

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
San Antonio, Texas
June 21, 2000**

OUTGOING (1999-2000) BOARD - A. M. Session:

The Board of Directors of the State Bar of Texas met in regular session on June 21, 2000 at the Marriott Rivercenter Hotel in San Antonio, Texas. The meeting was called to order by Chair David Keltner, and the roll was called by Executive Director Antonio Alvarado. Board members and liaisons having excused absences from the meeting were: Joel Androphy, George Edwards, Sharon Freytag, Phyllis Jones, Hubert Oxford, and Scott Smith.

1. ITEMS FROM THE CHAIR OF THE BOARD

A. Approval of Items on the Consent Agenda

Upon motion made by Vidal Martinez and properly seconded, the following items on the Consent Agenda were approved or ratified:

1) **Approved of Minutes of the Board meeting conducted on *April 28, 2000*.**

2) **Approved appointments to the following:**

By President Charles Aycock:

Out-of-State Lawyer Liaison, for three-year term expiring at the year 2003 Annual Meeting:

Turner W. Branch (Albuquerque, NM)

By President Lynne Liberato:

a) **Section Coordination Committee, for two-year term effective June 2000 through Annual Meeting June 2002:**

Luther H. Soules III (San Antonio)

Alternate: Elizabeth Liz Lang-Miers (Dallas)

b) **Section Representatives to the Board Committee, for three-year terms June 2000 through Annual Meeting June 2003:**

**Ralph H. Brock (Small Section, Women & The Law/Lubbock)
Vicki L. Menard (Large Section, Litigation/Waco)**

c) **SBOT Insurance Trust, for three-year terms effective July 1, 2000 through June 30, 2003:**

**Mark Berry (El Paso)
Christopher W. Martin (Houston)
Alicia A. Wilde (Austin)**

- d) **Texas Equal Access to Justice Foundation (IOLTA), for three-year terms effective September 1, 2000 through August 31, 2003:**

**Lupe Silva-Aboud (Public Member, McAllen)
D. Gibson Walton (Houston)**

- e) **Texas Board of Legal Specialization, for three-year terms effective July 1, 2000 through June 30, 2003:**

**Neal W. Adams (Bedford)
Cynthia Rucker Allen (Abilene)
Charles W. Lanehart, Jr. (Lubbock)
Alene Ross Levy (Houston)**

- 3) **Approved State Bar committee members to serve on more than one committee during the year 2000-2001, per Board policy 6.01.09 (*See Exhibit A.*)**

- 4) **Extended the life of certain special committees, deleted some, per Board policy, Part VI, Subsection 6.01.02:**

Deleted Committees:

Civility

Futures

Extensions:

- a) **Annual Meeting**
- b) **Pattern Jury Charges - Business, Consumer & Employment (formerly PJC-Vol. IV)**
- c) **Pattern Jury Charges - Civil**
- d) **Pattern Jury Charges - Family (formerly PJC-Vol. V)**
- e) **Pattern Jury Charges - General Negligence & Motor Vehicles (formerly PJC-Vol. I)**
- f) **Pattern Jury Charges - Malpractice, Premises & Products (formerly PJC-Vol. III)**

- 5) **Approved appointment of delegates to the American Bar Association House of Delegates for two-year terms beginning at the conclusion of the 2000 ABA Annual Meeting and expiring at the conclusion of the 2002 ABA Annual Meeting:**

Delegates:

Charles F. Aycock (Farwell)

Broadus A. Spivey (Austin)

M. Colleen McHugh (Corpus Christi)

Richard Pena (Austin)

- 6) **Approved resolution honoring retiring Past President Tom B. Ramey, Jr. (*See Exhibit B.*)**

- 7) **Sections and Divisions:**

- a) **Business Law Section: Approved bylaw changes to Article II, VI, VII, VIII. (*See Exhibit C.*)**

- b) **Family Law Section:**
 - 1) **Approved request by section to hold its annual meeting on May 3, 2001 during the Marriage Dissolution Institute in Corpus Christi, TX**
 - 2) **Approved amendments to section bylaws: Article 3, Section 7; Article 4, Section 1 (See Exhibit D.)**
- c) **Health Law Section: Approved request by section to hold its annual meeting at other than the State Bar Annual Meeting in 2001**
- d) **Insurance Law Section: Approved bylaw changes to Article II, Section 1. (See Exhibit E.)**

B.. Outstanding Third-Year Directors

Chair Keltner presented plaques honoring Scott Rozzell and Tim Sulak as the recipients of the Chair of the Board's Outstanding Third-Year Director Award.

2. REPORT FROM THE PRESIDENT

A. General Report

President Aycock highlighted some of the Board's accomplishments during his presidency, including: adoption of the Business Technology Plan, operating under a zero-based budgeting system, committee review process, implementation of the CAAP, Y2K. President Aycock also acknowledged the new Law Related Education project, a coloring book entitled "Lone State Waves Proudly", as part of a new curriculum designed for Texas elementary students.

Division Director Don Jones presented an update on the activities related to the Client Attorney Assistance Program (CAAP).

B. Amicus Brief

General Counsel Shelby Rogers indicated that the Board was being asked to grant permission to file an amicus brief in the *Washington Legal Foundation, et al., v. Texas Equal Access to Justice Foundation* Case No. 00-50139, U.S. Court of Appeals for the Fifth Circuit.

President Aycock moved that the State Bar approve signing on as an *amicus* in support of the Texas Equal Access to Justice Foundation against the Washington Legal Foundation. Seconded by TYLA President Raymond Thomas, the motion passed.

C. State Bar Committee Evaluation

In chair of the *ad hoc* committee Guy Harrison's absence, Elizabeth Lang-Miers reported the recommendations of the committee, which included name change pending for the Lawyer Referral and Information Committee, and combination of the Federal Judiciary Relations and State Judiciary Relations Committee, subject to Board action at the September meeting.

On behalf of the committee, Lang-Miers moved (1) that the Public Affairs Committee be continued for one more year, (2) that the name of the Legal Representation of those on Death

Row Committee be changed to Death Penalty Litigation Committee, with the following change in purpose clause:

To study the problem of obtaining, funding, and training attorneys representing death penalty defendants at pre-trial, trial, on appeal and in post-conviction proceedings; to collect such data and other information relevant to the representation of those persons, and to develop recommendations for actions by the State Bar of Texas, the Texas Legislature, and all other entities that are or should be involved in the provision of competent representation to indigent persons charged with capital offenses.

Seconded by Vidal Martinez, the motion passed.

D. Business Technology Plan

Executive Director Alvarado indicated that President Charles Aycock had charged the staff to develop a plan to address the Bar's technology needs and the obsolescence of hardware. Computer Services Director Brad Powell gave an extensive review of the proposed Business Technology Plan, which laid the foundation for multi-million dollar expenditures (over a period of time) to bring the Bar's technology system up to par and allow for initiatives. The Plan basically called for the Bar's technology systems to become fully integrated, provide same-way access, moving toward a paper less system, and developing e-commerce platforms.

President Aycock moved that the Board accept the Business Technology Plan that has been presented to this Board of Directors and that the surplus that comes out of the 1999-2000 budget be applied to the funding of the technology equipment, and that the process be overseen by an ad hoc committee appointed by Incoming Chair Dick Miller. The motion was seconded by Adelfa Callejo. Miller clarified that by passing the motion, the Board would authorize applying [some of] the surplus from the current budget into a technology fund, would authorize staff to spend funds on the Plan, and would authorize creation of a committee that would oversee expenditures of \$20,000 and greater. After discussion, the motion passed unanimously. (See Exhibit F.)

3. REPORT FROM THE PRESIDENT-ELECT

President-elect Lynne Liberato reported on the budget hearing before the Supreme Court and some of the comments and concerns made by members of the Court regarding dues increase (none anticipated), funding source for technology (would tap reserves), and efforts/emphasis to provide legal serves to the poor (noted many items throughout the budget that addresses the issue).

President-elect Liberato indicated that she would invite one of the Section Representatives to the Board to attend the Executive Committee meetings.

4. REPORT FROM THE EXECUTIVE DIRECTOR

Executive Director Alvarado's report included updates on D&O insurance (\$10 million, covering Board actions), leases (Fort Worth and El Paso grievance offices, and Books & Systems Department), special

revenue fund (specifically regarding Annual Meeting), enhanced communication, business/technology plan, staff development, customer service, building security, and legislative initiatives.

Regarding the leases and implementation of the first parts of the business technology plan, Incoming Chair Richard Miller moved that the Board authorize the Executive Committee to take appropriate actions between scheduled Board meetings. Seconded by Mark White, the motion passed.

5. BOARD COMMITTEES

A. Administrative Oversight Committee

Before going into closed session, Administrative Oversight Committee Chair Daniel Pozza summarized the evaluation process and the role of the Administrative Oversight Committee.

(Closed Session)

As authorized by Texas Government Code, Section 551.074, the Board met in closed session for the purpose of discussing the evaluation, duties, and compensation of the Executive Director.

(Open Session)

Upon return to open session, Chair Keltner announced that during the closed session, pursuant to Texas Government Code, Section 551.074, only items pertaining to the evaluation, duties, and compensation of the Executive Director were discussed. No action was taken in closed session.

On behalf of the Administrative Oversight Committee, Pozza moved the following regarding the compensation package for the Executive Director for the upcoming year:

That Antonio Alvarado continue employment with the State Bar as Executive Director and that his salary compensation remain as follows: \$119,080 per year, a car allowance of \$600 per month, for a total of \$126,280.

That there remain in effect a term life insurance policy for Antonio Alvarado in the amount of \$100,000 with the beneficiary designation of his choosing to be purchased by the State Bar.

In addition, that the State Bar will purchase \$18,000 of Antonio Alvarado's military retirement for transfer to the State Bar of Texas Employee Retirement System Plan prior to the end of August 2000 enrollment period. Said \$18,000 is to be considered a net contribution, so that the State Bar of Texas will reimburse Antonio Alvarado for the anticipated tax cost of that net contribution - that anticipated tax cost is an additional \$6,000, and that total is \$24,000.

The motion passed unanimously.

B. Appeals-Grant Review Committee

1) Grants

Appeals-Grant Review Committee Chair Carr reported that the committee had received two grants for consideration and had approved both, one from the Texas Young Lawyers Association and one from the Opportunities for Minorities in the Profession Committee. *(See Exhibit G.)*

2) Appeals

Chair Carr indicated that the TBLS appeals by Jeffrey Hubbard and Allan Potter had been postponed pending meeting notification and receipt of additional data.

C. Audit and Finance Committee

Audit and Finance Committee Chair Scott Rozzell highlighted variances in the budget and reported that preliminary figures indicate a year-end surplus of approximately \$881,000 in the General Fund.

Rozzell also reported that the Client Security Fund has a corpus of \$2.1 million, more than the Board required balance of \$1.5 million, and that the Committee's recommendation is that the Board transfer only \$250,000 to that fund instead of an additional \$250,000 as budgeted. Chair Keltner indicated that an action item to that effect would be included on the September Board meeting agenda.

D. Legal Services Committee

Legal Services Committee Chair JoAl Cannon-Sheridan presented the recommendations regarding revisions to the pro bono reporting form [dues statement] and the definition of pro bono, and a resolution for Board support of the concept of promoting legal services by legislative action.

Motion 1:

On behalf of the committee, Cannon-Sheridan moved that the proposed revisions to the reporting form for pro bono activity be approved and that the definition of pro bono activity be redefined. *(See Exhibit H.)*

Amendment to the motion:

After much discussion, Gib Walton offered an amendment to the motion that the Board vote on the first part of Cannon-Sheridan's motion to change the reporting mechanism as recommended. Chair Keltner clarified that the motion referred to revision of the dues form and the segment dealing with the "Texas Supreme Court Requested Information" and excluded items included in the "Be It Resolved", or resolution-segment of the committee's proposal. **Cannon-Sheridan accepted the amendment.**

Upon the call the vote, the motion to change the reporting form passed unanimously.

Motion 2:

On behalf of the committee, Cannon-Sheridan moved adoption of the following resolution:

“BE IT RESOLVED, that each Texas attorney should aspire to render at least 50 hours of *pro bono publico* services to the poor each year, or an equivalent financial contribution to an organization that provides direct legal services to the poor.” (See Exhibit H for the remainder of the resolution.)

After much discussion, Walton moved to table the motion, pending further study on the issue. The motion to table was seconded by Joseph Casseb. On behalf of the committee, Cannon-Sheridan withdrew the committee’s motion, and pulled the item. No action was taken.

Motion 3:

On behalf of the committee, Cannon-Sheridan moved adoption of the following:

Resolved: The State Bar of Texas supports the concept of promoting and improving legal services to the poor through legislative action.

Amendments to the motion: Concerned with the perception of promoting mandatory pro bono reporting, Steve Suttle suggested clarifying the proposal to reflect that the Board supports the providing of funding for legal services to the poor through legislative action. Executive Director Alvarado suggested an amendment that the State Bar of Texas supports the provision of resources for legal services to the poor through legislative action.

Sid Stahl moved to table the motion. On behalf of the committee, Cannon-Sheridan withdrew the committee’s motion, and pulled the item. No action was taken.

E. Nominations & Elections Committee

Nominations and Elections Committee Chair Elizabeth Whitaker reported recommendations for changes to Board policy regarding election provisions of the Chair of the Board and the President-elect.

On behalf of the committee, Whitaker moved approval of the concepts of the recommendations. Chair Keltner clarified that the recommendations would be presented to the Policy Manual Committee and subsequently to the Board for final voted. **The motion passed. (See Exhibit I.)**

6. STATE BAR COMMITTEES, SECTIONS, DIVISIONS

A. Section Coordination Committee

Section Coordination Committee Chair Tim Sulak reported that the committee had met and reviewed the provisional status of the Insurance Law Section and the Sexual Orientation and Gender Identification Issues Section.

On behalf of the committee, Sulak moved that the Insurance Law Section and the Sexual Orientation and Gender Identification Issues Section be given regular status, and that their provisional status be lifted as they have met all provisions of the Board policy manual. Properly seconded, the motion passed.

Regarding the Insurance Law Section, Sulak indicated that future members of the Section Coordination Committee should consider the Consumer Law and Litigation Sections' concerns about possible encroachment or overlap.

B. Unauthorized Practice of Law (UPL) Task Force

Brent Clifton and Gregory Huffman presented an extensive report concerning the multidisciplinary practice issues and indicated that the UPL Task Force had voted unanimously to make a recommendation that the Board request the State Bar delegates to vote to delay any action on MDP until at least the February ABA meeting. Clifton indicated that if a vote was called at the July 2000 ABA Annual meeting, that the Task Force's recommendation is that the delegates vote "no" on the current, proposed ABA model.

President Aycock moved adoption of the following resolution as recommended by the UPL Task Force:

That the State Bar of Texas ABA delegates vote to defer any decision as to Multidisciplinary Practice until a later meeting in order to allow the state and local bar associations to study, and to educate, present alternatives, and poll their members as to, the various recommendations of the ABA Commission, New York State Bar Association, Florida Bar Association, Philadelphia Bar Association, and others. If a vote to approve now a change in ABA rules is presented and cannot be deferred, the proposal should be opposed.

Seconded by Immediate Past President Richard Pena, the motion passed unanimously.

After an extensive presentation about the definition of the practice of law, Chair Keltner indicated that issue would be debated at subsequent Board meetings.

7. OTHER REPORTS

Brief reports were heard from the following: (a) Texas Young Lawyers Association President Raymond L. Thomas; (b) Texas Supreme Court Liaison Justice Craig Enoch; and presenting last reports as liaisons were: (c) Texas Court of Criminal Appeals Liaison Judge Michael McCormick, Judicial Section Liaison Justice Marilyn Aboussie, Federal Judicial Liaison Judge Sam Sparks, and Out-of-State Lawyer Liaison MG Walt Huffman.

INCOMING (2000-2001) BOARD - P. M. Session:

The afternoon session of the Board was called to order by outgoing Chair David Keltner, and the roll was called by Executive Director Antonio Alvarado. Members and liaisons absent from the afternoon session of the meeting were: George Edwards, Phyllis Jones, Judge Sharon Keller, and Scott Smith.

8. PRESENTATIONS, INSTALLATION AND SWEARING IN OF NEW OFFICERS AND DIRECTORS

Justice Craig Enoch administered the oath of office to the incoming officers and directors. President Lynne Liberato, President-elect Broadus Spivey, and Chair of the Board Richard Miller were introduced by the outgoing 1999-2000 officers, and each incoming officer gave general remarks. A gavel was presented to President Liberato and a copy of *Robert's Rules of Order* was presented to Chair Miller. Shadow boxes were presented to outgoing President Aycock and Chair Keltner.

9. REPORT FROM THE CHAIR OF THE BOARD

A. General Report

Chair Richard Miller charged the Board with continuing to accomplish the goals as set by previous Boards, with continuing to meet technology and diversity challenges, and tackling the major issue of providing legal services to the poor.

B. Delete/Create Committees

Vidal Martinez moved that the Board delete the standing Board General Counsel Oversight Committee. Seconded by Claude Ducloux, the motion passed unanimously.

President Liberato moved that the Board create a special Technology Advisory Committee with the following purpose clause:

The Technology Advisory Committee, which is comprised of Board and non-Board members, investigates, evaluates and makes recommendations to the Board and the Executive Director concerning the use and implementation of technology by the State Bar.

Seconded by Molly Steele, the motion passed unanimously.

Chair Miller indicated that he would appoint the Board members to the committee and that President Liberato would appoint the non-Board members. Miller stated that the members of the *ad hoc* Bod technology oversight committee would serve as the Board members of the special Technology Advisory Committee.

10. REPORT FROM THE PRESIDENT

President Liberato encouraged Board attendance at the Bar Leaders Conference in Dallas in August. Appointments of members to the Executive Committee and of Chairs and Vice Chair to State Bar committees were included in Board packets.

11. REPORT FROM THE TYLA PRESIDENT

Incoming TYLA President Melody Wilkinson pledged support to President Liberato's initiatives and continued commitment to public service efforts by TYLA members. Wilkinson encouraged Board

members to purchase the license plates sponsored by TYLA in its efforts to increase funding for legal services to the poor.

There being no further business or remarks from the public, the meeting was adjourned.

EXHIBITS ATTACHED

- EXHIBIT A: Members to Serve on More Than One State Bar Committee
- EXHIBIT B: Resolution Honoring Tom B. Ramey, Jr.
- EXHIBIT C: Amendments to Bylaws: Business Law Section
- EXHIBIT D: Amendments to Bylaws: Family Law Section
- EXHIBIT E: Amendments to Bylaws: Insurance Law Section
- EXHIBIT F: Business Technology Plan
- EXHIBIT G: Grants Reported (TYLA and Opportunities to Minorities in the Profession Committee)
- EXHIBIT H: Legal Services Committee Proposals - Reporting Form and Resolution re Definition
- EXHIBIT I: Board Policy: Revisions regarding Chair and President-elect Elections

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