

Wyoming State Bar Board of Officers & Commissioners Meeting

June 15, 2018
Saratoga Resort & Spa
Saratoga, Wyoming

In Attendance: Robert C. Jarosh, President; Weston T. Graham, President-Elect; Erika M. Nash, Vice President; J. Kenneth Barbe, Treasurer; Melinda S. McCorkle, First Judicial District Commissioner; Kelly M. Neville, Second Judicial District Commissioner; Jeremy K. Kisling, Fourth Judicial District Commissioner; James L. Edwards, Sixth Judicial District Commissioner; Nathaniel S. Hibben, Eighth Judicial District Commissioner; James T. Whiting, Ninth Judicial District Commissioner; Holli J. Welch, Young Lawyers Section Chair; Sharon Wilkinson, Executive Director; Mark Gifford, Bar Counsel and Cathy Duncil, Admissions Director/Bookkeeper

Absent: John A. Masterson, Immediate Past President; Teresa S. Thybo, Third Judicial District Commissioner; R. Scott Kath, Fifth Judicial District Commissioner and Charles S. Chapin, Seventh Judicial District Commissioner

Guests: Klint W. Alexander, Dean of the University of Wyoming College of Law

President Rob Jarosh convened the meeting at 12:35 p.m. on Friday, June 15, 2018.

Approval of Agenda

Executive Director Wilkinson shared that Ray Macchia, Executive Director of Legal Aid of Wyoming, was unable to attend today's meeting so his agenda items will be postponed until the August meeting. Commissioner Edwards made a motion to approve the agenda as amended. Commissioner McCorkle seconded the motion. The motion carried unanimously.

University of Wyoming College of Law Update

Klint Alexander, Dean of the UW College of Law, joined the Board meeting to provide an update on the College of Law and the legal education market in general.

He shared that while there had been a dip in law school applications nationally, Wyoming's law school is seeing an increase of 9 – 10% this year. The law school currently has a total enrollment of 225–230. He reported that the law school will have 80–85 students coming this fall. Dean Alexander reported that the law school just graduated the largest class (86) in decades. Twenty-two of 95 students were minorities or from other represented groups. He was pleased to announce that the job placement rate with that group is very good—70 of them have already found jobs, and he hopes to continue that trend in the high 80s. Of those students, he reported that 40% are staying in Wyoming.

Dean Alexander shared that the job market is coming back, and that is a factor in the uptick of applicants. He was pleased to report that the University itself is moving in a positive direction. He reminded the Board that the University as a whole had been dealing with a budget crisis for two years, which meant dealing with a hiring freeze. He reported that of the 24 faculty positions the law school had in 2015, there are now 17. These departing faculty members left for a variety of reasons. He shared that the law school hasn't had the approval to hire until now. As a result, the law school will be hiring three new faculty positions next year. Lauren McLane will replace Diane Courselle at the Defender Aid Clinic. Dona Playton has been hired back to run the Family Law Clinic.

Dean Alexander reported that the uptick in applications, particularly from out-of-state applicants who are attracted by the law school's relatively low tuition fees, also enhances the law school's ongoing efforts to achieve diversity and inclusiveness in its student population. Dean Alexander was asked if he has had any communication with Mary Beth Galvan, Chair of the Bar's Diversity & Inclusion Committee. He indicated that he has not, though he would be open to a discussion with her.

Dean Alexander reported that there has been a 15% increase nationwide in LSAT test takers, so he's hoping the market has really turned around. LSAC and the ABA are coming around to allowing law schools to accept the GRE or the GMAT instead of the LSAT. He reported that the law school will probably join the fray and go towards the GRE next year. LSAC is now offering the LSAT six times a year instead of four.

He reported that the law school faculty is looking into grants. The Ellbogen Foundation has agreed to give \$125,000 for one clinic. The Civil Legal Services and Family Law clinics have received grants from Equal Justice Wyoming. He discussed some of the other grants the College of Law has received and reported that half of the clinics are now funded by grants.

Dean Alexander shared that the law school has implemented the "2-2-3 program." This program will target students at community colleges who are interested in the legal profession. The program will put them on a pipeline to go to the law school. They are also targeting the Native American population on the reservation.

He also discussed the "3-3 program." This program would send students straight to law school after their junior year. The students would receive both degrees in six years. Students in the program must have a 3.7 grade point average after their junior year and must take the LSAT. He shared that the goal of the program is to pick off the best and brightest as early as possible.

Dean Alexander also reported that the faculty is looking into ways that the Hathaway Scholarship can carry over into the law school.

The Dean reported that unfortunately the College of Law's ranking went down last year in the *US News and World Report*, and he is very upset about that. He shared that other law schools that continue to increase tuition do well in the poll; however, the UW College of Law has

chosen to freeze tuition, and they get dinged for it. He reported that another significant factor in the ranking drop was that the teacher-to-student ratio went from 9-1 to 11-1.

President-Elect Graham asked what the Dean would need from the Bar in the next 18 months. The Dean commented that he loves opportunities for the Bar to meet and network with the faculty. He would also like to take the opportunity to get the students involved earlier and get them connected through the Young Lawyers Section. He thanked the Board for its support of the Wyoming Law Review.

Approval of Minutes

Commissioner Edwards made a motion to approve the April Board meeting minutes. Commissioner Kisling seconded the motion. The motion carried unanimously.

Executive Committee Meeting Minutes

President Jarosh directed the Board's attention to the minutes from the Executive Committee calls and asked if there were any questions. There were none.

Treasurer's Report

Treasurer Barbe reported that the Bar's finances are in great shape. He shared that we have already hit 100% of what was projected for license fees, and he noted that the Office of Bar Counsel continues to bring in revenue. He made mention of the significant cost of the office renovation; however, Cathy Duncil, Bookkeeper, shared that most of those expenses will be capitalized.

Treasurer Barbe also noted that the new investments are now reflected on the financial statements.

Treasurer Barbe asked Executive Director Wilkinson why the Criminal Pattern Jury Instructions Committee has exceeded its budgeted amount. Executive Director Wilkinson explained that the Supreme Court has recently criticized the self-defense instructions. As a result, Christyne Martens, Chair of the Committee, has appointed a task force to rewrite those instructions. She shared that the task force (Judge Bluemel, Judge Snyder, Clay Kainer and Christyne Martens) will be meeting in Saratoga next week for a full day to work on the instructions. There will also be an in-person meeting of the whole committee on July 13th at the Supreme Court. Executive Director Wilkinson was unaware of these in-person meetings when the current year's budget was established.

Vice President Nash inquired about the "Special Bar Counsel" budget already exceeding what was budgeted. Mark Gifford, Bar Counsel, explained that there is a lawyer who has had six complaints filed against him/her. Mr. Gifford had a conflict in three of the cases, so it was necessary to bring in special bar counsel. He reported that fortunately, he has a signed affidavit for a stipulated resolution from this lawyer, so hopefully these three cases will come to an end with a stipulated resolution.

Commissioner Hibben made a motion to accept the Treasurer's report. Vice President Nash seconded the motion. The motion carried unanimously.

Investment Report

President Jarosh shared that he and the other members of the Investment Committee receives the monthly statements from RBC Wealth Management. He encouraged any member of the Board to request those statements if they are interested in seeing them.

Regulatory Updates

Admissions

Mark Gifford shared that he has submitted some amendments to the admissions rules to the Supreme Court for adoption. He reported that one amendment was an idea brought forward by President-Elect Graham that grants admission to spouses of military members. He doesn't think we will see many of those but it is nice for our service members. He also reminded the Board that there was an amendment to a statute in the recent legislative session that removed terms on the Board of Law Examiners. Due to that change, it was necessary to update the rules accordingly.

Cathy Duncil, Admissions Director, shared that July will be the largest exam she has administered with 72 applicants and no special testing accommodations for this exam.

Mandatory CLE

Executive Director Wilkinson indicated there was nothing to report in this area.

Office of Bar Counsel

Discipline – Mark Gifford reported that this is the busiest he has ever been and he wishes he could explain why. He discussed some of the recent activity coming out of the Court as well as his first appeal of the Board of Professional Responsibility's report and recommendation in one matter.

Fee Arbitration – Mr. Gifford shared that the new process is working very well. His assistant, Shannon Howshar, staffs this and works very closely with Tim Woznick, Chair of the committee, and they screen all incoming claims and make sure there is jurisdiction on every dispute.

Unauthorized Practice of Law (UPL) – Mr. Gifford reported that he believes there was discussion at the April District Court judges' meeting about UPL matters because he received three reports from judges following that meeting. He reported that overall, UPL is more active than it has been in quite some time.

Client Protection Fund – Mr. Gifford reported that after the big flurry from two years ago, things have settled down quite a bit; however, we will continue to pay one of those clients at the rate of \$15,000 per year for several years.

Proposed Section Name Change

Executive Director Wilkinson reminded the Board that it combined the Estate Planning, Trust & Probate Section with the Disability & Elder Law Section at the April meeting. As a result of that decision, the Estate Planning, Trust & Probate Section Council wishes to change the section name to the Estate Planning, Elder Law, Trust & Probate Section.

Commissioner Neville made a motion to approve the name change. Commissioner Kisling seconded the motion. The motion carried unanimously.

Strategic Plan Update

Executive Director Wilkinson walked the Board through the Strategic Plan Progress Report she prepared. She mentioned that of the five objectives in Goal 1, two of those are complete; however, she indicated that she needed some direction from the Board regarding Objectives 1.3 and 1.4, which pertain to a mentoring program. She shared that she and President-Elect Graham had a conference call with some members of the Young Lawyers Section Council on May 18, 2018, to discuss these objectives and determine whether or not there is a desire amongst the young lawyers to look into a mentoring program. Executive Director Wilkinson shared that her take-away from the call was that the young lawyers do not think a formal mentoring program is necessary. President-Elect Graham indicated that was his take-away as well. Executive Director Wilkinson recommended implementing a “Mentor Hotline” with Mark Gifford, Bar Counsel, taking the lead on those calls. Mr. Gifford would screen the calls and determine the appropriate referral to a member of the Bar. She indicated that she had previously discussed this with Mr. Gifford and he was agreeable to taking that on. She also recommended adding an e-mail intake option to the website so young lawyers could post an inquiry that way. Those e-mails will also be fielded by Mr. Gifford in order to refer the young lawyer to an appropriate lawyer for help. After much discussion, it was agreed that these two things would be implemented and evaluated in six months.

Executive Director Wilkinson shared that in regard to Goal 2, Objective 2.3 (Pilot project a public relations campaign in two Wyoming communities intent on showing the community-building impact of lawyers (beyond the delivery of legal services) in those respective communities), she has reached out to West Edge Collective in Cheyenne, AdBay in Casper and Flood Marketing in Sheridan to get some quotes. She directed the Board’s attention to the proposal submitted by West Edge Collective and noted that, depending on the scope of the project, it could cost anywhere from \$25,000 to \$75,000. She also shared an informal proposal she received from AdBay and noted that their costs were again dependent on the scope of the project. Executive Director Wilkinson asked for some direction from the Board and wondered what dollar amount it was comfortable spending on the project. All were in agreement that spending \$75,000 on the project was excessive. Mark Gifford, Bar Counsel, recommended starting small with a social media only campaign and then perhaps consider expanding to television and radio if the Board determines that it is a good message and worthy of investing

more resources. Because Executive Director Wilkinson had not yet heard back from Flood Marketing, all were in agreement to continue discussion once that proposal has been submitted.

Executive Director Wilkinson reported that the building renovation (Goal 3, Objective 3.1) is 99% complete and the staff could not be more pleased with the outcome. She shared that all staff members are settled in the new space. The only things left to complete are the installation of the glass around the front desk and installation of a new lock on the “employees only” entrance.

State Retirement Contribution

Executive Director Wilkinson reported that the Legislature recently increased the contribution to employees State Retirement accounts, and this increase will take effect September 1, 2018. She reported that the contribution is currently 16.62% and will increase to 17.12%. The Bar pays 100% of that contribution to the staff's retirement accounts, and Executive Director Wilkinson asked the Board if it wished to continue to pay the full contribution. She reported that the increase would be approximately \$2,400 per year.

Commissioner Whiting made a motion to contribute 100% to match the new 17.12%. Vice President Nash seconded the motion. The motion carried unanimously.

Lawyer Well-Being Task Force

Executive Director Wilkinson directed the Board's attention to an e-mail exchange she had with Jim Coyle, Director of the Colorado Office of Attorney Regulation and Co-Chair of the National Task force on Lawyer Well-Being. She reported that there is an effort among many bar associations around the country to draw attention to attorney well-being, and Jim Coyle is hopeful that Wyoming would join the effort by forming a task force. Mark Gifford referred to the national task force's report on lawyer well-being and mentioned that we have already implemented many things the report suggests. Mr. Gifford shared that he sees this topic as an appropriate one for a future Strategic Planning session as opposed to forming a task force without a lengthier, more comprehensive discussion.

President Jarosh shared that in his review of the materials, he noticed that many states' efforts come from their Supreme Court and wondered if we had heard anything from our Supreme Court. Executive Director Wilkinson said she had not had any discussions with the Court about this topic. All were in agreement to hold off on forming a task force.

President's Report

President Jarosh reported that he recently attended the Jackrabbit Bar Conference in Medora, North Dakota. He shared that the discussion he thought was most meaningful was with the Deans of the law schools in Montana, South Dakota and North Dakota. They discussed the challenges they face, and they are quite similar to what Dean Alexander is dealing with.

President Jarosh also mentioned that Mark Gifford had submitted a legal analysis to the Supreme Court about the Bar's position regarding the State Auditor's demand that the Bar utilize the state's accounting system.

President-Elect's Report

President-Elect Graham shared that he did a site visit for the 2019 Annual Meeting at Jackson Lake Lodge and he has asked Executive Director Wilkinson to invite Justice Kennedy to be our keynote for the Banquet.

Vice President's Report

Vice President Nash reported that she is on the Dean's Advisory Board, and as a result of the most recent meeting, she wanted to invite the Dean to today's meeting so the Board could learn of all of the positive things going on at the law school.

Executive Director's Report

Executive Director Wilkinson shared that the Bar will be conducting the Judicial Advisory Poll this summer. One change to this year's poll will be that the federal judges will not be included, as they have asked to be removed from the poll. There was much discussion about the purpose of the poll and whether or not there was any benefit to it. Some were in favor of doing away with the poll; however, Executive Director Wilkinson reminded the Board that the Bar is already under contract for this year's poll. She suggested future discussion prior to the 2020 poll.

Young Lawyers Section Report

Holli Welch, Chair of the Young Lawyers Section, reported that the ABA/YLD Mountain States Western Regional Summit was a great success and the section is considering hosting a conference again next year. She reported that the section leaders are working on more "Lunch with a Judge" programs and a few more CLE webinars.

Board/Committee Reports

Bench-Bar Relations Committee

President-Elect Graham shared that he has reached out to Jim Lubing, Chair, to see if he thought the Bench-Bar Relations Committee should discuss the recent peremptory challenge issue; however, he has not heard back.

Civil Pattern Jury Instructions Committee

Commissioner McCorkle shared that the committee was scheduled to have a meeting last week, but it was cancelled due to a trial Judge Kricken had. They are in the process of rescheduling.

Criminal Pattern Jury Instructions Committee

Commissioner Kisling reiterated that the self-defense instructions are being rewritten. The committee has an in-person meeting in July to go through the instructions.

Diversity & Inclusion Committee

Executive Director Wilkinson distributed a memo she received from Maribeth Galvan, Chair, showing the progress of the committee.

Juvenile Pattern Jury Instructions Committee

Commissioner Whiting reported that the committee's next meeting will be the end of July.

Law School Liaison Committee

No report

Legislative Developments Committee

No report

Permanent Rules Advisory Committee – Civil Division

Commissioner Edwards shared that the committee met last week to discuss changes to three different rules. He discussed the changes that will be made to those rules.

President Rob Jarosh adjourned the meeting at 4:28 p.m. on Friday, June 15, 2018.

Minutes Submitted by:

Sharon Wilkinson
Executive Director