

WASHINGTON STATE B A R A S S O C I A T I O N

Board of Governors May Meeting Update

A summary prepared by WSBA of the Board of Governors (Board) meeting held May 20-21, 2021, in Seattle and virtually. The agenda, materials, and video recording from this Board of Governors meeting are [online](#). The next regular meeting is July 16-17, 2021 (with a retreat preceding on July 15). The Board of Governors is WSBA's governing body charged with determining general policies of the Bar and approving its annual budget. To subscribe to the Board Meeting Notification list, email barleaders@wsba.org. To send feedback to the entire Board of Governors, email BoardFeedback@wsba.org.

NEED TO KNOW

1. **New WSBA leadership.** Congratulations to these newly elected WSBA leaders who will begin their terms in October: [Daniel D. Clark](#), current WSBA Treasurer and District 4 Governor, will serve as President-Elect; and [Jordan L. Couch](#) will serve as the At-Large Young Lawyer board member.
2. **Proposed Rules for Discipline and Incapacity: Comment now!** Upon request from the Board of Governors, the Washington Supreme Court has extended the comment period for proposed amendments to the rules governing the discipline and incapacity systems for all license types. See below for more information about these significant rule amendments.
3. **Equity, diversity, and inclusion training.** With acknowledgment of the one-year anniversary of George Floyd's murder and recent conviction of Derek Chauvin, President Sciuchetti recognized the continued need for systemic equity work. The Board discussed its ongoing training with social equity consultant ChrisTiana Obey Sumner. ([See page 385.](#))
4. **And the envelope, please ...** The board approved the full slate of [2021 APEX \(Acknowledging Professional Excellence\) Award](#) winners! We will reveal the names of the award winners soon, as well as full details of the APEX Awards celebration in September. ([View last year's ceremony here.](#))

MEETING RECAP

Comment Period Extended — Proposed Amendments to Disciplinary Procedural Rules

By request of the [WSBA Board of Governors](#), the Washington Supreme Court has extended the comment period through July 29, 2021, for [proposed amendments](#) to the rules governing the discipline and incapacity systems for all license types. These amendments, known as the Rules for Discipline and Incapacity (RDI), would replace the existing disciplinary procedural rules with a single rule set for all licenses. The stated goals of the amendments are to streamline the disciplinary process by eliminating and/or modifying certain rules to make the process more efficient, and to obtain more consistent decisions on discipline matters that were not purportedly achieved through the use of volunteer hearing officers ([read more](#)). Some of the criticisms to the proposed amendments are about the use of paid adjudicators, the selection of paid adjudicators by the WSBA, and the inability of parties to remove an assigned adjudicator without cause. Others are concerned that the proposed amendments do away with the option to issue an advisory letter or an admonition in lieu of authorizing the filing of formal charges, provide a respondent only 15 days to respond to the Office of Disciplinary Counsel's request for authorization to file formal charges, and increase the Office of Disciplinary Counsel's discretion in the way grievances are processed in a number of respects ([read more](#)). These are some of the highlights of the proposed changes; there are others as well. The comment period has been extended to ensure ample time for notification to and feedback from legal professionals and the public ([more information on how to submit comments](#)). **Members are encouraged to read the proposed changes and to submit comments to the Supreme Court.**

Legal Regulatory Sandbox

The Practice of Law Board presented information about its initiative to request that the court create a Legal Regulatory Sandbox in Washington to evaluate and gather data about online legal service providers and other innovative business structures. By the time of its meeting with the Washington Supreme Court in July, the Board will have a draft plan focused on how to admit to the sandbox—and then closely monitor—innovative legal service providers that close the access-to-justice gap with relatively low risk to consumers. Look for more information in the summer as the Court and Practice of Law Board continue the discussion.

Budget and Audit Updates

The board selected audit firm Clark Nuber to perform the next five cycles of annual audits ([see page 314](#)) and approved the Budget and Audit Committee's recommendation to increase the WSBA restricted facilities fund by \$500,000 ([see page 9](#)).

Council on Public Defense Matters

The Council successfully presented for approval its guidance in response to greatly increased public-defense caseloads due to the pandemic; that guidance includes recommendations for cities and counties to consider using newly available federal funds to increase defender resources ([see page 294](#)); the Board of Governors noted its support of public-defense work does not preclude other entities from coming forward with similar requests. The Board also approved for submission to the Supreme Court several changes and amendments including: a new General Rule and

amendments to Standards for Indigent Defense Services, CrR 3.1, and JuCR 9.2, concerning the independence of public defense ([see page 282](#)).

Legislative Update

The 105-day 2021 regular session began Jan. 11 and adjourned April 25. It was in many ways an unprecedented session, with nearly all the Legislature's business conducted fully or mostly remotely. Despite the obstacles presented by such circumstances, the Legislature conducted a productive session. WSBA successfully achieved its legislative priorities, including sponsoring two section-request bills that became law ([SB 5005](#) and [SB 5034](#), both originating from the Business Law Section) and referring/tracking hundreds of bills on behalf of sections. [More information.](#)

Other Business

The Board:

- Heard a report from the Board of Bar Examiners. ([See page 273.](#))
- Heard a first reading of a suggested revision to APR 9, proposed by Washington's law schools, to expand eligibility to become licensed legal interns to second-year JD students enrolled in clinical law courses; the board will work with the law schools on potential edits before coming back for a vote (to send the proposal to the Supreme Court for approval) in July. ([See page 352.](#))
- Heard about the future of work at the Washington State Bar Association, including plans to shift to a more remote workforce and potentially sublet portions of its downtown office space.
- Supported a request from the Committee on Professional Ethics to withdraw a proposed amendment to RPC 7.2 and 5.4 (to clarify that not-for-profit qualified lawyer referral service organizations may receive a portion of the lawyer's fee) so the Committee can revise the proposed amendments consistent with recent RPC changes. ([See page 318.](#))

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