

An Update on the Work of the WSBA Board of Governors

The Washington State Bar Association's mission is to serve the public and the members of the Bar, ensure the integrity of the profession, and to champion justice.

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The Board of Governors met July 13 and 14. For information on this or past Board meetings, please contact Margaret Shane at margarets@wsba.org.

Welcome to Union!

Governor At-Large **Tracy Flood**, of Port Orchard, welcomed the Board of Governors to Kitsap County.

President's Report

President **Stephen Crossland** (Cashmere) reported that he and Executive Director Paula Littlewood conducted a Listening Tour through parts of the state, making stops in Spokane, Ephrata, Lyle, South Bend, Port Townsend and Seattle, engaging in conversations and gathering valuable feedback despite spilled coffee, a speeding ticket and a dead battery. He also shared that he held his third online chat and was pleased with ongoing participation and engagement. President Crossland concluded by reporting that he spoke at the Family Law Mid-Year Conference, and will speak at the Solo and Small Practice Conference on July 20-21.

Executive Director's Report

Executive Director **Paula Littlewood** reinforced the value of the Listening Tour, and wrote a recap of the tour for her July <u>Bar News column</u>. She discussed highlights from the Board of Governors Retreat held the previous day, where the BOG spent time discussing what the future of the Bar will possibly look like in five years. Littlewood also shared that there will be a <u>Moderate Means press conference</u> at Gonzaga Law School on July 25 to officially roll out the program in Eastern Washington. She noted there was a significant upswing of clients and case referrals after the Seattle press conference.

APR Task Force Presented Report and Recommended Amendments

APR Task Force Chair **Tom Dreiling** and General Counsel/Chief Regulatory Counsel **Jean McElroy** submitted the Task Force report and recommendations for amendments to the Admission to Practice Rules. The <u>amendments</u> recommended will be acted upon at the September BOG meeting. If adopted, the recommended changes will be forwarded to the Supreme Court for consideration. Among the recommendations are:

- changes in the requirements by which foreign law school or foreign lawyer applicants qualify to take the bar examination;
- changes in admission requirements for U.S. lawyers;
- a new requirement to license in-house counsel:
- a requirement that lawyers seeking pro hac vice admission pay the Lawyers' Fund for Client Protection assessment;
- a better written and organized rule 9 for licensed legal interns;
- a new Oath of Attorney;
- a requirement that all lawyers have email addresses on file with the WSBA; and
- a recommendation to form a committee to study mandatory malpractice insurance.

Please note: The proposed APR 26 amendments regarding mandatory malpractice insurance will **not** be up for adoption at the September meeting. Instead, at the September meeting, the APR Task Force is asking the Board of

Governors to form a committee to study the issue.

FY13 Budget

Treasurer **Nancy Isserlis** walked the Board through the <u>proposed 2012-2013 budget</u> that will be voted on at its September 20-21 meeting. (WSBA's fiscal year runs from October through September.) The budget reflects a \$325 license fee for active members and a reduction in expenses of \$1.4 million.

Legislative Issues

WSBA Legislative Liaison Kathryn Leathers continues to work with Sections to finalize proposals to be considered by the Board of Governors for introduction in the 2013 legislative session. If approved by the Board, among the likely Section-request legislation for 2013 are proposals emanating from the Real Property, Probate & Trust Section, including changes to the Washington Trust Act and new language authorizing transfer on death deeds, and the Legal Assistance to Military Personnel Section, addressing military personnel enrolled in institutions of higher education. Various Section representatives have also been asked to review and work with legislators and other stakeholders on both new, non-WSBA proposals for the 2013 session and also non-WSBA bills that did not pass during the last legislative session. A CLE on the legislative process has been scheduled for Sept. 11, and will include a panel of speakers who will engage in a frank discussion about how the legislative process really works. Other topics include bill drafting, insights into how the legislative budget process works, determining legislative intent, legislating by initiative and referendum, and separation of powers.

Court Rules and Procedures Committee Present Recommendations

Court Rules and Procedures Committee Chair **Kenneth Masters**, of Bainbridge Island, provided its annual report and provided a first reading of the <u>Committee's recommendations</u> regarding several court rules.

The Board will vote on the committee's recommendations at its Sept. 21-22 meeting, and any approved recommendations will be forwarded to the Supreme Court for consideration.

Local Hero Awards Presented at Luncheon

At a luncheon with WSBA members from Kitsap County, President **Stephen Crossland** presented local hero awards to Belfair attorney <u>Dan</u> Goodell and Silverdale attorney Paul Fjelstad.

ELC Drafting Task Force

Rules for Enforcement of Lawyer Conduct (ELC) Drafting Task Force Chair Geoff Gibbs (Everett), at the request of the BOG, brought forward two options for non-public forms of discipline as proposed replacements for admonitions. The BOG unanimously voted to adopt the proposal that uses and expands advisory letters so that they may be issued at any stage of a disciplinary matter. An advisory letter issued in a public proceeding would be called a "warning letter." This proposal makes it clear that a "warning letter" is not a sanction and is not disciplinary action. Additional recommendations from the Disciplinary Advisory Round Table regarding amendment of formal disciplinary complaints will be merged with the final ELC Task Force Recommendations and placed on the Consent Calendar for the Sept. 21-22 BOG meeting.

Uniform Bar Exam Policies

WSBA General Counsel/Chief Regulatory Counsel Jean McElroy brought forward the proposed Bar Exam policies needed to address changes in the Bar Exam and admission procedures with the change to online applications and use of the Uniform Bar Exam beginning July 2013. The BOG approved the following policies:

- Set the UBE required passing score at 270;
- Set the MPRE required score at 85;
- Set the required score for the online exam portion of the Washington law component at 80%; and

 Established the periods for which earned scores on these exams will be useable in seeking admission in Washington.

Creation of the 10th Congressional District BOG Seat

Fourth District **Governor Leland Kerr**, of Kennewick, presented maps of two proposals for dividing the 7th District into two subdivisions, rather than its current three, in order to incorporate a new BOG member from the newly created 10th District. The WSBA is required to add a Board of Governors member from the 10th District in next year's election cycle. The BOG examined two options for subdivisions, one dividing the 7th district east and west, the other dividing it north and south. It will vote on the proposed new boundaries at its Sept. 21-22 meeting.

Proposed Amendments to MCLE Rules and Regulations

MCLE Board Chair **Tap Menard** and MCLE Manager **Kathy Todd** presented a first reading on suggested amendments to Admission to Practice Rule (APR) 11 and Appendix APR 11 - Regulations of the Washington State Board of Continuing Legal Education. The <u>proposed</u> amendments cover three substantive areas:

- Creation of "development" credits
- Changes in Pro Bono credits
- Changes to the ethics definition The BOG is scheduled to take action on the proposed amendments at their Sept. 21-22 meeting.

Board Approves MCLE Comity Certificate of Compliance Fee

The Board of Governors voted to approve a \$25 Comity Certificate of Compliance, which will be charged both for those requesting a certificate from Oregon, Idaho or Utah to establish MCLE compliance in Washington, as well as those who want to provide a certificate of Washington MCLE compliance to one of the other three states. WSBA MCLE staff currently fulfills approximately 435 requests each year from

Washington lawyers for Comity Certificates of MCLE Compliance. Certificates are labor-intensive to produce and take MCLE analyst resources away from other required functions.

Committee and Board Appointments Made

The WSBA Board made numerous appointments for open positions on WSBA Committees and Boards. Learn more about the roles and responsibilities of each committee and board and find contact information on the WSBA website.

WSBA Treasurer Elected

Philip Buri, of Bellingham, governor from District 2, was elected by the Board as the 2012-2013 treasurer. As treasurer, he will serve as chair of the WSBA Budget and Audit Committee. Buri is a partner with Buri Funston Mumford PLLC, in Bellingham, where his practice emphasizes appellate and civil litigation, community associations, and land use. His prior work includes serving as a law clerk in the United States District Court from 1987–1989 and in the Washington State Supreme Court from 1993–1995.

Update on LLLT

Executive Director Paula Littlewood informed the Board that the Washington State Supreme Court has issued an order directing the WSBA to administer the Limited License Legal Technician Program. The Board approved the creation of a nominating committee to vet candidates for the LLLT Board, which will include nine attorneys and four non-attorneys. A small nominating committee will be formed (no more than 6 members) and chaired by 2012-2013 Presidentelect Patrick Palace. The appointments to the nominating committee will be made by President Crossland. The Board also voted to direct the nominating committee to bring back the recommended nominations to the Board for approval before sending them to the Supreme Court. More information on LLLT Rule, as well as how to apply for the LLLT Board, can be found on the WSBA website.

Upcoming Events

Many more events are listed on the Calendar of Events on the <u>WSBA homepage</u>.

August

Aug. 9–12: Washington State Association for Justice/Oregon Trial Lawyers Association Combined Convention, Suncadia Resort, Cle Elum

Aug. 22–25: Hispanic National Bar Association Annual Convention, Sheraton Seattle

Aug. 23: Special Public Meeting, WSBA Board of Governors, 10 a.m. – noon, WSBA offices, The purpose of this Special Meeting is to review suggested amendments to proposed GR 31A (Access to Administrative Records).

Aug. 23: Online chat with President Stephen Crossland and Executive Director Paula Littlewood, 5:30 – 6:30 p.m.

September

Sept. 20: WSBA Awards Banquet, Hyatt at Olive 8, Seattle

Sept. 20–21: WSBA Board of Governors meeting, WSBA offices, Seattle