

MINUTES
BOARD OF GOVERNORS MEETING
LOS ANGELES
JANUARY 26, 2002

The Board of Governors of the State Bar of California convened in the Board Room of the State Bar Offices at 1149, South Hill Street, Los Angeles, California, at 9:05 a.m., Saturday, January 26, 2002, Karen S. Nobumoto presiding.

The following members of the Board of Governors were present: Matthew E. Cavanaugh, Judith M. Copeland, Janet M. Green, Gary Greenebaum, James E. Herman, Ann Miller Ravel, Russell Roeca, Joseph T. Rouzan, Jr., Windie O. Scott, James C. Sherwood, John G. Snetsinger, John K. Van de Kamp, Maria D. Villa, Chantel L. Walker, Marie Weiner, Scott Wylie and Nancy J. Hoffmeier-Zamora.

The following members of the staff were present: Starr Babcock, Kathleen Beitiks, Bill Davis, Randy Difuntorum, Larry Doyle, Scott Drexel, Judy Johnson, Dean Kinley, Marie M. Moffat, Mike Nisperos, Mary Viviano and Russell Weiner.

Also present: Don J. DeBenedictis, *Los Angeles Daily Journal*; Stephen L. Marsh, Chair, Conference of Delegates Executive Committee; Mike McKee, *The Recorder*; and Professor Kevin Mohr, Vice-Chair, Committee on Professional Responsibility and Conduct.

10 Upon motion made, seconded and adopted, it was

RESOLVED that the minutes of the meeting of the Board of Governors held on December 8, 2001, in Los Angeles, hereby are approved as written.

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.

The President reported on the following:

1. She introduced and welcomed the two new public members to the Board: Chantel L. Walker of San Francisco, appointed by the Hon. John L. Burton, Chairman, Senate Rules Committee; and Rabbi Gary Greenebaum of Los Angeles, appointed by the Hon. Robert M. Hertzberg, Speaker of the Assembly.

Ms. Nobumoto stated that she had appointed Ms. Walker to the Board Committee on Stakeholder Relations and the Board Committee on Volunteer Involvement; Mr. Greenebaum has been appointed to the Board Committee on Member Oversight and the Board Committee on Regulation, Admissions and Discipline Oversight Committee; and she confirmed that Mr. Rouzan has been appointed to the Board Planning, Program Development and Budget Committee and the Board Committee on Volunteer Involvement, and that he no longer serves on the Board Regulation, Admissions and Discipline Oversight Committee.

2. She drew the Board's attention to the photos of the past presidents of the State Bar, which are now on permanent display in the bar's Los Angeles office.

41 Part I The Executive Director gave a status report on the logistics of the boardroom currently being built out in the San Francisco office, stating that it should be ready for the Board's June 2002 meeting. She reported that, consistent with prior Board directives, the new San Francisco board space is being configured as a multi-functional room equipped with two operable walls that will allow conversion into two or three separate rooms. Instead of a permanent, fixed board table, the modular design uses highly versatile mobile furniture, which can be assembled to form the traditional elliptical shaped board table for use at Board meetings, or arranged to accommodate other room configurations.

41 Part II She reported on the State Bar's Website launch, stating that it will become part of the State of California's portal later this year. A competitive bid process to identify vendors to renovate the bar's website produced 13 bids ranging from more than \$300,000 up to \$3.5 million. California's e-government officials encouraged the State Bar to establish a presence on the state's site. Joining the state will be more cost effective for the State Bar in the long run and will offer us myriad resources that would ordinarily be out of our reach. While the State of California's portal provides online access to services, contact information for key agencies and is user-friendly, the State Bar would retain complete control of its site, both design and content, but will have access to some major software used by the state.

She stated that prior to building a web prototype late last summer, preliminary research was conducted and resulted in a "wish list" to make the Bar's site "state-of the art." However, because of the large scope of the project, the site will be developed in phases, building it as time and resources permit. A team of web developers is currently in Sacramento working on the foundation of our new site, preparing for the migration of our content to the state's portal. She mentioned that the State of California's portal is an award-winning site and was recently ranked number one among the nation's state web sites.

42 Part I The Secretary brought to the Board's attention the following 2002 Board of Governors Annual Election Schedule:

Five seats on the State Bar's 23-member Boards of Governors are up for election during 2002.

- District 4: Marin and San Francisco Counties
- District 6: Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties
- District 7: Los Angeles County (office #1; office #2)
- District 8: Orange County

Any active member of the State Bar who maintains his or her principal office for the practice of law within the State Bar district in which there is a vacancy is eligible to run for a seat on the board. Lawyer members are elected for three-year terms and will assume their offices at the conclusion of the 2002 Annual Meeting.

- February 1 First day for furnishing/filing nominating petitions
- April 1 Last day for filing nominating petitions
- April 22* Eligibility list closes
- April 30 Ballots mailed
- July 1 Last day for voting
- July 10 – 12 Canvass of Ballots
- October 10 – 13 Annual Meeting

* Any active member of the State Bar, in good standing on April 22, 2002, whose principal place of business is located within a county that is included within the State Bar district in which there is an election, shall be eligible to vote in the 2002 election.

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

RESOLVED, upon recommendation of the Board Legal Committee and following public comment period and upon recommendation of the Board Committee on Operations, that the Board hereby amends the Conflict of Interest Code for Designated Employees 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.

54-131 This item regarding proposed approval of carriers for the State Bar Member Long Term Care Insurance Program was removed from the consent agenda, and placed on the Board's regular agenda for consideration immediately following item JANUARY 56 on the consent agenda.

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

RESOLVED, upon recommendation of the Board Committee on Member Oversight, that the Board hereby amends the charges of the Access and Fairness Committees, including the Committee on Sexual Orientation and Gender Identity Discrimination, the Committee on Women in the Law, the Committee on Ethnic Minority Relations, the Committee on Legal Professionals with Disabilities, and the Committee on Senior Lawyers, 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.

54-141 In August of 1999, the Board of Governors adopted the step-down methodology recommended by the auditors, Deloitte and Touche, and the utilization of their model to calculate allocations. Subsequently, the State Bar has incurred organizational changes that needed to be incorporated into the model. Following the adoption of the 2002 State Bar budget, Deloitte and Touche reviewed the methodology as applied to the State Bar and updated the model accordingly, in the form this day before the Board. This is an information item and, therefore, does not require Board action.

54-142 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Planning, Program Development, and Budget Committee, that the Board hereby adopts the Board Planning, Program Development, and Budget Committee Charter, 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.

54-151 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Member Relations and Communications at its December 8, 2001, meeting, that the Board hereby approves the name, purpose, eligibility criteria, additional factors to be considered, selection process and presentation of the State Bar of California Diversity Awards.

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

54-163 Upon motion made, seconded and unanimously adopted, it was

RESOLVED, upon recommendation of the Board Committee on Stakeholder Relations, that the Board hereby approves the following for the Conference of Delegates' Legislative Program subject to any existing holds:

CATEGORY II

07-01-01 Immunity of Law Association for Publishing Member Lists
Amends Civil Code section 43.95 to exempt a law association from liability for publishing a list of members.

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

- 55 The following is the report of emergency action taken by the Board, via fax poll, between regular meetings of the Board, on December 17, 2001:

Upon motion made, seconded and adopted, it was

RESOLVED that the Board hereby approves the appointment of the chairs and the members of the board committees by Ms. Nobumoto, President, in the form attached to these minutes and made a part hereof.

Ms. Green voted no on the above matter.

- 56 The following is the report of emergency action taken by the Board, via fax poll, between regular meetings of the Board, on January 15, 2002:

Upon motion made, seconded and adopted, it was

RESOLVED that the Board hereby approves the change in the title of the committee responsible for maintaining effective relationships with the State Bar's important stakeholders from Stakeholder Oversight Committee to Stakeholder Relations Committee, effective immediately.

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

RESOLVED, upon recommendation of the Board Committee on Member Relations and Communications at its meeting held on December 7, 2001, that the Board hereby approves a new State Bar Approved Long Term Care Program co-underwritten by John Hancock and Prudential and marketed by AI&PS; and it is

FURTHER RESOLVED that the Board authorizes the chair of the Committee on Group Insurance Programs or said designee to approve the form of all documents necessary to implement the foregoing action of the Board, 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. However, Mr Wylie, Chair, Board Committee on Volunteer Involvement, stated that he approves the item with the caveat that the Board Committee on Volunteer Involvement address the concerns expressed in the letter received from Jay G. Foonberg, member, Standing Committee on Senior Lawyers and currently Chair of the standing committee's Subcommittee on Long Term Care Insurance. Mr. Wylie further stated that he intends to invite those members of the Standing Committee on Senior Lawyers who are interested to attend a future meeting of the Board Committee on Volunteer Involvement to discuss their concerns in more detail.

- 110 Ms. Nobumoto, Chair, Board Committee on Board Operations, reported that under the new governance structure, the Committee had referred items to the relevant Board Committees, and that the Committee on Board Operations would continue to refer all new items not currently listed on the committee inventories to the appropriate committees.

120 Mr. Dixon, Chair, Board Committee on Regulation, Admissions and Discipline, summarized the work of the Committee, and requested that all Senior Executives who report to the committee propose a “dashboard” of indicators regarding their departments, and report on those indicators at each meeting of the committee.

121 Mr. Dixon introduced Professor Kevin Mohr, Vice-Chair, Committee on Professional Responsibility and Conduct ("COPRAC") and Randall Difuntorum, COPRAC staff counsel. Professor Mohr and Mr. Difuntorum summarized proposed amendments to rule 3-600, *Rules of Professional Conduct*, and presented the Board Committee's recommendation that the proposed amended rule be adopted and transmitted to the Supreme Court for approval.

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

RESOLVED, following publication for comment, consideration of the comments received, and upon recommendation of the Board Regulation, Admissions and Discipline Oversight Committee, that the Board hereby adopts proposed amended Rule 3-600 of the Rules of Professional Conduct, in the form attached to these minutes and made a part hereof, and hereby directs that said amended rule be transmitted to the Supreme Court with the request that it be approved by the Court.

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

122 Mike Nisperos, Chief Trial Counsel, and Scott Drexel, Administrative Officer for State Bar Court/Chief Court Counsel, reported on the status of the State Bar Drug Court implementation. Mr. Nisperos stated that the Office of the Chief Trial Counsel had convened seven internal task forces to develop a suggested Drug Court protocol, and had met with representatives of the State Bar Court in November to present the office's proposal. The State Bar Court has reviewed the proposal and representatives of the two offices will meet the first week of February to discuss the court's response and refine the proposal accordingly. Mr. Nisperos and Mr. Drexel then plan to solicit input from respondents' counsel. Following this, Mr. Nisperos and Mr. Drexel will bring the proposal before the Board.

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

RESOLVED, following publication for comment and consideration of comments received, and upon recommendation of the Board Committee on Regulation, Admissions and Discipline, that the Board hereby amends Article 1, section 13, *Rules and Regulations of the State Bar of California*, in the form attached to these minutes and made a part hereof, to authorize the Executive Director/Secretary to perform the ministerial act of making the annual recommendation to the Supreme Court for suspension of members for failure to comply with judgment or order for child or family support.

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

133 Mr. McNutt, Chair, Board Committee on Member Oversight, made a motion that this item regarding the release of members' email addresses to candidates running for election to the

Board of Governors or California Young Lawyers Association for the purpose of conducting their campaigns, be adopted. Discussion ensued concerning legal issues that may arise should the email addresses be released. Also, numerous concerns were expressed regarding the budgetary, technological and liability implications of the proposed release of the members' email addresses.

Mr. McNutt then made a motion to withdrawal the item. Ms. Villa stated that she did not agree to the withdrawal of the motion.

A further motion was made to adopt the item as originally presented, but failed of adoption:

Voting yes: Mr. Capozzi, Mr. Cavanaugh, Ms. Copeland, Mr. Dixon, Mr. Greenebaum, Mr. McNutt, Ms. Ravel, Mr. Roeca and Ms. Weiner.

Voting no: Ms. Green, Mr. Herman, Mr. Rouzan, Ms. Scott, Mr. Sherwood, Mr. Snetsinger, Mr. Van de Kamp, Ms. Villa, Ms. Walker, Mr. Wylie and Ms. Zamora.

A motion was made to place the item on the Board Planning, Program Development, and Budget agenda, with a request to poll the membership for permission to release their email addresses.

A further motion was made for this item to come back to the Board in May from the Board Committee on Member Oversight. Ultimately, the following resolution was adopted:

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

RESOLVED that the Board hereby defers consideration of the release of members' email addresses to candidates running for election to the Board of Governors or California Young Lawyers Association for the purpose of conducting their campaigns to the March meeting of the Board, thereby allowing staff time to study the issue in greater detail and draft an implementation plan.

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

134 Mr. McNutt, Chair, Board Committee on Member Oversight, addressed the Board concerning the Diversion Program, stating that the State Bar is in compliance with its timetable requirements under SB 479, that Janis Thibault had been hired and would begin working full time in a few days, and that the Board is looking forward to receiving her first report on the program.

140 Mr. Herman, Chair, Board Planning, Program Development, and Budget Committee, reported briefly on the budget timelines and stated that the budget will be on the Board's August agenda.

He thanked Ms. Weiner for her research on MDP and stated that her input will be included in the Interim Strategic Plan.

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

RESOLVED, upon publication for comment and consideration of comments received, and upon recommendation of the Board Planning, Program Development, and Budget Committee, that the Board hereby adopts the Draft Interim Strategic Plan, 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.

144 Mr. Herman, Chair, Board Planning, Program Development, and Budget Committee, gave a brief history of the president-elect system. He stated that no recommendation on the proposed dates for the election of the president was forthcoming from yesterday's Board Committee meeting. He requested that the Board consider proposed dates. Having considered the matter, the Board took the following action:

144 Upon motion made, seconded and adopted, it was

RESOLVED that the Board hereby sets Saturday, June 22, 2002, State Bar Office, 180 Howard Street, San Francisco, California, at 9:00 a.m., as the date, time and place of the Special Meeting for the Election of the President of the State Bar of California for the year 2002-2003.

Ms. Copeland and Mr. Roeca voted no on the above matter, Ms. Green abstained from voting, and each requested the record so to show.

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

RESOLVED, upon recommendation of the Board Planning, Program Development, and Budget Committee, that the Board hereby approves expenditure of \$350,000 of the Technology Reserve to fund an interagency agreement with the Department of General Services for redesign of the State Bar Web site.

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

146 Mr. Herman, Chair, Board Planning, Program Development, and Budget Committee, referred members to the actual agenda item on the State Bar Website Launch, and stated that the Executive Director had covered all the important points of this item in her report.

150 Mr. Wylie, Chair, Board Committee on Volunteer Involvement, reminded his colleagues of all the deadline dates for upcoming appointments to State Bar committees, and mentioned that there may be a necessity to extend the deadlines for further outreach.

161 Mr. Doyle, Chief Legislative Counsel, gave a status report on the activities of the Office of Governmental Affairs during the past two months, including a description of key legislation being tracked by the office.

162 There were no immediate action items.

164 This item concerning proposed Conference of Delegates Resolution 07-02-01 [Attorney Discipline: Deferred Entry of Judgment in Drug Possession Cases], was deferred, and the Executive Committee of the Conference of Delegates was requested to provide a status

report on the matter to the Board Committee on Stakeholder Relations at its March meeting.

The Board went into closed session at 11:28 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 11:31 a.m.

The appointments were considered in confidential session and the action of the Board is reported below.

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

RESOLVED, upon the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Kiren K. Dosanjh, Northridge, member, Committee on Professional Responsibility and Conduct, effective immediately, vice Luis Lavin, resigned, for the remainder of Mr. Lavin's unexpired term, i.e., close of the State Bar's 2003 Annual Meeting on September 7, 2003, 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.

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

RESOLVED, upon the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints the following members to the Committee on Senior Lawyers, effective immediately, each for a term expiring as indicated, or until further order of the Board, whichever occurs earlier: Benjamin Salvaty, Los Angeles, vice Harold C. Norton, resigned, for the remainder of Mr. Norton's term, i.e., October 13, 2002; and Matthew B. Weinberg, San Francisco, vice Seymour Seidscher, resigned, for the remainder of Mr. Seidscher's term, i.e., September 7, 2003.

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, upon the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Mavis S. Gallenson, Los Angeles, Secretary, Intellectual Property Section Executive Committee, effective immediately, for a term 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.

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

RESOLVED, upon the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints Maureen Krislov, Los Angeles, member, Workers Compensation Law Section Executive Committee, effective immediately, vice

David J. Mitchell, resigned, for the remainder of Mr. Mitchell's term, i.e., October 10, 2004, 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.

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

RESOLVED, upon the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby approves the appointment of Thomas N. Andrews, Redding, to the Board of Directors of Legal Services of Northern California for a three-year term commencing February 1, 2002, and expiring January 31, 2005.

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 the recommendation of the Board Committee on Volunteer Involvement, that the Board hereby appoints the following persons to the State Bar Fee Arbitration Department for a term of two years, commencing January 28, 2002:

	Name	County	Lawyer	Non-Lawyer
1	Ehrlich, Debby M.	San Diego	X	
2	Goode, Robert D.	Orange	X	
3	Graf, Sheryl S.	San Diego	X	
4	Grossman, James H.	Alameda	X	
5	Jones, Mary S.	Los Angeles	X	
6	Lidl, Erich J.	San Diego	X	
7	Mayer, Allan J.	San Luis Obispo	X	
8	McDonald, Stanley L.	San Diego	X	
9	Medeiros, Joan M.	Sacramento	X	
10	Miller, Ronald D.	Los Angeles	X	
11	Moriarty, Gerald F.	Los Angeles	X	
12	Parranto, Julia J.	Sonoma	X	
13	Phillips, Gerald F.	Los Angeles	X	
14	Rhoades, Rufus V.	Los Angeles	X	
15	Richman, Lionel	Los Angeles	X	
16	Ross, David	Los Angeles	X	
17	Sylvester, Jon H.	San Francisco	X	
18	Tanenbaum, Jay J.	Los Angeles	X	
19	Vargas, Robert A.	Los Angeles	X	
20	Woodward, Adrian T.	Los Angeles	X	

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 the recommendation of the Board Committee on Volunteer

Involvement, that the Board hereby appoints Gina Dronet, La Jolla, member, Committee on Administration of Justice, effective immediately, vice Wayne Flick, resigned, for the remainder of Mr. Flick's term, i.e., September 7, 2003, 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.

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

RESOLVED, upon recommendation of the Board Committee on Operations, that the Board hereby approves the participation by the State Bar of California as amicus curiae in the two cases, *Washington Legal Foundation v. Legal Foundation of Washington* and *Washington Legal Foundation v. Texas Equal Access to Justice Foundation*, and authorizes the Office of General Counsel to execute on behalf of the Board a proper consent agreement authorizing attorneys retained by the National Association of IOLTA Programs to represent the State Bar as amicus curiae before the United States Supreme Court, subject to the General Counsel's review and determination that the amicus curiae briefs are consistent with the State Bar's position on IOLTA.

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

The Board adjourned at 11:35 a.m., Saturday, January 26, 2002, in memory of Phyllis R. Brown Copeland, Board member Judy Copeland's mother, and Lucila S. Villa, Vice-President Maria Villa's mother. The Board will meet again On Friday, March 15, 2002, at The Lodge at Sonoma Renaissance Hotel & Spa, Sonoma, California, or at the call of the President at any time prior to that meeting.

**JANUARY 26, 2002, BOARD MEETING
ATTACHMENTS TO MINUTES**

JAN 121	Rule 3-600 of the Rules of Professional Conduct	-6-
JAN 123	Article 1, section 13, Rules and Regulations of the State Bar o	-7-
JAN 143	Draft Interim Strategic Plan	-7-
JAN 54-111	Conflict of Interest Code for Designated Employees	-3-
JAN 54-132	Access and Fairness Cttees Charges	-4-
JAN 54-141	step-down methodology	-4-
JAN 54-142	Board Planning, Program Development, and Budget Committee Charte	-4-
JAN 55	members of the board committees	-5-