

# Wyoming State Bar Board of Officers & Commissioners Meeting

January 28, 2022

Via Zoom

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**In Attendance:** J. Kenneth Barbe, President; Christopher H. Hawks, President-Elect; Teresa S. Thybo, Vice President; Kelly M. Neville, Treasurer; Billie LM Addleman, Immediate Past President; Stefanie L. Boster, First Judicial District Commissioner; Sarah L. Chavez Harkins, Second 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; James T. Whiting, Ninth Judicial District Commissioner; Emily S. Madden, Young Lawyer Section Chair; Sharon Wilkinson, Executive Director; Mark W. Gifford, Bar Counsel; and Cathy Duncil, Admissions Director

**Guests:** Wayne Herr, Partner at McGee, Hearne & Paiz, LLP  
Mike Merback, Financial Advisor at RBC Wealth Management

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President J. Kenneth Barbe called the meeting to order at 12:33 p.m. on Friday, January 29, 2022.

## **Approval of Agenda**

Executive Director Sharon Wilkinson asked for an item to be added to the agenda, as she has a request from a member to return to Active status and it needs to go before the Board.

Commissioner Alison Gee made a motion to approve the agenda with Executive Director Wilkinson's recommended addition. Commissioner Stefanie Boster seconded the motion. The motion carried unanimously.

## **Approval of Minutes**

Commissioner Craig Silva made a motion to approve the November 19, 2021, meeting minutes. Commissioner James Whiting seconded the motion. The motion carried unanimously.

## **Executive Committee Meeting Minutes**

President Barbe directed the Board's attention to the minutes of the Executive Committee conference calls and asked if anyone had any questions. There were none.

## **Treasurer's Report**

Treasurer Kelly Neville shared that at the end of the license fee cycle, Cathy Duncil, Bookkeeper, was very diligent about maintaining FDIC limits in each bank account. Treasurer

Neville also commented that she was pleased to see so many of the members joining the sections.

Executive Director Wilkinson asked Cathy Duncil if she would explain to the Board why we are already at 98.7% of our budgeted expense for credit card fees even though we are only a quarter of the way through the fiscal year. Ms. Duncil reported that she recently changed to a new credit card processing vendor called Stripe. She shared that Stripe works well for the online orders coming through the website (i.e., license fees, CLE program registration, bookstore orders, etc.), and when it comes time for her to reconcile at month's end, the reporting is much improved. She did share that Stripe is a bit more expensive, however, and reported that she and Executive Director Wilkinson have discussed projecting a more accurate number for next year's budget.

Executive Director Wilkinson again commented that even though we are a quarter of the way into the current fiscal year, we have already generated 76.2% of the projected revenue and have spent 23% of the budgeted expenses.

Commissioner Wilde asked Ms. Duncil why the Balance Sheet reflects a negative balance in the checking account. Ms. Duncil explained that years ago, the checking account was set up as a "sweep" account. She explained that this was back when interest rates were very favorable, so we wanted a large balance in the savings account earning interest but not in the checking account. It is still set up this way today, so funds sweep into the checking account as checks are cashed.

President-Elect Chris Hawks made a motion to accept the Treasurer's Report. Commissioner Boster seconded the motion. The motion carried unanimously.

### **Admissions**

Cathy Duncil, Admissions Director, shared that there are 21 applicants signed up to take the February Bar exam and she is still on track to administer an in-person exam.

Ms. Duncil reported that she was originally planning to travel to San Diego last week to attend the National Conference of Bar Examiners (NCBE) Uniform Bar Exam (UBE) Forum, but the NCBE transitioned to an all-virtual conference. She reported that she did participate virtually and was pleased to see that all 41 UBE jurisdictions were represented. Ms. Duncil shared that the main topic of the Forum was the next generation of the Bar exam. She reported that there has been much discussion about how the Bar exam should be administered and graded. She shared that big changes will be coming, as the NCBE Testing Taskforce is recommending that the exam be all computer-based, in-person at various testing sites around the country. Ms. Duncil shared that it would be very similar to how the MPRE is administered. The exam would still be administered twice per year, but the exam would only take one day. She shared that the target for the newly administered exam is 2026 so the incoming law school class of 2023 would be the first to sit for the new exam.

Commission Gee shared her concern that it seems like it is becoming easier and easier to be a lawyer. She shared that it is very concerning to her that applicants would not even have to come to Wyoming to be licensed here.

Mark Gifford shared that this is a really dynamic situation, as states across the country are starting to abandon any sort of exam for entrance into the profession. He thinks the NCBE is simply trying to retain testing in order to establish a minimum level of competency.

President Barbe asked if there was a specified reason for such a drastic change. Mr. Gifford shared that there are several factors at work; some argue that the Bar exam is discriminatory against minorities.

Cathy Duncil shared that there was a hearing before the Character and Fitness Committee last September and the Committee recommended that an applicant who had already been denied admission once undergo an Independent Medical Evaluation (IME). Mark Gifford reminded the Board that when an applicant is denied admission, he/she must sit out for two years before applying for admission again. He shared that this applicant is going to have a psychological work-up for both substance abuse and personality disorders. Mr. Gifford reported that the evaluation will take place at a facility in Lawrence, Kansas, at a cost of \$8,600. He shared that these funds come out of the special revenue account, which is funded by all applicants' admission fees and not from the Bar's budget.

Mr. Gifford reported that he received a call from the doctor who is doing the evaluation, and the doctor shared that he could see why the Character and Fitness Committee denied this applicant's admission two years ago. The doctor shared that he was confident that if the applicant is ever going to work in a professional environment, the applicant is going to require some intense treatment over time. Mr. Gifford shared that he expects a follow-up call from the doctor soon.

### **Annual Audit Report**

Wayne Herr, Partner at McGee, Hearne & Paiz, LLP, joined the meeting and provided an overview of the Board's role in the annual audit. He stressed the importance of honesty and integrity in the financial reporting process and reminded the Board that it has oversight of the Bar's management. He shared that it is also important to hold the auditor accountable to ensure that the firm meets requirements. Mr. Herr shared that for the 2021 audit, his firm did a financial audit and a compliance review.

Mr. Herr referred the Board to the independent auditor's opinion, which identifies the scope of what the audit is and what exactly they audited. He reminded the Board that his firm does the Bar's audit under government auditing standards, which typically focuses on compliance with laws and regulations at a high level. However, he shared that with the Bar, they do not have a lot of laws and regulations that effect the financial reports since the Bar does not have any public funds.

Mr. Herr was pleased to report that they did not identify any deficiencies with internal controls. He shared that management provides a discussion and analysis that describes the financial statements and points out any changes from prior years.

Mr. Herr shared that under governmental auditing standards, they are required to reflect the deferred pension liability as a result of the Bar employees participating in the Wyoming State Retirement plan, but it does not actually impact the Bar's financial position.

Mr. Herr shared that financially, it was a very strong year for the Bar. He reported that assets are up considerably due to increases in cash and investments; equity is up due to the current year earnings; revenue is up due to license fees and Annual Meeting; and expenses are down due to Annual Meeting being all-virtual.

Wayne Herr shared that there were no disagreements over financial statements and that the staff was very cooperative, prepared and flexible with his team.

President Barbe asked Mr. Herr if he saw a need to discuss any issues with the Board without the staff present. Mr. Herr shared that there was no need, as things are functioning very smoothly. Mr. Herr shared that even though the majority of the Bar staff worked remotely for a portion of 2021, they did not discover any concerns with checks and balances.

Cathy Duncil thanked Mr. Herr for his constant support of her and his many years of service to the Bar and noted that this would be his last audit as he will be retiring in June. Executive Director Wilkinson echoed Ms. Duncil's appreciation and wished him well in his retirement.

President Barbe congratulated the staff on another great audit.

Treasurer Neville made a motion to accept the annual audit report. Commissioner Boster seconded the motion. The motion carried unanimously.

### **Annual Investment Report**

Mike Merback, the Bar's Financial Advisor at RBC Wealth Management, joined the meeting by phone. He shared that he hoped to accomplish four things during his time with the Board: 1) a performance review of the Bar's investments; 2) allocation and rebalance of the assets; 3) a few notes about the outlook for 2022; and 4) take any questions from the Board.

Mr. Merback provided an overview of the overall performance of the investment account in 2021 and shared that the Bar averaged a return on investments of 7 <sup>3</sup>/<sub>4</sub>% annually.

Mr. Merback shared that earlier in the month, he met with the Investment Committee, which is made up of all members of the Executive Committee and Executive Director Wilkinson. During that meeting, he made the recommendation that we adjust the target allocations a bit. He shared that after discussion, the Investment Committee approved his recommendations.

Mike Merback shared that it has been quite the start for 2022, as there has been an awful lot of volatility in the market. He shared that 2021 was a very positive year for equities but not so good for fixed income. He discussed how as interest rates move up, the value of an existing bond will decline. He reported that the outlook for 2022 is much the same—equity markets will be good but are predicted to have slower growth than 2021. He commented that interest rates will increase beginning in March.

Mr. Merback was pleased to report that we are right on target for what our goal is and he feels very good about the reallocation.

President Barbe reported that there was discussion amongst the Investment Committee about possibly adopting an ESG Policy and he asked Mike Merback to explain that.

Mike Merback explained that ESG stood for environmental, social and governance and that many non-profits and individuals implement policies to screen potential investments to ensure they are socially and environmentally responsible. He encouraged the Board to have further discussion about this in order to determine if the Bar needs such a policy. He shared that it was absolutely doable, but it would take some work to review each of the Bar's holdings and do a deeper dive in order to learn what the ESG status of each is. He mentioned that he would partner with someone else at RBC for that process.

President Barbe asked for the Board's feedback and shared that the Investment Committee could potentially establish some criteria for what types of investments are important and what types the Bar should avoid. He shared that with a membership as wide and diverse as ours, it may be somewhat difficult.

Executive Director Wilkinson suggested letting the Board members digest this over the next few months and bring it back for discussion at the April meeting.

Commissioner Gee shared that she does not think it is the Board's place to determine such things. She felt that the Board's goal is to make money for the Bar, but not to pick winners and losers in our economy.

President Barbe directed Executive Director Wilkinson to include this as an item for discussion on the April Board meeting agenda. He encouraged everyone to give this some thought and be prepared for a discussion.

Commissioner Shawn Wilde asked Mr. Merback if he has looked into any cryptocurrency investments. Mr. Merback shared that he has not, as RBC Wealth Management is an incredibly conservative firm and is currently prohibited from investing in it. He shared that he thinks it is still too young of an asset class with a lot of risk involved. He shared that the Investment Committee could add that as an asset class, but it is not a possibility at this time.

President-Elect Hawks commented that it is a very interesting question considering how wildly popular cryptocurrency investing is. He shared that he has a few clients who are actively

invested in cryptocurrency, but it is extremely volatile. He shared that if the Investment Committee is interested in learning more and seeing a presentation on cryptocurrency, he can assist with that.

### **Mandatory Continuing Legal Education (CLE)**

Executive Director Wilkinson reminded the Board members that all active members of the Bar had to be compliant with their 2021 CLE requirements by January 15<sup>th</sup>. She reported that 189 members had been assessed the \$300 delinquency fee required by the CLE Rules. She reminded the Board that those members have until March 1, 2022, to pay the fee and submit the required number of CLE hours. She shared that those members who are still not compliant by March 1<sup>st</sup> will be assessed the requisite \$300 noncompliance fee and be recommended for suspension to the Wyoming Supreme Court.

### **Attorney Discipline**

Mark Gifford, Bar Counsel, shared that there is a recommendation for a stipulated suspension currently at the Supreme Court. He provided an overview of the disciplinary case.

Mark Gifford shared that the Bar has been named in a lawsuit filed by a man named Leonard Mosher. He shared that the case is in federal court and while there are several lawyers named, he cannot determine in the complaint why the Bar is named. Mr. Gifford shared that he ran Mr. Mosher's name through his disciplinary database and discovered that he filed a complaint against a lawyer years ago, but it did not amount to anything. Mr. Gifford shared that all Mr. Mosher has done at this point is file the complaint. He reported that he received the complaint by certified mail, which is not effective service in federal court. He shared that the Bar has retained Casper lawyer Anna Reeves Olson to defend the complaint.

Mr. Gifford shared that Leigh Anne Manlove's disciplinary hearing begins next week. He reminded the Board that President-Elect Hawks will serve as the chair of the hearing panel, which will also include Casper lawyer John Masterson and Alisha Rone, a lay member from Casper. He reported that these volunteers will be giving up eight days out of their business schedules next week and the following week. Mr. Gifford reported that President-Elect Hawks has been spending a considerable amount of time on numerous motions that have been filed and also shared that he, Executive Director Wilkinson and Cathy Duncil have been subpoenaed to appear at the hearing.

Mr. Gifford shared that Casper lawyer Zak Szekely passed away in November and left behind an active practice. He reported that Mr. Szekely had not designated a surrogate attorney, but Commissioner Craig Silva has stepped in as the surrogate at Mr. Gifford's request. Mr. Gifford commended Commissioner Silva for the enormous amount of work he has done to ensure the clients were taken care of. He reported that the main impact this will have on the Bar is that we will reimburse some clients out of the Client Protection Fund, which the Bar budgets for.

Mark Gifford reminded the Board that Becket Hinckley's disciplinary hearing took place in Casper in May 2021. He shared that even though the Board of Professional Responsibility hearing panel submitted its report and recommendation to the Supreme Court in late May or

early June, the Court has yet to rule on the matter. Mr. Gifford mentioned that he has never seen anything like this and wonders what is taking so long.

### **Approval of New Judicial Performance Assessment**

President Barbe reminded the Board that Justice Boomgaarden contacted Past President Billie Addleman last year on behalf of the judiciary and shared that there was a desire amongst the judiciary to improve the Judicial Advisory Poll. He then shared the list of all those who serve on the Judicial Performance Assessment Ad Hoc Committee.

President Barbe reported that the committee took some time to evaluate why the Bar even conducts the poll but ultimately determined that the poll should continue. He shared that the committee reviewed how other states handle judicial assessment—what questions they ask, how they release their results, etc. President Barbe shared that ultimately, the committee settled on the questions Colorado uses and indicated that we even got permission to use those same questions. He shared that the judges on the committee are very pleased with the new questions.

President Barbe shared that there was also discussion amongst the committee members about the judicial retention question and pondered whether it should even be asked. He reported that in the end, the committee supported asking the retention question.

President Barbe shared that the actual process of doing the poll is going to be different, as there will be more questions and more opportunities to provide feedback. He reminded the Board that only the judges themselves see the written comments that pertain to him or her; the Bar does not even receive those.

President Barbe shared that one thing that will be different this year is that the Bar will now collect data from the Wyoming Supreme Court which will provide a list indicating which lawyers have appeared before which judges. He shared that no longer will lawyers have to scroll through the entire list of judges to determine before whom they have appeared. He indicated that Executive Director Wilkinson will share the list with members ahead of time in order for them to verify that the list is accurate. If it is not, she will correct it. President Barbe shared that this will ensure that lawyers are only evaluating those judges before whom they have appeared.

President Barbe reported that the rating system is also going to change when it comes to reporting the results. Judges will be rated as Below Adequate, Adequate or Above Adequate. He shared that the goal here is to hopefully prevent the media from comparing the judges.

Executive Director Wilkinson shared that she is working on a new page on the Bar's website that will list each Supreme Court justice, District Court judge and Circuit Court judge that will include each judge's date of admission to the Bar, date(s) of appointment(s) to the bench, retention date(s) and eventually a link to that each judge's Judicial Performance Assessment results. She also discussed the timeline by which results will be released and commented that the release date will be much sooner than in years past. One factor in this decision is that the

ABA guidelines recommend that judges are given an opportunity to respond publicly to their results prior to the public voting on their retention.

President Barbe shared that a new feature to the results will be the percentage of attorneys that evaluated each judge.

President Barbe shared that this ad hoc committee has worked very hard over the past year to come up with all of these changes and he supports them; however, it is the Bar's project and the Bar foots the bill for it, so he definitely wanted feedback from the Board.

Executive Director Wilkinson shared that the Bar paid \$13,850 for the 2020 Judicial Advisory Poll and the estimated cost for the 2022 revamped Judicial Performance Assessment is \$22,580. Treasurer Neville asked if a portion of that was perhaps a one-time cost for the new design. She wondered if the total cost would eventually decrease as the design would already be complete. Executive Director Wilkinson shared that historical numbers show an increase in the cost every year the poll has been administered (every other year) in her 20-year tenure, so she does not anticipate the cost going down. She indicated that she would inquire, however, and let the Board know.

Mark Gifford commented on the amount of work that has gone into this effort and he shared that he thinks it will present a candid opportunity for discussion amongst lawyers and judges. He shared that it is a vast improvement and the committee deserves a lot of credit for a lot of hard work.

Commissioner Gee shared that she likes the questions better than those on the previous poll. Her only concern is that there are attorneys working on matters that are not necessarily listed as the attorney on the case so they may not be given an opportunity to evaluate the judges.

Executive Director Wilkinson mentioned that this was a topic of discussion amongst the committee. She reported that Ronda Munger, former Deputy State Court Administrator for the Wyoming Supreme Court, joined the last few committee Zoom meetings and discussed that the Court can only do so much. As a result, Executive Director Wilkinson will define "appearance" in the e-mail correspondence shared with the membership so it understands there may be some limitations.

Commissioner Jennifer Kirk asked what the judges will receive when the assessment is complete. She shared in small districts like hers, some attorneys do not believe it is altogether anonymous. She provided an example that if an attorney provides something semi-specific on the poll, he or she could potentially be identified.

President Barbe clarified that there will be two identifying questions on the assessment—how many times have you appeared and how long have you been practicing law? He shared that these questions would be optional, however. After discussion, it was decided to include "prefer not to answer" on those questions even though you could advance in the assessment if you did not respond to those.



Commissioner James Whiting made a motion to approve the Judicial Performance Assessment as presented with the modification. Commissioner Kirk seconded the motion. The motion carried unanimously.

### **Diversity, Equity & Inclusion Section Survey Proposal**

Executive Director Wilkinson brought the Board's attention to the proposed survey she received from Angie Dorsch, the Chair of the Diversity, Equity & Inclusion Section Council. She shared that the Council would like the Bar to distribute the survey to the membership, as it believes the survey results will "facilitate the Section's work raising awareness of these issues, providing a forum for their discussion, and promoting professional practice with respect to diverse communities" as outlined in the introduction of the survey.

President Barbe asked Mark Gifford if he had any concerns with the content of the survey in relation to the Bar's Keller policy. Mr. Gifford indicated he did not and provided an historical overview of diversity efforts in the last few years.

There was discussion about the July 2021 meeting that Then-President Billie Addleman, President Barbe, Commissioner Sarah Chavez Harkins and staff had with the Section Council. Mark Gifford reminded the Board that during that meeting, there was discussion about the Section Council branching out as a voluntary association on its own so that it would no longer be under the confines of the Bar. Executive Director Wilkinson shared that it is her understanding that the Council is continuing those discussions, but she is unaware of any definite plans.

Vice President Teresa Thybo asked Executive Director Wilkinson if there would be an additional cost to the Bar to conduct the survey. Executive Director Wilkinson reminded the Board that the Bar has a monthly subscription to Survey Monkey and she would design the survey using that. She also shared that by using another online software called Constant Contact, she could make the survey actually come from Angie Dorsch as the Chair of the section.

Treasurer Neville shared her concern that the tone of the survey is negative and automatically assumes all participants have experienced discrimination in some form. She recommended adding "I don't know" to the follow-up questions asking why respondents think a particular experience took place.

After discussion, Commissioner Whiting made a motion to approve the Diversity, Equity & Inclusion Section Survey proposal with the recommended change. Commissioner Silva seconded the motion. The motion carried unanimously.

### **Member Request to Return to Active Status**

Executive Director Wilkinson shared that she received a call from a lawyer in Jackson who wished to return to Active status. She shared that according to the Bylaws of the Wyoming State Bar, a member who is not engaged in the active, authorized practice of law in another

jurisdiction may only remain on Inactive status in Wyoming for seven years. In the event the member wishes to take Active status, he or she must go through the admissions process again.

Executive Director Wilkinson shared that there is a clause in the bylaws, however, that allows a member in this situation to request that the Board of Officers & Commissioners waive this requirement, so that is why this matter is before the Board today.

Executive Director Wilkinson shared that Meredith Winn Adams was admitted to practice law in Wyoming in 2007; was on Active status from September 2007 to January 2014; took Inactive status in January 2014 and remained on Inactive status for eight years. She shared that Ms. Adams is also licensed in New York and Virginia; however, she is Inactive in both jurisdictions. She also shared that the last CLE submitted by Ms. Adams was in 2012.

Executive Director Wilkinson shared that in her 20-year tenure, she had only seen one such request come before the Board and that was in September 2016. She shared that it was somewhat of a different situation, as that member was actively practicing in Utah the entire time she was on Inactive status in Wyoming. But she did share that the Board approved the member's request for a waiver of the Bylaws provision. Executive Director Wilkinson directed the Board's attention to the written request submitted by Ms. Adams.

Having never seen such a request, President Barbe asked Mark Gifford if the Board was handling this correctly. Mr. Gifford assured President Barbe that such a request was addressed in the Bylaws.

Commissioner Wilde wondered if the request was premature considering Ms. Adams does not yet have the requisite CLE hours. He also wondered if we should engage the Character and Fitness Committee in this matter.

Executive Director Wilkinson shared her concern that there was no process in writing for making a member go back through the character and fitness screening and asked Cathy Duncil, Admissions Director, what her thoughts were.

Cathy Duncil shared that in order to have the National Conference of Bar Examiners (NCBE) do a background check, the member would need to pay \$500. She shared that the NCBE would verify all of her past employment.

Mark Gifford shared that he perused Ms. Adams' attorney file and there was no indication that she has practiced law since 2007, although she kept her Active status until 2014. He commented that she has been out of the practice for about twice as long as she has been a licensed attorney. He shared that he thinks all of those things combined are problematic.

Commissioner Kirk shared that when she saw Executive Director Wilkinson's e-mail yesterday regarding this, she thought of the many lawyers who were in Ms. Adams' situation—having to continue working while home schooling kids and dealing with the pandemic. She acknowledged that these were certainly Ms. Adams' personal choices, but she also felt that it

was the member's responsibility to keep in mind what her licensure requirements were. Commissioner Kirk worried about setting a precedent by approving this request.

President-Elect Hawks, also from Jackson, shared that in the limited time Ms. Adams practiced law, he never crossed paths with her in his work in Jackson.

Vice President Thybo shared that after having been out of the practice for so long, she did not think Ms. Adams simply taking a few CLE courses was adequate. Commissioner Kirk agreed.

President-Elect Hawks asked Executive Director Wilkinson if the Board denied the request, would Ms. Adams have to take the Bar exam again. Executive Director Wilkinson confirmed that was true, as she would not qualify for admission on motion.

President Barbe shared that the Bylaws regarding this request indicate “. . . for good cause shown by clear and convincing evidence . . .” He shared that while he feels sorry for Ms. Adams and would not want to take the Bar exam again himself, he is not seeing “good cause,” for granting her a waiver.

President-Elect Hawks made a motion to deny Meredith Winn Adams' request to return to Active status. Commissioner Boster seconded the motion. The motion carried unanimously.

### **Judicial Reform Task Force**

Treasurer Neville shared that one of the sessions at last year's Jackrabbit Bar Conference in Idaho featured Utah's Sandbox and other systemic judicial reform efforts in recognition of the vast population of people not being assisted with their legal problems due to the lack of lawyers to offer assistance. She shared that those issues are clogging the court system.

Treasurer Neville shared that she was invited by Justice Boomgaarden to join her and Jacquelyn Bridgeman of the University of Wyoming College of Law faculty to discuss getting an initiative like this started in Wyoming. She shared that Justice Boomgaarden requested that the Bar appoint some lawyer members to a task force that will be working on this effort. She reported that after discussion with Executive Director Wilkinson, Mark Gifford and other members of the Executive Committee, three lawyers were willing and excited to participate. Those members are 1) Walter Eggers, 2) Rennie Phillips, and 3) Tyler Garrett. Treasurer Neville provided some background information on each of the appointees.

Treasurer Neville shared that it is Justice Boomgaarden's hope that Judge Timothy C. Day would take the lead on the taskforce now that he is retired. She also shared that the group had a desire to bring someone from the business community on board and Josh Dorrell, the head of the Wyoming Business Council, has agreed to serve.

Treasurer Neville shared that the taskforce will be meeting in person in Cheyenne soon to discuss efforts in other states in order to determine the best plan of attack for Wyoming. They all agreed that they want a strong commitment and some strong support, as some of these topics and discussion might be perceived as threatening to Wyoming lawyers. She encouraged

any of the Board members to feel free to reach out to Mr. Eggers, Ms. Phillips or Mr. Garrett if they have feedback or ideas.

### **President's Report**

President Barbe shared that he has thoroughly enjoyed the judicial robing ceremonies at which he has spoken. He also reported that he, President-Elect Hawks, Executive Director Wilkinson and Marie Ellis, CLE Director, are starting plans for this year's Annual Meeting & Judicial Conference.

### **President-Elect's Report**

President-Elect Hawks reminded the Board that it discussed a website privacy policy at his urging at the November meeting. He shared that this discussion was ultimately tabled and was to be brought back to this meeting; however, he shared that the Bar ended up not getting that particular cyber insurance policy that required a website privacy policy as part of the coverage. He shared that while he still thinks the Bar should have such a privacy policy on the website, it is no longer an urgent matter in order to be compliant with insurance coverage.

President-Elect Hawks shared that he and Executive Director Wilkinson have been discussing the 2023 Annual Meeting & Judicial Conference and while he would enjoy hosting the conference in Jackson, Teton County has unfortunately priced itself out of the market.

Executive Director Wilkinson shared that she had contacted Snow King at President-Elect Hawks' request to check availability for the preferred dates in 2023. Upon receiving a proposal and the contract, she learned that in comparison with the 2015 Annual Meeting (the last time the Bar had hosted an event at Snow King), guest room rates would increase from \$251 per night to \$429 per night. In addition to that, she reported that there is now a \$37/night amenities charge and a \$150 housekeeping fee on departure. She shared that this would drive the cost of a three-night stay from \$753 to \$1,548—a 105% increase.

President-Elect Hawks shared that the options for hosting the Annual Meeting in Wyoming are getting slimmer and slimmer, as they recently learned that Jackson Lake Lodge is no longer in the convention business. As a result, he wanted to discuss possibly taking the annual conference out of Wyoming—possibly to Colorado.

Executive Director Wilkinson provided an overview of the locations in Wyoming that were conducive to hosting the Bar's Annual Meeting.

President Barbe shared that if we had a true comparison of what the cost is at each facility, we could determine whether it is cheaper to go out of state. If that cost comparison was significant, it would be an easier sell to the members; however, he does feel there could be some pushback from some members.

After discussion, Executive Director Wilkinson was directed to gather cost estimates from some facilities in Colorado and bring those before the Board at the April meeting.

### **Vice President's Report**

Vice President Thybo shared that while she was unable to travel to Seattle for the National Conference of Bar Presidents (NCBP) Midyear Meeting, now that it has gone virtual, she is registered and is looking forward to participating in some great programming.

Vice President Thybo shared that Ben Burningham sat in on treatment court in her county recently, and she wondered how things were going in Chancery Court. Commissioner Kevin Kessner shared that there have been three cases filed so far, but two have been removed due to the opt out provision.

### **Executive Director's Report**

Executive Director Wilkinson reported that the Wyoming Supreme Court suspended 16 members for their failure to pay their 2021/2022 license fees. She shared that of those, two members have already petitioned the Court for the reinstatement of their licenses.

She also shared that the Wyoming Supreme Court terminated four members' memberships in the Bar as a result of their failure to cure their 2020/2021 license fee suspensions.

Executive Director Wilkinson shared that she received communication from the American Bar Association this week indicating that the Bar Leadership Institute (BLI) would take place in person in Chicago in March. She shared that the conference had been cancelled in 2020 due to the pandemic and went all-virtual last year. She shared that she will be attending the conference with President Barbe, President-Elect Hawks and Treasurer Neville.

Executive Director Wilkinson shared that the Western States Bar Conference will take place in Hawaii March 30-April 2<sup>nd</sup>. She reminded the Board that all members of the Executive Committee are eligible to attend as well as two Commissioners chosen by lottery. She shared that she will be attending along with Treasurer Neville and Commission Gee. She reminded the Board that the travel reimbursement policy only allows the Bar to pay for the registration fees of the Board members but not lodging, travel or meals. Executive Director Wilkinson shared that she has only attended the conference once when it was in San Diego but has never attending when it has been in Hawaii.

Executive Director Wilkinson reported that the Jackrabbit Bar Conference will be held June 2-4<sup>th</sup> in Deadwood, South Dakota. She shared that she would like to see a strong presence at this conference, as Wyoming will host the conference next year. She encouraged the Board to be considering who would like to serve as the Chancellor of the Jackrabbit Bar Conference next year and take the lead on planning the conference. She also shared that whomever that person is will need to be present at this year's conference to accept "the beast" (aka the jackrabbit) on behalf of Wyoming. Executive Director Wilkinson shared that we hosted the conference in Jackson in 2006 when Tom Lubnau was Chancellor and again in Cody in 2014 when Judge Joe Bluemel was Chancellor.

## Young Lawyer Section Report

Emily Madden, Chair of the Young Lawyer Section, shared that the section council has been meeting monthly and has hosted three of four very successful CLE programs given by UW law professors. She reported that they are now working on implementing other agenda items they have planned for this year.

## Commissioners' Reports

- *First Judicial District*—Commissioner Boster reported that the next two weeks in her district the legal profession is unfortunately going to be front page news with the Manlove hearing.
- *Second Judicial District*—Commissioner Sarah Chavez Harkins shared that they had a local bar meeting, but only four members were able to attend. They are planning for Liberty Day in May. She also reported that the local bar would like to host the Board of Officers & Commissioners for dinner when it is in town in August. Commissioner Chavez Harkins shared that Rawlins lawyer Tom Thompson serves on a task force with Chief Justice Fox dealing with judicial appointments. She shared that he will be getting in touch with Executive Director Wilkinson to discuss the announcements she sends to the membership regarding judicial vacancies. She also shared that some courts and her office had to shut down to due to covid cases.
- *Third Judicial District*—Commissioner Jason Petri reported that there was a county bar meeting last month and five people showed. Those people chose officers for the county bar.
- *Fourth Judicial District*—Commissioner Kessner shared that as a result of Judge Fenn being appointed to the Supreme Court, the process is underway to find his replacement. Interviews took place yesterday and the three candidates were announced today. He reported that there is a bit of a backlog due to this vacancy on the bench.
- *Fifth Judicial District*—Commissioner Kirk reported that a new Circuit Court judge, Joey Darrah, was sworn in recently. She also shared that Rich Hopkinson, the area supervisor for the Public Defender's Office in Worland, will be retiring and they are having a retirement party for him next week.
- *Sixth Judicial District*—Commissioner Gee shared that her county bar had a Christmas party and Chief Justice Fox was in attendance to encourage lawyers to apply for judicial vacancies. She shared that with the third seat on the District Court coming open, Judge Healy is now the senior judge there. She reported that there are some challenges having that many new judges. She also reported that she is excited to attend the Western States Bar Conference in March.
- *Seventh Judicial District*—Commissioner Silva shared that Natrona County has been having school district meetings that have gotten so out of control, there have been police officers present. They have been discussing book banning and a few lawyers have shown up to provide public comments, which he appreciated. He shared that the county bar is up and running successfully and they will do some CLE programs in the next few months depending on the covid situation.

- *Eighth Judicial District*—no report
- *Ninth Judicial District*—Commissioner Whiting reported that things are fairly quiet in his judicial district.

### **Board/Committee Liaison Reports**

- *Civil Pattern Jury Instructions Committee*—Commissioner Kessner reported that the committee met on January 14<sup>th</sup>. There are several new members of the committee and they continue to work on various sections of the instructions.
- *Continuing Legal Education Committee*—Commissioner Silva reported that he has not heard anything about committee meetings. Executive Director Wilkinson shared that CLE proposals for this year’s Annual Meeting are due Monday. She shared that Marie Ellis will then share all proposals with the CLE Committee and get monthly calls scheduled through April.
- *Criminal Pattern Jury Instructions Committee*—Vice President Thybo reported that the committee meets monthly. She shared that Judge Craig Jones is the new chair of the committee and he keeps things on task. Judge Jones has reached out to the Circuit Court judges for suggestions or questions they would like addressed by the Committee. She reported that he will also reach out to the District Court judges. She anticipates having a list of issues the judges wish to be addressed.

President J. Kenneth Barbe adjourned the meeting on Friday, January 28, 2022, at 5:02 p.m.

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Minutes Submitted by:

Sharon Wilkinson  
Executive Director