

Wyoming State Bar Board of Officers & Commissioners Meeting

November 13, 2020

Via Zoom

In Attendance: Billie LM Addleman, President; R. Scott Kath, Vice President; James L. Edwards, Treasurer; Kelly M. Neville, Immediate Past President; Stefanie L. Boster, First Judicial District Commissioner; Sarah L. Chavez, Second Judicial District Commissioner; Teresa S. Thybo, Third Judicial District Commissioner; Kevin K. Kessner; Fourth Judicial District Commissioner; Jennifer L. Kirk, Fifth Judicial District Commissioner; P. Craig Silva, Seventh Judicial District Commissioner; Shawn G. Wilde, Eighth Judicial District Commissioner; Benjamin R. Rose, Young Lawyers Section Chair; Sharon Wilkinson, Executive Director; Mark W. Gifford, Bar Counsel, and Cathy Duncil, Admissions Director

Absent: J. Kenneth Barbe, President-Elect; Alison O. Gee, Sixth Judicial District Commissioner and James T. Whiting, Ninth Judicial District Commissioner

President Billie LM Addleman called the meeting to order at 9:03 a.m. on Friday, November 13, 2020.

Approval of Agenda

Executive Director Sharon Wilkinson requested that an item be added to the agenda as a result of a call she received from the Governor's office earlier today. She indicated that she could just give that report during her Executive Director's Report.

Treasurer Jim Edwards made a motion to approve the agenda. Vice President Scott Kath seconded the motion. The motion carried unanimously.

Approval of Meeting Minutes

Commissioner Craig Silva made a motion to approve the September 17, 2020, meeting minutes. Treasurer Edwards seconded the motion. The motion carried unanimously.

Executive Committee Meeting Minutes

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

Executive Session

Commissioner Stefanie Boster made a motion to convene an Executive Session. Vice President Kath seconded the motion. The Executive Session was convened at 9:14 a.m.

Treasurer Edwards made a motion to adjourn the Executive Session. Vice President Kath seconded the motion. The Executive Session was adjourned at 9:18 a.m.

Ratification of Salary Increase

Vice President Kath made a motion to ratify the Executive Committee's approval of a salary increase for Brandi Robinson. Commissioner Silva seconded the motion. The motion carried unanimously.

Treasurer's Report

Treasurer Edwards reported that Executive Director Wilkinson and Cathy Duncil, bookkeeper, prepared a memo to provide a summary of how we wrapped up the last fiscal year. He encouraged the Board to direct any questions to them.

Treasurer Edwards reported that we are only one month into the current fiscal year and revenue is coming in at a good rate due to the payment of license fees. In regard to the investment accounts, he reported that October was not a good month, but the market is now rebounding.

Vice President Kath made a motion to accept the Treasurer's Report. Commissioner Kevin Kessner seconded the motion. The motion carried unanimously.

Admissions

Cathy Duncil reported that she administered the July bar exam to 47 people and the pass rate was 85%. She reminded the Board that those applicants who did not feel safe and/or comfortable taking the July exam were given the option to sit for a fall administration of the exam. Ms. Duncil reported that 11 applicants sat for the fall exam, but unfortunately only four of them received passing scores, which resulted in a 36% pass rate.

Ms. Duncil shared that the Character and Fitness Committee recommended an applicant for conditional admission yesterday. She reported that the committee continues to be very busy and there will be a hearing via Zoom on Monday that Melinda McCorkle is handling.

Mark Gifford reported that there are more hearings in admissions than there are in attorney discipline as a result of more troublesome background checks on some of the applicants. He shared that the Character and Fitness Committee was recently expanded to six people.

Executive Director Wilkinson reported that the Bar is on track to administer an in-person exam in February 2021; however, Cathy Duncil has recently learned a great deal about administering a remote exam if necessary and feels that a remote exam is an acceptable alternative.

Commissioner Silva asked if the troubling character and fitness issues pertained to out-of-state applicants or Wyoming applicants. Mark Gifford reported that the majority of them pertained to Wyoming applicants. He shared that when Ms. Duncil receives the National Conference of Bar Examiners (NCBE) investigative report, she compares those to the applicants' law school applications. Unfortunately, many times there are discrepancies.

Treasurer Edwards asked if the Bar was continuing to receive communication from applicants who are unhappy with the decision to administer the exam in person. Ms. Duncil reported that she has not heard such a thing from any of the February applicants.

Commissioner Silva asked Ms. Duncil what the components of the exam are. Ms. Duncil walked the Board through all components of the exam.

Mandatory Continuing Legal Education

Executive Director Wilkinson reported that this is the time of year when the Bar receives many waiver and extension requests from members who are unable to comply with their 2020 continuing legal education (CLE) requirements. As a result, she and Marie Ellis, CLE Director, meet with the Board of CLE each Friday to discuss what has been submitted. She reported that there has been one call already and the Board denied the attorney's waiver request.

Attorney Discipline

Mark Gifford reported that the Office of Bar Counsel remains busy as usual. He shared that he believes that the pandemic has had an impact on disciplinary complaints, as his office has received far fewer complaints than normal this year.

He reported that there is currently a recommendation for a public censure pending at the Supreme Court. He is also aware of two members who have been sentenced to incarceration—one is a DUI offender and the other is a drug case out of Fremont County. He shared that these types of cases require much work from his office.

Mr. Gifford was pleased to report that there is a member who recently petitioned for the reinstatement of his license. He shared that this member's practice came off the rails three years ago, but it appears by all accounts that this lawyer is really dedicated to coming back and operating a successful practice.

Mr. Gifford reminded the Board that a high-profile disciplinary hearing was supposed to take place in Casper last month. He reported that the hearing has been postponed for a second time with all parties in agreement that it is not wise to conduct an in-person hearing at this time. The parties will have monthly status conferences with the Chair of the Board of Professional Responsibility to attempt to find a date for the hearing.

Mr. Gifford reported that there is a member who has stipulated to a disbarment, which is quite rare. He shared that typically with this level of a sanction, most lawyers opt to take their chances and go to a hearing. He shared that Melinda McCorkle has worked very hard on this case and it has involved very intense investigation.

Fee Arbitration

Mark Gifford reported that Shannon Howshar, his assistant, runs this program. He shared that he and Ms. Howshar met with the Fee Arbitration Committee this week, and they are getting ready to send proposed rule amendments to the Court.

Client Protection Fund

Mark Gifford reported that things are fairly quiet with the Client Protection Fund right now. He reminded the Board that there was a recent amendment to these rules which now allows any unclaimed funds in trust accounts to be paid directly to the Client Protection Fund instead of the State's unclaimed property fund. He reported that this has been an unanticipated source of revenue.

New Member Benefit Follow-Up

Executive Director Wilkinson reminded the Board that she pitched a new member benefit, Red Cave Law Firm Consulting, at the August meeting and the Board directed her to do her due diligence and see what competitors there were. She reported that she did more research and ultimately scheduled a call with Jared Correia of Red Cave to discuss details. She directed the Board's attention to the overview she provided in the meeting materials and pointed out that offering this as a member benefit would be minimal cost to the Bar and a great benefit for the members. Mark Gifford shared that he is in favor of providing this as a member benefit, as many of the lawyers his office deals with just need some guidance on the business side of a law practice. This would be an additional resource for his office to help lawyers who are struggling with the business aspect of a law practice.

After discussion, Treasurer Edwards made a motion to approve Red Cave Law Firm Consulting as a member benefit. Vice President Kath seconded the motion. The motion carried unanimously.

Young Lawyers Hotline Proposal

Ben Rose, Chair of the Young Lawyer Section, shared that he originally thought the implementation of a Young Lawyer Hotline was a great idea. Ultimately, the Council would like a young lawyer who can do the same thing that Jack Speight, WyLAP Director, is doing but for young lawyers. He shared that he and the Council are struggling to come up with the proper training resources for this person. He shared that after discussion with Executive Director Wilkinson, he plans to reach out to other states to see if any have such a hotline. He informed the Board that this is going to take more time than he originally anticipated.

Executive Director Wilkinson suggested that Mr. Rose also look at the resources offered by the Commission on Lawyers Assistance Programs (CoLAP), which is a national organization, other LAP programs around the country and also take advantage of Jack Speight's listserv, which can reach every LAP director in the country. She also shared with the Board that she and Mark Gifford have discussed this with the WyLAP Advisory Committee, and it feels strongly that this young lawyer receive proper training and have a recovery background.

Equal Justice Wyoming Foundation Matching Fundraising Proposal

President Addleman reminded the Board that back in August it considered a request from the Equal Justice Wyoming Foundation (EJWF) to increase the dollar amount for the optional contribution to EJWF on the Bar's license fee statement to help the Foundation raise money. He reminded the Board that instead of approving that request, the Board offered to contribute \$25,000 to the Foundation through a matching fundraising campaign. President Addleman

reported that Leah Schwartz, the Chair of EJWF, submitted the Foundation's written proposal to the Executive Committee and it was approved. President Addleman reported that he reached out to the Wyoming Community Foundation to put those representatives in touch with Ms. Schwartz so they could hopefully coordinate other fundraising opportunities.

Strategic Plan Progress Report

Executive Director Wilkinson walked the Board through the progress that has been made on the 2019-2021 Strategic Plan and mentioned that last month's Solo/Small/Rural Conference was a great success.

Annual Meeting Wrap-Up Report

Executive Director Wilkinson directed the Board's attention to the wrap-up report she prepared following the Virtual Annual Meeting and shared that she was so pleased with the members' remarks on the online evaluation. She shared that it is clear that the members will expect more programs to be live streamed at future Annual Meetings, so she plans to work with Marie Ellis, CLE Director, to make this happen. Past President Kelly Neville commended Ms. Wilkinson and her staff for their hard work pulling off such a successful event.

Assertion of Claim Against West Edge Collective

Vice President Kath made a motion to convene an Executive Session. Treasurer Edwards seconded the motion. An Executive Session was convened at 10:21 a.m.

Vice President Kath made a motion to adjourn the Executive Session. Treasurer Edwards seconded the motion. The Executive Session was adjourned at 10:33 a.m.

eHome Counseling Group

Executive Director Wilkinson shared her excitement about being able to offer eHome Counseling Group, a virtual counseling service, as a member benefit. She shared that she learned about eHome through a newsletter she receives and tasked Shannon Howshar and Brandi Robinson with looking into it. She provided an overview of the service and shared that a considerable amount of staff time has been devoted to this because she wanted to vet eHome with the Bar's partners at the Wyoming Professional Assistance Program (WPAP), the WyLAP Advisory Committee and the WyLAP Foundation Board, all of whom supported the service.

Executive Director Wilkinson also shared that one of the benefits of the service is an app called the "Karla app." Currently, only clients of eHome can utilize the app; however, she reported that she has been in communication with Brad Rex, the CEO of eHome Counseling Group, and would like to be able to offer the app to any member—even those not yet signed up as a client—as she thinks there are benefits through the app. Ms. Wilkinson shared that the timing of offering this member benefit is critical considering what members are experiencing due to the pandemic.

Commissioner Kessner made a motion to approve eHome Counseling Group as a member benefit. Treasurer Edwards seconded the motion. The motion carried unanimously.

Lexology

Executive Director Wilkinson shared that she would like the Board's approval to offer Lexology as a new member benefit. She shared that Lexology would offer members their own "newsstand" e-mail that would be customized to their practice areas. Members would access their own profile page through Lexology's site and change content selections at any time. Members could also manage the frequency of the "Newsstand." Ms. Wilkinson shared that Lexology currently works with 150 state, metro and county bars in the United States and has been doing so for 10 years. She also shared that she heard nothing but good reviews from other Bar leaders around the country.

Vice President Kath made a motion to approve Lexology as a member benefit. Treasurer Edwards seconded the motion. The motion carried unanimously.

Lighthouse Insurance Group (LIG)

Executive Director Wilkinson reported that she is very disappointed to share that she wished to take the offering of Lighthouse Insurance Group as a member benefit off the table. She shared that she was originally very impressed with LIG, as it would offer the members a broker to find the best and most affordable health insurance for not only lawyers but also their family members and employees. She reported that she and Cathy Duncil participated in a webinar to learn more about the benefit and after both were impressed, they pulled Mark Gifford in to review the agreement LIG proposed. Executive Director Wilkinson reported that she and Mr. Gifford were both uncomfortable with the agreement as it was written, so they scheduled a call with LIG's Executive Director to discuss. She reported that the end result of the call was that Mr. Gifford would receive the agreement and make recommended changes. Executive Director Wilkinson reported that all of this took place three weeks ago, and despite three follow-up e-mails, they have never heard back from LIG.

Diversity & Inclusion Section Name Change

Executive Director Wilkinson reported that the Diversity & Inclusion Section Council has requested that the Board approve changing the section name to the Diversity, Equity & Inclusion Section. She read some talking points provided by Emily Weaver, Chair of the Section Council.

Commissioner Jennifer Kirk made a motion to change the Diversity & Inclusion Section to the Diversity, Equity & Inclusion Section. Commissioner Sarah Chavez seconded the motion. The motion carried unanimously.

Civil Legal Needs Assessment

Executive Director Wilkinson provided some background on the Civil Legal Needs Assessment that was recently conducted by Datacorp. She shared that she and President Addleman both serve on the Access to Justice Commission and the results of the needs assessment were discussed during its last meeting on November 2nd. Considering that family law issues are the most common civil legal problem in Wyoming, Executive Director Wilkinson reported that she has shared the Executive Summary with the Children & Family Law Section Council to discuss how that section could potentially help. She also shared that Ray Macchia, Executive Director

of Legal Aid of Wyoming, is working with a new legal services provider, Wind River Justice. Mr. Macchia is thrilled to be able to provide the much-needed help on the reservation. She shared that Sara Robinson is running Wind River Justice and Mr. Macchia is working towards getting that organization a sub-grant. Executive Director Wilkinson shared that Wind River Justice will mostly focus on tribal issues; however, it will also be able to assist in some of the outlying areas. She also reported that Mr. Macchia is working on implementing a centralized case management system for all legal services called Legal Server.

President's Report

President Addleman shared that he currently serves on the Court Records Division of the Permanent Rules Advisory Committee and previously served on the e-filing committee. He reported that this group is currently reviewing all titles in the statutes to classify all of them for the e-filing system and determine who should have access to them. He shared that they are meeting every six weeks to go through different sections of the statutes in order to identify any necessary legislation that may need to be advanced. President Addleman shared that the committee is chaired by Phil Nicholas.

President Addleman shared that this group continues to hear from the membership about Wyoming's lack of e-filing. He reminded the Board that Chief Justice Davis provided an update on e-filing in his State of the Judiciary at the beginning of the year and also mentioned that his President's column in the December *Wyoming Lawyer* is devoted to the topic.

President Addleman reported that he now sits on the Editorial Committee for the *Wyoming Lawyer*, and he enjoyed participating in that committee's retreat last month in Jackson.

President Addleman shared that he is still awaiting details for two upcoming judicial robing ceremonies.

Executive Director's Report

Executive Director Wilkinson shared that she received a call from Emily Soli, the Governor's legal counsel, this morning asking if the Bar would be in support of a statewide mask mandate as well as a COVID-related media campaign. She shared that she explained to Ms. Soli that the Bar would not take a position on a statewide mask mandate because it was not directly related to the Bar's core functions. She inquired about the details of the media campaign, but Ms. Soli indicated this was simply a preliminary idea and she did not have any details. Executive Director Wilkinson shared that when Ms. Soli has more details, she will follow up and Ms. Wilkinson will keep the Board informed along the way.

Young Lawyer Section Report

Ben Rose reported that the section has really been focused on wellness this year as well as promoting CLE for young lawyers. He shared that the section Council sent out a survey earlier in the year to its members and the results overwhelming showed that the members want young lawyer-focused CLE programs.

Mr. Rose shared that the section Council is partnering with other sections of the Bar to match a young lawyer with a more seasoned lawyer to do CLE programs. He also reported that the Council has been including a “young lawyer spotlight” in each issue of the *Wyoming Lawyer*. He shared that his plan prior to the pandemic was to travel the state and interview these young lawyers; however, he now just sends a lengthy questionnaire. Once the questionnaire is returned, he and Past YLS Chair, Callie Capraro, edit that for the final article.

Mr. Rose shared that he is hearing from some young lawyers in Wyoming’s rural communities that they are concerned because there are no mentorship opportunities. He reported that some do not know how to run the business side of a solo practice and do not have anybody to show them the ropes. He shared that one thing he really wants to shine a light on as the Chair of the section is these young solo practitioners. He is aware of many young lawyers that return to their small, hometown communities and he feels that they need recognition. Mr. Rose reported that the survey done earlier in the year revealed that 40% of those who responded to the survey are solo practitioners.

Ben Rose shared that he has pushed for more of a partnership with the American Bar Association’s Young Lawyers Division with Past YLS Chair Holli Welch’s help. He reported that he is now signed up as a voting delegate for the young lawyers.

Mr. Rose reported that the section Council is currently brainstorming ideas for a holiday event, but that will obviously be something virtual.

Mr. Rose reported that the section Council is also interested in participating in another strategic planning session this coming spring.

Treasurer Edwards encouraged Mr. Rose to let all young lawyers know that there is nothing wrong with picking up the phone and calling an older lawyer simply to ask a question. He shared that he is confident that seasoned lawyers are always willing to help and emphasized that these calls would answer a lot of their questions and dissuade their fears.

Commissioner Silva echoed those sentiments and shared that his firm oftentimes enters an appearance in a case simply to help a young lawyer out. He shared that no attorney ever wants to see a young lawyer struggle. He too emphasized that young lawyers need to reach out for help because it is definitely there.

President Addleman encouraged Mr. Rose to consider hosting a monthly virtual event with an established firm to feature a more experienced lawyer as the speaker. He also recommended letting young lawyers know that the small/solo listserv is available and that can also be an effective resource.

Past President Kelly Neville reported that the small/solo working group is currently discussing this very issue, and she invited Mr. Rose to be a part of that working group.

Executive Director Wilkinson reminded the Board that a few years ago, there was discussion amongst the Young Lawyer Section Council about mentorship and overwhelmingly the group decided it did not want any formal mentorship program. As a result of that as well as the acknowledgement that most young lawyers live on their phones, the Bar established the Online Mentor Outreach Program where young lawyers can post an inquiry through the Bar's website and Executive Director Wilkinson and Mark Gifford review it to determine the best lawyer to refer it to. Executive Director Wilkinson reported that in the two years it has been in place, there have been four inquiries despite her efforts to market the service in the *Wyoming Lawyer*, in the Annual Meeting final program and on the Young Lawyer Section Facebook page.

Mark Gifford shared that he would really encourage the young lawyers to utilize the Ethics Hotline. He reported that the hotline keeps him and Deputy Bar Counsel, Melinda McCorkle, very busy, but they both enjoy those calls because they are hearing from really good lawyers who simply want to do the right thing.

Mr. Rose thanked the Board members for their suggestions and shared that if any of them have any other tips or suggestions to please feel free to share them with him.

Commissioners' Reports

- *First Judicial District*—Commissioner Stefanie Boster shared that she received many good comments about the Virtual Annual Meeting from her constituents.
- *Second Judicial District*—Commissioner Chavez shared that the majority of the attorneys in her office were able to attend the Virtual Annual Meeting. She also shared that her district received an order from the District Court judge suspending in-person hearings until January 4th; however, they have not heard anything from the Circuit Court yet.
- *Third Judicial District*—Commissioner Teresa Thybo shared that her district has resumed in-person trials and managed to get four jury trials in; however, the rumblings they are hearing is that the District Court is about to suspend those again.
- *Fourth Judicial District*—Commissioner Kessner shared that Judge Fenn just continued a jury trial this week, so it looks like the District Court may be backing off. He reported that an uptick in COVID cases has resulted in a regression of in-person hearings. He shared that he also sits as alternative Municipal Court judge and they are still doing in-person proceedings. Commissioner Kessner also shared that he has heard many good comments about the Virtual Annual Meeting.
- *Fifth Judicial District*—Commissioner Kirk also heard many positive comments about the Virtual Annual Meeting. She shared that a few of the judiciary's staff have been infected with the virus so that has impacted proceedings in her district.
- *Seventh Judicial District*—Commissioner Silva reported that Judge Skavdahl has been committed to having in-person trials; however, due to so many COVID issues in the jails and among Casper attorneys, it has not worked in other courts over the last two months. He shared that all state courts are conducting proceedings via Microsoft Teams. Commissioner Silva shared that he previously served as the Natrona County Bar President. He shared that it is his hope that he can get the county bar to be active once again. He feels it is important for lawyers to be connected even if it is virtually.

Board/Committee Liaison Reports

- *Civil Pattern Jury Instructions Committee*—Commissioner Kessner indicated that he needed to get in touch with Judge Kricken to let her know that he is now the liaison to the committee. Executive Director Wilkinson indicated that she would be sending all committee chairs e-mails to let them know who the new liaisons are.
- *Criminal Pattern Jury Instructions Committee*—Commissioner Thybo reported that Christyne Martens, Chair, suspended all meetings until after the first of the year due to the pandemic.
- *Permanent Rules Advisory Committee-Civil Division*—Treasurer Edwards reported that his term on the committee expires at the end of the year, so Justice Fox, the Chair of the committee, will be reaching out to members of the Bar to fill his vacancy.

President Billie LM Addleman adjourned the meeting at 12:25 p.m. on Friday, November 13, 2020.

Minutes Submitted by:

Sharon Wilkinson
Executive Director