Hon. Michael K. Davis, Lily Sharpe, and Steven Dreher from the Wyoming Supreme Court joined the Board meeting via teleconference to provide an update on electronic filing in state court. Justice Davis reported that the Court has been working with Thomson Reuters on the District Court case management system. In March 2014, the entire case management system was up and functional in all District Courts. An e-filing system is now being designed. He noted that this is a major change for the clerks of district court, who all operate independently. This has forced some uniformity on them. Thomson Reuters has now fixed the bugs in the system and they expect to deploy e-filing in Sweetwater County in the next month or two. Once launched, they will start with criminal and juvenile cases and then expand to the rest. There will also need to be training for members of the Wyoming State Bar.

President-Elect O'Connell wondered what the Bar's role is in this and if there were ways to help the process move along. Justice Davis shared that lawyers expressing some enthusiasm about e-filing to the district court clerks would be helpful.

After the Wyoming Supreme Court representatives left the call, there was general discussion about the most effective way for lawyers to approach clerks. Mark Gifford, Bar Counsel, cautioned that we need to make certain that Justice Davis is in the loop on these efforts so we do not unwittingly derail the efforts. President-Elect O'Connell, Commissioner Haderlie and Commissioner Overfield will serve on a sub-committee to coordinate with Justice Davis.

Limited Legislative Activity

Executive Director Wilkinson provided an update from the discussion during the November 2014 meeting regarding separating the Limited Legislative Activity (LLA) fee in the budget. She referred to the memo in the Board notebook. President-Elect O'Connell clarified that the Legislative & Law Reform Committee meets actively during the legislative session.

Commissioner Snyder made a motion to remove the LLA line item on the next license fee statement; Commissioner McCorkle seconded the motion. Commissioner Edwards inquired as to whether or not we take the \$2.00 out of the license fee. After a reminder that the Bar is admitting new lawyers each month, Commissioner Snyder clarified that this would go into effect on October 1, 2015. Vice President Masterson wondered if we were collecting these funds for some certain reason. Past President Korell clarified that the Bar was fairly active in last year's legislative session in regard to the court security funding.

Mark Gifford recommended that if we are going to expend any resources on lobbying, it has to be within *Keller vs. State Bar of California*, and it also has to be earmarked funds in which we gave our members the choice of opting out of. He shared that he did support the idea of doing away with the LLA opt-out on the license fee statement. The motion carried.

Commissioner Snyder made a motion to set aside the current money (approximately \$3,800) that has been collected in 2014-2015 and designated for the LLA. President-Elect O'Connell seconded the motion. The motion carried.

Access to Justice Commission 2014 Report to the Wyoming Supreme Court & Five-Year Strategic Plan

Walter Eggers joined the Board meeting via teleconference. He shared that the Access to Justice Commission really appreciates the collaboration with the Wyoming State Bar. The Supreme Court has required the Access to Justice Commission to file annual and semi-annual reports. The first part of the report summarizes who the legal services providers are and what they are up to. Since they filed the report, the Wyoming Center for Legal Aid changed its name to Equal Justice Wyoming. The reason behind this was to clear up some confusion between the Center and Legal Aid of Wyoming. The Commission settled on three main goals for the next five years. They are:

1. Continuing to support legal services in the state,
2. Creating a communication plan for members of the Bar and Wyoming citizens about legal services in the state, and
3. Helping promote pro bono services amongst Wyoming lawyers.

Mr. Eggers mentioned a few changes to the Commission. After wonderful leadership from Chief Justice Burke, he has handed the leadership of the commission to Justice Fox. They have also had some new members join the Access to Justice Commission over the past year.

President Bonner thanked Mr. Eggers and his firm for its numerous contributions to access to justice efforts as a whole.

Wyoming Statute Clean-Up Project

Mark Gifford reminded the Board that there was a committee created at the November 2014 meeting to revamp the lien statute. Mr. Gifford would like approval to put the proposed statute out for comment to the membership, and he clarified that the proposed statute will not make it into this legislative session.

After much discussion about the proposed statute, Commissioner Edwards made a motion to put the proposed lien statute out for comment to the members of the Wyoming State Bar; Commissioner Nash seconded the motion. All voted in favor of the motion.

Mr. Gifford reported on the amendments to the statutes related to the admissions process and the practice of law. The Board of Law Examiners has recently recognized how out of date the admissions statutes are. Oftentimes, the statutes contradict the Court rules. During the process of updating Court rules, even the Court recognized the need for this. Mr. Gifford shared that he has spoken to Representative Kermit Brown, who currently serves as the Speaker of the House, and Representative Brown will find sponsors and get these introduced.

Wyoming Lawyer Health Benefit Plan Dissolution

Executive Director Wilkinson referred the Board to a memo from Bill Hiser, who served on the Wyoming Lawyer Health Benefit Plan Board, regarding the dissolution of the health benefit plan.

Fee for Motion Applicants

Executive Director Wilkinson reminded the Board of its discussion during the November 2014 meeting regarding the possibility of increasing the fee for motion applicants. She again clarified that this would not be a revenue-generator for the Wyoming State Bar. These fees are paid directly to the Wyoming Supreme Court, and that money goes into the special revenue fund which is used to reimburse the Bar for administering the admissions program. Executive Director Wilkinson shared that as a result of this Board's discussion last November, she took this up with the Board of Law Examiners (BLE). After learning that many other jurisdictions set a much higher fee for motion applicants, the BLE directed Executive Director Wilkinson and Cathy Duncil, Admissions Director, to do some research and present a proposed dollar amount to the BLE for approval. Executive Director Wilkinson will report back to this Board once that decision has been made.

Wyoming Law Review Subscriptions

Executive Director Wilkinson distributed a letter that has been sent to Jacquelyn Bridgeman, Interim Dean of the Law School. She reminded the Board of its decision last summer to no longer fund the Wyoming Law Review at the \$26,000/year amount. At the direction of the Board, Executive Director Wilkinson implemented an opt-in system for those wishing to receive a print copy of the publication. On January 15, Executive Director Wilkinson sent a

data file containing full contact information for the 254 members of the Bar who “subscribed” to the Wyoming Law Review. She also sent payment in the amount of \$1,270, which is reflective of the Board’s decision to pay \$5.00 per member per issue.

Energy & Natural Resources Section

Commissioner Haderlie also serves as the Chair of the Energy & Natural Resources Section (formerly the Mineral Law Section). He shared that the Energy & Natural Resources Section leadership has developed bylaws. According to the Bar’s bylaws, all section bylaws must be approved by the Board of Officers & Commissioners.

Vice President Masterson made a motion to approve the bylaws of the Energy & Natural Resources Section; President-Elect O’Connell seconded the motion. All voted in favor of the motion.

President Bonner adjourned the meeting at 5:25 p.m. on Friday, January 23, 2015.

President Bonner reconvened the meeting at 8:05 a.m. on Saturday, January 24, 2015.

Wyoming State Bar Reserves

Treasurer Weston Graham joined the Board meeting via teleconference. Treasurer Graham wanted to discuss what the Wyoming State Bar has in reserves and how we are going to spend this money. Treasurer Graham reminded the Board about the limitations the Bar has in regard to investing due to the fact that the Bar is a quasi-governmental agency. He briefly discussed restricted funds versus unrestricted funds. Commissioner Hibben wondered about taking some money out of savings and putting it into CDs. Treasurer Graham shared that those decisions have everything to do with interest rates and oftentimes savings accounts have better rates. Treasurer Graham also mentioned that we try to stagger the maturity dates as much as we can so that if ever we needed money quickly, there would be a CD maturing soon. Vice President Masterson recommended seeing what the Wyoming State Treasurer does in regard to investing the State’s money. Mark Gifford suggested including Wayne Herr from McGee, Hearne & Paiz, LLC in this discussion, as his accounting firm also audits several state agencies. President Bonner asked Treasurer Graham to sort out what the rules are that govern this issue so that we know what we can do and bring that back to the April meeting.

At some point, President Bonner would like to have a philosophic discussion regarding whether or not it is appropriate for the Bar to charge its members fees that are resulting in an overabundance of cash. Past President Korell mentioned that the Bar has the ability to invest in WyoStar and the interest rate is over 2%. Treasurer Graham will communicate with Past President Korell and learn what he can about WyoStar.

There was much discussion about possible funding ideas. All agreed that the Board needs to have a broader discussion about the Wyoming Lawyer Assistance Program (WyLAP) and its budgeting needs.

President Bonner also shared that he thinks the Judicial Learning Center is an important project. Those who have seen the products and displays in Colorado know how impressive it is. President Bonner thinks if lawyers do not support this, it sends a bad message. President Bonner reminded the board that we budgeted \$26,000 for the Wyoming Law Review and we

know we are not going to spend that. He wondered if we wanted to make the decision today about the JLC contribution.

After much discussion about constituents' concerns, Commissioner Hibben made a motion to contribute \$10,000 to the Judicial Learning Center. He encouraged the Board to consider a future contribution as well. Commissioner Nash seconded the motion. All voted in favor of the motion.

Bar Counsel Report

Mark Gifford provided an overview of his current disciplinary activity. He brought the Board's attention to some of the rumors out there that Bar Counsel is "out of control" and reassured the Board that there is significant oversight of his office. He also encouraged anyone with concerns to contact any member of the Peer Review Panel.

Mr. Gifford reported that the Wyoming Supreme Court informally approved the proposed revisions to the Disciplinary Code, with the exception of making a formal charge open to the public. He shared that he is excited about the new set of disciplinary procedural rules because they really provide more due process.

Mr. Gifford shared some feedback he has received about Rule 801 – Professionalism and Civility. Only one judge has levied sanctions; however, many are using the rule as a gentle reminder for misbehaving attorneys. Colorado is interested in Wyoming's professional rule. As a result, Mr. Gifford was invited to Colorado to speak to the committee tasked with researching this issue.

Mr. Gifford reported that he has gotten more involved with the National Organization of Bar Counsel (NOBC); he is presenting on three different programs at the mid-year meeting in Houston next month. He has also been asked by the Executive Committee of the NOBC to run for an office.

Commissioner Overfield shared that she received a call from one of her constituents regarding the increase in the number of disciplines. There was much discussion about the numerous changes to Bar Counsel's role over the years as well as the reasons for the perceived increase in complaints.

CLE Director's Report

Marie Ellis, CLE Director, gave the Board an updated list of CLE program offerings. She discussed some of the upcoming programs the Bar is sponsoring. President Bonner wondered if it would make sense to task the CLE Committee with more than just the Annual Meeting CLE programs. Executive Director Wilkinson shared that she thought it was a great idea and suggested letting that committee get the Annual Meeting planning off the ground and then she and Ms. Ellis would meet with the committee members to start that process.

Admission Director's Report

Cathy Duncil, Admissions Director, reported that she has 29 people signed up to take the February 2015 exam. She also made mention that the Wyoming Supreme Court admitted 213 attorneys in 2014.

Ms. Duncil reported that along with other members of the staff, members of the BLE and members of the Character & Fitness Committee, she will be attending the National Conference of Bar Examiners (NCBE) annual conference in Chicago at the end of April. Ms. Duncil and Executive Director Wilkinson gave an overview of the agenda items from this conference – everything from new cheating techniques to consideration of giving the exam on a tablet.

Vice President Masterson, who serves on the BLE, reminded the Board that the BLE will be considering the increase in the motion applicants' fee. One aspect to increase the fee is to increase revenue, but something else to be considered is to raise the bar in order to be admitted in Wyoming.

Pro Bono Report

Cathy Duncil, Pro Bono Coordinator, reported that she is considering going to the Equal Justice Conference in May. Executive Director Wilkinson encouraged Ms. Duncil to reach out to all those who attended Pathways to Professional Practice earlier that week and encourage pro bono involvement.

Lawyer Referral Program Report

Brandi Robinson, Lawyer Referral Service Coordinator, reported that she attended the national Lawyer Referral & Information Service conference in California earlier this year. She reported that there is a trend around the country for moderate means programs. Legal Aid of Wyoming's income criteria is 200% of the national poverty level. There are so many people who make too much money to qualify for legal aid. Ms. Robinson feels that a moderate means program would only accentuate the current access to justice efforts around the state. Ms. Robinson and Cathy Duncil, Pro Bono Coordinator, met with Angie Dorsch and Chris Jorgenson from Equal Justice Wyoming to establish a partnership with them to hopefully get Legal Aid of Wyoming on board. The goal would be that the intake hotline would screen all callers for income eligibility and refer them accordingly. Ms. Robinson also mentioned that she and Cathy Duncil will be attending the Wyoming Trial Lawyers Association convention in June to recruit both pro bono volunteers and new members of the Lawyer Referral Service.

Ms. Robinson then discussed the new Lawyer Referral Service (LRS) offerings with the Bar's new website. LRS members are now able to customize their own profiles. After much discussion about the new features, President Bonner suggested that Ms. Robinson provide an article in the *Wyoming Lawyer* about the "new and improved" LRS.

Young Lawyers Section

In YLS President Blake Klinkner's absence, Executive Director Wilkinson read a written update on the goings-on of the section.

President's Report

Board/Committee Appointments

President Bonner shared the process he underwent to make all of his board/committee appointments. He enjoyed the process and tried to appoint many who have no history with the Bar. He has heard back from some of them who are looking forward to serving.

Law School Dean Search Committee

President Bonner traveled with the UW College of Law Dean Search Committee to Washington D.C. to interview the candidates. He shared that the caliber of these candidates is absolutely excellent. President Bonner has enjoyed the opportunity to learn more about the internal workings of the law school.

President-Elect's Report

Wyoming State Bar Foundation

President-Elect O'Connell joined the Board meeting via teleconference on Saturday. She asked Commissioner Nash, who serves on the Wyoming State Bar Foundation (WSBF) Board, to report on the Wyoming State Bar Foundation. Commissioner Nash reported that the Foundation is facing quite a significant challenge with its funding. The WSBF has approximately \$50,000 to give to grant applicants, which is a steep decrease from previous years. Some of the grant applicants are repeat applicants. There is over \$250,000 being requested in grants.

She reported that the Foundation hired Ashlee Rawlinson as its part-time administrative assistant. She is based out of Cheyenne and previously worked for the Wyoming State Bar.

The Foundation has taken its accounting to McGee, Hearne & Paiz, LLC in Cheyenne. That accounting firm will now handle all bookkeeping services for the Foundation.

One of the Foundation's biggest challenges is how to reeducate the Bar about what the Foundation is, what its mission is and what they are going to do about funding. They need to determine whether or not they need an executive director.

Executive Director Wilkinson offered the Bar's assistance in anything the Foundation may need. She discussed ideas to recruit members and offered to publish anything in the *Wyoming Lawyer* for the Foundation.

Vice President's Report

Equal Justice Wyoming Report

Vice President Masterson followed up on Walter Egger's report that was provided the previous day.

Executive Director's Report

License Fees

Executive Director Wilkinson shared that the payment of license fees for the 2014/2015 fiscal year went smoothly. The Wyoming Supreme Court recently suspended 11 members of the Bar for failure to pay their license fees.

Bar Member Survey

Executive Director Wilkinson reminded the Board that the Bar conducts the Bar Member Survey on odd-numbered years in preparation for the Strategic Planning

Session. After some discussion, it was decided that the staff will prepare a draft of the survey to share with the entire Board at the April 2015 meeting for finalizing. The survey will then be distributed to Bar members in early May in order to have the results back by early June. Results will be shared with the full Board a few weeks prior to the June 19 – 20th Strategic Planning session.

Western States Bar Conference

Executive Director Wilkinson reminded the Board about the upcoming registration deadline to attend the Western States Bar Conference. She shared the list of those who were already registered.

President Bonner adjourned the meeting at 11:23 a.m. on Saturday, January 24, 2015.

Minutes Submitted by:

Sharon Wilkinson
Executive Director