

**BOARD OF GOVERNORS MEETING
LOS ANGELES
JULY 27 - 28, 2001**

The Board of Governors of the State Bar of California convened in the Board Room of the State Bar office, 1149 South Hill Street, Los Angeles California, 90015, at 9:00 a.m., on Friday, July 27, 2001, Palmer Brown Madden presiding.

The following members of the Board of Governors were present: Ronald E. Albers, Anthony P. Capozzi, Patrick R. Dixon, Janet M. Green, James R. Greiner, James E. Herman, Joe R. Hicks, Scott H. McNutt, Peter D. Nitschke, Karen S. Nobumoto, James D. Otto, Robert K. Persons, David L. Roth, John G. Snetsinger, Julie S. Sommars, Maria D. Villa, Scott Wylie and Erica R. Yew and Nancy J. Hoffmeier-Zamora.

The following members of the staff were present: Starr Babcock, Francis Bassios, Jerry Braun, Phyllis Culp, Randall Difuntorum, Larry Doyle, Robert A. Hawley, Judy Johnson, Dean Kinley, Sam Quan, Nancy McCarthy, Marie M. Moffat, Mike Nisperos, Victor Rowley and Mary Viviano.

Also present: Wayne C. Arnold, Chair, California Board of Legal Specialization and Kevin R. Culhane, Chair, Multidisciplinary Practice Task Force.

The roll-call vote was taken and upon motion made, seconded and unanimously adopted it was

RESOLVED that the roll-call vote will be substituted for the vote unless otherwise noted.

All members present and recorded on the roll-call slip voted yes on the above matter.

10 Upon motion made, seconded and unanimously adopted, it was

RESOLVED that the minutes of the meeting of the Board of Governors held on June 5 - 6, 2001, in San Francisco, hereby are approved as written

All members present and recorded on the roll-call slip voted yes on the above matter.

30 The President gave a status report on some of his activities since the last Board meeting, and reminded all present that (1) he looked forward to seeing them at the President's Dinner that night, to be held at the Cicada Restaurant at 617 South Olive

Street, Los Angeles and (2) that the Board will meet on August 9 and 10, 2001, for a strategic work session.

41

The Executive Director reported on the following:

1. SB 352 (Kuehl) [Two-Year Fee Bill] has had substantial bipartisan support and stated that this is the first time since 1995 that the legislature has passed a multi-year fee bill. It was signed into law by the Governor on June 27, 2001.

SB 479 SB 479 (Burton) [Establishes Attorney Diversion and Assistance Program] has been withdrawn from the Governor's desk for further amendment (to revise composition of oversight committee) after approval by the Legislature. The bill will be amended, re-approved by the Legislature and returned to the Governor, who is expected to sign it into law.

2. A dedicated fund of \$100,000 per calendar year is to be targeted for the publication and distribution of major State Bar consumer education projects, i.e., *Kids in the Law*, *When I Become 18*, *Guide to Legal Literacy*, *Seniors and the Law*, etc.; each project will be updated and revised online annually. The Foundation of the State Bar will receive front page acknowledgment in each printed piece and twice a year will receive a full page for advertising in the regular pages of the *California Bar Journal*. Any unused funds in a calendar year will be targeted for smaller printing of the most popular publications or versions thereof in other languages.
3. The redesigned fee statement was a success. 5,000 random members were surveyed and 10 percent responded. 80 percent of the 10 percent who responded to the 37-question survey indicated that the fee statement was user-friendly in that it was well organized and the instructions for completion were very clear.
4. The Bar's newly designed website can be previewed and the link will be emailed to Board members in the immediate future. Members will notice how much easier it is to navigate through all the Bar's numerous programs, publications, information, etc.
5. The President and Board members expressed their appreciation of the inclusion of index tabs in Board agenda materials mailed to them for this meeting. This practice will continue in the future.
6. The 2002 Mid-Year Meeting is scheduled for March 15-17, in Sonoma. Ms.

Nobumoto has designated Scott Wylie and Maria Villa as co-chairs to plan the event in coordination with local bar leaders.

7. Regarding staff developments, Maridee Edwards, deputy trial counsel, has been named Chief Disciplinary Counsel for the State of Missouri. She joins a growing number of staff who have left California to become key staff in other states.

Patricia Lee, who was director of the Bar's Office of Legal Services in the 1980's, has accepted the position as the Bar's director of the newly created Office of Legal Services, Access and Fairness Programs.

51 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby receives the financial statements for the quarter ended June 30, 2001, as certified by the Director of the Office of Finance and on file in the San Francisco office of the State Bar.

All members present and recorded on the roll-call slip voted yes on the above matter.

52 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Finance, that the Board hereby receives the investment reports for the quarter ended June 30, 2001, as certified by the Director of the Office of Finance and on file in the San Francisco office of the State Bar.

All members present and recorded on the roll-call slip voted yes on the above matter.

53 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Finance, that the Board hereby receives the Client Security Fund reports for the quarter ended June 30, 2001, as certified by the Director of the Office of Finance and on file in the San Francisco office of the State Bar.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-111 The President announced that this item regarding the suspension of members delinquent in payment of 1999, 2000 and 2001 State Bar fees, penalties or costs is hereby removed from the open consent agenda and placed on the Board's regular

open agenda.

54-114 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby delegates the authority to the Board's Standing Committee on Group Insurance Programs to change the broker of record for the Business Office Package Program and to implement the agreement between the State Bar of California and Seabury & Smith, Inc.; and it is

FURTHER RESOLVED that the final form of any documents required to implement the foregoing action of the Board shall be subject to the approval of the Executive Director in consultation with the State Bar's Office of General Counsel.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-122 Upon motion made and seconded, the following was unanimously adopted:

WHEREAS, the American Bar Association's ("ABA's") Commission on Evaluation of the Model Rules of Professional Conduct ("Ethics 2000") was appointed by the ABA to conduct a comprehensive review of the ABA Model Rules of Professional Conduct ("ABA Model Rules") and to recommend amendments; and

WHEREAS, Ethics 2000 has presented its November 2000 Report and Recommendations setting forth recommended amendments to the ABA Model Rules for consideration and adoption by the ABA's House of Delegates at the ABA's August 2001 Annual Meeting in Chicago; and

WHEREAS, the Board of Governors of the State Bar of California ("Board") appoints delegates who represent the State Bar of California in the ABA House of Delegates and who vote on recommendations presented to the ABA House of Delegates; and

WHEREAS, it has been recommended that the Board provide guidance to the State Bar of California delegates who will represent the State Bar of California at the ABA's August 2001 Annual Meeting in Chicago; and

WHEREAS, the State Bar's Standing Committee on Professional Responsibility

and Conduct ("COPRAC"), pursuant to Board authorization, has participated in the Ethics 2000 study and generated much written comment analyzing the Ethics 2000 proposed amendments from a California perspective;

NOW, THEREFORE, IT IS RESOLVED, that the Board of Governors of the State Bar of California commends to the State Bar of California's delegates to the ABA House of Delegates, the written comment and testimony submitted by COPRAC to Ethics 2000 and encourages each delegate to take action at the ABA's 2001 Annual Meeting in Chicago, including participation in House of Delegates deliberations and votes, that is consistent with COPRAC's analysis of the Ethics 2000 proposed amendments; and it is

FURTHER RESOLVED that, in the event that COPRAC's materials might not address a specific Ethics 2000 issue raised during the House of Delegates proceedings, the Board of Governors instructs the State Bar of California's delegates to the ABA House of Delegates to use their personal discretion to vote in a manner that they believe best reflects California's approach to the issue posed.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-123 The President announced that this item regarding MCLE non-compliance late fee assessment date is hereby removed from the open consent agenda and placed on the Board's regular open agenda.

54-124 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline, that, effective September 1, 2001, pursuant to California Rule of Court 958 and the MCLE Rules and Regulations, the Board hereby authorizes enrollment as inactive members of the State Bar of California, members of MCLE Compliance Groups 1 and 2 who are not in compliance with their MCLE requirement by 5:00 p.m., August 31, 2001; and it is

FURTHER RESOLVED that the Board hereby authorizes staff to remove members from administrative inactive status once the member has provided proof of compliance and paid all non-compliance fees.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-125 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following publication for public comment and upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby requests the Supreme Court to amend rule 983, California Rules of Court [Counsel Pro Hac Vice], in the form attached to these minutes and made a part hereof; and it is

FURTHER RESOLVED that the Board hereby adopts the Counsel Pro Hac Vice Program Rules and Regulations, in the form attached to these minutes and made a part hereof, to become effective as of the same date as the amendments to rule 983, California Rules of Court.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-126 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby endorses the reactivation of the Special Commission for the Revision of the Rules of Professional Conduct, the membership of which is reflected in Attachment 1, in the form attached to these minutes and made a part hereof, and further endorses budget allocations to support the work of the commission as reflected in the five-year budget as Attachment 2, in the form attached to these minutes and made a part hereof; and it is

FURTHER RESOLVED that the Board hereby adopts the Charter of the Commission, Attachment 3, in the form attached to these minutes and made a part hereof.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-127 The President announced that this item regarding the 14th Annual Report of the Board of Legal Specialization is hereby removed from the open consent agenda and placed on the Board's regular open agenda.

54-129C Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby approves reinstatement of the reimbursement to local bar associations for arbitrating and mediating fee disputes under

Business and Professions Code section 6200 et seq., at the rate of \$24.00 per matter appointed to an arbitrator or mediator commencing January 1, 2002.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-131 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby agrees to submit a request to the Governor's office to proclaim September 3-9, 2001, as "California Pro Bono Week"; and it is

FURTHER RESOLVED that the Board hereby directs staff to submit a request for a Governor's proclamation on an annual basis to coincide with the State Bar's Annual Meeting and the presentation of the President's Pro Bono Service Awards during the Pro Bono Reception, and directs staff to publicize the proclamation to help revitalize pro bono locally and statewide.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-132 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, following publication for comment and upon consideration of comments received and upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby amends article II re Nomination and Election of Governors, Rules and Regulations of the State Bar of California, in the form attached to these minutes and made a part hereof.

All members present and recorded on the roll-call slip voted yes on the above matter.

55 The following is the report of action taken by the Executive Director, on behalf of the Board, via fax poll on June 13, 2001:

RESOLVED that the Board hereby approves a reimbursable lodging rate of \$195-\$245 per night, exclusive of any applicable taxes, to apply to attendance at the Board Planning Meeting at the Harbor View Hotel in Santa Barbara on October 18-21, 2001; and it is

FURTHER RESOLVED that this waiver of the State Bar's Travel and Business Expense Reimbursement Policy with respect to official lodging rates is for this purpose only and pertains solely to the attendance of the stated Planning

Meeting for Board business.

Mr. Herman recused himself from this fax poll ballot of the Board and requested the record so to show.

Mr. Greiner and Ms. Yew voted no on the above matter.

56 The following is the report of action taken by the Executive Director, on behalf of the Board, via fax poll on June 20, 2001:

RESOLVED that the President hereby creates the Ad Hoc Strategic Work Session Design Committee; the charge of said committee is to assist the Board's retained governance consultant in the review of the governance structure of the State Bar of California; and it is

FURTHER RESOLVED that the following are hereby appointed to the committee for terms effective immediately: Karen S. Nobumoto, Chair; and Board members Anthony P. Capozzi, Janet M. Green, James E. Herman, David L. Roth, Scott Wylie, Nancy J. Hoffmeier Zamora and Executive Director July Johnson.

57 Upon motion made, seconded and unanimously adopted, it was

RESOLVED that the Canvassing Board for the 2001 election of members to the Board of Governors of the State Bar of California and the election of members to the CYLA Board of Directors shall consist of not less than five, nor more than seven, active attorneys and that said Board shall pass upon any problem situations and certify the results of said election to the Executive Director/Secretary on August 30, 2001.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-123 The Board discussed this item which relates to MCLE non-compliance late fee assessment date and voted to delete the language "to conduct a "pilot project" with Compliance Group 3, period 4, (last names beginning with N Z when assigned to the compliance group) . . . 2002." contained in the original resolution, and adopted the amended resolution as follows:

54-123 Upon motion made, seconded and unanimously adopted, it was

RESOLVED that the Board hereby authorizes the Office of Certification to assess the \$75 MCLE non-compliance late fee for compliance cards that are not received postmarked on or before March 15, in all compliance periods.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-111 The Board discussed this item relating to the suspension of members delinquent in fee payments. Mr. McNutt, as part of his projects for the Board Committee on Member Relations and Communication, has been assigned to review the penalties assessed on those members who are delinquent in payment.

54-111 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby ascertains and determines:

- (a) that each of the persons hereinafter named is a member of the State Bar of California;
- (b) that each such person has failed to fully pay fees, and/or penalties and/or costs as established pursuant to the provision of Section 6086.10, 6140, 6140.3, 6140.5, 6140.55, 6140.6, 6140.7, 6140.9 and 6141 of the Business and Professions Code and Rule 963 of the California Rules of Court;
- (c) that there has been sent to each such person, two months' written notice of his or her delinquency which included notice of Section 6143;
- (d) that as shown by the records of the State Bar, the address of each such person is as set forth herein;
- (e) and hereby recommends to the Supreme Court of the State of California that each such person be suspended from membership in the State Bar, and from the practice of law in the State of California, until such time as he or she may be reinstated, upon the payment of the delinquent fees and/or penalties and/or costs and of such additional fees or penalties or costs as may have accrued at the time of such payment, in the form attached to these minutes, and made a part hereof; and it is

FURTHER RESOLVED that for the purpose of withdrawing the foregoing recommendation for suspension in particular cases, the Secretary is authorized and directed to strike from the foregoing list the name of any member of the State Bar who by proper remittance (e.g., cash, money order, certified or cashier's check) and prior to the effective date of the Supreme Court order of suspension based hereon, pays to the State Bar fees or penalties or costs in the amount in which he or she is delinquent; and to notify the Clerk of the Supreme Court of the fact of such payment and of the consequent withdrawal of the Board's recommendation for suspension; and it is

FURTHER RESOLVED that for the purpose of modifying the recommendation to the Supreme Court for suspension for nonpayment of fees and/or penalties and/or costs, the Secretary is authorized and directed to change the data as to status or the amounts of delinquency on said list and will forthwith notify the Clerk of the Supreme Court accordingly of the consequent modification of the Board's recommendation for suspension.

All members present and recorded on the roll-call slip voted yes on the above matter.

112 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby denies the request of member Valerie S. Weiss to scale her 2000 membership fees and 2000/2001 discipline cost installment payments; and it is

FURTHER RESOLVED that the Board hereby denies the request of member Valerie S. Weiss for a waiver of her 2000/2001 membership fees and penalties.

All members present and recorded on the roll-call slip voted yes on the above matter.

Mr. Hicks entered the meeting and was added to the roll-call vote.

54-127 The Board discussed the 14th Annual Report of the Board of Legal Specialization and requested that, in future, the report should contain a statement addressing the public protection function, which is the core of the program.

54-127 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and

Discipline, that the Board hereby receives the 14th Annual Report of the Board of Legal Specialization for the period January 1 through December 31, 2000; and it is

FURTHER RESOLVED that the Board hereby directs staff to send copies of the report to the California Supreme Court as required by section 21.0 of the Rules Governing the State Bar of California Program for Certifying Legal Specialists to aid the Court's continued review of the legal specialist program; and it is

FURTHER RESOLVED that the Board of Legal Specialization's next annual report will include information on how the specialization program protects the public.

All members present and recorded on the roll-call slip voted yes on the above matter.

113 A presentation was made by Mr. Albers, Chair, Board Committee on Administration and Finance, Mr. Quan (Director of Finance) and Ms. Johnson, Executive Director, regarding the current financial position of the State Bar. This was an informational presentation to provide the Board financial information and, as such, required no Board action. Mr. Quan led the presentation covering seven points of interest:

1. Fiscal Policies
2. Audited Financial Statements for the year-ended December 31, 2000
3. Descriptions of the General Fund and Special Funds of the State Bar
4. Discipline Cost Recovery
5. Financial Position of the Funds as of June 30, 2001
6. Year-end Forecasts of the General Fund and the Building Fund
7. Highlight of Major Variances between Budget and Year-end Forecast

During the presentation, Mr. Albers, Ms. Johnson and Mr. Quan responded to questions raised by Board members.

Following the mid-year fiscal review presentation, Victor Rowley, Senior Executive for Information Technology, made a short presentation on current Information / Technology projects. His presentation focused on the redesign of the State Bar's web site, completion of local area networks at the State Bar offices in San Francisco and Los Angeles, and the development of an Information Technology Strategic Plan.

121 Robert A. Hawley, Deputy Executive Director, introduced Kevin R. Culhane, Chair, Multidisciplinary Practice Task Force, who participated by telephone and addressed the Board regarding the item this day before the Board.

121 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline (CORD), that the Board hereby accepts the Report and Findings of the Multidisciplinary Task Force, and expresses its thanks and gratitude to the members of the task force for their service to the Board, the State Bar and the legal profession on this subject; and it is

FURTHER RESOLVED that the Board hereby directs that the Report and Findings be circulated for a ninety-day public comment period, with specific outreach efforts being made to include consumers of legal services in the public comment process; and it is

FURTHER RESOLVED that upon completion of the ninety-day public comment period, staff shall summarize the comments and report back to the CORD on the nature of the comments. The Board Committee shall then determine if it wishes to return the Report to the task force for further consideration and development in light of the comments received; and it is

FURTHER RESOLVED, upon further consideration of the task force's Report following the public comment period, that CORD shall formulate recommendations to the Board regarding the implementation of those aspects of the Report as CORD and the Board determine appropriate.

All members present and recorded on the roll-call slip voted yes on the above matter.

128 A motion was made and seconded to authorize the Board of Legal Specialization to conduct a survey of California bar members who practice employment and labor law in order to gauge the level of support for possible certification in that area of practice.

The motion was amended to state that the Board hereby directs that the Labor and Employment Law Sections of the Beverly Hills Bar Association, the Bar Association of San Francisco and the Los Angeles County Bar Association, and any other interested parties, participate in a roundtable discussion to produce the survey of bar members who practice employment and labor law in order to gauge the level of support for possible certification in that area of practice.

Following discussion of the amended language of the item, the Board took the following action:

128 Upon motion made, seconded and adopted, it was

RESOLVED that the Board hereby rejects the recommendation to request that the Labor and Employment Law Sections of the Beverly Hills Bar Association, the Bar Association of San Francisco and the Los Angeles County Bar Association, and any other interested parties, participate in a roundtable discussion to produce the survey of bar members who practice employment and labor law in order to gauge the level of support for possible certification in that area of practice.

All members present and recorded on the roll-call slip voted no on the above matter, except Mr. Otto who voted yes.

Mr. Persons entered the meeting and was added to the roll-call vote.

701 The President introduced representatives from the following county bar associations, who each in turn addressed the Board on the work and goals of the associations, and such various issues as unbundling of legal services, additional judgeships for the southern district, Sacramento as a possible site for the Bar's Annual Meeting, the Bar's legislative program and promoting communication and good will between the Board of Governors and local and small bars:

- Bert Z. Tigerman, Executive Director, Beverly Hills Bar Association
- Aaron H. Katz, President, San Diego County Bar Association
- Richard Walch, Executive Director, and Roland Coleman, President, Los Angeles County Bar Association
- Barbara Yonemura, President, and Carol Presser, Executive Director, Sacramento County Bar Association, and
- Debra Zumwalt, President, and Christine Burdick, Executive Director, Santa Clara County Bar Association.

129A (1) Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committees on Regulation and Discipline, Member Relations and Communications and Legislative and Court Relations, that the Board takes action on the following:

Should CLE Be Mandatory?

The Board hereby concurs with the MCLE Evaluation Commission's conclusion that Continuing Legal Education should be mandatory in California.

All members present and recorded on the roll-call slip voted yes on the above matter.

129A (3) Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committees on Regulation and Discipline, Member Relations and Communications and Legislative and Court Relations, that the Board takes the following action:

Exemptions

The Board hereby declines to adopt the Commission's recommendation to eliminate the exemptions to the MCLE program contained in the MCLE statute and Rule of Court.

All members present and recorded on the roll-call slip voted yes on the above matter.

129A (4) Upon motion made, seconded and adopted, it was

RESOLVED, upon recommendation of the Board Committees on Regulation and Discipline, Member Relations and Communications and Legislative and Court Relations, that the Board takes the following action:

Total Hours Required

The Board hereby declines to adopt the MCLE Evaluation Commission's recommendation to increase the total hours of required CLE; and it is

FURTHER RESOLVED that the Board directs staff to study and, by December 2001, to provide recommendations for: improving the quality of education activities and the program as a whole, including enhancing the auditing of programs; assuring that solo and small firm practitioners can fulfill their MCLE requirement in a cost efficient way; and developing high quality education activities in the areas of legal ethics, law practice management, substance abuse and elimination of bias, with a view toward developing a curriculum that links these topics to legal ethics.

Voting Yes: Mr. Albers, Mr. Dixon, Mr. Herman, Mr. Otto, Mr. Persons, Mr. Roth, Mr. Snetsinger, Ms. Sommars, Ms. Villa.

Voting No: Mr. Capozzi, Ms. Green, Mr. Nitschke, Ms. Nobumoto, Mr. Wylie and Ms. Yew.

A motion was made at 2:10 p.m. to suspend *Robert's Rules of Order* for the purpose

of allowing broader parameters for discussion of the following item; said rules to be re-established following the discussion.

XTRA Upon motion made, seconded and adopted, it was

RESOLVED that the Board hereby suspends *Robert's Rules of Order* for the purpose of discussing item 129A(52) regarding MCLE **Mandatory Subject Matter Requirements** ~~Program Mechanics and Quality~~ this day before the Board.

Voting Yes: Mr. Albers, Mr. Dixon, Ms. Green, Mr. Herman, Ms. Nobumoto, Ms. Sommars, Ms. Villa, Mr. Wylie and Ms. Yew.

Voting No: Mr. Capozzi, Mr. Nitschke, Mr. Otto, Mr. Persons, Mr. Roth and Mr. Snetsinger.

129A (2) Upon motion made, seconded and adopted, it was

RESOLVED, **after consideration** ~~upon recommendation~~ of the Board Committees on Regulation and Discipline, Member Relations and Communications and Legislative and Court Relations, that the Board takes the following action:

Mandatory Subject Matter Requirements

The Board hereby agrees to mandate the following special requirement hours: four (4) hours of legal ethics; one (1) hour of detection or prevention of substance abuse; and one (1) hour of elimination of bias in the legal profession; and it is

~~The Board hereby recommends increasing the required number of hours of legal ethics from four to six hours, stating that four (4) hours should be allotted to the mandatory study of legal ethics, one (1) hour to the detection or prevention of substance abuse and one (1) hour to the elimination of bias in the profession. giving members the option of taking two of those required hours in any combination of the following areas: legal ethics; elimination of bias; or detection/prevention of substance abuse; and it is~~

FURTHER RESOLVED that the Board directs staff to draft proposed amendments to the MCLE Rules and Regulations that would eliminate any MCLE credit for detection/prevention of emotional distress or stress, except insofar as the topic of mental illness is included in the State Bar's three-hour comprehensive course on substance abuse.

Voting Yes: Mr. Albers, Mr. Capozzi, Mr. Dixon, Ms. Green, Mr. Herman, Mr. Nitschke, Ms. Nobumoto, Mr. Otto, Mr. Roth, Mr. Snetsinger, Ms. Villa, Mr. Wylie and Ms. Yew.

Voting No: Mr. Persons.

129A (5) Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committees on Regulation and Discipline, Member Relations and Communications and Legislative and Court Relations, that the Board takes the following action:

Issues re Program Mechanics and Quality

With the exception of the issue of the total number of required hours, that the Board hereby refers the MCLE Evaluation Commission's recommendations regarding "Program Mechanics" and "Quality" to staff to develop, by March 2002, more detailed proposals for Board consideration; and it is

FURTHER RESOLVED that the Board directs staff, by March 2002, to conduct a comprehensive review of the MCLE Rules and Regulations and administrative processes to identify ways to make the MCLE program more user friendly and effective.

All members present and recorded on the roll-call slip voted yes on the above matter.

129B The Executive Director summarized the State Bar's report on the *Investigation and Prosecution of Disciplinary Complaints Against Attorneys in Solo Practice, in Small Size Law Firms and Large Size Law Firms*. This report concludes that solo practitioners are not disproportionately investigated, prosecuted or disciplined by the State Bar of California. While the number of investigations of solo attorneys was higher than those of attorneys in larger law firms, the report concludes it was proportionate to the number of complaints made to the bar about solo practitioners. The statistics also indicate that, since staff has no information about the size or type

of an attorney's practice when a complaint is lodged, the State Bar shows no institutional bias in investigating solo practitioners.

The report cited many reasons why so many clients complain about solo practitioners, noting that solo practitioners operate under tremendous stress and do not have the resources or the staff to guard against potential problems that arise in a legal practice. The Chief Trial Counsel also reported on efforts to establish a substance abuse diversion program and a drug court within the State Bar. Staff will periodically report to the Board on its ongoing efforts to provide assistance for solo and small firm practitioners.

130 Ms. Villa, Chair, Board Committee on Member Relations and Communications, reported on the work of the committee. She also reported that:

1. The State Bar is getting the prestigious Harrison Tweed Award on Friday, August 3rd, as part of the upcoming ABA Annual meeting, in recognition of the Bar's efforts to improve access to justice. Board members were asked to contact Mary Viviano if they wanted to attend the luncheon.
2. It is time to plan the Aranda Access to Justice Award, which honors one judge who has promoted access to the judicial system. The nominations are due in mid-October, and the award is presented by the Chief Justice on behalf of the State Bar, Judicial Council, and California Judges Association. It will be presented at the annual Cal. Judicial Administration Conference early in 2002.
3. The state budget approved earlier this week by the legislature includes \$10 million for the Equal Access Fund; however, the \$5 million increase that was in the budget passed by the Legislature, was vetoed by the Governor. This 50 percent increase was originally included in the Governor's proposed budget; however, the economic downturn resulted in the increase being eliminated from the Governor's proposed revised May budget. The Governor's veto message was a very positive one, indicating the Governor was "open to considering funding for this worthy program in the future when the economy improves."

Both this Board and the Judicial Council had supported a request for \$20 million for the 2001-2002 fiscal year. The Access to Justice Commission will continue its efforts to increase this legal services fund, working with the State Bar and the Judicial Council.

133 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committees on Member Relations and Communications and Regulation and Discipline, that the Board hereby adopts in principle an approach to enforcing restrictions on non-lawyer practice that is part of a balanced effort to improve access to legal services and the justice system, in the form this day before the Board; and it is

FURTHER RESOLVED that staff is directed to identify specific programs, resources and costs for implementing this approach.

All members present and recorded on the roll-call slip voted yes on the above matter.

140 Mr. Roth, Chair, Board Committee on Planning, gave a status report on governance and strategic planning initiatives.

141 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Planning, that the Board hereby includes the external governance of all its standing committees as part of the Board governance review by the consultant; and it is

FURTHER RESOLVED that a possible realignment, consolidation, or maintenance of the current committee structure of all Board created and standing committees be explored with the current chairs as part of the overall governance review; and it is

FURTHER RESOLVED that Ms. Nobumoto, President-Elect, hereby appoints Board member Erica R. Yew to oversee and direct a review of the structure of, and compliance with, board policies, rules and regulations by all State Bar committees. Further, that this review shall be included with the Board's overall of its governance structure.

All members present and recorded on the roll-call slip voted yes on the above matter.

161 Larry Doyle, Chief Legislative Counsel, gave a status report on all legislative activities and pending legislation.

The Board recessed at 4:20 p.m., Friday, July 27, 2001, to meet again on Saturday, July 28, 2001.

The Board of Governors of the State Bar of California reconvened in the Board Room of the State Bar office, 1149 South Hill Street, Los Angeles California, 90015, 9:00

a.m., on Saturday, July 28, 2001, Palmer Brown Madden presiding.

The following members of the Board of Governors were present: Ronald E. Albers, Anthony P. Capozzi, Patrick R. Dixon, Janet M. Green, James E. Herman, Joe R. Hicks, Scott H. McNutt, Peter D. Nitschke, Karen S. Nobumoto, James D. Otto, Robert K. Persons, David L. Roth, John G. Snetsinger, Julie S. Sommars, Maria D. Villa, Scott Wylie and Erica R. Yew and Nancy J. Hoffmeier-Zamora.

The following members of the staff also were present: Starr Babcock, Francis Bassios, Jerry Braun, Larry Doyle, Robert A. Hawley, Judy Johnson, Nancy McCarthy, Marie M. Moffat, Mike Nisperos, Victor Rowley and Mary Viviano.

134 The President introduced the Hon. Laurie D. Zelon, Chair, Discrete Task Representation Committee of the Commission on Access to Justice, who made a presentation on the preliminary recommendations from her committee. The goal of the committee was to analyze the issues and make recommendations about possible directions that could be taken by both bench and bar concerning discrete task representation, otherwise known as “unbundling”.

State Bar President Palmer Madden had requested in March that the committee report back to the board by the August meeting; that report was moved up due to scheduling conflicts. As a result of expediting the presentation, there was not a written agenda item presented to the Board, but a full report on the preliminary findings of the committee will be submitted by the committee before the Annual Meeting. Following that time, this committee will continue to work on development and implementation of its recommendations, as well as outreach to appropriate entities on related developments.

Judge Zelon provided information about the process used by the committee, including focus groups, questionnaires and one-on-one interviews with attorneys who do and do not unbundle, judges, LRS representatives, ethics and insurance experts, legal services advocates, and users of unbundled services. There were five study groups within the committee - ethics, courts, disclosure issues, insurance, and lawyer referral services.

The working definition for “unbundling” used by the committee is:

A relationship between an attorney and a person seeking legal services in which it is agreed that the scope of the legal services will be limited to the defined tasks that the person asks the attorney to perform.

“Unbundled legal services” usually fall into one of the following three categories: Advice and counsel, limited court or administrative appearances, and assistance with documents and pleadings. Judge Zelon clarified that the committee was not recommending limiting the duties attorneys owe their clients with regard to competence, confidentiality, or conflicts.

Judge Zelon then reported the preliminary recommendations from her committee, a copy of which is attached to these minutes. Because of the complexity and the need to look carefully at related developments, as well as the brief time allowed for committee deliberations, these are preliminary suggestions, only.

Members of the Board of Governors asked the committee to also consider prepaid legal plans as they related to discrete task representation, which the committee agreed to do. Board members also requested that the committee look at related issues raised by those services offered at self-help centers. Judge Zelon agreed that her committee had made preliminary contact with other entities analyzing these issues as they relate to self-help centers, and will continue to coordinate with them as they also look at these issues. Although this process could not be finalized by the time of the report submitted at the Annual Meeting, the committee will continue to coordinate with those other entities and report back to the Board of Governors.

In closing, Judge Zelon indicated appreciation for the members of her committee and the volunteers and staff who provided input to the deliberations. Judge Zelon also thanked the Board for their leadership on these issues. The committee intends to continue its work to finalize these recommendations in writing by the Annual Meeting, and report to the full Access to Justice Commission, as well as to this Board and other appropriate entities; then the committee will proceed to develop and implement the recommendations.

134 Upon motion made, seconded and unanimously adopted, it was

RESOLVED that the Board hereby supports in principle the preliminary recommendations submitted orally by the Discrete Task Representation Committee of the Commission on Access to Justice, in the form attached to these minutes and made a part hereof; and it is

FURTHER RESOLVED that the Board hereby requests the committee to work collaboratively with other entities addressing similar issues such as Judicial Council Committees and other State Bar entities, and to submit a written report to the Board of Governors by the 2001 State Bar Annual Meeting.

All members present and recorded on the roll-call slip voted yes on the above matter.

RE 113 A motion was made and seconded, but failed of adoption, to allow the Board Committee on Administration/Executive Director to use their best efforts to keep the annual membership fee at \$345. The Executive Director Judy Johnson, and several Board members noted that the \$50 reduction this year was the result of a one-time surplus. Others noted that the 2002 fee should not be set without a thorough review of the proposed budget, which the staff is still preparing. The Executive Director was directed to work with Board member Maria Villa, next year's chair of the Board Committee on Administration and Finance, to provide the 2002 budget and all budget scenarios for full board review at the October meeting. The legislature has authorized the bar to collect \$390 for 2002 and 2003.

Voting Yes: Ms. Capozzi, Mr. Dixon, Ms. Green, Mr. Nitschke and Mr. Otto.

Voting No: Mr. Albers, Mr. Herman, Mr. Hicks, Mr. McNutt, Ms. Nobumoto, Mr. Persons, Mr. Roth, Mr. Snetsinger, Ms. Villa, Mr. Wylie and Ms. Zamora.

The Board went into closed session at 10:30 a.m., and those other persons present in the meeting, except the Executive Director and members of the Senior Executive Team, left the meeting.

The Board resumed open session at 10:45 a.m.

300 The appointments were considered in confidential session and the actions of the Board are reported below.

6011 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby appoints Brian Campbell to the Board of Directors, California Indian Legal Services, to serve for a three-year term commencing July 1, 2001 and expiring June 30, 2004.

All members present and recorded on the roll-call slip voted yes on the above matter.

6012 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and

Discipline, that the Board hereby appoints or reappoints, as the case may be, members and officers to the California Board of Legal Specialization, Appellate Law Advisory Commission, Criminal Law Advisory Commission, Estate Planning, Trust and Probate Law Advisory Commission, Family Law Advisory Commission, Immigration and Nationality Law Advisory Commission, Personal and Small Business Bankruptcy Law Advisory Commission, Taxation Law Advisory Commission, and Worker's Compensation Law Advisory Commission as set forth on the lists attached to these minutes and made a part hereof, effective at the close of the 2001 Annual Meeting, i.e., September 9, 2001, unless otherwise indicated; each officer and member to serve for a term expiring on the last day of the State Bar's annual meeting of the year shown opposite his or her name, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6013 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, that upon recommendation of the Board Committee on Regulation and Discipline, the Board of Governors hereby appoints or reappoints, as the case may be, officers and members, as set forth on the list attached to the minutes and made a part hereof, to the Client Security Fund Commission, effective at the close of the 2001 State Bar Annual Meeting, i.e., September 9, 2001; each officer and member to serve for a term expiring as indicated, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6014 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon the unanimous recommendation of the Board Committee on Regulation and Discipline, the Board of Governors appoints the following to the State Bar Fee Arbitration Department for a term of two years, commencing July 30, 2001, or until further order of the Board, whichever occurs earlier:

<u>Name</u>	<u>County</u>
Harve Citrin	Santa Clara
Lawrence Daugherty	Sacramento
Gail Killefer	San Francisco
Carol Moses	Fresno

Irving Pheffer	San Francisco
Charles Quintero	Santa Barbara
Janet Russell	Sonoma
Zachary Seff	Los Angeles
Terence Shannon	San Mateo
Malcolm Sher	Contra Costa
Ivan Kelly Stevenson	Los Angeles
Lorraine M. Walsh	Contra Costa

All members present and recorded on the roll-call slip voted yes on the above matter.

6015 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby appoints the following lawyer members and officers to the Committee of Bar Examiners, each to serve for a term commencing and expiring as indicated , or until further order of the Board, whichever occurs earlier:

Chair

Anne E. Sheehan	September 9, 2001 - October 13, 2002
-----------------	--------------------------------------

Vice-Chair

Samuel L. Jackson	September 9, 2001 - October 13, 2002
-------------------	--------------------------------------

Members

John L. Dodd	September 9, 2001 - Conclusion of 2005 Annual Meeting
--------------	---

Beverly J. Gassner	September 9, 2001 - Conclusion of 2005 Annual Meeting
--------------------	---

First Alternate	Dean E. Dennis
-----------------	----------------

Second Alternate	Michael Knish
------------------	---------------

All members present and recorded on the roll-call slip voted yes on the above matter.

6016 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby appoints or reappoints, as the case may be, the members on the list attached to these minutes and made a part hereof, to the Committee on Professional Liability Insurance, each to serve for a term commencing September 9, 2001, and expiring at the conclusion of the State Bar's Annual Meeting of the year set forth opposite the name of each, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6017 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby appoints or reappoints, as the case may be, the members on the list attached to these minutes and made a part hereof, to the Committee on Group Insurance Programs, each to serve for a term commencing on September 9, 2001, and expiring at the conclusion of the State Bar's Annual Meeting of the year set forth opposite the name of each, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6018 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby appoints or re-appoints, as appropriate, the members and officers to the Committee on Mandatory Fee Arbitration as set forth on the list attached to these minutes and made a part hereof, each to serve for a term effective upon the conclusion of the 2001 Annual Meeting of the State Bar of California and expiring as indicated, or until further order of the Board, whichever occurs earlier.”

All members present and recorded on the roll-call slip voted yes on the above matter.

6019 Upon motion made, seconded and adopted, it was

RESOLVED, upon recommendation of the Task Force on Appointments, that the Board hereby appoints Karen S. Nobumoto, Los Angeles, and reappoints Maria D. Villa, Los Angeles, Appointed Directors, Center for Civic Education

Board of Directors, effective at the close of the 2001 State Bar Annual Meeting, i.e., September 9, 2001, and expiring at the close of the 2002 State Bar Annual Meeting, i.e., October 13, 2002, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter, except Ms. Nobumoto and Ms. Villa, who recused themselves and requested the record so to show.

6020 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Task Force on Appointments, that the Board hereby appoints or reappoints, as the case may be, officers and members to the State Bar standing committees and special commissions, as set forth on the lists attached to these minutes and made a part hereof, effective at the conclusion of the 2001 State Bar Annual Meeting, i.e., September 9, 2001; each officer and member to serve a term expiring at the conclusion of the State Bar Annual Meeting in the year indicated, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6021 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby approves the recommendation for award recipients as follows:

2001 Loren Miller Legal Services Award Joaquin G. Avila

President's Pro Bono Service Awards

Corporate	Charles Bowman
Government	Jasmin Flores
Small Law Firm	Kemnitzer, Anderson, Barron & Olgivie, LLP
Medium Law Firm	John Sullivan Kenny (Moss & Enochian, LLP)
Large Law Firm	Thomas Nolan (Howrey, Simon, Arnold & White, LLP)
Recently Admitted	Shaye Larkin
Retired	Frank Horowitz

Solo Practitioner
Distinguished Pro Bono Service

Stephanie Simpson
Deborah S. Vierra and Laura V.
Bartels

All members present and recorded on the roll-call slip voted yes on the above matter.

6022 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby appoints or reappoints, as the case may be, officers and members, as set forth on the form attached to the minutes and made a part hereof, to the Committee on Professional Responsibility and Conduct, effective at the close of the 2001 State Bar Annual Meeting, i.e., September 9, 2001; each officer and member to serve for a term expiring at the conclusion of the State Bar Annual Meeting in the year indicated, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6030 Upon motion made, seconded and adopted, it was

RESOLVED, upon recommendation of the Task Force on Appointments, that the Board hereby appoints the following to the Review Committee, Commission on Judicial Nominees Evaluation, effective immediately, each to serve for a term expiring as indicated, or until further order of the Board, whichever occurs earlier: James E. Herman, Santa Barbara, chair, for a term expiring June 30, 2002; and Helen Zukin, Los Angeles, member, for a term expiring June 30, 2004.

All members present and recorded on the roll-call slip voted yes on the above matter, except Mr. Herman who recused himself and requested the record so to show.

6040 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Task Force on Appointments, that the Board hereby reappoints Mark I. Schickman, member, Commission on Judicial Nominees Evaluation, effective immediately, vice E. Ron Hulbert, resigned for the unexpired term of Mr. Hulbert, i.e., May 31, 2001, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

The Board adjourned at 11:30 a.m., Saturday, July 28, 2001, to meet again at the call of the President at any time prior to the next scheduled meeting of the Board, or if no such meeting be called, at the Continental Ballroom 4, Hilton Hotel, 333 O'Farrell Street, San Francisco, California, at 9:00 a.m., on Thursday, August 9, 2001.

ATTACHMENTS TO JULY 27-28 BOARD MEETING

July 134	Discrete Task Representation Committee	-21-
July 54-111	delinquency list	-10-
	Rule 983, California rules of Court [Counsel Pro Hac Vice]	-11-
July 54-125	Pro Hac Vice Program Rules and Regulations	-7-
	Rule 983, California rules of Court [Counsel Pro Hac Vice]	-6-
July 54-126	budget allocations to support the work of the commission	-7-
	Charter of the Commission	-7-
	Special Commission for the Revision of the Rules of Professional	-7-
July 54-132	article II re Nomination and Election of Governors, Rules and Re	-8-
July 6012	California Board of Legal Specialization	-24-
July 6013	Client Security Fund Commission	-24-
July 6016	Committee on Professional Liability Insurance	-26-
July 6017	Committee on Group Insurance Programs	-26-
July 6018	Committee on Mandatory Fee Arbitration	-27-
July 6020	State Bar standing committees and special commissions appts	-27-
July 6022	Committee on Professional Responsibility and Conduct	-28-