

MINUTES

Public Session Washington State Bar Association BOARD OF GOVERNORS

**Seattle, WA
January 28-29, 2016**

The Public Session of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Bill Hyslop on Friday, January 29, 2016, at 1:35 p.m., at the WSBA Conference Center, Seattle, Washington. Governors in attendance were:

Keith M. Black
Philip L. Brady
Mario M. Cava
Ann Danieli
Sean M. Davis
James K. Doane
Elijah M. Forde
Bradford E. Furlong
Angela M. Hayes
Andrea S. Jarmon (Thursday only)
Jill A. Karmy
William D. Pickett
G. Jim Risenmay
Karen Denise Wilson

Also in attendance were President-elect Robin Haynes, Immediate Past-President Anthony Gipe, Executive Director Paula Littlewood (Thursday only)*, General Counsel/Chief Regulatory Counsel Jean McElroy, Chief Disciplinary Counsel Doug Ende; Director of Human Resources Frances Dujon-Reynolds, Chief Communications Officer Debra Carnes, Chief Operations Officer Ann Holmes, and Executive Assistant Margaret Shane.

* With the agreement of the Board and the Executive Director, Chief Operations Officer Ann Holmes served as Acting Secretary for the items marked with an asterisk.

WELCOME AND INTRODUCTIONS

Officers, Governors, liaisons, guests, and staff introduced themselves. President Hyslop welcomed the Board and everyone in attendance to the WSBA Conference Center in Seattle, Washington.

The following items were discussed on Thursday, January 28, 2016.

REPORT ON EXECUTIVE SESSION

President Hyslop reported that the Board approved the Executive Session Minutes of the November 13, 2015, Board meeting; heard updates from the Executive Director; approved recommendations from the Lawyers' Fund For Client Protection Board; approved the Executive Director Evaluation Goals and Compensation; and heard the Discipline and Litigation reports.

CONSENT CALENDAR

- a. November 13, 2015, Public Session Minutes
- b. Resolution in Support of ABA Fellows Outstanding Service Award for Llewelyn Pritchard
- c. Appointments
 - 1. Appoint Co-Chair to Pro Bono and Public Service Committee
- d. Nominations to Supreme Court Boards
 - 1. Nominate Member to Character and Fitness Board
 - 2. Nominate Member to Limited License Legal Technician (LLLT) Board
- e. External Appointments and Nominations
 - 1. Nominate Member to Supreme Court Ethics Advisory Committee
- f. Lawyers' Fund for Client Protection Annual Report

ADOPTION OF WSBA VALUES AND GUIDING COMMUNICATION PRINCIPLES – President-elect Robin Haynes, and Frances Dujon-Reynolds, Director of Human Resources

President-elect Haynes referred the Board to the information contained in the meeting materials. She explained that the Work Group considered communications values for the entire organization, including the Board and volunteers, and that it was a collaborative effort. Governor Furlong moved to adopt the Guiding Communication Principles, WSBA Values, and Conflict Resolution Practices and Policy as contained in the meeting materials. Motion passed unanimously.

WSBA APPOINTMENTS AND NOMINATIONS PROCESS – President-elect Robin Haynes, Chair; Immediate Past-President Anthony Gipe; Pam Inglesby, Communications Services Operations Manager; and Robin Nussbaum, Diversity, Inclusion, and Equity Specialist

Chair Haynes explained the difference between the current process and the proposed process, as well as the new guidelines for nominations team. She noted that the goal of the proposed process is to delegate all internal and external appointments and nominations, incorporating input from the Board, to the BOG Nominations Committee, and to increase the size of the BOG Nominations Committee from four to seven. Immediate Past-President Gipe reminded the Board that the goal of the proposed process is to take work off the Board so it has more time to focus on high-level considerations. Manager Inglesby explained the proposed process. Discussion ensued regarding potential lack of transparency; education by the Board members of their various constituencies; posting of applicant names; and BOG Nominations Committee being open to the public. General Counsel McElroy reminded the Board that BOG meeting materials are permanent public records and that WSBA is moving away from publishing too much personal information from applicants. Governor Wilson moved to adopt the proposed appointment and nomination process, with the amendment that the names of those slated to be appointed or nominated will be published on the WSBA website three weeks prior to each meeting of the BOG Nominations Committee. Motion passed unanimously.

DISCUSSION OF 2015-2016 GENERATIVE DISCUSSION TOPICS – Bill Hyslop, President

President Hyslop requested suggestions from the Board for generative discussion topics going forward. Immediate Past-President Gipe emphasized the importance of providing a single focus for each topic. It was the consensus of the Board that President Hyslop appoint a small committee for each of the top four generative discussion items to meet and decide how to structure the generative discussion. He urged the committees to be specific and decide what materials to review, and how to make the discussion as effective and productive as possible. In addition, he asked that the Committees meet as soon as possible and report back to the Executive Committee so the generative discussions can be added to the Board's meeting agendas. Generative discussion topics suggested, votes prioritizing the discussion topics, and committee members, include:

- Law school effectiveness and addressing linkage with student loan debt – 12 votes – committee members appointed: Bill Pickett, Brad Furlong, Elijah Forde, Paula Littlewood, and Sean Davis
- Maximizing the return obtained on current programs for the benefit of WSBA members – 9 votes – committee members appointed: Angela Hayes, Frances Dujon-Reynolds, Jill Karmy, Joy Williams, Mario Cava, and Terra Nevitt
- Mentorship – 7 votes – committee members appointed: Ana Selvidge, Karen Denise Williams, Mario Cava, and Phil Brady
- Greying of the bar/second season of service/transitions – 6 votes – committee members appointed: Brad Furlong, Charity Anastasio, Dan Crystal, Jill Karmy, Robin Haynes, and Sean Davis
- Access to justice and attorney job market – 5
- Enhancing the LLLT program – 4
- Access to justice and next steps regarding Civil Legal Needs Study – 1

President Hyslop advised that the generative discussion schedule will be on the agenda for the next Executive Committee meeting on February 19, 2016.

The following items were discussed on Friday, January 29, 2016.

*President Hyslop opened Public Session with a moment of silence in remembrance of former WSBA President Dale Carlisle, a recipient of the WSBA Lifetime Service Award, who died on January 14, 2016. He then announced that Managing Disciplinary Counsel Randy Beitel, who has been on WSBA staff since 1988, will retire at the end of March 2016.

***ESCALATING COST OF CIVIL LITIGATION (ECCL) TASK FORCE RECOMMENDATIONS – Russ Aoki, Chair; Isham Reavis, Task Force Member; and Ken Masters, Task Force Member**

President Hyslop reviewed the process for presentation and for hearing comments on the ECCL Task Force recommendations at this meeting. Chair Aoki reviewed the five-year work that went into the research and compilation of the Task Force findings and recommendations. He advised that the first six topics would be covered at this Board meeting, with the remaining topics

covered at future Board meeting. For each of the topics, he explained the Task Force's initial recommendations, the basis for each recommendation, stakeholder feedback received, changes made based on feedback where applicable, and resulting final recommendations. Numerous speakers representing various entities from the legal community shared their comments in response to the Task Force recommendations presented at this meeting. Discussion ensued regarding mandatory disclosures; sanctions or remedies regarding good faith safe harbors; potential increase in costs of litigation due to proposed proportionality requirements; potential risks of narrowing discovery; pressure point exerted by insurance companies; and enforcement of discovery rules.

The Board went back into Executive Session, then reconvened Public Session. President Hyslop reported that further discussion was held in Executive Session regarding the Sections Policy Work Group process. He emphasized that no discussion was held concerning the substance of the Work Group's draft proposal. Governor Furlong acknowledged the hard work done to date by the Sections Policy Work Group and recognized that the initial proposal has generated a good deal of interest. He stated that he wishes to encourage constructive engagement to address the issues and the continuation of an open process. He then moved that the WSBA Board of Governors has heard and fully appreciates the substantive feedback in response to the working proposals generated to date by the Sections Policy Work Group; and the Board of Governors wants to assure all WSBA members that the Sections Policy Work Group will take the time necessary, and make any further adjustments to the schedule and/or process, to ensure the best decisions are made for the WSBA as a whole. Motion passed unanimously. Governor Jarmon was not present for the vote.

In an answer to an inquiry, President Hyslop explained that the current schedule for the Work Group includes a public session on February 4, 2016, to which all section leaders are encouraged to attend; another open meeting on February 19, 2016, to which all section leaders are encouraged to attend; proposed recommendations for "first reading" at the Board's meeting in Olympia on March 10, 2016; and proposed recommendations for "action" at the Board's meeting in Bremerton on April 15-16, 2016. He clarified that the motion authorizes the

Work Group to review the process, and determine whether an adjustment needs to be made either to the process and/or to the timeline.

ADJOURNMENT

There being no further business, the Public Session portion of the meeting was adjourned at 12:30 p.m. on Friday, January 29, 2016.

Respectfully submitted,

Paula C. Littlewood

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WSBA Executive Director & Secretary