

Professional Liability Fund
Meeting of the Board of Directors and PPMAC Meeting
 April 12, 2019
 Tigard, Oregon
Open Session Agenda

8:15 a.m. – 2nd Quarter 2019 Claims Committee Meeting (Executive Session)

9:00 a.m. – Open Session begins (Executive Session begins at the conclusion of Open Session).

12:00 p.m. – Joint BOG/BOD Lunch (Board members and PLF department managers only) – The Grand Hotel – BOG meeting begins immediately following lunch (Patrick Hocking is scheduled to attend BOG meeting)

- | | | | |
|--|--|---------------|----------------|
| 1. Open Session | | | |
| | (A) Draft Open Session Regular Minutes: 02/08/19 (BOD) | Action | Exhibit |
| | (B) Committee Minutes: <i>No action required</i> | | |
| | (B) i. 01/31/19 (Coverage Committee) | Inform | Exhibit |
| | (B) ii. 02/01/19 (Finance/Investments Comm.) | Inform | Exhibit |
| 2. PLF REPORT (Bernick) | | | |
| | (A) General Report | Inform | |
| | (B) Outside Activities | Inform | Exhibit |
| | (C) 2020 Board Meeting Schedule | Inform | Exhibit |
| 3. CLAIMS REPORT – Open Session (Campbell) | | | |
| | (A) General Claims Report | Inform | |
| 4. FINANCIAL REPORTS (Morrow) | | | |
| | (A) February 28, 2019 Financial Statements | Inform | Exhibit |
| | (B) i. Dec. 31, 2018 Draft Audited Financial Statements | Inform | Exhibit |
| | ii. Draft Governance Letter (Kern & Thompson) 9:30 a.m. | Inform | Exhibit |
| 5. PLF PERSONAL AND PRACTICE MANAGEMENT ASSISTANCE COMMITTEE (Fishleder/Easley) | | | |
| | (A) 2019 1 st Quarter Report and Loss Prevention Update | Inform | Exhibit |
| 6. COMMITTEE REPORTS (Board Members) | | | |
| | (A) Claims (Raschio) | | |
| | (B) Coverage (Mitchell) | | |
| | (C) Excess Program (Mullen): PLF Policy 7.600(C)2 | Action | Exhibit |
| | (D) Finance and Investments (Newhouse) | | |
| | (E) Long Range Planning/Communication (Easley) | | |
| | (F) Loss Prevention (Livermore) | | |
| | (G) Special Issues (Marmaduke) | | |

- 7. **LIAISONS' REPORT (BOG)**
 - (A) Draft February 22, 2019 – BOG Open Session Minutes Inform **Exhibit**
 - (B) March 8, 2019 – BOG Special Open Session Minutes Inform **Exhibit**
- 8. **CHAIR REPORT (Easley)**
 - (A) Updates Inform
- 9. **INFORMATION ITEMS**
 - (A) Miscellaneous Articles/Other: N/A
- 10. **EXECUTIVE SESSION – See separate agenda.**
Executive Session Materials Require a Password
- 11. **OPEN SESSION**
 - (A) Approval of Executive Session Minutes in Open Session
 - i. 02/08/19 Action **Exhibit**
- 12. **UNFINISHED AND NEW BUSINESS**
- 13. **ADJOURNMENT**

2019 BOD Meeting Dates/Locations	BOD Mailing Dates	2019 BOG Meeting Dates/Locations Liaisons attend the dates highlighted in green
February 8 Bachofner/Gratchner (Tigard) <i>Group dinner Thursday – February 7</i>	January 30	February 21- 22 N/A (Salem)
April 12 (Jt. w/BOG) N/A (Tigard) <i>Joint Dinner on Friday, April 12</i>	April 3	April 12 (Jt. w/BOD) Hocking (Tigard) <i>Joint Dinner on Friday, April 12</i>
June 7 Gratchner (Klamath Falls) <i>Group dinner Friday – On your own Thursday Local bar reception Thursday – June 7</i>	May 29	June 20- 21 Easley (Hood River)
*August 22 Bachofner/Peachey (Gleneden Beach) <i>No Scheduled BOD Dinner – all group meals are in conjunction with defense panel conference</i>	August 14	September 27 Easley (Tigard)
October 18 Peachey (Bend) <i>Group Dinner Friday – On your own Thursday Local bar reception – Thursday – October 17</i>	October 9	November 1 N/A (Tigard) HOD Annual Meeting
December 6 Bachofner/Gratchner/Peachey (Tigard) <i>Annual dinner Friday - On your own Thursday</i>	November 27	November 21- 23 Mullen (Gleneden Beach) <i>BOG Planning Retreat/Regional Bar Social</i>

*This meeting is on Thursday, in conjunction with the PLF Defense Panel Conference.

DRAFT OPEN SESSION MINUTES
OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
BOARD OF DIRECTORS

February 8, 2019
Tigard, Oregon

The regular meeting of the Board of Directors and the PPMAC meeting was called to order shortly after 9:00 a.m. at the Professional Liability Fund in Tigard, Oregon by Chair, Saville Easley. Present in addition to Ms. Easley were Directors Rob Raschio, Molly Jo Mullen, Tom Newhouse, Holly Mitchell, Susan Marmaduke, Gina Johnnie and Patrick Hocking. Also present during open session were OSB Board of Governor Members John Bachofner and Robert Gratchner, as well as OSB CEO, Helen Hirschbiel. In addition, PLF staff members Carol Bernick, Barbara Fishleder, Madeleine Campbell, Betty Lou Morrow, Cindy Hill, Jeff Crawford, Maureen DeFrank, Sarah Troutt, Pam Stendahl, John Berge, Matt Borrillo, Hong Dao and Rachel Edwards attended the meeting.

These meetings were noticed and conducted in compliance with the Oregon Public Meetings Law, ORS 192.610, et seq. and a quorum was verified.

1. OPEN SESSION

(A) Open Session Minutes (12/7/18):

Holly Mitchell moved and Susan Marmaduke seconded that the open session minutes of December 7, 2018 be approved as written. Motion passed unanimously 8-0 (1 absent).

(B) Committee Minutes 12/7/18 (Investments):

There were no comments regarding the minutes and no action was required.

Saville Easley asked everyone to introduce themselves for the benefit of the two new PLF board members and the BOG liaisons.

2. PLF REPORT

(A) General Report:

Annual Dinner

The Board discussed the annual dinner budget.

Conference Calls

Carol Bernick asked Board members to respond in a timely manner to conference call polls.

BOD/PLF Staff Lunch

Ms. Bernick reminded the Board that a lunch is scheduled at the Bar Center (first floor) and that a place card for each board member will be placed at each table. She noted that we very much appreciate the Board's willingness to take the time to do this.

(B) Outside Activities on Behalf of the PLF:

See materials for Ms. Bernick's report.

(C) Integrated Bar – PowerPoint Presentation (Helen Hierschbiel):

Helen Hierschbiel presented a PowerPoint regarding the history of bar organizations in the United States, highlighting the benefits of an integrated bar.

3. CLAIMS REPORT

(A) General Claims Report (Open Session):

Madeleine Campbell reported that the claims department has been very busy since the first of the year. If we keep at the same pace, there would be 1126 claims in 2019 compared to 862 in 2018. Ms. Campbell is hopeful this is not a trend.

Ms. Campbell reported that defense panel member Steve Voorhees is retiring in ten weeks. The PLF has many large cases involving securities and complicated real estate transactions. She expects several more defense panel members will retire within the next few years. We are continually identifying new defense panel members with trial experience.

Molly Jo Mullen suggested that we analyze who on our panel has non-PLF trial experience.

(B) 2018 Claims Attorney and Defense Counsel Evaluations:

The PLF continues to receive excellent reviews regarding the services provided. See materials for specific information.

(C) 2018 Claims Statistics 2009-2018 (by Claim Year and Year Closed):

See materials for specific information.

4. FINANCIAL REPORTS

(A) Draft December 31, 2018 Financial Statements:

Ms. Morrow reported that this time last year, the PLF had a \$10 million surplus. That is not the case this year. She referred the Board to the materials on page 31. The bottom line is a swing of over \$12 million between end of 2017 and end of 2018.

Ms. Morrow reminded the Board of the role of our net position.

Mr. Hocking referred to the current investment portfolio (\$55 million) and asked about a worst-case scenario in recent years. Ms. Morrow reported that in 2008/2009, we had a deficit of \$6 million. There was further discussion about how much of the net position could be used in one year.

Ms. Morrow reported that the claims budget ended lower than projected. Even though we had 862 claims and we budgeted 855, we projected higher than actual claims costs. Operating expenses were only off by \$8,000 in a \$7 million budget.

Betty Lou Morrow reported that the Excess Program lost \$103,000, which is a positive trend. In 2018, the ceding commission covered 94% of our expenses. If our investments had done better, the Excess Program would have made money. The Excess Program is 100% reinsured. We try to at least break-even so the costs of the program are covered. The Excess Program has a positive net position to cover the losses and what the ceding commission does not cover.

5. PLF PERSONAL AND PRACTICE MANAGEMENT ASSISTANCE COMMITTEE REPORT

(A) Loss Prevention Update:

Ms. Fishleder reported that this year is a legislative year for the PMAs which translates into updating 300 practice aids and four handbooks. In legislative years, the PMAs are less on the road and doing less outreach because so much time is spent updating the practice aids.

Due to the new mental health/substance use credit requirement, the OAAP has increased invitations to speak at large groups (OTLA, etc.). The OAAP has done greater outreach to law schools and now needs to work on balancing their time.

There is a new look to the OAAP website and the publication, *inSIGHT*.

The OAAP is also working on a new database that is tailored to what the OAAP needs. Since the OAAP does not keep detailed records to maintain privacy/confidentiality, the new database assists with better follow up.

(B) 2018 Year-End Report:

Ms. Fishleder referred the Board to the materials that begin on page 39 for the 4th Quarter 2018 report and 2018 year-end report. She reported that access to the OAAP has increased 12% in 2018 compared to 2017. There has been an increase in access for PMAs by mid-sized and large firms.

Ms. Fishleder reported that the program for new admittees, *Learning the Ropes*, satisfies their CLE requirements for the first reporting period.

The usage of the OLCR (Oregon Lawyers Conference Room) has increased approximately 22% over the 2017 usage hours.

6. COMMITTEE REPORTS AND ASSIGNMENTS

(A) Claims:

Rob Raschio reported that the Claims Committee and claims attorneys met prior to the board meeting. He is confident that the claims attorneys are looking out for the best interest of the PLF and Oregon lawyers.

(B) Coverage:

Holly Mitchell reported that the Coverage Committee held a meeting and there would be a more detailed discussion in executive session.

(C) Excess Program: Renewal Update:

Jeff Crawford reported that we have had a successful excess renewal. The PLF has about half of the excess market in Oregon.

In 2018, we completed an automated on-line application process and it has made the whole process much more efficient. The turnaround time has been cut in half despite the fact that we are down one clerical person this year (due to retirement). We expect the program to be run more cost-effectively in the future.

We declined three firms this year because of securities exposure (too high risk). We have added 20 new firms and expect another 30 firms and 50 lawyers over the course of the year.

Jeff Crawford hopes to have Emilee Preble give a presentation of how the excess program works in the near future.

Patrick Hocking asked if we reinsure 100% of claims exposure in the excess program and if our underwriting process is by the reinsurers or us. Mr. Crawford replied that we do reinsure 100% of our claims exposure and noted that we work together with the reinsurers. The risk is

that if we cover high-risk firms and have many claims, our reinsurance rates will increase. We implemented more underwriting for internal purposes, but also the excess program had high claims in 2008. The reinsurers felt that we needed to develop a more sophisticated underwriting system and the rates increased. The good news is that we are at the end of the process implementing that new system. We have lost a few firms to the commercial market but we have gained as well.

(D) Finance/Investments:

Betty Lou Morrow asked the Board for approval of the recommendations the actuaries made, as follows.

1. Adopt total claim liabilities of \$24.6 million;
2. Adopt an average cost of new claims of \$20,000 (\$9,500 indemnity and \$10,500 expense). This figure represents a decrease of \$800 from the June 30, 2018 number; and
3. Adopt AOE, ERC, and Suspense liabilities as follows:
 - AOE Liability - \$2.4 million (increase of \$100,000)
 - ERC Liability - \$3.1 million (increase of \$200,000)
 - Suspense Liability – \$1.5 million (no change).

Tom Newhouse moved and Rob Raschio seconded that the three recommendations above be approved. Motion passed unanimously 8-0 (1 absent).

Ms. Morrow reported that the financial auditors would be here on March 4 for one week. We hope to have draft audited statements at the April board meeting.

Betty Lou Morrow reminded the Board that there was a discussion at the last meeting of asset allocations. She and Carol Bernick will work with RVK to bring the issue to a future Finance and Investments Committee meeting.

(E) Long Range Planning/Communications:

Saville Easley stated that there is nothing to report at this time.

(F) Loss Prevention:

This is a new committee and it has not yet met. They expect to meet soon.

(G) Special Issues:

Susan Marmaduke stated that there is nothing to report.

7. LIAISONS' REPORT (BOG)

John Bachofner reported that the BOG retreat was held on November 17 in Ashland. Mr. Bachofner reported the following:

1. The BOG approved the 2019 OSB Law Improvement Package that will be presented to the legislation this year.
2. The BOG agreed to withdraw OSB Formal Op No 2005-127 and 2005-100.
3. The BOG approved the amended bylaws for the Oregon New Lawyers Division.
4. The BOG adopted some editorial guidelines for the OSB Bulletin.
5. The BOG met on January 11, 2019 to welcome new Bar President, Chris Costantino, President-Elect, Liani Reeves, and new BOG members.
6. The BOG agreed on areas of focus for 2019, as follows:
 - A. Follow-up on Futures Task Force items (determine whether to create an admissions path for individuals who do not attend law school but who pass the bar exam; determine whether to create a limited license to practice law for paraprofessionals; consider recommendations from the Referral Fees Committee).
 - B. Conduct Program Review of Referral and Information Services.
 - C. Review the OSB governance model, strategic functions, programs, activities and communications to ensure they are aligned with the Bar's public service mission.
 - D. Evaluate potential forms of revenue and cost-savings for 2020 budget and beyond.
 - E. Continue investment to upgrade I/T footprint (hardware and software) to attain modern compatibility, low-cost efficiency and ease of use, and improved data security.
 - F. Consider changes to member fee structure to provide greater equity.
 - G. Engage and expand the Citizens Campaign for Judicial Funding to bolster support for adequate funding for Oregon's court system.
 - H. Implement Diversity Action Plan items identified for 2019.

Mr. Bachofner noted that he is on the Washington Task Force for Mandatory Malpractice and they are recommending mandatory coverage.

8. CHAIR REPORT

Saville Easley stated that she had nothing to report.

Carol Bernick pointed out that the next board meeting, April 12, 2019, is joint with the BOG. The joint BOG/BOD dinner will be on Friday night, as opposed to Thursday. Spouses/guests are not included.

9. **INFORMATION ITEMS**

(A) **Miscellaneous Articles/Other:**

There were no informational items to discuss.

10. **EXECUTIVE SESSION**

See separate executive session agenda. Executive Session materials require a password.

Saville Easley called the meeting into executive session pursuant to ORS 192.660(2)(f) and (h) to discuss claim matters and other executive session issues. See separate executive session minutes.

The meeting was called back into open session to approve the executive session minutes and other executive session issues.

11. **OPEN SESSION**

(A) **Approval of Closed Session Minutes in Open Session: December 7, 2018; December 27, 2018; and January 14, 2019:**

i. *Rob Raschio moved and Molly Jo Mullen seconded that the executive session minutes of December 7, 2018 be approved as written. Motion passed unanimously 8-0 (1 absent).*

ii. *Rob Raschio moved and Molly Jo Mullen seconded that the executive session minutes of December 27, 2018 be approved as written. Motion passed unanimously 8-0 (1 absent).*

iii. *Rob Raschio moved and Molly Jo Mullen seconded that the executive session minutes of January 14, 2019 be approved as written. Motion passed unanimously 8-0 (1 absent).*

12. **UNFINISHED AND NEW BUSINESS**

There was no unfinished or new business to discuss.

13. **ADJOURNMENT**

Open session adjourned at approximately 11:57 a.m.



**MINUTES OF COVERAGE COMMITTEE
*OPEN SESSION***

**January 31, 2019
Tigard, Oregon**

The PLF Coverage Committee met via conference call on January 31, 2019, at 4:00 p.m.

This meeting was noticed and conducted in compliance with the Oregon Public Meetings Law, ORS 192.610 *et seq.*

Present during the Coverage Committee conference call were committee members/Directors Saville Easley, Molly Jo Mullen, and Holly Mitchell. Also present were PLF staff members Madeleine Campbell, Carol Bernick, Jeff Crawford, and Emilee Preble.

The Coverage Committee generally discussed the issues of **Related Claims** and whether the current Plan language should be modified in one respect. The Coverage Committee decided that additional information was needed to fully consider the issues, including financial data relating to the potential impact of changing the **Related Claims** language.

At 4:15 p.m., Coverage Committee Chair Holly Mitchell called the meeting into Executive Session, pursuant to ORS 192.660(2)(f) and (h), at which time we discussed one claim. *See* separate summary of the claim.

The conference call concluded at 4:50 p.m.

MSC/ms

OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
Finance/Investment Committee

Minutes of Meeting
February 1, 2019

The Open Session of the Finance/Investment Committee met at approximately 3:00 p.m. on February 1, 2019 at the offices of the Professional Liability Fund.

Finance Committee Members:

Present:

Tom Newhouse (Chair)

Via Telephone:

Gina Anne Johnnie

Susan Marmaduke

Patrick Hocking

PLF Staff Members:

Betty Lou Morrow

Carol Bernick

Notice of the meeting was given pursuant to ORS 192.640

Agenda:

- **Primary fees**
- **Cost of Claims – Claim Reserves**
- **December 31, 2018 draft financial statement recap**
- **Audit notification**
- **Asset Allocation**

Tom Newhouse welcomed everyone, called the meeting to order and turned the meeting over to Betty Lou Morrow. Ms. Morrow stated the agenda items will be changed slightly so related items are easier to discuss, there were no objections.

Ms. Morrow turned the Primary fees agenda item over to Carol Bernick. Ms. Bernick stated during the November 2018 House of Delegates meeting, a resolution was passed for the Board of Governor members to determine whether or not a reduction in Oregon State Bar fees should be given to Oregon State Bar members with lower incomes. Ms. Bernick wanted the Finance/Investment committee members to be notified now in the event a reduction to the fees is implemented. The outcome may be an expectation that the Professional Liability Fund will also reduce its Primary Assessment fees. This committee would then be responsible for determining the feasibility of reducing the PLF assessment.

OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
Finance/Investment Committee

Minutes of Meeting
February 1, 2019

Ms. Morrow reviewed the December 31, 2018 draft internal financial statements (handouts provided prior to the meeting). She stated the PERS liability journal entry is pending awaiting information from the State, however the draft statements provided to the members should not have additional entries required.

Patrick Hocking suggested investment portfolio results be isolated from claims related activities. He feels that would allow for better isolation of performance metrics. Ms. Morrow and Tom Newhouse stated this is something that can be considered.

Ms. Morrow referred to the Memo (emailed in the Finance/Investment committee material) for the recommended actions. The following recommendations were approved by the Committee for presentation to the Board of Directors for approval:

1. Establish claims indemnity liability at \$11.2 million and expense liability at \$13.4 million, dated December 31, 2018.
2. Use an average cost of claims for the first half of 2019 of \$20,000 - \$9,500 indemnity and \$10,500 expense.
3. Adjusting and other expenses liability at December 31, 2018 will be increased by \$100,000 to \$2.4 million. ERC (Extended Reporting Coverage) will increase by \$200,000 to \$3.1 million.

Ms. Morrow discussed the Asset Allocation and stated the Net Position should be reexamined since there have been changes such as the reduction in the primary assessment. Ms. Morrow will bring forward an ERM (Enterprise Risk Management) report to a future committee meeting. The report will identify and quantify risks that have a financial impact on the PLF.

Ms. Morrow notified the Committee that the auditors, Kern & Thompson will be in-house March 4-8, 2019. She advised they will be reaching out to some members of the Board of Directors with questions. The draft audited financials will be presented at the April 2019 BOD meeting.

The meeting adjourned at approximately 3:53 p.m.

These minutes were approved 4/1/19 by Tom Newhouse, Susan Marmaduke and Patrick Hocking

Outside Activities on Behalf of the PLF

- February 1 – Bench Bar Professionalism Commission Orientation
- February 4 – Lunch with Helen Hirschbiel
- February 19 – MBA Judicial Screening Committee
- February 20 – Breakfast with specialty bar Executive Directors
- February 21-22 – BOG Committee meetings and regular meeting
- February 27 – Meeting with Helen Hirschbiel to discuss SB 907
- March 1 – Breakfast with Mentee Shanna Knight
- March 4 – Lunch with Helen Hirschbiel
- March 4 – Call with OADC regarding SB 907
- March 6 – BOG Public Affairs Committee meeting
- March 8 – BOG meeting
- March 8 – OWLs Robert- Deiz Award Dinner
- March 12 – Meeting with Linda Kruschke at the OSB regarding Professionalism Commission
- March 14 – Conference Call with co-panelists for ABA conference on legal malpractice
- March 14 – Professionalism Publications Committee meeting
- March 15 – Professionalism Awards Committee meeting
- March 19 – MBA Judicial Screening Committee
- March 20 – Specialty Bar ED breakfast
- March 20 – BOG Public Affairs Committee meeting
- April 3-5 – ABA Lawyer Professional Liability Conference & Meetings with Reinsurers
- April 9 – Lunch with Helen Hirschbiel and Amber Hollister to finalize joint BOG-BOD meeting agenda
- April 11 – Portland Business Journal Women of Influence Awards lunch
- April 12 – Joint BOG-BOD meeting and Dinner
- April 12 – BOG meeting
- April 16 – MBA Judicial Screening Committee
- April 17 – Specialty Bar ED breakfast
- April 17 – Tonkon Torp Open House



Professional Liability Fund

CAROL J. BERNICK
CHIEF EXECUTIVE OFFICER

March 27, 2019

To: PLF Board of Directors, BOG Liaisons and Staff

From: Cindy Hill, Executive Assistant

Re: Meeting Schedule - 2020

See meeting schedule below for the 2020 BOD and BOG meetings. All PLF board meetings are on Fridays.

Please note that BOG meeting dates are provided for those who attend BOG meetings (PLF liaisons to the BOG and various staff members). If you are not a BOG liaison, please ignore.

BOD 2020 Meeting Dates/Locations (subject to change)	Board Mailing Dates	BOG 2020 Meeting Dates/Locations (subject to change)
February 7 (Tigard) <i>Group dinner, Thursday Feb. 6</i>	January 29	February 13-14 N/A (Salem)
April 17 (Jt. w/BOG) (Tigard) <i>Group dinner, Thursday, April 16</i>	April 8	April 17 (Jt. w/BOD) (Tigard) <i>Group dinner, Thursday, April 16</i>
June 5 (TBD) <i>Group dinner, Friday June 5</i>	May 27	June 25-26 (Bend)
August 28 (TBD) <i>Group dinner, Friday Aug. 28</i>	August 19	September 25 (Tigard) Special Meeting – Approve HOD Agenda
October 16 (TBD) <i>Group dinner, Friday Oct. 16</i>	October 7	N/A
N/A	N/A	October 30 N/A (Tigard) HOD Annual Meeting
December 4 (Tigard) <i>(Annual dinner this evening)</i>	*November 23 Monday	November 19-20 (Ashland) <i>BOG Planning Retreat/Regional Bar Social</i>

These dates do not conflict with any national holidays or BOG meetings at this time. I tried to avoid conflicts with specific conferences (ABA/LPL, OADC, OCDLA, and NABRICO); however, some of the dates have not yet been chosen for 2020. The 2020 NABRICO conference will be held in Montreal (dates unknown).

*Due to the Thanksgiving holiday, the board mailing in November will be on **Monday** (Nov. 23).

c: Carol Bernick, PLF Department Managers, Helen Hierschbiel and Cassandra Dyke

**Oregon State Bar
Professional Liability Fund
Financial Statements
2/28/2019**

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5	Excess Program Statement of Revenues, Expenses and Changes in Net Position
6	Excess Program Operating Expenses
7	Combined Investment Schedule

**Oregon State Bar
Professional Liability Fund
Combined Primary and Excess Programs
Statement of Net Position
2/28/2019**

<u>ASSETS</u>		
	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Cash	\$6,749,014.48	\$8,248,938.40
Investments at Fair Value	60,634,914.26	61,343,557.41
Assessment Installment Receivable	8,808,695.58	9,383,897.00
Due from Reinsurers	706,342.91	412,152.87
Other Current Assets	73,271.05	65,905.22
Net Fixed Assets	408,169.60	542,968.08
Claim Receivables	111,531.53	18,733.32
PERS Deferred Outflow of Resources	1,151,573.46	1,151,573.46
Other Long Term Assets	<u>2,500.00</u>	<u>5,000.00</u>
TOTAL ASSETS	<u>\$78,646,012.87</u>	<u>\$81,172,725.76</u>
 <u>LIABILITIES AND FUND POSITION</u>		
	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Liabilities:		
Accounts Payable and Other Current Liabilities	\$73,960.08	\$92,549.51
Due to Reinsurers	\$2,470,747.97	\$3,089,719.74
PERS Pension Liability	4,931,707.98	4,931,707.98
Liability for Compensated Absences	423,621.72	380,963.74
Liability for Indemnity	11,300,921.43	11,428,135.86
Liability for Claim Expense	13,393,754.92	13,084,144.58
Liability for Future ERC Claims	3,100,000.00	2,900,000.00
Liability for Suspense Files	1,500,000.00	1,500,000.00
Liability for Future Claims Administration (AOE)	2,400,000.00	2,300,000.00
Excess Ceding Commission Allocated for Rest of Year	746,292.19	777,404.37
Primary Assessment Allocated for Rest of Year	<u>18,955,220.84</u>	<u>20,268,190.83</u>
Total Liabilities	<u>\$59,296,227.13</u>	<u>\$60,752,816.61</u>
Change in Net Position:		
Retained Earnings (Deficit) Beginning of the Year	\$17,006,866.12	\$20,094,730.19
Year to Date Net Income (Loss)	<u>2,342,919.62</u>	<u>325,178.96</u>
Net Position	<u>\$19,349,785.74</u>	<u>\$20,419,909.15</u>
TOTAL LIABILITIES AND FUND POSITION	<u>\$78,646,012.87</u>	<u>\$81,172,725.76</u>

**Oregon State Bar
Professional Liability Fund
Primary Program
Statement of Revenues, Expenses, and Changes in Net Position
2 Months Ended 2/28/2019**

	YEAR TO DATE <u>ACTUAL</u>	YEAR TO DATE <u>BUDGET</u>	<u>VARIANCE</u>	YEAR TO DATE <u>LAST YEAR</u>	<u>ANNUAL BUDGET</u>
<u>REVENUE</u>					
Assessments	\$3,741,821.83	\$3,781,250.00	\$39,428.17	\$4,001,021.50	\$22,687,500.00
Installment Service Charge	49,222.33	53,000.00	3,777.67	52,616.67	318,000.00
Other Income	61,300.00	9,500.00	(51,800.00)	44,684.30	117,000.00
Investment Return	<u>2,837,000.84</u>	<u>148,956.00</u>	<u>(2,688,044.84)</u>	<u>170,514.94</u>	<u>893,734.00</u>
TOTAL REVENUE	<u>\$6,689,345.00</u>	<u>\$3,992,706.00</u>	<u>(\$2,696,639.00)</u>	<u>\$4,268,837.41</u>	<u>\$24,016,234.00</u>
<u>EXPENSE</u>					
Provision For Claims:					
New Claims at Average Cost	\$3,220,000.00			\$2,780,000.00	
Coverage Opinions	46,492.36			30,017.90	
General Expense	32,479.01			3,036.81	
Less Recoveries & Contributions	(1,987.68)			(2,811.92)	
Budget for Claims Expense		<u>\$2,891,666.00</u>			<u>\$17,350,000.00</u>
Total Provision For Claims	<u>\$3,296,983.69</u>	<u>\$2,891,666.00</u>	<u>(\$405,317.69)</u>	<u>\$2,810,242.79</u>	<u>\$17,350,000.00</u>
Expense from Operations:					
Administrative Department	\$410,258.54	\$572,591.00	\$162,332.46	\$470,055.94	\$3,510,137.00
Accounting Department	131,894.31	167,292.00	35,397.69	128,867.96	1,022,951.00
Loss Prevention Department	296,224.53	393,004.00	96,779.47	309,499.85	2,348,264.00
Claims Department	408,805.58	521,760.00	112,954.42	385,685.78	3,156,597.00
Allocated to Excess Program	(144,835.32)	(144,836.00)	(0.68)	(159,034.84)	(869,012.00)
Total Expense from Operations	<u>\$1,102,347.64</u>	<u>\$1,509,811.00</u>	<u>\$407,463.36</u>	<u>\$1,135,074.69</u>	<u>\$9,168,937.00</u>
Depreciation and Amortization	\$24,189.77	\$25,168.00	\$978.23	\$26,038.40	\$151,000.00
Allocated Depreciation	(3,583.34)	(3,584.00)	(0.66)	(3,666.66)	(21,500.00)
TOTAL EXPENSE	<u>\$4,419,937.76</u>	<u>\$4,423,061.00</u>	<u>\$3,123.24</u>	<u>\$3,967,689.22</u>	<u>\$26,648,437.00</u>
NET POSITION - INCOME (LOSS)	<u>\$2,269,407.24</u>	<u>(\$431,355.00)</u>	<u>(\$2,700,762.24)</u>	<u>\$301,148.19</u>	<u>(\$2,638,203.00)</u>

**Oregon State Bar
Professional Liability Fund
Primary Program
Statement of Operating Expense
2 Months Ended 2/28/2019**

<u>EXPENSE:</u>	<u>CURRENT</u> <u>MONTH</u>	<u>YEAR</u> <u>TO DATE</u> <u>ACTUAL</u>	<u>YEAR</u> <u>TO DATE</u> <u>BUDGET</u>	<u>VARIANCE</u>	<u>YEAR</u> <u>TO DATE</u> <u>LAST YEAR</u>	<u>ANNUAL</u> <u>BUDGET</u>
Salaries	\$385,912.91	\$656,290.84	\$831,344.00	\$175,053.16	\$636,527.02	\$4,988,057.00
Benefits and Payroll Taxes	149,374.12	274,172.71	471,063.00	196,890.29	266,041.28	2,780,976.00
Investment Services	0.00	0.00	0.00	0.00	0.00	48,000.00
Legal Services	0.00	0.00	1,666.00	1,666.00	2,951.10	10,000.00
Financial Audit Services	0.00	0.00	0.00	0.00	0.00	24,500.00
Actuarial Services	10,862.50	10,862.50	0.00	(10,862.50)	8,855.00	25,000.00
Information Services	2,575.50	5,263.50	10,832.00	5,568.50	8,549.65	65,000.00
Document Scanning Services	0.00	0.00	3,750.00	3,750.00	870.94	22,500.00
Other Professional Services	2,224.18	6,891.08	12,250.00	5,358.92	16,468.45	73,500.00
Staff Travel	488.39	509.56	2,450.00	1,940.44	675.61	14,700.00
Board Travel	772.71	1,784.00	9,584.00	7,800.00	1,041.49	57,500.00
NABRICO	250.00	250.00	0.00	(250.00)	0.00	15,650.00
Training	581.02	3,471.02	6,174.00	2,702.98	5,622.80	37,000.00
Rent	46,422.63	92,272.13	96,942.00	4,669.87	90,021.62	581,656.00
Printing and Supplies	9,279.77	16,006.64	13,002.00	(3,004.64)	14,438.34	78,000.00
Postage and Delivery	1,914.37	2,283.03	2,300.00	16.97	2,258.99	13,800.00
Equipment Rent & Maintenance	1,096.36	10,696.33	11,082.00	385.67	9,878.84	66,500.00
Telephone	4,208.71	8,522.75	8,500.00	(22.75)	8,318.93	51,000.00
L P Programs (less Salary & Benefits)	23,325.92	53,151.97	83,014.00	29,862.03	68,655.95	498,050.00
Defense Panel Training	0.00	0.00	0.00	0.00	0.00	42,410.00
Bar Books Grant	16,666.67	33,333.34	33,334.00	0.66	33,333.34	200,000.00
Insurance	6,649.44	9,612.88	9,742.00	129.12	10,413.66	58,450.00
Library	2,807.53	4,910.56	5,600.00	689.44	8,146.64	33,600.00
Subscriptions, Memberships & C/C Charç	2,328.71	56,870.59	41,684.00	(15,186.59)	101,039.88	250,100.00
Allocated to Excess Program	(72,417.66)	(144,835.32)	(144,836.00)	(0.68)	(159,034.84)	(869,012.00)
TOTAL EXPENSE	<u>\$595,323.78</u>	<u>\$1,102,320.11</u>	<u>\$1,509,477.00</u>	<u>\$407,156.89</u>	<u>\$1,135,074.69</u>	<u>\$9,166,937.00</u>

**Oregon State Bar
Professional Liability Fund
Excess Program
Statement of Revenue, Expenses, and Changes in Net Position
2 Months Ended 2/28/2019**

	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE</u>	<u>YEAR TO DATE LAST YEAR</u>	<u>ANNUAL BUDGET</u>
<u>REVENUE</u>					
Ceding Commission	\$148,853.09	\$157,500.00	\$8,646.91	\$154,137.72	\$945,000.00
Installment Service Charge	48,229.00	52,000.00	3,771.00	49,866.00	52,000.00
Investment Return	<u>28,480.70</u>	<u>3,332.00</u>	<u>(25,148.70)</u>	<u>(12,804.45)</u>	<u>20,000.00</u>
TOTAL REVENUE	<u>\$225,562.79</u>	<u>\$212,832.00</u>	<u>(\$12,730.79)</u>	<u>\$191,199.27</u>	<u>\$1,017,000.00</u>
<u>EXPENSE</u>					
Operating Expenses (See Page 6)	\$148,467.07	\$170,116.00	\$21,648.93	\$163,501.84	\$1,020,700.00
Allocated Depreciation	<u>\$3,583.34</u>	<u>\$3,584.00</u>	<u>\$0.66</u>	<u>\$3,666.66</u>	<u>\$21,500.00</u>
NET POSITION - INCOME (LOSS)	<u>\$73,512.38</u>	<u>\$39,132.00</u>	<u>(\$34,380.38)</u>	<u>\$24,030.77</u>	<u>(\$25,200.00)</u>

**Oregon State Bar
Professional Liability Fund
Excess Program
Statement of Operating Expense
2 Months Ended 2/28/2019**

	<u>CURRENT MONTH</u>	<u>YEAR TO DATE ACTUAL</u>	<u>YEAR TO DATE BUDGET</u>	<u>VARIANCE</u>	<u>YEAR TO DATE LAST YEAR</u>	<u>ANNUAL BUDGET</u>
<u>EXPENSE:</u>						
Salaries	\$33,856.08	\$67,712.16	\$79,166.00	\$11,453.84	\$78,998.66	\$475,000.00
Benefits and Payroll Taxes	13,644.91	27,289.82	29,166.00	1,876.18	30,202.84	175,000.00
Investment Services	0.00	0.00	34.00	34.00	0.00	200.00
Office Expense	0.00	0.00	0.00	0.00	0.00	0.00
Allocation of Primary Overhead	24,916.67	49,833.34	49,834.00	0.66	49,833.34	299,000.00
Reinsurance Placement & Travel	118.75	118.75	2,500.00	2,381.25	0.00	15,000.00
Training	0.00	0.00	84.00	84.00	0.00	500.00
Printing and Mailing	828.00	828.00	666.00	(162.00)	817.00	4,000.00
Program Promotion	(737.00)	2,495.00	2,500.00	5.00	2,495.00	15,000.00
Other Professional Services	0.00	0.00	4,500.00	4,500.00	1,155.00	27,000.00
Software Development	<u>190.00</u>	<u>190.00</u>	<u>1,666.00</u>	<u>1,476.00</u>	<u>0.00</u>	<u>10,000.00</u>
TOTAL EXPENSE	<u>\$72,817.41</u>	<u>\$148,467.07</u>	<u>\$170,116.00</u>	<u>\$21,648.93</u>	<u>\$163,501.84</u>	<u>\$1,020,700.00</u>

**Oregon State Bar
Professional Liability Fund
Combined Investment Schedule
2 Months Ended 2/28/2019**

	CURRENT MONTH <u>THIS YEAR</u>	YEAR TO DATE <u>THIS YEAR</u>	CURRENT MONTH <u>LAST YEAR</u>	YEAR TO DATE <u>LAST YEAR</u>
Dividends and Interest:				
Short Term Bond Fund	\$20,906.36	\$41,414.60	\$18,760.71	\$30,742.66
Intermediate Term Bond Funds	37,716.38	75,413.39	29,464.77	57,944.37
Bank Loans	11,678.20	24,545.62	7,351.02	13,946.54
Domestic Common Stock Funds	0.00	0.00	0.00	0.00
International Equity Fund	0.00	0.00	0.00	0.00
Real Estate	0.00	0.00	0.00	0.00
Hedge Fund of Funds	0.00	0.00	0.00	0.00
Real Return Strategy	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Dividends and Interest	<u>\$70,300.94</u>	<u>\$141,373.61</u>	<u>\$55,576.50</u>	<u>\$102,633.57</u>
Gain (Loss) in Fair Value:				
Short Term Bond Fund	(\$17,735.80)	(\$14,092.11)	(\$20,455.95)	(\$50,958.05)
Intermediate Term Bond Funds	(18,282.13)	52,737.43	(111,930.08)	(191,731.51)
Bank Loans	33,680.45	78,372.36	(1,731.85)	7,641.81
Domestic Common Stock Funds	478,635.01	1,563,676.26	(541,022.71)	178,172.07
International Equity Fund	237,062.33	1,043,413.99	(626,947.24)	111,952.60
Real Estate	0.00	0.00	0.00	0.00
Hedge Fund of Funds	0.00	0.00	0.00	0.00
Real Return Strategy	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Gain (Loss) in Fair Value	<u>\$713,359.86</u>	<u>\$2,724,107.93</u>	<u>(\$1,302,087.83)</u>	<u>\$55,076.92</u>
TOTAL RETURN	<u>\$783,660.80</u>	<u>\$2,865,481.54</u>	<u>(\$1,246,511.33)</u>	<u>\$157,710.49</u>
Portions Allocated to Excess Program:				
Dividends and Interest	\$892.82	\$1,525.37	\$3,256.78	\$5,275.53
Gain (Loss) in Fair Value	<u>9,059.67</u>	<u>26,955.33</u>	<u>(76,302.35)</u>	<u>(18,079.98)</u>
TOTAL ALLOCATED TO EXCESS PROGRAM	<u>\$9,952.49</u>	<u>\$28,480.70</u>	<u>(\$73,045.57)</u>	<u>(\$12,804.45)</u>

**Oregon State Bar
Professional Liability Fund
Excess Program
Balance Sheet
2/28/2019**

ASSETS

	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Cash	\$1,162,474.34	\$579,255.50
Assessment Installment Receivable	1,369,866.58	1,385,431.00
Due from Reinsurers	706,342.91	412,152.87
Investments at Fair Value	1,941,274.14	3,491,358.81
TOTAL ASSETS	<u>\$5,179,957.97</u>	<u>\$5,868,198.18</u>

LIABILITIES AND FUND EQUITY

	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Liabilities:		
Accounts Payable & Refunds Payable	\$1,018.00	\$817.00
Due to Primary Fund	\$118.75	(\$10,457.16)
Due to Reinsurers	2,470,747.97	3,089,719.74
Ceding Commision Allocated for Remainder of Year	746,292.19	777,404.37
Total Liabilities	<u>\$3,218,176.91</u>	<u>\$3,857,483.95</u>
Net Position		
Net Position (Deficit) Beginning of Year	\$1,888,268.68	\$1,986,683.46
Year to Date Net Income (Loss)	73,512.38	24,030.77
Total Net Position	<u>\$1,961,781.06</u>	<u>\$2,010,714.23</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>\$5,179,957.97</u>	<u>\$5,868,198.18</u>

**Oregon State Bar
Professional Liability Fund
Primary Program
Balance Sheet
2/28/2019**

ASSETS

	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Cash	\$5,586,540.14	\$7,669,682.90
Investments at Fair Value	58,693,640.12	57,852,198.60
Assessment Installment Receivable	7,438,829.00	7,998,466.00
Due From Excess Fund	118.75	(10,457.16)
Other Current Assets	73,152.30	76,362.38
Net Fixed Assets	408,169.60	542,968.08
Claim Receivables	111,531.53	18,733.32
Other Long Term Assets	2,500.00	5,000.00
PERS Deferred Outflow of Resources	1,151,573.46	1,151,573.46
TOTAL ASSETS	<u>\$73,466,054.90</u>	<u>\$75,304,527.58</u>

LIABILITIES AND FUND EQUITY

	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Liabilities:		
Accounts Payable and Other Current Liabilities	\$72,823.33	\$102,189.67
PERS Pension Liability	4,931,707.98	4,931,707.98
Liability for Compensated Absences	423,621.72	380,963.74
Liability for Indemnity	11,300,921.43	11,428,135.86
Liability for Claim Expense	13,393,754.92	13,084,144.58
Liability for Future ERC Claims	3,100,000.00	2,900,000.00
Liability for Suspense Files	1,500,000.00	1,500,000.00
Liability for Future Claims Administration (ULAE)	2,400,000.00	2,300,000.00
Assessment and Installment Service Charge Allocated for Remainder of Year	18,955,220.84	20,268,190.83
Total Liabilities	<u>\$56,078,050.22</u>	<u>\$56,895,332.66</u>
Net Position		
Net Position (Deficit) Beginning of the Year	\$15,118,597.44	\$18,108,046.73
Year to Date Net Income (Loss)	2,269,407.24	301,148.19
Total Net Position	<u>\$17,388,004.68</u>	<u>\$18,409,194.92</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>\$73,466,054.90</u>	<u>\$75,304,527.58</u>

04/02/2019

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND**

FINANCIAL STATEMENTS

Years Ended December 31, 2018 and 2017



Professional
Liability Fund

KERN ▲ THOMPSON
CERTIFIED PUBLIC ACCOUNTANTS

DRAFT

OREGON STATE BAR PROFESSIONAL LIABILITY FUND

FINANCIAL STATEMENTS

Years Ended December 31, 2018 and 2017

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**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
MANAGEMENT'S DISCUSSION AND ANALYSIS
For the Years Ended December 31, 2018 and 2017**

As management of the Oregon State Bar Professional Liability Fund (PLF), we offer readers of the PLF's financial statements this narrative overview and analysis of the financial activities for the calendar year ended December 31, 2018. Readers are encouraged to consider this information in conjunction with the basic financial statements, which begin on page three.

Background

The Oregon State Bar is a public corporation, and an instrument of the Judicial Department of the State of Oregon. Provisions of Oregon Revised Statutes (ORS) 9.080 were modified in 1977 to authorize the Board of Governors (BOG) of the Oregon State Bar to establish a professional liability insurance program for all attorneys engaged in private practice whose principal office is in Oregon. The BOG established the PLF in 1978. The PLF is a separate but integral unit of the Oregon State Bar. The PLF is not subject to the Insurance Code of the State of Oregon and as a public body, it is also exempt from federal and state income taxes.

All members of the Oregon State Bar, engaged in the private practice of law whose principal office is in Oregon, are required to purchase liability insurance from the PLF's mandatory program ("Primary Program"). Approximately 52% of Oregon lawyers fall outside of the definition of "private practice of law" and are exempt from coverage. The 2018 coverage limits of the Primary Program were \$300,000 per claim / \$300,000 aggregate, with an additional \$50,000 expense allowance.

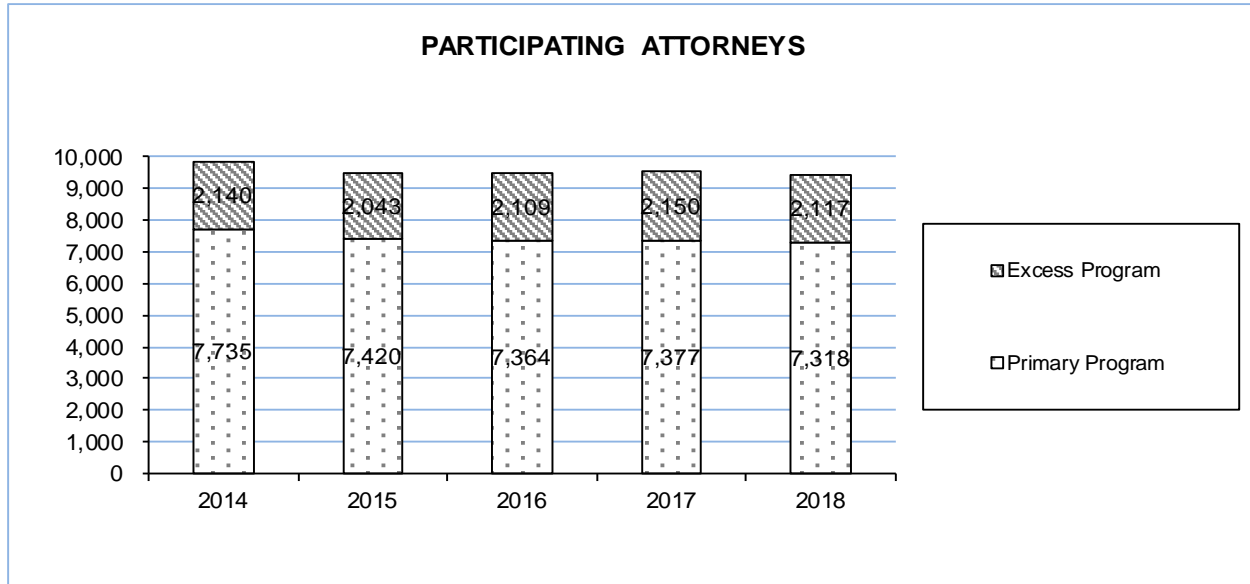
The PLF also has an optional underwritten plan ("Excess Program") to provide insurance coverage with policy limits in excess of the existing mandatory plan.

Because the PLF covers all Oregon lawyers and must continue to do so in the future, it focuses considerable resources on loss prevention. The PLF has 4 practice management advisors and has a well-funded attorney assistance program with 4 professional staff members. The attorney assistance program responds to lawyers who have issues that hamper their ability to practice law. The Loss Prevention staff reports to the Director of Loss Prevention.

Financial Highlights

- The PLF had a deficit of (\$3.1M) for 2018 largely as a result of decline in investment income and a tightening of reserve release for Primary claims. The PLF is able to release claims reserves when the reserved cost to settle a claim is more than the claim actually cost when closed.
- 2018 claim expenses (indemnity and defense) were approximately \$17.3M, approximately 29% more than 2017. This was due to an increased number of new claims in 2018 versus 2017; and a significantly smaller release of claims reserves in 2018 versus 2017.
- Administrative expenses increased by \$198K or 2.3%. This is largely due to inflationary increases to administrative costs.
- The number of attorneys covered by the Primary Program decreased nominally in 2018 from 7,377 in 2017 to 7,318 in 2018. The Excess Program attorney count also decreased slightly from 2,138 in 2017 to 2,117 in 2018.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
For the Years Ended December 31, 2018 and 2017**



Description of Basic Financial Statements

The PLF's basic financial statements consist of a Statement of Net Position, Statement of Revenues, Expenses, and Changes in Net Position, Statement of Cash Flows, and notes to the financial statements.

CONDENSED STATEMENT OF NET POSITION

	<u>12/31/2018</u>	<u>12/31/2017</u>	<u>Increase (Decrease)</u>	<u>12/31/2017</u>	<u>12/31/2016</u>	<u>Increase (Decrease)</u>
Cash and Investments	\$ 62,557,336	\$ 66,655,032	\$ (4,097,696)	\$ 66,655,032	\$ 57,314,337	\$ 9,340,695
Other Assets	1,077,553	949,599	127,954	949,599	1,694,421	(744,822)
Capital Assets (Net)	416,116	534,475	(118,359)	534,475	673,304	(138,829)
Deferred Outflows of Resources	<u>1,151,573</u>	<u>1,151,573</u>	<u>-</u>	<u>1,151,573</u>	<u>2,000,296</u>	<u>(848,723)</u>
Total Assets	\$ <u>65,202,578</u>	\$ <u>69,290,679</u>	\$ <u>(4,088,101)</u>	\$ <u>69,290,679</u>	\$ <u>61,682,358</u>	\$ <u>7,608,321</u>
Liabilities						
Estimated Liabilities for Claims	\$ 31,600,000	\$ 31,900,000	\$ (300,000)	\$ 31,900,000	\$ 34,300,000	\$ (2,400,000)
Unearned Revenues	10,841,735	11,670,673	(828,938)	11,670,673	10,771,503	899,170
PERS Liabilities	4,896,288	4,896,288	-	4,896,288	4,954,052	(57,764)
Other Liabilities	828,983	693,567	135,416	693,567	750,352	(56,785)
Deferred Inflows of Resources	<u>35,421</u>	<u>35,421</u>	<u>-</u>	<u>35,421</u>	<u>40,485</u>	<u>(5,064)</u>
Total Liabilities	<u>48,202,427</u>	<u>49,195,949</u>	<u>(993,522)</u>	<u>49,195,949</u>	<u>50,816,392</u>	<u>(1,620,443)</u>
Net Position	\$ <u>17,000,151</u>	\$ <u>20,094,730</u>	\$ <u>(3,094,579)</u>	\$ <u>20,094,730</u>	\$ <u>10,865,966</u>	\$ <u>9,228,764</u>
Total Liabilities and Net Position	\$ <u>65,202,578</u>	\$ <u>69,290,679</u>	\$ <u>(4,088,101)</u>	\$ <u>69,290,679</u>	\$ <u>61,682,358</u>	\$ <u>7,608,321</u>

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
For the Years Ended December 31, 2018 and 2017**

Financial Position

Cash and Investments – Total cash and investments value decreased approximately (\$4.1M) during 2018. The fair market value of the investment portfolio decreased by approximately (\$4.8M) due to weakened financial markets. Cash increased by \$669K which is due to timing of assessment receipts and expense payments.

Investments are stated at fair market value. PLF investments are made in accordance with policy guidelines adopted by the Board of Directors. The guidelines require allocation of investment funds to different asset classes in order to balance risk and return by emphasizing diversification among uncorrelated categories. Non-operating assets are allocated to domestic and foreign equities, intermediate-term bonds, real estate, absolute return, and real return categories. The allocation guidelines are reviewed annually by the Finance Committee of the Board of Directors.

Other Assets – Other assets include receivables acquired during the course of claim handling and amounts due from reinsurers. There was an increase in other assets of \$128K during 2018 largely due to the timing of 2018 assessment payments.

Capital Assets (Net) – Capital assets represent fixed assets owned by the PLF less accumulated depreciation. These assets are a small portion of PLF total assets. During 2018, depreciation was greater than new asset purchases and capital assets decreased by \$118K. This followed a similar decline in 2017 of \$139K.

Estimated Liabilities for Claims – Each time a claim is reported to the PLF, estimates of the costs to resolve and defend the claims are established by the assigned PLF claims attorney. Claims often remain unresolved for several years. Consistent with standard insurance practices, the PLF claims attorneys continually reevaluate and change estimates as more information becomes available. Outside actuaries compare the historical estimates to ultimate claim costs every six months. They use this analysis to estimate total claim liabilities. This actuarial estimate is used by the Board of Directors to help determine the amount of claim liabilities stated in the financial statements.

Management believes that the estimated liabilities for claims are reasonable and adequate to cover the ultimate net cost of losses on claims reported. However, the liabilities are necessarily based upon estimates, and therefore the ultimate net claim cost may vary up or down from such estimates. The total estimate for the cost of settling Primary claims decreased in 2018 from \$31.9M to \$31.6M.

In addition to specific claim liabilities, the PLF also includes estimated liabilities for the cost of future administration of pending claims. The AOE Liability (Adjusting and Other Expenses) represents the potential administrative costs incurred by PLF should the PLF cease operations but still have open claims to defend. The current AOE liability is \$2.4M. Extended reporting coverage (ERC) or “tail coverage” recognizes the liability the PLF holds to ensure an attorney has claims coverage upon ceasing practice for all potential claims incurred while still practicing. ERC coverage is the remaining limit in the final year of practice. The current ERC liability is \$3.1M. Suspense liability represents potential future costs of claims that have as of yet, no monetary demands made against them. The current suspense liability is \$1.5M.

None of the estimated liabilities are discounted for the time value of money.

The 2018 total estimated liabilities for claims decreased by \$300K during 2018 after decreasing by \$2.4M during 2017. This was due to the frequency of new claims being lower than anticipated in 2018 but the cost of settling claims for the plan year 2017 and older was higher than anticipated.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
For the Years Ended December 31, 2018 and 2017**

Financial Position (Continued)

Deferred Revenue – Deferred revenue represents prepayment of future PLF assessments for both the Primary and Excess Programs. Although annual PLF assessments are due in early January, many lawyers pay them during the preceding December.

There was a 7% decrease in deferred revenue from 2017 to 2018. This indicates attorneys did not pay their 2018 assessments early to the degree they did for their 2017 assessments.

Other Liabilities – Other liabilities include liabilities for accounts payable and accrued payroll obligations. Other liabilities increased by approximately 20% from 2017 to 2018. This is largely due to the timing of the final payroll in 2018.

Net Position – In the financial statements that follow, the term “net position” represents the difference between assets and liabilities. Weak investment returns coupled with a significantly smaller release of claims reserves in 2018 account for much of the \$3.1M loss the PLF incurred in 2018. The overall net position for the PLF is \$17.0M at the end of 2018. This compares to \$20.1M in 2017.

In 2018, the Board of Directors continued to approve a Net Position goal of \$13.3M.

Operations

CONDENSED INCOME STATEMENT

	12 Months Ending 12/31/2018	12 Months Ending 12/31/2017	Increase (Decrease)	12 Months Ending 12/31/2017	12 Months Ending 12/31/2016	Increase (Decrease)
Revenues						
Net Assessments	\$ 24,093,241	\$ 24,168,892	\$ (75,651)	\$ 24,168,892	\$ 24,299,773	\$ (130,881)
Investment Income (Loss)	(2,266,535)	6,736,757	(9,003,292)	6,736,757	3,593,534	3,143,223
Other Income	1,421,015	1,373,095	47,920	1,373,095	1,266,300	106,795
Total Revenues	23,247,721	32,278,744	(9,031,023)	32,278,744	29,159,607	3,119,137
Expenses						
Indemnity & Claim Expense						
Incurred	17,274,133	13,438,330	3,835,803	13,438,330	16,686,564	(3,248,234)
Administrative Expenses	9,068,167	8,870,277	197,890	8,870,277	8,611,037	259,240
Non-Operating (Inc) Exp	-	741,373	(741,373)	741,373	189,860	551,513
Total Expenses	26,342,300	23,049,980	3,292,320	23,049,980	25,487,461	(2,437,481)
Net Income (Loss)	(3,094,579)	9,228,764	(12,323,343)	9,228,764	3,672,146	5,556,618
Net Position - beginning	20,094,730	10,865,966	9,228,764	10,865,966	7,193,820	3,672,146
Net Position	\$ 17,000,151	\$ 20,094,730	\$ (3,094,579)	\$ 20,094,730	\$ 10,865,966	\$ 9,228,764

Total revenues for 2018 were \$9.0M less than in 2017. This is largely due to a weak performance by the PLF investment portfolio. In 2018 investment income (loss) decreased from \$6.7M to (\$2.3)M.

Total expenses increased in 2018 largely due to a large release of claims reserve in 2017 of \$4.58M while 2018 had a release of only \$684K. This indicates that estimates for the cost of claims was significantly more than the claims actually developed in 2017. While there was still a release of reserves in 2018, it was a much smaller amount.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
For the Years Ended December 31, 2018 and 2017**

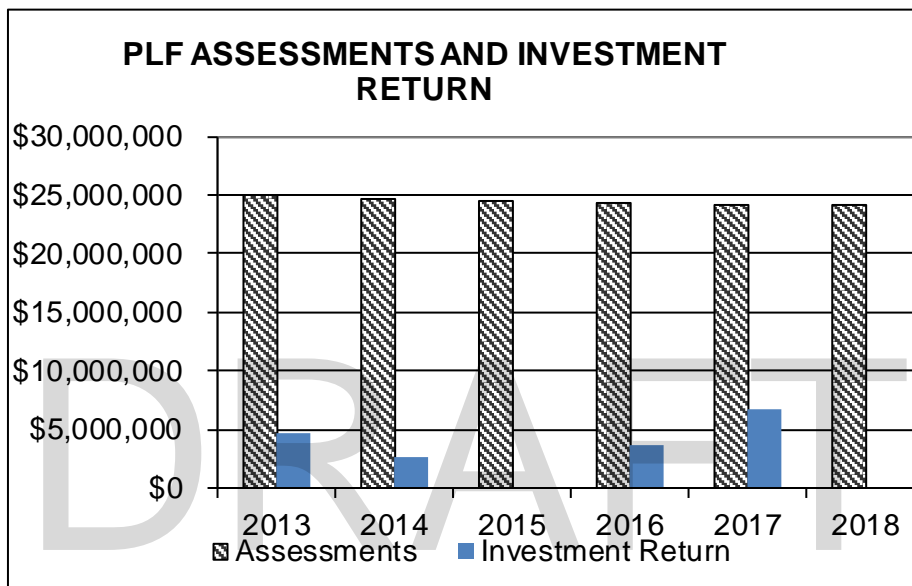
Operations (con't)

The PLF develops an annual operating budget for planning and control purposes. The budget is approved by both the Professional Liability Fund Board of Directors and Oregon State Bar Board of Governors.

Net Assessment Revenue – Net assessment revenue decreased by \$75K during 2018. The assessment amount for 2018 remained the same as 2017 at \$3,500 per attorney in private practice. Additionally, the number of covered parties remained stable.

Investment Income – The PLF portfolio experienced a negative return on the portfolio in 2018. There was a decrease in FMV of (\$3.7M) with dividend and interest income of \$1.5M.

Other Income – Other income consists primarily of ceding commission from the Excess Program. Ceding commission increased in 2018 by \$80K over 2017.

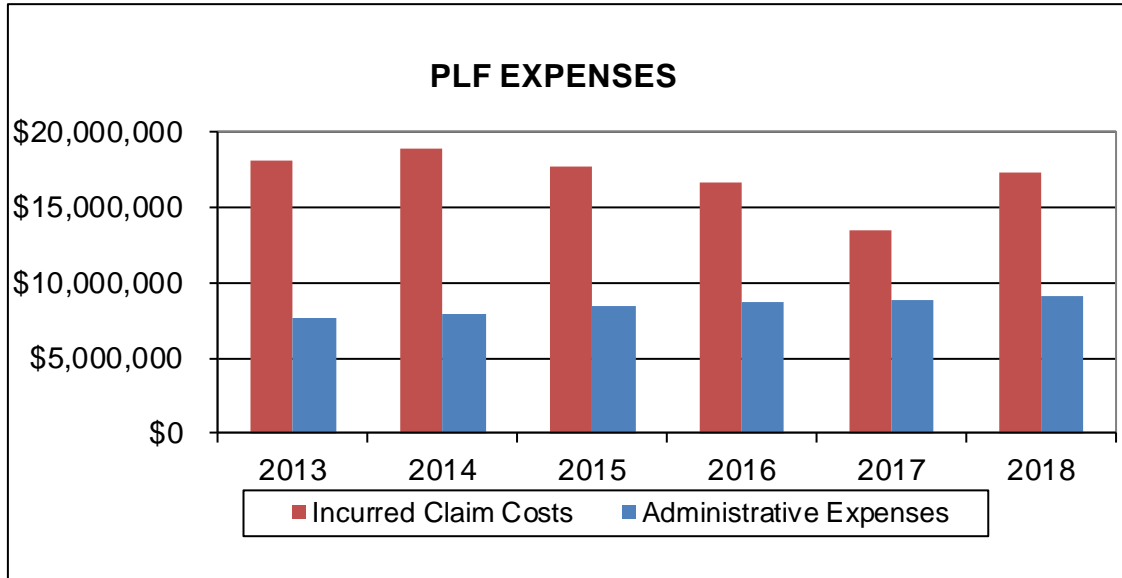


Claim Results – Primary Program claim costs (indemnity and defense) are the largest expense item for the PLF. There is no similar expense for the Excess Program because the liability for excess claims is passed to external insurance companies through reinsurance.

The total provision for claims (total claim costs) for 2018 was \$17.3M which was a 29% increase over the 2017 claim costs of \$13.4M. Both the severity (cost of claims) and frequency (number of claims) trended upwards in 2018. There were 869 primary claims opened in 2018 versus 829 primary claims in 2017.

Administrative Expenses – Administration expenses for 2018 increased \$198K (2.3%) from 2017 amounts. This amount generally represents inflation related increases to administrative expenses.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
For the Years Ended December 31, 2018 and 2017**



Capital Asset and Debt Administration

Net capital assets for the PLF at December 31, 2018 are \$416K which represents a decrease of \$118K from 2017. The trend of depreciation outstripping expenditures on new capital assets has continued from 2013.

The only long-term liabilities for the PLF are lease obligations and estimated liabilities for claims. The PLF has no plans to issue debt.

Currently Known Facts and Conditions That May Have a Significant Effect on Financial Position

None.

INDEPENDENT AUDITORS' REPORT

To the Board of Directors of
Oregon State Bar Professional Liability Fund
Tigard, Oregon

We have audited the accompanying financial statements of the business-type activities of the Oregon State Bar Professional Liability Fund, a separate enterprise fund established by the Oregon State Bar, an instrumentality of the Judicial Department of the State of Oregon (Professional Liability Fund), as of and for the years ended December 31, 2018 and 2017, and the related notes to the financial statements, which collectively comprise the Professional Liability Fund's basic financial statements as listed in the Table of Contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Professional Liability Fund as of December 31, 2018 and 2017, and the respective changes in financial position and cash flows thereof for the years then ended, in accordance with accounting principles generally accepted in the United States of America.

04/02/2019

To the Board of Directors of
Oregon State Bar Professional Liability Fund

Emphasis of Matter

As discussed in Note A, the financial statements present only the transactions and balances attributable to the activities of the Professional Liability Fund and are not intended to present fairly the financial position of the Oregon State Bar, and the results of its operations and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and the pension information schedules as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Government Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the required supplementary information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated _____, on our consideration of the Professional Liability Fund's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, and bylaws. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Professional Liability Fund's internal control over financial reporting and compliance.

Portland, Oregon
_____, 2019

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
Statements of Net Position
Proprietary Funds
December 31, 2018 and 2017**

	<u>Primary Program</u>		<u>Excess Program</u>		<u>Totals</u>	
	<u>2018</u>	<u>2017</u>	<u>2018</u>	<u>2017</u>	<u>2018</u>	<u>2017</u>
<u>Current Assets</u>						
Cash and Equivalents	\$ 7,609,382	\$ 7,570,363	\$ 2,178,521	\$ 1,548,822	\$ 9,787,903	\$ 9,119,185
Investments at Fair Market Value	51,441,460	56,091,309	1,327,973	1,444,538	52,769,433	57,535,847
Miscellaneous Receivables	580,138	675,506	131,948	-	712,086	675,506
Due from Reinsurer	-	-	188,052	150,823	188,052	150,823
Deposits and Prepayments	62,902	58,405	-	-	62,902	58,405
Total Current Assets	<u>59,693,882</u>	<u>64,395,583</u>	<u>3,826,494</u>	<u>3,144,183</u>	<u>63,520,376</u>	<u>67,539,766</u>
<u>Noncurrent Assets</u>						
Claims Receivable	114,513	64,865	-	-	114,513	64,865
Capital Assets, Net	416,116	534,475	-	-	416,116	534,475
Total Noncurrent Assets	<u>530,629</u>	<u>599,340</u>	<u>-</u>	<u>-</u>	<u>530,629</u>	<u>599,340</u>
<u>Deferred Outflows of Resources</u>						
Deferred Amounts Related to Pensions	1,151,573	1,151,573	-	-	1,151,573	1,151,573
Total Assets	<u>\$ 61,376,084</u>	<u>\$ 66,146,496</u>	<u>\$ 3,826,494</u>	<u>\$ 3,144,183</u>	<u>\$ 65,202,578</u>	<u>\$ 69,290,679</u>
<u>Current Liabilities</u>						
Accounts Payable	\$ 173,557	\$ 124,882	\$ 53,001	\$ 11,074	\$ 226,558	\$ 135,956
Accrued Payroll Costs	602,425	557,611	-	-	602,425	557,611
Estimated Liabilities for Claims:						
Indemnity Settlements	7,338,078	7,300,348	-	-	7,338,078	7,300,348
Loss Adjustment Expenses	6,781,340	6,482,623	-	-	6,781,340	6,482,623
Unearned Revenues	8,949,796	10,524,248	1,891,939	1,146,425	10,841,735	11,670,673
Total Current Liabilities	<u>23,845,196</u>	<u>24,989,712</u>	<u>1,944,940</u>	<u>1,157,499</u>	<u>25,790,136</u>	<u>26,147,211</u>
<u>Noncurrent Liabilities</u>						
Estimated Liabilities for Claims:						
Indemnity Settlements	8,279,947	9,321,679	-	-	8,279,947	9,321,679
Loss Adjustment Expenses	9,200,635	8,795,350	-	-	9,200,635	8,795,350
Pre-SLGRP Pooled Liability	656,713	656,713	-	-	656,713	656,713
Net Pension Liability	4,239,575	4,239,575	-	-	4,239,575	4,239,575
Total Noncurrent Liabilities	<u>22,376,870</u>	<u>23,013,317</u>	<u>-</u>	<u>-</u>	<u>22,376,870</u>	<u>23,013,317</u>
Total Liabilities	<u>46,222,066</u>	<u>48,003,029</u>	<u>1,944,940</u>	<u>1,157,499</u>	<u>48,167,006</u>	<u>49,160,528</u>
<u>Deferred Inflows of Resources</u>						
Deferred Amounts Related to Pensions	35,421	35,421	-	-	35,421	35,421
<u>Net Position</u>						
Invested in Capital Assets	416,116	534,475	-	-	416,116	534,475
Unrestricted	14,702,481	17,573,571	1,881,554	1,986,684	16,584,035	19,560,255
Total Net Position	<u>15,118,597</u>	<u>18,108,046</u>	<u>1,881,554</u>	<u>1,986,684</u>	<u>17,000,151</u>	<u>20,094,730</u>
Total Liabilities and Net Position	<u>\$ 61,376,084</u>	<u>\$ 66,146,496</u>	<u>\$ 3,826,494</u>	<u>\$ 3,144,183</u>	<u>\$ 65,202,578</u>	<u>\$ 69,290,679</u>

The accompanying notes are an integral part of these financial statements.

OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
Statements of Revenues, Expenses, and Changes in Net Position
Proprietary Funds
Years Ended December 31, 2018 and 2017

	Primary Program		Excess Program		Totals	
	2018	2017	2018	2017	2018	2017
Operating Revenues						
Annual Assessments	\$ 24,093,241	\$ 24,168,892	\$ 5,767,172	\$ 5,417,218	\$ 29,860,413	\$ 29,586,110
Assessments Paid to Reinsurers	-	-	(5,767,172)	(5,417,218)	(5,767,172)	(5,417,218)
Net Assessments	24,093,241	24,168,892	-	-	24,093,241	24,168,892
Investment Income (Loss)	(2,174,949)	6,570,998	(91,586)	165,759	(2,266,535)	6,736,757
Ceding Commission	-	-	959,183	871,163	959,183	871,163
Other Income (Loss)	413,495	455,946	48,337	45,986	461,832	501,932
Total Revenues	22,331,787	31,195,836	915,934	1,082,908	23,247,721	32,278,744
Operating Expenses						
Liability Claims:						
Provision for Indemnity	8,697,561	6,472,756	-	-	8,697,561	6,472,756
Provision for Claim Expenses	8,576,572	6,965,574	-	-	8,576,572	6,965,574
Total Claims Expenses	17,274,133	13,438,330	-	-	17,274,133	13,438,330
Administrative Expense:						
Salaries and Benefits	6,005,916	5,589,106	655,209	795,885	6,661,125	6,384,991
Services and Supplies	1,888,679	1,925,108	365,855	405,304	2,254,534	2,330,412
Depreciation	152,508	154,874	-	-	152,508	154,874
Total Administrative Expenses	8,047,103	7,669,088	1,021,064	1,201,189	9,068,167	8,870,277
Total Expenses	25,321,236	21,107,418	1,021,064	1,201,189	26,342,300	22,308,607
Operating Income (loss)	(2,989,449)	10,088,418	(105,130)	(118,281)	(3,094,579)	9,970,137
Non-Operating Income (Expenses)						
Pension expense	-	(741,373)	-	-	-	(741,373)
Change in Net Position	(2,989,449)	9,347,045	(105,130)	(118,281)	(3,094,579)	9,228,764
Total Net Position - beginning	18,108,046	8,761,001	1,986,684	2,104,965	20,094,730	10,865,966
Total Net Position - ending	\$ 15,118,597	\$ 18,108,046	\$ 1,881,554	\$ 1,986,684	\$ 17,000,151	\$ 20,094,730

The accompanying notes are an integral part of these financial statements.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
Statements of Cash Flows
Proprietary Funds**

Years Ended December 31, 2018 and 2017

	<u>Primary Program</u>		<u>Excess Program</u>		<u>Totals</u>	
	<u>2018</u>	<u>2017</u>	<u>2018</u>	<u>2017</u>	<u>2018</u>	<u>2017</u>
<u>Increase (Decrease) in Cash and Cash Equivalents</u>						
<u>Cash Flows from Operating Activities:</u>						
Cash Received for Assessments	\$ 22,518,789	\$ 25,366,879	\$ 6,512,686	\$ 5,118,400	\$ 29,031,475	\$ 30,485,279
Premiums Paid to Reinsurers	-	-	(5,767,172)	(5,417,218)	(5,767,172)	(5,417,218)
Dividends and Interest Received in Cash	1,464,580	1,163,993	43,718	35,132	1,508,298	1,199,125
Other Operating Revenues Received	508,481	763,678	1,007,520	917,150	1,516,001	1,680,828
Cash Payments for Liability Claims:						
Indemnity Settlements	(9,751,209)	(7,702,349)	-	-	(9,751,209)	(7,702,349)
Loss Adjustment Expenses	(7,872,572)	(8,130,574)	-	-	(7,872,572)	(8,130,574)
Refundable Reinsurance Claims	-	-	(169,178)	439,832	(169,178)	439,832
Cash Paid Employees for Salaries and Benefits	(5,961,027)	(5,600,199)	(655,209)	(795,885)	(6,616,236)	(6,396,084)
Cash Paid Vendors for Goods and Services	(1,844,578)	(1,930,342)	(323,929)	(453,358)	(2,168,507)	(2,383,700)
Net Cash Provided (Used) by Operations	<u>(937,536)</u>	<u>3,931,086</u>	<u>648,436</u>	<u>(155,947)</u>	<u>(289,100)</u>	<u>3,775,139</u>
<u>Cash Flows from Investing Activities:</u>						
Purchase of Investments	(2,954,931)	(1,952,555)	(7,303,103)	(8,166,341)	(10,258,034)	(10,118,896)
Proceeds from Investment Sales	3,965,635	409,807	7,284,366	8,175,161	11,250,001	8,584,968
Net Cash Provided (Used) in Investing Activities	<u>1,010,704</u>	<u>(1,542,748)</u>	<u>(18,737)</u>	<u>8,820</u>	<u>991,967</u>	<u>(1,533,928)</u>
<u>Cash Flows from Capital Financing:</u>						
Advances (To) From Other Funds	-	-	-	-	-	-
Payments for Pension Financing	-	(36,761)	-	-	-	(36,761)
Purchase of Equipment, Net	(34,149)	(16,045)	-	-	(34,149)	(16,045)
Net Cash Provided (Used) in Capital Financing	<u>(34,149)</u>	<u>(52,806)</u>	<u>-</u>	<u>-</u>	<u>(34,149)</u>	<u>(52,806)</u>
Net Increase (Decrease) in Cash and Cash Equivalents	39,019	2,335,532	629,699	(147,127)	668,718	2,188,405
Cash and Equivalents - Beginning of Year	7,570,363	5,234,831	1,548,822	1,695,949	9,119,185	6,930,780
Cash and Equivalents - End of Year	\$ <u>7,609,382</u>	\$ <u>7,570,363</u>	\$ <u>2,178,521</u>	\$ <u>1,548,822</u>	\$ <u>9,787,903</u>	\$ <u>9,119,185</u>
<u>Reconciliation of Net Income to Net Cash Provided (Used) by Operating Activities:</u>						
Operating Income (Loss)	\$ (2,989,449)	\$ 10,088,418	\$ (105,130)	\$ (118,281)	\$ (3,094,579)	\$ 9,970,137
(Gain) Loss on Disposal of Assets	(382)	554	-	-	(382)	554
Depreciation Expense	152,508	154,874	-	-	152,508	154,874
(Increase) Decrease in Fair Value of Investments	3,639,529	(5,407,005)	135,302	(130,628)	3,774,831	(5,537,633)
Change in Receivables and Payables, Net	134,710	296,258	(127,250)	391,780	7,460	688,038
Increase (Decrease) in Estimated Claims Liabilities	(300,000)	(2,400,000)	-	-	(300,000)	(2,400,000)
Increase (Decrease) in Deferred Revenue	(1,574,452)	1,197,987	745,514	(298,818)	(828,938)	899,169
Net Cash Provided (Used) in Operations	\$ <u>(937,536)</u>	\$ <u>3,931,086</u>	\$ <u>648,436</u>	\$ <u>(155,947)</u>	\$ <u>(289,100)</u>	\$ <u>3,775,139</u>

The accompanying notes are an integral part of these financial statements.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS

December 31, 2018 and 2017

NOTE A – DESCRIPTION OF ORGANIZATION

The Oregon State Bar is comprised of the Oregon State Bar Fund and the Professional Liability Fund (PLF). The financial statements and accompanying notes presented herein are for the PLF only. The accounts of the Oregon State Bar Fund are not included in this presentation.

The PLF was created in 1977 under the provisions of the Oregon Revised Statutes (ORS) 9.080. This legislation authorized the Board of Governors of the Oregon State Bar to establish a professional liability (legal malpractice) insurance program for all attorneys engaged in private practice whose principal office is in Oregon. Coverage is mandatory for all attorneys subject to the law. In 2018, 7,318 attorneys were required to have coverage for at least a portion of the year. Any such attorney who fails to pay the annual assessment fee (premium) is suspended from membership in the Bar and is therefore ineligible to practice law in Oregon.

The PLF is a separate but integral unit of the Oregon State Bar. It is administered by a nine-member Board of Directors appointed by the Board of Governors. The Board of Directors appoints a Chief Executive Officer to supervise and administer the PLF. The PLF is not subject to the Insurance Code of the State of Oregon. As a public body, it is also exempt from federal and state income taxes.

The basic financial statements and notes presented herein include the proprietary fund activity of the PLF, namely the insurance programs.

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

These statements have been prepared in conformity with generally accepted accounting principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB), the Financial Accounting Standards Board (FASB) and the American Institute of Certified Public Accountants (AICPA). In accordance with GASB Statement No. 20, the PLF does not apply FASB pronouncements issued after November 30, 1989, unless GASB amends its pronouncements to specifically adopt FASB pronouncements after that date. PLF is accounted for as Proprietary Funds. Enterprise Funds are used to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that costs of providing goods and services be financed or recovered primarily through user charges.

In 1990, the PLF established an optional underwritten plan to provide insurance coverage with policy limits in excess of the existing mandatory plan. The plan was effective on January 1, 1991. The excess program offers coverage to legal firms, including sole practitioners, as opposed to individual members of a legal entity. Underwriting decisions are based upon the firm as a whole.

For financial reporting purposes, operating activities of the PLF are segregated between the mandatory plan ("Primary Program") and the optional excess coverage plan ("Excess Program"). Investments, investment income (Note C) and administrative expenses have been allocated to the Excess Program.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Basis of Accounting

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. All Proprietary Fund Types are accounted for on a flow of economic resources focus. With this measurement focus, all assets and liabilities associated with the operation of these Fund Types are included on the Statement of Net Assets. Proprietary Fund Type operating statements present increases (e.g., revenues) and decreases (e.g., expenses) in net assets. Proprietary Fund Types utilize the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred.

Proprietary Fund Types distinguish operating revenues and expenses from non-operating items. Operating revenues for the PLF are primarily insurance assessments. Operating expenses are all expenses that finance claims and the administration of the programs in the Fund.

Assessment Revenue

Primary Program

The annual assessment (insurance “premium”) is established by the Oregon State Bar Board of Governors upon recommendation of the PLF Board of Directors. In addition to the basic assessment, a supplemental assessment may be imposed on all attorneys if the financial solvency of the PLF is threatened. This option has never been exercised. Assessments collected before the beginning of the coverage year are reflected as deferred revenues in the PLF Statement of Net Assets.

Excess Program

The base rate for Excess coverage is established by the Oregon State Bar Professional Liability Fund in conjunction with input from Excess Reinsurers. It is based primarily on the Excess program claims experience. Individual firm premiums are then calculated using debits or credits based on their prior claims, practice areas, firm size and administrative safeguards and other factors.

Like the Primary Program, the period of coverage for the Excess Program is the calendar year. Firms may elect coverage after the start of the year; however, the period of coverage always ends with the end of the calendar year. Excess coverage may be canceled during the coverage period. Premiums collected before the beginning of the coverage year are reflected as deferred revenues in the PLF Statement of Net Assets.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Claim Settlement and Defense Costs

Primary Program

Estimated liabilities (often called “reserves”) to settle and defend a claim are established when a claim is reported to the PLF. These estimates are determined by PLF claims attorneys based upon historic experience and current trends. Estimates are continually reevaluated and changed as more information becomes available. Changes in estimates resulting from the continuous review process and differences between estimated and actual payments are reflected in financial operations of the period in which the estimates are changed.

The PLF also uses a firm of independent consulting actuaries to review its claims experience and liability estimates every six months. The estimated liabilities for indemnity and expense reported in these financial statements are based on this actuarial analysis.

In addition to the actuarial methodology used above, PLF cost estimates to defend and settle claims in the future include factors for Adjusting and Other Expense (AOE), Extended Reporting Coverage (ERC), and suspense files. AOE represents the PLF’s estimated future administrative costs for processing open and unresolved claims. ERC represents the estimated cost of future claims that may be filed against lawyers who have obtained such coverage upon leaving private practice. Suspense files represent the estimated cost of potential claims for which the PLF has been notified during a coverage year but formal claims have not yet been filed.

Management believes that its aggregate reserve for losses and loss adjustment expenses is reasonable and adequate to cover the ultimate net cost of losses on claims reported, but such provision is necessarily based on estimates, and the ultimate net cost may vary from such estimates. As adjustments to these estimates become necessary, the adjustments are reflected in current operations.

For financial statement purposes, amounts recoverable from other parties (such as subrogation receivables) relating to paid claims are reflected as assets, net of appropriate valuation allowances, in the Statement of Net Assets and as deductions from the provisions for claim settlement and defense costs in the PLF Statement of Revenues, Expenses, and Changes in Fund Net Assets.

Excess Program

As described in the following Reinsurance disclosure, 100% of the liability for any claim filed under the excess plan has been passed to other insurance companies through reinsurance. The possibility of the PLF incurring direct costs under the excess plan is considered remote. Therefore, no provision or liability for such claims has been established. If future operations of the plan indicate that the PLF will incur direct costs, appropriate estimated liabilities for such losses will be established based on plan experience.

**OREGON STATE BAR
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Reinsurance

Primary Program

Through 1985, the PLF carried “excess of loss” reinsurance with a private reinsurer. Reinsurance coverage has not been purchased for the Primary Program since 1985.

Excess Program

All losses under the excess plan are covered 100% by reinsurance. Although the PLF is ultimately responsible for the payment of successful claims filed under the excess plan, such payments are considered highly unlikely. It is the PLF’s policy to diversify risk by choosing several reinsurance companies. In addition, the PLF selects reinsurance companies with an emphasis on financial solvency. The PLF will secure letters of credit and other means of financial protection when appropriate.

Basis of Coverage

PLF coverage is on a “claims made” basis. Under a “claims made” form of coverage, the attorney is covered for any claim made during a plan period in which he or she has professional liability coverage. Prior to 1992, attorneys who left private practice could obtain “extended reporting coverage” for an additional one-time assessment. Payment of this assessment resulted in continuing coverage for covered acts committed prior to the end of the plan period. After December 31, 1991, no charge has been made for extended reporting coverage for the limits of coverage offered by the Primary Program.

Firms that request to have extended reporting coverage from the Excess Program pay an additional assessment.

Under the 2018 Coverage Plan, primary coverage is limited to a maximum of \$300,000 for both indemnity and defense costs. In addition to the \$300,000 aggregate limit, there is a separate \$50,000 claims expense allowance to be used solely for defense costs. Optional coverage under the excess plan increases basic coverage by \$700,000, \$1,700,000, \$2,700,000, \$3,700,000, \$4,700,000 or \$9,700,000 as elected by the covered firm. Therefore, firms with excess coverage have the option to increase their total limits to \$1 million, \$2 million, \$3 million, \$4 million, \$5 million or \$10 million.

Budgets

The PLF operates under annual budgets, which are adopted and approved by the Board of Directors and the Oregon State Bar Board of Governors.

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PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Capital Assets and Depreciation

Capital assets (office and data processing equipment, furniture, and leasehold improvements) are recorded at cost and charged to expense over their useful lives by use of the straight-line method of depreciation. Computer hardware, software, copiers, and telephone systems are depreciated over a three-year period. Furniture is depreciated over a five to ten-year period. Leasehold improvements are depreciated over the term of the lease.

Cash and Cash Equivalents

For financial statement purposes, the PLF considers cash and cash equivalents to include cash on hand, cash in checking accounts, and short-term money market funds which are readily convertible to cash.

Investments

PLF investments are made in accordance with policy guidelines adopted by the Board of Directors. The guidelines emphasize safety, liquidity, and diversification. To better achieve the benefits of professional management, in late 1993 the PLF placed its investments portfolio in shares of widely diversified mutual or commingled fund companies. Investments are stated and carried at fair value. The estimated fair value of certain alternative investments for which prices are not readily available, are generally determined by the investment advisors of the respective private investment funds and may not reflect amounts that could be realized upon immediate sale, nor amounts that ultimately may be realized. Accordingly, the estimated fair values may differ significantly from the values that would have been used had a ready market existed for these investments.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires that management make estimates and assumptions which affect the reporting amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ from estimates.

Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, *deferred outflows of resources*, represents a consumption of net position that apply to a future period and so will not be recognized as an outflow of resources (expense/expenditure) until then.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, *deferred inflows of resources*, represents an acquisition of net position that apply to a future period and so will not be recognized as an inflow of resources (revenue) until then.

**OREGON STATE BAR
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Pension Retirement Plan

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the Oregon Public Employees Retirement System (OPERS) and additions to/deductions from OPERS's fiduciary net position have been determined on the same basis as they are reported by OPERS. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Reclassifications

Certain prior year balances in the accompanying financial statements have been reclassified to conform to the current year presentation.

NOTE C – CASH AND INVESTMENTS

Cash Deposits

At December 31, 2018 and 2017, the carrying amounts of the PLF's deposits in the Primary Program were \$7,609,382 and \$7,570,363, respectively. Bank balances were \$8,209,596 and \$7,865,696, respectively. In the Excess Program at December 31, 2018 and 2017, the carrying amounts of deposits were \$2,178,521 and \$1,548,822, respectively. Bank balances were \$2,179,258 and \$1,548,822 respectively.

The differences between carrying amounts and bank balances consisted primarily of deposits in transit and outstanding checks. All of the PLF's operating cash is held in non-interest bearing bank accounts. Under the FDIC, the PLF checking accounts are insured by federal depository insurance up to \$250,000 for 2018. As of December 31, 2018, \$10,138,854 of PLF's bank balance of \$10,388,854 was exposed to credit risk because it was uninsured and uncollateralized.

Investments

The PLF has recorded its investments at fair value according to the fair value hierarchy established by generally accepted accounting principles. Fair values are primarily determined by the Market Approach from information provided by third-party investment fund managers. Certain investment funds for which there is no readily determinable market value are valued at their respective net asset values as provided by the third-party investment fund managers. Assets are categorized by asset type, which is a key component of determining hierarchy levels. Asset types allowable per the PLF's investment policy generally fall within all three hierarchy levels.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE C – CASH AND INVESTMENTS (CONTINUED)

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. PLF policies specify asset allocation percentages for various investment categories. The amounts invested in fixed income investments, which are subject to interest rate risk, are limited by these policies. PLF forecasts cash needs for the calendar year. This amount is invested in short-term fixed income funds to limit the interest rate risk.

Credit Risk

Credit risk is the risk that the issuer of an investment fails to fulfill its obligations. Average quality rates are not available for fixed income investments. Credit ratings do not apply to other PLF categories of investment. PLF policies specify diversification as to the type of investment, issuer, and industry sector. Investment is not made in individual securities; only commingled funds or mutual funds are used. The PLF investments are a small portion of funds that have investments in many different entities.

Concentration of Credit Risk

Concentration of credit risk refers to potential losses if total investments are concentrated with one or few issuers. The PLF policies specify the sole use of funds where there is a pooling of securities owned by multiple clients for diversification, lower expense, and improved liquidity.

Custodial Credit Risk – Investments

Custodial credit risk refers to PLF investments that are held by others and not registered in the PLF's name. Custodial credit risk does not apply to PLF investments since PLF places its investment portfolio in shares of diversified mutual or commingled fund companies and real estate.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE C – CASH AND INVESTMENTS (CONTINUED)

Fair Value Measurements of Investments

Various inputs are used in determining the fair value of investments. These inputs to valuation techniques are categorized into a fair value hierarchy consisting of three broad levels for financial statement purposes as follows:

Level 1 – Quoted prices in active markets for identical assets. Assets in this level typically include publicly traded equities and mutual fund investments.

Level 2 – Quoted prices for similar assets in active or inactive markets, or inputs derived from observable market data such as published interest rates and yield curves, over-the-counter derivatives, market modeling, or other valuation methodologies. Assets in this level include debt securities and fixed income mutual fund investments.

Level 3 – Unobservable inputs that reflect valuations based on discounted cash flow or market comparable company techniques. Assets in this level include absolute return investment fund investments.

The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). Accordingly, the degree of judgment exercised in determining fair value is greatest for instruments categorized in Level 3. The inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for disclosure purposes, the fair value hierarchy classification is determined based on the lowest level input that is significant to the fair value measurement in its entirety.

The categorization of a value determined for investments is based on the pricing transparency of the investments and is not necessarily an indication of the risks associated with investing in those securities.

Equity investments in real estate funds and absolute return funds are considered alternative investments, as market value is not readily determined in financial markets. Real estate investments are in RREEF America REIT II and in the Baring Core Property Fund, both which invest in well-located income-producing real estate in established markets. The fair value of these investments was determined by obtaining the fund manager's statement of value and assessing these based on the funds' valuation policies. The fair value of real estate funds is determined by the fund managers' calculation of net asset value.

Realized and unrealized gains and losses from these assets are reported in the Statement of Revenues, Expenses and Changes in Net Position as they occur. There have been no changes in valuation techniques and related inputs.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE C – CASH AND INVESTMENTS (CONTINUED)

Fair values of assets measured on a recurring basis at December 31, 2018 and 2017 were as follows:

	2018			Fair Value Total	%
	Level 1	Level 2	Level 3		
U.S. Equities	\$ 12,594,591	\$ -	\$ -	\$ 12,594,591	24%
International Equities	9,659,015	-	-	9,659,015	18%
Fixed Income-Short term	3,515,638	-	-	3,515,638	7%
Fixed Income-Intermediate	-	14,884,877	-	14,884,877	28%
Absolute Return	-	4,356,926	-	4,356,926	8%
Real Return Strategy	2,625,650	-	-	2,625,650	5%
	<u>\$ 28,394,894</u>	<u>\$ 19,241,803</u>	<u>\$ -</u>	\$ 47,636,697	90%

Investments measured at the net asset value (NAV)

Real Estate Funds 5,132,736 10%

Total Investments \$ 52,769,433 100%

	2017			Fair Value Total	%
	Level 1	Level 2	Level 3		
U.S. Equities	\$ 13,518,836	\$ -	\$ -	\$ 13,518,836	23%
International Equities	11,809,707	-	-	11,809,707	21%
Fixed Income-Short term	5,960,111	-	-	5,960,111	10%
Fixed Income-Intermediate	-	12,428,557	-	12,428,557	22%
Absolute Return	-	6,992,055	-	6,992,055	12%
Real Return Strategy	2,030,493	-	-	2,030,493	4%
	<u>\$ 33,319,147</u>	<u>\$ 19,420,612</u>	<u>\$ -</u>	\$ 52,739,759	92%

Investments measured at the net asset value (NAV)

Real Estate Funds 4,796,088 8%

Total Investments \$ 57,535,847 100%

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE C – CASH AND INVESTMENTS (CONTINUED)

The valuation method for investments measured at the net asset value (NAV) per share (or its equivalent) is presented in the following table:

	<u>Unfunded Commitments</u>	<u>Redemption Frequency</u>	<u>Redemption Notice Period</u>
Investments measured at the net asset value (NAV):			
Real Estate Funds:			
RREEF America REIT II	\$ 3,305,400	-	Quarterly
Baring Core Property Funds	<u>1,827,336</u>	-	NA
	<u>\$ 5,132,736</u>	<u>\$ -</u>	45 days NA

The real estate funds consist of a real estate investment trust investment fund (REIT) and a real estate limited partnership fund. Earnings on the underlying assets in each fund are reinvested by the fund managers. Because it is not probable that any individual investment will be sold, the fair values of these funds have been determined using the NAV per share (or its equivalent) of the PLF's ownership interest in the funds.

The following table summarizes the fair value of PLF investments as allocated to the Primary and Excess Programs:

	<u>2018</u>	<u>2017</u>
Allocation:		
Primary Program	\$ 51,441,460	\$ 56,091,309
Excess Program	<u>1,327,973</u>	<u>1,444,538</u>
Total Allocation	<u>\$ 52,769,433</u>	<u>\$ 57,535,847</u>

The following table summarizes the composition and allocation by program of investment income for the years ended December 31, 2018 and 2017:

	<u>Fair Value</u>	
	<u>2018</u>	<u>2017</u>
Investment Income:		
Dividends and interest	\$ 1,508,298	\$ 1,199,125
Net Increase (decrease) in the fair value of investments	<u>(3,774,833)</u>	<u>5,537,632</u>
	<u>\$ (2,266,535)</u>	<u>\$ 6,736,757</u>
Allocation:		
Operating investment income (loss)		
Primary Program	\$ (2,174,949)	\$ 6,570,998
Excess Program	<u>(91,586)</u>	<u>165,759</u>
	<u>\$ (2,266,535)</u>	<u>\$ 6,736,757</u>

**OREGON STATE BAR
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE D – CLAIMS RECEIVABLE

Claims receivable represent the estimated value of non-cash assets (such as real estate, promissory notes, and various subrogation rights) that the PLF may receive when it settles a claim on behalf of a covered party. Only claims that are reasonably expected to be collected are recorded in the financial statements. Claims receivable are reflected in the financial statements as an asset. Changes to claims receivable are offset against the provision for claim settlements in the operating statement.

NOTE E – CAPITAL ASSETS

The following table reflects the cost, accumulated depreciation and amortization, and net book value for each category of capital assets owned by the PLF at December 31, 2018 and 2017:

	Beginning Balance	Increases	Decreases	Ending Balance
Property and equipment				
Data processing equipment	\$ 318,000	\$ 11,781	\$ (16,703)	\$ 313,078
Furniture and equipment	559,294	22,750	(53,519)	528,525
Leasehold improvements	1,141,866	-	-	1,141,866
Total property and equipment	<u>2,019,160</u>	<u>34,531</u>	<u>(70,222)</u>	<u>1,983,469</u>
Accumulated depreciation				
Data processing equipment	(262,714)	(44,873)	16,703	(290,884)
Furniture and equipment	(491,040)	(29,473)	53,137	(467,376)
Leasehold improvements	(730,931)	(78,162)	-	(809,093)
Total accumulated depreciation	<u>(1,484,685)</u>	<u>(152,508)</u>	<u>69,840</u>	<u>(1,567,353)</u>
Total capital assets, net	<u>\$ 534,475</u>	<u>\$ (117,977)</u>	<u>\$ (382)</u>	<u>\$ 416,116</u>

NOTE F – LIABILITY FOR COMPENSATED ABSENCES

PLF employees earn vacation leave at rates from 8 to 20 hours per month depending, in part, upon their length of service. Unused vacation leave is compensable to the employee upon termination of employment. At December 31, 2018 and 2017, the value of vacation and the employer's share of social security taxes and other payroll related costs for all PLF employees totaled \$602,425 and \$557,611, respectively.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE G – LIABILITIES FOR UNEMPLOYMENT BENEFITS

PLF employees who qualify are entitled to benefit payments during periods of unemployment. Like state agencies, the PLF does not pay unemployment insurance. The PLF is required to reimburse the Employment Department for actual benefit payments made to its former employees. Management believes any potential liability would not be material to the financial statements. The PLF incurred no unemployment claim costs in 2018 or 2017.

NOTE H – PRE-SLGRP POOLED LIABILITY

Prior to the formation of the PERS State and Local Government Rate Pool (“SLGRP”), the State and community colleges were pooled together in the State and Community College Pool (SCCP), while local government employers participated in the Local Government Rate Pool (LGRP). These two pools combined to form the SLGRP effective January 1, 2002. The unfunded actuarial liability (UAL) attributable to the SCCP at the time the SLGRP was formed is maintained separately from the SLGRP and is reduced by contributions and increased for interest charges at the assumed interest rate, currently 7.75%. The pre-SLGRP liability is the responsibility of the SCCP employers and is an obligation separate from each respective employers’ net pension liability. The balance of the pre-SLGRP pooled liability attributable to the State is being amortized over the period ending December 31, 2027. At December 31, 2018 and 2017, the PLF’s proportionate share of the pre-SLGRP liability was \$ [REDACTED] and \$656,713, respectively.

NOTE I – PENSION RETIREMENT PLAN

Defined Benefit Pension Plan

General Information about the Pension Plan:

Name of the pension plan: The Oregon Public Employees Retirement System (OPERS) is a cost-sharing multiple-employer defined benefit plan.

Plan description. Employees of the PLF are provided with pensions through OPERS. All the benefits of OPERS are established by the Oregon legislature pursuant to Oregon Revised Statute (ORS) Chapters 238 and 238A. The ORS Chapter 238 Defined Benefit Pension Plan is closed to new members hired on or after August 29, 2003. OPERS issues a publicly available financial report that can be obtained at:

http://www.oregon.gov/pers/Pages/section/financial_reports/financials.aspx

**OREGON STATE BAR
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Benefits provided under Chapter 238-Tier One / Tier Two

1. *Pension Benefits.* The ORS 238 Defined Benefit Pension Plan provides benefits to members hired *before* August 29, 2003.

The OPERS retirement benefit is payable monthly for life to covered members upon reaching the minimum retirement age. It may be selected from 13 retirement benefit options. These options include survivorship benefits and lump-sum refunds. The basic benefit is based on years of service and final average salary. A percentage (1.67 percent for general service employees) is multiplied by the number of years of service and the final average salary. Benefits may also be calculated under either a formula plus annuity (for members who were contributing before August 21, 1981) or a money match computation if a greater benefit results.

A member is considered vested and will be eligible at minimum retirement age for a service retirement allowance if he or she has had a contribution in each of five calendar years or has reached at least 50 years of age before ceasing employment with a participating employer. General service employees may retire after reaching age 55. Tier One general service employee benefits are reduced if retirement occurs prior to age 58 with fewer than 30 years of service. Tier Two members are eligible for full benefits at age 60.

2. *Death Benefits.* Upon the death of a non-retired member, the beneficiary receives a lump-sum refund of the member's account balance (accumulated contributions and interest). In addition, the beneficiary will receive a lump-sum payment from employer funds equal to the account balance, provided one or more of the following conditions are met:
 - Member was employed by a OPERS employer at the time of death,
 - Member died within 120 days after termination of OPERS-covered employment,
 - Member died as a result of injury sustained while employed in a OPERS-covered job, or
 - Member was on an official leave of absence from a OPERS-covered job at the time of death.
3. *Disability Benefits.* A member with 10 or more years of creditable service who becomes disabled from other than duty-connected causes may receive a non-duty disability benefit. A disability resulting from a job-incurred injury or illness qualifies a member for disability benefits regardless of the length of OPERS-covered service. Upon qualifying for either a non-duty or duty disability, service time is computed to age 58 when determining the monthly benefit.
4. *Benefit Changes after Retirement.* Members may choose to continue participation in a variable equities investment account after retiring and may experience annual benefit fluctuations due to changes in the market value of equity investments.

Under ORS 238.360 monthly benefits are adjusted annually through cost-of-living changes.

**OREGON STATE BAR
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Benefits provided under Chapter 238A-OPSRP Pension Program (OPSRP DB).

1. *Pension Benefits.* The ORS 238A Defined Benefit Pension Program provides benefits to members hired on or after August 29, 2003.

This portion of the OPSRP provides a life pension funded by employer contributions. Benefits are calculated with the following formula for members who attain normal retirement age:

General Service: 1.5 percent is multiplied by the number of years of service and the final average salary. Normal retirement age for general service members is age 65, or age 58 with 30 years of retirement credit.

A member of the OPSRP pension program becomes vested on the earliest of the following dates: the date the member completes 600 hours of service in each of five calendar years, the date the member reaches normal retirement age, and, if the pension program is terminated, the date on which termination becomes effective.

2. *Death Benefits.* Upon the death of a non-retired member, the spouse or other person who is constitutionally required to be treated in the same manner as the spouse, receives for life 50 percent of the pension that would otherwise have been paid to the deceased member.
3. *Disability Benefits.* A member who has accrued 10 or more years of retirement credits before the member becomes disabled or a member who becomes disabled due to job-related injury shall receive a disability benefit of 45 percent of the member's salary determined as of the last full month of employment before the disability occurred.
4. *Benefit Changes after Retirement.* Under ORS 238A.210 monthly benefits are adjusted annually through cost-of-living changes.

Contributions:

OPERS funding policy provides for monthly employer contributions at actuarially determined rates. These contributions, expressed as a percentage of covered payroll, are intended to accumulate sufficient assets to pay benefits when due. This funding policy applies to the PERS Defined Benefit Plan and the Other Postemployment Benefit Plans.

Employer contribution rates during the period were based on the December 31, 2015 actuarial valuation. The rates based on a percentage of payroll, first became effective July 1, 2015. The State of Oregon and certain schools, community colleges, and political subdivisions have made lump sum payments to establish side accounts, and their rates have been reduced. The PLF has recorded its proportionate share of its liability in such side accounts as "pre-SLGRP pooled liability (see NOTE H). Additionally, the PLF benefits from the Oregon pension bonds issued in October 2003 that were used to pay down the State's pension unfunded actuarial liability. The PLF contributes 6.0% of each eligible employee's compensation as its share for debt service on the State's bonds.

OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Contributions: (Continued)

Employer contributions for the years ended December 31, 2018 and 2017 were \$896,059 and \$755,644, excluding amounts to fund employer specific liabilities. The rates in effect for the fiscal year ended December 31, 2018 were: (1) Tier1/Tier 2 – 16.8%, and (2) OPSRP general service – 8.91%.

Actuarial Valuations:

The employer contribution rates effective July 1, 2015, through June 30, 2018, were set using the projected unit credit actuarial cost method. For the Tier One/Tier Two component of the PERS Defined Benefit Plan, this method produced an employer contribution rate consisting of (1) an amount for normal cost (the estimated amount necessary to finance benefits earned by the employees during the current service year), (2) an amount for the amortization of unfunded actuarial accrued liabilities, which are being amortized over a fixed period with new unfunded actuarial accrued liabilities being amortized over 20 years.

For the OPSRP Pension Program component of the PERS Defined Benefit Plan, this method produced an employer contribution rate consisting of (a) an amount for normal cost (the estimated amount necessary to finance benefits earned by the employees during the current service year), (b) an amount for the amortization of unfunded actuarial accrued liabilities, which are being amortized over a fixed period with new unfunded actuarial accrued liabilities being amortized over 16 years.

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**OREGON STATE BAR
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NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Actuarial Methods and Assumptions:

Valuation Date	December 31, 2015 rolled forward to June 30, 2017
Experience Study Report	2014, published September 23, 2015
Actuarial Cost Method	Entry Age Normal
Amortization Method	Amortized as a level percentage of payroll as layered amortization bases over a closed period; Tier One/Tier Two UAL is amortized over 20 years and OPSRP pension UAL is amortized over 16 years.
Asset Valuation Method	Market value of assets
Actuarial Assumptions:	
Inflation Rate	2.50 percent
Investment Rate of Return	7.50 percent
Projected Salary Increases	3.50 percent overall payroll growth; salaries for individuals are assumed to grow at 3.50 percent plus assumed rates of merit/longevity increases based on service.
Mortality	<p>Healthy retirees and beneficiaries: RP-2000 Sex-distinct, generational per Scale BB, with collar adjustments and set-backs as described in the valuation.</p> <p>Active members: Mortality rates are a percentage of healthy retiree rates that vary by group, as described in the valuation.</p> <p>Disabled retirees: Mortality rates are a percentage (70% for males, 95% for females) of the RP-2000 Sex-distinct, generational per Scale BB, disabled mortality table.</p>

Actuarial valuations of an ongoing plan involve estimates of the value of projected benefits and assumptions about the probability of events far into the future. Actuarially determined amounts are subject to continual revision as actual results are compared to past expectations and new estimates are made about the future. Experience studies are performed as of December 31 of even numbered years. The methods and assumptions shown above are based on the 2014 Experience Study which reviewed experience for the four-year period ending on December 31, 2014.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Discount Rate:

The discount rate used to measure the total pension liability was 7.50 percent for the Defined Benefit Pension Plan. The projection of cash flows used to determine the discount rate assumed that contributions from plan members and those of the contributing employers are made at the contractually required rates, as actuarially determined. Based on those assumptions, the pension plan's fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on pension plan investments for the Defined Benefit Pension Plan was applied to all periods of projected benefit payments to determine the total pension liability.

Assumed Asset Allocation:

Asset Class/Strategy	Low Range	High Range	OIC Target
Cash	0.0 %	3.0 %	0.0 %
Debt Securities	15.0	25.0	20.0
Public Equity	32.5	42.5	37.5
Private Equity	14.0	21.0	17.5
Real Estate	9.5	15.5	12.5
Alternative Equity	0.0	12.5	12.5
Opportunity Portfolio	0.0	3.0	0.0
Total			100.0 %

Long-Term Expected Rate of Return:

To develop an analytical basis for the selection of the long-term expected rate of return assumption, in July 2015 the PERS Board reviewed long-term assumptions developed by both the actuary's capital market assumptions team and the Oregon Investment Council's (OIC) investment advisors. The table below shows the actuary's assumptions for each of the asset classes in which the plan was invested at that time based on the OIC long-term target asset allocation. The OIC's description of each asset class was used to map the target allocation to the asset classes shown below. Each asset class assumption is based on a consistent set of underlying assumptions, and includes adjustment for the inflation assumption. These assumptions are not based on historical returns, but instead are based on a forward-looking capital market economic model.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Asset Class	Target Allocation	Compound Annual Return (Geometric)
Core Fixed Income	8.00%	4.00%
Short-Term Bonds	8.00	3.61
Bank/Leveraged Loans	3.00	5.42
High Yield Bonds	1.00	6.20
Large/Mid Cap US Equities	15.75	6.70
Small Cap US Equities	1.31	6.99
Micro Cap US Equities	1.31	7.01
Developed Foreign Equities	13.13	6.73
Emerging Foreign Equities	4.11	7.25
Non-US Small Cap Equities	1.88	7.22
Private Equity	17.50	7.97
Real Estate (Property)	10.00	5.84
Real Estate (REITS)	2.50	6.69
Hedge Fund of Funds - Diversified	2.50	4.64
Hedge Fund - Event-driven	0.62	6.72
Timber	1.88	5.85
Farmland	1.88	6.37
Infrastructure	3.75	7.13
Commodities	1.88	4.58
	100.00	
Assumed Inflation – Mean		2.50

Sensitivity of the PLF's proportionate share of the net pension liability to changes in the discount rate.

The following presents the PLF's proportionate share of the net pension liability calculated using the discount rate of 7.50 percent, as well as what the PLF's proportionate share of the net pension liability would be if it were calculated using a discount rate that is 1 percentage point lower (6.50 percent) or 1 percentage point higher (8.50 percent) than the current rate:

	1% Lower (6.50%)	Current (7.50%)	1% Higher (8.50%)
Proportionate share of the net pension (liability)/asset	\$ -	\$ -	\$ -

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Pension plan fiduciary net position

Detailed information about the pension plan's fiduciary net position is available in the separately issued OPERS financial report.

Pension Liabilities, Pension Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions:

At December 31, 2018, the PLF reported liabilities of \$ [REDACTED] for its proportionate share of the net pension liability. The net pension liability was measured as of June 30, 2018, and the total pension liability used to calculate the net pension asset was determined by an actuarial valuation as of December 31, 2015 and rolled forward to June 30, 2018. The PLF's proportion of the net pension asset was based on the PLF's projected long-term contribution effort as compared to the total projected long-term contribution effort of all employers.

Rates of every employer have at least two major components:

1. **Normal Cost Rate:** The economic value, stated as a percent of payroll, for the portion of each active member's total projected retirement benefit that is allocated to the upcoming year of service. The rate is in effect for as long as each member continues in OPERS-covered employment. The current value of all projected future Normal Cost Rate contributions is the Present Value of Future Normal Costs (PVFNC). The PVFNC represents the portion of the projected long-term contribution effort related to future service.
2. **UAL Rate:** If system assets are less than the actuarial liability, an Unfunded Actuarial Liability (UAL) exists. UAL can arise in a biennium when an event such as experience differing from the assumptions used in the actuarial valuation occurs. An amortization schedule is established to eliminate the UAL that arises in a given biennium over a fixed period of time if future experience follows assumption. The UAL Rate is the upcoming year's component of the cumulative amortization schedules, stated as a percent of payroll. The present value of all projected UAL Rate contributions is simply the Unfunded Actuarial Liability (UAL) itself. The UAL represents the portion of the projected long-term contribution effort related to past service.

An employer's PVFNC depends on both the normal cost rates charged on the employer's payrolls, and on the underlying demographics of the respective payrolls. For OPERS funding, employers have up to three different payrolls, each with a different normal cost rate: (1) Tier 1/Tier 2 payroll, (2) OPSRP general service payroll, and (3) OPSRP police and fire payroll.

Analyzing both rate components, the projected long-term contribution effort is simply the sum of the PVFNC and UAL. The PVFNC part of the contribution effort pays for the value of future service while the UAL part of the contribution effort pays for the value of past service not already funded by accumulated contributions and investment earnings. Each of the two contribution effort components are calculated at the employer-specific level. The sum of these components across all employers is the total projected long-term contribution effort.

At December 31, 2018 and 2017, the PLF's proportion was [REDACTED] and .03145076%, respectively.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

For the year ended December 31, 2018, the PLF recognized pension expense of \$ [REDACTED]. At December 31, 2018, the PLF reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

			Deferred Outflow of Resources	Deferred Inflow of Resources
Differences between expected and actual experience			\$ -	\$ -
Changes of assumptions			-	-
Net deference between projected and actual earnings on investments			-	-
Changes in proportion and differences between employer contributions and proportionate share of contributions			-	-
Total (prior to post-measurement date contributions)			-	-
Contributions made subsequent to measurement date			-	-
Net deferred outflow/(inflow) of resources			\$ -	\$ -

Deferred outflows of resources related to pensions resulting from PLF contributions subsequent to the measurement date of June 30, 2018 will be recognized as a reduction of the net pension liability in the year ended December 31, 2018. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized in pension expense as follows:

Employer Subsequent Fiscal Years				
2019				\$ -
2020				-
2021				-
2022				-
2023				-
				\$ -

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Changes in Plan Provisions Subsequent to Measurement Date:

There were no changes in Plan provisions subsequent to the June 30, 2018 measurement date.

Changes in Assumptions:

A summary of key changes implemented since the December 31, 2014 valuation are described briefly below. Additional detail and a comprehensive list of changes in methods and assumptions can be found in the 2014 Experience Study for the System, which was published in September 2015.

Changes in Benefit Terms

The Oregon Supreme Court on April 30, 2015, ruled that the provisions of Senate Bill 861, signed into law in October 2013, that limited the post retirement cost-of-living-adjustment (“COLA”) on benefits accrued prior to the signing of the law was unconstitutional. Benefits could be modified prospectively, but not retrospectively. As a result, those who retired before the bills were passed will continue to receive a COLA tied to the Consumer Price Index that normally results in a 2% increase annually. OPERS will make restoration payments to those benefit recipients.

PERS members who have accrued benefits before and after the effective dates of the 2013 legislation will have a blended COLA rate when they retire.

Allocation of Liability for Service Segments

For purposes of allocating Tier 1/Tier 2 member’s actuarial accrued liability among multiple employers, the valuation uses a weighted average of the Money Match methodology and the Full Formula methodology used by PERS when the member retires. The weights are determined based on the prevalence of each formula among the current Tier 1/Tier 2 population. For the December 31, 2012 and December 31, 2013 valuations, the Money Match was weighted 30 percent for General Service members. For the December 31, 2014 and December 31, 2015 valuations, this weighting has been adjusted to 25 percent for General Service members, based on a projection of the proportion of liability attributable to Money Match benefits at those valuation dates.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE I – PENSION RETIREMENT PLAN (CONTINUED)

Defined Contribution Plan

OPSRP Individual Account Program (OPSRP IAP)

Pension Benefits

Participants in OPERS defined benefit pension plans also participate in the OPSRP Individual Account Program (IAP), a defined contribution pension plan. An IAP member becomes vested on the date the employee account is established or on the date the rollover account was established. If the employer makes optional employer contributions for a member, the member becomes vested on the earliest of the following dates: the date the member completes 600 hours of service in each of five calendar years, the date the member reaches normal retirement age, the date the IAP is terminated, the date the active member becomes disabled, or the date the active member dies.

Upon retirement, a member of the OPSRP Individual Account Program (IAP) may receive the amounts in his or her employee account, rollover account, and vested employer account as a lump-sum payment or in equal installments over a 5-, 10-, 15-, 20-year period or an anticipated life span option. Each distribution option has a \$200 minimum distribution limit.

Death Benefits

Upon the death of a non-retired member, the beneficiary receives in a lump sum the member's account balance, rollover account balance, and vested employer optional contribution account balance. If a retired member dies before the installment payments are completed, the beneficiary may receive the remaining installment payments or choose a lump-sum payment.

Contributions

All eligible OPERS and OPSRP employees make mandatory contributions to the plan at the rate of six percent of gross compensation. OPERS contracts with VOYA Financial to maintain IAP participant records.

Other Post-Employment Benefits

For the year ended December 31, 2018, GASB Statement No. 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions became effective. This statement provides guidance for accounting for liabilities related to retiree healthcare and other non-pension post-employment benefits (OPEB). Based on the PLF's small impact on the state-wide pool, the PLF's proportionate share of the actuarial liability for OPEB was insignificant. Therefore, the implementation of GASB Statement No. 75 had no impact on the PLF's financial statements.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE J – LEASE OBLIGATIONS

On January 23, 2019, PLF renewed its office lease through February 2029 with the Oregon State Bar located in the Fanno Creek Place office complex. The base rent under the Oregon State Bar Lease is subject to annual increase during the lease term. Rent expense was \$557,855 for 2018 and \$551,587 for 2017 under this lease. Additionally, the PLF leases office space for its Oregon Attorney Assistance Program in downtown Portland, Oregon. The lease term expires November 20, 2020 and increases on December 1, 2013 and December 1, 2017. Rent expense under this lease was \$112,807 for 2018 and \$110,826 for 2017.

The future minimum payments for office leases are as follows:

Year Ending December 31:		
2019	\$	675,089
2020		679,804
2021		591,296
2022		606,074
2023		621,223
Thereafter		<u>3,353,834</u>
	\$	<u><u>6,527,320</u></u>

NOTE K – ANNUAL ASSESSMENTS

Primary Program

The following table summarizes assessment revenues for the Primary Program by type of coverage for fiscal years 2018 and 2017:

<u>Type of Coverage</u>	<u>2018</u>	<u>2017</u>
Basic Annual Assessment	\$ <u>24,093,241</u>	\$ <u>24,168,892</u>
Total Assessments Earned	\$ <u><u>24,093,241</u></u>	\$ <u><u>24,168,892</u></u>

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE K – ANNUAL ASSESSMENTS (CONTINUED)

Excess Program

The following table summarizes the net premium ceded to reinsurers by the Excess Program for fiscal years 2018 and 2017:

<u>Type of Coverage</u>	<u>2018</u>	<u>2017</u>
\$ 700,000 Limit	\$ -	\$ -
\$ 1,700,000 Limit	4,207,873	3,941,858
\$ 2,700,000 Limit	-	-
\$ 3,700,000 Limit	-	-
\$ 4,700,000 Limit	1,088,069	1,031,795
\$ 9,700,000 Limit	383,945	356,733
Data Breach Coverage	87,285	86,832
Total Assessments Earned	<u>5,767,172</u>	<u>5,417,218</u>
Less Assessments Ceded to Reinsurers	<u>(5,767,172)</u>	<u>(5,417,218)</u>
Net Assessments	<u>\$ -</u>	<u>\$ -</u>

NOTE L – PROVISION FOR CLAIM SETTLEMENTS AND DEFENSE COSTS

Primary Program

As more fully described in Note B, estimates to settle indemnity and defend liabilities claims are established when claims are reported to the PLF. Subsequent changes in estimates resulting from the case-by-case continuous review process and differences between estimates and ultimate payments are reflected in operations of the fiscal period when the changes occur. Estimates are further adjusted based on studies performed by the PLF's independent consulting actuaries. For financial statement purposes, actual or estimated amounts recoverable from various claims related receivables (such as subrogation receivables) are deducted from estimated expenses in the PLF's operating statement.

During 2018, the net provisions for settling and defending liability claims totaled \$8,697,561 for indemnity and \$8,576,572 for expenses, for a total provision of \$17,274,133 at year-end. This is an increase of \$3,835,803 over the total provision of \$13,438,330 during 2017.

The current portions of claims liability were determined by applying the prior three-year average of indemnity and expense payments made on claims pending at the start of the year. For the periods ending December 31, 2018 and 2017, the average current portion of indemnity and expense claims were 45% and 43%, respectively. In 2018 the current portion of indemnity and expense claims were based on the same percentages.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

December 31, 2018 and 2017

NOTE L – PROVISION FOR CLAIM SETTLEMENTS AND DEFENSE COSTS (CONTINUED)

Excess Program

As described in Note B, the primary liability for any claim filed under the excess plan has been passed to other insurance companies through reinsurance. The possibility of the PLF incurring direct costs under the excess plan is considered remote. Therefore, no provision or liability for such claims has been established. If future operations of the plan indicate that the PLF will incur direct costs, appropriate provision for such losses will be established based on plan experience.

NOTE M – ESTIMATED LIABILITIES FOR CLAIMS – PRIMARY PROGRAM

As described in Note B, estimated liabilities to settle (indemnity) and defend (loss adjustment expenses) claims are composed of various factors. The following table shows the composition of these factors by type and the total allocation between indemnity and loss adjustment expenses for the year ending December 31, 2018 and 2017:

	<u>2018</u>	<u>2017</u>
Claim Liabilities:		
Claims Settlements	\$ 11,200,000	\$ 12,300,000
Defense Costs	13,400,000	12,900,000
Future ERC Claims	3,100,000	2,900,000
Suspense Files	1,500,000	1,500,000
Administration of pending Claims	2,400,000	2,300,000
	<u>31,600,000</u>	<u>31,900,000</u>
Allocation:		
Indemnity Settlements	\$ 15,618,025	\$ 16,622,027
Loss Adjustment Expenses	15,981,975	15,277,973
	<u>31,600,000</u>	<u>31,900,000</u>

NOTE N – RISK MANAGEMENT

The PLF is exposed to various risks of loss related to: torts, theft, damage or destruction of assets, errors and omissions, injuries to employees, and natural disasters. Except for unemployment compensation, the PLF purchases commercial insurance to minimize its exposure to these risks. There has been no significant reduction in commercial insurance coverage from fiscal year 2017 to 2018.

04/02/2019

REQUIRED SUPPLEMENTARY INFORMATION

DRAFT

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND**

SCHEDULES OF REQUIRED SUPPLEMENTARY INFORMATION – PENSION INFORMATION

**SCHEDULE OF THE PROPORTIONATE SHARE OF THE NET PENSION LIABILITY
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
Last 10 Fiscal Years***

	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
Proportion of the net pension liability (asset)	0.00%	0.03145076%	0.02838054%	0.03158700%	0.03158700%	N/A	N/A	N/A	N/A	N/A
Proportionate share of the net pension liability (asset)	\$ -	\$ 4,239,575	\$ 4,260,578	\$ 1,813,562	\$ (667,024)	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Covered-employee payroll	-	4,559,845	4,592,634	4,384,740	4,266,004	N/A	N/A	N/A	N/A	N/A
Proportionate share of the net pension liability (asset) as a percentage of its covered-employee payroll	0.0%	93.0%	92.8%	41.4%	-15.6%	N/A	N/A	N/A	N/A	N/A
Plan fiduciary net position as a percentage of the total pension liability	0.00%	83.10%	225.03%	103.60%	91.97%	N/A	N/A	N/A	N/A	N/A

**SCHEDULE OF CONTRIBUTIONS
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
Last 10 Fiscal Years***

	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
Contractually required contribution	\$ -	\$ 755,857	\$ 679,113	\$ 683,514	\$ 575,282	\$ -	\$ -	\$ -	\$ -	\$ -
Contributions in relation to the contractually required contribution	-	755,857	679,113	683,514	575,282	-	-	-	-	-
Contribution deficiency (excess)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Covered-employee payroll	\$ -	\$ 4,559,845	\$ 4,592,634	\$ 4,384,740	\$ 4,266,004	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Contributions as a percentage of covered-employee payroll	0.0%	16.6%	14.8%	15.6%	13.5%	N/A	N/A	N/A	N/A	N/A

* GASB # 68 requires ten-year trend information. However, until a full ten-year trend is established, only the information for the years available is presented.

The accompanying notes and independent auditors' report should be read with the supplemental schedules.

**OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
PROPRIETARY FUNDS**

NOTES TO REQUIRED SUPPLEMENTARY INFORMATION

For the Years Ended December 31, 2018 and 2017

Changes in Benefit Terms:

Effective May 2013, the Oregon legislature eliminated the tax remedy payments for benefit recipients who are not subject to Oregon income tax, because they do not reside in Oregon, and limited the 2013 post-retirement COLA to 1.5% of annual benefit.

Changes in Assumptions:

The Actuarial Cost Method was changed from the Projected Unit Credit (PUC) Cost Method to the Entry Age Normal (EAN) Cost Method. In combination with the change in cost method, the outstanding Tier 1/Tier 2 UAL as of December 31, 2013 were re-amortized over a closed period of 20 years as a level percentage of projected payroll.

Other changes are described in the notes to the accompanying financial statements.

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04/02/2019

REPORT REQUIRED BY *GOVERNMENT AUDITING STANDARDS*

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**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

Board of Directors
Oregon State Bar Professional Liability Fund
Tigard, Oregon

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of the Oregon State Bar Professional Liability Fund (the PLF) as of and for the year ended December 31, 2018, and the related notes to the financial statements, which collectively comprise the PLF's basic financial statements, and have issued our report thereon dated _____.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the PLF's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the PLF's internal control. Accordingly, we do not express an opinion on the effectiveness of the PLF's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the PLF's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

04/02/2019

Board of Directors
Oregon State Bar Professional Liability Fund
Tigard, Oregon

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the PLF's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the PLF's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Portland, Oregon
_____, 2019

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03/19/2019

OREGON STATE BAR
PROFESSIONAL LIABILITY FUND

AUDIT LETTERS

DECEMBER 31, 2018

KERN ▲ THOMPSON
CERTIFIED PUBLIC ACCOUNTANTS

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Governance Letter

To the Board of Directors of
Oregon State Bar Professional Liability Fund
Tigard, Oregon

We have audited the financial statements of Oregon State Bar Professional Liability Fund (“PLF”) for the year ended December 31, 2018 and have issued our report thereon dated below. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information to you in our engagement letter to you dated December 28, 2018. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the PLF are described in Note B to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the year ended December 31, 2018. We noted no transactions entered into by the PLF during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management’s knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements were:

Management’s estimate of claims liabilities and related expense provisions is based in part on calculations provided by an actuary and in part from historical experience and calculations performed by management.

Management’s estimate of the valuation of investments is based in part on quoted market prices and in part from historical experience and analysis performed by management.

Management’s estimate of the net pension liability is based entirely on proportionate share information provided by the State of Oregon Public Employee Retirement System and their actuaries.

We evaluated the key factors and assumptions used to develop the aforementioned estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

The financial statement disclosures are neutral, consistent and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

To the Board of Directors of
Oregon State Bar Professional Liability Fund

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. There were no adjustments proposed.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the PLF's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the PLF's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to management's discussion and analysis (the MD&A) and the pension information schedules, which are required supplementary information (collectively the "RSI") that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the MD&A or the pension schedules, and do not express an opinion or provide any assurance on them.

This information is intended solely for the use of those in charge of governance and management of the PLF and is not intended to be and should not be used by anyone other than these specified parties.

Portland, Oregon
_____, 2019



M E M O R A N D U M

DATE: April 3, 2019

TO: Oregon State Bar Professional Liability Fund Board of Directors

FROM: Barbara S. Fishleder, PLF Director of Personal and Practice Management Assistance/OAAP Executive Director *BSF*

RE: 2019 - 1st Quarter Report and Loss Prevention Update

First-Quarter Report – Practice Management Advisors

The 2019 first quarter reports for Practice Management Advisors Sheila Blackford, Hong Dao, Rachel Edwards, and Lee Wachocki are bookmarked to this memo as: **PMA Reports.**

This quarter, the practice management advisors assisted 26 different law firms, making 48 office visits throughout the quarter. The quarter's office visits included 41 to law firms with 3 or less attorneys, 4 to law firms of 4-10 attorneys, and 3 to law firms with over 10 attorneys. The practice management advisors also visited 2 offices of impaired attorneys, and visited with 3 attorneys pursuant to an OSB diversion agreement. In addition, the practice management advisors fielded over 62 informational calls posed by people who did not already have a working relationship with a practice management advisor. (These are phone calls that came into the PLF's main phone line, in which the caller generally requested practice management assistance and did not ask for a specific practice management advisor. They are in addition to the calls placed directly to the PMAs.)

Speaking engagements at other organizations included presentations for the OSB, National Association of Legal Secretaries, Multnomah Bar Association, Lewis and Clark Law School, and University of Oregon School of Law.

Articles and blogs written by PMAs this quarter included the following topics: Succession planning, financial statements, staffing, fees, malpractice traps, file retention, and avoiding scams. See list below for more details.

First-Quarter Report – OAAP

The 2019 first quarter reports for Oregon Attorney Assistance Program Attorney Counselors, Shari Gregory, Douglas Querin, Bryan Welch, and Karen Neri are bookmarked to this memo, as: **OAAP Reports**.

For the first quarter of 2019, 141 new people accessed the program for individual assistance. Of the 141, 41 for career transition, 34 for stress and self-care, 16 for mental health issues, 13 for procrastination and organization, 12 were for alcohol or chemical dependency, and 25 for other types of assistance. The attorney counselors provided information to 48 collateral contacts. We had 104 people access in the tri-county area, 23 in the rest of the Willamette Valley, 6 in central/eastern Oregon, 4 in on the Oregon Coast, and 4 in other areas of the state.

OAAP CLEs and workshops in Portland this quarter included a four-part brown bag series on taking care of oneself while taking care of others and a 6-week retirement workshop. The OAAP presented a workshop in Bend this quarter on practicing law with ADHD. In addition, the OAAP presented for the OSB, ONLD, Lane County OWLS, SAIF, Willamette Law School, Lewis & Clark Law School, OLIO, and OTLA.

Support groups offered this quarter included groups related to: anxiety and depression, retaking the Bar Exam, ADHD, progressing towards retirement, and career transition.

OAAP attorney counselors attended trainings on science of the mind, lawyer wellness, the aging brain, mental health, and chronic pain.

Other activities included attending the OSB State Lawyer Assistance Committee (SLAC) meetings, advisory committee on diversity and inclusion (ACDI) meetings, and lawyers' recovery retreat; offering counseling hours at Lewis and Clark Law School; and assisting with the OSB Wellness Summit and planning for CoLAP national conference.

Karen Neri wrote an article for the March issue of *inSight*.

Other Loss Prevention Updates

- We will offer a CLE and BOD reception for Klamath and Lake County judges and attorneys, June 6, 2019, at MC's on Main, 617 Main St, Klamath Falls, OR 97601. This CLE is the afternoon before our June BOD meeting in Klamath Falls. The CLE will begin at 4:00; the reception will begin at 5:00. OAAP Attorney Counselor, Karen Neri, will present, *Cultivating Lawyer Well-Being and Asking for Help*, a CLE that qualifies for the new mental health and substance use mandatory credit.

- In February, Sheila Blackford, Hong Dao, and Lee Wachocki attended the national PMA meeting and TECHSHOW 2019. The national meeting of PMAs, which precedes TECHSHOW, is an excellent opportunity to network with the PMAs from around the US and Canada, to discuss trends, and brainstorm solutions to common problems. The ABA PMA meeting and TECHSHOW include a vendor hall with over 150 technology vendors and close to 100 educational programs. The meeting and conference truly provided a wealth of information and opportunities. I have bookmarked the 2019 Techshow agenda: **Techshow**.
- We received several staff compliments from lawyers who have utilized our practice management and OAAP services. They are bookmarked: **Thank You**.
- Published works of LP staff for the first quarter:
 - Practice Management/PMA
 - *Smart Succession Planning*, by Sheila Blackford, February/March OSB Bulletin, bookmarked as **Planning**;
 - *inPractice* blog posts (you can view these at: <https://www.osbplf.org/inpractice/> and also subscribe to the blog from that page)
 - *The Basics of Your Financial Statements*, Sheila Blackford, March 22
 - *Hiring Staff: Considerations Before and During the Hiring Process*, Rachel Edwards, March 11
 - *Options for Getting Paid*, Hong Dao, February 8
 - *Establishing Reasonable Fees*, Sheila Blackford, January 25
 - *Evolving Scams – Don't Let Your Guard Down*, Rachel Edwards, January 11
 - *Malpractice Risk Factors and How to Avoid Them – Part II*, Hong Dao, *inBrief*, January, bookmarked: **Avoid Risk**
 - *File Retention and Destruction Procedures: Additional Safeguards to Protect Your Firm from Lost or Exposed Client Data*, Rachel Edwards, *inBrief*, January, bookmarked: **Data**
 - Personal Assistance/OAAP
 - *Managing Stress with Mindfulness*, Karen Neri, March *inSight*, bookmarked: **Stress**
 - *Helping a Colleague in Recovery*, Doug Querin, December, *inSight*, bookmarked as: **Recovery**
 - *The Career of a Lawyer: Creating Success at Each Stage*, Karen Neri, December, *inSight*, bookmarked as: **Career**

PRACTICE MANAGEMENT ADVISOR ACTIVITY REPORT

1st QUARTER 2019

Number of Visits by PMAs¹

Size of Office	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr	TOTAL
Office Size (1-3)	41	0	0	0	41
Office Size (4-10)	4	0	0	0	4
Office Size (over 10)	3	0	0	0	3
TOTAL:	48	0	0	0	48

Law Firms Visited by Size²

	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr	TOTAL
Office Size (1-3)	20	0	0	0	20
Office Size (4-10)	4	0	0	0	4
Office Size (over 10)	2	0	0	0	2
TOTAL:	26	0	0	0	26

CATEGORY	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr	Total
Total number of attorneys visited this quarter that are new to our pma program ³ :	23	0	0	0	23
Number of repeat office visits:	21	0	0	0	21
Number of deceased attorney offices visited:	0	0	0	0	0
Number of impaired attorneys visited:	2	0	0	0	2
Number of attorneys whose visit was mandated by discipline:	3	0	0	0	3

¹ This chart reflects the actual visits to the law firms made by PMAs during this calendar year. In many situations, the PMA returns to the law firm or sole practitioner for follow up. In that event, the law firm or sole practitioner visit is counted each time. For example, if the PMA visits the firm four times in the first quarter, the quarter will include all four visits. If the PMA visits the firm again in the second quarter, that quarter will include the visit and the total count will include all five visits.

² This chart records the access by law firms/sole practitioners by size for this calendar year. Each firm is counted only once, even if the PMA visited the firm/practitioner many times during the year or has been seen in previous years.

³ This segment is a count of individual lawyers who utilized our PMA services for the first time this year. They have not utilized PMA services in any past year, based on our database.

PRACTICE MANAGEMENT ADVISOR

ACTIVITIES REPORT

1st QUARTER 2019 – Sheila Blackford

CLEs, training sessions, and other speaking engagements this quarter: 1

- OSB Trust Accounting 101, 3/15/19

Articles published this quarter: 4

- *The Basics of Your Financial Statements*, inPractice blog, 3/22/19
- *Establishing Reasonable Fees*, inPractice blog, 1/25/19
- *Smart Succession Planning*, OSB Bulletin, February/March 2019
- *Smartphone Detoxing, Tech Tips and Takeaways from ABA Techshow 2019*, Attorney at Work, 3/8/19

Educational videos posted on PLF website this quarter: 0

CLEs, training Seminars, workshops and other educational programs attended this quarter:

- The Internet of Things: Everything Will be Connected webinar, ABA, 1/14/19
- New Trends and Rules Affecting Detained Juveniles webinar, CILA (Center for Immigration Law Attorneys) 1/22/19
- Lawyer Well-being: How Mental Health and Substance Use Can Affect Our Profession, 1/31/19
- PMA of North America Retreat, 2/27/19
- Techshow Day 1 2/28/19
- Techshow Day 2 2/29/19
- Techshow Day 3 3/1/19

Contacts, projects, and other information of interest:

- Assisting with culling files that are older than 10 years on DocLoc
- Coordinating Outside Counsel review of practice aids for Adoptions, Contract Lawyering, Criminal Law, Disclosure of Potential Malpractice, Estate Planning, Family Law, Immigration, Probate, Workers' Compensation.

PRACTICE MANAGEMENT ADVISOR

ACTIVITIES REPORT

1st QUARTER 2019 – Hong Dao

CLEs, training sessions, and other speaking engagements this quarter

Articles published this quarter:

- *Malpractice Risk Factors and How to Avoid Them, Part II*, PLF InBrief, January 2019
- *Options for Getting Paid*, PLF inPractice blog, 2/8/19

CLEs, training seminars, workshops and other educational programs attended this quarter:

- Webinar - Ethically Building and Protecting your Online Legal Reputation - Jaimie Field and Erin McCartney, 1/8/19
- CLE Replay – Best Practices for Client Intake and Work Flow – Beverly Michaelis, 1/28/19
- CLE Reply – Best Practices for Docketing, Conflicts, etc. – Beverly Michaelis, 1/30/19
- CLE Replay - Lawyer Well-Being: How Mental Health and Substance Use Can Affect Our Profession – OSB, 1/31/19
- Webinar – How Emerging Technologies Affect Privacy and Data Protection - Manatt Phelps & Phillips, 2/4/19
- CLE Replay – Ethics in Mediation Beyond Client Confidentiality and Conflicts of Interests, MBA, 2/7/19
- CLE - Overcoming Challenges with Client Communications, MBA, 2/15/19
- Training Seminar – Using Automation Tool – ABA TECHSHOW, 2/27/19
- Training Seminar – The Lean Firm – ABA TECHSHOW, 2/27/19
- Training Seminar – Using and Choosing Metrics To Measure Success of Programs – ABA TECHSHOW, 2/27/19
- CLE – Anatomy of a Data Breach: Analyzing Past Breaches to Minimize Risk – ABA TECHSHOW, 2/28/19
- CLE – Using Document Automation to Improve Efficiency and Reduce Errors – ABA TECHSHOW, 2/28/19
- Training Seminar – How Technology Help You Deliver an Exceptional Client Experience – ABA TECHSHOW, 2/28/19
- CLE – The Morning After: You’ve Suffered a Data Breach – How What? – ABA TECHSHOW, 2/28/19
- CLE – Internet of Things: Friend or Foe? – ABA TECHSHOW, 2/28/19
- CLE – Vetting Technology: Avoid Indecision Paralysis – ABA TECHSHOW, 2/29/19
- CLE – Design Thinking for Law Firms – ABA TECHSHOW, 2/29/19
- Training Seminar – Artificial Intelligence and the Legal Profession: Ethical Issues – ABA TECHSHOW, 2/29/19
- CLE – Free Your Mind: The Flexible Law Firm – ABA TECHSHOW, 2/29/19
- CLE – Reconsidering the Billable Hour – ABA TECHSHOW, 2/29/19
- Training Seminar – ABA TECHSHOW 2019 TakeAway – ABA TECHSHOW, 3/1/19
- Training Seminar – 60 Tips in 60 Minutes – ABA TECHSHOW, 3/1/19
- Training Demos at ABA TECHSHOW: TextExpander, WorldDox, NetDocuments, Wavelip Tech Solutions, Curo365, LawToolBox, FileVine, CosmoLex, SmokeBall, MyCase,

PracticePanther, Clio, Bill4Time, ActionStep, APPTOTO, NextGen Connect LLC, Trustifi, ZolaSuite, PATlive, Verbit, RockMatter, Omage ATC, Chetu

- CLE – *Intake and Closing*, MBA, 3/21/19

Contacts, projects, and other information of interest:

- Edited and revised new practice aid, “How to Set Up Your Trust Account in QuickBooks Pro 2019.”
- Assist in planning new podcast learning videos.
- Coordinate 2019 practice aids review/update
- Attend regular PMA + Barbara meetings
- Attend joint PMA/OAAP meetings
- Attend PMA-only meetings to plan/coordinate team projects

PRACTICE MANAGEMENT ADVISOR

ACTIVITIES REPORT

1st QUARTER 2019 – Rachel Edwards

CLEs, training sessions, and other speaking engagements this quarter:

- CLE presentation- *Portable Communication*; National Association of Legal Secretaries; 1/26/19

Articles published this quarter:

- *File Retention and Destruction Procedures: Additional Safeguards to Protect Your Firm from Lost or Exposed Client Data*; inBrief; January 2019
- *Evolving Scams: Don't Let Your Guard Down*; inPractice blog; 1/11/19
- *Hiring Staff: Considerations Before and During the Hiring Process*; inPractice blog; 3/11/19

CLEs, training seminars, workshops and other educational programs attended this quarter:

- CLE- *5 Accounting Resolutions for Your Law Firm in 2019*; American Bar Association; 1/16/19
- CLE- *Science of the Mind*; Multnomah Bar Association; 1/24/19 (replay)
- CLE- *Wellness Summit*; Oregon State Bar; 1/25/19
- CLE- *Cultivating Lawyer Wellbeing*; Oregon Attorney Assistance Program; 1/28/19
- CLE- *Best Practices for Client Intake and Workflow*; Beverly Michaelis; 1/28/19 (replay)
- CLE- *Best Practices for Docketing, Conflicts, Disengagement, and File Retention*; Beverly Michaelis; 1/30/19 (replay)
- CLE- *Wellbeing: How Mental Health and Substance Use Can Affect Our Profession*; Oregon State Bar; 1/31/19 (replay)
- CLE- *Mindful Parenting*; Oregon Attorney Assistance Program; 2/4/19
- CLE- *The State of Internet Marketing in 2019*; American Bar Association; 2/13/19
- CLE- *Overcoming Challenges with Client Communication*; Multnomah Bar Association; 2/15/19
- CLE- *Current Topics in Electronic Discovery*; Multnomah Bar Association; 2/20/19
- CLE- *7 Essential Trust Accounting Reports for Law Firms*; American Bar Association; 3/13/19
- CLE- *How to Increase Profits and Stay Organized by Running a Lean Law Firm*; Rocket Matter; 3/20/19

Contacts, projects, and other information of interest:

- Updating all practice aids
- Completed a new practice aid for setting up a trust account in QuickBooks
- Updating the "A Guide to Setting Up and Running Your Law Office" publication
- Planning for a new podcast series on the InPractice blog
- Assisted with 2 office closures
- Handled 1 office closure
- Writing 1 article for future publication
- Training new PMA
- Regular PMA meetings
- Joint meetings with OAAP and PMAs

PRACTICE MANAGEMENT ADVISOR

ACTIVITES REPORT

1st QUARTER 2019 – Lee Wachocki

CLEs, training sessions, and other speaking engagements this quarter:

- CLE – *Intake and Closing* (co-presented with Mike Owens, Marisa Moneyhun, and Andy Green); Multnomah Bar Association Solo & Small Firm Committee; March 21st, 2019
- Speaking Engagement – *Practice Management Basics* (co-presented with Barbara Fishleder and Douglas Querin at Lewis & Clark School of Law's Regulation and Ethics course); March 14th, 2019
- Speaking Engagement – *Practice Management Basics* (presented at University of Oregon School of Law's Career Exploration & Professional Planning course); January 28th, 2019

Articles published this quarter:

Educational videos posted on PLF website this quarter:

- N/A

CLEs, training Seminars, workshops and other educational programs attended this quarter:

- CLE – *Science of the Mind* (video replay at PLF); January 24th, 2019
- CLE – *Ethics in Mediation* (video replay at PLF); February 7th, 2019
- Conference – *ABA TECHSHOW 2019*; American Bar Association; February 28th – March 2nd, 2019
- Conference – *PMANA Retreat*; Practice Management Advisors of North America; February 27th, 2019
- Workshop – *Trust Account School*; PLF/OSB; March 15th, 2019

Contacts, projects, and other information of interest:

- MBA Solo & Small Firm Committee monthly meetings; January 14th, February 11th, and March 11th, 2019 (planned future workshops)
- PMANA Monthly Call; March 5th, 2019 (Smokeball demo, follow-up discussion)
- PLF Practice Aid Review 2019 (updated and edited: Client Relations category January 28th, 2019; Docketing and Calendaring category February 11th, 2019; eCourt category February 25th 2019; Engagement Letters and Fee Agreements category March 18th, 2019)
- Handled one office closure, assisted PMA Rachel Edwards with one office closure
- Assisted Barbara Fishleder with editing *inSight* article about perspectives from retired attorneys
- Planning a project management CLE for the Oregon Criminal Defense Lawyers Association (OCDLA) Annual Conference in June, 2019
- Regular PMA meetings and joint OAAP/PMA meetings

OAAP Annual Report by Quarter - 2019

Number of new lawyers accessing programs this quarter: 1st 141
 Number of new lawyers accessing programs year-to-date: 141

Number of *New Lawyers Accessing Program by Quarter					
Program - Statewide	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total
Alcohol & Chemical Dependency	12				12
A & CD 3rd party concerns	4				4
Compulsive Disorders (gambling, sex, internet, eating)	1				1
Mental Health (Depression, anxiety, burnout, etc.)	13				13
Mental Health third party concerns	2				2
Relationships	7				7
Lawyer in Transition	41				41
Retirement	12				12
Stress Management/Self-Care	34				34
ADD/Organiz/Procrastination/Time Management	13				13
Interpersonal trauma (recent emt'l/phys/sexual trauma)	1				1
Physical/Cognitive Issues	0				0
Other	1				1
TOTAL:	141	0	0	0	141
	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total
** Collateral Contacts	48				48
Formal Interventions	0				0

Distribution of Lawyers in Program this Quarter					
County/region	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total
Portland - Tri County	104				104
Willamette Valley	23				23
Southern	0				0
Oregon Coast	4				4
Central/Eastern	6				6
Other	4				4
Total:	141	0	0	0	141
	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	
Participation by Gender:					
Men	74				74
Women	63				63
Not identified as M/F	4				4
Total:	141	0	0	0	141

Average Attendance For Group Meetings per Week per Quarter					
Program	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	
Lawyer 12-Step Groups	40				
Finding Meaningful Work/LIT	4-6				
Career Workshop - OAAP					
ADHD Workshop - Bend	12				
ADHD Support Group - Portland (monthly)	8				
Women's Trauma Support Group (monthly)(Kyra)	5				
Divorce Support Group					
Men's Worklife-Balance Group					
Creating Healthy Habits Workshop					
Retirement Support Group	10				
*Trans Support Group (Kyra)	9				
Rebar Support Group	15				
Grief Workshop					
Depression - Peer Support (PDX)	11				

* **New contact(s)** = old or previously recorded contact requesting a new service from OAAP. Requests from a lawyer for referral to a private practice counselor or service provider outside realm of OAAP = new contact.

** **Collateral Contacts** = non-lawyers contacting OAAP (ie. Family member of lawyer; paralegals/support staff, law schools and bar organizations) requesting educational information or presentations; other LAP's requesting information; and lawyers, judges, law students calling regarding impaired colleague.

2019 Quarterly Activities Sheet

Quarter: 1st Name: Douglas Querin

SPEAKING ENGAGEMENTS: OTHER THAN OAAP SPONSORED EVENTS (DATES):	DESCRIPTION
1/9/19	OSB Lawyer Well-Being CLE - speaker
1/25/19	OSB Wellness Summit
1/30/10	Willamette Law School Student Strong, Part 2
2/7/19	Willamette Law School – BBX – speaker w/Troy Woods
3/6/19	Willamette Law School – Stress & Time mngmt - Margaret Schue Class
3/14/19	Lewis & Clark Law School – OAAP Overview – Ethic Class w/Barb and PMA
WORKSHOPS, CLES, SUPPORT GROUPS, PRESENTATIONS (DATES):	DESCRIPTION
1/28/19	Lawyer Well-being – Brown Bag Series Part 1 - Speaker
2/4/19	Mindful Parenting – Brown Bag Series Part 2 – OAAP Services and Intro
2/11/19	Substance Abuse in the Family – Brown Bag Series Part 3 - panelist
3/7/19 – SIX WEEKS	Retirement Workshop
TRAINING SEMINARS/CLE'S ATTENDED (DATES)	DESCRIPTION
2/8-2/9/19	Menucha Spiritual Retreat - Corbett
2/27/19	Remembering, Forgetting and Protecting the Aging Brain CEU
ARTICLES WRITTEN :	
CONTACTS/OTHER INFORMATION/ITEMS OF INTEREST (DATES):	
1/15/19, 3/19/19	Team meeting at PLF w/lunch after
1/17, 3/21	PRN meeting
1/23/19	Meet w/ Brown Bag Speaker Lynne Coon
1/29/19	Table and met w/ U of O Law School Bar President Camille re: student strong
1/29, 3/4	Clinical Supervision – Larry Conner
1/30/19	Meet w/Troy Wood at OSB – re: BBX fitness task force
2/14, 2/28	SLAC meeting
2/21/19	Campaign for Equal Justice lunch - Sentinel
3/5/19	Alzheimer Breakfast - Sentinel
3/5/19	OSB Fitness Task Force – Question Development Committee
3/20/19	In Sight meeting w/Tanya

2019 Quarterly Activities Sheet

Quarter: 1st Name: Bryan Welch

SPEAKING ENGAGEMENTS: OTHER THAN OAAP SPONSORED EVENTS (DATES):	DESCRIPTION
1/25/19	OSB Wellness Summit – Table Moderator
2/15/19	SAIF: Lawyer Wellness
3/21/19	Willamette Law School: Vicarious Trauma
WORKSHOPS, CLEs, SUPPORT GROUPS, PRESENTATIONS (DATES):	DESCRIPTION
2/11/19	OAAP Brown Bag Lunch Series #3: Unhealthy Behaviors in the Family (Panel Moderator)
2nd and 4th Wednesdays	Anxiety and Depression Peer Support Group
1st Wednesday each month	ADHD Peer Support Group
3/14, 3/15	Practicing Law With ADHD Workshop - Bend
TRAINING SEMINARS/CLE'S ATTENDED (DATES)	DESCRIPTION
1/24/19	Science of the Mind 1 CR CLE at PLF
1/28/19	OAAP Brown Bag Lunch Series #1: Lawyer Wellness
2/4/19	OAAP Brown Bag Lunch Series #2: Mindful Parenting
2/25/19	OAAP Brown Bag Lunch Series #4: Caring for Aging Family
2/27/19	Remember, Forgetting and Protecting the Aging Brain
ARTICLES WRITTEN :	
CONTACTS/OTHER INFORMATION/ITEMS OF INTEREST (DATES):	
1/31/19	PLF Open Forum
2/8-2/10	Menucha Lawyers Retreat
2/8/19	BOD/Staff Lunch
2/7/19, 3/7/19	Lewis and Clark Law School Office Hours
1/15, 2/19, 3/19	Clinical Supervision – Mike Chapman

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TECHSHOW2019

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March 2**

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**Feb 27-
March 1**

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Co-Chair
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A MESSAGE FROM THE ABA TECHSHOW 2019 CO-CHAIRS,

Lincoln Mead and John Simek

All law firms, today, use technology, even those who swore they never would. Should you be using even more technology and are you effectively using what you already own? The answer to the question is right around the corner. For over 30 years, ABA TECHSHOW has been bringing lawyers together to learn how they can better use technology to enhance their practices and deliver more sophisticated legal services to their clients, in the most efficient way possible. Please join us at the Hyatt Regency Chicago, February 27 – March 2, 2019 for ABA TECHSHOW 2019.

This will be our second year at the Hyatt. Last year's TECHSHOW attendees had great feedback about the new venue. The TECHSHOW Planning Board has been hard at work staying abreast of all the latest technology and tools available to today's lawyers. Those experiences have translated into a conference program covering extremely relevant and timely topics.

New to ABA TECHSHOW 2019 will be a 90 minute plenary session on Saturday morning, providing a recap of some of the best takeaways from the previous days' sessions because we know you can't attend every one of the sessions each day. We'll also have "TECHSHOW Assistants" clad in colored T-shirts throughout the conference to lend assistance and keep the attendees actively involved.

Back by popular demand, the Mac Track is returning to ABA TECHSHOW 2019! We're also bringing back some of your favorites from last year: TECHSHOW Communities, Cybersecurity, Core Technology, an expanded Academic Track for law school faculty and staff, and the "Beyond the Tech" track to help you focus on a handful of other really important topics like reputation management, the gig economy and digital detox. Of course, we will also include our very popular and much needed fitness and wellness breaks.

Experience three days of CLE, and over 60 sessions in 16 different tracks. In addition, our new EXPO Hall features all the service providers and product makers relevant in legal technology, from startups to long time trusted brands. Your TECHSHOW pass will give you a first look at what's new and help you find real solutions that fit your practice and your budget.

Don't miss this innovative and vibrant TECHSHOW 2019! Mark your calendars for February 27 - March 2, 2019 at the Hyatt Regency Chicago and come experience what we believe to be the very best conference of the year for bringing technology and lawyers together.

Lincoln Mead
John Simek
2019 ABA TECHSHOW Planning Board Co-Chairs



TECHSHOW Communities

We are making it easier than ever to identify and connect with your peers during the TECHSHOW experience. Meet up with fellow practitioners to exchange ideas, tips, tools and resources. Discussions led by legal technology experts and practicing attorneys. Look for specific community meet-ups and individual channels in the TECHSHOW app. Communities include:

- Trust and Estates
- Real Property
- Business Law
- Family Law
- Solo/Small Firms
- Litigation
- Intellectual Property
- Young Lawyers
- Canadian and International Lawyers
- Mac Lawyers
- Manging Partners
- Women Rainmakers

Program

THURSDAY,
02.28.19

CYBERSECURITY

8:45AM - 9:45AM

ANATOMY OF A DATA BREACH: ANALYZING PAST BREACHES TO MINIMIZE RISK

David G. Ries, Jennifer Woods

There are a lot of people gunning for your data. In the war against data breaches, your best defense is to understand the past breaches - and keeping an eye on an ever-changing security horizon. Since the cone of silence around law firm data breaches shattered in 2016, firms have worked diligently to harden their security and devise incident response plans. This session will explore the life of data breaches from their inception through their discovery, response, remediation and recovery.

Networking and Social Events

START-UP COMPETITION

WEDNESDAY,
FEBRUARY 27,
2019

Back for the third year, TECHSHOW brings you the startup competition showcasing 15 innovative legal startups. Right before the Wednesday night Welcome Reception, the 15 startups will face off in a pitch competition - judged by TECHSHOW attendees - to pick the most innovative startup. The startups will also be featured in the EXPO Hall during TECHSHOW in the StartUp Alley.

WELCOME RECEPTION WEDNESDAY, FEBRUARY 27, 2019

Kick off TECHSHOW 2019 with the Welcome Reception conveniently located in the EXPO Hall. You'll experience great food and beverages while networking with vendors, TECHSHOW faculty, and other attendees. We'll also introduce the TECHSHOW Communities for this year.

FITNESS CHALLENGES

THURSDAY,
THURSDAY,
FEBRUARY 28 &
FRIDAY, MARCH
1, 2019

SPONSORED BY:



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Three straight days of programs can get you a little off-kilter. Put some balance back in your life with yoga sessions, meditation, and our third annual 5k run.

TASTE OF ABA TECHSHOW

THURSDAY,
FEBRUARY 28 &
FRIDAY, MARCH
1, 2019

Get the best Chicago dining experience and join us for Taste of TECHSHOW! We have dinner reservations throughout the city of Chicago with each dinner based on a technology topic and hosted by an expert in the field. Don't miss this Dutch-treat event where you can pick the technology, the restaurant, or the host.

12-STEP MEETINGS

THURSDAY,
FEBRUARY 28 &
FRIDAY, MARCH
1, 2019

An open 12-Step meeting, welcome to anyone attending the Conference. We invite you to attend and share your experience, strength, and hope in recovery. The moderator looks forward to having open discussions on any recovery topic.

10:45AM - 11:45AM

SECURITY PRACTICES THAT WON'T BUST YOUR BUDGET

David G. Ries, Sherri Davidoff

"We can't afford what you're recommending." Law firms say this all the time – but there are scalable ways to implement cybersecurity technology, policies, and practices that aren't budget busters. There are many free and low-cost solutions to improve the security posture of your firm or organization. You might be pleasantly surprised to learn how much you can do for a relative pittance.

2:00PM - 3:00PM

TRENDING: GDPR AND DATA PRIVACY LAWS?

Judy Selby, Steven M. Puiszis

When the General Data Protection Regulation (GDPR) became effective in May of 2018 companies and their lawyers scrambled to devise new privacy policies and practices. California and other states in the US are close behind with laws designed to give consumers more control of privacy and data usage. Here is what you need know about these regulations and what your firm (and your clients) should be doing now.

4:00PM - 5:00PM

CYBERINSURANCE: THE DEVIL IS IN THE DETAILS

Judy Selby, Dan Cotter

Warren Buffet doesn't want to be a pioneer in cyberinsurance because it is new, with little predictive history. Uncertainty lingers regarding the meaning of policy language that has not been resolved in litigation. Yet, cyberinsurance is critical to risk management. There is no silver bullet in technology to keep you safe. In this session, you will gain an understanding of the elements of a cyberinsurance policy for your firm and receive practical advice for purchasing cyberinsurance.

ADVANCED IT

8:45AM - 9:45AM

MDM (MOBILE DEVICE MANAGEMENT): NOT JUST ANOTHER TLA

Stanley Louissaint, Craig Bayer

The number of devices used by attorneys and their staff continues to grow. Trying to manage all of these devices, while insuring the latest updates, security patches, and end to end encryption poses what can be an overwhelming task unless managed correctly. This session will provide a dive into mobile

device management solutions to manage and secure your mobile kingdom.

10:45AM - 11:45AM

WE DON'T NEED NO STINKING SERVER (OR DO WE)?

Morris Tabush, Barron K. Henley

Traditional office technology included an on-premise server. However, with advances in cloud infrastructure and solutions does your law office still need a physical server? Even in instances where on-premise hardware is needed today's micro servers or Network Attached Storage devices may be all you need - alone or in conjunction with cloud or hosted solutions. Come and learn whether a traditional server is necessary or if you can abandon it for a different solution that is more flexible and easier to manage.

2:00PM - 3:00PM

THE MORNING AFTER: YOU'VE SUFFERED A DATA BREACH - NOW WHAT?

Jason McNew, Jennifer Woods

After securing your firm's data and disabling the use of the breach, what do you do next? While everyone focuses on preventing a data breach, breaches still happen - are you prepared to deal with the aftermath? This session will discuss creating a data breach response team and an Incident Response Plan. Walk away with checklists and templates that can help you on the morning after.

4:00PM - 5:00PM

FIREWALLS FOR TODAY'S LAW OFFICE

Stanley Louissaint, Jason McNew

A Firewall is a mainstay of the modern law office technology infrastructure. But, times have changed and firewalls can now be found on-premises, hosted by someone else, or provided as a service. The same holds true for providing wireless in your office. Our experts will discuss the status of modern firewalls including on-premises and cloud options, including Unified Threat Management (UTM), elastic UTM, and Firewall as a Service.

CORE TECHNOLOGY

8:45AM - 9:45AM

TEST DRIVE OFFICE 2019

Ben M. Schorr, Annette Sanders

Take an Office-ial test drive and imagine that new software smell. We will give you a rundown on the ins, outs and roundabouts of the core Microsoft Office favorites including the standards

like Word, Excel, Outlook and Power-Point as well as introduce you to nifty available options.

10:45AM - 11:45AM

COLLABORATION USING TOOLS YOU KNOW

Charity Anastasio, Annette Sanders

Admit it - emailing documents back and forth does not work. Version control, location confusion, and similar issues hinder work, slow collaboration, and make your processes inefficient and frustrating. Microsoft and Google offer a multitude of products that ease collaboration in your law firm. Become familiar with techniques in word processing, spreadsheet, and presentation software that allows you to view changes in real time without significant setup.

2:00PM - 3:00PM

TALK IT OUT: OFFICE 365 GROUPS, TEAMS, AND YAMMER

Ben M. Schorr, Catherine Sanders Reach

Too often the concepts of work sharing have been focused on document sharing amongst sources outside the firm. But how many hoops do you jump through to communicate inside your firm? Concepts such as team mailboxes, automated workflow steps, and tracking progress on projects are just some of the Office 365 opportunities that will open new doors of organizational ease for your firm.

4:00PM - 5:00PM

DEFAULT SETTINGS IN OFFICE EVERY LAW FIRM SHOULD KNOW

Barron K. Henley, Allan Mackenzie

Despite years of use, it is still amazing how little people know about customizing the look and feel of programs like Microsoft Word, Outlook, and Excel - or how many settings foil your work! You do NOT have to put up with it! Take control by understanding the hidden traps such as "Ignore Words in Upper Case" and "Automatically Indent on Tab". You can add Black's Law and other dictionaries to your day-to-day routine, and even control all of these settings across the machines in your law office.

LITIGATION

8:45AM - 9:45AM

CONTROL E-DISCOVERY COSTS TO AVOID ETHICS PROSECUTIONS AND MALPRACTICE SUITS

Brett Burney, Hampton Coley

If you think that E-Discovery discus-

sions have not been targeted to solo practices and small firms, this is the session for you. E-Discovery is more than as a big firm problem. Ignoring the issue can often result in ethics prosecutions and malpractice suits. This session is geared to provide a practical understanding and checklists to solo practitioners and small firm for zealous representation.

10:45AM - 11:45AM
COLLECTING AND PRESERVING DISCOVERY FROM MOBILE DEVICES

John Simek, Brett Burney

You may be overlooking a wealth of information by failing to consider the extent to which mobile devices have proliferated within every aspect of life. These devices are fertile sources of potentially relevant ESI from which litigators can reap significant benefits. Attend this session to understand some of the most effective methods of collecting and preserving discovery from mobile devices using DIY tools and affordable commercial services.

2:00PM - 3:00PM
E-DISCOVERY IN THE CLOUD: FROM OFFICE 365 TO SOCIAL MEDIA

Hampton Coley, Maura R. Grossman

How to collect, preserve, and review social media and Office 365 content is one of the biggest needs today for lawyers. In many cases, there are low price tools that are attractive to solo and small firm practitioners that are serious rivals for many standard ED tools. This is a must attend session for solos and small firm practitioners to conduct ediscovery of social media and Office 365 data as evidence.

4:00PM - 5:00PM
SHOWTIME IN THE COURTROOM

Herbert B. Dixon, Jr., Michael Ko, David Sparks

Don't be intimidated by the equipment in a technology-enhanced courtroom. Think of the occasion as your opportunity for show and tell to present your client's case understandably and compellingly. This session will describe the typical technology found in modern courtrooms and how to use this technology to your advantage. This session will guide you from beginner status to working apprentice ready to employ your new knowledge.

TRENDING TECH

8:45AM - 9:45AM
AUTOMATION TOOLS FOR LAW FIRM OPERATIONS

Erin H. Gerstenzang, Kimberly Y. Bennett, Conor Malloy

You often hear "work smarter, not harder"- but how? Since there are few applications that provide comprehensive law office functionality it is typical for a firm to be using multiple products, often in a cloud environment. However, data may have to be transferred between products or some manual trigger must occur. That is where automation comes in. Tools like Zapier, Flow and IFTTT can push and pull actions and data between applications in the background. Interested? Come learn more!

10:45AM - 11:45AM
PRACTICAL MAGIC: ACTUAL USES OF ARTIFICIAL INTELLIGENCE IN REAL LAW FIRMS

Ed Walters, Maura R. Grossman

Artificial intelligence is a promising frontier for the practice of law. But some breathless press reports make AI seem like magic (at best) or killer robots coming to take your job (at worst). This session will demystify data analytics and artificial intelligence tools currently being used in law firms - in the real world - to better serve clients. From improving legal research, reducing tedious document review, suggesting clauses in contracts, reducing repetitive tasks, this session will show you how to use artificial intelligence in large and small firms to run a smarter practice.

2:00PM - 3:00PM
BITCOIN AND BLOCKCHAIN FOR LAWYERS

Lisa Bragança, Antigone Peyton

If you're a lawyer (or work with lawyer) s, you need to be thinking about digital assets like bitcoin and blockchain technology. Blockchain technology is far more than Bitcoin and initial coin offerings (ICOs). What are the benefits and potential pitfalls of blockchain technology? What are cryptocurrencies, digital coins, initial coin offerings and how they are regulated? What do lawyers need to know before accepting a cryptocurrency like bitcoin as payment? What do lawyers need to know about getting blockchain transactions into evidence? Join our speakers to learn the answers to these questions, and more.

4:00PM - 5:00PM
INTERNET OF THINGS: FRIEND OR FOE?

Antigone Peyton, Robert Ambrogi

Smart and connected devices listening and reacting to verbal and visual cues is the promise of the Internet of Things. What level of connectivity do we see in the future and will there be IoT for lawyers? Is there already? Come learn about the wonders and unintended consequences of the Internet of Things and what lawyers especially need to know.

SOLO/SMALL FIRM

8:45AM - 9:45AM
PLANNING FOR TOMORROW, TODAY

Peter D. Roberts, Sofia Lingos, Esq.

Solo and small firm lawyers need to plan for back-up, business continuity as well as disaster. Several states already require or are considering requiring a succession plan, and the ABA reiterates the ethical responsibility of disaster preparedness in recently released Formal Opinion 482. In this session you will learn what to consider in creating a business continuity plan, the essential elements of an effective succession plan, and to plan for continuity vs succession (and vice versa).

10:45AM - 11:45AM
WHAT THE INTERNET KNOWS (ABOUT YOU AND YOUR CLIENTS)

Ian Hu, Gayle M. O'Connor

From the Internet of Things to Google Maps, prepare to be surprised if not shocked at what information the apps on your phone, operating system, and browser know about you. What information are you giving away about you, your law firm and your clients and what are the implications? How can you find information about your clients, opposing clients and yourself? How can you best secure information about yourself and your clients?

2:00PM - 3:00PM
AVOID SWIMMING WITH THE PHISHES

Sherri Davidoff, Ian Hu

Garden variety phishing is the number one way law firms get malware, ransomware and suffer breaches. Why? PEBCAK (Problem Exists Between Chair and Keyboard). Learn to spot the tell-tale signs of phishing that can lead to scams and ransomware. We will provide tips for training professional and support staff and how to maintain constant vigilance for the threats to your online well-being.

WEDNESDAY FEBRUARY 27, 2019

5:00 PM – 6:00 PM	Startup Alley
6:00 PM – 7:30 PM	Welcome Reception: EXPO Hall

THURSDAY, FEBRUARY 28, 2019

7:00 AM – 7:45 AM	Meditation / Yoga / Group Run							
7:00 AM – 8:00 AM	12-Step Meeting							
7:30 AM – 8:15 AM	Breakfast							
7:30 AM – 8:00 AM	New Attendee Orientation							
8:00 AM – 8:30 AM	Welcome to TECHSHOW 2019 / Introductory Session / Meet the Planning Board							
	Cybersecurity	Advanced IT	Core Technology	Litigation	Trending Tech	Solo/Small Firm	How To	Academic
8:45 AM – 9:45 AM	Anatomy of a Data Breach: Analyzing Past Breaches to Minimize Risk	MDM (Mobile Device Management): Not Just another TLA	Test Drive Office 2019	Control E-Discovery Costs to Avoid Ethics Prosecutions and Malpractice Suits	Automation Tools for Law Firm Operations	Planning for Tomorrow, Today	Polish Your PDF: Beyond the Basics	All About Drones: Legal, Practical, and Educational Applications
9:45 AM – 10:45 AM	EXPO Hall Break							
10:45 AM – 11:45 AM	Security Practices That Won't Bust Your Budget	We Don't Need No Stinking Server (or Do We)?	Collaboration Using Tools You Know	Collecting and Preserving Discovery from Mobile Devices	Practical Magic: Actual Uses of Artificial Intelligence in Real Law Firms	What the Internet Knows (About You and Your Clients)	Using Document Automation To Improve Efficiency And Reduce Errors	Tech Competencies: Past, Present, and Future
12:00 PM – 1:00 PM	Lunch 'N Learn Sessions							
1:00 PM – 2:00 PM	EXPO Hall Break							
2:00 PM – 3:00 PM	Trending: GDPR and Data Privacy Laws?	The Morning After: You've Suffered A Data Breach - Now What?	Talk It Out: Office 365 Groups, Teams, and Yammer	E-Discovery in the Cloud: From Office 365 to Social Media	Bitcoin and Blockchain for Lawyers	Avoid Swimming with the Phishes	It Takes a Village: Using Project Management Tools with a Team	"Can Technology Competency Help You Get a Job?"
3:00 PM – 4:00 PM	EXPO Hall Break							
4:00 PM – 5:00 PM	Cyberinsurance: The Devil is In the Details	Firewalls for Today's Law Office	Default Settings in Office Every Law Firm Should Know	Showtime in the Courtroom	Internet of Things: Friend or Foe?	Outsourcing: Good Idea or Ethical Quagmire?	Care and Feeding of Social Media: Enhancing Your Presence Online	"Law School Tech Training on a Shoestring"
5:00 PM – 6:30 PM	12 Step Meeting							
6:30 PM – 9:00 PM	Taste of TECHSHOW Dinners							

FRIDAY, MARCH 1, 2019

7:00 AM – 7:45 AM	3rd Annual 5K Run							
7:00 AM – 8:00 AM	12-Step Meeting							
8:00 AM – 8:30 AM	Breakfast							
	Mac Track	Future Proof	Core Technology	Process Management	Choosing and Using	Solo/Small	Beyond The Tech	Academic
8:30 AM – 9:30 AM	Tame the (Data) Chaos with Your Mac	Working For And With Millennials (Panel)	Do Unicorns Exist? The Paperless Law Office	Ready for Process Automation? Start by Developing Checklists and Maps	Vetting Technology: Avoid Indecision Paralysis	Math Allergies: Take the Pain Out of Accounting, Time Tracking, and Billing	Revolution: Leading Your Firm Through A Culture Change	Technology in Law Schools: A Single Course or Curriculum Integration?
9:30 AM – 10:30 AM	EXPO Hall Break							
10:30 AM – 11:30 AM	Get Your Mobile Ninja On: Top iOS Tips, Apps, and Gear	Design Thinking For Law Firms	Between Scylla And Charybdis : Managing Information Overload	Using Practice Management Systems to Streamline Processes	The Human Side of Technology Implementation	Next Generation Technology for the Solo and Small Firm	Succeeding In A Gig Economy	Marketing U: How to Integrate Marketing Into Law School Curriculum
11:45 AM – 12:45 PM	Lunch 'N Learns / EXPO Hall Break							
1:00 PM – 2:00 PM	Keynote Address							
2:00 PM – 3:00 PM	EXPO Hall Break / Meet the Keynote Speaker							
2:15 PM – 2:30 PM	Passport to Prizes Drawings							
3:00 PM – 4:00 PM	Mac and iOS Security: What You Need to Know	Is Your Web Presence Customer Friendly?	WOW! Videos, Photos, & Audio that Impress Clients and Juries	Improve Client Relationship Management	The Trials and Tribulations of Technology Conversion	Free Your Mind: The Flexible Law Firm	Reputation Management in the Digital Age	Algorithms and Hidden Biases: What Responsibilities do Lawyers Have to 'look under the hood' of Legal AI?
4:00 PM – 4:15 PM	Break							
4:15 PM – 5:15 PM	Mac Mastery: Top Mac Workflows Used by Real Attorneys	Reconsidering the Billable Hour	Strengthen Your Core: Add-ins for Microsoft Word and Outlook	Document Management for the Tech Savvy Firm	Buy It or Build It: Pros and Cons for Law Office Technology	Mastering Google Adwords	Time for a Digital Detox	Should Law Students Learn to Code?
5:15 PM – 6:15 PM	12 Step Meeting							
6:30 PM – 9:00 PM	Taste of TECHSHOW Dinners							

SATURDAY, MARCH 2, 2019

8:00 AM – 9:00 AM	Breakfast / Communities Breakfasts							
9:15 AM – 10:45 AM	Lights, Camera, Action! ABA TECHSHOW 2019 Takeaways							
10:45 AM – 11:00 AM	Break							
11:00 AM – 12:00 PM	60 in 60							

4:00PM - 5:00PM

OUTSOURCING: GOOD IDEA OR ETHICAL QUAGMIRE?

Chelsey Lambert, Basha Rubin

For solo practitioners and small firms, outsourcing legal work to freelance lawyers and paraprofessionals can be a great solution. Learn how and when to adapt and improve your practice by using freelance lawyers and staff, as well as address billing questions and the ethical issues that come with outsourcing.

HOW TO

8:45AM - 9:45AM

POLISH YOUR PDF: BEYOND THE BASICS

Daniel J. Siegel, Richard Ferguson

Most users of PDF programs never use more than the program's basic features, and do not realize that they are very powerful programs that does so much more. See how these applications allow for editing and commenting, redaction, form design and automation and document security. Learn how you can use these features to enhance your productivity and practice efficiency.

10:45AM - 11:45AM

USING DOCUMENT AUTOMATION TO IMPROVE EFFICIENCY AND REDUCE ERRORS

Erin H. Gerstenzang, Nerino J. Petro, Jr.

This session will explore document automation strategies using Microsoft Office or third party automation tools in a law firm. Learn how to use these tools and technologies to simplify your practice, improve client service and recapture hours per week of lost time.

2:00PM - 3:00PM

IT TAKES A VILLAGE: USING PROJECT MANAGEMENT TOOLS WITH A TEAM

Charity Anastasio, Jess Birken

Whether it is with clients, other lawyers

or third party experts and advisors, collaboration tools like Asana, Trello and Basecamp can assist you in saving time and resources as you work to find a solution to a legal matter. Learn what collaboration tools may be available for the kind of collaboration you envision and the strategies you need to keep in mind to make those collaborations most effective.

4:00PM - 5:00PM

CARE AND FEEDING OF SOCIAL MEDIA: ENHANCING YOUR PRESENCE ONLINE

Gayle M. O'Connor, Megan Zavieh

Social media is an essential tool for communicating with clients and potential clients. Learn how to enhance your online presence and tools that make it easier to stay on top of using multiple platforms. Lawyers also need to understand the evolving rules governing lawyers' use of social media and learn how to better use various social media channels to share information within those rules.

ACADEMIC TRACK

8:45AM - 9:45AM

ALL ABOUT DRONES: LEGAL, PRACTICAL, AND EDUCATIONAL APPLICATIONS

Kenton Brice, Russ Cochran

The use of Drones has increased dramatically in the last few years. New opportunities for their use along with new rules and regulations controlling who may use them and how they may be used have begun to create a more difficult landscape to navigate. This panel will focus on opportunities for use in both law school curriculum as well as use in practice. In addition, an update on current rules and regulations will be covered along with suggestions for future possibilities for Drones.

10:45AM - 11:45AM

TECH COMPETENCIES: PAST, PRESENT, AND FUTURE

Kenton Brice, Daniel Linna, Ramon Abadin

To practice law in the 21st century, a lawyer needs to be competent with technology. What are those competencies? By what means do we provide law students with the opportunity to become technology competent? How do we keep practitioners current and competent? These questions form the framework for a discussion on where we are now with teaching tech competencies, where we should be headed and how we get there.

2:00PM - 3:00PM

CAN TECHNOLOGY COMPETENCY HELP YOU GET A JOB?

Faye Jones, Betsey Franks, Sidley Austin

This session will focus on what technology competencies today's law firms look for in new lawyers when they hire new or lateral associates. Are they looking for people who are already competent or are they looking for someone they can mold to work with the firm's technology infrastructure. If they seek those already competent, what skills exactly do they hope candidates can demonstrate?

4:00PM - 5:00PM

LAW SCHOOL TECH TRAINING ON A SHOESTRING

Kristina L. Niedringhaus, Deborah Ginsberg

We know that law students need some level of technology education in order to be competent to practice. This session will focus on law school responsibility and funding for tech training. In this time of shrinking or flat budgets, where do we find the money and what are we giving up instead? Hear how different models are working at their institutions and join a discussion about possible ways to prioritize and fund legal technology education and the pros and cons of each.

FRIDAY

03.01.19

MAC TRACK

8:30AM - 9:30AM

TAME THE (DATA) CHAOS WITH YOUR MAC

Evan J. Kline, Heidi Alexander

Despite the benefits of document and case management systems, you are likely collecting additional data and files that don't fit into those systems. This session will help you learn how to create your own information management system for your Mac to organize, store, and access all that other stuff. During the session we'll talk about building the system and look at some contenders, such as Evernote, DEVON-

think, OneNote, Bear, Apple Notes and others.

10:30AM - 11:30AM

GET YOUR MOBILE NINJA ON: TOP IOS TIPS, APPS, AND GEAR

Jeffrey Richardson, Brett Burney

Mobile lawyering is no longer a rarity. A small handheld device can provide an enormous amount of computing power

and can now be used to accomplish many (if not all) the tasks you need to do in a day. This session will focus on how to get the most out of your iPhone, including tips, apps, and gear. Avoid this session if you are on a budget!

3:00PM - 4:00PM
MAC AND IOS SECURITY: WHAT YOU NEED TO KNOW

Craig Bayer, David Sparks

So you are using a Mac and/or iOS device; think you are safe? Think again. While the Mac and iOS have great native security features, you should be aware of how to use them and what else you need to do to secure your devices. This session is a must for anyone who owns an Apple device and wants to ensure the security of your data and avoid a breach of client confidentiality.

4:15PM - 5:15PM
MAC MASTERY: TOP MAC WORKFLOWS USED BY REAL ATTORNEYS

Evan J. Kline, Julie Tolek, Esq.

Ever wonder how the experts use their Mac in practice? Discover the tricks of the trade in this session. Mac attorney gurus will provide examples of their own workflows and how these workflows benefit their practice. You'll walk away with a variety of ideas to implement in your own practice and improve client service.

FUTURE PROOF

8:30AM - 9:30AM
WORKING FOR AND WITH MILLENNIALS (PANEL)

Chris Fortier, Patrick Palace, Amy Krieg, Emily M. Wajert

The oldest of the Millennial generation are approaching 40. They are now your clients. As digital natives, they interact and participate in the market in new ways, looking for ease of use and immediacy through technology. They have grown up with an always on technological environment. Learn how adapt and adopt to needs and expectations both as clients and as part of your team for generations now and in the future (such as Generation Z).

10:30AM - 11:30AM
DESIGN THINKING FOR LAW FIRMS

Susan Letterman White

You may work hard but does the design of your business do the same? Design thinking focuses on developing a product or service that creates customer value and market opportu-

nity. The process helps lawyers focus on whether a firm's actions are actually solving a client's problems and then how to be address improvements to meet their needs.

3:00PM - 4:00PM
IS YOUR WEB PRESENCE CUSTOMER FRIENDLY?

Julie Tolek, Esq., Gyi Tsakalakis

Lawyers talk about client service, but rarely focus on customer service. Your web presence – website, social media, videos, and directory profiles – is often the first introduction to your firm and services. From responsive design, rapid response, self-help, client focused content, client friendly vocabulary, ADA compliance and more we will discuss what a modern law firm web presence should have to provide excellent customer focus and client service.

4:15PM - 5:15PM
RECONSIDERING THE BILLABLE HOUR

Jim Calloway, Brooke Moore, Nicole Auerbach

Commercial and consumer clients have spoken against the billable hour by taking on more work in house or using an automated online legal service. There are many pricing options including flat fees, unbundled services, subscriptions and blended fees but the challenge is to stay profitable. Are you even offering the right services for your firm's goals and your client's needs? Learn how to use metrics, forecasting, budgeting and data analytics to deliver profitable services.

CORE TECHNOLOGY

8:30AM - 9:30AM
DO UNICORNS EXIST? THE PAPERLESS LAW OFFICE

Sofia Lingos, Esq., Daniel J. Siegel

Can a law firm truly be paperless? Learn about how workflows in a paperless law office are often more important than hardware and software and how proper setup leads to success. Gain insights into new challenges that paperless offices encounter, including records retention and attitude adjustments.

10:30AM - 11:30AM
BETWEEN SCYLLA AND CHARYBDIS : MANAGING INFORMATION OVERLOAD

Darla Jackson, Amy Krieg

Lawyers thrive on having the right information at the right time. But too much information, poorly organized will overload you. Today's attorneys manage email, case files, court opinions,

statutes, regulations, and notes. How do you manage it? Get strategies to organize the mass of information so that you can find and recall the answer to a question when a client, opposing counsel, or a judge asks a question. Create a system to take the stress away!

3:00PM - 4:00PM
WOW! VIDEOS, PHOTOS, & AUDIO THAT IMPRESS CLIENTS AND JURIES

Chris Fortier, Michael Ko

Written words are often not enough anymore to convey concepts and thoughts in a technical and visual world. Therefore, you have to do more than put words on a page or website to catch a viewer's attention and get your point across. Tools such as Photoshop/GIMP, Camtasia, and Audacity do not require much time to get a basic proficiency. Learn how to use each program to make your presentations stunning.

4:15PM - 5:15PM
STRENGTHEN YOUR CORE: ADD-INS FOR MICROSOFT WORD AND OUTLOOK

Nerino J. Petro, Jr., Robert Ambrogi

As powerful as Word and Outlook can be, there are hundreds of enhancements and add-ins that can make them even better for a law practice. Better legal grammar checking, enhanced document comparison, automatic meeting scheduling, or even a warning if you hit reply all – chances are if Word or Outlook are missing a feature you want it's available as an add-in!

PROCESS MANAGEMENT

8:30AM - 9:30AM
READY FOR PROCESS AUTOMATION? START BY DEVELOPING CHECKLISTS AND MAPS

Mary E. Vandenack, Micah Ascano

The ability to automate legal processes is evolving rapidly. Effective automation of processes is facilitated by first clarifying and documenting processes by creating checklists and/or process maps. In this session you'll learn about the different options and strategies to document a process prior to automating the process.

10:30AM - 11:30AM
USING PRACTICE MANAGEMENT SYSTEMS TO STREAMLINE PROCESSES

Micah Ascano, Natalie Robinson Kelly

With increasing pressure and mounting competition, it is important to operate

efficiently. Many practice management systems offer readily available automation options to facilitate your firm's move to streamlined delivery of legal services via automation. Learn what automation is available and how it works in this session.

3:00PM - 4:00PM
IMPROVE CLIENT
RELATIONSHIP MANAGEMENT

Chelsey Lambert, Kimberly Y. Bennett
Complaints to the bar relating to poor client communication consistently rank in the top three in every jurisdiction. Don't let that happen to you by streamlining and automating your communication management by using customer relationship software to both track prospective clients as well as manage interactions with current clients. CRM software can track client interactions, manage email and marketing campaigns, and help track and maintain relationships with former clients for top of mind referrals.

4:15PM - 5:15PM
DOCUMENT MANAGEMENT FOR
THE TECH SAVVY FIRM

Darla Jackson, Bryan Sims
Law firms deal with data of many types. Effective and creative use of document management systems will reduce paper, improve efficiency, support process automation, and support risk management. This session will provide strategies for effective use of document management systems, including email management, automation and training.

CHOOSING AND USING

8:30AM - 9:30AM
VETTING TECHNOLOGY: AVOID
INDECISION PARALYSIS

Sharon Nelson, Jeffrey Richardson
Legal technology services promise the moon and sometimes deliver less. This session will focus on the process of selecting and vetting legal technology for your practice. What type of questions do you need to ask vendors before making a purchase? Should you obtain references? What should you look for in service and maintenance arrangements? Are there any strategies for using trial versions effectively? You will learn this and more in this session.

10:30AM - 11:30AM
THE HUMAN SIDE OF
TECHNOLOGY IMPLEMENTATION

Andrew Elowitz, Patrick Palace
People management plays a major role in the introduction, training, and implementation of new technology in any firm. Successful implementation

LP Book
Bucks

All full Conference registrants will receive a **\$10 "LP Book Buck"** to use toward a book purchase at the ABA Law Practice Division (LP) Booth centrally located on the lower level. LP publishes innovative books focused on practice management, marketing, finance, and technology.

hinges on successful adoption by the people using it. Learn the best ways to manage and involve firm members and outside vendors and consultants at each phase of selecting, adopting and implementing new hardware, software, and cloud-based services.

3:00PM - 4:00PM
THE TRIALS AND
TRIBULATIONS OF
TECHNOLOGY CONVERSION

Allan Mackenzie
Learn to avoid the disasters of a poorly conceived software or hardware technology conversion. This session will look at how to successfully convert from an existing technology system to a new system, how to migrate data, how to enable those technologies to play well with each other within your law firm.

4:15PM - 5:15PM
BUY IT OR BUILD IT: PROS
AND CONS FOR LAW OFFICE
TECHNOLOGY

Ivy B. Grey
Is there an available technology solution for your firm's needs that comes "out of the box"? Or, a solution that you might be able to adapt? Or, do you need to consider building your own? This session will help you with the decision making process as well as the evaluation of the benefits and pitfalls of the buy or build decisions you will face.

SOLO/SMALL FIRM

MATH ALLERGIES: TAKE THE
PAIN OUT OF ACCOUNTING,
TIME TRACKING, AND BILLING

Natalie Robinson Kelly, Peter D. Roberts
Managing the financial aspects of legal practice is a fundamental element that many solos and small firms find

challenging. This session will provide an overview of time-tracking, billing, and accounting systems available for the small and solo firm, the advantages and disadvantages of various options, and information to assist law firms in deciding on a system that will work for them.

10:30AM - 11:30AM
NEXT GENERATION
TECHNOLOGY FOR THE SOLO
AND SMALL FIRM

Richard Ferguson, Mary E. Vandenack
Wise use of technology can make all the difference for the solo and small firm in remaining viable and competitive. This session will cover affordable essential technology for the solo/small firm such as time, billing, accounting, legal research, and practice management systems. The session will also discuss options available to move beyond basic technology and be a technologically-savvy small law firm offering client collaboration tools, client portals, and using data to improve services and profitability.

3:00PM - 4:00PM
FREE YOUR MIND: THE
FLEXIBLE LAW FIRM

Jim Calloway, Roberta Tepper, Brooke Moore
The consumption of legal services is changing at lightning speed. You can remain competitive by thinking differently. Consider rethinking the 9-5 office practice and learn from legal services models as diverse as virtual offices, locations in Walmart or making house calls. Consider options to meet the needs of your community and that can help close the justice gap. With these alternatives come opportunities for productizing legal services, alternative pricing, and unbundling.

4:15PM - 5:15PM

MASTERING GOOGLE ADWORDS

Gyi Tsakalakis, Jess Birken

Many law firms use Google Adwords in the quest to attract new clients. Come to this session to discover how paid advertising through Google Adwords and other social media can improve brand awareness and return on investment. You'll also learn how to master strategies to create and segment campaigns, effectively using keywords, write effective ads, and develop great landing pages.

BEYOND THE TECH

8:30AM - 9:30AM

REVOLUTION: LEADING YOUR FIRM THROUGH A CULTURE CHANGE

Susan Letterman White, Andrew Elowitz

Leadership development doesn't have to be expensive or time-consuming. A program for culture change led by internal staff to address their immediate challenges for workplace effectiveness works best. This session will focus on how you can develop leadership in your firm, create a program to change your firm's culture, and how to get buy-in.

10:30AM - 11:30AM

SUCCESSING IN A GIG ECONOMY

Emily M. Wajert, Basha Rubin

With an ever-increasing portion of the workforce turning to freelancing or independent contracting and the list of benefits for sharing economy employers multiplying, legal issues relating to the gig-economy are not only timely, but also significant. This session will explore the legal ramifications of the sharing economy, its effect on employers and employees, and the best options to regulate this relatively new industry.

3:00PM - 4:00PM

REPUTATION MANAGEMENT IN THE DIGITAL AGE

Megan Zavieh, Melissa Pendino

It's all out there - everything is online and everyone can see it. Explore the complicated world of reputation management online, and the ethics challenges that come with it. This session will address what you can and should do to counter a bad review, how to bolster a good online and social media presence, how to avoid ethical issues, and when to turn to a professional.

4:15PM - 5:15PM

TIME FOR A DIGITAL DETOX

Sharon Nelson, Roberta Tepper

With technology ever present in our

professional and personal lives, knowing when to unplug and refresh is vital. Join our speakers in a conversation about how detaching can increase your productivity, vitality and wellbeing. This session tackles strategies and best practices for unplugging, as well as the benefits of it.

ACADEMIC TRACK

8:30AM - 9:30AM

TECHNOLOGY IN LAW SCHOOLS: A SINGLE COURSE OR CURRICULUM INTEGRATION?

Jennifer Wondracek, Elizabeth Farrell

Innovative educators and law schools are teaching workshops, creating courses, developing programs, and changing curriculum to produce more tech savvy law students. This session will address different teaching approaches, discussing the opportunities and challenges of various formats, along with the feasibility of scaling legal tech instruction. Speakers will also discuss the substance of technology taught in law schools, and what support schools should provide for legal technology instruction.

10:30AM - 11:30AM

MARKETING U: HOW TO INTEGRATE MARKETING INTO LAW SCHOOL CURRICULUM

Michael Robak, Jim Calloway, Chelsey Lambert

Learning how to appropriately and ethically leverage social media and other technology tools for selling yourself and your practice is becoming increasingly important in a 24/7 Google world. This session will dive into how to teach students and new lawyers to understand the intricacies and best practices of these ever changing marketing tools, and how best to develop and deploy lessons either as a standalone class or part of an overall technology curriculum.

3:00PM - 4:00PM

ALGORITHMS AND HIDDEN BIASES: WHAT RESPONSIBILITIES DO LAWYERS HAVE TO 'LOOK UNDER THE HOOD' OF LEGAL AI?

Jeanette Eicks, Jack Cushman, Cas Laskowski

With the development of algorithm audit companies like O'Neil's ORCAA (O'Neil is the author of Weapons of Math Destruction) and cities like New York creating algorithm accountability laws, lawyers cannot wait to be told that they have an obligation to critically investigate the algorithms they use.

This program will address questions surrounding how legal artificial intelligence will impact access to justice and what attorneys should do to ensure AI comports with their professional duties.

4:15PM - 5:15PM

SHOULD LAW STUDENTS LEARN TO CODE?

Jeanette Eicks, David Colarusso, Dan Lear

In the age of Artificial Intelligence, the Internet of Things, and other software-driven changes to society, there is no longer a question that all lawyers should understand computer programming. Some lawyers should know how to code. This session will address the contours of this knowledge, discuss the best ways to provide students with a basic understanding, and how to develop "program literate" students without necessarily making them developers.

SATURDAY

03.02.19

9:15AM - 10:15AM

LIGHTS, CAMERA, ACTION! ABA TECHSHOW 2019 TAKEAWAYS

Catherine Sanders Reach, Heidi Alexander, Herbert B. Dixon, Jr., John Simek

Wish you could clone yourself so you could attend multiple programs at the same time for the last two days? We hear ya! So, we've asked our speakers to submit the top action items from their session, focused on what you can do now and what you should put on your to-do list to improve your practice, serve your clients and reduce stress. Make the knowledge you gain at ABA TECHSHOW 2019 work for you!

**11:00AM - 12:00PM
60 IN 60**

John Simek, Lincoln Mead, Catherine Sanders Reach, Heidi Alexander

This year, TECHSHOW combines the best of "60 Sites," "60 Tips," and "Gadgets and Gizmos" into one rollicking, fast-paced session. We say goodbye to TECHSHOW 2019 with an hour of the latest in apps, work hacks, hot technologies, and more.

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HALL HOURS

Wednesday
02.27.19
WELCOME RECEPTION
6:00 p.m.—7:30 p.m.

Thursday
02.28.19
8:00 a.m.—5:00 p.m.

Friday
03.01.19
8:00 a.m.—3:00 p.m.

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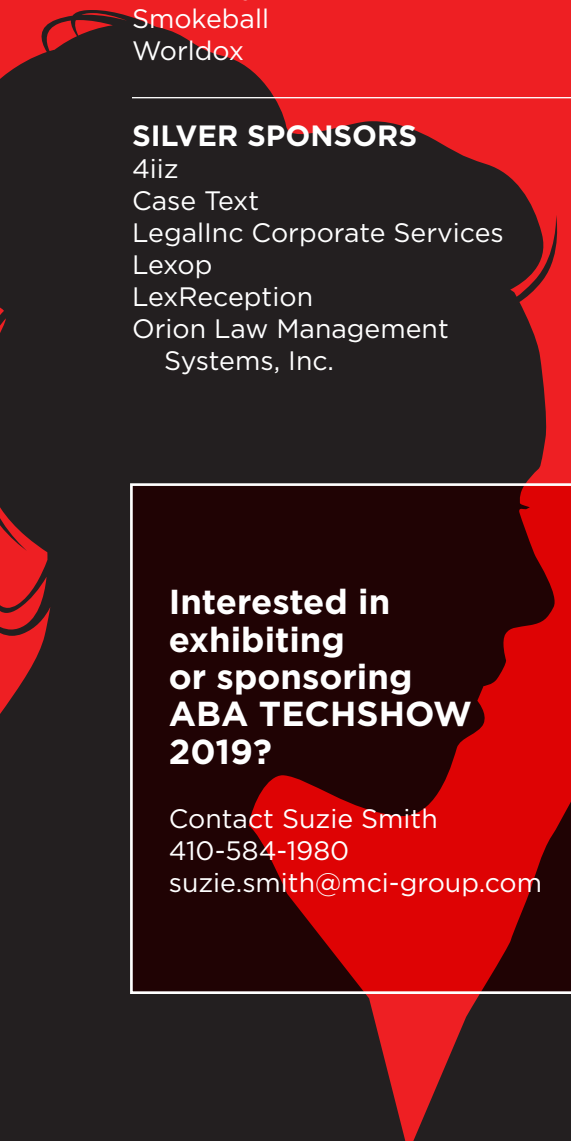
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	Free	Free
CLE Materials Only		
	\$395.00	\$395.00

*One Day registration prices may not be combined. Full registration includes access to all educational programs and to the EXPO floor.

REGISTRATION IS QUICK AND EASY AT: WWW.TECHSHOW.COM

Hotel Reservations: The ABA Law Practice Division has secured special room rates at the Hyatt Regency Chicago for \$194.00/night. Be sure to register and book your hotel accommodations early to take advantage of the lower rates. Hotel registration information will be provided in your Meeting Confirmation Email. **Please note that you must be registered for the Conference before you can book a room at the Hyatt Regency Chicago.** Reservation must be made by 5:00 p.m. CST on **January 28, 2019.**

Refunds: *Written requests for cancellations, prior to **January 29, 2019**, may be sent by e-mail to ABATech@xpressreg.net; by fax to 508-743-9679; or by mail to ABA/CDS/onPeak, ABA TECHSHOW 2019, 7 Technology Park Drive, Bourne, MA 02532. There is a \$50.00 administrative fee. After January 29, 2019, no refunds will be given. Any questions, please contact Lauren Krauth at lauren.krauth@americanbar.org. Please include your Badge ID number on all correspondence. All cancellation requests must be accompanied by an explanation for cancellation.*

The Academy

TECHSHOW has worked with several great law schools to develop the returning Academic Track held during TECHSHOW. With eager faculty and staff from law schools around the country, we have developed a special program for faculty and staff interested in learning and sharing more about integrating technology and law practice management into law school curriculums.

CLE Credit

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, please contact Lauren Krauth at lauren.krauth@americanbar.org or 312-988-5644.



Sent: Wednesday, February 6, 2019 10:20 AM
To: Jeanne Ulrich <JeanneU@oaap.org>
Subject: RE: Link from yesterday's brown bag session

Jeanne,

I wanted to say thank you for the presentation yesterday. I have already begun listening to Mindful Discipline and have placed a hold on a number of the other books at the library. This is my first time attending an OAAP presentation and I just wanted to let you know I really appreciate the work you do.

Sent: Thursday, March 14, 2019 8:54 AM
To: Barbara Fishleder <BarbaraF@oaap.org>
Subject: Kyra Hazilla

Barbara,

I attended the Government Law Section CLE last week, which included a session on mental health presented by Kyra Hazilla. I had been harboring some skepticism about the new CLE requirement, but Kyra's presentation demonstrated why the training is needed and how it should be done. She did a terrific job, and I just thought you should know that.

#9

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, March 11, 2019 1:07:26 PM
Last Modified: Monday, March 11, 2019 1:15:40 PM
Time Spent: 00:08:13
IP Address: 66.87.113.208

Page 1

Q1 Name of Practice Management Advisor (PMA) who assisted you: **Sheila Blackford**

Q2 Date of Service: **Date** **02/15/2019**

Q3 Please rate the helpfulness of information provided by the PMA in the following areas:

Office Systems	Very Helpful
Time Management	Very Helpful
Technology	N/A
Opening an Office	N/A
Closing an Office	Very Helpful
Departing a Firm	Very Helpful

Q4 Please rate your satisfaction with the following:

Reaching a PMA	Very Satisfied
Promptness of follow up after initial contact	Very Satisfied
Availability of PMA for appointment	Very Satisfied
PMA's ability to explain information clearly	Very Satisfied
PMA's level of professionalism	Very Satisfied
Overall satisfaction with services provided	Very Satisfied

Q5 Would you recommend our services to others? **Yes**

Q6 Would you like us to contact you to schedule a follow up appointment? **No**

Q7 What changes or improvements have you made in your office as a result of the PMA visit? **Respondent skipped this question**

Q8 Other comments or suggestions?

Our firm's situation is very stressful. We're closing down due to my boss's terminal cancer and I am the only full-time and on-site staff member left. I can't imagine how I'd have fared without Sheila and Ivan. Things would have gotten done but certainly not as well or as quickly without their assistance. Beyond that, it's been extremely difficult to be around people as of late. Struggling with the cocktail of overwhelming stress and grief is hard enough but most people don't know what to do or say and often do or say the wrong thing. Sheila and Ivan managed to be supportive without being coddling and they were able to keep me out of the deepest pools of grief and strain while they were here while also helping me and teaching me to process files and materials in days that would likely have taken me weeks and weeks to do on my own. Their assistance probably saved me and Mike (the boss) more stress and the strain on our health than I want to fathom. I cannot say enough how grateful I am for them and for the PLF.

Q9 How did you hear about our PMA services? (Check all that apply.)

Referred by someone else or word-of-mouth

Q10 Optional Information:

Respondent skipped this question

An Unexpected Death Can Be a Burden to Others

Smart Succession Planning

By Sheila Blackford



Yes, those user names and passwords, and the combination or key to your file storage locker, are critical for the person(s) you entrust to handle your law practice and clients. Without them, the process of protecting your clients' interests is imperiled.

Imagine the struggle left for others if any of these items are inaccessible. Consider creating an inventory of these items.¹

Lesson 2: Highlight Open Client Matters.

When your office closes due to your unexpected death, the most important task for the person assigned to handle your needs is to contact each of your clients with open matters to notify them of your passing, instruct them that they need to hire a new lawyer and request their instructions on where to send their client file. This labor-intensive process becomes

If you use a practice management program, leave instructions for accessing the program and how to generate a list of open client matters. I encourage you to adopt a way to organize and maintain a current client list. You might consider using Microsoft Excel or some similar spreadsheet software for tracking names, addresses and telephone numbers.

Lesson 3: Get A Second Signer.

Be sure there is a second signer on your IOLTA and lawyer trust accounts. Contact the bank or credit union where these accounts are located to arrange for adding a second signer. If you are opening a new trust account, do it properly and have a second signer from the beginning. If you do not have a second signer, then no one (without a court order) can access the trust account and write

Smart planning requires thinking about unpleasant events. Dying unexpectedly certainly fits that bill. But if you pass away and do not have a plan in place, the burden falls upon those closest to you to help clients who now do not have a lawyer and need their retainer funds returned.

I've worked with many law practices that had to pick up the pieces after a lawyer died without planning and have developed seven lessons for you to follow to make it easier on everyone down the road.

Lesson 1: Provide Access.

Think about all those things you need to access on a regular basis to run your practice — computer system, software programs, mobile devices, websites, cloud-based accounts, financial records, eFiling, business entity or business tax records, voicemail, file storage (such as Clio, QuickBooks, Bill4Time, Office 365, Carbonite, Mozy and Dropbox) and any safe deposit boxes.

I once closed a law practice where the law firm's ability to pay overhead terminated with the lawyer's life ... the support staff stayed on an extra month with no income or benefits. How needlessly sad.

unreasonably difficult if the list of your current clients with their contact information is unknown.²

Also, consider putting a statement in your engagement letter/fee agreement that your client agrees to notify you within five days of changing their address, phone number or email address. This becomes a tense situation when there is an upcoming court matter and there is no contact information for reaching the affected client. Before you can be withdrawn as attorney of record, your client must give consent for this court motion.

checks to refund trust balances to their rightful owners.

Frequently, clients lack adequate funds to hire new attorneys without a timely refund of their trust account balances. In some circumstances, the family of a deceased lawyer does not want to open a probate or obtain a court order, and instead chooses to ignore doing anything with the IOLTA or trust accounts.

You do not want to create a major financial hardship for your clients with money in your trust account, nor do you intend to betray the trust your clients

placed in you when they provided a deposit to cover anticipated legal fees and costs for their case. What is to be their recourse?

Consult your bank and fill out their paperwork to accomplish the addition of a second signer as banks abhor granting access to trust accounts unless there is strict compliance with their policy and procedures. Note that in Oregon, the second signer does not need to be another lawyer. In Washington, the second signer must be another lawyer.

Lesson 4: Maintain Accurate Records.

Beyond a second signer, be sure to maintain accurate records for your IOLTA and lawyer trust accounts. The bank or credit union where your account is located only knows the balance of this account. To them, you have one trust account. The reality is that you have as many trust accounts as you have clients with money held in trust. This is why you are supposed to keep accurate subaccounts for each client when you do your trust accounting.

In the past, law firms kept client ledgers on buff-colored card stock to track individual client monies held in the law firm's trust account. Oh, the good old days. These days, most law firms use an accounting program like QuickBooks or, if included, the trust accounting feature of their case management program. However, if the lawyer did not set up subaccounts to track trust account funds for each client, then it becomes a mess that no one wants to address. Your clear trust accounting records ensure that determining the correct ownership of trust account funds is a straightforward task.

Lesson 5: Keep Time, Billing Records Up to Date.

Your estate will need to wind up the business affairs of your law practice. The estate will need to reconcile time records to create accurate bills to send to clients who are billed directly. If the client has funds in the trust account, the estate will need to follow the proper procedure for being paid from the trust account. The money received from billing the clients must be deposited into the law firm general bank account. Final statements of trust account balances will need to be given to clients along with a refund of any remaining balance in their trust account.³



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Lesson 6: Keep an Inventory of Important Business Records.

Important business records include leases for your office and office equipment, equipment maintenance contracts, storage facility, post office box and safe deposit box. Don't forget about your business credit cards and the credit card processing company used for handling credit card transactions.

If you served as a registered agent for another business, provide direction for handling the termination of this role. Additionally, if you were a notary, your notarial records and termination of your notary position will need to be addressed by your estate when winding up your business.

Leave information regarding any insurance policies that will be essential to your surviving family. Provide name and contact information for your accountant, your bookkeeper, your insurance broker, your employees and your landlord or property manager.

Lesson 7: Provide for Business, Family.

I once closed a law practice where the law firm's ability to pay overhead terminated with the lawyer's life. Out of a sense of loyalty and dedication, the support staff stayed on an extra month with no income or benefits. How needlessly sad. And, the lawyer's surviving spouse needed to scramble to cover household expenses. Plans for the future college education of the children were abandoned and scholarship applications were hurriedly collected.

Talk with your insurance agent and investment advisor to tailor a program of insurance and investment vehicles to cover expenses for at least 60 to 90 days. When families and close staff are grieving for your loss, they should not be burdened by being without financial resources. Sit down with an estate planning attorney to memorialize your wishes. Dying intestate will likely hurt the ones you care about the most.

The more organized you can leave these details, the easier time your estate will have taking care that everything is handled correctly.

We welcome our new Associate, **Nathan Burcham,** a Renaissance attorney.

Whip-smart lawyer

*Nearly taught
H.S. government*

Persuasive orator

*Harvard law
alum*

*Trained
theologian*

*Guitar Hero
master*

Likes Mondays



Plays five instruments

KU basketball devotee

Enjoys dystopian fiction

When Nathan came across our radar, we knew he'd be a fit. His legal skills, his broad background, and his sense of humor make him a great new addition to our talented team.



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Endnotes

1. For a guide, go to osbplf.org and look for "Law Office List of Contacts" in the Forms section under the Practice Management tab.
2. See the PLF practice aid "New Client Information Sheet" available for download at osbplf.org in the Forms section under the Practice Management tab. It also gives you a good basis for putting together a similar, helpful document to keep in each client file. Note that there is a "Defense Case Info Sheet," a "Plaintiff's Case Information Sheet" and a "Tort General Information Sheet" in the Litigation category of practice aids that you may prefer.
3. For help with closing your IOLTA accounts, see the PLF practice aid "Closing Your IOLTA Account" available for download at osbplf.org in the Forms section under the Practice Management tab. Note that if you had any non-IOLTA trust accounts, such as for a client that could earn net interest, the portion belonging to the client includes any interest payments. Your estate will need to properly issue 1099-INT statements to those clients at tax time. Your accountant will be able to assist with this procedure. Be sure to contact other states where you have established IOLTA accounts to confirm the procedure to follow for closing those accounts.

Sheila M. Blackford is a practice management adviser with the OSB Professional Liability Fund. If you'd like to reach her, email sheilab@osbplf.org.

Be an Author

The *Bulletin* is always on the lookout for quality manuscripts for publication on these pages.

We publish articles on a wide variety of subjects and favor such topics as access to justice, legal funding, judicial independence, diversity in the profession, professionalism and future trends. We also publish columns on ethics, practice tips (in specific areas of law), law practice management and legal history, as well as essays on law and life.

The editorial staff welcomes inquiries and is happy to discuss requirements for publication. If you have a manuscript, suggestion or idea, contact Michael Austin at (503) 431-6340. He can also be reached by email at editor@osbar.org.

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LAW PRACTICE

Malpractice Risk Factors and How to Avoid Them Part II

By Hong Dao, PLF Practice Management Advisor

In my previous article in the October 2018 issue of *inBrief*, I discussed the importance of implementing law office systems to help reduce your risk of legal malpractice. I specifically focused on calendaring systems, client and case screening, and file management. This article will focus on client relations, conflict checking systems, and billing as risk management tools.

CLIENT RELATIONS

Risk management does not end when you screen and select the “right” client or case. It’s an ongoing process requiring continuous evaluation of your client relationship and a diligent effort to remain on good terms with clients. Clients hire lawyers because of their skills, experience, and reputation, but those qualities alone do not result in a good attorney-client relationship. It’s easy to think that as long as you’re able to get the result clients want, they will have nothing to complain about.

Providing quality legal services is simply not enough to protect against malpractice risk. Of course, getting the desired outcome is important to clients. Just as important, however, is how they are treated during the course of representation. If your communication and interaction with clients leave them feeling dissatisfied, unhappy, or disrespected, the good outcome you obtained may still not be satisfactory to them. These feelings will affect how forgiving they are toward you. Clients who feel they are treated poorly are less likely to refer prospective clients to you and may be more likely to bad mouth you, file a malpractice claim against you, or complain about you to the Bar.

Let’s look at some relationship errors that make clients unhappy or dissatisfied:

- Not returning clients’ phone calls or emails;
- Not responding to their requests for information;

- Not actively listening to their concerns;
- Allowing phone calls or staff to interrupt client meetings;
- Being late for appointments;
- Rescheduling their appointments too many times.

You can avoid these errors by setting expectations and treating clients with common business courtesies.

Set expectations and boundaries for communicating with you

In addition to explaining the scope of your legal services and your fees at the beginning of your attorney-client relationship, it's also important to discuss with clients what they can expect of you in terms of communication. In order to do this, you have to determine what works best for you. This includes intentionally deciding whether you want to take client calls during business hours only, what period of time is workable for you to return calls, and whether you want to regularly block time for calls. Once you have made a plan, discuss it with your clients. A conversation about the best method and date/time for them to reach you and vice versa will save a lot of potential frustration and anger. For example, if you set aside one or two hours during the day for phone calls, communicate that schedule to clients. Absent an emergency, make yourself available at those times. Include your regular schedule in your engagement letter or fee agreement and make sure you stick with it. If the schedule needs to change, communicate that with the client and follow up with a letter or email.

Once you establish and communicate your policies, stick with them. For example, if you tell clients you don't take after-hours calls, but you answer and talk with them, you're undermining the expectations you've set.

Treat clients with common business courtesies

Clients are also customers. They want good customer service and respect. Treating them with common business courtesies helps foster a respectful relationship that will have a lasting impact.

- **Promptly return clients' telephone calls** – You can also ask staff to call clients to explain your delay in returning their calls. If their calls or emails are not urgent or important, then respond on the days

you've set aside to communicate with clients.

- **Be on time for their appointments** – Don't make clients wait more than 5 minutes to meet with you. Give them the courtesy of meeting them on time. Reschedule their appointment only if it is absolutely necessary. A client whose appointment is frequently rescheduled may feel like you don't respect their time.
- **Give clients your undivided attention** – When you meet with them, tell staff not to interrupt you. Put your office phone on "Do Not Disturb" and silence your cell phone. Refrain from constantly looking at the clock.
- **Be responsive** – If clients ask you for something related to their matter, provide the requested information to them in a reasonable amount of time. Your failure to fulfill your commitment may affect your relationship with the client and lead to more serious issues.
- **Be a good listener** – Actively listen to what the client has to say, and communicate back to the client what you hear the client say. This verbal assurance lets the client know that you understand what the client is saying and makes him or her feel heard. Delay asking questions or offering advice or comments until the client has had the opportunity to talk about her or his problem without interruption.
- **Be available** – Staff play an important role as a conduit between the lawyer and client. But don't let staff be a barrier between you and the client. Be personally available to communicate important issues or developments in the matter to the client.

Other aspects of managing client relations include documentation, using a written fee agreement, and more. Those practices are discussed in my previous article available at www.osbplf.org > *Practice Management > Publications > InBrief > October 2018*. Additional tips on how to improve your client relations are available at <https://www.osbplf.org/assets/forms/pdfs//Client%20Relations%20Best%20Practices.pdf>.

CONFLICT CHECKING SYSTEMS

Another malpractice risk factor for lawyers is not using a conflict checking system. The failure to

properly screen can result in representing clients with conflicting interests. This creates legal malpractice problems as well as ethical issues with serious consequences.

Many situations may give rise to a conflict of interest. These include representing opposing parties in the same matter, or not providing full disclosure and obtaining a waiver in a matter with multiple clients. Whatever it may be, lawyers need a system to identify and resolve the situation that may give rise to an actual or potential conflict.

It's important to establish a reliable system that allows you to do a thorough and complete search of the entire database to find and match the queried name. Input all parties in your conflict database, including the clients, adverse parties, related parties, declined prospective clients, pro bono clients, etc. Set up procedures for conflict checking to properly search, analyze, and document potential conflicts as well as to obtain informed consent or decline representation due to a conflict. The PLF has a helpful practice aid called "Conflict of Interest Systems and Procedures" that discusses setting up a conflict database and how to systemize procedures. It is available at www.osbplf.org > *Practice Management* > *Forms* > *Conflicts of Interest*. It's also available at this link: <https://www.osbplf.org/assets/forms/pdfs//Conflict%20of%20Interest%20Systems%20-%20Procedures.pdf>.

BILLING ISSUES

The final legal malpractice risk factor to be mindful of is your billing and fee collection practices. Your efforts to get paid may result in a response you least expect: the client disputes your fees, accuses you of providing negligent service, and threatens to file a malpractice claim against you. The response may be triggered by an underlying issue that finally surfaces on receipt of the final bill. You can prevent this by taking a few precautionary measures.

- **Only take clients who can afford your legal services** – This advice harkens back to my previous article on client screening. Clients who express an inability or unwillingness to pay for your services may find fault in your work and avoid paying their bills.
- **Use a written fee agreement** – Clearly explain how your legal fees are determined and your

billing procedures, such as when clients will be billed and the procedures for withdrawing funds. Document the billing process and withdrawal procedures in a written fee agreement. Follow the terms of the fee agreement. If you and the client agree that you will bill monthly, make sure you send the monthly statement out on time.

- **Review statements before sending** – Make sure you review all billing statements before sending them to clients. In addition to looking for errors, also review billing practices that may cause confusion to the client, such as block billing or vague entries (e.g., "legal research"). It's also an opportunity to reassess whether the charges reflect the value that clients receive from your work. If not, consider writing off some time. If you're discounting your hourly rate as a promotion or a favor to the client, include your normal rate so the client can see the actual value of your service.
- **Enter time contemporaneously or at least daily** – To avoid under- or over-billing clients, it's best to track and enter time contemporaneously with the task. If that is not possible, then enter your time at the end of every day. You can do this with a notepad or using time-tracking software. Recording time daily prevents the frantic search for emails you sent or documents you drafted to recreate a list of billable tasks. Lawyers who do not record time on a daily basis end up losing many billable hours, resulting in undercharging for their legal services or padding their bills.

You can find more information on good billing practices at our website, www.osbplf.org > *Practice Management* > *Forms* > *Financial Management*.

Of particular relevance are two practice aids titled, "Daily Time Sheet," available at <https://www.osbplf.org/assets/forms/pdfs//Daily%20Time%20Sheets.pdf>, and "Billing and Time Slips," available at <https://www.osbplf.org/assets/forms/pdfs//Billing%20and%20Time%20slips.pdf>.

If you have any questions on how to improve your office systems, please call a PLF practice management advisor at 503.639.6911.

LAW PRACTICE

File Retention and Destruction Procedures: Additional Safeguards to Protect Your Firm from Lost or Exposed Client Data

By Rachel Edwards, PLF Practice Management Advisor

File retention and destruction procedures are one potential safeguard to help reduce your firm's risk of data loss or exposure from a cyberattack. They can also protect your firm from non-cyber incidents, such as a natural disaster or loss due to stolen or misplaced files. So whether you have all paper files, all electronic files, or a combination, creating file retention and destruction procedures is an important step towards protecting your firm from lost or exposed client data.

The procedures should encompass not only retention and destruction of client files after closure of the matter, but also retention procedures while the matter is open, such as handling and storage of incoming documents. This allows for improved file organization and consistency, increasing your firm's efficiency when handling files while open and when preparing files for storage upon closure of the matter.

Before creating file retention and destruction procedures, it is important to understand your obligations and the reasoning behind our recommendations for handling client files. Lawyers have a right to retain a copy of their client files. Generally, the PLF recommends that you keep client files for a minimum of 10 years after closure of the matter to ensure the file will be available to defend

you against a malpractice claim. This is based on statute of ultimate repose. ORS 12.115(1). You may need to keep some files longer than 10 years. You may also be required to retain certain original documents. See our "File Retention and Destruction Guidelines" for additional information, available at www.osbplf.org > *Practice Management* > *Forms* > *Category* > *File Management*.

Lawyers must also take reasonable steps to prevent the inadvertent disclosure of, or unauthorized access to, client information. This is both while the file is open and after closure of the matter. ORPC 1.6(c). As for storage of client data electronically, lawyers may use electronic systems to store client files as long as they take reasonable steps to ensure the security and availability of electronic documents during appropriate time periods, including following the completion of the matter or termination of the representation. OSB Formal Ethics Opinion 2016-191.

Each firm has different needs and circumstances when it comes to file retention and destruction. Listed below are general tips for developing procedures that fit your firm's needs:

- **Create a written procedures manual** – A

written procedures manual encompassing all of the firm's policies regarding file retention and destruction allows for inclusion of all procedures in one location. The manual should comply with your ethical and legal obligations and set forth the procedures for retention and destruction of both electronic and paper data. See our practice aid titled "Creating an Office Procedures Manual" for helpful information and sample language, available at www.osbplf.org > [Practice Management](#) > [Forms](#) > [Category](#) > [Office Manuals](#).

Below are factors to consider when drafting your procedures manual:

- *Client file defined* – In accordance with OSB Formal Ethics Opinion 2017-192, a client file is the "sum total of all documents, records or information (either in paper or electronic form) that the lawyer maintained in the exercise of professional judgment for use in representing the client." Include language in the manual specifically addressing what types of documents must be stored as part of the client file, and in what format. Remember this includes emails and text messages, with limited exceptions. Include procedures for how these types of electronic documents will be stored as part of the client file.
- *Client consent* – It is also recommended that attorneys enter into reasonable agreements with clients regarding how the lawyer will maintain the file both during and after representation. This includes client consent to retain, destroy, and return files as part of the written fee agreement. See our sample engagement letters and fee agreements for specific language at www.osbplf.org > [Practice Management](#) > [Forms](#) > [Engagement Letters and Fee Agreements](#).
- *File organization* – Develop a procedure for how files will be organized in both paper and electronic form. For example, consider setting up a template for each type of file upon opening, specifying the name of the file, file subfolders, and naming conventions for each type of document.
- *Handling of incoming documents* – Include procedures regarding how to handle incoming documents. For example, who opens and processes incoming mail? Are paper documents scanned and shredded? If so, by whom and where will the scanned documents be stored? Are emails stored electronically? If so, what is the procedure for storage of the emails while the case is open and after closure of the file?
- *File storage* – Develop procedures regarding where the files are being stored while open and after closure. For example, do you want to maintain the file electronically from the start, utilize a combination of paper and electronic, paper both while open and after closure, or paper while open and then scan into electronic form for storage after closure? There are a multitude of options. Find what works best for your firm. Before drafting file storage procedures, first consider what steps it will take to accomplish these goals. If you want to maintain electronic files, develop and implement procedures making it easier to do so, such as requesting that clients provide documents to you in electronic form if possible. Also consider whether maintaining a file in electronic form may be difficult for particular clients if they request a copy of their file. For example, if a client has no access to a computer, an electronic file may create a hardship for the client.
- *File backup* – Be sure to include procedures for properly backing up your data. Backup is the process of creating and keeping a copy of your files in a location different from where they are stored. See our practice aid titled "How to Backup Your Computer" for additional information, available at www.osbplf.org > [Practice Management](#) > [Forms](#) > [Category](#) > [Hardware and Software](#).
- *File security* – You must take reasonable steps to ensure the security and availability of client files during the representation and after closure of the matter. OSB Formal Opinion 2016-191. Determine appropriate methods for storage of files, paper and electronic, in

accordance with your duties to maintain client confidentiality. For example, consider the use of password protection, encryption, or some other type of security for protecting electronic documents. Paper files need to be stored in a locked cabinet or storage facility, protected from environmental hazards such as fire and water. See our practice aid titled “Protecting Yourself and Your Law Firm from Data Breach Checklist” for additional information, available at www.osbplf.org > [Practice Management](#) > [Forms](#) > [Category](#) > [Cybersecurity and Data Breach](#).

- **File closure** – When you close the file, return all original client documents and property to clients after making copies for storage. If you want to store files electronically, establish and document your storage method. Harddrives or servers are preferred over CDs, DVDs, or USB drives, which are easily misplaced and can become damaged over time. See our practice aid titled “Checklist for Scanning Client Files” for additional information, available at www.osbplf.org > [Practice Management](#) > [Forms](#) > [Category](#) > [Paperless Office and Cloud Computing](#). Also develop a tracking system to determine the proper date of destruction for each closed file. It is recommended that you organize closed files by the year in which they were closed. And if you choose to convert paper files to electronic-only after closure of a matter, confirm that doing so will not violate the terms of the retention agreement with the client, and be careful not to destroy paper documents that have intrinsic significance or are valuable originals, such as securities, negotiable instruments, deeds, and wills. OSB Formal Ethics Opinion 2016-191.
- **File destruction** – Be sure files are properly destroyed after being stored for the requisite period of time. If you have paper files, reasonable measures for destruction include shredding, pulverizing, or burning. Proper destruction of electronic data can require

special expertise. For more information, see our inPractice article titled “Unwanted Data: How to Properly Destroy Data in Hardware.” Retain a permanent inventory of files destroyed showing the matter and the destruction date. Also retain proof of the client’s consent to destroy the file. This can easily be done by including the client’s consent in your fee agreement or engagement letter and retaining those documents with your inventory of destroyed files. Allow your staff to assist in retention and destruction, but a managing attorney should review and approve before any files are destroyed.

- **Mandate employee training and cooperation** – Disseminate the procedures manual to all firm members and require everyone to sign an affirmation of understanding and agreement of compliance.
- **Review the procedures manual on a regular basis** – Review your file retention and destruction procedures manual on a regular basis, at least annually.

Even if you don’t necessarily have the time or resources to create a formal procedures manual, the act of simply writing down your basic file retention and destruction procedures can increase efficiency and reduce the risk of loss or exposure of your clients’ data.

Managing Stress With Mindfulness

Managing stress is a constant struggle for many of us. The relentless pressure to satisfy work and personal responsibilities can be immense and taxing. Long hours, complex work, obligations to satisfy professional mandates of conduct, volunteer commitments, and taking care of our family and ourselves all take time and a toll on us. Although we may not recognize it, we each have a relationship with stress that cannot simply be eliminated or avoided.

Psychiatrist Dr. Murray Bowen believed that life includes an inherent “chronic anxiety,” which he describes as the way we habitually or automatically respond to a threat; in other words, stress. We learn to work with stress, yet, at times, we may do so in a way that is no longer useful to us. Many of us know this from experience. We have seen that while stress can be a catalyst for action, constant or long-term stress eventually leads to burnout.

Science sheds a lot of light on the impact of stress and our reaction to it. From a neuroscience perspective, chronic stress is detrimental to the functioning of our brain. For example, too much cortisol (commonly known as the stress hormone) can diminish the size of our hippocampus – the part of our brain responsible for memory and emotion. In another branch of science known as epigenetics (the study of heritable changes in gene expression), there are studies that show the way we experience or respond to stress may be inherited.

Understanding how stress affects us and creating a lifestyle that allows for balance between work and life demands are all helpful steps to managing stress. There are many different ways we can make our work and personal life fit together (“work-life fit”) and avoid chronic stress, whether it is restructuring our schedule to be home more often, reducing our workload and commitments, or finding more space for rest and relaxation. The art of mindfulness is one approach that often gets overlooked, yet it can have a profound impact in allowing us to better manage our relationship with stress.

Mindfulness has substantially gained popularity in use and reference in the West since the late 1970s. It has been a long-standing practice in the traditions of Hinduism, Buddhism, and Jainism. According to Dr. Jon Kabat-Zinn, a leading researcher and teacher of mindfulness, it is the state of purposefully paying attention to the present moment in a non-judgmental way. “Purposefully” paying attention to the present moment means being intentional about directing one’s attention to the here and now. The term “nonjudgmental” refers to the act of not placing a value on the occurrence of a thought, emotion, or bodily sensation. One form of



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mindfulness that is often recognized is meditation. In meditation, a person uses a certain technique to train the mind to focus its attention and affect the functioning of the body.

Regularly practicing mindfulness can be extremely helpful for regulating our emotions and restructuring our cognitive function in a positive way. It does so by allowing us to increase our ability to hold awareness without judgment while retaining a positive state of mind. In their research on effective therapies to recover from substance use disorders, Drs. Marianne Marcus and Aleksandra Zgierska describe mindfulness as encouraging awareness and acceptance of thoughts, feelings, and bodily sensations as they arise, and recognizing their impermanence. As a result, individuals change the way they relate to, or view, their experience in the present moment, and they can choose to act with purpose rather than respond reactively. Mindfulness has also been shown in clinical work to be helpful for reducing or managing stress, anxiety, or symptoms of depression; boosting the immune system; and improving one's ability to make decisions or to solve problems. In a study led by Dr. John Minda and his colleagues, lawyers who participated in an eight-week mindfulness program reported lower levels of depression, anxiety, stress, and negative mood, as well as increased levels of positive mood, resilience, and workplace effectiveness.

Mindfulness is at the core of Kabat-Zinn's Mindfulness-Based Stress Reduction (MBSR), which was originally developed to help patients with chronic physical and mental health challenges. MBSR is now a well-known, empirically supported technique that involves body and sensory awareness meditation, breathing awareness, thought awareness, and yoga

movements. Studies of MBSR document its success in reducing stress and depression.

Mindfulness is also used to support recovery. In a study of Mindfulness-Based Relapse Prevention (MBRP), Marcus and Zgierska found that those who participated experienced a greater "decrease in craving, and greater increases in acceptance and acting with awareness" than those who followed the customary treatment.

The culmination of the above research and many other studies support the conclusion that Mindfulness-Based Stress Reduction, Mindfulness-Based Relapse Prevention, and other approaches that incorporate mindfulness can be effective in assisting individuals to manage or reduce their stress, increase their nonjudgmental awareness, foster a positive effect, and achieve a healthier state of being.

If you have not yet considered a mindfulness practice, why not start now?

The skills of mindfulness can be learned or taught regardless of one's religious or cultural background. You don't need prior experience, and you can incorporate the practice into your daily life.

Below are five practical tips to help you get started:

- **TUNE INTO YOUR BREATH.** Pay attention to the air filling your lungs as you breathe in and the air leaving your body as you breathe out. Sense the rise and fall of your belly as you allow your breath to flow through you.
- **WHILE WALKING, TURN YOUR ATTENTION TOWARD THE STEPS YOU ARE TAKING.** Notice each step. Feel the weight of your shoes. Experience the sensation of bringing one foot down, then the other.

ADDITIONAL RESOURCES

- *The Anxious Lawyer*, Cho, J., & Gifford, K. (2016), ABA Publishing.
- *Meditation Is Not What You Think: Mindfulness and Why It Is So Important*, Kabat-Zinn, J. (2018), Hachette Books
- *Wherever You Go, There You Are: Mindfulness Meditation in Everyday Life*, Kabat-Zinn, J. (2009), Hachette Books.
- *Mindfulness for Law Students: Using the Power of Mindful Awareness to Achieve Balance and Success in Law School*, Rogers, S. (2009), Mindful Living Press.
- *The Mindful Parenting Collection*, Siegel, D. & McCarty, M. (2012), Penguin Random House.
- *Mindfulness and Legal Practice: A Preliminary Study of the Effects of Mindfulness Meditation and Stress Reduction in Lawyers*, Minda, J. P., Cho, J., Nielsen, E., & Zhang, M. (2017).

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- **THE NEXT TIME YOU HAVE A MEAL, TAKE A MINDFUL BITE.** Pay attention to each movement you make as you gather your food with your hand or a utensil, and draw it closer to your mouth for a bite. Notice the shape of the food. Smell the deliciousness. Can you imagine it as if you had already tasted it?
 - **WHILE DRIVING, TURN OFF YOUR RADIO, MUSIC, PODCAST, OR OTHER SOUND SOURCE.** Bring awareness to the moment by paying attention to the quietness in the air. What do you notice?
 - **TAKE A MOMENT TO PAUSE AND SPEND SOME TIME SIMPLY BEING INSTEAD OF DOING.** Let go and let things be. Allow things to unfold on their own, at their own time, and in their own way. See if you can find a bit of stillness in this space of non-doing.

Each time you use the mindfulness methods, you develop and strengthen your ability to use it as a stress management tool.

For additional information and resources, see page 2 of this issue and contact the OAAP at 503.226.1057.

KAREN A. NERI, JD
OAAP ATTORNEY COUNSELOR

Helping a Colleague in Recovery

“I’ve known Jim for some years and know he’s in early recovery. I’d like to be supportive, but I don’t want to say the wrong thing. Maybe I should just say nothing and pretend like I don’t even know that he is in recovery. Anyway, I’m no expert in drug and alcohol recovery and maybe I should just leave these conversations to professionals or close friends and family. But, like me, Jim’s a lawyer, a professional colleague. I’d like to be supportive and maybe I could be of some help.”

We are often perplexed when we want to support a colleague in recovery from problematic substance use because we don’t know how. There is no simple formula for what to say or how to say it. Every situation is different and, for every recommendation, there are usually exceptions. Let’s start, however, with some general principles that can be helpful to keep in mind.

- People in recovery, especially early recovery, differ in their degree of comfort in talking about it. Some may be very open about their recovery, while others may be more reticent. Certainly, if the person in recovery openly comments about it, they would probably appreciate an offer of support. If the person seems reluctant to talk about or disclose his or her recovery, use discretion. Offering support or assistance in this case, while still perhaps helpful, should be more measured and carefully timed to avoid embarrassment or triggering feelings of shame or guilt.
- People in early recovery are generally much more in need of the support of well-intended others than those in healthy long-term recovery. The latter group has generally managed to develop and take advantage of a supportive community. The former group probably has not. An exception is when the person in long-term recovery has relapsed and is now struggling to regain what is lost. This person is, practically speaking, not unlike the early recovery person; offers of support can be equally valuable to this person.
- You do not have to be a medical professional, professional therapist, or drug and alcohol expert to offer support to those in early recovery – any more than you need to be an expert in chronic medical conditions to be a supportive resource for someone struggling with those conditions.

Three fundamental tools for effectively helping a colleague in recovery include (1) nonjudgmental communication, (2) genuine caring, and (3) healthy boundaries.

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NONJUDGMENTAL COMMUNICATION. The primary purpose of offers of support is not to advise, persuade, or convince, but simply to convey concern and availability in a clear, simple, and sincere manner. Some examples:

Heather, I really respect what you are doing in your recovery efforts. If there is anything I can do to help you, please let me know.

Bob, while I don't know much about recovery issues and certainly am no expert, please know that I am available to you if you ever want to have coffee and just talk.

Jerry, I've had my own challenges with substances in the past. If you ever want to just talk sometime about your recovery, please feel free to let me know. I know it can be difficult at times.

Listening is an essential part of good communication. Often, we can be most helpful by just listening nonjudgmentally. The colleague in recovery has likely received an abundance of advice, both solicited and otherwise. If the person wants advice, it may be best to wait for him/her to ask for it. Effective listening requires truly focused attention and demonstrated interest in what is being said, the absence of distraction, acknowledgement of the message, awareness of the emotions that may be behind what is being said, reflective feedback (e.g., What I'm hearing you say is . . .), and appropriate questions (e.g., That sounds really challenging. How are you doing with that?). In this context, effective listening says: I care about how you are doing and am available for you.

GENUINE CARING. Offering to be of assistance can depend in part on the parties' prior relationship. If there has been no previous relationship or personal contact, it may be not only awkward but counterproductive to suddenly express interest in a colleague's well-being. However, there are two important exceptions. If the colleague in early recovery has few, if any, significant social connections (e.g., no immediate or extended family, living alone, few friends, and/or absence from 12-step or community support meetings), his/her success in recovery may be problematic. In this instance, it may be especially helpful to reach out to this colleague in a supportive way (e.g., *Nancy, I'm aware we don't know each other well, but I understand you are in early recovery. I know recovery can be challenging. I just wanted you to know that if I can ever be of any help or you would*

like to have coffee and talk sometime, please know that I'm available.).

The second exception is when the person offering help is in longer-term recovery. This fact often transcends the lack of prior relationship. It represents a unique connection that can be especially helpful to someone in early recovery (e.g., *Bob, I know we don't know each other well, but I heard you are in early recovery. I'm in recovery, too, and have been for some years. If you'd like to have coffee sometime, I'd enjoy it very much. Or, maybe we could go to a meeting together. I know some really great meetings.*).

Regardless of prior relationship, sincerely wanting to help is essential to offering meaningful assistance. Often it means no more than being a supportive friend or someone to turn to so the common challenges of recovery can be lessened by simply having someone available to talk with.

HEALTHY BOUNDARIES. There are many things one can do to support a colleague in early recovery, including:

- Be available to just talk, listen, and be present (often this is the most valuable support that can be offered);
- Be supportive and encouraging;
- Be appropriately curious and interested in what your colleague is experiencing in recovery;
- Have coffee with your colleague;
- Help with transportation (e.g., doctor appointment, support meeting);
- Include your colleague in healthy social events;
- Help your colleague reintegrate into work and social environments;
- Introduce the person to other colleagues;
- Introduce the person to others known to be in recovery;
- Be willing to share one's own recovery story;
- Be sensitive to the fact that your colleague may have shame, guilt, and/or embarrassment surrounding recovery issues;
- Learn about addiction and recovery issues; and
- Remind your colleague about the Oregon Attorney Assistance Program (OAAP). OAAP attorney counselors provide confidential, voluntary, and

free resources to all Oregon attorneys, judges, and law students. The OAAP makes available four recovery meetings every week to our legal community, both those new to recovery and those who have been in long-term recovery. Visit www.oaap.org or call 503-226-1057.

A major challenge when helping a colleague in early recovery is seeking to be a helpful resource without being an unhealthy enabler. As a general rule, it is wiser to help your colleague resolve financial issues than to lend money; help find housing rather than offer your own house; help find legal resources rather than represent him/her; help think through employment and/or relationship difficulties rather than personally intervene. Again, there is no fixed formula. Each situation is different, and there can certainly be exceptions.

The personal and professional consequences of problematic substance use can be extensive; the person needing help may face major life challenges, especially in early recovery. For those in the legal community wanting to be supportive, the natural instinct as problem solvers and advocates can often be to put on our lawyer hats and jump into the fray. What your colleague in early recovery needs most is not unhealthy enabling, but rather to learn for oneself to deal with life's difficulties without resorting to unhealthy substance use. This is exactly why having personal connection with others is so essential – to let your colleague know there are others who truly care and, within healthy boundaries, are present and available to help navigate life's challenges without drugs or alcohol.

Keep in mind these additional healthy boundary considerations.

- Use discretion in sharing with others the conversations and information learned from a colleague in recovery. The colleague's willingness to accept help generally presumes confidentiality in the relationship.
- The best way to find out how to help a colleague is to ask; get clarity about exactly what kind of help is being requested.
- Be clear about what assistance you are willing and prepared to provide. If the help sought is beyond your ability or, on reflection, would not be appropriate under the circumstances, respectfully decline.

- When you offer assistance to a colleague, it is important to follow through. For example, if you promise to call the person on a certain day, keep the promise. Dependability and reliability are essential to maintaining the helpful relationship.
- Remember that the ultimate responsibility for maintaining healthy recovery belongs to the recovering colleague. It is not the responsibility of others – spouses, friends, or colleagues. This is a fundamental tenet of recovery. Well-meaning others can be immensely valuable and make the process easier, but success or failure rests with the recovering person.

Healthy social connections are a vital part of successful recovery and help to lessen the stigma that is often attached to chronic substance use. And, importantly, social connections facilitate the transition from an unhealthy lifestyle to a healthy one. Well-intentioned offers to assist a colleague let that person know that others care and are available. With assistance based on nonjudgmental communication, genuine caring, and healthy boundaries, the colleague in early recovery is best positioned to achieve success in that person's recovery efforts.

DOUGLAS S. QUERIN, JD, LPC, CADCI
OAAP ATTORNEY COUNSELOR

The Career of a Lawyer: Creating Success at Each Stage

Finding one's niche in the legal profession can be challenging. It is common for lawyers to start their job search by seeking jobs they can fit themselves into rather than seeking a job that best fits them. Whether it is experience or foresight that guides us as lawyers in our job search, one element that is crucial to achieving career change or satisfaction is self-assessment. This year on November 2, 2018, the Oregon Attorney Assistance Program held its all-day career CLE entitled "The Career of a Lawyer: Creating Success at Each Stage." The focus was on using self-assessment to create success and satisfaction in one's legal career from the early stages through retirement.

Assistant Director and Attorney Counselor Shari R. Gregory, LCSW, JD, and Attorney Counselor Bryan Welch, JD, CADC I, framed the day by making a "case for self-assessment." They explained the need for considering our strengths as lawyers and becoming more organized in the manner we assess our values, psychological needs, communication style, skills, and job environment.

The morning segment also featured leadership coach and consultant Kirsten Meneghello, JD, PCC, who spoke on "Leveraging Your Leadership Strengths." Kirsten shared one self-assessment tool that can be used by lawyers to attain greater self-awareness, the Everything DiSC Workplace (see article, "Leveraging Your Leadership Style" on page 6). Although we do not always view ourselves as leaders, the nature of our legal work often calls us to step into leadership roles in which our expertise, influence, and capacity to make decisions are relied on by those we serve. Kirsten informed us that we can leverage the characteristics we prioritize based on our DiSC style depending on the situation we face at work and achieve better outcomes. Using our strengths in this way allows us to excel as leaders in our workplace. Toward the end of the morning segment, the OAAP presented a diverse panel of attorneys: Nathan Morales, JD; Myah Kehoe, JD; and Jacqueline Alarcon, JD. These inspiring attorneys each shared their journey into their current careers. They discussed some of their challenges and successes during their five to ten years in the practice of law.

The afternoon segment featured career coach Susanne Aronowitz, JD, ACC, who guided us through "Successfully Navigating Lawyer Career Crossroads at Midlife." She explained that our path to achievement using time and effort is not always a linear process but can follow a

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chain of “s curves.” We find “hacks” to accelerate our learning, and we develop new skills in advance of us “plateauing on [our] existing ones.” The key is not to allow fear to constrain us so we can jump from one curve to the next. To help overcome our fear when confronted by crossroads in our careers, Susanne relayed five steps: (1) identify the focus of our curiosity; (2) identify areas of dissonance; (3) understand the context for our resonance/dissonance; (4) apply context to our situation; and (5) design an action plan. She also introduced us to the concept of “SCARF” (status, certainty, autonomy, relatedness, and fairness) as another way of addressing our stress response system. All five aspects of “SCARF” activate the primary reward system in our brain, and when any of these areas are threatened, we experience a threat to our life. When we are unable to make a decision or change, it is important to consider the aspect of “SCARF” involved, its impact, our “SCARF” goals, and how we may blend our interests with the areas of “SCARF” that are threatened so we can move to our next “s curve.”

Shari and Bryan subsequently discussed how we may progress toward retirement using William Bridges’ model of transition. This model is composed of three phases: first an ending; followed by an “in-between” period of exploration and often confusion or challenges for most; and a new beginning. Bryan also shared the utility of cultivating resilience to maintain well-being during this period.

The afternoon segment concluded with Attorney Counselor Douglas Querin, JD, LPC, CADC I, moderating a panel of seasoned attorneys who successfully retired from the practice of law: Scott Jonsson, JD; Nancie Potter, JD, LMFT; and Douglas Hagen, JD. These courageous attorneys shared their own journey toward retirement and how they continue to live with purpose and meaning after retirement.

From our guest speakers and panel members, we learned that it is possible to move beyond fear and uncertainty to change and satisfaction. For those of you still searching for a niche, *what steps might you take toward your own self-assessment?*

A huge thank you to all our speakers and the lawyers who participated at our career CLE. Our event would not have been possible without you.

KAREN A. NERI, JD
OAAP ATTORNEY COUNSELOR



16037 SW Upper Boones Ferry Road, Suite 300
Tigard, Oregon 97224

PO Box 231600 | Tigard, Oregon 97281-1600

MEMORANDUM

To: PLF Board of Directors Excess Committee
From: Carol Bernick & Emilee Preble
Date: March 27, 2019
Re: Changes to PLF Policy 7.600(C)(2) – Excess Retroactive Date Discount

Overview

When new firms begin coverage with the PLF at Excess they are nearly always written with an inception retroactive date. This date essentially signifies that we are going to cover the work done by the firm from the date of their Excess application. Put another way, we do not cover the prior acts of a firm that has never carried Excess. This inception retroactive date (RDI) is beneficial to the firm because it takes into account that we are not covering a long body of work and so grants the firm a 50% discount in their first two years of coverage and then a 30% and 15% discount in the following years. This RDI discount schedule is detailed in PLF Policy 7.600(C)(2).

Issue

For many firms, the transition through our RDI discounts is quite jarring. The jump between years 2 and 3 quite steep. This often results in many phone calls to our office about the significant jump in premium for these relatively new firms.

The Washington State Bar Association’s recently prepared Mandatory Malpractice Insurance Task Force report discussed how many commercial policies deal with recent retroactive discounts by doing a gradual 10% bump each year, starting at 50% and then ending at 0% after five years. Below is a table comparing how our credits would work versus how a 10% credit increase per year would work using \$2000 as a starting (mature) premium.

	PLF Discount	PLF Premium	Commercial Discount	Commercial Premium
Year 1	50%	\$1,000	50%	\$1,000
Year 2	50%	\$1,000	40%	\$1,200
Year 3	30%	\$1,400	30%	\$1,400
Year 4	15%	\$1,700	20%	\$1,600
Year 5	8% (shift to continuity credit ¹)	\$1,840	10%	\$1,800
Year 6 - Full Premium	10% continuity credit	\$1,800	0%	\$2,000
TOTAL PREMIUM OVER 6 YEARS		\$8,740		\$9,000

¹ PLF Policy 7.600(I)(1) – “Firms that are offered excess coverage may receive a continuity credit for each year of continuous PLF Excess Coverage (2% for one year, up to a maximum credit of 20% for ten years).” In the table above, the firm would have an 8% continuity credit after four years of purchasing coverage.

The total premium collected during the same period is slightly more under the gradual increase system used by commercial carriers (\$9,000) than the PLF system (\$8,740).

Proposal

Amend PLF Policy 7.600(C)(2) to switch to a 10% per year increase for recent retroactive date discounts. This method is preferable because it steadily increases the firm premium over time, is easily explained to firms when they first buy coverage, and is more predictable for the firm each year.

Proposed New Policy Language:

(2) The PLF may give a credit to firms with recent excess coverage retroactive dates according to the following schedule:

Period Between Firm Retroactive Date and Start of Coverage Period	Excess Assessment Credit
0 months to 18 months	50 percent
Over 18 months to 30 months	30 percent
Over 30 months to 42 months	15 percent
Over 42 months	No credit

Period Between Firm Retroactive Date and Start of Coverage Period	Excess Assessment Credit
0-12 months	50%
12-24 months	40%
24-36 months	30%
36-48 months	20%
48-60 months	10%
60+ months	No credit

The PLF may choose not to offer the credit to a firm for the underwriting considerations stated in Policies 7.250 and 7.300.

**Oregon State Bar
Special Open Session of the Board of Governors
February 22, 2019
Minutes**

President Chris Costantino called the meeting to order at 9:17 a.m. on February 22, 2019. The meeting adjourned at 11:57 a.m., reconvened at 1:00 p.m. and then adjourned at 2:00 p.m. Members present from the Board of Governors were John Bachofner, Rob Gratchner, Vanessa Nordyke, Tom Peachey, Liani Reeves, Traci Rossi, David Wade, John Grant, Bik-Na Han, Kamron Graham, Katherine Denning, Eric Foster, Whitney Boise, Colin Andries. Not present were Jenny Cooke, Joseph Hesbrook, and Eddie Medina. Staff present were Helen Hirschbiel, Amber Hollister, Dawn Evans, Susan Grabe, Judith Baker, Keith Palevsky, Kay Pulju, Danielle Edwards, and Cassandra Dyke.

1. Call to Order

The board accepted the agenda, as presented, by consensus.

2. President's Report

Ms. Costantino provided an overview of her work as Bar President.

3. 2019 Strategic Areas of Focus

B. Revised OSB Strategic Functions

Ms. Reeves presented recommendations from the Policy & Governance Committee.

Motion: The Policy and Governance Committee moves to adopt revised OSB Strategic Functions & Goals.

Ms. Reeves summarized the committee recommendation as set forth in Exhibit A. In keeping with the board's discussion at its retreat and the 2019 action plan adopted by the board, the committee's goal was to more closely and clearly align the bar's functions with its public service mission and to condense the functions from five to three. Ms. Reeves noted that the primary changes were to wrap "promoting professional excellence" into the first function, and to combine the access to justice and diversity, equity and inclusion functions. Ms. Reeves asked the board to approve the committee's revised OSB Strategic Functions & Goals. **[Exhibit A]**

Mr. Bachofner expressed concern that lawyer professionalism is not reflected in the revised functions.

Motion: Mr. Bachofner moved to amend the committee motion relating to Goal #1 as follows: "Protect the public by ensuring competence, integrity, and professionalism in the legal profession."

Ms. Han proposed the following friendly amendment to Mr. Bachofner's motion: "Protect the public by ensuring competence and integrity and promoting professionalism in the legal profession." Mr. Bachofner accepted the friendly amendment.

Mr. Peachey seconded Mr. Bachofner's motion, as amended by Ms. Han.

The board voted unanimously in favor of the motion to amend.

The board voted unanimously to adopt the Committee motion, as amended. The motion passes.

C. Amendments to Listserv and Editorial Policies

Ms. Reeves presented the amendment to the Listserv and Editorial Policies.

Motion: Julia Rice moved and Liani Reeves seconded to adopt Amendments to Listserv and Editorial Policies & Guidelines. The motion passed by unanimous vote. **[Exhibit B]**

D. 2018 Diversity Action Plan (DAP) Implementation.

Mr. Puente summarized the 2019 DAP Implementation Report. Each department at the bar took responsibility for its own part of the DAP, and adjustments have been made as we have learned from the work. **[Exhibit C]**

4. BOG Committees

A. Policy and Governance Committee

1. Loan Repayment Assistance Program Amendments

Ms. Reeves presented the amendments to the Loan Repayment Program Polices and Guidelines.

Motion: The Policy and Governance Committee moves that the Board of Governors adopt the LRAP Policies and Guidelines amendments **[Exhibit D]**

The motion passed by unanimous vote.

2. Lawyer Referral Service Program

Ms. Reeves presented on the LRS program options for charging panelists.

Motion: Policy and Governance Committee motion to create trigger of \$250.00 before the bar charges a percentage fee for panelists. **[Exhibit E]**

Mr. Grant and Mr. Peachey abstained. All other board members voted in favor. The motion passed.

Ms. Reeves presented the options to the RIS Program revenue usage.

Motion Policy and Governance Committee motion to invest LRS revenue as follows: to create videos for completing court forms, to commit funds to developing the Landlord Tenant mobile application that was first created in beta form by bar law clerk Ravyn Goss in conjunction with Perkins Coie, and to utilize the LRS budget for the continued creation of the bar's public information videos. **[Exhibit E]**

The motion passed by unanimous vote.

B. Board Development Committee

1. Appointment of various Committees, Counsels, and Boards [Exhibit F]

Mr. Bachofner presented the committee's recommendations for several committees.

Motion: The Board Development Committee moved to approve the appointments to all committees as outlined.

The motion passed by unanimous vote.

2. Board of Bar Examiners Co-Grader Recommendations

Mr. Bachofner presented the committee's recommendation for the Board of Bar Examiners.

Motion: The Board Development Committee moved to approve the Board of Bar Examiners Co-Grader list to be recommended to the Supreme Court for appointment

The motion passed by unanimous vote.

3. BOG and HOD Election Outreach

Mr. Bachofner encouraged board members to let members know about the openings on the HOD and BOG.

C. Budget and Finance Committee

1. Auditor's Introductory letter from Moss Adams

Mr. Wade presented the report about the auditors for the bar.

Motion: Budget and Finance Committee moved that Moss Adams LLC serve as our auditors for 2020.

The motion passed by unanimous vote.

2. Neutral Use Restrooms

Mr. Wade presented a report about the neutral use restroom on the first floor of the Oregon State Bar building.

Motion: Budget and Finance Committee moved that \$30,000 be applied from capital reserve funds to build a neutral restroom on the first floor where the janitor's closet is currently located.

Mr. Wade explained that the Budget and Finance Committee is still discussing the Client Security Fund and the amount of money needed in reserves to cover the outstanding claims. The Committee is aware that the OSB Bylaws require that the board maintain \$1 million in addition to the amount of pending claims in reserves. Based on current projections, the board does not

currently have sufficient funds in reserve. The Committee will consider options including designating additional funds in reserve, amending the reserve policy and pro-rating payment of claims and develop a recommendation for the board.

The motion passed by unanimous vote.

D. Public Affairs Committee

Eric Foster gave a report on the Public Affairs Committee and the bills and amendments that are currently pending in the legislature.

E. Appellate Screening Committee

Tom Peachey reported that there are 15 candidates for the Oregon Court of Appeals position. Appellate screening interviews are scheduled on February 26-27, 2019. The committee will bring back a proposed list of highly qualified candidates for approval by the board. Mr. Peachey asked that if anyone had any feedback about the candidates to please share.

5. Professional Liability Fund

A. Revision to PLF Policy 2.300

Ms. Bernick presented the amendments to the PLF Policy 2.300.

Motion: Mr. Gratchner moved and Mr. Wade seconded to approve the revision to the PLF Policy 2.300. Mr. Bachofner and Mr. Peachey abstained from the vote. The remaining board members voted in favor. **[Exhibit G]**

The motion passed.

6. OSB Committees, Sections, Counsels, and Divisions

Oregon New Lawyers Division Report Joel Sturm presented the ONLD report. **[Exhibit H]**

7. Other Items

Ms. Hirschbiel presented the members letter regarding the Client Security Fund cap.

- A.** Request for Changes to the Client Security Fund from Oregon State Bar members. Ms. Hirschbiel outlined member comment on the Client Security Fund claim limit of \$50,000 among other issues. The board agreed by consensus to refer the issue to the Client Security Fund Committee for discussion at their next meeting on March 16, 2019.

B. Changes to Bar Rules of Procedure

Ms. Evans presented the changes to the Rules of Procedure.

Motion: Mr. Bachofner moved and Mr. Boise seconded to accept the proposed changes to the Bar Rules of Procedure and to send them to the Supreme Court for approval. **[Exhibit I]**

The motion passed by unanimous vote.

8. Closed Sessions

A. Executive Session (pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1))

The board went into closed session pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1). The board then reconvened in open session.

Motion: Ms. Reeves moved and Mr. Bachofner seconded to approve the proposed settlement with Ms. Scott on UPL Case Shianne Scott 2017-42.

The motion passed by unanimous vote.

9. Consent Agenda

Ms. Costantino asked if any board members would like to remove any items from the consent agenda for discussion and a separate vote. There was no request to do so.

Motion: Ms. Reeves moved and Mr. Grant seconded to approve all items on the consent agenda.

The motion passed by unanimous vote.

10. Good of the Order (Non-Action Comments, Information and Notice of Need for Possible Future Board Action)

Ms. Hirschbiel invited board members to review articles of interest included with the board agenda.

OREGON STATE BAR

Board of Governors

Meeting Date: February 22, 2019
From: Policy & Governance Committee
Re: Proposed Revisions to Strategic Functions and Goals

Action Recommended

Revise the OSB Strategic Functions and Goals as set forth below.

Background

The OSB Board of Governors (BOG) is charged by the legislature (ORS 9.080) to "at all times direct its power to the advancement of the science of jurisprudence and the improvement of the administration of justice."¹ The Oregon State Bar (OSB) is also responsible, as an instrumentality of the Judicial Department of the State of Oregon, for the regulation of the practice of law.² As a unified bar, the OSB may use mandatory member fees only for activities that are germane to the purposes for which the bar was established.³

The mission of the OSB is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

The BOG has translated the statutory charge and mission into the following five core functions that provide overall direction for OSB programs and activities:

FUNCTION #1 – REGULATORY BODY

GOAL: Protect the public by ensuring the competence and integrity of lawyers.

FUNCTION #2 – PARTNER WITH THE JUDICIAL SYSTEM

GOAL: Support and protect the quality and integrity of the judicial system.

FUNCTION #3 – PROFESSIONAL ORGANIZATION

GOAL: Promote professional excellence of bar members.

FUNCTION #4 – ADVOCATES FOR DIVERSITY, EQUITY AND INCLUSION

GOAL: Advance diversity, equity and inclusion within the legal community and the provision of legal services

¹ Webster's Dictionary defines jurisprudence as the "philosophy of law or the formal science of law." "The "administration of justice" has been defined in case law variously as the "systematic operation of the courts," the "orderly resolution of cases," the existence of a "fair and impartial tribunal," and "the procedural functioning and substantive interest of a party in a proceeding."

² The OSB's responsibilities in this area are clearly laid out in the Bar Act, ORS Chapter 9.

³ In *Keller v. State Bar of California*, 499 US 1,111 SCt 2228 (1990), the US Supreme Court held that an integrated bar's use of compulsory dues to finance political and ideological activities violates the 1st Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.

FUNCTION #5 – CHAMPIONS FOR ACCESS TO JUSTICE

GOAL: Foster public understanding of and access to legal information, legal services, and the justice system.

On January 11, the Board of Governors adopted Areas of Focus for 2019, which include a commitment to review these strategic functions to ensure they are aligned closely with the bar's public service mission and statutory charge.

Board members also suggested using the bar's talking points around the history and purpose of the unified bar as a starting point for considering possible revisions to the functions and goals.

The Policy & Governance Committee recommends that the Board of Governors adopt the following new Functions and Goals:

FUNCTION #1 – REGULATE THE LEGAL PROFESSION AND IMPROVE THE QUALITY OF LEGAL SERVICES

GOAL: Protect the public by ensuring competence and integrity in the legal profession.

FUNCTION #2 – SUPPORT THE JUDICIARY AND IMPROVE THE ADMINISTRATION OF JUSTICE

GOAL: Protect and advance the quality, integrity, and impartiality of the judicial system.

FUNCTION #3 – ADVANCE A FAIR, INCLUSIVE, AND ACCESSIBLE JUSTICE SYSTEM

GOAL: Foster trust in, respect for, understanding of, and access to the justice system.

Article 11 Communications

Section 11.1 General Policy

Communications of the Bar and its constituent groups and entities, including printed material and electronic communications, should be germane to the law, lawyers, the practice of law, the courts and the judicial system, legal education and the Bar in its role as a mandatory membership organization. Communications, other than permitted advertisements, should advance public understanding of the law, legal ethics and the professionalism and collegiality of the bench and Bar.

Section 11.2 Editorial Policy

Subsection 11.201 Editorial Advisory Committee Policy

The Board will appoint an Editorial Advisory Committee. The Editorial Advisory Committee will review and recommend editorial policies for bar communications to the Board for approval. Periodically, the committee will meet to review and provide feedback on the planned content for The Bulletin to the editorial staff.

Subsection 11.202 Editorial Policies

All editorial policies will be approved by the Board. Editorial policies may address such matters as letters to the editor, story placement, headlines and scheduling, advertising and rates and similar topics.

Subsection 11.203 Review by Chief Executive Officer

The Chief Executive Officer has sole discretion to determine whether material submitted for publication meets the standards set forth in or adopted pursuant to this section and to accept or reject material submitted to the Bar for publication based on that determination.

Subsection 11.204 Communications Attributed to Bar

Any communications attributed to the Oregon State Bar or the Board of Governors must be approved by the Chief Executive Officer or the Chief Executive Officer's designee. Any content attributed to the Oregon State Bar or the Board of Governors must be labelled to indicate its source or attribution. All communications attributed to the Bar must be consistent with Article 10 Diversity and Article 12.1 Guidelines.

Section 11.3 Media Relations

The Bar will be responsive to the needs of the media and will identify persons to speak for the Bar. All statements made to the media, whether oral or by news release, must be informational in nature and must avoid statements of personal opinion or positions not considered or adopted by the Board. The President is the official chief spokesperson for the Bar. If public appearances or statements by the chairperson or other officer or member of any bar committee are deemed necessary, prior authority must be obtained in advance from the President.

Section 11.4 Membership Surveys and Questionnaires

(A) Any survey or questionnaire to all members of the Bar from a section or non-bar person or group must have the prior approval of the Board.

(B) A survey to specific groups of the membership from bar staff must have the prior approval of the President or President-elect. A survey to all members of the Bar must have the prior approval of the President or President-elect.

(C) A section may survey its own membership without prior approval.

DRAFT

Editorial and Advertising Guidelines

Oregon State Bar Bulletin

Definitions and Purposes

The Bulletin is published for members of the Oregon State Bar. The purpose of the Bulletin is to provide the members of the Oregon State Bar with information that will directly affect their practice of law in Oregon, will aid and improve their business, and will keep them informed on activities and issues in the legal profession. Humor and human-interest articles are also published. It is not a consumer magazine, nor a law library text/review book. We strive to publish articles that are topical, thought-provoking, and address issues and topics of interest to significant segments of the bar. We aim to be read, be quoted and be retained.

The Bulletin is published 10 times a year – monthly, except for two-month issues in February-March and August-September. The print version is published in a standard magazine format, 8 1/2 x 11 inches, about 56-72 pages per issue, and the online version is published in manner intended to replicate the presentation of the print version. As a general rule, each issue contains two main feature articles, regular and semi-regular columns, and regular departments, such as "Among Ourselves" and "Moves." The Bulletin also contains a section known as "Bar News." The purpose of this section is to update members on state bar meetings, events and policies; and law-related developments, law-related organizations, judicial updates, and other news items of potential interest to OSB members.

Article Submission

Articles should be approximately 1,500-2,500 words in length, unless another arrangement between the Editor and author(s) is made. All submitted articles should be delivered electronically using standard word-processing software. An emailed cover letter should accompany the article containing: a) name(s) of author(s); b) a suggested title and appropriate subheads for the article; c) an outline of the article; and d) a brief (2-3 sentence) biography of the author(s). Authors must fully disclose any personal or professional involvement in the subject of any article. If any such disclosure involves a pending legal matter, that information will be published as an Editor's note to the article.

Footnotes should be typed on a separate page at the end of the article, although every attempt should be made by the author(s) to incorporate necessary information within the body of the article. Footnotes are used only to amplify a point in the text or cite a source and should not become a separate article in themselves. Generally, the Bulletin uses "A Uniform System of Citation," a reference guide published by the Harvard Law Review Association, for footnote style. If possible, footnotes should be limited to no more than 15 per article.

Upon receipt of an unsolicited article, idea outline or query letter, the author will receive an "acknowledgement" message from the Editor stating that the article, idea outline or query letter will be reviewed by the Editor to determine whether it answers the majority of the guideline questions listed below in the affirmative. The Editor will contact the author within two to three weeks regarding the possible publication of the article. Authors are strongly encouraged to submit query letters before the submission of articles.

Artwork, photographs and illustrations accompanying unsolicited or solicited articles are gladly accepted, but their use is not guaranteed. Submitted artwork, photographs and illustrations, whether published or unpublished, will only be returned at the sender's request.

General Publication Policies

The Bulletin strives to provide content of interest to OSB members. All articles published in the Bulletin must be germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar. All opinions, statements and conclusions expressed in submitted articles appearing in the Bulletin are those of the author(s) and not of the Editor, other Editorial staff, employees of the Oregon State Bar, or members of the Board of Governors. Publication of any article is not to be deemed an endorsement of the opinions, statements and conclusions expressed by the author(s). Any content attributed to the Oregon State Bar or the Board of Governors must be approved by the bar's CEO or General Counsel. Any such content attributed to the Oregon State Bar or the Board of Governors will be labelled to indicate its source or attribution.

All submitted material is subject to editing by the Editor. Material is edited for style, clarity and accuracy, and for purposes of space considerations. Some editing may involve selective omission of portions deemed by the Editor to be less important than others. References to personal characteristics (e.g., age, race, ethnicity, gender identity) of any person described or quoted in an article submitted for publication will be removed unless the description is germane to the article and has been reviewed and approved by the person described. The Editor will make every reasonable effort to inform the author of changes and to involve the author in any editing of technical, controversial or sensitive material. The Editor retains at all times authority regarding story placement, headlines and article scheduling.

Feature Articles

The following guidelines will be applied to every major article submitted for publication, whether unsolicited or solicited, and the author should edit his or her own work if it does not meet the following criteria:

1. Does the content of the article directly affect the practice of law in Oregon?
2. Will the information in the article help Oregon State Bar members in their daily business activities?
3. Is the topic of timely importance?

4. Is there broad interest to a significant portion of Oregon State Bar members?
5. Does the author(s) of the article have the necessary expertise to write about the subject in question, or has he or she conducted sufficient research to do so?
6. Is the article of an appropriate length to fully (but not overly) cover the subject? If determined by the Bulletin Editor to be overly long, can it be shortened? If determined to be too brief, can it be expanded upon?
7. Is the subject matter new material, not something already covered in the Bulletin within the last year or two?
8. Does the author present ideas in a balanced manner rather than presenting one side of an issue? If not, has the opposing viewpoint also been presented alongside the main feature?
9. Does the article contain information not already covered in another publication, such as in a local daily, weekly or monthly?
10. Is the article appropriate for the Bulletin rather than a section newsletter or other law-related publication?

An article need not satisfy all of the guidelines set forth above to be published and the Editor may make exceptions for articles that may be of general interest to OSB members. Examples include: human-interest articles about persons in the legal community; humorous or anecdotal articles; historical pieces; and creative writing. Such submissions are evaluated on a case-by-case basis by the Editor, who retains responsibility for story evaluation.

Non-Feature Articles

Moves and Among Ourselves: As a courtesy to OSB members, the Bulletin provides at no charge separate columns announcing lawyer relocations and promotions ("Moves"), and other news of attorney members ("Among Ourselves"). Subjects of both columns must be members of the Oregon State Bar. (Paid announcements are discussed below in "Advertising; Lawyer Announcements.") Because of the volume of mail received, individual submissions for these columns will not be acknowledged by the Editor, except where a specific request for response is made by the author(s). Photographs are published for a fee.

Columns: Space is made available for publication of columns, some of which may recur from issue to issue, e.g., Managing Your Practice, Practice Tips, Legal Heritage, On Professionalism and Law & Life. Columns are subject to all policies outlined here. Publication of columns does not constitute a permanent agreement for ongoing publication; the status of all columns is subject to review by the Editor and the publications team (See "General Publications Policies; Story Development").

Departments: The Bulletin also includes some articles regarding particular departments or subjects that appear in most if not all issues, such as Bar Counsel and Legal Writer columns. It also saves room for President's Messages a particular bar president may wish to submit during his or her term and Chief Justice messages from time to time.

Opinions: Opinion pieces are published in the column "Parting Thoughts." Opinion pieces must be arranged in advance with the Editor, before consideration of publication, and must be 800 or fewer words. Opinion pieces may address any topic of law or legal practice, but may not contain language constituting an attack upon an individual, group or organization, where such language might be actionable by the subject of the attack.

Continuing Legal Education (CLE) Information: Coverage of Legal Publications and CLE seminars sponsored by the Oregon State Bar is provided on a space-available basis. The Bulletin places a low priority on providing Editorial coverage of non-Oregon State Bar CLE activities and publications; display and classified advertising may be purchased to publicize non-Oregon State Bar CLE activities and publications.

Letters to the Editor

The Oregon State Bar realizes that a wide range of subject matters are to be expected in letters to the Editor. The Bulletin strives to print as many letters as possible. Therefore, brevity is important, and preference will be given to letters that are 250 or fewer words. In the event of space limitations, the Editor may decline to publish letters that are more than 250 words. Preference is given to letters in response to articles, columns or letters to the Editor recently published in the Bulletin. Letters from Oregon State Bar members receive top priority for publication in the next available issue.

Letters must be addressed directly "To the Editor" and original to the Bulletin. No unsigned or anonymous letters will be printed; the Chief Executive Officer may waive this requirement, if such waiver is requested.

When responses occur over several issues, the Editor reserves the right to cease printing letters on the subject in question. The Editor also reserves the right to hold a letter to the Editor until a subsequent issue. Letters from non-Oregon State Bar members are published if space permits and if the subject matter is deemed to be of interest to Oregon State Bar members.

Letters to the Editor may be edited for grammatical errors, style or length, or in cases where language or information is deemed unsuitable or inappropriate for publication. The Editor reserves the right to select or withhold letters for publication, and to edit any and all letters chosen for publication. All such Editorial decisions shall be made without reference to the viewpoint or content of the letter so long as the content is germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar. The

Bulletin reserves the right not to publish letters containing language constituting an attack upon an individual, group or organization.

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OSB List Serve FAQs and Guidelines

If you have a question that is not answered here, please email memberservices@osbar.org or call 800 452-8260 ext. 384 or 426. If you are an inactive, student, or non-member of the Oregon State Bar you will not have access to the member login area. To make changes to your list serve settings please contact the Member Services Department at memberservices@osbar.org or call 800 452-8260 ext. 384 or 426.

General List Serve Questions

How can I tell if my section has a list serve?

To check if a section you are a member of has a list serve, first access the [member login](#) page, then select List Serve Preferences under the Manage Your Profile tab. This page lists all list serves you can access. If a section you are a member of doesn't appear on the list then the section doesn't have a list serve.

Why was I added to this list?

All group or section members are added to list serves automatically. To unsubscribe, change your email address, or modify your list serve settings, access the [member login](#) page, then select **List Serve Preferences** under the **Manage Your Profile** tab.

Who receives list serve messages?

If you post a message to the list serve you are sending that post to all of the members on the list. If you wish to comment to a list serve post you can respond to the sender only using the 'Reply' button. To post your response to the entire list you must use the 'Reply All' button.

Please use caution when discussing cases. List serve messages are not casual conversation, and may be viewed by opposing counsel or judges if they are list members or otherwise request access. Pressing delete does not mean that the data has been permanently deleted. Posts to the list are also subject to disclosure under the Oregon Public Record Law, ORS Chapter 192 et seq.

How do I change or update the email account I use on the list serve?

To unsubscribe, change your email address, or modify your list serve settings, access the [member login](#) page, then select **List Serve Preferences** under the **Manage Your Profile** tab. Next select the list you would like to make changes to and select "edit" on the bottom right. Make any of the changes you'd like and be sure to click "save" next to the pencil on the bottom right. A pop up window will let you know your changes were successfully changed.

Note that if you change your primary email address with the OSB your list serve email address will also automatically change to the new email address associated with your bar record unless you have designated an alternate address.

How do I find previous list serve posts?

The Oregon State Bar does not keep an archive of list serve posts. We encourage those who want to have an archive to start their own. Below are instructions for various commonly used email types.

Gmail: Gmail uses a "Label" system instead of folders to filter email. To begin, open an email you would like to have filtered and click on the little icon at the top that looks like a pencil. This will allow you label the email either by selecting a label you have already made or by creating a new label. For example, if you would like all of your Estate Planning List Serve emails filtered into a folder labeled

"list serve" you should choose or create a label called "list serve." Next, click on the gear-shaped icon located on the top-right of your email (the word "Settings" should appear if you hover your cursor over it). Choose "Settings" from the pull-down menu, then click on the "Filters" tab at the top. Click "Create a New Filter" and type the list serve's name into the "Subject" field. In our example, you would need to type [estate] into the "Subject" field. Click "Create Filter With This Search" and check the box next to "Skip the Inbox" and the one next to "Apply the Label..." then choose the correct label from the pull-down menu.

Outlook: In Outlook go to "Tools" and then select "Rules and Alerts." Next, select "New Rule...". In Step 1 select "Move messages with specific words in the subject to a folder." In Step 2 change the underlined words to the list name (ex: [buslaw] or [consu]). Select the folder to which you wish to have the messages automatically moved.

Posting Messages

How do I post a message to a list serve?

To post a message you need to send an email addressed to the list serve. The end of each list serve address is @forums.osbar.org. You must put the list name before the @ symbol. For example, Business Law is buslaw@forums.osbar.org, House of Delegates is hod@forums.osbar.org. The list name appears in brackets at the beginning of the subject line of each list serve post.

Visit the Manage Your Profile tab on your dashboard and use the List Serve Preference link to view a list of list serves you can access. You must be a group member to participate in any bar list serve.

How do I respond to a posted message if I receive the digest format?

If you receive list messages via digest format and want to post a response please don't respond to the digest email. Instead, copy and paste the question or email you want to respond to in a blank email then type your response above the original question. Use the original poster's subject line.

Can I send attachments?

No, the OSB lists block attachments for security reasons. As an alternative, you may want to copy and paste the text of the attachment into the body of the email or post your attachment on a website and then send a link to the material.

Was my message distributed to the other list serve participants?

If you received a copy of your email then your message was successfully posted to the list.

Problems with List Serve Messages

Why am I not receiving list serve messages?

There are four common reasons for not receiving messages:

It is between midnight and 5:00 a.m. during the bar's nightly system update. Messages sent to the list serve during this time will be delivered when the system is finished updating.

Your section membership may have expired. Section membership runs on a calendar year. You can verify your current memberships by accessing the [member login](#) and clicking on Member Dashboard, then 5 Year Member History, then Sections. To join a section go to <https://www.osbar.org/store/db/dbhome.asp>.

Your email address on file with the bar is incorrect. To verify the email address on file, access the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences

under the List Serve header. Next, select the list you are not receiving messages from and click “edit” on the bottom right. If changes are necessary be sure to click “save” next to the pencil on the bottom right before exiting the page. A pop up window will let you know your changes were successfully saved.

Your spam filter may be catching list serve posts. Check your spam filter or contact your email provider to white list the domain: forums.osbar.org.

If you continue to experience difficulty, contact us at memberservices@osbar.org, or 800 452-8260 ext. 384 or 426.

Why are symbols and/or strange characters appearing in my posts?

This is the result of coding differences between the sender's and recipient's software. Most often you will see some form of question mark in place of an apostrophe or other symbol/mark. Sending your list serve posts in plain text email format should eliminate this problem.

Why am I unable to send a list serve message?

There are three common reasons you may not be able to post:

You are no longer an active member of the list. OSB list serves are closed which means you must be a member of the group or section that sponsors the list in order to participate. To verify the list serves you have access to, go to the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences under the List Serve header. The list serves you are a member of will appear in a separate pop up page.

You are using an email address that does not match your list serve registration. You can only post to the list from the email account registered for that particular list. To verify or change your list serve email address, access the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences under the List Serve header. Next, select the list you are trying to post a message to and click “edit” on the bottom right. If changes are necessary be sure to click “save” next to the pencil on the bottom right before exiting the page. A pop up window will let you know your changes were successfully saved.

Your message has an attachment. You need to delete all attachments, which may include your signature line, logos, and other images. After doing so, try sending your message again.

If you continue to experience difficulty, contact us at memberservices@osbar.org, or 800 452-8260 ext. 384 or 426.

Making Changes to Your List Serve(s)

How do I unsubscribe from a list serve?

To unsubscribe, change your email address, or modify your list serve settings, access the [member login](#) page, then select **List Serve Preferences** under the **Manage Your Profile** tab.

Am I required to use the same email account for all of the OSB list serves I participate on?

No, you can use different email accounts for different lists, but keep in mind you can only post from the email account registered for a particular list.

How do I change to digest format?

To modify your list serve message format, access the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences under the List Serve header. Next, select the list you are trying to modify and click “edit” on the bottom right. Be sure to click “save” next to the pencil on the bottom right before exiting the page after you have made the necessary change. A pop up window will let you know your changes were successfully saved.

Digest format is a plain text email sent once a day with all of the messages posted the prior day. For frequently used lists this is a nice alternative to receiving every message as posted throughout the day.

Considerations

Get permission to forward a message. Always ask the original sender before forwarding a message from a list serve to someone who is not a member of the list.

Only send messages such as "thanks for the information" or "me too" to individual posters -- not to the entire list. Do this by hitting Reply instead of Reply to All.

When you will be out of the office for an extended period of time, consider changing your list serve setting to digest mode so that other posters do not receive your out-of-office response.

Include a subject line related to the topic of your post; if you reply to a message received in digest mode, edit the subject line of your response.

Avoid re-sending the entire message to which you are replying -- just use the relevant parts. Do not re-send a digest back to the list serve.

Use a signature tag that includes your name, affiliation, location, and email address.

Please strive to be courteous and professional.

Guidelines

Listserve are a limited public forum provided to allow discussion among OSB members of issues germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar.

Do not post any information or other material protected by copyright without the permission of the copyright owner. By posting material, the posting party warrants and represents that he or she owns the copyright with respect to such material or has received permission from the copyright owner, or otherwise has the right to post such material.

Do not post any information that violates federal or state laws, including laws prohibiting discrimination in employment.

In the event that any posting is brought to the OSB's attention, and the OSB will take all appropriate action and reserve the right to terminate access to any user who does not abide by these guidelines. All such decisions shall be made without reference to the viewpoint or content of the posting so long as the content is germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar.

DISCLAIMER

All OSB list serves are provided as a service to members. The messages and opinions expressed on the list serves are those of the authors and are not the opinions of the OSB, OSB employees, or the OSB Board of Governors. OSB list serves are not moderated by the OSB or its staff. The OSB and its Sections are not responsible for the opinions or accuracy of information distributed through the lists.

Any content attributed to the Oregon State Bar or the Board of Governors will be labelled to indicate its source or attribution. Any content attributed to the Oregon State Bar or the Board of Governors must be approved by the bar's CEO or the CEO's designee.

The OSB makes no warranties regarding the accuracy or correctness of the information provided on the list serves and accepts no liability for damages of any kind resulting from reliance on the information provided on this service. By posting, the posting member warrants and represents that he or she owns the copyright with respect to such material or has received permission from the copyright owner. In addition, the posting member grants the OSB and members of the list the nonexclusive right and license to display, copy, publish, distribute, transmit, print, and use such information posted. Posts to the list are subject to disclosure under the Oregon Public Record Law, ORS Chapter 192 et seq.

Oregon
State
Bar

2018-2020 DIVERSITY ACTION PLAN

IMPLEMENTATION REPORT: YEAR ONE

DRAFT

MESSAGE FROM THE CEO

My goal for the Oregon State Bar’s 2018-2020 Diversity Action Plan is to bring an equity and inclusion lens to all we do at the bar. This is not a mere aspiration; it is our obligation as an institution founded to improve the administration of justice. The right to self-regulate and the license to practice law are special privileges that only lawyers enjoy—ones that carry with them public responsibilities. Access to justice is not achieved unless our system is equitable and inclusive for all. The challenges to realizing this goal are many and ongoing, highlighting the need to remain focused and steadfast in our commitment. I am pleased to report that our engaged and dedicated staff and volunteer leadership have done exactly that—with the guide of this action plan.

I cannot say thank you often enough to the Diversity & Inclusion Department’s Jonathan Puente, Lucy Taylor and Sarra Yamin for their expert guidance in the bar’s diversity, equity and inclusion work over the past year. I also want to thank bar staff whose true ownership of their action items reflect their belief in and dedication to this work. Thank you also to our Auxiliary Committee members, for providing crucial feedback and helping to hold us accountable. Finally, thank you to our Board of Governors for your vision and support of diversity, equity and inclusion in Oregon’s justice system.



Helen Hirschbiel
Chief Executive Officer

DIVERSITY ACTION PLAN 2018-2020

The Diversity Action Plan is available here:

<https://www.osbar.org/docs/diversity/2018-20DAP.pdf>

A NOTE ON LANGUAGE

“Specialty bars” as referred to in the original Diversity Action Plan document has been updated with the term “affinity bars” throughout this report, where applicable, in order to clearly differentiate between the more broad term “specialty bars” (meaning law-affiliated professional organizations) and “affinity bars” (meaning professional organizations of lawyers whose missions are focused on advancing diversity, equity, and inclusion) per current terminology used, as applies to the intended approach for individual action items.

UPDATED DIVERSITY ACTION PLAN DOCUMENT

The Diversity Action Plan (2019 Revision) incorporates the updated target dates and action item owners detailed in this implementation report, plus any changes made per the predefined Plan Imperatives. (Plan Imperatives per the Diversity Action Plan outline that strategies and action items will be reviewed and adjusted as necessary throughout the implementation process.) The Diversity Action Plan (2019 Revision) will be posted on the OSB website in February 2019.

AUXILIARY COMMITTEE 2018

Thank you to our 2018 Auxiliary Committee members:

Jacqueline Alarcon – Oregon Women Lawyers (OWLS)

Kristen Asai – Oregon Asian Pacific American Bar Association (OAPABA)

Sara Ghafouri – Oregon Asian Pacific American Bar Association (OAPABA)

Tomas Hernandez – OSB Advisory Committee on Diversity and Inclusion (ACDI)

May Low – OSB Advisory Committee on Diversity and Inclusion (ACDI)

Aruna Masih – OSB Advisory Committee on Diversity and Inclusion (ACDI)

James Meiers – Oregon Minority Lawyers Association (OMLA)

Jonathan Patterson – OSB Advisory Committee on Diversity and Inclusion (ACDI)

Peter Sabido – Oregon Filipino American Lawyers Association (OFALA)

Hon. Ulanda L. Watkins – Oregon Chapter of the National Bar Association (OC-NBA)

MEMBERSHIP SPHERE

GOAL 1 Increase and sustain a diverse OSB and bench.

STRATEGY 1 Identify and gather information on experiences of lawyers from nondominant cultures.

ACTION 1.1.1 Conduct climate surveys.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create climate surveys to identify the barriers and opportunities faced by lawyers from nondominant cultures in Oregon. COMMUNICATIONS	In progress; 2019
2018	Conduct climate surveys. COMMUNICATIONS	In progress; 2019
2018	Conduct exit surveys for lawyers from nondominant cultures who leave the state or withdraw from active practice. COMMUNICATIONS	In progress; 2019

Summary: The Communications Department and Diversity & Inclusion (D&I) Department collaborated on this action item. The departments worked with community stakeholders, including the OSB Advisory Committee on Diversity and Inclusion (ACDI) and Oregon affinity bar leaders to develop questions for the survey. As stakeholder input was received and the survey developed, it was determined that the scope was too broad and the subject matter too personal to fit into a standard online survey. We concluded that it would be appropriate to: 1) expand the approach by integrating the focus group and exit survey elements of this strategy (Membership Sphere 1.1.2) into the climate survey process; and 2) appoint a consultant experienced in both research and equity work to facilitate the process and to report on their findings. An RFP was released, and research firm KGR+C, in partnership with the Center for Equity & Inclusion, was retained. KGR+C's proposed timeline indicates that the process will be complete in the first quarter of 2019.

ACTION 1.1.2 Facilitate focus groups to gather feedback on member experiences.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Create and conduct focus groups using the information gleaned from the climate surveys. COMMUNICATIONS	In progress; 2019
2020	Report to bar leadership on the focus group findings. COMMUNICATIONS	Pending; 2020

Summary: Focus groups will be integrated into the climate survey process (see Membership Sphere 1.1.1). There is no change expected to the timing of this action item currently, although it is possible that the 2020 target may be completed early.

MEMBERSHIP SPHERE

ACTION 1.1.3 Analyze lawyer fee rates and economic survey data to identify disparities for lawyers from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2019	Correlate information gleaned from Action 1.1.1 and Action 1.1.2. COMMUNICATIONS	Pending; 2019
2019-2020	Use the information gathered to identify issues that warrant addressing. MEMBER SERVICES	Pending; 2020

Summary: An addendum to the 2017 OSB Economic Survey (<https://www.osbar.org/docs/resources/Econsurveys/17EconomicSurvey.pdf>) focused on women lawyers and lawyers of color was completed in 2018. The results will be analyzed in combination with the results of the climate survey (Membership Sphere 1.1.1), due to be completed early in the first quarter of 2019. Per the timing of these elements, we expect to correlate information on lawyer fee rates and disparities in late 2019.

STRATEGY 2 Ensure the effective retention of diverse bar members, including members from nondominant cultures.

ACTION 1.2.1 Develop D&I programs and other bar resources to support diverse lawyers who are new to Oregon (“lateral hires”), including lawyers from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Use the results from the Goal 1, Strategy 1 surveys and focus groups to identify new program needs. D&I	Pending; 2019
2020	Expand D&I programming to address lateral hire retention. D&I	Pending; 2020
2020	Expand D&I programming to address new member retention. D&I	Pending; 2020

Summary Pending; expected to complete per original timeline.

ACTION 1.2.2 Conduct outreach with legal employers to determine best practices for retaining lawyer employees from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Collect information from legal employers. D&I	In progress; 2019
2019	Provide revised best practices toolkit to legal employers. D&I	2020
2020	Evaluate toolkit and outreach efforts. D&I	2020

Summary An initial meeting with managing partners of around 20 Portland firms was held in early 2018. Given the number of people involved, scheduling has been challenging and information collection was therefore not completed in 2018. However, the next meeting is expected to take place in early 2019. The related subsequent action items have been pushed forward accordingly.

MEMBERSHIP SPHERE

ACTION 1.2.3 Develop resources to assist legal employers in creating a diverse workforce.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create a business case identifying the benefits of employing lawyers from nondominant cultures. D&I	Pending; 2019
2019	Create resources to assist employers with lateral hire retention programs for lawyers from nondominant cultures. D&I	Pending; 2019
2020	Begin to assess impact and reach of resources. D&I	Pending; 2020

Summary Development of the business case is contingent on the dialogue with legal employers (Membership Sphere 1.2.2) which is ongoing, with a new target date of 2019. In the meantime, research on existing business cases has begun. As part of this work, the D&I Department is considering developing a CLE on the benefits of inclusive hiring practices.

STRATEGY 3 Encourage, support, and promote diverse bar members, including members from nondominant cultures, in seeking judicial positions.

ACTION 1.3.1 Review the bar’s process for obtaining feedback on judicial candidates to ensure it is qualitative in nature and supports the DAC’s mission.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Modify bar bylaws to eliminate bar polls for judicial selection process. PUBLIC AFFAIRS	In progress; 2019
2018	Survey stakeholders regarding judicial screening process. PUBLIC AFFAIRS	Pending; 2019

Summary A draft modifying bylaws is under review by the OSB Board of Governor’s (BOG) Policy & Governance and Public Affairs Committees. We plan to seek feedback from stakeholders regarding the judicial screening process in 2019.

ACTION 1.3.2 Increase outreach to bar members, including members from nondominant cultures, regarding judicial positions.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Assess notice-of-judicial-vacancy recipient list and webpage placement of notices. PUBLIC AFFAIRS	Complete
2018	Assess placement of judicial vacancy notice to affinity bars and publications. PUBLIC AFFAIRS	Complete
2018	Modify judicial appointment recommendations process to assess cultural competency. PUBLIC AFFAIRS	Complete

Summary The judicial vacancy recipient notice list was updated to include affinity bar leaders and other stakeholders. A review of website placement of notices was conducted, and updates were made to increase visibility. Candidate review questions were updated to elicit information on cultural competency.

MEMBERSHIP SPHERE

STRATEGY 4 Engage and collaborate with specialty bars and other organizations to advance diversity, equity, and inclusion in the Oregon legal community.

ACTION 1.4.1 Participate in meetings between affinity bars and OSB leadership to learn about affinity bars' experiences and perceptions of the OSB as an institution, and of the OSB leadership.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with affinity bars as requested to choose a facilitator and develop agendas. EXECUTIVE SERVICES	Complete.
2018	Provide OSB financial support for facilitating dialogue. D&I	In progress; 2019
2018	Attend the meetings and ensure OSB leadership participation, and follow up as appropriate. EXECUTIVE SERVICES	In progress; 2019

Summary A facilitator was agreed upon and retained, and an agenda for the first meeting which took place in July 2018 was developed. An outcome of the July discussion was to provide equity training for the BOG. The first BOG training session took place in November 2018, and content was on structural racism. Additional BOG trainings will take place in 2019. A plan for continued dialogue meetings in 2019 is to be determined.

ACTION 1.4.2 Increase BOG awareness of and engagement in the work of affinity bars.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Organize a reception in conjunction with a BOG meeting, and invite affinity bars to attend and network with the BOG. EXECUTIVE SERVICES	Complete
2018-2020	Invite affinity bars to attend and/or submit reports to BOG meetings, to report on their activities and events. EXECUTIVE SERVICES	Pending; 2019-2020
2018-2020	Ensure BOG representation at affinity bar events. EXECUTIVE SERVICES	Ongoing; 2019-2020 (2018 complete)
2019	Implement changes to the BOG's participation in affinity bar work, as agreed on during the facilitated joint leadership meetings. CEO	Pending; 2019

Summary A joint Multnomah Bar Association (MBA)/OSB reception was held on January 4, 2018 in conjunction with the January BOG Committee meetings. Invitees included leaders from the OSB BOG, OSB Oregon New Lawyers Division (ONLD), MBA, Multnomah Bar Foundation (MBF), MBA Young Lawyers Section (YLS), ACDI, OSB Diversity Section, MBA Equity, Diversity & Inclusion Committee, OAPABA, OGALLA (The LGBT Bar Association of Oregon), Oregon Hispanic Bar Association (OHBA), OMLA, OC-NBA, OFALA, Oregon Chinese Lawyers Association (OCLA), OWLS, Queen's Bench, and Campaign for Equal Justice (CEJ). A similar reception took place in January, 2019.

BOG members attended affinity bar events throughout the year, including the OHBA, OWLS, OAPABA and OGALLA dinners. Affinity bar leaders were not specifically invited to attend or submit reports at BOG meetings; however, the BOG president met one-on-one with the chair of most of the affinity bar groups

MEMBERSHIP SPHERE

and attended the OMLA luncheon in the spring of 2018. The 2019 President and CEO are exploring the possibility of attending affinity bar board meetings in 2019 as an alternative method of connecting with affinity bar leaders.

ACTION 1.4.3 Assist affinity bars in promoting their activities and events to OSB leadership and to OSB membership.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Conduct outreach with affinity bars on the services OSB can provide to the membership. MEMBER SERVICES	Complete
2018	Improve placement and accessibility of affinity bar information on the OSB website. MEMBER SERVICES	In progress; 2019
2018-2020	Invite affinity bars to have a table and to include promotional materials at OSB events to showcase their organizations with membership. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2019-2020	Include affinity bar events on the OSB website calendar in accordance with OSB communication guidelines. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)

Summary Our Director of Member Services met with affinity bar leaders at the end of 2018 to provide a summary of available services and to answer questions about how to access them. Additionally, a new service was implemented in 2018, whereby new membership lists were distributed to affinity bar leadership to support their recruitment efforts. Mission statements and leadership contact information for each of the affinity bars was added to the Diversity & Inclusion website, and more visible placement of this information on the primary OSB website is in progress.

Affinity bars were invited to include membership materials in new member packets for the 2018 spring and fall swearing-in ceremonies and affinity bar events were listed on the OSB website calendar, as requested; both processes are ongoing, and will continue into 2019-2020.

ACTION 1.4.4 Increase OSB technical coordination with specialty bars.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Explore possibilities for adding information about joining specialty and affinity bars to membership fee statement at dues payment/renewal. ACCOUNTING	Pending; 2019
2018	Enhance information sharing with affinity bars for continuing legal education and activities related to OSB functions. MEMBER SERVICES	In progress; 2019
2018	Update and enhance resource list of OSB services available to membership and communicate to affinity bars. MEMBER SERVICES	In progress; 2019
2018-2020	Provide affinity bars access to OSB membership lists through the public records request process. MEMBER SERVICES	Ongoing

MEMBERSHIP SPHERE

Summary A mechanism for allowing members to join sections at dues payment/renewal was implemented in December 2018. The bar is exploring ways to include general information about the existence of affinity bars and specialty bars to the membership during the dues payment/renewal process, and will continue this work in 2019.

On December 10, 2018, OSB staff met with affinity bars to discuss services that the bar provides to its membership. The OSB sought feedback from affinity bars on proposed areas of coordination. OSB will continue exploring these ideas with a plan to have a more complete factsheet available in early 2019.

New member mailing lists were provided to affinity bars after swearing in ceremonies and periodically throughout the year, as part of the bar’s public records request process. The OSB will continue to share new membership lists with affinity bars as requested through 2020.

STRATEGY 5 Support an effective pipeline of diverse law students, including those from nondominant cultures, who feel sustained, welcomed, and encouraged to practice law in Oregon.

ACTION 1.5.1 Increase D&I program effectiveness.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Analyze current effectiveness based on data, current trends, and known issues. D&I	In progress; 2019
2019	Implement changes to D&I programming based on findings of analysis, to provide opportunities for law and pre-law students, including professional connections, legal experience, and financial support. D&I	Pending; 2019
2019	Formalize D&I program applicant criteria and review the application process to ensure fairness, transparency, and applicant pool reach. D&I	Pending; 2019
2020	Review progress based on implemented changes. D&I	Pending; 2020

Summary Data for D&I programs dating back to 1998 was collated, and participant surveys for 2018 D&I programs were released and analyzed. A process was developed to facilitate an effective and consistent means of tracking and recording program developments, updates, and findings, to support decision-making for future program development. Completion of program analysis is expected in early 2019, contingent on the timing of new software being implemented.

D&I introduced two new programs in 2018. The Collaboration and Partnership program was introduced to support community stakeholder work in retention and access to justice. Rebar is a holistic program designed to help JDs retaking the bar exam through a bar preparation course, in-person classes to develop testing skills and address known challenges, and mental health and personal support from the Oregon Attorney Assistance Program (OAAP).

MEMBERSHIP SPHERE

ACTION 1.5.2 Support diverse law students in Oregon, including students from nondominant cultures, through mentorship and community building, to encourage them to practice in Oregon upon graduation.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Collaborate with Oregon law schools and other partners to create a robust and effective Opportunities for Law in Oregon (OLIO) orientation program. D&I	Complete
2019	Implement Oregon Council on Legal Education and Admissions to the Bar (OCLEAB) agenda item asking Oregon law schools to report on their diversity trends. ADMISSIONS	Complete
2020	Review progress based on implemented changes. D&I	Pending; 2020

Summary OLIO Orientation took place in August 2018 in Welches, Oregon. In addition to 49 students, we welcomed approximately 90 attorneys and other legal professionals, who presented on a wide range of content. The membership was invited to attend OLIO continuing education programming. Included in the event were also 11 judge participants, representatives from each of Oregon’s affinity bars, plus members of the ONLD, OAAP, ACDI, and BOG. Student feedback, both anecdotal and via completed surveys, was overwhelmingly positive. 87% of survey respondents strongly agreed or agreed to the following statement: “I am leaving OLIO feeling better prepared for law school and beyond.”

Diversity trend reporting was included as an agenda item at the October 2018 OCLEAB meeting; it was agreed that D&I reports would be a standing agenda item for all future OCLEAB meetings. (See also Membership Sphere 2.4.1.)

STRATEGY 6 Increase lawyer engagement in community organizations that encourage individuals from nondominant cultures to pursue legal education.

ACTION 1.6.1 Create awareness in the legal community about existing programs, to encourage individuals from nondominant cultures to pursue legal education.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create a list of schools with pre-law programs, high schools with mock trial programs, and other educational organizations with school engagement initiatives. D&I	In progress; 2019
2019	Work with affinity bars, sections, committees, and other bar members to encourage member participation in the programs. D&I	Pending; 2019
2020	Obtain program feedback to evaluate effectiveness and reach. D&I	Pending; 2020

Summary We will consider the value of the 2018 target measure and how it can best support our program goals in 2019.

MEMBERSHIP SPHERE

GOAL 2 Identify and work to eliminate barriers in the legal profession for members from nondominant cultures.

STRATEGY 1 Increase OSB efforts to educate members on the value of diversity, equity, and inclusion.

ACTION 2.1.1 Review the applicable minimum continuing legal education (MCLE) rules and regulations to determine whether programs approved for access-to-justice credit support the DAC’s mission.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify any changes needed to the MCLE rules and regulations. D&I	In progress; 2019
2019	Secure MCLE Committee and Supreme Court approval of changes to MCLE rules and regulations. GENERAL COUNSEL.	Pending; 2019

Summary The D&I Department, MCLE Committee, and ACDI have been collaborating on proposed revisions to the MCLE Rules and Regulations, beginning with the statement of purpose. Work on the proposed revisions to the rules and regulations will continue into 2019, with a final recommendation from the D&I Department and ACDI anticipated by mid-2019. The timing for requesting approval from the MCLE Committee, Board of Governors and Supreme Court is therefore expected as planned, in late 2019.

ACTION 2.1.2 Sponsor, promote, and encourage elimination-of-bias CLE programming, including implicit bias, equity, systemic racism, institutional racism, etc.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Deliver programming regarding Oregon Rule of Professional Conduct 8.4. CLE SEMINARS	Complete

Summary The following seminars were developed: *The ABCs of Oregon Legal Services: Accessibility, Barriers, and Challenges* (June 2018); *The State of the Union: Masterpiece Cakeshop and Other LGBT Law Developments*, and *The Science of Implicit Bias* (November 2018).

ACTION 2.1.3 Promote Legal Employers Toolkit to legal employers.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with the OSB Diversity Section to complete the toolkit. D&I	In progress; 2019
2019	Distribute the toolkit. D&I	Pending; 2020
2020	Obtain feedback from toolkit recipients. D&I	Pending; 2020

Summary An RFP for completing the toolkit was released, and a consultant retained. Since the toolkit will be informed by the climate survey (Membership Sphere 1.1.1) and information gathered from legal employers (Membership Sphere 1.2.2), the new target date for toolkit completion is 2019.

MEMBERSHIP SPHERE

ACTION 2.1.4 Publish articles in the Bulletin related to diversity, equity, and inclusion.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a pool of potential contributors/subjects for articles, and a publication schedule. COMMUNICATIONS	Ongoing; 2019-2020
2018	Develop a process for inviting affinity bars to submit article ideas or written submissions for publication in the Bulletin. COMMUNICATIONS	Ongoing; 2019-2020
2018	Consider developing a regular column on diversity, equity, and inclusion. COMMUNICATIONS	In progress; 2019
2019-2020	Publish articles using the pool and according to the schedule. COMMUNICATIONS	Ongoing; 2019-2020

Summary: The Bulletin planning process includes regular coverage of OSB priorities, including diversity, equity, and inclusion. New efforts at outreach were implemented in 2018, including meeting with the ACDI to help recruit members for possible pieces and to seek content suggestions. In 2019, a new Editorial Advisory Committee will assist with planning and oversight of the publication; one of the new committee's charges is to "Ensure that multiple and diverse perspectives are considered in planning and publishing all editorial content."

STRATEGY 2 The BOG functions in a way that is open and inclusive of different perspectives and experiences.

ACTION 2.2.1 Task the Board Development Committee with assessing needs and with using the assessment to provide programming for the BOG on diversity, equity, and inclusion.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	BOG members conduct a self-assessment on bias (e.g., implicit bias test from the Harvard Project Implicit [https://implicit.harvard.edu/implicit/takeatest.html]). CEO	Ongoing; 2018-2020 (2018 complete)
2018-2020	Include at least one session on implicit bias, institutional racism, or equity principles for BOG members each year. CEO	Ongoing; 2018-2020 (2018 complete)

Summary The BOG's Board Development Committee discussed strategies for self-assessments during their May and June meetings. The BOG continued this discussion during its June meeting. President Nordyke (OSB President 2018) strongly encouraged BOG members to take the Harvard Project online implicit bias tests. This action item continues into 2019 and 2020.

BOG members attended a half-day equity training session in November 2018 which focused on leading organizational change. The program was led by a facilitator with experience presenting to state bars. This action item continues into 2019 and 2020.

MEMBERSHIP SPHERE

ACTION 2.2.2 Adopt a BOG policy to review all bar programs, services, and activities with impact on lawyers from nondominant cultures as a factor for evaluation.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Policy is reviewed by BOG Policy & Governance Committee and BOG. CEO	Complete
2018	Implement the policy and incorporate into BOG orientation materials and online resources. CEO	Complete

Summary At the June 2018 BOG meeting, the BOG’s Policy & Governance Committee recommended that the BOG adopt a program review policy that includes impact on lawyers from nondominant cultures as a factor for evaluation. The new policy has been implemented and was used to evaluate a proposed new leadership academy, and is included in online resources.

STRATEGY 3 Support an open and inclusive award selection process for all OSB groups.

ACTION 2.3.1 Encourage transparency in the award nomination and selection processes.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a policy and nomination form template for section awards. MEMBER SERVICES	In progress; 2019
2019-2020	Encourage and assist sections and the Oregon New Lawyers Division (ONLD) with promoting their award nomination process to affinity bars. MEMBER SERVICES	Pending; 2019-2020

Summary A nomination form template and suggested process has been drafted and is under review. Our target date for the final version is June 2019, just prior to when most sections begin their award nomination process.

STRATEGY 4 Review the admissions process to determine whether all applicants are treated equitably under the admission rules and procedures.

ACTION 2.4.1 Create policies and procedures establishing the appropriate collection and use of demographic data from applicants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review current rules, policies, and procedures to determine best practices for collecting and using demographic data. ADMISSIONS	Complete
2019	Make changes to policies and procedures as needed, to safeguard data collected from being used or made available for an admission decision related to any particular applicant. ADMISSIONS	In progress; 2019
2020	Make changes to policies and procedures, where necessary, to appropriately collect and use demographic data for statistical analysis. ADMISSIONS	Pending; 2020

MEMBERSHIP SPHERE

Summary Research into data collection practices of other state bars was conducted. The October 2018 OCLEAB agenda included a request to hear from law schools about trends in law school applications, law school admissions process and standards, overall job market data and how that is affecting job placements for recent graduates. Oregon’s law schools reported on their incoming classes, the general job market for new lawyers and engaged in a rich discussion with the OSB’s D&I Director regarding ideas to keep applicants from nondominant cultures in Oregon. Each law school reported that they had their most diverse class yet. Each dean offered to share demographic data with the D&I Department. The Committee agreed that D&I reports would be part of all future OCLEAB meetings.

ACTION 2.4.2 Collect data from the OSB Admissions Department, Oregon law schools, and applicants, to identify admissions trends of demographic groups.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2020	Ask OSB applicants to self-identify as part of the application process. ADMISSIONS	Pending; 2020
2020	Begin to review data in respect to identifying admissions trends by demographic. ADMISSIONS	Pending; 2020

Summary Implementation is expected in 2020, per original target date.

GOAL 3 Enrich the OSB by increasing the diversity of member representation in volunteer and leadership roles.

STRATEGY 1 Educate OSB member groups on the value of diversity, equity, and inclusion.

ACTION 3.1.1 Create a benefit statement supporting the value of diversity.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Seek input from affinity bars and other stakeholders in creating the benefit statement. MEMBER SERVICES	Pending; 2019
2018	Gather baseline data to determine current member involvement in OSB volunteer and leadership roles. MEMBER SERVICES	Complete.
2019	Distribute the benefit statement to bar groups. MEMBER SERVICES	Pending; 2019
2020	Evaluate the effectiveness of these education efforts, based on changes identified in overall volunteer participation. MEMBER SERVICES	Pending; 2020

Summary Baseline data for 2018 volunteers was gathered and evaluated based on four broad categories of OSB involvement: committees, discipline boards, member-elected, and self-elected (i.e. ONLD and OSB sections). In looking at the four self-reported demographic areas, data indicated committee members are significantly more likely than the other OSB volunteer types to report their demographic information. In turn, the data showed higher participation of historically underrepresented groups in all four demographic categories compared to OSB membership data.

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STRATEGY 2 Increase diversity on all OSB self-electing boards and in membership elected positions.

ACTION 3.2.1 Encourage a diverse pool of candidates for BOG and House of Delegates (HOD) elections.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	BOG members actively encourage diverse members, including members from nondominant cultures, to run for vacant positions on the BOG and HOD (annually). MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2018-2020	Encourage affinity and local bars to inform their members of BOG and HOD vacancies, including list serve and website postings. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2018-2020	Encourage affinity and local bars to promote the importance of voting in HOD and BOG elections to their membership. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)

Summary The BOG Board Development Committee conducted outreach with each of the affinity bars regarding the BOG and HOD elections. Additional members of the BOG and staff engaged with members from nondominant cultures when encouraging members to run for election. When voting opened for the BOG election, affinity bars were asked to encourage their membership to participate in the election. See Membership Sphere 3.1.1 regarding baseline data gathered for member-elected volunteers.

ACTION 3.2.2 Increase diversity of member representation on self-electing boards to reflect the diversity of the OSB membership.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	BOG review of ONLD bylaws and policies to ensure the election process is transparent and supports equity and inclusion. CEO	Complete
2018	Meet with sections during the annual meeting process to share the benefit statement (Action 3.1.1) MEMBER SERVICES	In progress; 2019
2019-2020	Include demographic data on membership lists and rosters. MEMBER SERVICES	Ongoing; 2019-2020 (2018 complete)
2019	BOG review of section bylaws and policies to ensure the election process is transparent and supports equity and inclusion. CEO	In progress; 2019

Summary Proposed changes to the ONLD bylaws relating to the election process were drafted and submitted to the ONLD and ACDI for input. Changes were then submitted to the BOG's Policy & Governance Committee for approval. The BOG adopted the proposed ONLD bylaw changes at its meeting on November 21, 2018. Changes to the section bylaws will be considered in 2019. The review of section bylaws has been separated out from the ONLD bylaws, and a new target date of 2019 has been added.

MEMBERSHIP SPHERE

OSB’s Director of Member Services met with a number of sections to discuss the Diversity Action Plan (DAP) in 2018. To support sections in considering diversity as a factor when selecting volunteers for the nominating committee and executive committee slate, the OSB shared members’ self-reported data with select section leaders. The benefit statement will be shared once available, likely by July 2019. See Membership Sphere 3.1.1 regarding baseline data gathered for self-elected board volunteers.

STRATEGY 3 Encourage diversity of volunteer speakers and planners for CLE events.

ACTION 3.3.1 Provide a resource list of affinity bars to bar groups planning CLE events.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a list of affinity bars and include a description of the affinity bars’ mission statements. CLE SEMINARS	Complete
2019	Incorporate the DAC’s mission and affinity bars list in CLE co-sponsorship guidelines. CLE SEMINARS	Pending; 2019

Summary The list, which will include mental health and substance use resources in addition to affinity bar information, has been finalized.

ACTION 3.3.2 Look for opportunities to collaborate with affinity bars for CLE events.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Conduct an inventory of existing bar CLE events that would be suitable for collaboration with affinity bars evaluate areas for further coordination for affinity bar CLEs. CLE SEMINARS	In progress; 2019
2019	Create a bar CLE resource guide for affinity bars. CLE SEMINARS	Pending; 2019
2020	Distribute the guide and begin CLE event collaboration with affinity bars. CLE SEMINARS	Pending; 2019

Summary An inventory of existing bar CLE events for possible collaboration is being conducted, and is expected to be available by the end of June, 2019.

ACTION 3.3.3 Look for opportunities to diversify the pool of CLE speakers.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Distribute the Leadership and Volunteer Opportunities CLE Speaker reports to section executive committees annually, with a reminder that the CLE planning committees have this resource and should consider diversity when selecting CLE subject-matter experts. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)

Summary The Director of Member Services met with section executive committees and shared volunteer lists throughout 2018.

MEMBERSHIP SPHERE

STRATEGY 4 Collaborate with the BOG and Board Development Committee to increase the diversity of lawyer and public member volunteers appointed by the BOG.

ACTION 3.4.1 Increase outreach to a diverse group of lawyers and nonlawyers, including individuals from nondominant cultures, for OSB volunteer positions.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Organize an event co-sponsored by the OSB's D&I Department, the BOG, and affinity bars, to explain OSB leadership opportunities, selection processes for OSB volunteer appointments, and application processes for the BOG and HOD. D&I	Pending; 2019
2018	Request that affinity and local bars include a link to the OSB Volunteer Survey on their websites. MEMBER SERVICES	Ongoing; 2019-2020 (2018 complete)
2018-2020	Provide notices of volunteer and leadership opportunities to affinity and local bar organizations for distribution to their members and through their respective newsletters, including to community organizations that support individuals from nondominant cultures. MEMBER SERVICES	Ongoing; 2019-2020 (2018 complete)

Summary We are reconsidering this event, and will request feedback from affinity bars on whether other approaches would be more valuable.

Recruitment for lawyer and public members was completed in 2018.

ACTION 3.4.2 Educate the Board Development Committee members on the need to review appointment recommendations and decisions through an equity lens.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Conduct an annual review of appointments with focus on demographic and geographic factors. MEMBER SERVICES	Ongoing; 2019-2020

Summary The BOG completes its annual appointments cycle in November during their final meeting of the year. A review of the appointments made in 2018 was conducted in January 2019 with the BOG's Board Development Committee.

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ACTION 3.4.3 Ensure the appointment process is efficient and effective and that the BOG has enough member information.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Board Development Committee reviews and refines internal processes. MEMBER SERVICES	Complete

Summary The review was conducted. Revisions to processes for appointment were initially implemented during the September 2018 Board Development Committee meeting. The committee will continue to discuss and refine its appointment process as necessary based on results from the annual review of appointments described in Membership Sphere 3.4.2.

STRATEGY 5 Develop a leadership institute for Oregon lawyers who support the mission of the D&I Department, including lawyers from nondominant cultures.

ACTION 3.5.1 Address gaps and barriers to leadership positions within the BOG and affinity bars for underrepresented members of the bar.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify gaps and barriers. D&I	Pending; 2019
2019	Craft a proposed course curriculum. D&I	In progress; 2019
2020	Implement the course. D&I	Pending; 2019

Summary The 2018 action item to identify gaps and barriers has been pushed forward to allow for our approach to be informed by stakeholder feedback, from the climate survey (Membership Sphere 1.1.1) and the affinity bar dialogue (Membership Sphere 1.4.1.)

As a precursor to the curriculum development process, a cohort of affinity bar leaders and other stakeholders attended the State Bar of Arizona’s Leadership Institute in April 2018, to learn from their approach. The BOG has approved an ad hoc committee to craft a course curriculum, and this work will begin in 2019 in tandem with the preceding target measure to identify gaps and barriers.

MEMBERSHIP SPHERE

STRATEGY 6 Encourage diversity of volunteer editorial review boards and authors for Legal Publications books.

ACTION 3.6.1 Increase representation of diverse members, including members from nondominant cultures, on Legal Publications editorial review boards and as authors.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Contact local and affinity bars when recruiting new editorial board members and authors. LEGAL PUBLICATIONS	In progress; 2019
2019	Revise Editorial Review Board Guidelines to strongly encourage editorial review boards to consider diversity in identifying potential authors. LEGAL PUBLICATIONS	Pending; 2019
2020	Evaluate effectiveness of efforts to increase diversity of editorial boards and author pool. LEGAL PUBLICATIONS	Pending; 2020

Summary. Affinity bars were contacted for inclusion in the author recruitment survey for a recent publication. We plan to brainstorm additional methods of making editorial boards and author pools more inclusive, in 2019, and to collaborate with the D&I Department on recruitment outreach.

ACTION 3.6.2 Include more detailed biographical information and pictures of authors in front matter of books, to showcase diversity involvement.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Select two publications to include more detailed biographical information. LEGAL PUBLICATIONS	Complete
2019	Increase the number of publications that include detailed biographical information. LEGAL PUBLICATIONS	Pending; 2019

Summary The first publication with an extended bio was published in 2018 (*Veterans, Military Service Members, and the Law*). Three more publications are planned for a 2019 release with expanded bios: *ADR in Oregon, Construction Law, and Insurance Law*.

MEMBERSHIP SPHERE

STRATEGY 7 Evaluate the effectiveness of the New Lawyer Mentoring Program (NLMP) in respect to lawyers from nondominant cultures.

ACTION 3.7.1 Survey new lawyer participants to determine their level of satisfaction with the NLMP.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review the existing new lawyer survey and determine whether additional information needs to be gathered. MEMBER SERVICES	In progress; 2019
2018	Modify the survey as necessary and implement for all new lawyers upon program completion. MEMBER SERVICES	In progress; 2019
2019	Use the information gathered to identify issues that warrant addressing. MEMBER SERVICES	Pending; 2019

Summary Staff has reviewed the NLMP Completion Survey and identified a number of necessary changes to make the data gathered more useful in evaluating the experiences of new lawyer program participants.

ACTION 3.7.2 Increase the pool of diverse mentors participating in the NLMP, including mentors from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Evaluate mentor availability and areas of underrepresentation. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2018-2020	Conduct targeted outreach to ensure adequate availability of mentors from diverse member groups, including nondominant cultures. MEMBER SERVICES	Pending; 2019-2020

Summary Program staff reviewed the pool of mentors and determined that additional recruitment of mentors outside the dominant culture would benefit the program. In early 2019, staff will conduct targeted outreach to affinity bars, specialty bars and other stakeholders in an effort to increase the availability of mentors from outside the dominant culture.

ACTION 3.7.3 Review NLMP database fields to ensure adequate information is available when matches are made.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Revise NLMP forms as needed. MEMBER SERVICES	In progress; 2019

Summary Current database questions elicit sufficient new lawyer and mentor information to make effective mentor matches. Ongoing consideration is required to determine how to best use mentor information during the matching process.

PUBLIC OUTREACH SPHERE

GOAL 1 Increase representation and legal services to underserved and hard-to-reach communities in Oregon.

STRATEGY 1 Assess the civil legal needs of low-income Oregonians statewide, including hard-to-reach populations.

ACTION 1.1.1 Conduct planned Civil Legal Needs Study (CLNS) that provides comprehensive information about the legal needs of low-income Oregonians, including hard-to-reach populations.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Gather and analyze CLNS data. OLF	Complete
2018	Publish and share CLNS data with a wide range of stakeholders. OLF	In progress; 2019
2018	Conduct a media campaign to share the results of the CLNS. COMMUNICATIONS	Pending; 2019

Summary The CLNS report is complete, and a one page legislative advocacy piece has been completed using the CLNS data to be used in the 2019 Legislative Session to advocate for increased legal aid funding.

The CLNS will be published and shared with a wide range of stakeholders in 2019 and there will be a media campaign to share the results.

ACTION 1.1.2 Use the results of the CLNS to inform the legal services provided by the integrated statewide legal aid programs in accordance with the OSB Legal Services Program (LSP) Standards and Guidelines.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Legal aid providers review the results and use these results on an ongoing basis as a factor when setting priorities for legal services and developing access strategies for low-income Oregonians, including hard-to-reach populations. LSP	Pending; 2019

Summary As described in Public Outreach Sphere 1.1.1, preliminary analysis has been completed. The legal aid providers are aware of the those results and are involved in preparing the final CLNS report in addition to assisting in the preparation of the one page legislative advocacy piece. The legal aid providers will use the results of the CLNS coupled with information gathered from local/regional client needs assessment when setting priorities for legal service. This will begin in 2019 and will be an ongoing process.

Information about how the legal aid providers have incorporated the results of the CLNS when setting priorities for legal services will be included in the periodic accountability review of the legal aid providers conducted by the Legal Services Program.

PUBLIC OUTREACH SPHERE

ACTION 1.1.3 Use the results of the CLNS to inform the access strategies for low-income and hard-to-reach populations by the Oregon State Bar.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Review the results of the CLNS for possible OSB program changes. LSP	Pending; 2019
2020	Develop a plan for implementing access strategies. LSP	Pending; 2020

Summary These target measures are anticipated to be completed as planned. As a stakeholder, the OSB received the final CLNS report early in 2019. A review process will be set up to assess possible OSB program changes with a view to implementing access strategies.

STRATEGY 2 Ensure that the integrated statewide legal aid programs are targeting their services based on the most compelling needs of the client community, including hard-to-reach and diverse populations, including nondominant cultures, in accordance with the OSB LSP Standards and Guidelines.

ACTION 1.2.1 LSP staff conduct the accountability process outlined in the Standards and Guidelines.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Staff, legal aid providers, and the LSP Committee review the current accountability process and make changes as necessary, including incorporating review of effective technology. LSP	Complete
2018	Complete the accountability process, and submit a report to the BOG. LSP	In progress; 2019
2019	Legal aid providers implement recommendations from the 2018 review process. LSP	Pending; 2019

Summary The LSP Committee and staff conducted an accountability review of the legal aid providers and a draft report is complete. Staff and the LSP Committee reviewed the findings with all three legal aid providers in December, 2018. The report is scheduled to be submitted to the BOG in early 2019. It is anticipated that providers will address the findings outlined in the report by the end of 2019.

PUBLIC OUTREACH SPHERE

STRATEGY 3 Increase pro bono representation of low-income Oregonians and hard-to-reach populations.

ACTION 1.3.1 Establish a baseline of current pro bono hours.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Using the American Bar Association (ABA) survey results and hours reported by OSB Certified Pro Bono Programs, establish a baseline of pro bono hours. LSP	In progress; 2019

Summary The data needed to establish a baseline of pro bono hours has been gathered including results of the ABA pro bono survey and voluntary reporting data from Oregon attorneys. Analysis needs to be performed in order to use the ABA survey to determine a scaling factor to move from self-reported pro bono hours to an estimate of pro bono hours performed. Analysis of the CLNS performed by the Oregon Law Foundation may allow for an additional estimate of the number of individuals under 125% of the poverty level helped by pro bono attorneys.

ACTION 1.3.2 Use the results of the ABA pro bono survey to develop strategies that are focused on nondominant cultures and hard-to-reach populations.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify barriers to lawyers doing pro bono work and develop a plan for addressing them. LSP	Pending; 2019
2019	Implement the plan to address barriers to lawyers doing pro bono work. LSP	Pending; 2019-2020
2020	Survey OSB membership on pro bono work. LSP	Pending; 2020

Summary Of the top barriers to doing pro bono work identified by the ABA Pro Bono Survey, seven are related to time: fears of not having enough time to do pro bono work and fears that pro bono work would take more time than expected. These time concerns show the need to have discrete pro bono opportunities. These opportunities might be carefully defined unbundled services, implementing ABA Free Legal Answers, or encouraging more providers to conduct drop-in or “advise and refer” clinics.

Also present in the top ten barriers reported were concerns related to the subject area of pro bono work: fears of not having sufficient knowledge of practice areas, and of not having interest in the subject areas pro bono cases are available in. Rounding out the top ten was a preference to do non-legal volunteering.

An approach to addressing some of these barriers might be through marketing – communicating that pro bono is doable, even if you are not a subject expert; pro bono is satisfying no matter the subject area; and pro bono makes an important difference in people’s lives.

The ABA survey also identified features that could encourage Oregon attorneys to volunteer. Of the top ten, three features are already provided by the Oregon State Bar: malpractice insurance, CLE credit for pro bono work, and free or reduced cost CLEs – indicating a need for more publicity about the availability of these features (the Certified Pro Bono Program, credit provided for volunteering, and the free CLEs

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offered through the Pro Bono Fair and Celebration.) Another takeaway from the ABA survey was that asking judges and prominent attorneys to help encourage volunteering might be an effective tactic to increase pro bono participation.

Other features lawyers thought would encourage pro bono work were offering limited scope cases or allowing attorneys to select cases. These features seem to relate to the time concerns survey participants brought up in the barrier section. Some attorneys indicated a desire to pair with another attorney or mentor through pro bono, and a few mentioned administrative or research support as elements that would be helpful.

The work to identify a plan for addressing these barriers and identifying further barriers will be conducted in 2019. Depending on the details of the plan, it will begin in 2019 or 2020.

ACTION 1.3.3 Continue to monitor the use of the ABA Free Legal Answers resource.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Determine whether ABA Free Legal Answers will work as a resource for the OSB. LSP	Pending; 2019
2019	Implement, if identified as an appropriate resource. LSP	Pending; 2020

Summary We are waiting on IT resources and software implementation before this target measure can be tackled. The new target year is therefore 2019.

STRATEGY 4 Increase representation through increased funding for the integrated statewide legal aid programs to increase access for low-income Oregonians, including underserved and hard-to-reach communities in Oregon.

ACTION 1.4.1 Use the CLNS to inform banks about the scope of the unmet legal needs of low-income Oregonians to support increased legal aid funding in Oregon.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Increase Leadership Bank Program interest rate tiers on IOLTA to coincide with Federal Reserve Bank increases. OLF	Complete
2018	Incorporate CLNS results into talking points to work with the Oregon Bankers Association and the banking community, to increase interest rates on Interest on Lawyer Trust Accounts (IOLTA) held in Oregon. OLF	Pending; 2019
2019	Continue to monitor interest rate increases and adjust Leadership Bank Program interest rates as needed.	Pending; 2019

Summary In 2018, the OLF Revenue Enhancement Committee developed a strategy, based on an increasing federal funds interest rate, to work with banks to increase the interest rate they pay on IOLTA deposits. The strategy included making an adjustment to the OLF's Leadership Bank interest tiers for IOLTA deposits. All but one of the Leadership Banks committed to increase rates beginning January 1, 2019.

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Once the CLNS report is complete it will be shared with the banking community along with talking points that underscore the importance of paying an above market interest rate on IOLTA deposits to impact legal aid services to low-income Oregonians. This target measure will take place in 2019.

Although the OLF will continue to monitor interest rates throughout 2019, the OLF has made the decision that the January 1 increase is the only adjustment the OLF plans to make to its Leadership Banks interest rate tiers in 2019.

ACTION 1.4.2 Use the CLNS to inform the legislature about the scope of the unmet legal needs of low-income Oregonians to support increased legal aid funding in Oregon.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Establish a diverse network of leaders to support relevant issues and trends. PUBLIC AFFAIRS	Complete
2018	Meet with justice system partners during the interim period to discuss legislative concepts and funding priorities. PUBLIC AFFAIRS	Complete
2019	Present information on access to justice to lawyer-legislators and bar members, to ensure message consistency. PUBLIC AFFAIRS	In progress; 2019

Summary Meetings with leaders and coalition partners have been ongoing in 2018, including an initial meeting with coalition partners using the CLNS data to ensure message consistency.

ACTION 1.4.3 Conduct media outreach campaign to support funding efforts.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop and execute a CLNS media outreach campaign. COMMUNICATIONS	In progress; 2019

Summary: The CLNS report is complete. OSB Media Relations staff has begun meeting with the OLF and our partners in the legal services community to craft a strategic outreach campaign. We expect this to be a key focus of work in early 2019, followed by additional effort throughout 2019 to capitalize on news hooks and other emerging opportunities.

ACTION 1.4.4 Explore partnering with the philanthropic community on the importance of funding legal aid to alleviate poverty.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with The Lawyers' Campaign for Equal Justice (CEJ) and legal aid providers to develop a plan to partner with the philanthropic community. OLF	In progress; 2019
2019	Implement the plan. OLF	Pending; 2019

Summary The OLF Executive Director has taken steps to become more familiar with Grantmakers of Oregon and Southwest Washington (GOSW) and received permission from the OLF board to join in

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December 2018. This allows the OLF to interact and connect with the broader philanthropic community which will enhance the ability of the OLF, the CEJ and legal aid to partner with the philanthropic community. This target measure’s timeline was not met due to lack of time and the impact of the OLF department being understaffed.

GOAL 2 Ensure all Oregonians are able to access the bar’s public protection programs.

STRATEGY 1 Engage in outreach to marginalized communities regarding the availability and purpose of the bar’s public protection programs.

ACTION 2.1.1 Develop relationships with community organizations working in the public protection arena.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify and create a list of potential community partners. GENERAL COUNSEL	Complete
2019	Have a discussion with a representative from each identified group. GENERAL COUNSEL	In progress; 2019

Summary The OSB General Counsel’s Office in partnership with the Lawyer Referral Service has developed a list of community partners. We are in the process of reviewing the list to determine our upcoming outreach strategy. In September 2018, bar staff presented at the Immigration Nonprofit Working Group’s 2018 Immigration Forum for Service Providers, to outline bar public protection programs and services available to Oregonians. The forum was attended by approximately 200 representatives from local nonprofits who work directly with underserved populations. In 2019, we will continue discussions with community partners.

ACTION 2.1.2 Design and utilize a toolkit for member and public outreach on public protection programs.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create program descriptions for public protection programs and collect related application and complaint forms to form a public protection programs toolkit. GENERAL COUNSEL	Completed
2019	Discuss and review the toolkit with representatives from community organizations and member representatives. GENERAL COUNSEL	Pending; 2019
2020	Share the toolkit with targeted audiences. GENERAL COUNSEL	Pending; 2020

Summary A description of public protection programs has been developed for use in the toolkit. Translations of all complaint/claim forms in six languages (Arabic, Russian, Simplified Chinese, Somali, Spanish, and Vietnamese) has been completed. A process for receiving and responding to complaints received in these languages is being developed in preparation for these complaint forms being released.

STRATEGY 2 Develop a comprehensive approach for providing English-language learners access to the bar’s public protection programs.

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ACTION 2.2.1 Develop policy to enable access to programs for persons who speak, read, or write languages other than English.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Evaluate staffing and other resources in relation to language needs. GENERAL COUNSEL	In progress; 2019
2019	Write and adopt a policy providing that individuals who file complaints in languages other than English have full access to programs. GENERAL COUNSEL	In progress; 2019
2020	Develop multilingual complaint/application forms and informational materials for public protection programs. COMMUNICATIONS	In progress; 2020

Summary The Client Assistance Office (CAO) is exploring the use of live interpreter services in order to enable communication with members of the public concerned about a lawyer’s conduct in Oregon when we are unable to effectively communicate in English or Spanish (for which sufficient resources already exist). We are developing a pilot program in which the bar will utilize interpreting and translation services to respond to written complaints received in a language for which we lack in-house language resources.

The OSB website currently includes a translation tool option, allowing a user to translate information about the complaint process, and complaint forms may be submitted online; however, we recognize that these translation tools may not provide high-quality translation. Because of this, we will continue to explore options to improve the user experience of English Language Learners on the OSB website. For instance, in 2018, we released a Spanish language video regarding the CAO complaint process on the OSB website. See also Public Outreach Sphere 2.1.2.

STRATEGY 3 Ensure that the operation of the bar’s public protection programs is fair, safe, and welcoming to all.

ACTION 2.3.1 Collect demographic data and feedback from users who access the bar’s public protection programs.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Explore methods to collect data. COMMUNICATIONS	Complete.
2019	Collect user demographic data and seek feedback on user experience. COMMUNICATIONS	Pending; 2019

Summary: Regulatory and Communications staff developed an online survey to assess user experiences based on the framework of procedural fairness. The survey includes a demographics section, allowing staff to compare the experiences of users from differing backgrounds. A link to the new survey will be included in notifications that a CAO or Disciplinary Counsel’s Office (DCO) matter has been closed.

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ACTION 2.3.2 Analyze demographic data and feedback from users who access the bar’s public protection programs.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Analyze the data collected. GENERAL COUNSEL	Pending; 2019-2020
2019-2020	Meet with members, stakeholders, and possible community partners identified in Action 2.1.1, to discuss data and seek additional feedback. CEO	Pending; 2020
2020	Identify approaches for creating a safer and more welcoming public protection program process. GENERAL COUNSEL	In progress; 2020
2020	Develop a plan to implement approaches. GENERAL COUNSEL	Pending; 2020

Summary Feedback from users is not scheduled until 2019; the timing of this item has been updated accordingly.

The OSB’s General Counsel is working with Oregon judges on approaches for creating a safe and more welcoming public protection program process based on principles of procedural fairness. In April 2018, Multnomah County Circuit Court judges made presentation to bar staff and disciplinary board on implementing a procedural fairness program, as developed by the National Center for State Courts, at OSB.

We are developing a survey tool to benchmark procedural fairness goals to share with people who interact with the bar’s public protection programs.

ACTION 2.3.3 Coordinate with the work of the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF).

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Participate in and support the work of the OSCCIF. CEO	Ongoing; 2019-2020 (2018 complete)

Summary Chief Justice Balmer established the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF) in 2016 in order to monitor and assist in the implementation of the Oregon Judicial Department’s (OJD) Strategic Plan related to access, inclusion and fairness and to identify and coordinate efforts to integrate inclusion and fairness principles in all OJD practices and procedures. The OSB’s CEO was appointed to the Council as the Oregon State Bar representative. In 2018, the CEO requested that the Chief Justice appoint the OSB Director of D&I to the Council in her stead. The OSCCIF met in March, June, September and December of 2018. OSCCIF worked with the OSB and Legal Aid to collect and coordinate online resources for self-representing litigants. They identified the resources each organization had shared and looked for gaps.

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GOAL 3 Expand availability of public education, outreach, and self-navigation materials for underserved Oregon communities.

STRATEGY 1 Develop public legal information materials that are accessible to all Oregonians.

ACTION 3.1.1 Improve the readability of all OSB public legal information materials.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Determine the readability/grade level of existing content, and set a target standard (e.g., "Plain English" 8th grade reading level). COMMUNICATIONS	Complete
2019	Edit the 30 most accessed topics to meet the new standard. COMMUNICATIONS	In progress; 2019
2020	Edit the next 30 most accessed topics to meet the new standard. COMMUNICATIONS	Pending; 2020

Summary: We reviewed 97 legal information topics for readability on the Flesch-Kincaid scale. For reading grade level, our materials ranged from 7.6 to 18.6, with an average grade level of 12.7. Given the nature of the material, our target for revisions is 8.0 (8th grade) or lower. Members of the BOG's Public Service Advisory Committee have begun editing selected topics.

ACTION 3.1.2 Improve access to legal information materials for English-language-learners.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Present all public information materials online in formats that are compatible with the Google Translate app; post professionally translated materials available to the OSB online. COMMUNICATIONS	Complete
2019	Produce professional translation of the 20 most accessed topics in high-demand languages. COMMUNICATIONS	Pending 2019
2020	Produce professional translation of the next 20 most accessed topics in high-demand languages. COMMUNICATIONS	Pending 2020

Summary *Legal Issues for Older Adults 2017 Edition* was professionally translated into Russian, Spanish, Simplified Chinese, Vietnamese and is available for free download from the OSB website. To date a total of 430 non-English versions have been downloaded: 177 in Simplified Chinese, 123 in Russian, 85 in Vietnamese and 45 in Spanish. All other materials posted to the public pages are compatible with the Google translate app posted on our public information home page.

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ACTION 3.1.3 Increase availability of legal information provided in video and other non-text formats, featuring diverse presenters, including presenters from non-dominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Continue the production of Legal Q&A videos in English, Spanish, and other high-demand languages; produce video introductions for OSB public protection programs in English and Spanish. COMMUNICATIONS	Ongoing; 2019-2020 (2018 complete)
2019	Produce and promote an instructional video for statewide dissolution forms (petitioner) in English and Spanish, in collaboration with justice system partners. COMMUNICATIONS	Pending; 2019
2020	Produce and promote instructional videos for other statewide family law forms. COMMUNICATIONS	Pending; 2020

Summary: Input on video topics was solicited from the BOG’s Public Service Advisory Committee, ACDI and other groups through outreach by the OSB’s Referral and Information Services (RIS) Manager promoting Lawyer Referral Services (LRS) and Modest Means. This work is ongoing, and attention to diversity in recruiting on-camera presenters is part of our recruitment efforts. To date we have completed 13 videos in Spanish, including 3 on the bar’s Client Assistance Office, Lawyer Referral Service and Modest Means Program, respectively. An additional 3 videos are available in Vietnamese. The Vietnamese videos and several of the Spanish videos relate to immigration law and were produced in partnership with legal community partner organizations.

ACTION 3.1.4 Increase the availability of legal information materials to people with disabilities and special needs.

TARGET DAE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review online materials for compatibility with screen readers; add captioning for public information videos. IT	In progress; 2019
2019-2020	Continue updating and monitoring of materials. IT	Pending; 2019-2020

Summary: This work is being completed on an ongoing basis as the website is updated. The goal is to ensure that all public-facing files and forms are compatible with screen readers. Members of the Bar Accessibility Review Team (BART) are working with each department on creating accessible PDF formats and the IT Department is assigned with development of compatible online forms. Communications and CLE staff are working to add subtitles to already-produced videos, and will be testing live captioning for CLE seminars in 2019. This action item, originally under the ownership of the Communications Department, has been reassigned to the IT Department.

PUBLIC OUTREACH SPHERE

STRATEGY 2 Enhance outreach to underserved communities regarding the Modest Means Program and Lawyer Referral Service.

ACTION 3.2.1 Assess current service levels and legal needs of underserved communities.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Compile internal statistics on the Lawyer Referral Service and Modest Means Program, including calls from English-language learners, languages offered by panelists, and website translations. COMMUNICATIONS	Complete
2019	Compare services provided with results of the CLNS to identify underserved communities, and prioritize how the Lawyer Referral Service is meeting their legal needs. LSP	Pending, 2019

Summary: Communications staff gathered data on language use through all the OSB’s RIS Department programs, including the LRS and Modest Means programs. Using 2017 as a baseline, we collected data on calls through our Spanish line, panelists who indicate they speak another language, and the amount of referrals made with an additional language selected (including what the additional language was). We can use this data to track subsequent years and whether the numbers increase due to our outreach efforts. Although we are unable to track usage of the online Google translate app, we do know that the non-English versions of Legal Issues for Older Adults have been downloaded 430 times since posting early in 2018.

See Public Outreach Sphere 3.1.3 for website information.

ACTION 3.2.2 Implement outreach plan to underserved communities, including marketing and coordination with community partners.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Begin outreach to already identified underserved communities. COMMUNICATIONS	Complete
2019-2020	Continue outreach methods and monitor effectiveness. COMMUNICATIONS	Pending; 2019-2020

Summary: Outreach efforts in 2018 included development of a list of community partners and meetings with Disability Rights Oregon, Catholic Charities, Proyecto Unica, the American Civil Liberties Union (ACLU), American Immigration Lawyers Association (AILA) and the OAAP. These meetings have already led to partnerships on Legal Q&A videos and volunteer recruitment efforts. The ACDI was asked for additional recommendations. This work is ongoing, in combination with outreach on the Lawyer Referral Service and Modest Means Program, and will be completed in conjunction with the work outlined in Public Outreach Sphere Goal 2.1.1.

PUBLIC OUTREACH SPHERE

STRATEGY 3 Increase issue-based public education, targeting media outlets with legal trends and issues that affect underserved communities.

ACTION 3.3.1 Establish a diverse network of lawyers and bar groups who are leaders in relevant areas of practice.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with select committees, sections, and affinity bars to support justice system issues. PUBLIC AFFAIRS	Ongoing; 2019-2020 (2018 complete)
2019	Develop a framework to continue the discussion and coordinate ongoing efforts. PUBLIC AFFAIRS	Pending; 2019

Summary Bills that the bar supported in the 2018 legislative session included:

- HB 4008: Prohibits fact finder from determining plaintiff's damages for civil cause of action using calculation for projected future earning potential of plaintiff that takes into account race or ethnicity of plaintiff.
- HB 4095: Establishes privilege for communications with lawyer referral service.
- HB 4097: Modifies provisions relating to law libraries and law library services provided by counties.
- HB 4010: Establishes Task Force on Addressing Racial Disparities in Home Ownership.

ACTION 3.3.2 Adopt a plan for responding to breaking legal news when it offers an opportunity to educate and enhance awareness of issues affecting underserved communities.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with bar leaders on a media response policy. COMMUNICATIONS	Pending; 2019/20
2019	Develop and implement the policy. COMMUNICATIONS	Pending; 2019/20

Summary: Communications and media staff will conduct outreach with bar leaders, affinity bars, specialty bars and external partners to raise awareness and increase opportunities for outreach, including in more rapid-response circumstances. Implementation and revision of plan will continue throughout 2019.

PUBLIC OUTREACH SPHERE

GOAL 4 Improve the administration of justice to better serve under-represented and marginalized communities.

STRATEGY 1 Support OSB justice system funding priorities.

ACTION 4.1.1 Develop coalitions and collaborate with justice system partners and bar members to achieve OSB legislative priorities.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Meet with justice system partners during the interim to discuss legislative concepts and funding priorities. PUBLIC AFFAIRS	Complete
2019	Host a Day at the Capitol to motivate members and educate legislative leadership. PUBLIC AFFAIRS	Pending; 2019
2019	Present information on access to justice to lawyer-legislators and bar members to ensure message consistency. PUBLIC AFFAIRS	Pending; 2019

Summary The OSB’s Director of Public Affairs met with legislators and other justice system partners during the interim to discuss legislative concepts and funding priorities.

STRATEGY 2 Collaborate with the courts and support the Procedural Fairness in Courts Initiative.

ACTION 4.2.1 Develop lunchtime CLE series (Lunch and Learn) at the Capitol for staff and public on implicit bias and procedural justice.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018–2019	Conduct a lunchtime CLE on procedural justice (annually). PUBLIC AFFAIRS.	Ongoing; 2019-2020 (2018 complete)

Summary CLEs coordinated during the 2018 Legislative Days included content on Procedural Justice, Elder Abuse, and Statutory Interpretation. Planning for the 2019 CLE series is underway.

ACTION 4.2.2 Determine goals of the OSCCIF regarding data identification and collection.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a plan on how to best assist. PUBLIC AFFAIRS	Complete

Summary The OSB’s Director of Public Affairs met with the criminal justice commission regarding justice reinvestment data and coordinated with OSCCIF regarding report recommendations and proposed changes to the Uniform Trial Court Rules (UTCrs.)

PUBLIC OUTREACH SPHERE

STRATEGY 3 Support access to justice in the legislative arena.

ACTION 4.3.1 Collaborate with other organizations to support procedural fairness and justice system reinvestment.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Host a Day at the Capitol; invite representatives from legal aid, indigent defense services, and coalition partners to participate in events. PUBLIC AFFAIRS	In progress; 2019

Summary This work is planned to take place in 2019. Day at the Capitol is an opportunity for lawyers to meet with their representatives and senators to talk about justice system issues directly related to the bar's mission. The OSB's Public Affairs Department arranges meetings for bar members with as many legislators as possible. The day is a chance to discuss the bar's priorities for the 2019 legislative session.

ACTION 4.3.2 Develop coalitions to support access-to-justice initiatives.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Meet with coalition partners during the interim to discuss legislative concepts and funding priorities. PUBLIC AFFAIRS	Complete

Summary During the 2018 legislative interim, Public Affairs Department staff regularly met with stakeholders on a variety of topics, including topics related to access to justice and criminal justice reform. This included meetings with legislators, staff and advocates who sought to update Oregon law in order to address oftentimes unintended collateral immigration consequences resulting from convictions of minor offenses.

ACTION 4.3.3 Educate lawyer-legislators, bar members, and coalition partners about the need for legal aid services and indigent defense.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Host an access-to-justice event with coalition partners (annually). PUBLIC AFFAIRS	In progress; 2019

Summary Public Affairs Department staff worked with outside groups to facilitate several events focused on access to justice and court funding. In December of 2018, the department hosted a Citizens Campaign for Court Funding breakfast that brought together attorneys representing business groups to advocate for the justice system. During the 2019 session, the Public Affairs Department will host a Day at the Capitol event that will focus largely on funding for legal aid and other justice system priorities.

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ACTION 4.3.4 Pursue consumer protection initiatives

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Pursue consumer protection initiatives related to the Futures Task Force Report . PUBLIC AFFAIRS	Complete
2019	Achieve progress in consumer protection initiatives in 2019 legislative session. PUBLIC AFFAIRS	Pending; 2019

Summary HB 4095 (lawyer referral service attorney-client privilege legislation) and HB 4097 (law library resources bill) were passed.

ACTION 4.3.5 Improve resources for self-navigators.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2019	Support court initiatives of the Futures Task Force. PUBLIC AFFAIRS	Pending; 2019
2019	Hold a successful legislative session. PUBLIC AFFAIRS	Pending; 2019

Summary. This action item, originally under the ownership of General Counsel, has been reassigned to the Public Affairs Department. Implementation is pending.

ACTION 4.3.6 Use the CLNS to update legislators about the unmet legal needs of low- income Oregonians to support increased legal aid funding.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Establish a diverse network of leaders, including leaders from nondominant cultures, to support relevant issues and trends. PUBLIC AFFAIRS	In progress; 2019
2019	Hold a successful legislative session. PUBLIC AFFAIRS	Pending; 2019

Summary Throughout the 2019 session, the Public Affairs Department will work with other advocates for legal services such as the Campaign for Court Funding, to advocate for increase funding for legal aid. The bar has already introduced one piece of legislation to this end, and will be meeting with key legislators throughout session to discuss this issue. Legal Aid funding will also be a key focus at the OSB Day at the Capitol event in May 2019.

BAR OPERATIONS SPHERE

GOAL 1 Bar employees have a high level of diversity and inclusion competence and ownership.

STRATEGY 1 Provide educational opportunities for OSB employees.

ACTION 1.1.1 Provide one annual mandatory session focused on inclusion, equity, or cultural competence for all staff.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Identify topic and schedule presenter (annually). HUMAN RESOURCES	Ongoing; 2019-2020 (2018 complete)

Summary The 2018 mandatory session was on The Science of Implicit Bias, delivered by the Director of the National Diversity Council. Staff attendance was around 85%; staff who did not attend are being scheduled to view a recording of the presentation. Staff was surveyed for feedback on the presentation and that information will be evaluated. Input from staff on the 2019 topic will be requested.

ACTION 1.1.2 Provide one annual mandatory session focused on diversity, inclusion, equity, or cultural competence for managers and directors (in addition to the annual all-staff training).

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Identify topic and schedule presenter (annually). HUMAN RESOURCES	Pending; 2019 - 2020

Summary The timing of this action is contingent on the results of the pending cultural assessment survey (Bar Operations Sphere 2.1.1), which will inform the subject matter for this training. This action item is postponed accordingly, with implementation expected to begin in 2019.

ACTION 1.1.3 Provide at least one annual cultural awareness day for all employees.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Identify culture to highlight; hold activity (annually). D&I	Ongoing; 2019-2020

Summary After brainstorming potential content and format for this action item, we concluded that this action item provided a good opportunity to develop an employee education session, as opposed to a “cultural awareness” activity, and we adjusted the approach accordingly. We identified transgender and non-binary inclusivity as a topic that should be addressed with all employees, as a primer for the plan to install gender-neutral restroom facilities (Bar Operations Sphere 2.3.1). The training was conducted in February 2019 by a leader in LGBTQ advocacy and policy work.

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ACTION 1.1.4 Develop a “tip of the month” feature on the intranet that focuses on information and topics relating to diversity, inclusion, equity, or cultural competence.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Source information and post monthly on intranet. D&I	Ongoing; 2019-2020 (2018 complete)

Summary Our “D&I Monthly” intranet feature was introduced in January 2018.

January 2018: “Introducing D&I Monthly”; February 2018: Lunar New Year - a brief description of the holiday and its traditions, plus a link to Portland Lunar New Year events; March 2018: the nuances of sign language - video excerpt from a TED Talk by Christine Sun Kim; April 2018: background on and link to the Harvard Implicit Bias Test; May 2018: a history of LGBTQ Pride and the Stonewall uprising; June 2018: the 28th anniversary of the ADA; July 2018: OLIO Orientation - hear from OLIO alum about OLIO’s impact (video); August 2018: a video excerpt from Cracking the Codes by Shakti Butler, a film about the causes and consequences of systemic inequity – and a reminder that D&I has the full movie for employees to borrow; September 2018: on Mental Health Awareness Week and mental health resources; October 2018: short documentary on the challenges faced by trans people serving in the military; November 2018: Oregon’s affinity bars: link to mission statements, and where to find information about affinity bars; December: valuing neurodiversity - a video by psychologist Dr. Devon MacEachron.

STRATEGY 2 Ensure managers and directors are held accountable for professional development in relation to diversity, inclusion, equity, and cultural competence.

ACTION 1.2.1 Update managers’ and directors’ performance evaluation templates to ensure that diversity and inclusion ownership and competence are included as leadership attributes to be evaluated.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Review templates, change as necessary, and implement for year (annually). HUMAN RESOURCES	Ongoing; 2019-2020 (2018 complete)

Summary 2018 performance evaluation templates were updated and distributed to managers and directors.

ACTION 1.2.2 Encourage managers and directors to identify and participate in external educational opportunities that focus on professional development around diversity and inclusion.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Discuss diversity and inclusion professional development during performance evaluation (annually). CEO	Ongoing

Summary A demonstrated commitment to and support of diversity and inclusion are attributes of leadership and professionalism outlined in the director performance evaluations. These items were highlighted in the written evaluations conducted in 2018. In addition, during regular meetings with

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individual reports throughout the year, the CEO discussed equity and inclusion learning opportunities, both in moments of everyday life, and through professional trainings.

STRATEGY 3 Review current OSB language used in relation to diversity and inclusion, and make updates according to current best practices.

ACTION 1.3.1 Research best practices around diversity and inclusion language.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Collate findings into a best-practices report. D&I	In progress; 2019

Summary Initial work has begun, and will continue into 2019. Input from stakeholders will be solicited.

ACTION 1.3.2 Conduct an assessment of OSB language, including pronouns, used on all internal and external materials.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify language and all language locations for updating, using the best-practices report. D&I	In progress; 2019
2019	Develop a language update implementation plan. D&I	Pending; 2019
2019	Implement consistent language updates per the implementation plan. D&I	Pending; 2019

Summary Initial work has begun, and will continue into 2019. A first draft of recommendations to update the demographic categories used by the OSB was developed; further work will continue in collaboration with a leader in LGBTQ advocacy and policy, and other stakeholders.

ACTION 1.3.3 Update OSB staff regarding changes to best-practices terminology and language.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Include best-practices language updates within the annual staff education session. HUMAN RESOURCES	Pending; 2019

Summary Implementation is on schedule for 2019.

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STRATEGY 4 Ensure the OSB bylaws are consistent with the OSB and DAC mission and goals around diversity and inclusion.

ACTION 1.4.1 Review bylaws and identify bylaws that need to be amended.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Identify bylaws. GENERAL COUNSEL	In Progress; 2019
2020	Draft and present amendments to the BOG for approval. GENERAL COUNSEL	Pending; 2020

Summary General Counsel has completed an initial review of OSB bylaws to present to the BOG for further consideration.

GOAL 2 Foster a welcoming and inclusive workplace and accessible programs, services, and Bar Center.

STRATEGY 1 Acquire an understanding of the bar’s workplace culture.

ACTION 2.1.1 Devise and conduct a workplace culture assessment.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Conduct a workplace culture assessment and analyze data. HR	In progress; 2019.

Summary We found that previously engaged consultants in 2018 provided disappointing survey drafts. In an effort to get the most useful results, it was decided to take a step back and start over. We are in the process of reviewing RFPs, utilizing the D&I Department’s recommendations following their search for a consultant on other projects. Work will continue into 2019.

ACTION 2.1.2 Evaluate employees’ reasons for leaving the organization.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review exit interview process and implement changes. HUMAN RESOURCES	Pending; 2019
2019	Develop a method for reviewing and analyzing data. HUMAN RESOURCES	2019
2020	Analyze and evaluate current and historic data. HUMAN RESOURCES	2020

Summary Work on this action item has not yet started.

ACTION 2.1.3 Conduct an internal salary equity assessment.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Conduct an assessment by a third-party contractor and analyze data. HUMAN RESOURCES	In progress; 2019

Summary This project is conducted by Human Resources at the direction of the OSB’s General Counsel.

BAR OPERATIONS SPHERE

STRATEGY 2 Use the results of data collection to identify areas for improvement.

ACTION 2.2.1 Develop a plan to address areas that need improvement.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2020	Develop and implement the plan. HUMAN RESOURCES	2020

Summary Implementation is on schedule for 2020.

STRATEGY 3 Identify and resolve barriers to the OSB being a welcoming environment for all.

ACTION 2.3.1 Develop and implement a plan to ensure inclusive restroom access for all employees and visitors.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop the plan and identify needed resources. D&I	In progress; 2019
2019	Implement the plan. FINANCE AND OPERATIONS	Pending, 2019

Summary We are in the process of quoting the cost to convert an area on the first floor into a single use bathroom. Cost will determine if the construction portion of this project can be executed within the 2019 budget or if it will need to be deferred until 2020. Education as part of this plan took place in February 2019 (see Bar Operations Sphere 1.1.3.)

ACTION 2.3.2 Develop and implement a policy and procedure to create an inclusive environment for nonbinary and transgender employees.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Develop a plan and identify needed resources. HUMAN RESOURCES	Pending; 2019
2020	Implement the plan. HUMAN RESOURCES	Pending; 2020

Summary On track for 2019 implementation.

STRATEGY 4 Continue to identify and resolve barriers to accessibility for persons with disabilities to OSB programs, services, and Bar Center.

ACTION 2.4.1 Develop and implement a plan to identify and resolve barriers to OSB Center facility.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review building user feedback to identify ways to improve building accessibility. GENERAL COUNSEL	In progress; 2019
2019	Create a plan and identify needed resources to improve building accessibility. GENERAL COUNSEL	In progress; 2020

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2020	Implement the accessibility plan. GENERAL COUNSEL	Pending; 2020
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Summary A survey of members with disabilities taken in 2016 showed about 15% of respondents had feedback regarding access to the OSB Center. The comments did not identify any physical barriers with particularity. The Bar Accessibility Review Team (BART) has identified a list of discretionary capital improvement projects to improve building accessibility, with a priority list, and has submitted it to the OSB’s CFO for use in the budgeting process.

ACTION 2.4.2 Ensure OSB websites are compatible with screen readers.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create a plan to continue identifying and updating portions of the website that are not accessible to persons utilizing screen readers. IT	Complete
2019	Implement the website accessibility plan. IT	Ongoing; 2019-2020

Summary: The current website is fully updated except for PDF downloads (see Public Outreach 3.1.4). An ongoing process is in place for tracking and resolving remaining problems as they arise while the website is rewritten. The Information Technology Department is assuming responsibility for this action item, which was previously assigned to General Counsel.

ACTION 2.4.3 Continue to educate bar staff and bar leaders about accessibility.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Gather feedback and identify areas where bar staff and bar leaders may require additional assistance or education on accessibility issues. GENERAL COUNSEL	In progress; 2019
2019	Hold bar staff training on accessibility. GENERAL COUNSEL	Pending; 2019
2019	Develop accessibility guides and recommendations that respond to bar staff and bar leaders’ needs. GENERAL COUNSEL	Pending; 2019
2020	Distribute accessibility guidelines and recommendations to bar staff and bar leaders. GENERAL COUNSEL	Pending; 2020

Summary The primary efforts here for this work have been in outreach to OSB sections. Section websites are mostly compliant at this point, and all of their CLE activities are transferring to our CLE Seminars department in 2019, a step which will facilitate improved oversight and consistency in respect to the way reasonable accommodations requests and prioritizing accessibility for events are handled. Work on this action item will continue into 2019.

GOAL 3 Build a workforce that is diverse and inclusive at every level.

STRATEGY 1 Collect demographic data as one benchmark for measuring the diversity of applicants and the workforce.

ACTION 3.1.1 Evaluate the categories currently used by the OSB for measuring staff diversity.

BAR OPERATIONS SPHERE

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Assess categories and expand as necessary. HUMAN RESOURCES	In progress; 2019
2019	Implement revised data collection. HUMAN RESOURCES	In progress; 2019
2020	Develop and implement system for ongoing review and analysis of data. HUMAN RESOURCES	Pending; 2020

Summary The first month of analysis using the new categories was August 2018. The D&I Department will be providing updated categories for gender identity once their work on this item is complete, expected in 2019 (Bar Operations Sphere 1.3.2)

ACTION 3.1.2 Investigate options for assessing the diversity of applicants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Evaluate electronic application systems. HUMAN RESOURCES	Pending; 2019
2020	Update application process. HUMAN RESOURCES	Pending; 2020

Summary On track for 2019/2020 implementation, per the target dates.

STRATEGY 2 Ensure that the OSB recruitment process is inclusive and equitable.

ACTION 3.2.1 Assess the current OSB recruitment process.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a method for assessment. D&I	In progress; 2019
2019	Conduct the assessment and analyze data. D&I	Pending; 2019

Summary The D&I Department is continuing to work with HR on assessing best practices for recruitment. It is not expected that there will be a delay to the assessment and data analysis target measure.

ACTION 3.2.2 Identify areas for improvement and develop a plan for improvement.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Develop a plan. HUMAN RESOURCES	Pending; 2019
2020	Implement the plan. HUMAN RESOURCES	Pending; 2020

Summary On track, per target dates.

BAR OPERATIONS SPHERE

STRATEGY 3 Increase the diversity of applicants for vacant positions at the OSB.

ACTION 3.3.1 Build relationships with external groups and organizations that are focused on diversity.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify external groups and organizations. D&I	Pending; 2019
2018	Develop a plan for building relationships with identified organizations that is appropriate to each organization. D&I	Pending; 2019
2019	Implement the plan. D&I 2018	Pending; 2020

Summary Work to identify external groups and organizations will proceed in 2019.

ACTION 3.3.2 Expand outreach to a more diverse pool of potential applicants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Evaluate current outreach for job openings to identify gaps. HUMAN RESOURCES	Complete
2019	Identify potential resources for additional outreach and their job posting requirements and needs. HUMAN RESOURCES	Complete
2019	Incorporate new resources into current advertising plans. HUMAN RESOURCES	Complete

Summary Through a variety of resources, the HR Department's advertising plan was updated with additional job advertising partners. Resources included the D&I Department, colleagues, current advertising partners, and research. As a result, the advertising plan was updated and job announcement advertising was expanded. Though these target measures are complete, applicant outreach will be reviewed on an ongoing basis.

STRATEGY 4 Explore and use bias interrupters in the hiring process.

ACTION 3.4.1 Incorporate hiring committees into the hiring process.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify opportunities for use of hiring committees. HUMAN RESOURCES	Complete
2018	Investigate and experiment with alternative hiring models that incorporate hiring committees. HUMAN RESOURCES	Complete
2019	Develop training for hiring committee participants. HUMAN RESOURCES	Pending; 2019
2019	Identify staff interested in participating on hiring committees and provide training. HUMAN RESOURCES	Pending; 2019

Summary Hiring committees were used for four open positions in 2018. The process is being refined and altered after each hire to be efficient and effective.

BAR OPERATIONS SPHERE

ACTION 3.4.2 Create accountability for hiring process decisions.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Implement a step within the hiring process that requires decision makers to state a reason why they did not choose to take applicants to the next stage. HUMAN RESOURCES	Complete
2018	Provide training for managers and directors on bias interrupters. HUMAN RESOURCES	Pending; 2019

Summary Hiring committee members for recruitment in 2018 were required to state a reason why they chose not to take each applicant to the next stage. A template was created and attached to each resume, to be completed by each committee member. Committee members were also required to indicate on each template their decision, why the decision was made, and to complete, as much as possible, the checklist of job requirements.

Bias interrupter training will be scheduled after the cultural assessment survey (Bar Operations Sphere 2.1.1) is complete.

GOAL 4 Engage a diverse and inclusive group of contractors, suppliers, vendors, and consultants.

STRATEGY 1 Develop and implement a process for ensuring consideration of a diverse list of third-party vendors.

ACTION 4.1.1 Review the current processes used organization-wide for selecting contractors, suppliers, vendors, and consultants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review and document the process. FINANCE AND OPERATIONS	Complete

Summary A process, including a template for RFPs and a decision matrix which includes price, time to completion, quality, and Office of Minority, Women and Emerging Small Business (OMWESB) registration (or similar) as factors was created, and went live in October 2018. See also Bar Operations Sphere 4.1.2.

ACTION 4.1.2 Create and implement a policy or policies for contracting with third-party vendors that account for the various needs of the organization and consider a diverse vendor pool.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a diverse list of third-party vendors. FINANCE AND OPERATIONS	In progress; 2019
2019	Develop a policy. FINANCE AND OPERATIONS	Complete
2020	Implement the policy. FINANCE AND OPERATIONS	Complete

BAR OPERATIONS SPHERE

Summary Data on supplier diversity is not currently collected; however, a draft policy involving voluntary vendor self-identification is in place, which will allow us to draw on this data going forward.

A procedure that encourages consideration of a diverse vendor pool went live in October 2018.

DRAFT

OREGON STATE BAR

Policy and Governance Committee Agenda

Meeting Date: January 11, 2019
From: Loan Repayment Advisory Committee
Re: Changes to the LRAP Policies and Guidelines

Action Recommended

The Loan Repayment Advisory Committee recommends that the Policy and Governance Committee recommend to the Board of Governors a change in the LRAP Policies and Guidelines to allow more Oregon public defenders to participate in the OSB LRAP.

Background

The Loan Repayment Assistance Program (LRAP) is now in its 12th year of providing forgivable loans to lawyers pursuing careers in public service law. Through this program, lawyers working in public service may receive loans for up to \$7,500 per year for three years to aid them in repaying their educational debt. Each loan is forgiven at the end of the year, provided that the lawyer remains in public service. Currently, Section 2(B) of the Policies and Guidelines states that those eligible for the Program are attorneys practicing “with civil legal aid organizations, other private non-profit organizations providing direct legal representations of low-income individuals, as public defenders or as deputy district attorneys.” FAQs prepared by staff at the inception of the Program make clear that the phrase “public defenders” is narrowly interpreted.

Public Defense work in Oregon is overseen by the Oregon Office of Public Defense Services. Many counties have large organizations that have a contract with OPDS to provide criminal defense services in those counties. Examples are Multnomah Defenders, Intermountain Public Defender and Southern Oregon Public Defenders. These organizations are non-profits whose sole work is public defense work. Attorneys employed by these organizations who meet the other criteria may apply for an OSB LRAP loan. Some counties have private law firms whose primary work is public defense work, such as Crabtree and Rahmsdorff in Bend. Any attorney who is **employed by** one of these firms may also apply for an OSB LRAP loan, but those who **have a contract with** the firm may not. Most counties have public defender consortiums, which are groups of attorneys who have bonded together to contract with OPDS for public defense work. In addition, counties with non-profit organizations also have consortia for conflict work. Attorneys who are part of a consortium are not eligible to apply for an OSB LRAP. Finally, individual attorneys engage in public defender work as appointed by the Court. These attorneys are not eligible to apply for an OSB LRAP.

Approximately one-third of “public defenders” in Oregon work for one of the non-profit organizations that have a contract with OPDS. At least 50% of the “public defenders” in Oregon work in a way that makes them ineligible for the OSB LRAP. This is especially true in rural Oregon.

The current LRAP Policies and Guidelines have a disparate impact on rural Oregon communities that do not have large non-profit public defender organizations, and on the lawyers who practice there. Many of these lawyers make well below the \$65,000 cut-off, and, as they are not considered “in public service” under federal guidelines, they do not qualify for the ten-year federal loan forgiveness for which many other attorneys qualify.

Staff will need to amend the LRAP Application to allow for self-employed attorneys, and will need to review the applications of the private public defense attorneys with more scrutiny, as those attorneys will need to provide the OSB with their 1040 tax forms. Staff does not anticipate that this additional review will be onerous.

Finally, the P & G Committee should be aware that this new category of attorneys may not be able to claim that their debt forgiveness is a non-taxable event, as is the case for the attorneys already qualified. (Please note that the OSB does not provide any tax advice to the LRAP recipients, as is made clear to the participants). The OSB has examined whether this may require the OSB to provide these attorneys with a Form 1099. Staff currently does not believe it will be required to do so, but if it does, staff does not believe that this additional step will be onerous.

Proposed changes to the Policies and Guidelines are attached hereto.

*Loan Repayment
Assistance Program*

Policies and Guidelines

**Adopted by the Board of Governors
November 18, 2006**

Revised February 13, 2015

The mission of the Oregon State Bar’s Loan Repayment Assistance Program is to attract and retain public service lawyers by helping them pay their educational debt.

Statement of Purpose

The Oregon State Bar recognizes that substantial educational debt can create a financial barrier which prevents lawyers from pursuing or continuing careers in public service law. The Oregon State Bar’s program of loan repayment assistance is intended to reduce that barrier for these economically-disadvantaged lawyers, thereby making public service employment more feasible.

Oregon Public Records Act Notice

The Oregon State Bar is subject to the Oregon Public Records Act, ORS Chapter 192. The bar has an obligation to disclose its records when requested, unless an exemption applies. The bar agrees the personal financial information you provide in response to the LRAP Application is submitted in confidence and will only be disclosed under the Act if required by law.

Section 1 – Administrative Partners

(A) Advisory Committee

(i) Membership

An Advisory Committee will be appointed by the Oregon State Bar (OSB) Board of Governors, and will be comprised of nine members who meet the following criteria:

- OSB President, or member of the Board of Governors designated by the President
- Chair of the OSB New Lawyers Division, or designee
- Representative from an Oregon law school, preferably with financial aid expertise
- Representative from the indigent criminal defense area of public service law
- Representative from a county district attorney’s office
- Representative from the civil area of public service law
- Three at-large members who are OSB members, represent geographical diversity, and have shown a commitment to public service law

(ii) Appointment and Administration

- OSB President and Chair of the OSB New Lawyers Division, or designees, will serve for a term of one year.
- Other Advisory Committee members will serve for a term of three years and may be reappointed for one additional term.
- Advisory Committee members will elect a Chair and such other officers as they determine are necessary from among Advisory Committee members. Officers shall serve a one-year term, subject to renewal.

- One-third of the initial appointments will be for one year, one-third for two years, and one-third for three years. The OSB Board of Governors will determine which of the initial positions is for which length.
- The OSB will designate a staff person to support the Advisory Committee's work.
- Current applicants for or recipients of LRAP loans may not serve on the Advisory Committee.

(iii) Advisory Committee Duties

- Select participants for the loan repayment assistance program (LRAP or the Program), and report the selections to the OSB.
- Report annually to the OSB Governance and Strategic Planning Committee on the Program's status.
- Amend and set policy guidelines as needed for the Program.
- Raise funds to achieve programmatic objectives.
- Adopt procedures to avoid conflicts of interest.
- Make clear program rules to avoid grievances.

(B) Oregon State Bar

- Support the Advisory Committee's work through provision of a part-time staff person
- Receive and invest member dues designated for LRAP
- Administer other funds raised by the Advisory Committee
- Receive and review LRAP applications for completeness and eligibility, and forward completed applications from eligible applicants to the Advisory Committee
- Disburse LRAP money to participants selected by the Advisory Committee.
- Receive and review annual certifications of continuing LRAP eligibility.
- Provide marketing and advertising services for the Program, including an LRAP website which includes frequently asked questions with responses.
- Coordinate response to grievances submitted by Program participants.
- Handle inquiries about LRAP through the staff person or, if necessary, forward such inquiries to the Advisory Committee.

Section 2 – Requirements for Program Participation

(A) Application and Other Program Procedures

- Applicants must fully complete the Program application, submit annual certifications and follow other Program procedures.
- Previous recipients are eligible to reapply.

(B) Qualifying Employment

- Employment must be within the State of Oregon.
- Qualifying employment includes employment as a practicing attorney with civil legal aid organizations, other private non-profit organizations providing direct legal representation of low-income individuals, as public defenders, as private public defense contractors, or as deputy district attorneys.

- Judicial clerks and attorneys appointed on a case-by-case basis are not eligible.
- Thirty-five hours or more per week will be considered full-time employment; hours worked per week less than 35 will be considered part-time.
- Part-time employees are eligible to apply for the Program; however repayment assistance may be prorated at the discretion of the Advisory Committee, based on FTE.

(C) *Graduation/License/Residency Requirements*

- Program applicants must be licensed to practice in Oregon.
- Program participation is not limited to graduates of Oregon law schools. Graduates of any law school may apply.
- Program participation is not limited to recent law school graduates. Any person meeting Program requirements, as outlined herein, may apply.
- Program participation is not limited to Oregon residents, provided the applicant works in Oregon and meets other Program requirements.

(D) *Salary-Income Cap for Initial Applicants*

Applicants with ~~salaries~~ salaries of more than \$65,000 or net income from private, for-profit public defense work of more greater than \$ 65,000 at the time of application will be ineligible for Program participation.

- The Advisory Committee may annually adjust the maximum eligible salarynet income.
- As more fully described in Section 3(B)(ii), Program participants may retain eligibility despite an increase in salary above the cap set for initial participation.
- The maximum eligible salary may be pro-rated for part-time employees, based on FTE.

(E) *Eligible Loans*

All graduate and undergraduate educational debt in the applicant's name will be eligible for repayment assistance.

- Applicants with eligible debt at the time of initial application less than \$35,000 will be ineligible for Program participation.
- If debt in the applicant's name and in others' names is consolidated, the applicant must provide evidence as to amount in the applicant's name prior to consolidation.
- Loan consolidation or extension of repayment period is not required.
- Program participants who are in default on their student loans will be ineligible to continue participating in the Program (see 4(C)(v) below for more details).

Section 3 – Description of Benefit to Program Participants

(A) *Nature of Benefit*

The Program will make a forgivable loan (LRAP loan) to Program participants.

(i) Amount and Length of Benefit

- LRAP loans will not exceed \$ 7,500 per year per Program participant for a maximum of three consecutive years. LRAP loans cannot exceed the annual student loan payments of the participant.
- The Advisory Committee reserves discretion to adjust the amount of the LRAP loan and/or length of participation based on changes in the availability of program funding.
- LRAP loans will be disbursed in two equal payments per year. .

(ii) Interest on LRAP Loans

Interest will accrue from the date the LRAP loan is disbursed, at the rate per annum of Prime, as published by the Wall Street Journal as of April 15 of the year in which the loan is awarded, not to exceed nine percent.

(iii) Federal Income Tax Liability

Each Program participant is responsible for any tax liability the Program participant may incur, and neither the Advisory Committee nor the OSB can give any Program participant legal advice as to whether a forgiven LRAP loan must be treated as taxable income. Program participants are advised to consult a tax advisor about the potential income tax implications of LRAP loans. However, the intent of the Program is for LRAP loans which are forgiven to be exempt from income tax liability.

(B) *Forgiveness and Repayment of LRAP Loans*

The Program annually will forgive one year of loans as of April 15 every year if the Participant has been in qualifying employment the prior year and has paid at least the amount of his/her LRAP loan on his/her student loans. Only a complete year (12 months from April 15, the due date of application) of qualifying employment counts toward LRAP loan forgiveness.

(i) Loss of Eligibility Where Repayment Is Required

Program participants who become ineligible for Program participation because they leave qualifying employment must repay LRAP loans, including interest, for any amounts not previously forgiven.

- The repayment period will be equal to the number of months during which the Program participant participated in the Program (including up to three months of approved leave), or 12 months, whichever is longer.
- The collection method for LRAP loans not repaid on schedule will be left to the discretion of the Oregon State Bar.
- Participants shall notify the Program within 30 days of leaving qualifying employment.

(ii) Loss of Eligibility Where Repayment Is Not Required

Program participants who become ineligible for continued Program participation due to an increase in income from other than qualifying employment (see Section 4(C)(iv)) or because their student loans are in default (see Section 4(C)(v)) will not receive any additional LRAP loans. Such Program participants will remain eligible to receive

forgiveness of LRAP loans already disbursed so long as the Program participant remains in qualifying employment and submits an employer certification pursuant to Section 4(C)(iii).

(iii) Exception to Repayment Requirement

A Program participant may apply to the Advisory Committee for a waiver of the repayment requirement if (s)he has accepted public interest employment in another state, or for other exceptional circumstances. Such Program participants will not receive any additional LRAP loans.

(C) *Leaves of Absence*

Each Program participant will be eligible to continue to receive benefits during any period of leave approved by the Program participant's employer. If any such approved leave period extends for more than three months, the amount of time the Program participant must remain in qualifying employment before an LRAP Loan is forgiven is extended by the length of the leave in excess of three months. The leave time exceeding three months is added to the end of the year in which the leave is taken and thereafter, the starting date of the new year is reset based upon the new ending date of the year in which the extended leave is taken until the three year LRAP Loan period concludes.

Section 4 – Program Procedures

(A) *Application and Disbursement Procedure*

- Applications submitted to the Advisory Committee must be postmarked or delivered to the Oregon State Bar office by April 15 of each year.
 - Applicants must be members of the OSB already engaged in qualifying employment by the application deadline.
 - Applicants may not commence the application process prior to receiving bar exam results.
 - Unsuccessful applicants will get a standard letter drafted by the Advisory Committee and may reapply in future years as long as they meet the qualifications described in Section 2.
- Applicants will be notified by June 1 of each year as to whether or not they have been selected for Program participation in accordance with the selection criteria set forth in Section 4(B).
- Those applicants selected as Program participants will receive a promissory note for the first year of LRAP loans along with their notification of selection. The executed promissory note must be returned to the Advisory Committee by June 15.
- Initial disbursement of LRAP loans will be made by July 1 provided the executed promissory note has been returned.
- In conjunction with the annual certification procedure set forth in Section 4(C), persons who remain eligible Program participants will be sent a new promissory note, covering the LRAP loan in the upcoming year by June 1, which must be executed and returned by June 15.
- Ongoing disbursement of loans to persons who remain Program participants will be made on or about July 1 of each year.

(B) Program Participant Selection

(i) Factors Considered

- Meeting the salary, debt and employment eligibility for the Program does not automatically entitle an applicant to receive a LRAP loan. If the Advisory Committee needs to select among applicants meeting the salary, debt and employment eligibility criteria, it may take into account the following factors:
 - Demonstrated commitment to public service;
 - Financial need;
 - Educational debt, monthly payment to income ratio, and/or forgivability of debt;
 - Extraordinary personal expenses;
 - Type and location of work;
 - Assistance from other loan repayment assistance programs;
- The Advisory Committee reserves the right to accord each factor a different weight, and to make a selection among otherwise equally qualified applicants.
- If there are more eligible applicants than potential Program participants for a given year, the Advisory Committee will keep the materials submitted by other applicants for a period of six months and may automatically reconsider the applicant pool if an individual selected to receive an LRAP loan does not participate in the Program.

(ii) Other Factors Considered Related to Applicant's Income

The following factors, in addition to the applicant's salary from qualifying employment, may be considered in determining applicant's income:

- Earnings and other income as shown on applicant's most recent tax return
- Income-producing assets;
- Medical expenses;
- Child care expenses;
- Child support; and
- Other appropriate financial information.

(C) Annual Certification of Program Participant's Eligibility

(i) Annual Certifications Required

Program participants and their employers will be required to provide annual certifications to the OSB by April 15 that the participant remains qualified for continued Program participation. Annual certifications forms will be provided by the Program. The OSB will verify that the Program participants remain eligible to receive LRAP loans and will obtain new executed promissory notes by June 15 prior to disbursing funds each July 1.

(ii) Program Participant Annual Certifications - Contents

The annual certifications submitted by Program participants will include:

- Evidence that payments have been made on student's loans in at least the amount of the LRAP loan for the prior year and evidence that student loan is not in default.
- Completed renewal application demonstrating continued program eligibility

(iii) Employer Certification - Contents

The annual certifications submitted by employers will include:

- Evidence that the Program participant remains in qualifying employment; and
- Evidence of the Program participant's current salary and, if available, salary for the upcoming year.

(iv) Effect of Increase in Salary and Income and Changes in Circumstances

Program participants remain eligible for the Program for three years despite increases in salary provided that they remain in qualifying employment with the same employer and are not in default on their student loans. If a Program participant's financial condition changes for other reasons, the Advisory Committee may make a case-by-case determination whether the Program participant may receive any further LRAP loans. Even if no further LRAP loans are received, this increase in income will not affect the LRAP loan forgiveness schedule so long as the Program participant remains in qualifying employment and submits an employer certification pursuant to Section 4(C)(iii).

(v) Effect of Default on Student Loans

Program participants who are in default on their student loans will be ineligible to receive further LRAP Loans, but may seek to have LRAP loans forgiven in accordance with the loan forgiveness schedule if they remain in qualifying employment and submit an employer certification pursuant to Section 4(C)(iii).

(vi) Voluntary Withdrawal from Program

A Program participant may voluntarily forgo future LRAP loans despite retaining eligibility (e.g., the Program participant remains in qualifying employment and receives a substantial increase in salary). In such a case, LRAP loans already received will be forgiven in accordance with the loan forgiveness schedule so long as the Program participant remains in qualifying employment and submits an employer certification as otherwise required under Section 4(C)(iii).

(D) *Dispute/Grievance Resolution*

- Grievance procedure applies only to Program participants, not applicants.
- Program participants have 30 days to contest a determination in writing.
- The Advisory Committee has 60 days to issue a decision.
- A Program participant may appeal the Advisory Committee's decision by making a request in writing to Board of Governors within 30 days of the Advisory Committee's decision. The decision of the Board is final.

OREGON STATE BAR

Policy & Governance Committee Agenda

Meeting Date: February 21, 2019
From: Helen Hierschbiel, Chief Executive Officer
Kay Pulju, Director of Communications and Public Services
Eric McClendon, Referral and Information Services Manager
Re: Lawyer Referral Service Revenue

Action Recommended

Create a policy for use of revenue generated by the Lawyer Referral Service (LRS) that either:

1. Continues using LRS revenue to balance the OSB operating budget; or
2. Returns revenue to the LRS panelists; or
3. Reinvests LRS revenue into programs that provide access to justice with the potential to increase LRS revenue.

Background

The Referral and Information Services Department (RIS) offers a number of programs designed to increase the public's ability to access the justice system, as well as offer opportunities to bar members who serve on its panels. Perhaps the most widely known RIS program is the Lawyer Referral Service (LRS), which is the oldest and largest program in RIS and the only one that produces revenue. The basic LRS operating systems (e.g., staffed call center, computer hardware and software) support the other RIS programs. Approximately 550 OSB members participate as LRS panel attorneys.

In addition to the LRS, the RIS Department includes the following programs that help both the people and the lawyers of Oregon:

- Referrals to other resources (e.g. community services and pro-bono legal services)
- Modest Means Program (MMP) (reduced-fee legal services for low and moderate-income clients in the areas of family law, landlord-tenant disputes, foreclosure, and criminal defense)
- Problem Solvers (pro bono program offering legal advice for youth ages 13-17)
- Military Assistance Panel (MAP) (connects military personnel and their families in Oregon with pro bono legal assistance)
- Lawyer to Lawyer (connects Oregon lawyers working in unfamiliar practice areas with experienced lawyers willing to offer informal advice at no charge)

The RIS Department is funded entirely by fees remitted to the bar from LRS panel members. Although it is often assumed otherwise, public information services provided by the bar (e.g. videos and print/on-line publications) are not part of the RIS Department or its budget.

Option 1: Maintain the status quo and continue using LRS revenue to balance the overall OSB budget.

The Referral and Information Services Department recorded a positive net revenue in 2018 of \$160K, with \$930K in total revenue. The net revenue generated by the LRS has helped the bar to maintain a balanced budget without increasing member fees. Even with the revenue performance of RIS, overall revenue in 2018 finished the year only \$2K greater than 2017. With this in mind, one option would be to continue using LRS revenue to balance the overall budget.

If the Board decides to divert funds away from RIS toward new programs or initiatives or to lower the cost of participation by panelists, the Board will need to raise member fees, establish a solid backfill of other new sources of revenue, or identify additional cost savings, in order to avoid the risk of putting the bar in a negative position relative to the overall budget.

In addition, the Board should be mindful that past performance does not guarantee future results. RIS net revenue in 2018 was \$25K less than in 2017. And, revenue during the last three months of 2018 averaged only \$61K per month, as compared with the first 9 months, during which the average was \$82K per month. In short, revenue performance of LRS is subject to random variations and market inflections just like any other business. Maintaining the status quo arguably provides the Board greater flexibility to adjust to such fluctuations without significant impact on reserves, bar programs, or member fees.

Option 2: Reduce the cost to attorneys for their participation in LRS and Modest Means panels

LRS panelists currently remit 12% of fees earned and collected on LRS-referred cases. The BOG's initial goal for the program was for RIS to become financially self-sufficient – not to create an excess profit. Additionally, these lawyers are mostly sole practitioners (69%) and relatively young (62% are under age 50), two demographic groups that may have financial challenges. If that is a key concern for the board, there are several ways to return LRS profits back to panelist attorneys.

- The percentage amount of remittance fees could be lowered from 12% to 10%.
- A trigger amount could be implemented, which would lower remittance fees less than adjusting the percentage fee while also reducing administrative costs. The bar's Public Service Advisory Committee (PSAC) has proposed this concept but the board has not yet discussed it in detail.
- Offer free LRS registration for lawyers who also participate in the Modest Means program.

- Offer LRS panelists who participate in the Modest Means program vouchers for OSB CLE seminars, a financial benefit for panelists that would effectively shift revenue from LRS to the CLE Seminars Department.

Option 3: Reinvest LRS revenue into access to justice programs that also have the potential to increase LRS revenue.

At the December 2018 meeting of the Public Service Advisory Committee (PSAC), bar staff updated the committee on the board's review of the LRS program. The PSAC's consensus recommendation is that, as a matter of general policy, LRS revenue should be directed towards expanding access to justice in ways that also have the potential to increase referrals to LRS. Moreover, the committee preferred that option to the possibility of lowering percentage remittance fees.

Below are several options that are either being implemented or considered by bar staff in that spirit.

A. Continue Current Marketing and Modest Means Expansion Initiatives

As stated above, LRS revenue currently funds the operation of the entire RIS department, which includes the Modest Means Program, the Military Assistance Panel, Problem Solvers, and Lawyer-to-Lawyer Programs. While the original goal of the percentage fee model was for RIS to be self-sufficient, the board at the time also contemplated using any net revenue to expand the Modest Means Program and marketing for RIS programs. With this in mind, in 2014 a "Disability Benefits and Injured Workers" panel was added to the Modest Means Program and a marketing line-item was added to the RIS annual budget, which is currently set at \$15,000.

In recent years, the bar has engaged in marketing campaigns through Google Adwords, and made regular postings on Craig's List. The Google ad campaign has been coordinated with the Communications Department "Legal Q&A" video campaign. Over the past two years, Communications has created and posted over seventy short videos that address distinct issues in a wide variety of case types. Whenever a new subject is posted on the bar's public webpage, an analogous ad campaign is initiated. For example, if a Legal Q&A video addresses estate planning issues, the Google ad campaign for estate planning is contemporaneously activated. These marketing efforts resulted in a 19% increase in online referral requests in 2018.

Given the success of the video campaign, bar staff has begun preliminary discussions around the creation of self-help videos that would instruct pro-se litigants how to fill out their family law forms. These videos would be created and hosted on the bar's public website. A benefit of these videos would be the likelihood that pro se litigants would realize how complicated the law is and decide to hire an attorney. As the videos will be hosted on the OSB website, there is a strong chance of these individuals utilizing the LRS to find an attorney.

There is a financial advantage to continuing these ongoing efforts and refraining from creating additional programs. As "Option 1" states above, LRS revenue does vary on an annual basis, and there is always the possibility that revenue could decrease in future years. Without a

stable source of funding, launching new, multi-year initiatives could leave the bar on shaky financial grounds. By continuing existing initiatives, bar staff can be flexible in either expanding or reducing marketing expenditures based on current revenues. The downside to solely continuing current efforts is a reduced chance of the bar creating new, innovative programs to assist the public.

B. Utilize LRS Revenue to Launch a Landlord Tenant Law Application

One proposal being seriously considered is the creation of a landlord tenant law application (“app”) that allows pro se litigants to determine if they have a potential defense to an eviction. This app would be free to the public and hosted on the bar’s public website. Bar staff has already begun preliminary research into the development of this app, and a Portland-based law firm has offered to provide free programming. Potential costs to the bar would include hiring an attorney to review the initial programming for legal accuracy and continuing to update the app as the laws change. Similar to the advantages of hosting family law videos on the OSB site, there is a likelihood pro se litigants will utilize LRS to find an attorney should they decide to hire one.

C. Utilize LRS Revenue to Create a Remote Family Law Facilitation Program

The State Family Law Advisory Committee (SFLAC) has a Futures Committee that has been studying the possibility of creating a program to provide centralized remote access to family law facilitation services. Bar staff has been attending the Futures Committee meetings and providing information about possible avenues for collaboration between the OSB and the courts on this type of program. The SFLAC Futures Committee is recommending that a remote access program be initiated through a partnership between the OSB and the OJD (See attached report for more information). However, the BOG could decide to initiate a remote facilitator program independent from the OJD.

Creating a remote family law facilitation program at the bar would benefit the bar, the public and the courts. More than any of the proposals outlined above, a remote facilitation program based out of the RIS department will draw increased traffic to LRS phones and online referral pages. This is due to the fact that a large amount of “facilitation” calls are actually triaged to different programs and resources. Based on conversations with directors of remote facilitation programs across the country, it is fair to assume that 30%-40% of calls are either referred to attorneys or community resources. These diverted calls could simply be transferred to the LRS phone tree for further handling. Additionally, the remote facilitation program would rely heavily on live webcasts. These webcasts would be hosted on the existing bar webcast platform, and would be available for both live viewing and archived on the bar’s website. This would lead to a massive increase in web traffic to the bar’s website, including the online referral page.

The benefit to the public would be tangible as well. Once a script is created on a given subject, family law facilitators around the state would rotate on presenting the given topic of the day. Northern California currently utilizes this model quite successfully and hosts daily webcasts that are attended remotely by dozens of pro se litigants at a time. This is a highly

convenient method of facilitation as the public can stream the webcast from their home, law library, etc. The webcasts are also highly interactive. Viewers can ask questions in real time and have them answered by the facilitator-host as they fill out forms.

Remote facilitation also comes with an advantage to Oregon's court system. It is well documented that 80% of family law litigants are pro se. Courts are spending massive amounts of time and resources handling such a large amount of these "self-navigators." By diverting self-navigators to a webcast or online video, the bar will relieve pressure on in-person facilitators located at county courthouses.

The downside to remote facilitation comes in the form of personnel costs. The bar would need to recruit, train and compensate a facilitator, a 1.0 FTE position in the 8-15 pay range. This would be a direct program cost of between \$45,000 - \$70,000 per year. However, some if not all these personnel costs may be recovered through the increased LRS phone and web traffic to the RIS department.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 22, 2019
From: John Bachofner, Board Development Committee Chair
Re: Appointment recommendations to various bar and bar-affiliated groups

Action Recommended

Approve the Board Development Committee's recommendations for member and non-member appointments to the following groups.

Background

During the Board Development Committee's meeting on January 11 the committee selected the following members for appointment consideration.

Public Service Advisory Committee

The Public Service Advisory Committee advises the BOG and OSB staff on public service priorities and issues to assist in achieving the bar's public outreach and education goals. The BDC recommends **Jovanna Patrick** (111339) to chair the committee in 2019. **Andrew Teitelman** (075484), **Carrie Wineland** (085123), and **SreeVamshi Reddy** (140560) are recommended for appointment as members of the committee for terms ending December 31, 2019.

During the Board Development Committee's meeting on February 21 the committee selected the following members for appointment consideration.

Oregon Law Center and Legal Aid Services of Oregon Board

The OSB Board of Governors has authority to make appointments to these two governing boards. The boards consist of the same members, and two member appointments are needed. **Luis Garcia** (093627) and **Mark Comstock** (811930) are recommended for a three-year appointment.

The Board Development Committee met earlier today and selected the following members for appointment consideration.

Council on Court Procedures Appointment

Based on authority provided by ORS 1.730(1)(d), the BOG is tasked with appointing members of the Council on Court Procedures. The Board Development Committee recommends the appointment of **Scott O'Donnell** (933849) to fill a partial term.

Commission on Judicial Fitness and Disability Appointment

The Commission reviews complaints about Oregon state judges and justices of the peace and investigates when the alleged conduct might violate the state's Code of Judicial Conduct or Article VII (amended), Section 8 of the state constitution. The Commission also investigates complaints referred by

the Chief Justice that a judge has a disability which significantly interferes with the judge's job performance. The Board Development Committee recommends the appointment of **Melanie Kebler** (083798) to serve as a Commission member.

Advisory Committee on Diversity and Inclusion

Members of the Advisory Committee on Diversity and Inclusion score applications for the public honors, clerkship stipend, scholarship, and bar exam grant programs. The committee also provides vision, advises the D&I staff, and is a strong program advocate. The committee is in need of two new members and **Ashley Carter** (165397) and **Javier Spyker** (141172) are recommended for appointment with terms expiring December 31, 2021.

Loan Repayment Assistance Committee

Members of the Loan Repayment Assistance Committee select LRAP participants, amend and set program policy guidelines. As set forth in the program guidelines, several of the committee seats are designated for members with particular practice area or type. The committee is in need of a DA representative and **Jeffrey Auxier** (062634) is recommended. **Marti McCausland** (050260) is recommended for the law school representative position. If appointed, both would serve terms through December 31, 2021.

Quality of Life Committee

Quality of Life Committee members educate lawyers and firms about the benefits of balancing personal life and career obligations. Two lawyer and one public member are needed to fill vacant seats. **Amrit Mann** (000673) and **C. Atha Mansoor** (091747) are recommended for the lawyer positions. Carilyn Ellis, a psychologist, is recommended as a public member. If appointed, all would serve terms through December 31, 2021.



OREGON STATE BAR Board of Governors Agenda

Meeting Date: February 21-22, 2019
Memo Date: February 4, 2019
From: Carol J. Bernick, CEO
Re: Combing PLF Board Committees: Finance and Investments

Action Recommended

Approval of revision to PLF Policy 2.300 as amended.

Background

The PLF Board has had separate Finance and Investments Committees for a number of years. There is frequently a fair amount of overlap in committee membership.

Over the last few years, the Finance and Investments Committees have been combining their meetings. Because our budget and financial performance is driven so significantly by our investment results, the topics typically covered in each meeting bear on the charges of both committees. Therefore, the PLF Board voted to combine the committees. This change requires an amendment to the Bylaws. We recommend the following change:

PLF Policy 2.300

~~(5) Finance and Investments: Reviews the PLF's annual budget and recommends proposed budget to the Board of Directors. Reviews actuarial reports and estimates of the PLF's estimated claim liabilities and makes recommendations to the Board of Directors regarding financial presentation of claim liabilities. Monitors Fund investments and presents recommendations for changes in investment policy to the board of Directors. Makes recommendations to the Board of Directors regarding the selection of the independent financial auditor; reviews each financial audit report and recommends any actions based on those reports. ~~The Finance Committee reviews each financial audit report of the PLF and makes recommendations to the Board of Directors concerning audit results.~~~~

~~(6) Investments: ~~Monitors Fund investments and presents recommendations for changes in investment policy to the Board of Directors.~~~~

CJB/clh

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 22, 2019
Memo Date: February 8, 2019
From: Joel Sturm, Oregon New Lawyers Division Chair
Re: ONLD Report

The ONLD Executive Committee met in Cannon Beach on Saturday, January 12 for the annual retreat and January Executive Committee meeting. We were joined by OSB BOG Liaison John Grant.

After spending 2018 in an intense review of the ONLD's mission, goals, and programming, the 2019 retreat focused on: (1) discussing the year-long plans for each of the four, new Committees; (2) how best to serve the ONLD members in each Region; and (3) generally discussing the needs of new lawyers in Oregon.

The four new Committees have the following goals/focus for 2019:

CLE will focus on ensuring that at least one low-cost CLE is held in each Region, and will partner with the MBA and various sections to provide CLEs pertinent to new lawyers in the Portland Metro area. The Committee will host a Super Saturday CLE, giving new lawyers the opportunity to be exposed to a variety of practice areas appropriate for new lawyers. It will partner with the PLF on Learning the Ropes.

Student Outreach will work with the three law schools on networking and other opportunities for law students, will be involved with the May/October swearing-in ceremonies, will host a Classroom to Courtroom event with the Oregon Court of Appeals, and is looking to reach out for similar programs beyond the Portland Metro area.

Access to Justice will be moving beyond the scope of the two merged committees it represents. The intention of this Committee is to partner with legal services providers on volunteer recruitment among new lawyers. This committee will also work on a regional rural summit.

Membership will continue its work of hosting partnered, monthly networking events in the tri-county area, and is partnering with the CLE Committee for the CLE/networking events that will happen in each Region.

BOG liaison John Grant informed the Executive Committee about the current litigation against the Bar, and about the possibility of recalibrating the fee structure at the Bar.

The Chair appointed liaisons to the following Committees: LRAP, Pro Bono, ACDI, MCLE, Quality of Life, Public Service and Legal Services. An appointment to the Solo and Small Firm Section Executive Committee is outstanding.

The Executive Committee met again on February 2 in Salem. It received an update on the Wellness Summit from member Kelsey Herman who served on the Wellness Summit Planning Committee. The Executive Committee voiced its support for providing an Attorney Wellness CLE throughout the state as it travels.

Networking and/or CLE events held so far in 2018 include:

- Networking@Nite event on January 30, co-hosted with the Federal Bar Association, approximately 45 attendees
- University of Oregon 1L mock interviews, followed by a networking event on January 25, approximately 50 attendees
- Salem Attorney Wellness CLE/Networking on February 1, approximately 25 attendees
- The ONLD will be partnering with the Oregon Hispanic Bar for a Networking@Nite event on February 27

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 22, 2019
Memo Date: February 8, 2019
From: Amber Hollister, General Counsel
Dawn M. Evans, Disciplinary Counsel
Re: Proposed Amendments to Bar Rules of Procedure

Introduction

After a year in operation under amendments to the Bar Rules of Procedure, a set of amendments are being proposed. This set of amendments includes the following categories of changes: (1) enhancements to the role, jurisdiction and functioning of the Adjudicator; (2) clarifications pertaining to investigations and formal proceedings; (3) modifications to the rules and forms pertaining to Form A and Form B resignations; and (4) housekeeping and error corrections. A table identifying all of the changes numerically by rule number and providing a brief explanation is attached.

The Board of Governors is being asked to recommend to the Oregon Supreme Court that these amendments be adopted.

I. Changes Pertaining to the Adjudicator

Appointment of substitute Adjudicator as needed

There is no provision for the appointment of a substitute for the Adjudicator based upon a general unavailability (which could be the result of a planned vacation or a sudden illness or injury). A new paragraph (14) has been added to BR 2.4(e) that permits the General Counsel to request in writing a regional chairperson to perform the Adjudicator's responsibilities when the Adjudicator is unavailable. "Unavailable" is defined as a planned leave of more than 14 days or unavailability due to death or then existing physical or mental illness or infirmity. The authority granted is terminated upon order of the Adjudicator. A new provision has been added within the duties of the regional chairperson that mirrors the new paragraph (14), empowering the regional chairperson to act as the Adjudicator upon written request of the General Counsel. [BR 1.1(a); BR 2.4(e)(14); BR 2.4(f)(4)]

Handling involuntary inactive proceedings upon request of the Court

The rules currently assign to the Adjudicator the handling of all types of special proceedings except those seeking involuntary inactive status of a lawyer, jurisdiction of which is retained by the Court. The addition of a new paragraph (i) to 3.2 and the addition of a new paragraph (13) to BR 2.4(e) provide an option for the court to delegate its duties in those proceedings to the Adjudicator [Note: if the Court would prefer that those types of cases be handled wholesale by

the Adjudicator, more revisions would be necessary to substitute “Adjudicator” for “court” and to omit references to the State Court Administrator.] [BR 2.4(e)(13); BR 3.2(i)]

Handling pre-filing issues

Language has been added to clarify that the Adjudicator is to rule on questions of procedure and discovery that may arise prior to the filing of a formal complaint. [BR 2.4(e)(9)]

Eliminating a cut-off date for the holding of prehearing conferences by the Adjudicator

The current rule requires the scheduling of prehearing conferences no later than 56 days prior to the date of the disciplinary hearing. This language is deleted, permitting the Adjudicator to hold hearings right up to the hearing. [BR 4.7(a)]

II. Clarifications

Client Assistance Office Dismissal

A complainant may request General Counsel review of a Client Assistance Office dismissal of an inquiry. The purpose of this change is to make clear that a General Counsel affirmance may be summary in nature. Of the approximately 2,000 bar complaints filed per year, approximately 300 decisions are appealed to General Counsel. Client Assistance Office dismissal letters are specific and detailed. In instances where General Counsel agrees with the reasoning and result of the Client Assistance Office decision, it is inefficient to draft a second opinion that repeats the Client Assistance Office’s reasoning and decision. [BR 2.5(c)]

Answering an amended petition

When a formal complaint is amended, the current rule requires the Adjudicator to determine the deadline for filing an answer to an amended complaint and for completing discovery. Proposed language would set the answer date at within 14 days of service and permit the respondent to request, for good cause shown, additional time to gather evidence. The reason for adding the “for good cause shown” is that, if the amended complaint is filed early enough, there would be no necessity for extending an existing discovery cutoff. [BR 4.4(b)(1)]

Subpoenas during investigation of complaints

Disciplinary Counsel has the ability to issue subpoenas during investigation of complaints, but the rule is silent about how to enforce subpoenas. New language clarifies that enforcement can be sought with a circuit court, which will determine what sanction, if any, is imposed for noncompliance. [BR 2.2(b)(2)]

Broadening the ability to use informal reinstatement

New language would permit members suspended solely for several categories of administrative suspension to seek reinstatement to inactive or retired status through the informal reinstatement process. Presently, members must seek reinstatement from administrative suspension to active status, no matter whether they plan to practice law. [BR 8.2(a)(6); BR 8.2(a)(7)]

Narrowing the ability to use informal reinstatement

Members who would otherwise be qualified to use informal reinstatement (BR 8.2) would have to reinstate through the formal reinstatement process if, during a period of suspension, inactive or retired status, the member has been convicted of a crime that would subject them to discipline under BR 3.4 (dealing with convicted attorneys). The current rule only identifies resigned lawyers as being shifted from informal to formal reinstatement under those circumstances (and, because lawyers who resign by a Form B resignation at any time after December 31, 1995, *cannot* reinstate, the existing language referencing “resignation[s]” would pertain to Form A resignations prior to January 1, 2020, once all of these amendments are in place). [BR 8.2(d)(1)]

Making fees uniform in reinstatement cases

Language governing fees upon reinstatement has made uniform the fee charged per year that the member was suspended or resigned. The current rule charges \$100 a year for informal reinstatement applicants and \$50 a year for formal reinstatement applicants. Going forward, members seeking reinstatement under either rule will pay \$100 per year. [BR 8.6(a)]

III. Form A and Form B Resignations

Narrowing the circumstances under which a Form A resignation can be used

Changes would clarify that a lawyer who is suspended, disbarred, or on probation pursuant to BR 6.1 or BR 6.2, as well as lawyers who were charged in any jurisdiction with an offense that, upon conviction, would subject them to discipline under BR 3.4 (pertaining to convicted attorneys) would be ineligible to resign Form A. [BR 9.1]

Modifying the effect of a Form A resignation

As currently written, Form A resignations are essentially treated as periods of voluntary inactive suspension, with the ability to reinstate either informally (pursuant to BR 8.2) or formally (pursuant to BR 8.1), depending upon how long ago the resignation was accepted. Proposed changes would mean that the effect of all Form A resignations beginning January 1, 2020, would be to drop the person from the membership rolls and require a new bar application process to seek membership. A new rule makes clear that members who resign Form A after December 31, 2019, are ineligible to seek reinstatement but may seek admission under ORS 9.220 or any basis under the Rules for Admission. The intended effect would be for persons who do not intend a permanent departure to elect inactive status instead. Members who resign Form A on or before December 31, 2019, will remain able to seek reinstatement. This date anticipates an effective date of the rule changes several months earlier, permitting member education about the changes in Form A resignations and an opportunity for those wishing to avail themselves of the reinstatement benefits of the current rule to do so for a period of time before the change goes into effect. [BR 8.1(a)(1); BR 9.5]

Modifications of the language in Form A and Form B Resignation forms

Language has been added to clarify that there can be different treatment of client files and client records pertaining to active or current clients and those pertaining to inactive or former clients. The existing language requires identification of a lawyer who will act as custodian in taking possession of the resigning lawyer's client files and client records. Two alternative paragraphs have been added to address when the PLF has agreed to take possession of client files and client records pertaining to active or current clients and circumstances when a lawyer has no active client files to be addressed. In those instances where a custodian is identified, the signatory certifies having obtained the agreement of the lawyer who is identified as the person taking possession of the files to serve as custodian. In those instances where the PLF is identified, the signatory certifies having obtained the agreement of the PLF to take possession of the files. In all instances, the signatory acknowledges an obligation to comply with BR 9.3 and being subject to contempt for a failure to abide by BR 9.3 (which sets forth the requirements of a resigned lawyer). [BR 13.6; BR 13.7]

IV. Housekeeping and Error Corrections

Adding, deleting, or correcting a rule reference. [BR 1.1(a); BR 3.5(e); BR 4.4(a); BR 5.8(a); BR 10.1; BR 10.2; BR 12.4]

Correcting a reference to "Rule" instead of "BR" [BR 7.1(g); BR 10.1]

Correcting misspelled words. [BR 5.8(a)]

Eliminating a reference to the LPRC. [BR 7.1(a)]

Deleting an unnecessary subparagraph reference. [BR 13.9; BR 13.10]

Oregon State Bar
Special Open Session of the Board of Governors
March 8, 2019
Minutes

President Chris Costantino called the meeting to order at 3:39 p.m. on March 8, 2019. The meeting adjourned at 5:17 p.m. Members present from the Board of Governors were Chris Costantino and Colin Andries. Present by phone: Rob Gratchner, Julia Rice, Vanessa Nordyke, Tom Peachey, Liani Reeves, Traci Rossi, David Wade, John Grant, Bik-Na Han, Kamron Graham, Eric Foster, Jenny Cooke, and Whitney Boise. Not present were John Bachofner, Joseph Hesbrook, Eddie Medina, Michael Rondeau, and Katherine Denning. Staff present were Helen Hirschbiel, Amber Hollister, Susan Grabe, Keith Palevsky, Carol Bernick, and Cassandra Dyke.

1. Call to Order

The board accepted the agenda, as presented, by consensus. Ms. Costantino asked that the agenda be taken out of order to first address the Appellate Screening Committee recommendations.

2. Appellate Screening Committee

Mr. Peachey presented the committee's recommendations [**Exhibit A**]

Committee motion to approve Highly Qualified Candidates for Court of Appeals.

Ms. Rice moved and Mr. Foster seconded a motion to amend the committee motion to add Robert Koch to the Highly Qualified Candidates list. Ms. Reeves and Mr. Grant abstained. In favor were Ms. Rice, Mr. Foster, and Mr. Wade. Opposed were Mr. Peachey, Ms. Graham, Ms. Cooke, Ms. Rossi, Mr. Boise, Mr. Andries, and Ms. Han. Amendment failed

Committee motion to approve Highly Qualified Candidates for Court of Appeals. The board voted in favor of the motion. Ms. Rice was opposed. Ms. Reeves abstained.

3. Closed Sessions – see CLOSED Minutes

A. Executive Session (pursuant to ORS 192.660(1)(f) and (h)) - General Counsel Report

The board convened in executive session pursuant to ORS 192.660(1)(f) and (h)). The board reconvened in open session.

Motion: Mr. Grant moved, and Mr. Foster seconded, a motion to seek amendments to the Bar Act to clarify the bar's statutory mission and to add language to the Act to affirm the inherent authority of the Oregon Supreme Court to regulate the legal profession.

The board voted to approve the motion. Ms. Rossi was opposed. The motion passed.

Motion: Mr. Foster moved, and Ms. Rossi seconded, to proceed with proposed changes to the Bar Act as already moved and to also explore possible amendments to the Bar Act to provide that any vote by the House of Delegates on a proposed amendment to the Oregon Rules of Professional Conduct be reviewed by the Supreme Court.

The board voted to approve the motion. Mr. Peachey, Ms. Han, Ms. Graham, and Ms. Cooke were opposed. Motion passes.

Motion: Mr. Wade moved and Ms. Rice seconded a motion to seek additional Bar Act changes that would further align the bar with the Oregon Supreme Court. Mr. Andries called for quorum.

Ms. Costantino requested a roll call. The roll call demonstrated that quorum was no longer in effect. The motion failed for lack of a quorum.

DRAFT



March 8, 2019

Governor Kate Brown
State Capitol Building
900 Court St. NE, Suite 254
Salem, OR 97301

Board of Governors

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Christine R. Costantino, Portland

President-elect

Liani JH Reeves, Portland

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Region 2

David Wade, Eugene

Region 3

Eric R. Foster, Medford

Region 4

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Eddie D. Medina, Hillsboro

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Helen Hirschbiel, Tigard

Dear Governor Brown:

The Oregon State Bar's Appellate Screening Committee has completed its review of the candidates who have applied for appointment to the Oregon Court of Appeals and who agreed to disclose their application materials to the OSB. Pursuant to OSB Bylaws, the Committee has conducted an in-depth review of each application and candidate, including in-person interviews of all candidates who opted to participate in the process.

The Committee's review process is intended to provide you with relevant, reliable, and descriptive information to help inform your appointment decision. As instructed by OSB Bylaws, our recommendation of candidates as "highly qualified" is based on "the statutory requirements of the position, as well as information obtained in the review process, and the following criteria: integrity, legal knowledge and ability, professional experience, cultural competency, judicial temperament, diligence, health, financial responsibility, and public service." A "highly qualified" recommendation is intended to be objective, and the Committee's decision not to identify any specific candidate as "highly qualified" should not be viewed as a finding that the person is unqualified. A "highly qualified" recommendation is intended to reflect the candidate's overall ability to serve on the court.

The Board of Governors is pleased that members from around the state, including a public member, serve on the Appellate Screening Committee. We also deeply appreciate the assistance and leadership of your counsel and your office during this process.

Pursuant to OSB Bylaw 2.703, the Oregon State Bar Board of Governors* has approved the following list of candidates deemed "highly qualified" for appointment to the Oregon Court of Appeals:

Bloom, Benjamin
Brown, Marc
Bunch, William
Hoesly, Cody
Kamins, Jackie
Mooney, Jodie
Norby, Susie
Pagán, Ramón
Perry, Kenneth
Quinn, Julene
Runkles-Pearson, PK

The Board of Governors appreciates that there were many qualified candidates for the positions and that the review process presented a challenging task. According to OSB Bylaw 2.700, the list of the “highly qualified” candidates will be posted on the OSB webpage. Also pursuant to OSB Bylaws, we will gladly respond to any requests from your office as to whether certain other candidates meet a “qualified” standard.

Sincerely,



Christine R. Costantino
OSB President



Thomas C. Peachey
OSB Board of Governors
Appellate Screening Committee Chair

cc: Misha Isaak, General Counsel, Office of the Governor

*Please note that BOG member Liani Reeves has abstained from all discussion and votes related to the review of judicial candidates.



*** MINUTES OF EXECUTIVE SESSION ***

**February 8, 2019
Tigard, Oregon**

The PLF Board of Directors commenced its regularly scheduled Board meeting at the PLF's offices in Tigard, Oregon, on Friday, February 8, 2019.

This meeting was noticed and conducted in compliance with the Oregon Public Meetings Law, ORS 192.610 *et seq.*

Present at the Board meeting and discussion were Directors Saville Easley (Chair), Robert Raschio, Molly Jo Mullen, Tom Newhouse, Holly Mitchell, Susan Marmaduke, Gina Anne Johnnie, and Patrick Hocking. Also present were PLF staff members Madeleine Campbell, Carol Bernick, Jeff Crawford, Barbara Fishleder, Betty Lou Morrow, Cindy Hill, Hong Dao, Rachel Edwards, Sarah Troutt, Pam Stendahl, John Berge, and Maureen DeFrank.

At 11:06 a.m., Chair Saville Easley called the meeting into Executive Session. Executive Session broke for lunch at 11:55 a.m. and resumed at 1:05 p.m., without Susan Marmaduke, Tom Newhouse, John Berge, and Maureen DeFrank in attendance. Pursuant to ORS 192.660(2)(f) and (h), 5 claims were discussed during Executive Session. *See* separate summaries of the claims.

The Rote litigation was discussed.

The Executive Session concluded at 1:44 p.m., after which time the Board went back into Open Session.

MSC/ms