

T E N T A T I V E D R A F T

Note: Please send suggested corrections
to Raquel Hines as soon as possible.

OPEN SESSION ACTION SUMMARY

COMMITTEE ON GROUP INSURANCE PROGRAMS

Monday, February 22, 2016

**The State Bar of California
San Francisco, CA 94105**

A meeting of the Committee on Group Insurance Programs was held on Monday, February 22, 2016 at the State Bar Offices in San Francisco. Demian Oksenendler, COGIP Chair, called the Open Session meeting to order at approximately 10:05 am.

Committee members present: Demian Oksenendler, Joseph Lavitt, Ruben Reyes, David Coher, Gerry Goldsholle, William Hanagami, Phil Hinderberger, Brian Hom, Robert Scott, Laura Smith and Susan Stapp

State Bar staff present: Leah Wilson, Chief Operating Officer, Pam Wilson, Senior Director, Office of Education, Raquel Hines, State Bar Insurance Programs and Caitlin Emmett, Office of General Counsel.

Others present: Dave White; AI&PS; Steve Williams; Heffernan Insurance Agency and Michael Guglielmo, Dick O'Regan, and Wendee Wood; Mercer Health & Benefits.

Chairs Update

- Welcome & Introductions
Introductions were made and Leah Wilson introduced
 - State Bar BOT and Management Update (Leah Wilson, State Bar COO)
change reporting structure for Insurance Programs' staff and committees-- reduced staffing, considering long term. She will continue to update the committee at the next meeting of any changes affecting the direct and indirect oversight of the committee.
1. A number of different initiatives going on at the Bar at this time; Workforce Planning and the Financial Audit of the Bar

2. Additional audit taking place at the same time—external audit by the State. Leah Wilson agreed to provide update on the findings of this audit and COGIP Members requested that they have adequate lead time for any changes coming in as a result of this audit affecting the insurance committees.
3. Governance and Special Interest Task Force-- This Task Force is addressing the question--should lawyers be governing lawyers? Should this be a Joint Bar—Discipline with member side. A discussion is taking place on the idea of ‘de-unification of the Bar.’ This Task Force will report in 2017. This Task has a statutory composition-- the President of the BOT and 7 members. COGIP Members shared their concern with the Leah’s idea of possibly joining the two insurance committees. This is only in the idea frame at this point. This would still have to be approved by the BOT. COGIP is willing to provide feedback on the past attempts at this initiative. Ms. Wilson confirmed that nothing will happen without the committees feedback.
4. Working with State Bar Staff on the considerations of social media and advertising for the promotion of the programs—hoping to move that initiative forward. Internally, Leah Wilson will work with State Bar staff to research and identify opportunities. She will continue to update the committee on progress made on this initiative.

- OGC Updates (Caitlin Emmett)

1. Bagley Keene: This legislation that the Bar is now required to adhere to replaces existing Open and Closed Meeting Rules that were previously followed. The Bar was put under this requirement through the 2016 Fee Bill. Effective April 1st, agendas must be posted 10 days in advance and provide an opportunity for the public to participate. Raquel Hines will be in charge of posting. IT will establish a portal. OGC is currently addressing the practical implementation of Bagley Keene and in that process will examine their decision on a number of questions regarding confidentiality and what items can be considered “Closed.”
 - a) Under this consideration, OGC will look into how this rule would apply to; PLI Claims data and Milliman actuarial reports. (The State Bar currently hires Milliman to review the sponsored Life Program and is required to sign an NDA prior to reviewing)
 - b) Mercer requested a response on how we should handle what the partners consider “propriety information” moving forward—could this be called in Closed under “Threat of Litigation”?
 - c) COGIP requested OGC review the committee’s charge to determine if all information could be considered confidential under “advice of counsel”.

Training and Next Steps: COGIP Members asked that the State Bar provide the PPT that was used during staff training, a listing of how to follow this new rule and an overview of Bagley Keene Manual. OGC will work to draft a list of FAQ’s. Raquel Hines will send materials to the group and identify a time for remote training on the

subject matter. She will look into the opportunity to conduct the training as a webcast or webinar.

2. Public Records Act: Effective January 2016, the Bar is now subject to the California Public Records Act. If the committee receives any requests of this nature, they should send this to Raquel Hines. Ms. Hines will work internally and determine whether or not this is an official request.
 - a) Committee Member, Susan Stapp shared the process in which the California Department of Insurance adhere to this statute; they have identified a contact person on their website, along with procedures on how to submit the requests. The timeline does not begin with them until it reaches the actual persons' desk. When does the timeline begin for the Bar?
 - b) What exactly can they request as it pertains to Committee and Program files? What is now considered confidential?
 - c) If member emails are now available to the public, how can we address the existing restriction we have on emails with the partners? OGC will review the partner/product agreements and provide a recommendation on how to proceed with granting them the approval to request and utilize emails for marketing. The existing guidelines for approval would still apply as they do in direct mail review.
 3. Form 700 Disclosures:: This annual disclosure is a Public and "backward looking" document that requires committee members identify potential conflict and/or gifts that they have received over the past calendar year. In addition, there is a second document detailing the partners and our relationships with them. This form is a confidential "forward looking" document that is currently kept in the Office of General Counsel. OGC will confirm this second document continues to be kept confidential and housed in their office.
- **Approval/Discussion Open Session Action Summary (November 2015):** This was approved with minor changes to the attendee listing. Raquel Hines will resubmit final Actions Summaries at the next meeting of the full committee for approval.
 - **Subcommittee Goals & Objectives (5 mins each)**
 1. Education: The goal of the subcommittee is to conduct; 5 CLE programs both at the Solo Summit and the State Bar Annual Meeting) and publish an article in the Calbar Journal. This subcommittee will identify a member to review the past courses, currently offered online through the InReach site. They will provide a report of their findings at the next meeting of the full committee. Their goal is to update courses that are now considered "out of date" and create curriculum targeted more towards specific groups.
 - a) Leah Wilson provided background on the purpose behind TFARR, whose goal is to draft an additional 10 hours of specific training—recommending a modified schedule that would be part of the new lawyer's required 25 units. This would apply to attorneys within their first year of admittance to the Bar. Ms. Wilson

will work with Raquel Hines and CYLA staff to ensure the CYLA Symposium takes into consideration these requirements. Ms. Hines will also make a concerted effort to identify ways that COPLI and COGIP can work together more effectively in support of this endeavor.

2. Healthcare: Mission statement provided. This subcommittee has requested to meet with State Bar staff to clarify 2016 expectations for this product. They will then meet with each sponsored broker to create action items to meet the goals for the Bar and the committee. In addition, they are preparing an article for CalBar Journal. The release of these articles would correlate with the significant Open Enrollment dates for Healthcare. A discussion was held questioning the ongoing need for this type of product, considering minimal results from the brokers, the Affordable Care Act, Federal Exchange and websites like; coverage.com. The subcommittee would like to give the program a couple more years before making the determination to keep or terminate. This has served more of a resource for our members, but not as successful with the brokers. Raquel will set up meeting with Reuben Reyes and Demian to discuss future of Healthcare.
3. Life & AD&D: The subcommittee has not met. A formal submission of their report will be given prior to the start at the next meeting of the full committee.
4. LTC & Disability: Mission Statement was provided; They will continue to monitor the posting and submissions of the standing RFP. They would like to participate on the evaluation panel for the Bids. Raquel will submit their names and begin conflict checks upon final receipt of submissions for this RFP.
 - a) Bob Scott provided an article for reference on the state of the LTC market. Sales are down across the market, claims are still coming in. The industry is concerned about adequate reserves. He would like the managing broker to continue to watch this movement and report back at the next meeting.
5. Property & Casualty: Mission statement will be emailed to Raquel by Phil Hinderberger. They will work with State Bar staff on the roll out of the Workers Compensation Program that was just approved 4th Q 2015.
6. Marketing: Mission statement provided, 3 proposals they would like the committee to move forward;
 - a) State Bar survey: David Coher will work with Raquel Hines and Leah Wilson to identify the opportunity to take part in a larger survey going out to the membership. Leah Wilson will take lead on this project for the Bar through the ED's office. Raquel will work with Ms. Wilson to confirm next steps and how we incorporate COGIP. David Coher will work with the subcommittee to complete and will update the remaining members at the next meeting of the full committee
 - b) 21 day lead time for marketing review; Raquel will complete formal notice to partners: request to have a 21-day review

period of all new marketing pieces seeking approval from the committee for use in print ad or direct mail. Raquel Hines will be the initial recipient of the marketing pieces and will monitor compliance with this new request.

- c) **Partner Reporting Format:** Raquel will work with Demian Oksenendler and David Coher to review existing reporting format and make recommendations for change. A draft of the suggested changes will be provided to the members at the next meeting of the full committee.

- **Partner and Education Reports**

1. **Liberty Mutual:** Auto & Homeowners Report (*P&C Subcommittee: Hinderberger*)
Phil Hinderberger led discussion on Auto and Homeowners Insurance. The Program Liberty Mutual is no longer with the State Bar program. Raquel Hines will update the CalBar Connect site to indicate a “New Program Coming.”

2. **Heffernan:** Healthcare Report: (Healthcare Subcommittee: Reyes)
Heffernan provided a report and provided updates on sales and member inquiries coming in after linking from CalBar Connect site. Group programs offering better rates are no longer being offered. State Bar sponsored program continues to yield the same small results. Ruben Reyes, subcommittee chair will work with the Bar staff and brokers to determine future of program. Heffernan requests authority to use email for marketing to members. Raquel Hines will look at policy considering the new requirements of California Public Records Act that allows for the public to request emails. Heffernan continues to invest in technology to bring the product to the member faster and easier. Steve will update the members at the next meeting of the full committee.

3. **AI&PS:** Long Term Care and Disability Report (LTC/Dis Subcommittee Chair: Scott)

Dave White provided an update on the LTC and Disability Program. Marketing: Raquel will update CalBar Connect with the rating link for LTC, connecting members to their site.

AI&PS updated the committee on causes of claims in this area, with mental and emotional reasons being the top reasons—different than any other industry. All business under this program used to be individually underwritten. This is now Group, but is no longer guaranteed issue.

Claims Fluctuation Reserve: The reserves have been released on past claims, but no complete reason as to why. The release totals \$896k, Dave White will solicit more background information from the carrier and will update the committee at the next meeting of the full committee. The Claims Reserve now sits at \$1.4M. AI&PS will continue to monitor incoming claims and paid vs earned premium as it may have an effect on this balance.

4. **Mercer:** Updates on all four sponsored programs

Workers Compensation: The new program now offered through Barney and Barney is on the market. Mercer is working with Bar staff to include this product in the 2016 Law Corporation mailing. Mercer confirmed that existing attorneys with other carriers will be solicited at renewal with the Barney and Barney program. (Existing B&B business excluded.)

Healthcare: 28 policies in force (6 group/ 22 individual policies.) Since they do not carry the same restrictions, Mercer would like to focus more of their resources on group side. Individual policies can only be sold to an attorney experiencing a qualifying event. Raquel Hines will work with Mercer to review the listing of the qualifying events and determine if increased education of the membership can help with the sales. Mercer has added the "Get Insured" technology to the CalBar Connect site. This allows members to compare their state options. More discussion was held regarding the use of Social Media in our marketing efforts. Raquel Hines has been asked to look into this further and will work with the Marketing subcommittee to implement a plan and report back to the committee. Topics include; geo-fencing, targeted marketing to specific audiences in specific locations with both purchased (Facebook) and earned content (Twitter and Facebook.)

AD&D: An update was provided on the sales to date. Mercer is targeting a mailing in May. Although the program experiences more lapses in coverage due to it being "guaranteed issue", the overall number of policies is still increasing. Close to 30% growth in the last five (5) years. Mercer will provide specifics on remaining "denied or pending" claim presently estimated at \$500,000. Mercer communicated this should not dramatically affect the health of the program.

Life Insurance: younger people purchasing the product. Different from the other association programs, the State Bar program is doing significantly better. Mike Guglielmo explained Life product, Franchise vs Group and why book is noted as "frozen". The new business is showing an increase year over year at 16%. Gerry Goldsholle asked about the "competitiveness study". Mercer completed this study 2 years ago and have not set a date for a future review. The Bar is not asking them to do so at this time. Question: is there a process in place that reaches out to policyholders when they are close to the end of their term. Mercer feels the program is too young to target them at this point. They are doing this for policyholders on the Franchise side and working together with them. What is the percentage that buy this and take advantage to re-up their policy? Mercer will respond to this at the next meeting of the full committee. CalBar Connect has just added the link to the online app for both AD&D and Life products. Mercer will add this to their online and mail strategy. We will hold a discussion with OGC in Closed Session regarding how to address their use of the email. Can you provide Claims information on the Franchise plan. Mercer plans to update these reports with more detail on a more frequent basis. We will be updated on the next meeting of the full committee.

Project updates: Pooling Point changes with AG'; Mercer continues to work with AG to complete the implementation of this requested change. Pooling point at

\$500,000 at 17%. AG is working on drafting an amendment. Raquel will work with AG to complete this agreement.

5. Education Education Subcommittee Chair: *Hom*

Raquel Hines provided submission deadlines for both Solo Summit and State Bar Annual Meeting. Solo-- March 1st and Annual Meeting, March 3rd.

The committee discussed education topics and then asked that members send new ideas to Brian Hom. He will work with Raquel Hines to complete course descriptions, identify speakers and ensure timely submission of all materials needed for both the Solo & Small Firm Summit on June 16-18, 2016, Newport Beach and the State Bar Annual Meeting, Sept 29 thru Oct 2, 2016, San Diego.

She will confirm speakers and provide an update to the members at the next meeting of the full committee.

2016 Proposed Meeting Schedule (Staff); May 23rd in San Francisco, August 22nd in San Francisco and November 11- 13, 2016 Planning Session