

Meeting Minutes – March 13, 2018

At the WSBA Offices in Seattle, Washington

Members Present: Shelley Miner, chair, David Bastian, Jim Blair, Tina Carroll, Crystal Flood, Scott Osbourne, Tom Peterson, Bill Ronhaar. Shauna Schraft attended by phone.

WSBA staff and others present: Bobby Henry, RSD Associate Director; Chris Coleman, RSD Analyst; Jean McElroy, Chief Regulatory Counsel; Ann Holmes, Chief Operations Officer.

Board Business:

- Discussion of LPO License Fees. WSBA Staff explained how most expenses and all revenue will be allocated to the appropriate cost center in the Regulatory Services Department as opposed to the LPO cost center. For example, application fee revenue and expenses for the exam will be in the Admissions cost center. Expenses and revenue will still be sub-identified as an LPO item in order to track LPO revenues and expenditures. The Board reviewed net income and loss for the last ten years for the LPO cost center. Staff present also discussed how license fees are set by the Board of Governors now that LPOs are members of the Bar. In addition, the board was informed of WSBA Bylaws amendments just adopted by the Board of Governors that provide for a reduced license fee for new LPOs. Under these provisions newly licensed LPOs will receive a 50% reduction in their license fees for the first two full license years. Finally, staff and the Board discussed a possible two-tiered license fee system with one level for lawyers licensed to practice law without scope limitations and another level for limited licenses to practice law, which would be tied to what Emeritus pro bono lawyers (who also have limits on their ability to practice law) pay. Under this concept, Active lawyers would pay the license fee set by the BOG, currently \$449, and LPOs and LLLTs would pay a \$200 license fee, which is what the emeritus pro bono lawyers currently pay. The Board unanimously endorsed and recommends the Board of Governors adopt the two tier fee structure with an active LPO license fee of \$200 and an inactive LPO license fee of \$100.
- Discussion of Client Protection Fund. WSBA Staff present discussed how the Client Protection Fund (CPF) currently awards gifts to clients harmed by lawyers, LPOs and LLLTs. The Board was advised that the Admission and Practice Rules already provides for gifts from the CPF to clients of LPOs. The discussion centered around whether the



WSBA Board of Governors should recommend to the Washington Supreme Court that the Court order LPOs to pay an assessment to contribute to the CPF. The Board discussed how LPOs are required to establish financial responsibility in order to practice, and additionally are already able to provide for financial harm caused by LPOs of the type that would potentially be covered by a CPF gift: for LPOs at an independent escrow company operating with a license issued by the Department of Financial Institutions, the office is required to have a fidelity/crime bond that will pay out in cases of theft; for LPOs at a title company licensed to do business in Washington, there is a fund that title companies contribute to in the event that a title company can no longer pay claims; and for LPOs working with lawyers, the lawyer already pays an assessment to the CPF. The Board believes that clients of LPOs are already covered and LPOs should not be required to pay an assessment. The Board unanimously recommends that the Board of Governors should recommend that to the Supreme Court not order LPOs to pay an assessment for the CPF.

- Special Warranty Deed. Due to a question that arose from an LPO regarding language in the Bargain and Sale Deed, the LPB Forms Committee reviewed the Special Warranty Deed and reported its findings to the Board. The Board discussed the following:
 - The special warranty deed, which is meant to be a customized deed with “special” warranties that would need to be expressly included.
 - The customization usually needed or requested to be written into the deed, which cannot be performed by a LPO; such work would need to be performed by a lawyer.
 - The three statutory deeds—Statutory Warranty Deed, Bargain and Sale Deed and Quit Claim Deed.
 - The Personal Representative Deed.

The Board concluded that the current LPB forms identified as the Special Warranty Deed and the Personal Representative Deed have the same language and, therefore, the same effect as a Bargain and Sale Deed. Therefore, the Board unanimously voted to eliminate the Special Warranty Deed form. In addition, the Board unanimously voted to modify the Personal Representative Deed by changing what is currently in the title of the deed in a parenthetical from “(Not Statutory)” to “(Bargain and Sale Deed – RCW 64.04.040)”. This language makes clear to anyone using the Personal Representative Deed form that



it is no different from the Bargain and Sale Deed. Both actions are to take effect January 1, 2019.

- Update from LPO Exam Committee. Shelley Miner reported that the LPO Exam Committee continues to make progress in reviewing and editing the multiple choice questions for the LPO exam and is working on reviewing, editing and creating essay questions for the exam.
- Education Requirement for LPO Applicants. The Board discussed whether there is a need for an educational requirement for individuals before they would be eligible to apply for the LPO exam. The Board decided that a requirement would benefit the legal profession and the public by having better educated LPOs selecting, preparing and completing the legal documents. The Board generally believed that something about 90 hours (three college quarter credits) would be an ideal amount of time. The Board wants to research options available for providing the education to determine if there would be classes available if such a requirement were implemented. David Bastian is going to reach out to Rockwell for information. WSBA staff will reach out to the community colleges.
- Board of Governors Governance Update. Jean McElroy provided the Board with an update regarding the composition of the Board of Governors. In September 2016, the Board of Governors adopted amendments to the WSBA Bylaws to increase the BOG by adding three governors—two public (or community representative) governors and one governor who is either a LPO or LLLT. Because it expanded the BOG beyond the size specified in the State Bar Act, that Bylaw provision required Court approval. The Court entered an order approving the Bylaw provision in January 2018. The Board of Governors is now considering amendments to the WSBA Bylaws that would remove those three new governor positions, removing the two public governor seats and having LLLTs and LPOs run in district seat races against all members of the Bar. A special meeting of the BOG is scheduled for March 19, 2018, which is public and open to all to attend.

Respectfully submitted,

Bobby Henry

