

# **PRACTICE OF LAW BOARD**

## **STATE OF WASHINGTON**

1325 Fourth Avenue, Ste. 600, Seattle, WA 98101-2539

(206) 727-8252

Fax: (206) 727-8314

### **MEETING MINUTES**

April 21, 2016

The Practice of Law Board (POLB) met on April, 2016 at the Office of the Washington State Bar Association. POLB members attending were: Hon. Paul Bastine, ret., Chair; Michele Carney; Brooks Goode; Professor Robin Jacobson; Dominique Jinhong, Andre Lang; Amber Marie Rush; Gary Swearingen; Jennifer Unger; and Douglas Walsh. Sean Davis, WSBA Board of Governors Liaison and Captain Kennard Keeton, U.S.A.F. Judge Advocate also attended. Sherry Lindner; OGC Paralegal, and Julie Shankland, Assistant General Counsel also attended.

#### Minutes

The March 17, 2016 Minutes were approved.

The August 2015 Minutes were accepted and published.

#### Review of Supreme Court Order and Planning for BOG Report

Chair Bastine reported that he may report to the WSBA Board of Governors in July about the Board work and progress. The July BOG meeting is in Walla Walla. He invited any interested POL Board members to attend.

#### Review of Supreme Court Order and review of progress

Chair Bastine reminded the Board that the July 2015 Court Order instructed the Board to:

- Increase education focus;
- Continue to receive, review and refer unauthorized practice of law complaints;
- Issue Advisory Opinions; and
- Engage stakeholders to consider the future of the POLB and report to the Court.

Chair Bastine asked Board members to invite interested stakeholders to attend the work group meetings. Those stakeholders who are interested could be invited to consider the future of the POLB and report to the Court.

#### Work Group Reports

New Legal Professionals Work Group

This group continues to look at existing models in other jurisdictions inside and outside the U.S. They will then compare the models with the specific needs documented in Washington to determine the best fit. The next focus will be the Ontario model.

#### Modern Practice Work Group

This group is focusing on ways lawyers can integrate other legal professionals into their practice, including offering unbundled services. The group is planning to create a decision-making tree to facilitate modernizing practices in manageable steps. They will also create tips and tools for modernizing legal service delivery. The group also plans to invite stakeholders to discuss how law schools might be involved in teaching technology to law students and lawyers. This group also focused on a few Rules of Professional Conduct that impact modern practices in ways that might not be intended. They are developing a list of stakeholders to invite to future meetings.

#### UPL Accountability Work Group

This group is focusing on draft legislation making unauthorized practice of law a per se violation of the Consumer Protection Act. The group plans to present a discussion draft of the proposed bill at the June 2016 meeting. The group is considering listing these prohibited acts:

1. Exerting control over the property of another while engaged in the unauthorized practice of law.
2. Securing a power of attorney from a consumer/client while engaged in the unauthorized practice of law
3. To engage in any act constituting a conflict of interest while engaged in the unauthorized practice of law
4. Misrepresenting, directly or by implication:
  - a. That you are authorized to practice law
  - b. That you are an attorney
  - c. That you have experience, education, training, certification, credentials that qualify you to engage in the practice of law
  - d. That your communications with a consumer/client is privileged or confidential
  - e. That consulting with an attorney or other authorized legal practitioner will result in any harm to the consumer/client
  - f. That your activities or qualifications have been reviewed and or approved by the WSBA, the Attorney General, any court or any other regulatory or law enforcement agency
  - g. Any aspect of your background, character, achievements, qualifications, history of advice or representation, results achieved or which can be expected.

The group is considering these exemptions: Legal services not in trade or commerce.

The group plans to present the proposed bill approved by the full Board to the WSBA BOG. Any result from this work will likely be several years in the future.

#### Public Education Work Group

The group is focusing on immigration first and has developed a three point plan.

1. Reach out to stakeholders to talk about how they view the problem. Notario services and lack of information about those services. Find out if this really is a problem. Find out what education is needed.
2. Determine what the universe of legal providers looks like now--LLLTs, law schools, pro bono providers. Determine how to connect the people who need services with those authorized to provide competent services.
3. Determine the most effective message and communication format to prevent consumers from paying money to people who do not provide services. Consider the barriers to effective messaging.

The group developed a list of potential stakeholders, including:

NWIRP

One America

AILA national

Tacoma Community House.

SeaMar is another stakeholder

Latino Radio

Aidnw.org

Kitsap Immigration Assistance Center

#### U.S.A.F. Special Victims' Counsel Program

Captain Keeton described this program to the Board. Materials describing this program are available with the Board materials.

#### Developing Stakeholders

The Board briefly discussed how to locate engaged stakeholders. The Board discussed the need to include stakeholders from rural areas away from the I-5 corridor. Possible stakeholders include:

Law Schools

Court Personnel

WSBA Sections-Low Bono and others

Moderate Means Program

Lutheran Community Services

Legal Services Community

Washington Associations of Business

Solo practitioners

Rural area practitioners

Bankruptcy courts

Neighborhood Clinic Programs

NW Assoc. of Immigrant Health Centers  
Seattle King County Housing Authority  
WAPA

#### Where Do We Go From Here?

The Board discussed how to begin the conversation about the POLB future and developing the report the Court requested. The Board considered planning a one day retreat in September or October dedicated to this topic.

#### Appointments and Process

The Board has five vacancies. Four current members have reapplied. Those four members have been nominated. Their applications will be sent to the WSBA Board of Governors Nominating Committee and then on to the Court.

The Board decided to solicit additional applications for the remaining open position. All Board members are encouraged to recruit for this open community representative position.

The Board will set up a sub-committee to review applications and make a report to the full Board.

The Board entered Executive Session

During Executive Session, the Board reviewed eight unauthorized practice of law complaints. The board closed five complaints without action and referred three complaints to enforcement agencies for consideration of investigation.

The Board ended the Executive Session.

#### Correspondence

The Board discussed the letter received and instructed Ms. Shankland to respond.

The meeting was adjourned.