

WASHINGTON STATE BAR ASSOCIATION

Board of Governors March 2023 Meeting Update

A summary prepared by the WSBA of the Board of Governors (Board) meeting held March 3-4 in Olympia. The agenda, materials, and video recording from this Board meeting are [online](#). The next regular meeting is May 19-20 in Yakima. The Board of Governors is WSBA's governing body charged with determining general policies of the WSBA and approving its annual budget. To subscribe to the Board Meeting Notification list, email barleaders@wsba.org.

NEED TO KNOW

1. **Another Clean Annual Audit Report.** Certified public accounting firm [Clark Nuber has issued the WSBA an unmodified opinion](#)—indicating all financial statements are materially correct—for Fiscal Year 2022. ([See page 663.](#))
2. **Legal Regulatory Innovation.** The Executive Director of the Utah State Bar presented information about Utah's legal regulatory sandbox. ([See page 387.](#)) Arizona's Administrative Office of the Court provided the 2019 Task Force report recommending elimination of some and changes to other court rules regulating the practice of law in that state and additional materials defining ABS-alternative business structures. ([See page 485.](#)) Washington's Practice of Law Board (POLB) Chair capped the conversation with more information about its current proposal to seek permission from the Washington Supreme Court to begin drafting rules to authorize data-driven legal regulatory reform here in Washington. The proposal would define processes to collect data to inform the court's decisions on regulatory reforms, including potential licensure of alternative business structures and nontraditional online legal services, provided data shows that they provide competent services with minimal risk of harm to the public. The Court requested comments from the Board, and after robust discussion, the Board identified many questions and concerns still to be addressed and authorized a letter to the Court urging the Court and POLB to move forward to flesh out more details. The letter also asked for the Court to keep the Board involved, on behalf of the legal profession, if it moves forward in the exploration process. ([See page 290.](#))

OTHER BUSINESS

Change in Eligibility Requirements for At-Large Board Seats. The Board approved a recommendation from the Diversity, Equity, and Inclusion (DEI) Council to amend the

WSBA bylaws to change the eligibility requirements to run for two At-Large seats on the Board of Governors. The change defines candidacy for these seats in a way that better supports the intention in creating the seats—to expressly include in Board leadership people with lived experience in under-represented communities (people who, historically, have been overtly or covertly banned from the profession and leadership). The new definition includes adding religion and ethnicity; changing gender to gender expression and gender identity; and removing geographic area, types of practice, and years of practice from the eligibility criteria. ([See page 200.](#))

Amendments to Rules Regarding Fee Sharing with Lawyer Referral Services. The Board approved proposed amendments to RPC 1.5(e)(2); 5.4 and 7.3, recommended by the Committee on Professional Ethics (CPE), to go to the Washington Supreme Court for consideration. The amendments are intended to clarify when a lawyer may share a portion of a fee with a not-for-profit lawyer referral service. By clarifying the fee-sharing process, the CPE hopes to support access-to-justice efforts, since many lawyer not-for-profit referral services serve underrepresented populations. ([See page 229.](#))

Gathering Input on Amendments to GR12.2 (WSBA Authorized Activities). The Equity and Disparity (E&D) Work Group was formed by the Board of Governors in 2020 as a response to civil unrest and uprising. The work group is tasked with reviewing the rules, regulations, and laws related to the practice of law and administration of justice, and to identify and recommend amendments to any rules that impede actual justice and fairness. The group has identified [General Rule 12.2\(c\)](#) as one such rule since its focus on the word “political” leads to confusion about the Court’s instructions to the WSBA. The proposed amendment would remove the words “political and social issues” and instead refer to the Court’s regulatory objectives in [GR 12.1](#). The presentation was for information only, and the work group will seek broad feedback from members before returning to the Board of Governors for action. ([See page 213.](#))

Meeting with the Supreme Court. As is the annual tradition, the Board met with the Washington Supreme Court to discuss items of mutual interest, including updates about WSBA financial performance, strategic goals, and the future of the WSBA facilities and office space; activities to expand diversity, equity, and inclusion efforts; and the Practice of Law Board’s proposal for data-driven legal regulatory reform. ([See the agenda and materials.](#)) In another annual tradition, the WSBA Officers also met with the Governor while they were in Olympia.

Budget Retreat. The Board devoted four hours to a discussion about the Fiscal Year 2024 budget process and overall philosophy. The intent was to set broad parameters for collecting potential new items for the upcoming budget and prioritizing budget outcomes. The 2024 license fee has already been set, to remain stable, but the upcoming budget process will include the 2025 license fee, and possibly beyond. ([See page 5.](#))

The Board also:

- Held a first reading of a proposed policy from the Task Force to Administer Xenial Involvement with Supreme Court Board; the goal of the policy and task force is to clarify expectations and roles—including budgeting and staff-time allocation—when the WSBA administers Supreme Court boards. ([See page 280.](#))

- Discussed the executive director's evaluation in executive session. ([See page 228.](#))