

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING

Minutes

Held Virtually

March 18-19, 2021

Call to Order and Welcome ([link](#))

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Kyle Sciuchetti on Thursday, March 18, 2021 at 9:05AM. Governors in attendance were:

Hunter Abell
Sunitha Anjilvel
Lauren Boyd
Treas. Daniel D. Clark
Matthew Dresden
Peter J. Grabicki
Carla Higginson
Russell Knight
Tom McBride
Bryn Peterson
Brett Purtzer
Alec Stephens
Brent Williams-Ruth

Also in attendance were President-Elect Brian Tollefson, Immediate Past President Rajeev Majumdar, Executive Director Terra Nevitt, General Counsel Julie Shankland, Chief Disciplinary Counsel Doug Ende, Director of Advancement Kevin Plachy, Equity & Justice Manager Diana Singleton, Chief Financial Officer Jorge Perez, Chief Regulatory Counsel Renata Garcia, Executive Administrator Shelly Bynum, Chief Communications, Outreach Officer Sara Niegowski, IT Director Jon Dawson, Betsylew Miale-Gix (WSAJ), Nancy Hawkins (Family Law Section), James E. MacPherson (WDTL), Practice of Law Board Chair Michael Cherry, and Kari Petrasek.

Executive Session Announcement ([link](#))

Pres. Sciuchetti conducted a roll call to confirm a quorum and announced that the Board would meet in executive session from 9:09AM until 9:45AM as authorized by the WSBA Bylaws Art. VII.B.7.a.2 to discuss an individual disciplinary matter, character and fitness matter, Client

Protection Fund claim, or other matter made confidential by court rules or by the Bylaws. Pres. Sciuchetti extended the executive session to 10:00AM.

Consent Calendar ([link](#))

Gov. Knight moved for approval of the consent calendar. Motion passed unanimously. Gov. Higginson was not present for the vote.

Moment of Silence ([link](#))

Pres. Sciuchetti asked for the Board to recognize a moment of silence for those killed in Atlanta and the ongoing violence against people of Asian descent. Gov. Williams-Ruth made remarks about the history of discrimination and violence against Asian Americans and suggested people look to the Seattle University Korematsu Center to learn more.

President's Report ([link](#))

Pres. Sciuchetti reported on the hybrid nature of the meeting and the planned hybrid meeting in April in Spokane, WA; that Board made a determination on a matter concerning late fees in executive session; and the election of Governor Elect Serena Sayani for District 7 South. Discussion followed about the transition to in-person meetings. Pres. Sciuchetti indicated that the Spokane meeting would be discussed further with the Executive Committee.

Presentation of Local Hero Awards ([link](#))

Pres. Sciuchetti honored Meredith Gerhart and Emily Nelson as local heroes, nominated by the Thurston County Bar Association and the Government Lawyers Bar Association, respectively. Their remarks followed.

Executive Director's Report ([link](#))

Exec. Dir. Nevitt reported on the remote bar exam, the evaluation of WSBA's ability to transition to a more remote work place, and she welcomed Human Resources Director and Chief Culture Officer Glynnis Klinefelter Sio to the Executive Leadership Team. Discussion followed about the equity and privacy issues related to the remote bar exam and the steps taken by WSBA to address and mitigate them.

Member & Public Comments ([link](#))

There were no comments.

Reports of Standing or Ongoing Board of Governors Committees ([link](#))

Executive Committee. Pres. Sciuchetti reported that the Committee heard about the work of the Council on Public Defense and discussed the commitments made to the Minority Bar Associations, noting that he has appointed Gov. Stephens as a liaison to the Washington Race Equity & Justice Initiative.

APEX Awards Committee. Gov. Knight reported that the deadline for award nominations has been extended to March 31.

Personnel Committee. Pres. Sciuchetti reported that Gov. Anjilvel and Gov. Williams-Ruth would be leading the Committee's work to review and make recommendations with regard to the Employee Climate Survey.

Legislative Committee. The report was deferred to later in the meeting.

Nominations Review Committee. Pres. Elect Tollefson noted that the Committee is meeting monthly and its actions are being reported out to the Board via email.

Diversity Committee. Gov. Anjilvel reported that the Committee is meeting monthly, though it has not set a permanent schedule for the year, and noted that the meetings are open and attendance is encouraged. She noted that Gov. Boyd has joined the Committee. The Committee is working on a long-range plan for a pipeline program.

Long-Range Planning Committee. Pres. Sciuchetti noted that Committee has met several times and is laying the groundwork for establishing a long-range strategic plan. The Committee is meeting regularly on the fourth Thursday of each month.

Member Engagement Workgroup. Gov. Peterson reported that the Committee is exploring how to reach out to and gather feedback from members.

Budget & Audit Committee. Treas. Clark referred to his written report in the materials and noted that one-third of the way through the fiscal year WSBA is running a net gain to the general fund despite having budgeted for use of reserve.

Equity & Disparity Workgroup. Gov. Stephens reported that the workgroup has prioritized two areas of initial focus. A subcommittee Chaired by Laura Sierra is exploring recommendations regarding GR12. A second subcommittee chaired by Kim Sandher is exploring the experiences of the justice system by low-income and people of color. He noted that the workgroup is being led by a steering committee made up of himself, Kim Sandher, Laura Sierra, Terra Nevitt, and Kirsten Abel.

Washington State Task Force on Bar Licensure. Gov. Williams-Ruth noted that the Task Force being chaired by Justice Raquel Montoya-Lewis and Dean Rooksby. has met once and established clear guidelines for its work, including that the Task Force will have no impact on upcoming bar

exams. He noted that the Task Force's work is not limited to the bar exam but rather the entire admissions process, including character and fitness, reciprocity, and the APR 6 Law Clerk program. Discussion followed, including where to watch and/or find out additional information about the Task Force.

COVID Task Force. Co-Chair Kevin Plachy referred to the written report and reported that the Task Force has been focused on the member survey regarding COVID19 impacts, noting that the results have been reported in the March issue of Bar News.

Budget & Audit Committee Items ([link](#))

Fiscal Year 2020 Audit Results & Financial Statements. Mitch Hansen, Partner at Clark Nuber PS reported on his firm's audit of the fiscal year 2020 financial statements. He reported that it was a very efficient process, done entirely remotely this year, noting that WSBA's Finance Team was very well prepared. His presentation included an overview of the scope and deliverables, the audit process, the areas of emphasis, and specific COVID-19 considerations. The result of the audit was an unmodified opinion, noting that there were no adjustments, which is a good indicator of the quality of WSBA's systems and team. He also presented recommendations for remote work internal controls, flagged new FASB Standards, and the need for network penetration testing, which he noted WSBA is doing. Discussion followed regarding including the length of Clark Nuber's engagement with WSBA and the consistency of clean audit results.

Limited License Legal Technician License Fee Proposal. Treas. Clark moved to set the 2022 license fee for Limited License Legal Technicians at the same rate as last year, which is \$229. Gov. Stephens seconded. Motion passed unanimously. Govs. Abell, Boyd, Higginson, and Peterson were not present for the vote.

Discussion & Resolution Regarding the Bar Exam in Washington State ([link](#))

Gov. Knight presented the purpose and intent of the resolution provided in the materials, noting three areas in which he believes there is widespread agreement: (1) that some form of bar exam is important in terms of protecting the public, (2) the way in which diploma privilege was granted raised some questions, (3) that there are serious concerns that the bar exam may have a discriminatory impact and that should be examined. Discussion followed, including the appropriate timing for a statement and whether the Board has sufficient information to take a position, comments in support of and in opposition to the proposed resolution, the merit of and concerns about the bar exam, public dialogue about the bar exam and law school, opposition by the WSBA Diversity Committee and lack of stakeholder engagement, whether the BOG's representative's hands will be tied to a position, and the makeup of the Task Force.

Gov. Grabicki moved for approval of the resolution. Discussion continued, including on the makeup of the Task Force, timing of taking a position, and the need for stakeholder engagement.

Gov. Stephens moved to postpone action until December or January depending on when the Board of Governors meets. Discussion followed on the motion to postpone. Motion failed 3-9. Gov. Boyd was not present for the vote.

Discussion continued, including clarification that the intent of the resolution is not too bind the engagement of WSBA's representatives to the Court's Task Force, discussion about the role of Task Force participants, and comments in support of and in opposition to the proposed resolution. The Board heard public comment from Jordan Couch about the bar exam as an intentional tool of racial discrimination, former Gov. Andrea Jarmon in opposition to the resolution as premature and also citing its racialized history, and James E. MacPherson in support of the resolution, which puts forth an initial position that reflects the viewpoint of members. Discussion continued, including the Board's June 26, 2020 resolution and its commitment to repairing and rebuilding relationships with Minority Bar Associations, stakeholder engagement, and the ability of Task Force members to fully engage in the process unbound by the Board's resolution.

Gov. Williams-Ruth moved to amend the first bullet point to read "in order to ensure a competent, ethical and diverse legal profession, the WSBA supports a new method of admission that improves our profession through membership and inclusion, rather than exclusion." Pres. Sciuchetti deferred discussion on the motion to amend until after discussion on the proposal to amend the WSBA Bylaws Article III.

Second Read: Proposed Amendments to WSBA Bylaws Art. III Re Inactive Application Fees as Recommended by the LPO and LLLT Boards ([link](#))

LPO Board Member Bill Ronhaar and LLLT Board Member Sara Bove presented the proposal to amend the WSBA Bylaws to waive the application fee under certain circumstances. Gov. Grabicki moved for approval. Motion passed unanimously. Gov. Boyd was not present for the vote.

Discussion & Resolution Regarding the Bar Exam in Washington State (continued) ([link](#))

Discussion continued on the motion to amend, including inclusion of language referencing the diversity of the profession, the extent to which the amendment changes the original intent of the resolution, and a desire to address the Rule 6 program in the resolution. The Board heard public comment from Jordan Couch regarding the lack of efficacy of the bar exam. Discussion continued, including a concern that voices in support of the bar exam will not be well represented at the Task Force absent the Board weighing in, groups that might be left out of the conversation, and a suggestion to look at the California model. Pres. Sciuchetti deferred additional discussion until after the Annual report of the Client Protection Fund Board.

Client Protection Board Annual Report ([link](#))

Chair Carrie Umland presented the annual report of the Client Protection Fund Board, including its history, purpose, and processes. She highlighted claims related to fee disputes as being difficult to resolve. She noted the Fund is maintained as a self-sustaining trust funded by assessments and restitution payments. She noted that in 2020 the Board met four times to consider 52 applications, involving 30 lawyers and that it approved 33 applications, involving 16 lawyers.

Legislative Session Report ([link](#))

Gov. Grabicki reported on the current Washington State legislative session. Discussion followed. The Board took public comment from Nancy Hawkins regarding the WSBA Family Law Section's dissatisfaction with the legislative review process and a request to make this a future agenda item. Pres. Sculichetti suggested that this be a discussion with the Executive Committee.

Discussion & Resolution Regarding the Bar Exam in Washington State (continued) ([link](#))

Discussion continued on the motion to amend. Gov. Dresden moved to amend the amendment to delete the word "new" and delete the words "mentorship and" and add "and treat Rule 6 Law Clerks the same as law school graduates." Discussion followed, including the exclusionary impact of identifying specific groups in the resolution, whether the resolution should be deferred to a later meeting, the need for outreach to the Minority Bar Associations, and the effectiveness of the resolution. The Board heard public comment from James E. MacPherson.

Gov. Williams-Ruth moved to call the question on the motion to amend the amendment. Motion passed 10-1. Gov. Boyd was not present for the vote.

Motion to amend the amendment failed 5-6. Gov. Boyd was not present for the vote.

Motion to amend failed 4-7. Gov. Boyd was not present for the vote.

Gov. Anjilvel moved to remove all references to diversity and inclusion in the resolution. Discussion followed regarding the intent of the original language and the intent of the amendment.

Gov. Stephens moved to postpone the discussion until the April meeting. Discussion followed about having sufficient time to consult with Minority Bar Associations, whether the motion was appropriate in light of the previous motion to postpone, and the merits of the motion to postpone. Motion to postpone failed 5-7. Gov. Boyd was not present for the vote.

Discussion continued on Gov. Anjilvel's motion to amend, including questions about the specific language changes requested.

Gov. Grabicki moved to table. There was a discussion about the appropriateness and the nature of the motion. The motion was clarified to be a motion to postpone indefinitely, which is debatable. Discussion followed on the motion to postpone. Motion to postpone indefinitely was ruled as out of order until the underlying motion to approve the resolution was being taken up. Pres. Sciuchetti deferred further discussion to the next day.

The Board heard public comment from Nancy Hawkins regarding executive session.

Executive Session Announcement ([link](#))

Pres. Sciuchetti conducted a roll call to confirm a quorum and announced that the Board would meet in executive session at 9:09AM to discuss two matters as authorized by the WSBA Bylaws Art. VII.B.7.a.4 to discuss with legal counsel representing the Bar in litigation or potential litigation to which the Bar, the Bar entity, or an employee or officer of the Bar or member of the Bar entity is or is likely to become a party, or to have other privileged or confidential communications with legal counsel representing the Bar. And as authorized by the WSBA Bylaws Art. VII.B.7.a.6 to discuss any other topic in which the President in his or her discretion believes the preservation of confidentiality is necessary or where public discussion might result in violation of individual rights or in unwarranted or unjustified private or personal harm. He noted that subsection 6 shall be narrowly and strictly construed; mere embarrassment or criticism is insufficient standing alone to address an issue in executive session. Pres. Sciuchetti returned to public session to announce that the executive session would end at 11:30AM. extended the executive session to 11:40AM.

Discussion & Resolution Regarding the Bar Exam in Washington State (continued) ([link](#))

Discussion resumed on the motion to amend. Gov. Anjilvel withdrew her motion to amend. Discussion followed about the previous motion to table and the effect. It was clarified that if the motion were to pass, it would not require a two-thirds majority vote to re-raise the issue. Gov. Grabicki renewed his motion to table indefinitely. Discussion followed to clarify the motion, in favor of the motion, and expectations of the work that will occur between this meeting and the next discussion, including seeking input from members. Gov. Grabicki withdrew his motion to table. Gov. Knight moved to reconsider the previously defeated motion to table to April. Discussion followed including how outreach will be conducted. Motion to reconsider passed 12-1.

Discussion followed on the motion to table to April. Govs. Anjilvel, Dresden, Clark, Abell, Knight, and Peterson volunteered to serve on a subcommittee to engage in outreach. The Board heard public comment from James E. MacPherson in favor of the motion and regarding outreach. Motion passed 11-1. Gov. Higginson was not present for the vote.

Discussion regarding outreach continued. Pres. Sciuchetti created an ad hoc task force, appointed Govs. Anjilvel, Dresden, Clark, Abell, Knight, and Peterson, and suggested that the group work with Chief Communication Officer on broad outreach to the membership.

Second Read: WSBA Bylaws Amendments to Article VI Re Governor Elections

Discussion was deferred to the April meeting.

Pro Bono & Public Service Committee Comment on the MCLE Board's Suggested Amendments to APR 11 ([link](#))

Chair Bonnie Rosinbum presented the request to comment. Discussion followed in support of the request to comment. Gov. Clark moved for approval. Motion was approved unanimously. Govs. Boyd, McBride, Peterson, and Williams-Ruth were not present for the vote.

Update on the Future of Work and WSBA ([link](#))

Exec. Dir. Nevitt presented an update on the future of work. Discussion followed about having the ability to change course if the transition doesn't work as well as expected, confirmation that cost savings is a goal, how subletting might work, the desire for regular updates on this project, and employee views about the office location.

Creation of a Technology Committee ([link](#))

Gov. Dresden presented his idea to create a Technology Committee and his reasons for it noting that he was seeking to learn if there was sufficient interest to bring back a proposal in April. Discussion followed, including support for the idea and the use of resources required to create a new committee.

Governor Liaison Reports ([link](#))

Gov. Williams-Ruth made comments on the liaison role generally as well as specific work with the World Peace through Law Section, noting that he will be moderating one of their upcoming "listen in" sessions. Gov. Dresden provided updates regarding the Pro Bono and Public Service Committee, noting that they are actively seeking new committee members; the Creditor Debtor Section and its legislative work; the Board of Bar Examiners; and the Office of Civil Legal Aid and its legislative work. Gov. Anjilvel reported on Criminal Justice Task Force chaired by Professor Chang at Seattle University. She noted the goal of the task force is to present a report to the Supreme Court regarding criminal justice reform. She noted that the meetings are open for all to attend. Gov. Anjilvel also shared an update from the Practice of Law Board summarizing its current work. Finally, she reported on the work of the Solo & Small Practice Section and the Civil Remote Jury Trials Work Group and noted her intent to connect with the Elder Law Section. Gov. Stephens reported on his ongoing relationship with the Civil Right Section. Pres. Sciuchetti reported on his conversations with the Government Lawyers Bar Association, noting that he has appointed Gov. Boyd as liaison to that association.

ABA Mid-Year Meeting Report ([link](#))

ABA Delegates Jaime Hawk and Maggie Smith reported on the ABA's second-ever all remote meeting. Delegate Hawk provided some programming highlights. Delegate Smith provided an overview on the 30 resolutions approved at the meeting. Discussion followed, including encouragement to attend ABA meetings.

Governor Equity, Diversity, and Inclusion Reports ([link](#))

Pres. Sciuchetti referenced the Board's response to the letters from the Minority Bar Associations. He noted that he has appointed to the Gov. Stephens as a liaison to the Race Equity & Justice Initiative. Discussion followed about the intent of this agenda item and individual reports about work within and outside of WSBA.

Governor Roundtable ([link](#))

Gov. Peterson urged that we continue to work to expand our Member Wellness Program. Discussion followed. Gov. Higginson requested additional work be done to consolidate all of our policies and resolutions in one place. Discussion followed regarding interest and how to move it forward. Gov. Higginson also raised a concern about the use of Box. Discussion followed. Gov. Higginson raised a member question about getting Bar News sent to their home address. Discussion followed. Gov. Williams-Ruth made a request that we work to avoid late materials, late agenda items, etc. Gov. Stephens apologized for his remarks regarding a policy being discussed at the Diversity Committee Meeting. Pres. Elect Tollefson requested that all the meetings get sent out as outlook invites. He also thanked the Board and the employees for keeping the work going and having a generally smooth transition to remote work. Discussion followed. Govs Abell and Grabicki presented on the rural practice initiative. Gov. Abell also encouraged governors to solicit nominations for the APEX Awards.

ADJOURNMENT

There being no further business, Pres. Sciuchetti adjourned the meeting at 4:18PM on Friday, March 19, 2021.

Respectfully submitted,



Terra Nevitt
WSBA Executive Director & Secretary