

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE APPROVAL OF)
AMENDMENTS TO THE WSBA BYLAWS)
PASSED BY THE WSBA BOARD OF)
GOVERNORS IN JANUARY & MARCH OF 2020)

ORDER
NO. 25700-B-612

The Washington Supreme Court has plenary authority over the practice of law in Washington. The Washington State Bar Association (WSBA) serves under the delegated authority of the Court in regulating and administering licenses to practice law in Washington and effectuating other purposes and functions as set forth in General Rule (GR) 12 and 12.1-12.5.

By prior direction of this Court (*Letter to WSBA*, 10/21/19), all changes to the WSBA's bylaws are subject to Supreme Court approval.

The court has received notice and explanation of the WSBA's actions to adopt changes to its Bylaws in the form of a March 11, 2020 letter from WSBA President Majumdar detailing the amendments that the WSBA decided to adopt at the regular meetings of its Board of Governors in January and March of 2020.

By majority vote, the Court determined, at its April 1, 2020, *En Banc* Conference that the amendments should be approved.

Now, therefore, it is hereby

ORDERED:

That the WSBA Bylaws Amendments as described above are approved by this Court.

Page 2

ORDER

IN THE MATTER OF THE APPROVAL OF AMENDMENTS TO THE WSBA BYLAWS
PASSED BY THE WSBA BOARD OF GOVERNORS IN JANUARY & MARCH OF 2020

DATED at Olympia, Washington this 3rd day of April, 2020.

For the Court


CHIEF JUSTICE

ORDER

IN THE MATTER OF THE APPROVAL OF AMENDMENTS TO THE WSBA BYLAWS
PASSED BY THE WSBA BOARD OF GOVERNORS IN JANUARY & MARCH OF 2020

Madsen, J. (dissenting from order no. 25700-B-612)

I dissent from the court's April 3, 2020 order approving amendments to the Washington State Bar Association (WSBA) Bylaws as passed by the WSBA Board of Governors in January and March 2020, to the extent the proposed amendment and this order abrogate any public member involvement in the WSBA Board of Governors. This amendment is counterproductive to the purpose of the WSBA. The very purpose of the WSBA includes not only organization of the state bar, but also protection of the public through its lawyer disciplinary system and member oversight function. In turn, this court sets standards and oversees the WSBA to ensure that the WSBA properly fulfills its purpose. As stated in GR 12, this court "has inherent and plenary authority to regulate the practice of law" in this state. The legal profession "serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system." *Id.* Further, this court "ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under [this court's] authority." *Id.* Our court rules further expressly provide, "Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include . . . [p]rotection of the public." GR 12.1(a).

As this court has noted, the primary function of the WSBA is the regulation of the legal profession. This stems from the duty of the court "to protect the public from the activity of those who, because of lack of professional skills, may cause injury whether they are members of the bar

ORDER

IN THE MATTER OF THE APPROVAL OF AMENDMENTS TO THE WSBA BYLAWS
PASSED BY THE WSBA BOARD OF GOVERNORS IN JANUARY & MARCH OF 2020

or persons never qualified for or admitted to the bar.” *Bennion, Van Camp, Hagen & Ruhl v. Kassler Escrow, Inc.*, 96 Wn.2d 443, 447, 635 P.2d 730 (1981); *WSBA v. Great W. Union Fed.l Sav. & Loan Ass’n*, 91 Wn.2d 48, 60, 586 P.2d 870 (1978). In my view, the WSBA’s mission of public protection is enhanced when members of the public are included in at-large positions on the WSBA’s Board of Governors. Inclusion of such public members in this professional organization, as was previously approved by this court and heretofore contained in the WSBA Bylaws, was an enlightened step in line with our state’s forward looking perspectives and progressive goals of access to justice and accountability.

Moreover, the inclusion of public board members as regards professional organizations is not an anomaly. The Washington State Board of Accountancy contains public members, *see* <https://acb.wa.gov/about-us/wboa-board-members> (last visited April 2, 2020). The Washington State Department of Health website lists 28 separate medical boards, commissions, and advisory committees all of which include public members. *See* <https://www.doh.wa.gov/AboutUs/BoardsandCommissions> (last visited 4-2-20). Such participation by the public in these bodies “give[s] citizens a voice in their government [and] provide[s] a means to influence decisions that shape the quality of life for state residents.” *Id.* The same had been true concerning the WSBA, but the Bylaws amendments that this court approves in the present order is contrary to the express goal of public protection as required by GR 12.1. Further, such a retreat from inclusion of public members on bar association oversight entities puts this state at odds with other progressive leaders such as our sister states of Oregon and California.

ORDER

IN THE MATTER OF THE APPROVAL OF AMENDMENTS TO THE WSBA BYLAWS
PASSED BY THE WSBA BOARD OF GOVERNORS IN JANUARY & MARCH OF 2020

In sum, in my view the elimination of positions on the WSBA Board of Governors for members of the public as contained in the proposed WSBA Bylaws amendments and this order approving such amendments is a step backwards from this state's appropriate goals and undermines the public protection that this court is charged with overseeing as directed in GR 12.

For these reasons, I dissent.

Madsen, J.
Stephens, C.J.
Johnson J.