



The State Bar of California

AGENDA ITEM

MARCH 10 – Friday, January 24, 2020, Open Session Minutes

Open Session Minutes
Regular Meeting of the Board of Trustees

State Bar of California
845 South Figueroa Street
Boardroom, 2nd Floor
Los Angeles, California

Friday, January 24, 2020
12:00 p.m.

Time meeting commenced: 12:02 p.m.

Time meeting adjourned: 2:50 p.m.

Chair: Alan Steinbrecher

Secretary: Sarah Cohen

Members present: Mark Broughton, José Cisneros, Juan De La Cruz, Sonia Delen, Ruben Duran, Chris Iglesias, Renée LaBran, Debbie Manning, Joshua Perttula, Sean SeLegue, Brandon Stallings

Members joined in progress: n/a

Members absent: Hailyn Chen

Public Comment:

Thomas Coleman: Mr. Coleman, Legal Director of the Spectrum Institute, a nonprofit that works to ensure access to justice for seniors and the disabled in probate/conservatorship proceedings, requested that the Board take two actions: (1) support a bill to protect the right to counsel for respondents in probate/conservatorship proceedings, consistent with 4(b) of the Strategic Plan's Access to Justice goals and objectives; and (2) make the State Bar complaint system more accessible to people with cognitive disabilities. Regarding the latter, he informed the Board that third parties have been told they are not allowed to file complaints, which is inconsistent with 5(b) of the Strategic Plan.

Tiela Chalmers: Ms. Chalmers, Executive Director at the Alameda County Bar Association, spoke in opposition to the recommendation in agenda item # 703 that would allow attorneys to list their areas of

practice on their State Bar profiles. She disagrees that this recommendation promotes access to justice and believes the proposal would reduce public protection by operating as a virtual online lawyer referral service without State Bar review. Ms. Chalmers does not believe consumers have a problem locating attorneys; she thinks they have trouble locating a “good” one. Ms. Chalmers’ position is that the appropriate vehicle to assist consumers and promote public protection is lawyer referral service programs. Ms. Chalmers gave further public comment during discussion of item # 703 in response to an assertion that opposition to the recommendation is paternalistic, commenting that it is perfectly appropriate for the State Bar to step in to protect consumers. Ms. Chalmers invited the State Bar to offer a lawyer referral service program, questioning how optional practice area reporting would provide consumers any greater benefit than that offered by a google search.

Carole Conn: Ms. Conn, Lawyer Referral and Information Services Director of Public Service Programs at the Bar Association of San Francisco, addressed the optional practice area reporting recommendation in agenda item # 703 and urged the Board to follow Ms. Chalmers’ lead. Ms. Conn explained that attorneys who participate in lawyer referral service programs are vetted, carry insurance and are in good standing.

Eric Preven: Mr. Preven, resident of Studio City, journalist and open government advocate, voiced concern about the lack of funding in the State Bar budget for professional competence. He described a situation in which his attorney made a deal without his approval with a city attorney. Mr. Preven believes that attorneys who bring cases against the city are incentivized to make deals with the city in order to get paid. He thinks the State Bar should provide monitoring and oversight of this type of deal-making.

Jeremy Evans: Mr. Evans, Vice President of the California Lawyers Association (CLA), addressed the optional practice area reporting recommendation in agenda item # 703. Mr. Evans recalled when the Sections split from the State Bar and formed the CLA, so the State Bar could focus on regulation and discipline and the CLA could focus on education and professional interests of attorneys. Mr. Evans said it is ironic that the State Bar is now offering free and unverified marketing to attorneys. He proposed instead that the State Bar offer specialization certifications in additional practice areas and take a closer look at the role of lawyer referral service programs.

Wayne Spindler: Mr. Spindler, from Encino, spoke about lawyer misconduct in city attorney offices. He referred to Price Waterhouse Cooper being defrauded by the city and by the law firms hired by the city, and how Price Waterhouse Cooper risked their lives fighting the city. He mentioned that City Attorney Mike Feuer was raided by the FBI and is being sued by three staffers. He questioned why nothing is being done about attorney misconduct.

Armando Herman: Mr. Herman stated people are using their bar licenses in city hall to protect them under color of law, and violate his civil rights. He referred to both the SLAPP action and TROs that were filed against him. He is speaking out against corruption, abuse, fraud and waste. He spoke about the need for money in the budget for reasonable accommodations for people with disabilities. He requested effective communication from the State Bar to resolve his complaints.

10 MINUTES

November 14, 2019 – Open Session Minutes – Adopted by unanimous consent

30 CHAIR'S REPORT

30-1 – Approval of Revised Liaison Assignments

RESOLVED, that the Board of Trustees ratifies the revised Liaison Assignments for the 2019-2020 Board year, as shown on Attachment B.

Moved by Stallings, seconded by De La Cruz.

Motion Passed by Substitution of the Roll

40 STAFF REPORTS

41 Executive Director

1. Report from Executive Director – ***Informational Only – no action***

50 CONSENT - *Collectively Deemed Approved by Unanimous Consent*

50-1 Approval for Specified Contracts Pursuant to Business and Professions Code Section 6008.6

1. For translation services, with: Language Line
2. For Interim Information Technology Director Services, with: Eduardo Frias
3. For online training module, with: InfoPro Learning
4. For Cisco Flex VoIP Licensing & Support, with: Dimension Data
5. For Access Through Innovation of Legal Services (ATILS) survey, with: National Opinion Research Center (NORC)
6. For evaluation of testing accommodation petitions, with: Michael D. Shore, Ph.D.
7. For evaluation of testing accommodation petitions, with: Laura Richer, D.O

RESOLVED, that the Board of Trustees approves execution of the contracts listed herein.

50-2 Report of Action Taken by Executive Director Approving Specified Contracts Pursuant to Business and Professions Code Section 6008.6

1. For testing accommodation space for the February 2020 Bar examination, with: Sheraton Gateway Los Angeles

WHEREAS, the contracts listed herein required execution before the next regularly scheduled meeting of the Board of Trustees; and

WHEREAS, on December 20, 2019, the executive director, after consultation with and approval by the designated committee for advising the executive director on such matters, approved said contracts; it is hereby

RESOLVED, that the Board of Trustees affirms the action taken by the executive director on behalf of the Board.

50-3 Notification of Approval of Interim Executive Director Contract - Request for Board Ratification

RESOLVED, that the Board of Trustees ratify the attached contract with Donna Hershkowitz for the position of Interim Executive Director, as executed by the Chair of the Board of Trustees on behalf of the State Bar on December 20, 2019.

54-111 Lawyer Assistance Program Oversight Committee - Appointment of Members

[ExCom Resolution]: RESOLVED, that the Board Executive Committee recommends that the Board of Trustees approve the appointment of the following new members to serve on the Lawyer Assistance Program Oversight Committee for a four year term:

Member Appointments

1. **Jim Heiting, as a member in the category of “member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years;**
2. **Justin Delacruz, as an attorney member;**
3. **Kelly Ranasinghe, as an attorney member and;**
4. **Dr. Martin Williams as a “member who is a licensed mental health professional with knowledge and expertise in the identification and treatment of substance abuse and mental illness.”**

FURTHER RESOLVED, that the Board Executive Committee recommends that the Board of Trustees approve the appointment of the following member to serve as Chair of the Lawyer Assistance Program Oversight Committee:

Officer Appointments

Justin Delacruz, Chair (2020)

[BOT Resolution]: RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee approves the recommended appointments for members and officers of the Lawyer Assistance Program Oversight Committee.

54-121 Rule of Procedure 2605 (Vexatious Complainants) - Approval of Nonsubstantive Correction Due to Clerical Error

RESOLVED, that the Board of Trustees, upon recommendation of the Regulation and Discipline Committee approve the version of Rule of Procedure 2605 attached hereto as Attachment A, effective nunc pro tunc to September 19, 2019.

54-122 Revised Rules of Professional Conduct 1.4, 1.16, and 3.8 - Return from Public Comment and Request for Adoption by the Board for Approval by the Supreme Court

RESOLVED, that the Board of Trustees, upon recommendation of the Regulation and Discipline Committee adopt amendments to Comment [5] of rule 1.16, and Comment [7] of rule 3.8 of the Rules of Professional Conduct of the State Bar of California as set forth in Attachments D, *as revised*, and E; and it is

FURTHER RESOLVED, that staff is directed to submit the amended rules to the Supreme Court of California with a request that the rules be approved.

54-123 Lawyer Referral Service Proposed Rules of Procedure Governing the Review Process for Certification, Revocation and Suspension Decisions - Return from Public Comment and Request for Adoption by the Board for Approval by the Supreme Court

Updated 2017-2022 Strategic Plan Rev. 2: 4.c.

RESOLVED, that the Board of Trustees, upon recommendation of the Regulation and Discipline Committee direct staff to submit to the California Supreme Court for approval proposed State Bar Rules of Procedure 4201 through 4208, attached hereto as Attachment A.

100 REPORTS OF BOARD COMMITTEES

110 Board Executive Committee

112 Approval and Ratification of Revised Board of Trustees Policy Manual (Steinbrecher)

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee approves the revised Board of Trustees Policy Manual.

Motion Passed by Substitution of the Roll [member presenter presumed to be the “mover” of the recommended action and no second is required because motion is brought by committee]

113 Approval of 2020 Legislative Priorities (Steinbrecher)

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee approve the State Bar's 2020 Legislative Priorities included in this item.

Motion Passed by Substitution of the Roll [member presenter presumed to be the "mover" of the recommended action and no second is required because motion is brought by committee]

700 MISCELLANEOUS

701 Adoption of Revised Strategic Plan (Hershkowitz)

Updated 2017-2022 Strategic Plan Rev. 2: 2.n.

RESOLVED, that the Board of Trustees directs staff, in consultation with the Board's Access Liaisons, to take the following steps to form a working group to develop recommendations to the Board by the end of 2020 for a **paraprofessional program, .e.g., LLLT program** in California

- Develop a draft charter
- Identify the appropriate size and composition of the working group
- Solicit interest in participation in the working group
- Return to the BOT in March 2020 for appointment of the members of the working group; and it is

Moved by Duran, seconded by Stallings.

Motion Passed by Substitution of the Roll

FURTHER RESOLVED, that the Board directs staff to engage with professionals to develop a plan to address the findings from the Farkas report. Staff shall report back to the Board in July 2020 for consideration of the plan and adoption of next steps; and it is

Moved by Stallings, seconded by Delen.

Motion Passed by Substitution of the Roll

FURTHER RESOLVED, that Goal 2, Objective b is revised to read:

Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, and measures to improve the fairness and efficacy of the discipline system to include: (a) an updated completion of a workload study for OCTC and SBC; (b) identification of staffing and resource needs based on the results of

that study; and (c) ~~development of new metrics for measuring the effectiveness of the discipline system including any needed revisions to the statutory backlog metric.~~ evaluating the different points of contact between the State Bar and Complaining Witnesses / Respondents to identify areas where modifications to the form or content of communication could improve the sense of procedural fairness; and (d) pilot changes in the form or content of communication w/ Complaining Witnesses and Respondents to identify measures that will improve the sense of procedural fairness by complaining witnesses or Respondent Attorneys; and it is

Moved by Stallings, seconded by De La Cruz.

Motion Passed by Substitution of the Roll

FURTHER RESOLVED, that staff is directed to develop an action plan to improve the ability of victims of attorney misconduct to collect on or otherwise received the court-ordered restitution from disciplined attorneys; and it is

Moved by Stallings, seconded by Duran.

Motion Passed by Substitution of the Roll

FURTHER RESOLVED, that the Board of Trustees approve the adjustments to Goal 2, objective n, as outlined in this agenda item, removing the date of completion of the CAPA report.

Moved by Stallings, seconded by Cisneros.

Motion Passed by Substitution of the Roll

702 Approval of State Bar Final 2020 Budget Pursuant to Business and Professions Code Section 6140.1 (Adams)

Updated 2017-2022 Strategic Plan Rev. 2: 2.d., 3.f., 3.k.

RESOLVED, that the Board of Trustees hereby adopts the 2020 Final Budget in the form presented to the Board this day; and it is

FURTHER RESOLVED, that the Board of Trustees hereby authorizes staff to make technical adjustments and corrections to the 2020 Final Budget prior to submitting it to the Legislature by February 28, 2020.

Moved by Delen, seconded by LaBran.

Ayes: Broughton, Cisneros, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings (De La Cruz was not present for the vote.)

Motion Passed

703 Rule Changes Addressing Public Licensee Information and Required Reporting - Return from Public Comment and Request for Approval (Holloway)

Updated 2017-2022 Strategic Plan Rev. 2: 2.g.

RESOLVED, that the Board of Trustees hereby adopts the proposed amendments to State Bar Rules 2.2, 2.3, and 2.4, attached hereto as Attachment A. This rule change shall be effective with the launch of the 2021 billing cycle; **and it is**

FURTHER RESOLVED, that the Board of Trustees directs staff to return to the Board regarding implementation.

Moved by Perttula, seconded by Iglesias.

Ayes: Broughton, Cisneros, De La Cruz, Delen, Duran, Iglesias, LaBran, Manning, Perttula, SeLegue, Stallings

Motion Passed

704 Exemption to CalPERS 180-Day Wait Period for Appointment of Diane Blackmon as a Retired Annuitant under Government Code Section 21224 (Holton)

Updated 2017-2022 Strategic Plan Rev. 2: 3.b.

RESOLVED, that the Board of Trustees adopts the resolution set forth in Attachment A and certifies there is a critical need to appoint Ms. Blackmon as a retired annuitant prior to the 180-day CalPERS waiting period.

Moved by Stallings, seconded by Cisneros.

Motion Passed by Substitution of the Roll

705 Exemption to CalPERS 180-Day Wait Period for Appointment of Jenice Housman as a Retired Annuitant under Government Code Section 21224 (Holton) - *withdrawn*

706 Waiver for Good Cause of Policy Restricting Leah Wilson from Conducting Business with the State Bar After Leaving Office Pursuant to Board Policy Manual 11.2 (Holton/Chang)

RESOLVED, that the Board of Trustees waives Board Policy Manual, Section 11.2 (Policy Restricting Former Members of the Board of Trustees and the Senior Managers Designated by the Executive Director from Doing Business with the State Bar), as applied to Leah Wilson, for good cause, as discussed on this date.

Moved by Stallings, seconded by Delen.

Motion Passed by Substitution of the Roll