

**STATE BAR OF GEORGIA  
BOARD OF GOVERNORS  
MEETING MINUTES  
Saturday, April 1, 2017  
Ritz-Carlton Reynolds at Lake Oconee/Greensboro, GA**

The 267<sup>th</sup> meeting of the Board of Governors of the State Bar of Georgia was held at the date and location shown above. Patrick T. O'Connor, President, presided.

Special Recognition

President Pat O'Connor recognized the members of the judiciary, the Past Presidents of the State Bar, and other special guests in attendance.

Roll Call

Secretary Darrell L. Sutton circulated the roll for signature. The list of those in attendance is attached as Exhibit A.

Future Meetings Schedule

President Pat O'Connor referred the Board of Governors members to the Future Meetings Schedule.

President's Report

President Pat O'Connor reported that it has been an honor to travel around the state these last few months speaking to Bar associations and attending special events at the Bar Center.

President O'Connor announced that Alvin Leaphart recently had knee surgery and asked the Board members to keep him in their prayers. He also announced that Alvin has self-published a book entitled *How To Practice Law In A Small Town* that is available through Amazon.

President O'Connor reported that the ICLE transition has gone smoothly. Despite the transition, ICLE will have sponsored over 200 events by the end of this year. The new ICLE rules are now before the Supreme Court for consideration and approval. Once the rules are approved, the new ICLE Board will meet to plan the future of ICLE. Tangel King is the interim director of ICLE until such time as the ICLE Board appoints a permanent director.

President O'Connor announced that the Aging Lawyers Task Force has been reconstituted as a Special Committee and renamed the Senior Lawyers Committee. Its charge is to render advice to the staff, Executive Committee, and Board of Governors with respect to 1) aiding lawyers in preparing their practices for succession upon retirement, death, impairment or otherwise, 2) assisting the Office of General Counsel in the disposition of practices of lawyers who leave their practice without a succession plan, 3) assisting lawyers who are cognitively impaired but still practicing, and 4) creating educational programs about cognitive impairment, financial planning, and law practice succession. The committee chair is William Gentry and the vice chair is Secretary Darrell Sutton.

President O'Connor also reported that he has made every effort to keep the Board of Governors informed of developments with and the progress of the State Bar's legislative agenda. He reported that in February he testified before the House Judiciary Committee about the JQC and asked it to restore all of the Bar's direct appointments. Nonetheless, the House Judiciary Committee passed HB 126 as written and sent it to the Senate. In the Senate, Board of Governors member Senator John Kennedy presented a legislative substitute that would have expanded the JQC's investigative panel to nine members, with two members of it appointed by the State Bar, and with the Bar having a direct appointment on the hearing panel. In the end, the bill passed with a 7-person investigative panel and a 3-person hearing panel. The one lawyer on the hearing panel is to be appointed by the Supreme Court, and the Supreme Court authorized President O'Connor to state that the Court will select its appointment from the State Bar's list of nominees. The

three lawyers serving on the investigative panel will be appointed by the Governor, Lieutenant Governor, and the Speaker of the House, and the State Bar is empowered to provide each of them a list of nominees. Although the Bar would prefer to have one or more direct appointments to the newly-constituted JQC, even without those appointments the new JQC is a much improved Judicial Qualifications Commission. For example, the bifurcated investigative and hearing panels provide for a level of due process not present in prior versions of the JQC.

President O'Connor also reported that during debate over HB 126, a question was raised about whether the State Bar can legally appoint someone to the JQC given that the State Bar is not a public body. During the Senate's debate of the bill, a letter was written by legislative counsel giving the opinion that the State Bar did not have the legal authority to make direct appointments to the JQC. The Bar disagrees, and the issue was not fully resolved during debate over this particular legislation.

President O'Connor thanked Senator Kennedy for all of his work; Justices Nahmias and Blackwell for their work on Justice Nahmias' JQC Rules Revision Committee; and the Board of Governors for its patience and support.

President O'Connor also reported that HB 15, legislation implementing mandatory e-filing, did not pass after the Senate amended the bill to make e-filing voluntary. During debate of this bill, the State Bar raised the need to include exceptions to e-filing covering acts of God, and the bill was amended to incorporate this exception and to allow for physical filing at the courthouse in those events.

President O'Connor reported that he and others will be in Washington, D.C. in April to discuss with Georgia's congressional delegation funding for the Legal Services Corporation and other access to justice issues. He also made the Board of Governors aware that it would hear at this meeting a report from Judge Jill Pryor, Chair of the Access to Justice Committee.

President O'Connor also announced that the Board of Governors would hear a report from the Member Benefits Committee about ZeekBeek/Cloud Law and a proposal to create an enhanced members' directory. The Board of Governors will be asked to vote to allow the State Bar to negotiate a contract with Cloud Law to move that process forward.

President O'Connor reported that he is continuing his efforts to enhance the Fellows program and invitations have gone out to several lawyers around the state inviting them to be Fellows.

President O'Connor ended his report by thanking the Board of Governors for their efforts and support, and stated it was an honor to be a member of such a great body.

#### Treasurer's Report

Treasurer Kenneth B. Hodges reported on the State Bar's finances and investments. The Board of Governors received copies of the combined Operations and Bar Center Consolidated Revenues and Expenditures Report as of January 31, 2017; Income Statement YTD for the Seven Months Ended January 31, 2017; Bar Center Revenues and Expenditures Summary for the Seven Months Ended January 31, 2017; State Bar Balance Sheet for January 31, 2017; Summary of Selected Dues and Voluntary Contributions at January 31, 2017; Investment Performance Comparison 2015-2017; and Cornerstones of Freedom and Legislative Fund Activity Reports through January 31, 2017. The Board of Governors also received a copy of the 2017-2018 Budget Timeline.

Treasurer Hodges reported that he and incoming President Buck Rogers will be undertaking an in depth analysis of all State Bar programs next year. If anyone has a particular passion for or against a program,

please let them or senior management know. He plans to make a report to the Board of Governors at the January Midyear Meeting with their findings.

#### YLD Report

YLD President Jennifer Campbell Mock reported on the activities of the YLD. She announced that the Signature Fundraiser collected over \$30,000 for CASA programs around the the state. She also announced that the 6<sup>th</sup> Annual Legal Food Frenzy will take place April 17-28. She encouraged everyone to sign up for it through the State Bar's website; and she thanked Attorney General Chris Carr for helping with this effort. Lastly, she announced that YLD President-elect Nicole Leet is getting ready to assume the YLD presidency and has great plans for her upcoming year as YLD President.

#### JQC Task Force Update

President Pat O'Connor asked the Board of Governors to convert the JQC Task Force to a Standing Committee now that we know what the legislation entails (assuming Governor Deal signs it into law). After Bill NeSmith explained the process for creating a Standing Committee, the Board was provided with the mission for this new Standing Committee, called the Judicial Qualifications Commission Nominating Committee: This standing committee will receive nominations from members of the State Bar of Georgia for members of the Bar to be recommended for appointment to the Judicial Qualifications Commission (JQC). The Committee shall provide this list of recommendations to the Board of Governors for approval and submission to the various appointing authorities, as may be provided by law. The Board of Governors, by unanimous voice vote, approved the creation of the Standing Committee on Judicial Qualifications Commission Member Nominations. The members of the Task Force will serve as members of the committee until their terms expire in June.

President-elect and JQC Task Force Chair Buck Rogers reported that the Task Force has meanwhile continued to vet and create a list of nominees because HB 808 remains in effect until July 1. He therefore presented the proposed list for approval. Following a motion and second to approve the list of nominees, the Board of Governors took the following action:

- 1) By majority voice vote, failed to pass an amended motion that (1) the list be approved as presented, but striking the name of the district attorney nominee listed therein, and (2) that future lists not include any serving district attorneys or sitting circuit public defenders; and
- 2) By unanimous voice vote, approved the proposed list of nominees (Exhibit B).

President Pat O'Connor reported that this list will be presented to the Speaker of the House to appoint a JQC member to serve until July 1. To carry out the State Bar's obligations under HB 126, however, the JQC Nominating Committee will return in June with another list of nominees to be approved by the Board of Governors.

President-elect Rogers also reported that the Task Force is welcoming diverse input from the Board of Governors. He asked the Board members to solicit their constituencies for potential nominees and to send the names of potential nominees to Christine Butcher or him.

Board member Ed Tolley, Chair of the JQC, provided a report about the JQC's operations. He reported that the JQC is now housed at the Administrative Office of the Courts. It has a full-time director, Past President Ben Easterlin, a case manager, an administrative assistant, a part-time contract investigator, and an operating budget of \$819,866. It has a full, diverse commission that is doing a great job. The docket is entirely up to date. There have been 90 new complaints filed and almost all have been resolved, including

the removal of two probate judges. He also reported that the JQC has received over 180 inquiries from judges with Code of Judicial Conduct questions.

#### Board of Bar Examiners Report

Tom Cauthorn, Chair of the Board of Bar Examiners, provided an update about the Office of Bar Admissions. He reported that John Sammon spent two and a half months addressing the issue of grading inaccuracies. He thanked the Board of Governors and the State Bar for making a quick, dignified process of getting the 90 bar applicants affected by the grading inaccuracies sworn as members of the Bar, noting that many found employment through that help. In response to the grading inaccuracies, the Board of Bar Examiners has put in place a new scoring team and scoring calculations.

Mr. Cauthorn also reported that there has been a change in the world of legal education caused by the recession. In Georgia, over 50% of law graduates in our state will graduate without a job. This has resulted in a change in the demographics of the lower 25% of law school applicants. He provided statistics for the passing rates of first-time, repeat, and out-of-state bar exam takers, and the percentages in passage rates for each group is much lower than it has been traditionally. Mr. Cauthorn also stated that admissions practices have changed, employment opportunities have changed, and programs in law schools need to be strengthened.

#### Access to Justice Committee Report

Committee Chair Judge Jill Pryor provided an update about the activities of the Access to Justice Committee. Mike Monahan, Director of the Pro Bono Project, serves as the committee's staff liaison. The Pro Bono Project is co-sponsored by the GLSP and the State Bar, and involves private attorneys in representation of the poor in civil matters.

Judge Pryor reported that the committee received a grant from the National Center for State Courts for the development of a Justice for All Strategic Plan. It is a joint effort of the State Bar, Supreme Court of Georgia, Administrative Office of the Courts, the Georgia Legal Services Program, and the Atlanta Legal Aid Society to develop a more coordinated effort in the delivery of legal services. It will bring together all of the stakeholders to accomplish that, and it also hopes to create an Access to Justice Commission.

Judge Pryor further reported that the Committee also received a small grant to create a senior lawyers program wherein lawyers transitioning out of the practice of law can assist with pro bono work.

The committee also has created a legal services subcommittee to study and prepare a plan of action for how the State Bar may react should there be a loss of or decrease in LSC funding.

Finally, Judge Pryor reported about the resources available through the Pro Bono Resource Center. It assists local bar associations, individual private attorneys and communities in developing pro bono private attorney/bar involvement programs. Members can join the statewide volunteer website and learn more about volunteer opportunities throughout the state.

#### BASICS Committee Report

Committee Chair Seth Kirschenbaum provided an update about the BASICS 40<sup>th</sup> Anniversary Celebration that was held on March 4, 2017 at the Druid Hills Country Club. Governor Nathan Deal was the keynote speaker, and he was introduced by Supreme Court Justice Michael Boggs. More than 260 people attended the gala, including many graduates of the BASICS program. He thanked those on the Board of Governors and State Bar for their support and the Chief Justice's Commission on Professionalism for its generous sponsorship.

### Law-Related Education (LRE) Program Report

Deborah Craytor reported on the activities of the LRE program. The program's outreach efforts fall into five key categories: the Journey Through Justice field trip; teacher workshops; online course- and subject-specific LiveBinders on a variety of legal topics; sponsorship of the ABA Civics & Honor Roll and SkillsUSA Georgia's Criminal Justice Quiz Bowl; and the Virtual Museum of Law. More than 10,000 school students in grades 4-12 participate in the Journey Through Justice (JTJ) annually at the Bar Center. Another 150 "on the road" JTJ's are conducted around the state at schools unable to travel to Atlanta. The Virtual Law Museum offers the same experience at the Bar Center's Museum of Law. Over the course of five years, short animated videos will be completed, exploring in greater detail each of the 30 cases found in the museum. They are accompanied with a brief online quiz so teachers can assess their student's understanding of the cases and members of the public can test their knowledge about them. Six of the cases in the museum are already online, and another six will be online by the end of this Bar year.

### Minutes of the 266<sup>th</sup> Meeting of the Board of Governors

The minutes of the 266<sup>th</sup> meeting of the Board of Governors meeting held on January 7, 2017, were approved by unanimous voice vote.

### 2017-18 Dues

Following a report by President-elect Buck Rogers and Treasurer Ken Hodges, and in consideration of the recommendations submitted by the Programs, Personnel, and Finance Committees, and the Executive Committee, the Board of Governors, by unanimous voice vote, approved setting the 2017-18 dues at \$250 for active members and \$125 for inactive members, which reflects a \$2 dues increase in active dues and a \$1 increase in inactive dues from the previous Bar year.

The Board of Governors, by unanimous voice vote, approved the following other dues statement items for the 2017-18 Bar year:

1. Section dues to be reflected on the dues statement ranging from \$10-\$35; and
2. Continuation of assessments required by Bar Rules regarding the Clients' Security Fund (\$100 @ \$25/year) and Bar Center Facility (\$200 @ \$50/year); and
3. Continuation of a \$100 opt-out contribution for the Legislative and Public Education Fund; and
4. A suggested \$300 opt-in provision for individual contributions (\$100 for young lawyers) for the Georgia Legal Services Program.

### Approval of 2015-16 Annual Audit

Following a report by President Patrick T. O'Connor, the Board of Governors, by unanimous voice vote, approved the 2015-2016 Annual Audit (Exhibit C).

### ZeekBeek/Cloud Law (Enhanced Membership Directory)

Following a report by Member Benefits Committee Chair John Kennedy and LPM Program Director Natalie Kelly, the Board of Governors, by unanimous voice vote, approved the Committee's recommendation that the State Bar negotiate a contract with Cloud Law to develop an enhanced members' directory for the Bar.

### Disciplinary Rules and Procedures Committee

Committee Chair John Haubenreich, Immediate Past President Bob Kauffman, and Paula Frederick reported on proposed revisions to the disciplinary rules. Following a motion and second to approve the proposed disciplinary rules, the Board of Governors took the following action:

- 1) By majority voice vote, failed to pass an amended motion to rescind the provisions removing reciprocal discipline from the Review Panel and giving it (and a few other ancillary duties) to a Special Master; and
- 2) By majority voice vote, failed to pass an amended motion to retain the number of lawyers who handle investigations on the Investigative Panel at twenty instead of the proposed twelve; and
- 3) An amended motion requesting that a revision be made to Rule 4-106 dealing with Conditional Discharge treatment was withdrawn after further discussion about how best to address it procedurally; and
- 4) By majority hand vote, failed to pass a motion to table; and
- 5) After a unanimous voice vote to call the question, approved recommending to the Supreme Court of Georgia the proposed revisions to the disciplinary rules by a standing vote of 82 in favor to 21 opposed (Exhibit D).

### Legislative Update

Christine Butcher and Rusty Sewell provided an update about the 2017 legislative session that ended on March 31, and reviewed the final outcome of the State Bar's legislative agenda.

### Executive Committee Minutes

The Board of Governors received copies of the minutes of the following Executive Committee meetings: December 15, 2016, December 22, 2016, and January 26, 2017.

### Lawyers for Equal Justice Report

The Board of Governors received a written report about the Lawyers for Equal Justice (incubator) program.

### Office of the General Counsel

The Board of Governors received a written report about the activities of the Office of the General Counsel.

### Military Legal Assistance Program (MLAP)

The Board of Governors received a written report about the activities of the Military Legal Assistance Program.

### Consumer Assistance Program (CAP)

The Board of Governors received a written report about the activities of the Consumer Assistance Program.

### Law Practice Management Program (LPM)

The Board of Governors received a written report about the activities of the Law Practice Management Program.

Communications Update and Media Report

The Board of Governors received a written Communications Update and Media Report.

Old Business

Donna Hix reported that she serves on the Investigative Panel and that most cases are moved within 120 days. Those cases that are not moved quickly have other ancillary discipline issues causing their delay.

New Business

There was no new business.

Questions/Answers, Comments/Suggestions

The President opened the meeting for questions and comments.

Adjournment

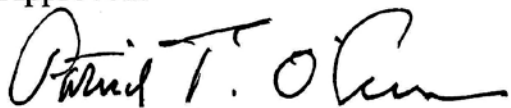
There being no further business, the meeting was adjourned.



---

Darrell L. Sutton, Secretary

Approved:



---

Patrick T. O'Connor, President