



Board Meeting Digest

A summary of the Board of Governors meeting July 27-28 in Vancouver, WA

Top Takeaways

1. Insurance? Members of the [Mandatory Malpractice Insurance Task Force](#) said in an [interim report](#) that they are likely to recommend malpractice insurance as a condition of licensing for all active lawyers, with to-be-determined exemptions. Before the final report is due in January, they want YOUR feedback, especially about specific details like exemptions and minimum coverage levels. More info below.
2. Insurance! WSBA has the green light to set up a private health-insurance exchange to provide another option for members across the state. More info below.
3. The board took a first look at [WSBA's draft 2019 budget](#), which will be on the agenda for action in September. Subject to Washington Supreme Court review, all license types will have the same active member license fee—\$453—next year. More info below.
4. Rules, rules, rules: Various WSBA entities have recommended amendments and additions to the Rules of Professional Conduct, Superior Court Civil Rules, Criminal Rules for Courts of Limited Jurisdiction, and Superior Court Criminal Rules. More info below.
5. We're honoring a fantastic group of legal luminaries in September—get your tickets now for the Sept. 27 [annual APEX Awards dinner](#). You're sure to leave inspired.

Meeting Recap

- **Local Hero Awards:** WSBA President Bill Pickett presented Local Hero Awards to [Lisa Lowe](#) (nominated by the Clark County Bar Association) and [David Nelson](#) (nominated by the Cowlitz-Wahkiakum Bar Association) for their outstanding legal and community service.
- **Mandatory Malpractice Insurance.** The [Mandatory Malpractice Insurance Task Force](#) issued an interim report with a tentative conclusion that malpractice insurance should be mandated for Washington-licensed lawyers, with specified exemptions (in Oregon, for example, exempted groups include government attorneys, in-house private-company attorneys, and others). The task force's preference thus far is to mandate a minimum level of coverage, purchased through the open marketplace. Before its final report is due in January, the task force will focus on details (what exemptions? what minimums?) for rule drafting. Members are encouraged to read the [interim report](#) and provide comments to insurancetaskforce@wsba.org. Please note: Limited License Legal Technicians and Limited Practice Officers are already obligated to show proof of financial responsibility, which is typically established by certifying malpractice insurance coverage.
- **Member Health-Insurance Pool.** With rising health-care costs and uncertainty about the Affordable Care Act, members have been reaching out to WSBA over the past year asking what we can do to provide health insurance. In response, we've explored the insurance landscape and talked to members, other bars, insurance experts and officials, and various providers. Our research indicates the best potential to offer WSBA members another insurance option with competitive rates is through a private exchange. We will soon partner with [Member Benefits, Inc.](#), a company that creates private exchanges for associations such as the State Bar of Texas and the Florida Bar. We will let all members know when that

benefit is available.

- **Budget and Audit Committee Recommendations.** The Budget and Audit Committee presented [WSBA's draft 2019 budget](#) for consideration to the board, which will take action on it in September. The draft budget maintains programs and services to fulfill our regulatory responsibilities, serve and protect the public, and support members to be successful in the practice of law. The budget is built on previously set lawyer-license fees of \$453. As part of the budget-building process, the board approved:
 - A new Continuing Legal Education (CLE) revenue-sharing model with sections. Section leaders widely expressed support for this new model.
 - License fees for Limited Practice Officers (LPOs) and Limited License Legal Technicians (LLOs): After debate, both active-member fees were set at \$453 for 2019 (the Budget and Audit Committee came with a recommendation of \$200). The board also recommends that LLLTs and LPOs pay a \$30 Client Protection Fund assessment, which would need to be specifically ordered by the Washington Supreme Court. The majority of governors decided that, as WSBA members with full access to benefits and services, LPOs and LLLTs should have the same license fees as lawyers. The Washington Supreme Court will review these fees for reasonableness.
 - The Law Clerk program annual fee: After remaining at \$1,500 for 20 years, the fee will increase to \$2,000 next year.
- **Free Legal Research Tool for Members.** WSBA currently contracts with Casemaker to provide members with a free legal-research platform. WSBA recently launched a request for proposal and has been exploring whether to remain with Casemaker, switch to Fastcase, or offer both. To evaluate members' preference, WSBA conducted a member-wide survey with demo links, in-person usability tests, and virtual focus groups. Governors discussed the pros and cons of choosing one platform over another or even offering both. WSBA will be maintaining Casemaker and continuing to explore whether to add Fastcase as an additional member benefit.
- **Rule Recommendations from the Civil Litigation Rules Drafting Task Force:** This task force was chartered in 2016 to suggest rules necessary to implement the board's previous task force that recommended various changes to address the escalating cost of civil litigation. The recommended amendments and additions to the [Superior Court Civil Rules \(CR\)](#)—including 1, 3.1, 11, 16, 26, 37, 53.5, and 77—focus on the principle of cooperation and require and/or encourage cost-efficient procedures. ([The full amendments are in the board materials starting on page 215.](#)) The board will take action in September to approve the recommended amendments for submission to the Washington Supreme Court.
- **Recommendations from the Court Rules and Procedures Committee.** As part of the Washington Supreme Court's review cycle to bring rules up to date with current law, the Court Rules and Procedures Committee has proposed amendments to Superior Court Criminal Rules (CrR) 1.3, 3.4, and 4.4; Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 4.2, 4.4, and 7.3; and Civil Rule (CR) 30. ([The full amendments are in the board materials starting on page 323.](#)) The board will take action in September to approve the recommended amendments for submission to the Washington Supreme Court.
- **Amendments to RPCs Concerning Marijuana-Related Conduct.** As recommended by the Committee on Professional Ethics (CPE), the board approved for submission to the Washington Supreme Court amendments to comments to the Rules of Professional Conduct (RPC) to continue to allow Washington lawyers to assist those participating in the marijuana industry. These changes were in response to new federal enforcement priorities regarding marijuana; they remove contingency language in Comment [18] to RPC 1.2 regarding federal

enforcement priorities and add Comment [8] to RPC 8.4 to clarify that a lawyer's conduct in counseling a client regarding marijuana law would not establish a basis for disciplinary action under the rule. ([The full amendments are in the board materials starting on page 166.](#))

- **Proposed Bylaw Amendment Regarding Endorsing Candidates.** WSBA bylaws currently prohibit governors, WSBA officers, and the executive director from publicly supporting or opposing candidates in an election for public office in Washington state if being an attorney is a prerequisite for office. Governors considered a proposed amendment that would extend the endorsement prohibition to any position on the Board of Governors. This amendment will be on the September agenda for action.
- **Updates from other board entities:**
 - [Addition of New Governors Work Group](#): This group met for the first time in July with a second meeting scheduled for Aug. 14. All materials are online. The group will make a recommendation to the board in September about a proposal to eliminate three yet-to-be-seated governors (two public members, one LLLT or LPO) and to allow LLLTs and LPOs to run in open governor elections in congressional districts.
 - Member Engagement Work Group: The board approved the charter and roster for a new work group to explore how to best engage members and facilitate two-way understanding.
- **Selection of 2018-2019 WSBA Treasurer.** Congratulations to Governor Dan Bridges, whom the board selected as its incoming Treasurer. Kudos and appreciation to outgoing Treasurer Governor Kim Risenmay.
- **Working Retreat:** The board held its annual retreat before the meeting on Thursday, July 26. Governors focused on communication and relationships.
- **Conversation with the Washington New and Young Lawyers Committee (WYLC).** WYLC Chair Mike Mocerri and Chair-Elect Kim Sandher asked for WSBA to partner on solutions such as access to an affordable health-care exchange and reducing debt load/promoting public-service loan forgiveness for those coming out of law school.

The agenda and materials from this Board of Governors meeting, as well as past meetings, are [online](#). The next regular meeting is Sept. 27-28 in Seattle. The Board of Governors is WSBA's governing body charged with determining general policies of the Bar and approving its annual budget.

###