

DRAFT
OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Georgetown Sheraton Hotel- San Gabriel Ballroom E
1101 Woodlawn Ave.
Georgetown TX 78628
Friday, April 26, 2019 – 9:00am

The Board of Directors of the State Bar of Texas met in a regular session on April 26, 2019, at the Sheraton Hotel in Georgetown, TX. Chair Laura Gibson called the meeting to order at 9:00 a.m., and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director Greg Sampson delivered the invocation, and Director Curtis Pritchard led the pledges to the U.S. and Texas flags.

Present:

Board Members: Jerry Alexander, Immediate Past Chair Rehan Alimohammad, Jeff Allison, Christy Amuny, Jeff Chandler, Alison Colvin, Derek Cook, Rob Crain, Leslie Dippel, Michael Dokupil, Estrella Escobar, TYLA President-elect Victor Flores, Jarrod Foerster, Chair Laura Gibson, Charlie Ginn, Marc Gravely, August Harris, Angelica Hernandez, Wendy-Adele Humphrey, Sarah Keathley, Neil Kelly, David Kent, President Joe K. Longley, Aldo Lopez, Bob McKnight, Rudy Metayer, Steve Naylor, Chris Oddo, Amie Peace, TYLA President Sally Pretorius, Curtis Pritchard, TYLA Immediate Past President Baili Rhodes, Lisa Richardson, Fidel Rodriguez, Carmen Roe, Greg Sampson, Alan Sims, Dinesh Singhal, President-elect Randy Sorrels, Immediate Past President Tom Vick, Amy Welborn, and James Woo.

Liaisons*: Judge Randy Clapp, Judge Barbara Hervey, Justice Debra Lehrmann, and Judge Linda Thomas

Section Representatives*: Erich Birch, Judge Elizabeth Copeland, Shelby Jean, Matthew Kolodoski, and Emily Miller

Excused Absences: *Wendy Burgower*, Alistair Dawson, Shari Goldsberry, Judge Karen Gren Scholer*, Nicole Voyles, Brad Weber, and James Wester (* denotes nonvoting)*

CONSENT AGENDA ITEMS:

Upon motion properly made by Director Rudy Metayer and seconded by Director Dinesh Singhal, Consent Agenda item C3. B regarding Bar Foundation appointments was pulled for Board deliberation as part of the regular agenda. With the removal of item C3. B, the following actions were taken regarding the Consent Agenda items {CONSENT TAB}¹:

C1. APPROVAL OF MINUTES:

(Minutes Tab) a. Approval of minutes of Board meeting conducted on January 18, 2019

C2. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following entities:

a. 2019-2020 Special Committee to Nominate ABA Delegates:

Laura Gibson, Chair (Houston)
Kim Askew (Dallas)
Chad Baruch (Dallas)
Hon. Jennifer Rymell (Fort Worth)
Laura Sharp (Austin)

b. Commission for Lawyer Discipline:

1) for one-year terms effective September 1, 2019, through August 31, 2020:

¹ Tabbed Materials are available at www.texasbar.com/bodmaterials.

Noelle Reed, *Chair* (Houston)
Gena Bunn, *Vice Chair* (Longview)

2) For three-year terms effective September 1, 2019, through August 31, 2022:

Monica A. Gonzalez (San Antonio)
Michael S. Truesdale (Austin)

c. **Law Focused Education, Inc.**, for two-year terms effective June 1, 2019, through May 31, 2021:

Hector Beltran (El Paso)
Sarah Cook (Rockwall)
Beverly Nolan (Houston)
Kathy Uhlich (Fort Worth)
Helen Pickle (Temple)

d. **Texas Center for Legal Ethics**, for three-year terms effective June 1, 2019, through May 31, 2022:

Pablo Almaguer (Edinburg)
Lucia Dura (El Paso)
Hon. Audrey Moorehead (Dallas)

e. **Texas RioGrande Legal Aid**, for a term ending December 31, 2020:

Cindy Polinard (McAllen)
Ronald B. Walker (Victoria)
Ricardo Lara (Brownsville)

f. **2019 Annual Meeting co-chairs**
Karen Burgess (Austin)
Cliff Gunter (Houston)

C3. ITEMS FROM THE PRESIDENT-ELECT:

(Yellow Tab A) a. **Approval of appointments:** State Bar committees, chairs, co-chairs, vice chairs, co- vice chairs, and members to serve during the year 2019-20 pursuant to State Bar Rules, Art. VIII, Section 1B

b. *[Pulled from consent and approved after discussion (see items D and U, below)]*

Texas Bar Foundation Board of Trustees

1) For three-year terms, effective June 1, 2019, through May 31, 2022:

Alexandra Farias (Houston)
Estrella Escobar, Public Member (El Paso)

C4. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

(Yellow Tab B) a. Updated bylaws of the Workers' Compensation Section

C5. OTHER ITEMS

(Yellow Tab C) a. **Approval of recipients for the pro bono and indigent defense awards to be presented at the Annual Meeting:**

- 1) Pro Bono Award:
Texas Lawyers for Texas Veterans – Tarrant County Chapter (Fort Worth)
- 2) Frank J. Scurlock Award:
Amy Warr (Austin)
- 3) The J. Chrys Dougherty Legal Services Award:
William Holston, Human Rights Initiative (Dallas)
- 4) W. Frank Newton Award:
Hunton Andrews Kurth, LLP- Dallas Office
- 5) Pro Bono Coordinator Award:
Stephen Rispoli, Baylor Law School & Waco-McLennan County Young Lawyers Association (Waco)
- 6) Warren Burnett Award:
James G. McDermott, II (Alpine)
- 7) Michael K. Moore Award for Excellence in Research or Writing in the Area of Indigent Criminal Defense:
Jani Maselli Wood (Houston)
- 8) Pro Bono Support Staff Award:
Amber Haney (Austin)

(Yellow Tab D) b. **Approval of recipient of the Nancy Garms Award:
Bobbie Edmonds (Fort Worth)**

(Yellow Tab E) c. **Approval of recipient of the Hon. Leon Jaworski Award for Teaching Excellence:
Dr. Cinthia Salinas (Austin)**

(Yellow Tab F) d. **Approval of resolutions honoring:
Justice Cynthia ‘Cindy’ Olson Bourland
Edward J. Walsh III**

e. **2019 Annual Meeting Resolutions Committee:**

Officers:

Chair: *SBOT Immediate Past Chair of the Board*

Rehan Alimohammad (Sugar Land)

Vice-Chair: *TYLA Chair*

Aaron Burke (Dallas)

Secretary: *Local Bar Leaders Committee Chair*

Santos Vargas (San Antonio)

Parliamentarian: **Laura Gibson (Houston)**

Alternates:

Gloria Leal (Austin)

Rudolph Metayer (Austin)

Review Committee:

Rehan Alimohammad (Sugar Land)

Marc Gravely (San Antonio)

Dinesh Singhal (Houston)

I. REPORTS:

A. Remarks from the General Public:

Carlos Leon of Austin addressed the board regarding a dismissed grievance.

B. Presentations of Resolutions:

President Joe K. Longley presented a resolution to Justice Cindy Bourland.

C. Swearing-in of New Board Member:

Justice Debra Lehrmann swore in new public member, Jeffrey Allison of Houston.

D. Report from the Chair:

Chair Laura Gibson conducted the election of the 2019-2020 Chair of the Board. By written ballot, Jerry Alexander (Dallas) was elected.

Chair Gibson reported on her recent travels, board member outreach efforts, district director presentations, and the director's report email. {TAB 1}

Director Rudy Metayer made a motion, seconded by Jerry Alexander to consider, discuss, and approve referral to Policy Manual Subcommittee for consideration and drafting, policies regarding: the spokesperson for the State Bar, director email accounts, recusal of directors, and international travel. No discussion; motion carried.

President-elect Randy Sorrels asked for discussion on the item removed from the Consent Agenda. President-elect Sorrels motioned to approve the appointment of two members to the Texas Bar Foundation. Immediate Past President Tom Vick seconded. Discussion ensued. Motion carried.

E. Report from the Professional Development Subcommittee:

Director Sarah Keathley reported that the CLE Committee and the Board PDP Subcommittee would meet May 16 to discuss new topics for CLE programs and publications, finances, and operations. In 2018, the CLE Committee drafted a Joint Resolution with the Board PDP Sub-Committee urging recognition of the requirement of technical competency. After consideration by the Supreme Court Committee on Disciplinary Rules and Referenda, the Supreme Court of Texas amended the comment to Disciplinary Rule 1.01 to reflect that remaining proficient and competent in the practice of law includes knowledge of the benefits and risks associated with technology. Director Keathley reported that TexasBarCLE rolled out a new program called Flash CLE Silver, that the State Bar held a free CLE event for solo and small firm practitioners on March 27 in Texarkana, that the new editions of the Texas Civil Pattern Jury Charges covering business and oil and gas were released in January, and that TexasBarBooks has launched the Texas Probate System Online.

F. Report from the Executive Director:

Executive Director Trey Appfel reported on recent travels, meetings, and activities since the January 2019 meeting. Mr. Appfel gave an update on online dues payments and the NOVA program, and awarded the staff excellence awards to Emma Martin and Caitlin Bumford. Mr. Appfel updated the board on the Attorney General Opinion request, *Fleck v. Wetch*, and *McDonald et al. v. Longley et al.* {TAB 2}

G. Closed Session: At 10:17 am, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551.071 for the purpose of consulting with legal counsel on legal matters, including the travel request by Laws Relating to Immigration and Nationality Committee and regarding pending or contemplated litigation (*Patricia Baskette v. Prudential Insurance Company and State Bar of Texas Insurance Trust*, 5-18-cv-01150-OLG, W.D. Tex. (2018); *McDonald et al. v. Longley et al.*, 1:19-cv-00219, W.D. Tex. (2019); and *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C* (No. 2019-18261 in the District Court of Harris County); and Section 551.074 to deliberate regarding personnel matter(s). With the exception of Board liaisons and section representatives, all other individuals including non-essential staff and other guests excused themselves from the closed session.

H. Open Session: At 11:14 am, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning litigation were discussed. No action was taken in closed session.

I. Report from the President

President Joe K. Longley reported on his recent travels and activities. He gave an update on border issues, SBOT organizational charts, and at-large director selections. {TAB 3}

President Longley moved to approve the appointments of Andy Almanzán of El Paso and Luis Cardenas of Edinburg to serve as at-large directors on the State Bar Board of Directors, for three-year terms effective Annual Meeting 2019 and expiring Annual Meeting 2022. Director Fidel Rodriguez seconded. No discussion; motion carried.

J. Report from the President-elect:

President-elect Randy Sorrels reported that the public hearing on the State Bar's fiscal year 2019-2020 proposed budget was held on April 2 at the Texas Law Center. He related that the 2019-20 budget would be presented before the Supreme Court on May 13. {TAB 4}

On behalf of the Budget Committee, President-elect Sorrels made a motion for Board approval to present the State Bar's proposed fiscal year 2019-2020 budget to the Supreme Court of Texas. No discussion; motion carried.

President-elect Sorrels updated the board on the Courthouse Access Badge Task Force and the SBOT Board of Directors Social Media Engagement Team.

K. Section Representatives to the Board Committee:

Director Erich Birch reported that there are two new section representatives to the board: Deborah Cordova (McAllen) for the medium-sized sections and Kathryn Murphy (Plano) for the large-sized sections.

L. Report from the Immediate Past President:

Immediate Past President Tom Vick welcomed new public member Jeff Allison to the board.

M. Report from the Nominations and Elections Committee:

Immediate Past Chair Rehan Alimohammad reported on the current State Bar elections. Cezy Collins and Larry McDougal have been campaigning for president-elect. There are ten district directors whose terms will be ending at the 2019 annual meeting. There are four contested races and six uncontested races. He reported that paper and electronic ballots were distributed April 1 and that the election would conclude on April 30. Immediate Past Chair Alimohammad reported that the new Nominations and Elections Committee will begin its work on nominations for president-elect at the 2019 annual meeting. {TAB 5}

N. Report from the Policy Manual Subcommittee:

Director Estrella Escobar reported on current items that the subcommittee will be working on: director email accounts, a protocol for recusal of directors/officers, the spokesperson for the Bar, an international travel policy, and a new award for succession planning.

O. Report from the DCAAP Subcommittee:

Director Curtis Pritchard reported on the new process for how disciplinary rules and rules of disciplinary procedure are developed and implemented. The State Bar Act spells out this new process, and there are very specific timelines for how rules are passed and what is involved in the process. The Committee on Disciplinary Rules and Referenda (CDRR) is charged with making recommendations to the board. On January 10, the CDRR submitted its first rule proposals to the board that deal with amendments to the Texas Disciplinary Rules of Professional Conduct dealing with two issues: Clients with Diminished Capacity and the Confidentiality of Information when seeking ethics advice. The Discipline Client Attorney Assistance Program Committee voted unanimously to approve the proposals via teleconference on March 14. {TAB 6}

On behalf of the DCAAP Committee, Director Pritchard made a motion to approve the proposed amendments relating to deletion of rule 1.02(g) and new proposed rule 1.16 of the Texas Disciplinary Rules of Professional Conduct. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the DCAAP Committee, Director Pritchard made a motion to approve the proposed amendments relating to new Rule 1.05(c)(9) of the Texas Disciplinary Rules of Professional Conduct. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the DCAAP Committee, Director Pritchard made a motion that the Board hold the rule proposals just approved for submission to the Supreme Court at a later date as a bundle with other proposed rules, as deemed appropriate by the board. Coming from a committee, no second was needed. No discussion; motion carried.

P. Client Security Fund Subcommittee:

Director Lisa Richardson reported that the subcommittee met on Thursday, April 25, and reviewed 58 cases, for a total disbursement of \$96,890.00. The total paid out through the fund for the year is \$650,146.

Q. Audit & Finance Committee:

Director Jarrod Foerster reported that as of February 28 2019, the General Fund actual net revenues over expenditures, transfers, and board commitments totaled approximately \$1.8 million. PFM Asset Management LLC has been the State Bar's Investment Manager since June 1, 2006. Director Foerster reported that PFM's current contract ends May 31, 2019. He also gave an update on the quarterly investment report and Darlene Brown of McConnell & Jones, LLP presented the results of the internal audit. {TAB 7}

On behalf of the Audit & Finance Committee, Director Foerster made a motion to approve a one-year extension of the PFM Asset Management Contract through May 31, 2020. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Foerster made a motion to accept the February 28, 2019, Quarterly Investment Report. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Foerster made a motion to accept the Internal Audit Reports from McConnell & Jones for the Fiscal Year ended May 31, 2018. Coming from a committee, no second was needed. No discussion; motion carried.

R. Report from the Legislative Policy Subcommittee: No report.

S. Report from the Affordable Legal Services Subcommittee: No report.

T. Report from Insurance Member Benefits Subcommittee:

Director Greg Sampson gave an update on the Texas Bar Private Insurance Exchange and non-insurance member benefits. He reported that the subcommittee has been working on a succession planning project.

{Chair Gibson recessed the board at 12:21 pm for approximately 30min.}

U. **Director Michael Dokupil made a motion to reconsider from the consent agenda item C.3 B - the approval of two candidates to the Texas Bar Foundation. Seconded by Director Dinesh Singhal. Discussion ensued. The motion for reconsideration failed.**

V. Report from the Commission for Lawyer Discipline/Chief Disciplinary Counsel:

John Neil introduced the new Chief Disciplinary Counsel, Seana Willing. Seana reminded the board of the June 2 deadline for grievance committee appointment recommendations. {TAB 9}

W. Report from the Administration Committee: No report.

X. Report from the Performance Measures and Strategic Planning Subcommittee:

Director Fidel Rodriguez reported that the subcommittee will have updated performance measures for consideration at the June meeting.

Y. Report from the Appeals Grant Subcommittee:

Director Chris Oddo reported that the Appeals/Grants Review Subcommittee received a request for authorization to seek outside funding from the State Bar Litigation Section. The request was submitted by the Law Focused Education, Inc. board, which sought authorization to request a grant for the project, "What Do Attorneys Do?" He reported that the subcommittee unanimously approved the request to seek funding from the State Bar Litigation Section for this project. {TAB 9}

Z. Report from the New Directors Orientation Subcommittee:

Director Alison Colvin reported that the subcommittee held a teleconference on April 10 to plan orientation for new board members.

AA. Report from the Court of Criminal Appeals:

Judge Barbara Hervey reported that Judge Bert Richardson will be her replacement. She provided updates on the Judicial Commission on Mental Health. The Court of Criminal Appeals has received \$23 million per biennium in funding for the education of judges, the defense bar, and prosecutors. Judge Hervey reported that she spoke at the Texas Police Chiefs Association annual conference. She will be working with the State Bar on producing a video for law enforcement to educate them on what to do when they encounter someone with a mental health issue. Judge Hervey reported that she will be attending the National Alliance on Mental Health Summit in Seattle.

BB. Report from the Texas Bar Foundation:

Shannon Dacus provided an overview on what services and funding the Texas Bar Foundation provides in the form of grants.

CC. Texas Young Lawyers Association:

TYLA President Sally Pretorius reported on various TYLA projects and activities, including: a presentation at the ABA YLD Mountain West States Regional Summit; an ABA YLD presentation by Victor Flores, speaking on "Men of Color"; Proud to be an American week; a diversity and Shero event in partnership with Changemaker Chats at Maggie Louise on alternative life choices instead of being a lawyer; Bookshelves in Courtrooms; and Compassion Fatigue.

DD. Report from the Supreme Court:

Justice Debra Lehrmann reported on the new Justice Brett Busby, that Justice Jeff Brown was nominated to the Federal Court in Galveston, and gave an update on the implementation of the unified bar exam.

EE. Federal Judicial Liaison:

Chair Laura Gibson gave an update on behalf of Judge Karen Gren Scholer. Chair Gibson reported on recent confirmations and recent nominations, nominees still waiting for confirmation, and the fact that there is an open bench with no nominee in Houston.

FF. Judicial Section Liaison:

Judge Randy Clapp gave an update on the judicial pay raise and related that HB 2384 will be on the floor Monday, April 29.

GG. Report from the Out-of-State Lawyer Liaison:

Judge Linda Thomas thanked Lowell Brown for his efforts on the annual report that is sent out to all of the out-of-state lawyers.

Director Charlie Ginn moved for adjournment and Director Chris Oddo seconded. There being no further business, the meeting was adjourned at 1:59 pm.