

MINUTES
IDAHO STATE BAR BOARD OF COMMISSIONERS
February 24, 2006
Boise, Idaho

President Rick Carnaroli called the business meeting of the Board of Commissioners of the Idaho State Bar to order at 8:40 a.m., at the Law Center in Boise, Idaho. In addition to President Carnaroli, in attendance were Commissioners Tom Banducci, Jay Sturgell, Terry White and Andy Hawes, Bar Counsel Brad Andrews, Deputy Bar Counsel Julia Crossland and Executive Director Diane K. Minnich, who acted as secretary.

EXECUTIVE SESSION

Per Idaho Code Section 67-2345, the Commission, after an aye vote was recorded from each Commissioner, moved into executive session at 8:40 a.m. The executive session concluded at 9:40 a.m.

CONSENT AGENDA

It was moved, seconded and passed to approve the following agenda items.

Minutes

The minutes of the January 13, 2006 meeting were approved as submitted.

GENERAL BUSINESS

Audit Report – The Executive Director reported that the staff has followed up with the auditors requesting a proposal regarding the internal controls audit. To date, no proposal has been received.

Bar Exam Topics – The Commission discussed the changes in the *Topics or Subject Areas for Idaho Bar Examination Questions* proposed by the Bar Exam Review Committee. It was moved, seconded and passed to change the topic list as follows; change the equitable remedies (equity) to remedies, and clarify the language in Wills, Estates, and Trusts as proposed.

Reciprocal Admission – The Commission reviewed a proposed reciprocal admission rule in response to the positive vote on the resolution process. It was moved, seconded and passed to approve as presented with the deletion of 204A(a)(5), which will be sent to the Character and Fitness Committee for its review and recommendation on whether to limit when an applicant that has been denied can reapply.

Conflict of Interest Policy – The Commission discussed creating a conflict of interest policy for the Board of Commissioners. Bar Counsel suggested the policy reflect the conflict analysis pursuant to IRPC. The Executive Director agreed to gather policies from other mandatory state bars involved in discipline and admissions for the Commissions' review.

Medical Malpractice Prelitigation Hearing Panels – At the request of the Board of Medicine the Commission advertised for attorneys interested in serving as medical malpractice prelitigation hearing panelists. The Commission received letters of interest from the following attorneys; Glenda Talbutt, Alan Gardner, Bill Dalling, Paul Penland, Amy White and Becky Broadbent. It was moved, seconded and passed to appoint Paul Penland and Alan Gardner as medical malpractice prelitigation hearing panelists.

Contested Judicial Elections, Survey of Bar Members – The Executive Director and Bar Counsel reported that there would be at least one contested election for District Judge. The Commission discussed the survey about candidates for judicial elections that was prepared by the Judicial Independence Committee for distribution to bar members. The staff agreed to monitor who files for a judicial seat, and then send out press releases regarding the process. The Commission discussed the process, how and when to provide information about the survey.

Non-Attorney Representation Before Board of Tax Appeals – The Commission was provided with a request from Senator Curtis McKenzie inquiring whether the Commission has a position regarding non-attorney representation before the Idaho Board of Tax Appeals. Bar Counsel agreed to prepare a response on behalf of the Commission. The answer to his question will be that the Attorney General is the right entity to respond to the inquiry and that the AG has correctly analyzed the issues. In addition, the Commission does not have authority to regulate the practice of law; only the Supreme Court has that authority.

ABA Meeting Report – State Bar Delegate to the ABA House of Delegates Larry Hunter joined the meeting at 11:00 am to report on the issues discussed at the ABA House of Delegates midyear meeting. He noted the ABA and bar associations' Katrina response and the results, LSC funding, immigration reforms, paralegal committee, the state bar caucus meeting, and the approval of an ABA dues increase.

Business and Corporate Law Section – Business and Corporate Law Section Chair Mike Dingel, Section members Winston Beard and Dale Higer, and Legal Education Director Terri Muse joined The Commission at lunch. The group discussed the proposed resolution from the section that was submitted to the 2005 resolution process but was not circulated due to a vote of the District Bar representatives and the Board of Commissioners. Winston Beard discussed the Business and Corporate Law Section's history of lobbying and dealings with the legislature. He also explained the section's rationale for submitting the resolution to the 2005 resolution process. The Commission explained the reasons for the current restrictions on lobbying and dealings with the legislature. After considerable discussion, the Section asked the Commission to consider the current restrictions on lobbying and section involvement in the legislature, and how the restrictions might be modified to better define technical assistance and allow more communication and interaction with the legislature.

The Commission reviewed the rules regarding legislative activity and requested that the staff gather information about those cases that have dealt with this issue in other states.

Annual Meeting – The Executive Director asked the Commission to discuss the benefits of the Annual Meeting. As the staff develops proposed alternatives to the Annual Meeting, they want to ensure that the positive elements of the meeting are incorporated into any proposals. The Commission emphasized the following; collegiality, honoring lawyers, education, vacation, fun, section and bar business as the beneficial aspects of the annual meeting.

Jackrabbit Bar Meeting – The Commission was provided with the brochure for the June 1-3, Jackrabbit Bar Meeting in Jackson Hole, Wyoming.

Supreme Court Report – The Commission was provided with the minutes of the January 23 Oral Conference and the Supreme Court's decision in the Katherine H. Troutner and Earnest D.

Johnson v. Dirk Kempthorne case. This case challenged the appointment of Phil Reberger to the Idaho Judicial Council.

Licensing Update – The Commission was provided with the list of lawyers that have not paid licensing fees as of February 17, 2006. Those attorneys that have not paid by March 1 will have their licenses cancelled by the Idaho Supreme Court.

Lawyer Assistance Program – The Commission discussed the February 28 meeting of the Lawyer Assistance Program Committee. President Carnaroli agreed to participate by phone and Commissioner Banducci agreed to attend also. The Commissioners again discussed the proposed LAP rules and how to explain to the Committee members their concerns about the rules.

Judicial Council Appointment – The Commission was provided with a letter from Lieutenant Governor Jim Risch reporting that the Senate confirmed the Board of Commissioners appointment of Kenneth Howard to the Idaho Judicial Council.

REPORTS/CORRESPONDENCE/NEWS CLIPPINGS

The Commission was provided with the following, February 2, 2006 membership statistics – 4,699, 2005 year end LRS statistics, December 31, 2005 Partners for Justice financial report, Advocate and PIC committee information, ABA information, and news clippings for the past month.

There being no further business, the business meeting was adjourned at 2:00 p.m.

Respectfully submitted,

Diane K. Minnich
Executive Director