

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Austin, Texas
June 14, 2001**

OUTGOING (2000-2001) BOARD - A. M. Session:

The Board of Directors of the State Bar of Texas met in regular session on June 14, 2001 at the Austin Convention Center in Austin, Texas. The meeting was called to order by Chair Richard T. Miller, and the roll was called by Executive Director Antonio Alvarado. Board members, liaisons, and section representatives having excused absences from the meeting were: Turner W. Branch, Harper Estes, Amy Halevy, Robert W. Jordan, Judge Sharon Keller, John Stanley Mayfield, Judge Lamar McCorkle, T. Scott Smith, and Cheryl Wilson.

1. ITEMS FROM THE CHAIR OF THE BOARD

A. Approval of Items on the Consent Agenda

Upon motion made by Jerry Selinger and seconded by Molly Steele the following items on the Consent Agenda were approved or ratified:

- 1) Approved minutes of the Board meeting conducted on *April 20, 2001*
- 2) Ratified actions taken by the Executive Committee at the meeting conducted on *May 17, 2001*: approved minutes of April 5, 2001 Executive Committee meeting; other items (fee increases as submitted by the Advertising Review Department, creation of Board of Editors for *Bar Journal*, employment practice, and Texas Access to Justice Commission appointments), discussed under separate reports during the BOD meeting.

3) Approved appointments to the following:

By President Lynne Liberato:

- a) Commission for Lawyer Discipline: for terms September 1, 2001 through August 31, 2002:

Chair: Scott E. Rozzell (Houston)

Vice-Chair: Timothy M. Sulak (Austin)

- b) Texas Board of Legal Specialization, to complete the unexpired term of Charles W. Lanehart, Jr., through June 30, 2003:

David Evans (Fort Worth)

By President Broadus Spivey:

- a) Section Coordination Committee, for two-year terms effective June 2001 through Annual Meeting June 2003:

Judge Darlene Whitten (Section, Denton)

Roger Hepworth (Section, Austin)

Gary Reaves (Board, El Paso)

Robert W. Jordan (Board, Dallas)

- b) Section Representatives to the Board Committee, for three-year terms June 2001 through Annual Meeting June 2004:

William H. Betts, Jr. (Large Section, Brenham)
Robert V. Gibson (Medium Section, El Paso)

- c) SBOT Insurance Trust, for three-year terms effective July 1, 2001 through June 30, 2004:

Melvin L. Burner, Jr. (Austin)
Mario J. Martinez (El Paso)

- d) Texas Equal Access to Justice Foundation (IOLTA), *reappointments* for three-year terms effective September 1, 2001 through August 31, 2004:

Mrs. Charles W. Wilson (Marshall)
Karen S. Neeley (Austin)

- e) Texas Board of Legal Specialization:
for terms June 2001 through June 2002:

Chair: Jay Goss (Bryan)
Vice Chair: Robert Stokes (Dallas)

reappointments for three-year terms effective June 2001 through June 2004:

Jay Goss (Bryan)
Robert D. Stokes (Austin)
Fidel Rodriguez (San Antonio)

new appointments for three-year terms effective June 2001 through June 2004:

Robert Hohenberger (Houston)

- f) Texas Access to Justice Commission, for appointments as follows:

Dan Boulware (Cleburne)

SBOT Board Representative, 2-year term

Otway B. Denny, Jr. (Houston)

Texas Bar Foundation Representative, 2-year term

Guy N. Harrison (Longview)

SBOT Board Representative, 1-year term

Daniel D. Hu (Houston)

Program Representative, 2-year term

Anna Slaughter (Dallas)

Program Representative, 3-year term

Jan Soifer (Austin)

At-large Representative, 3-year term

Ray Thomas (McAllen)

At-large Representative, 1-year term

- 4) **Approved appointment of delegates to the American Bar Association House of Delegates for two-year terms beginning at the conclusion of the 2001 ABA Annual Meeting and expiring at the conclusion of the 2003 ABA Annual Meeting:**

Delegates:

Paula E. Boggs (Round Rock)
Guy N. Harrison (Longview)
Lynne Liberato (Houston)
Jennifer S. Rymell (Fort Worth)

- 5) **Approved resolution honoring MG Walter B. Huffman's service to the State Bar while serving as Out-of-State Lawyer Liaison (Exhibit A)**
- 6) **Approved Construction Law Section bylaw changes: Article IV, Section 2, Article V, Section 2, Article VI, Sections 4 & 7, Article VII, Section 2 (Exhibit B)**
- 7) **Approved Oil, Gas & Mineral Law Section bylaw changes: Article I, Sections 1 & 2, Article VI, Section 8, and Article VII, Section 4 including name change to Oil, Gas, and Energy Resources Law Section (Exhibit C)**
- 8) **Approved request of Public Utility Law Section 2001 annual meeting at other than the State Bar Annual Meeting (Exhibit D)**
- 9) **Approved Taxation Section bylaw changes: Section 3.2, 6.1, 6.2 and the addition of Section 2.2 (Exhibit E)**

B. **General Report**

Chair of the Board Richard T. Miller gave an update on the resolutions passed at the 2001 Annual Meeting general session. After much effort to reach a consensus on the sex-with-clients issue, an *ad hoc committee* composed of Beverly Reeves, Luke Soules, and Charles Schwartz was appointed by Chair Miller to make recommendations. With input from Section Representative Ralph Brock, the *ad hoc committee* proposed Substitute Rule 5.07. The Board passed a motion to submit Substitute Rule 5.07 to the general membership for referendum when other issues are also put to a vote of the membership. Miller also highlighted the work of the Unauthorized Practice of Law Task Force and the Texas Young Lawyers' Association efforts to educate and protect the public from scams. *(Both topics will be addressed later in the minutes.)*

C. **College of the State Bar**

Chair Miller gave a history of the study to determine whether the College of the State Bar should be given independent status. The study under the supervision of Public Services Director Charla Ann King resulted in a proposed plan including recommendations to (1) establish the authorization for the State Bar College Board in Section 6.04, Associated Boards and Related Groups, of the current Policy Manual, (2) provide for the appointment/nominations/terms of College board members, (3) authorize the College board to elect its presiding officer and other officers, (4) clarify requirements regarding College board operations, and (5) require the College to submit twice annually a written report on Board activities due mid-year and at the close of each fiscal year. Charles Schwartz, Board advisor to the College of the State Bar, moved that the Board approve the proposal as submitted with the condition that it be referred to the Policy Manual Committee for appropriate changes in the policy manual. Seconded by Gib Walton, the motion passed. (Exhibit F)

D. Outstanding Third-Year Directors

Chair Miller presented plaques honoring JoAl Cannon Sheridan and Claude Ducloux as the recipients of the Chair of the Board's Outstanding Third-Year Director Award. Chair Miller also recognized Neale Potts for accomplishments on the Audit and Finance Committee and Dan Hu for accomplishments on the Facilities and Equipment and Administrative Oversight committees.

2. REPORT FROM THE PRESIDENT

A. General Report

President Lynne Liberato introduced distinguished guests from the International Bar Association: Fernando Pelaez of Venezuela and Jacques Buhart of France. Buhart announced that the association was headquartered in London, has 185 bar associations, and will host an upcoming annual meeting in Cancun.

B. Bar Year in Review

President Liberato highlighted some of the Board's accomplishments during her presidency including: creation of the Texas Access to Justice Commission, adoption of standards in criminal matters, CLE website with online classroom and free *Civil and Criminal Digest*, activity-based cost audit for the Chief Disciplinary Counsel's office, establishment of a minimum reserves balance policy, zero-based budgeting, new design and new features in the *Texas Bar Journal* and the revision of the governance board, adoption of a sponsorship policy, safety and security plan for the Texas Law Center, implementation of a technology plan for updating infrastructure, mission statement, sex-with-clients proposed referendum, establishment of time line and procedure for developing a strategic plan, refined policies relating to the College of the State Bar, preparation for Sunset Review, Symposium on Indigent Defense, high tech Annual Meeting theme, Annual Meeting Task Force, and *MyTexasBar*, which has grown to serve over 21,000 users in all fifty states.

C. In-house Corporate Counsel Task Force

President Liberato announced the formation of an In-house Corporate Counsel Task Force to address the needs of in-house lawyers who feel under served. Mike Godfrey, along with Liberato, will chair the task force.

D. CLE/PDP Report

Immediate Past Chair of the Board David Keltner reviewed the financial picture of the Continuing Legal Education program over the past year. With the decrease in CLE revenues, emphasis was placed upon research and development for devising a new program to increase revenues and decrease expenditures. As a result, research and development through April 2001 include web and database expenses of \$197,500, sponsorship development, custom CLE expansion, and new project development expenses of \$87,000, alternative media expenses of \$43,000, and satellite expenses of \$81,000 for a grand total of \$408,500. As a result, current revenue producers are a newly designed web site and satellite network. New services in the form of an online library, *Texas Bar Case Digest* by E-mail, and platform for video streaming CLE programs are planned to produce revenue in Fiscal 2001-2002. A print savings of 29% has been realized through more cost effective printing and shipping with a new vendor, and page limits for authors, thereby yielding a smaller book. Sixty-plus contacts have been made in recent months regarding sponsorships.

E. Report on Sections

President Liberato discussed the role of sections and their accelerating influence through the Council of Chairs and a membership base of almost 29,000 members. Incoming Chair of the Board Vidal G. Martinez has been meeting with section representatives to the Board in an effort to open communication and to show a commitment

on the part of the Board toward sections. Liberato also indicated that there is interest in moving the status of section representatives to that of any other liaisons. *MyTexasBar* has links to the sections.

F. UPL Task Force

Unauthorized Practice of Law Task Force Co-Chair Gregory Huffman reviewed the work of the task force, which has performed a wide-ranging study over the last two years. Huffman asked the Board to accept the report before it is presented to the Supreme Court. **Molly Steele moved that the Board accept the Unauthorized Practice of Law Task Force Report. Seconded by Jerry Selinger, the motion passed. (Exhibit G)**

3. REPORT FROM THE PRESIDENT-ELECT

President-elect Broadus Spivey indicated that the 2001-2002 State Bar budget had been submitted and accepted by the Supreme Court.

4. REPORT FROM THE EXECUTIVE DIRECTOR

Included in Executive Director Antonio Alvarado's general report were the following: (1) Information and Strategic Initiatives Director Don Jones was injured in a woodworking accident at his home and will probably be out of the office for a while. Condolences may be sent to his home and checks may be sent to the Bar. (2) Member Services Division Director Ginger Banks has announced retirement after twenty-five years of service to the Bar. (3) The senior management team has been reorganized to address the line of authority at the Bar. Shelby Rogers was named second in command with the title of Chief Operating Officer and General Counsel and Kalyn Laney was named third in command with the title of External Affairs Officer and Governmental Relations Director.

Alvarado summarized items in the Annual Meeting Task Force report called *Annual Meeting At the Crossroads: Does It Stay and Will They Go?* Propositions recommended by the Task Force after the 2003 Annual Meeting were a downsized format or a restructured format to include more collaborations, cutting-edge technology, and corporate sponsorships. The business plan should include results such as increased attendance, increased revenue, a streamlined delivery process, and enhanced marketing. Alvarado recommended that the Task Force Report be assigned to an appropriate committee to constitute an action plan for a new format for the Annual Meeting. Chair Miller referred Alvarado's request to the Incoming Chair of the Board Vidal Martinez.

5. BOARD COMMITTEES

A. Administrative Oversight Committee

Administrative Oversight Committee Co-Chair Daniel Hu indicated that Texas Young Lawyers Association and Opportunities for Minorities in the Profession Committee are working on a contract to set up an on-line job bank. No action was requested.

(Closed Session)

As authorized by Texas Government Code, Section 551.074, the Board met in closed session for the purpose of discussing the evaluation, duties, and compensation of the Executive Director and the Chief Operating Officer/General Counsel.

(Open Session)

Upon return to open session, Chair Miller announced that during the closed session, pursuant to Texas Government Code, Section 551.074, only items pertaining to the evaluation, duties, and compensation of the

Executive Director and Chief Operating Officer/General Counsel were discussed. No action was taken in closed session.

On behalf of the Administrative Oversight Committee, Co-Chair Tom Carr moved the following regarding the compensation package for the Executive Director for the upcoming year: that Antonio Alvarado continue employment with the State Bar of Texas as Executive Director and that his salary compensation increase from \$119,080 per year to \$130,000 per year; that his car allowance remain at \$600 per month; that there remain in effect a term life insurance policy for Antonio Alvarado in the amount of \$100,000 with the beneficiary designation of his choosing with premiums to be paid by the Bar; that the State Bar pay for the premium cost of the dependent medical and dental health insurance presently paid for by Antonio Alvarado for his spouse and two dependent children; that the State Bar continue to pay for short term and long term disability insurance coverage for Antonio Alvarado. The motion passed unanimously.

On behalf of the Administrative Oversight Committee, Co-Chair Hu moved the following regarding the compensation package for the Chief Operating Officer/General Counsel for the upcoming year: that Shelby Rogers continue employment with the State Bar of Texas as Chief Operating Officer/General Counsel and that his salary compensation increase from \$100,000 per year to \$109,000; that Shelby Rogers be given a car allowance of \$600 per month; that there remain in effect for Shelby Rogers all health and life insurance and all other benefits currently afforded all State Bar employees. The motion passed unanimously.

B. Audit and Finance Committee

Audit and Finance Committee Chair Neale Potts reported that preliminary year-end figures based upon the previous eleven months indicate total revenues of a little over \$23,000,000 and total expenditures of \$23,193,000, which created a deficit of approximately \$176,000 over the budgeted amount. Unfavorable variances exist in the professional development program (7%), officers and directors (14%), volunteer committees (62%), and the general counsel's office (27%) with measures being taken to correct these balances for the next budget year. Potts indicated that the general fund balance should end up around \$6.3-\$6.4 million.

Potts reported that the Audit and Finance Committee has been working with the staff to develop a five-year financial plan. For managing the general fund balance, Public Member George Edwards reported the following recommendations: (1) that the staff utilize the five-year budget projections of revenues and expenses and (2) that the budget process be reviewed and updated at least annually for changes in forecast, operations, policies and market conditions. Incoming Audit and Finance Committee Chair Gib Walton added that the Committee would be watching monthly, or bi-monthly, how the Bar is doing, and suggested future committees do the same. Potts then added that the Committee's recommendation is a rolling five-year plan and is subject to change each year as the plan is reviewed and extended. **Edwards moved that the Board approve the establishment of a minimum reserves policy at \$4.6 million for the general fund. The motion passed.**

C. Facilities and Equipment Committee

Facilities and Equipment Committee Chair Daniel Hu moved that the State Bar of Texas proceed with the retention of a real estate consultant, Colliers Oxford Commercial, Inc., to perform an assessment of the State Bar's real estate situation. The assessment phase will be free of charge, but Colliers Oxford's direct, out-of-pocket expenses associated with travel to the field locations will be reimbursed at cost. The motion passed. (Exhibit H)

D. Legal Services Committee

Committee Co-Chair Molly Steele indicated that the Legal Services Committee had discussed ways in which the committee can co-exist with the Texas Access to Justice Commission and secondly, has developed a summary

of past committee activities to assist future members. Steele then read a list of the newly appointed Texas Access to Justice Commission members. (*See Consent Agenda*)

E. Legislative Policy Committee

Legislative Policy Committee Chair JoAl Cannon Sheridan reported on four Bar-supported bills before the Legislature. One relating to general revenue funding for legal services to the poor did not pass. The other three relating to (1) crime victims' compensation fund, (2) cooperative purchasing, and (3) loan forgiveness for lawyers who take jobs with legal service providers were reportedly on Governor Rick Perry's desk for consideration.

F. Policy Manual Committee

Policy Manual Committee Chair Claude Ducloux moved that the Board adopt Section 14.02 to the Policy Manual, which identifies the Bar's responsibilities for appointments to the Texas Access to Justice Commission. The motion passed. (Exhibit I)

Ducloux then reviewed the background of the Bar's nondiscrimination policy as it relates to Section 20.01. **On behalf of the Policy Manual Committee Ducloux moved that the Bar adopt new wording in Section 20.01.01 to include military service/veteran status and sexual orientation.** Discussion ensued. Neale Potts called for an amendment stating that the Bar follows all State and Federal regulations and does not discriminate against anyone. On behalf of the committee, Ducloux declined the amendment. **Chair Miller called for a vote on the committee's motion without the amendment. The voice vote was inconclusive. Chair Miller called for a show of hands. Twenty-two Board members voted for the motion and six Board members voted against the motion. Motion approved. (Exhibit J)**

6. STATE BAR COMMITTEES, SECTIONS, DIVISIONS

A. Minimum Continuing Legal Education Committee

Minimum Continuing Legal Education Chair Hull Youngblood requested an action item to approve additional changes to the Minimum Continuing Legal Education regulations relating to mentoring programs. Andrew Hanen moved to approve the request of the committee. Seconded by Molly Steele, the motion passed. (Exhibit K)

B. Sexual Orientation and Gender Identification Section

Sexual Orientation and Gender Identification Issues Section Chair Phyllis Frye thanked the Board for approving the Policy Manual change regarding Section 20.01.01. On behalf of the section Frye presented an award to outgoing Board member Daniel Hu for his three years of service as board advisor.

7. OTHER REPORTS

A. Commission for Lawyer Discipline

Outgoing Chair of the Commission for Lawyer Discipline Robert Frost referred the Board to the statistical report in the Board packet. To emphasize the "people" work of the commission, Frost introduced Jeff Smith, an attorney who expressed praise for the work of the commission, and who recanted his own story of discipline, recovery from addiction, and eventual return to the practice of law.

B. Texas Young Lawyers Association

TYLA President Melody Wilkinson introduced Abigail Kampmann who told about TYLA's efforts to address the needs of senior citizens through 3400 videos that have been distributed to many organizations such as

American Association of Retired Persons, public libraries and U.S. Attorney Offices. Wilkinson then highlighted some of TYLA's accomplishments during her presidency including: Borders and Boundaries, the Child Support Project in which over 1500 cases have been processed on behalf of the Attorney General, Outreach to Law Students' Project, and the Houston disaster relief effort. Announcements included the swearing in of Incoming Chair of the Board Vidal G. Martinez at the TYLA Annual Meeting Luncheon by Governor Rick Perry and the presentation of gifts to President Liberato and Chair Miller for their leadership and commitment to TYLA.

TYLA President-elect Andrew Strong reported on collaborative efforts by legal groups in Houston to provide assistance to victims of tropical storm Allison. The approach includes the Bar's 800 number which can redirect calls to the Houston Bar Association's volunteer lawyer program. Volunteers are available to assist with such areas as insurance claims, FEMA applications, consumer rights, price gouging, and scams.

C. Various Reports

Included in other reports were the following: (1) Past President Charles Aycock, who thanked Board members for his three years on the Board and Bob Frost for his work on the Commission for Lawyer Discipline; (2) Justice Craig Enoch, who made remarks about the Annual Meeting Task Force and administrative responsibility of Supreme Court judges and how they are assigned, and who also highlighted the works of public members, minority members, and various other Board members; (3) Section Representative Vianei Robinson, who stated that section representatives are feeling much more accepted by the Board and are looking forward to initiatives of Incoming Chair Vidal Martinez in regard to the roles and contributions of section representatives; (4) Section Representative Ralph Brock, who reported on the various section projects; (5) Past Chair of the Board and Resolutions Committee Chair David Keltner, who stated that all Annual Meeting resolutions, except one from the General Practice, Solo, and Small Firm Section, had been withdrawn, negotiations were still under way regarding that resolution, and that this resolution might also be withdrawn. Keltner stated that notices would be posted to advise members if the Resolutions Committee meeting was canceled. (*The Resolutions Committee meeting was subsequently canceled.*)

INCOMING (2001-2002) BOARD - P. M. Session:

The afternoon session of the Board was called to order by outgoing Chair Richard T. Miller, and the roll was called by Executive Director Antonio Alvarado. Members and liaisons absent from the afternoon session of the meeting were: Judge Mark D. Atkinson, Turner W. Branch, Harper Estes, Amy Halevy, Robert W. Jordan, Judge Sharon Keller, John Stanley Mayfield, and Homer Reynolds III.

8. PRESENTATIONS, INSTALLATION AND SWEARING IN OF NEW OFFICERS AND DIRECTORS

Justice Craig Enoch administered the oath of office to the incoming officers and directors. President Broadus Spivey, President-elect Guy N. Harrison, and Chair of the Board Vidal G. Martinez were introduced by the outgoing 2000-2001 officers, and each incoming officer gave general remarks. A gavel was presented to President Spivey and a copy of *Robert's Rules of Order* was presented to Chair Martinez. Shadow boxes were presented to outgoing President Liberato and Chair Miller.

9. REPORT FROM THE CHAIR OF THE BOARD

Chair Vidal Martinez's general remarks included: (1) the announcement of the pending appointment of Board member Andrew Hanen to the Federal bench in Brownsville, (2) a reminder (in reference to Jeff Smith's Commission for Lawyer Discipline comments) that one-third of the Bar's budget is spent on lawyer discipline, and (3) a reminder that all Board members should have received committee assignments in the mail and a laminated card with key staff and Board members' phone numbers distributed at today's meeting. Martinez indicated that his tenure as Chair would focus on three major goals: (1) strategic planning with Elizabeth Lang-Miers heading the Strategic Planning Committee and committed to a proposal for the Board by its January 25,

2002 meeting in El Paso; (2) revenue enhancement issues, including *MyTexasBar* sponsorship initiatives under the leadership of Past President Liberato; and (3) sunset review, with Gib Walton serving as chair of the *ad hoc committee*. Other topics expected to be of continuing interest are Annual Meeting and reimbursement policy.

10. REPORT FROM THE PRESIDENT

President Spivey referred Board members and liaisons to the information included in the Board packet concerning Executive Committee and chair/vice-chair appointments to State Bar committees.

11. REPORT FROM THE TYLA PRESIDENT

Incoming TYLA President Amos Mazzant thanked the Bar for support of TYLA projects and expressed particular thanks to President Spivey and Chair Martinez for the broader presence of TYLA on Board committee assignments.

There being no further business or remarks from the public, the meeting was adjourned at 5:00 PM.

EXHIBITS ATTACHED

EXHIBIT A:	Resolution Honoring MG Walter B. Huffman
EXHIBIT B:	Amendments to Bylaws: Construction Law Section
EXHIBIT C:	Amendments to Bylaws: Oil, Gas & Mineral Law Section
EXHIBIT D:	Amendments to Bylaws: Utility Law Section
EXHIBIT E:	Amendments to Bylaws: Taxation Law Section
EXHIBIT F:	Action Plan for College of the State Bar
EXHIBIT G:	Report Regarding A New Statutory Definition for the Unauthorized Practice of Law
EXHIBIT H:	Letters to/from Colliers Oxford Commercial, Inc. Regarding Real Estate Assessment
EXHIBIT I:	Board Policy: Revisions Regarding Texas Access to Justice Commission
EXHIBIT J:	Board Policy: Revisions Regarding Employee Non-Discrimination Policy

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(Proposed BOD 6/14/01)

20.01 GENERAL POLICY¹

Officers and directors of the State Bar who are elected by the attorneys from the seventeen districts in Texas, as well as those directors serving by appointment, all of whom serve without pay, constitute the policy-making body.

20.01.01 Non-Discrimination Policy: It is the policy of the State Bar to comply fully with nondiscrimination provisions of all state and federal rules, laws, guidelines, regulations, and executive orders by ensuring that all employees and applicants receive equal opportunity for employment. No person shall be ~~excluded from consideration~~ **for discriminated against with regard to** recruitment, selection, appointment, training, promotion, retention, termination, **or performance review** or any other **personnel employment action or term or condition of employment** on the grounds of race, religion, color, national origin, sex, physical disability, **military service/veteran status, sexual orientation,** or age.

1. BOD 1/19/01, p. 6-7 & Exhibit L

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STATE BAR OF TEXAS 2000-2001 OFFICERS, DIRECTORS, LIAISON & EX-OFFICIO MEMBERS

OFFICERS

President	Lynne Liberato
President-elect	Broadus Spivey
Immediate Past President	Charles F. Aycock

EXECUTIVE COMMITTEE

Lynne Liberato	President
Broadus A. Spivey	President-elect
Charles F. Aycock	Immediate Past President
Richard T. Miller	Chair of the Board
David E. Keltner	Immed. Past Chair of the Board
JoAl Cannon-Sheridan	Elected Member
Claude E. Ducloux	Elected Member
Elsie L. Huang	Public Member
Elizabeth Lang-Miers	Elected Member
Vidal G. Martinez	Minority Member
Amos L. Mazzant	TYLA President-elect
Neale Potts	Elected Member
Gary Reaves	Elected Member
Molly Steele	Elected Member
Kent C. Sullivan	Elected Member
Raymond L. Thomas	TYLA Immed. Past President
D. Gibson Walton	Elected Member
Melody M. Wilkinson	TYLA President

EX-OFFICIO MEMBERS OF EXECUTIVE COMMITTEE

Antonio Alvarado	Executive Director
Shelby Rogers	General Counsel
Dawn Miller	Chief Disciplinary Counsel
Justice Craig T. Enoch	Texas Supreme Court Liaison

ELECTED DIRECTORS OF THE BOARD

Richard T. Miller, Chair of the Board

Blair A. Bisbey	Richard S. Hoffman	T. Scott Smith
Dan M. Boulware	Robert W. Jordan	Luther H. Soules III
JoAl Cannon-Sheridan	Elizabeth Lang-Miers	Sidney Stahl
Tom Carr	Robert L. LeBoeuf	Molly Steele
Joseph Casseb	John H. Miller	Kent C. Sullivan
Claude E. Ducloux	Neale Potts	Steve Suttle
Harper Estes	Gary Reaves	Richard Trevathan
Angel Z. Fraga	Beverly G. Reeves	D. Gibson Walton
Amy Karff Halevy	Charles W. Schwartz	Mark D. White
Andrew S. Hanen	Jerry R. Selinger	

MINORITY MEMBERS OF THE BOARD

Georgina M. Benavides	Andrea Pair Bryant	Daniel David Hu
	Vidal G. Martinez	

PUBLIC MEMBERS OF THE BOARD

George Edwards, Jr.	Elsie L. Huang	Phyllis S. Jones
John Stanley Mayfield	Mary Evans Sias, Ph.D.	David W. Stevens

TEXAS YOUNG LAWYERS ASSOCIATION

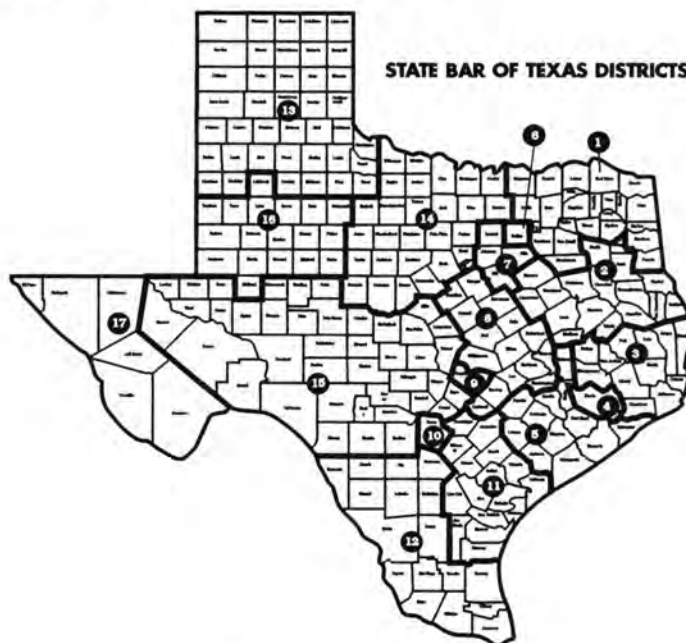
MEMBERS OF THE BOARD

Melody M. Wilkinson	President
Amos L. Mazzant	President-elect
Raymond L. Thomas	Immediate Past President

LIAISON MEMBERS TO THE BOARD

Justice Craig T. Enoch	Supreme Court Liaison
Judge Sharon Keller	Court of Criminal Appeals Liaison
Judge Ricardo H. Hinojosa	Federal Judicial Liaison
Judge Lamar McCorkle	Judicial Section Liaison
Turner W. Branch	Out-of-State Lawyer Liaison

STATE BAR OF TEXAS DISTRICTS



ELECTED DIRECTOR BAR DISTRICTS

STATE BAR OF TEXAS OFFICERS AND DIRECTORS

State Bar directors are elected from 17 districts apportioned by population. Six public members are appointed by the Supreme Court, three of which come from a list provided to the Court by the governor, with no two public members serving from the same district. Additionally, four minority directors with full voting privileges are appointed by the president. All directors serve staggered, three-year terms.

DISTRICT 1: T. Scott Smith, Sherman - 3rd year

Bowie, Camp, Cass, Collin, Delta, Fannin, Franklin, Grayson, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Panola, Rains, Red River, Rockwall, Titus, Upshur, Van Zandt and Wood Counties

DISTRICT 2: JoAl Cannon-Sheridan, Jacksonville - 3rd year

Anderson, Angelina, Cherokee, Freestone, Gregg, Houston, Leon, Limestone, Madison, Nacogdoches, Navarro, Rusk, Sabine, San Augustine, Shelby, Smith and Trinity Counties

DISTRICT 3: Blair A. Bisbey, Beaumont - 1st year

Chambers, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler and Walker Counties

DISTRICT 4: Angel Z. Fraga, Houston - 2nd year; Amy Karff

Halevy, Houston - 2nd year; Andrew S. Hanen - 1st year, Houston; Charles W. Schwartz, Houston - 1st year; Kent C. Sullivan, Houston - 2nd year; Richard Trevathan, Houston - 3rd year; D. Gibson Walton, Houston - 2nd year
Harris County

DISTRICT 5: Robert E. LeBoeuf, Angleton - 1st year

Austin, Brazoria, Colorado, Fayette, Fort Bend, Galveston, Grimes, Jackson, Lavaca, Matagorda, Waller and Wharton Counties

DISTRICT 6: Robert W. Jordan, Dallas - 1st year; Elizabeth

Lang-Miers, Dallas - 2nd year; Jerry R. Selinger, Dallas - 3rd year; Sidney Stahl, Dallas - 2nd year; Molly Steele, Dallas - 3rd year
Dallas County

VERBATIM TRANSCRIPTION
of *Selected Reports of the*
BOARD OF DIRECTORS MEETING

June 14, 2001

Austin Convention Center
Austin, TX

Tape 2/Side B

Comments regarding Sexual Orientation and Gender Identification Issues Section and motions by Policy Manual Committee

MILLER: Claude, can you make your report?

DUCLOUX: On the Policy Manual Committee, we have three things. First thing. Let's just take them one at a time. First thing I have drafted a section, a new section 14.02 to take into account our responsibilities under the Texas Access to Justice Commission. I think it should be under Tab 7. Is that right? *(Yes from background)* And the committee unanimously moves that you adopt this new section 14.02 which identifies our responsibilities for appointments to the Commission.

MILLER: Any discussion? All in favor? *(Eyes)* All opposed? Motion passes.

DUCLOUX: The second item which was going to be on your agenda was the reimbursement policy. I just wanted to report that once again the policy manual committee, there are some things I know that the new chair would like to look at, and the board would like to look at, but we do unanimously once again recommend that you implement a new reimbursement policy or as close a version you would like to change to as soon as possible and it was the policy manual committee's unanimous recommendation that it try to be done by September. You can see on the budget figures that two of the areas we are over on are these reimbursements to committees and reimbursements to lawyers. We have tried not at all to be cheap with that. There are just a couple of what I think are abusive committees that have spent a lot of money, much more than they should and our reimbursement policy is directed to those sorts of what I would say are abuses. The final thing you are going to have to give me a minute to explain where we are. The final matter is changing our proposed adoption to 20.01. Let me start by telling you a little of the background. If you'll recall, last January at the Houston meeting we revised this section before to remove any references to benefits. We declined at that time to add gender identification to that section based upon any legal standard defining that term. Since January, and the reason we are coming back to you, since then three things have happened which are very important. First of all, the judicial code has been created preventing discrimination on the basis on sexual orientation. Secondly, three state agencies have now adopted new policy statements forbidding discrimination based upon sexual orientation. All of the state university systems, the University of Texas and Texas A&M have adopted policy statements, and we as an organization dedicated to the preservation of advocacy of the rule of law should not delay on this, and we should not be

begins
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here

the last. Now, before I proposed this to the policy manual committee, I ran this proposal by the entire executive committee to make sure there was support, and I wanted full disclosure of what I was doing, and I discussed this with Mr. Selinger, my co-chair of this policy manual. We then ran it through Shelby Rogers in the general counsel's office. We wanted to make sure that nothing we were doing in the section, first of all that it was phrased correctly, so we are not creating any new causes of action, or anything like that, and Shelby and I then ran it through the Bar's formerly retained labor counsel which is a firm, Bracewell & Patterson, who gave us great input, and they said no, you need to phrase things this way, and in fact, the very funny thing, our labor lawyers said they made these recommendations for wording changes to a previous policy manual committee in 1999. We knew nothing about that. After running, after getting all the input from our labor lawyers, making sure what we were doing, we were not running afoul of any labor laws, not creating any new causes of action. We ran all the legal traps. Then I called a committee meeting and I also called individually the members of the policy manual committee to know that this was going to be coming up. We had that policy manual meeting with Shelby at our side. We discussed this thoroughly. We had a really good debate about what is in the best interest of the State Bar, what's in the best interest, where we are as an organization, where society is as an organization. We answered everyone's question, and the committee voted in favor of this change. I also want you to know that one of my dear friends on that committee, Stan Mayfield also voted in favor of this change. Now, since that vote was taken by the policy manual committee, the entire executive committee voted on May 17 to endorse this concept and this change, however it to be proposed in the proper wording as proposed by the labor lawyer. Since then, I have spoken with Phyllis Frye, who is here. We had a discussion about this change. I also spoke at length with Richard Clarkson who is going to be Phyllis Frye's successor on the SOGII commission, and I asked Richard specifically whether I could report to this board, if he was in favor of this change, and he said absolutely, yes, I am. I also did what I did the first time we discussed this. I discussed this one with some of our State Bar employees who could be benefitted by this policy change. I want to report that they are extremely happy. They are grateful that this is on the agenda. It shows them that the board feels they are appreciated as employees and have a commitment to their opportunities there at the Bar. I spoke with some of our public members who run corporations like...David Stevens says they have this same thing at Southern Union Gas there in Austin. Ladies and gentlemen, I have run this through the gauntlet. I have worked it through every trap that we can possibly run it through. Viane helped me, also had input on the language which was actually the same language that the Bracewell lawyers said. So on behalf of the policy manual committee, it is our recommendation that this be passed.

MILLER: And that's the language that's in your Board packet under Tab what?

DUCLOUX: It's under Tab 8 and it also includes the military service slash veteran's status that the Bracewell lawyers said should be in there also.

MILLER: Is everyone clear on the motion?.... And it is basically a motion which would

prevent employment discrimination based on sexual orientation. So, let me say something before we begin our discussion. Although I am personally in favor of this and think it is the right thing to do, as in other board meetings, we recognize that people might have differing opinions on it. Everyone should vote their conscience on this, and hopefully we will get this thing resolved in the best interest of the Bar. Now, any discussion? Kent?

SULLIVAN: I think this is a very sensitive area. I appreciate the sensitivity on both sides of the issue. I look at this strictly as an employment issue, and my thought really is that we have trended in the direction of this portion of the manual becoming more a political document than an employment document. There are other folks who have as well. That list was stated by Claude. I participated in the committee discussion and I said that I really think the appropriate policy of the Board would be one to state that in the area of discrimination that the State Bar complies with all applicable Federal, State, and local laws and regulations because I think that is the most appropriate policy to take. I do so based on one thing, and I'll close with this. I really had to sit and think hard about what our membership, the individual members who pay the dues would think about creating new obligations for the State Bar that ultimately they might have to pick up the tab for in one way or another. And when I thought of it in that context, I feel compelled as a fiduciary looking out for an employer to vote no. And I just thought that should be aired because I think that is a position represented by a significant portion of the State Bar membership. One other quick point is that I've asked very sincerely whether there's any hint of any problem at the State Bar, and every indication, no one has been able to suggest to me that there is any problem, either attracting employees, or keeping employees, or having a supportive atmosphere as an employer. If that is the case, which I believe it to be, and hope it to be, then to some extent, I think we may a solution in search of a problem which I don't advocate.

MILLER: Any further discussion? Neale.

POTTS: I kind of had the same thinking that Kent did at the executive committee meeting and actually voted against this. It seemed to me we could just leave the first sentence of that paragraph in, and end there, and not get in to further creating different classes of people that we're saying we're not going to discriminate against. It makes a lot more sense to me to make the statement that we're not...we're going to follow all State and Federal regulations and not discriminate against anyone in there.....And I would offer that as an amendment.

MILLER: Does the committee accept that amendment?

DUCLoux: No.

MILLER: The committee does not accept that amendment. OK, we'll call the question then. All in favor of the motion of the committee, say eye. *(Eye)* Opposed? *(No)* That's a little close. Let's have a show of hands. All in favor raise their hand.....

OK, 22. All opposed, raise their hand.....well, you're just loud mouths, I guess. *Laughter.* Because I got 6. All right the motion passes. Of course, we understand Phyllis Frye is not exactly satisfied with this because it just says sexual orientation and does not say gender identification. Phyllis and I have had numerous discussions about this, and before I get any further on our discussions, I want to tell you that I have developed a respect for Phyllis for her willingness to stand up for an unpopular cause, be spat upon by others because of her beliefs, but to stay true to her heartfelt beliefs and convictions on this. We all admire Atticus Finch and I think those are the qualities about Atticus Finch that we admire, so Phyllis and I have talked about it, and talked about. My opinion is sexual orientation includes gender identification. Phyllis says there is no reported case that says that, and therefore, we should include gender identification in this. My view has always been that it's a subcategory of sexual orientation and that politically you do not want to list every different type of sexual preference in a policy manual. Also, there is the argument that our code of judicial conduct and professional rules of disciplinary conduct use the term sexual orientation. I talked to a past chair, David Evans, of the Commission for Lawyer Discipline. He said when he was chair of that commission he would have had no trouble prosecuting a lawyer who stood up in court and made a scurrilous remark about a transgendered person thinking that came under sexual orientation. He said if you make the distinction in your policy manual that sexual orientation and gender identification are two different things, I would have to rethink that because the code of conduct, our disciplinary rules do not include gender identification. So anyway, I think this Board has done the right thing. I commend everyone, the ones that voted for, the ones that voted against because I know everyone was true to their conscience and now hopefully it's time to move on and tend to some other business. So let's hear from Andrew Strong who wants to tell us a little bit about what the young lawyers are doing in Houston.

STRONG: I promise to be brief. I just wanted to update everybody as to the collaborative efforts of the State Bar, the Houston Bar Association, the Texas Young Lawyers' Association, the Houston Young Lawyers' Association, the Houston volunteer lawyers program and the American Bar Association young lawyers division as to the legal services we are providing to the flood victims from Tropical Storm Allison. Vidal Martinez and Lynne Liberato thought it important for us as a legal community in Houston and statewide to address legal issues that are coming up as a result of this disaster and Vidal talked with Roland Garcia who is the Houston Bar Association president and Roland has formed a disaster relief committee that is part of the Houston Bar Association. I've got a few slides that will provide you with some information about what we are doing. OK, maybe we won't do it. Don't worry about it..... As you probably know, those of you from Tarrant County, it's fairly complex, there's a lot of issues occurring now. The Houston media has reported that the Houston damages are over two billion dollars to Houston alone for a nonhurricane event which is a record in Houston history. There's a lot of heartfelt stories, people trying to get their lives back in gear. They are dealing with homelessness, people who have lost everything. As a legal community, we wanted to pull together to provide legal services, and I'll outline a few of those that we are providing, but I first want to say that the State Bar staff, Tony, Julie Oliver, Patty

Rangel, Latresa Stroud have come immediately in the process of planning the State Bar Annual Meeting. They have diverted their time to help us in this time of need. One of the things we have is a three prong approach. We've got an 800 number which is the State Bar's 800 number. They'll redirect calls as they come in. It'll go to the Houston Bar Association, Houston's volunteer lawyer program. Tonight we have, from five to nine, a legal line that's going to be open up for lawyers to call in, for victims to call in to talk to a lawyer, and then when that's not up, we'll have the Houston volunteer lawyer program provide intake to people who call in. So many of these issues, insurance claims, FEMA applications, consumer rights, a lot of price gouging is coming on, occurring in Houston. One of the attorney general's representatives said yesterday in a press conference, every scam artist across the nation is on I-10 heading toward Houston. The legal community is operating under one roof. We have the State Bar to thank for that and the resources that they provided. We definitely need help. Anybody and everybody can handle some of these intake calls that come in, so we plan on soliciting volunteers to help deal with consumer rights issues, insurance issues, and the like, so I just wanted to thank you and make you aware of that and that the State Bar is providing great resources and the legal community in Houston has pulled together. Thanks to Vidal. Thank you very much.

MILLER: Next on the agenda. We're going to skip over strategic planning for a minute. Is the Sexual Orientation and Gender Identification Issues, Phyllis Frye had an item on the agenda and I think she wants to address it and recognize the Board advisor for that section.

FRYE: Thank you very much for your vote. We had a resolution that was going to be presented on Saturday. It was on page 466 of the May issue of the *Texas Bar Journal* over what y'all just voted on. Essentially in our view you just voted on the same thing, so we are going to thank you as a section, declare victory for the employees of the State Bar of Texas and also, Daniel, will you come up. We would like to make an award. Our section is just three years old, the Sexual Orientation and Gender Identification Issues Section. Daniel was our original liaison when it wasn't a popular thing to be. He has been our section liaison for three years. We have an award of merit here that says Sexual Orientation and Gender Identification Issues Section, State Bar of Texas, honors Daniel Hu for outstanding service to the section as board advisor 1999 through 2001. I think he has a few words to say about the last council meeting he attended when a lot of this resolution came up and I think he will echo pretty much what I said. Thank you, Daniel. (Clapping)

HU: Thank you very much, Phyllis. It has been an honor to have been your board advisor and I know from time to time, I have been known to take up some times unpopular causes. Their section council has worked really very hard in this area, and I think they are declaring a victory because they regard gender identification be included as part of sexual orientation for purposes of what we have done, so I think this section continues to do a very, very good job in their communities and they should be commended for what they've done, and Phyllis should be commended for what she's done. Thank you.