

PRACTICE OF LAW BOARD STATE OF WASHINGTON

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MINUTES September 18, 2008

The Practice of Law Board met on Thursday September 18, 2008 at the Washington State Bar Association in Seattle, Washington. Those attending were Steve Crossland, Chair, Hon. Paul Bastine, Vice Chair, Nancy Ivarinen, Meg Bridewell, Rita Bender, Stephanie Delaney, Brian Dano, Jeanne Dawes, Cheryl Kringle and Howard Marshack. Sandra Schilling, Board Investigator and Julie Shankland, Board Administrator also attended.

MINUTES

The minutes for the August 8, 2008 meeting were approved with one correction.

SUCCESSION PLANNING

The Board discussed how to preserve and communicate Board history to new members. Beginning with the 2008-9 fiscal year, founding members of the Board will complete their terms. By 2010-2011, all founding members will have completed their terms. Stephanie Delaney is developing a website to store and maintain this information.

NOV MEETING IN OLYMPIA

The Supreme Court has invited the Practice of Law Board to Olympia on Thursday, November 6. The Board will hold its business meeting that morning and then meet with the Court for lunch. Many Board members will need to travel on Wednesday. The Board discussed meeting on Wednesday afternoon or evening in addition to Thursday morning. Staff was instructed to check into prices for the Clarion Inn in Olympia.

LEGAL TECHNICIAN RULE

Hon. Bastine reported on his conversation with Grace Wong regarding domestic violence advocates concerns. They are generally supportive of the rule, but worry that current employees may not meet the educational requirements of the rule.

Mr. Crossland reported that he spoke as part of an Oregon Bar Association conference on the future of the legal profession. The Oregon House of Delegates and Board of Governors may recommend that Oregon study the Legal Technician concept. Mr. Crossland also reported that he is speaking to paralegal groups. In an informal show of hands, a large percentage of the paralegals present would be interested in becoming a Legal Technician. Mr. Crossland also reported that the TVW program on the Legal Technician Rule aired.

The Board moved to executive session for deliberations of unauthorized practice of law complaints. Although deliberations are confidential, cease and desist letters issued by the Board can be viewed on the Board's web page. A motion was made, seconded and passed to enter executive session.

EXECUTIVE SESSION

A motion was made, seconded and unanimously passed to end executive session.

SUBPOENA AUTHORITY/ CONFERENCE WITH PROSECUTORS

The Board held a discussion about subpoena authority for the UPL investigations. The Board is still researching the legal basis for subpoena authority, the Board's ability to share documents obtained under subpoena with law enforcement or other agencies, and the potential effects of Board subpoena authority on other agency investigations. The Board agreed that the framework of this conference or discussion should be set out prior to the November meeting with the Court.

The Meeting was adjourned for lunch, followed by the BOG consideration and comment on the Legal Technician Rule Proposal. The Board reconvened the public session following the BOG consideration of the Rule Proposal.

LEGAL TECHNICIAN RULE

The BOG members and others expressed reasonable concerns that the POL Board can address. The POL Board made the following list of the concerns aired at the BOG meeting:

1. Unintended Consequences—would Legal Technicians cause or contribute to a lack of state funding for other on-going access to justice projects?
2. No evidence that Legal Technicians can provide services for less money than lawyers.
3. What do we do with people who are licensed if the program is not successful?
4. Legal Technicians will not practice in rural areas, so they will not increase access to justice.

5. Legal Technicians cannot represent people in court, so they cannot assist in making the record. Lack of a high quality record is a large part of the current problem, so Legal Technicians will not help. Attorneys will not take cases started by someone else.
6. No evidence that Legal Technicians will address any ATJ issues.
7. Legal Technicians are a risk to consumers.

The Board will consider these concerns.

The Meeting was adjourned.