

**OFFICIAL MINUTES  
STATE BAR OF TEXAS  
BOARD OF DIRECTORS MEETING  
Doubletree Hotel  
El Paso, Texas  
Friday, September 16, 2016**

The Board of Directors of the State Bar of Texas met in regular session on September 16, 2016 at the Doubletree hotel in El Paso. Chair of the Board Joe Escobedo, Jr. called the meeting to order at 9:00 a.m., and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Sylvia Firth delivered the invocation, and Ruben Robles lead the pledges to the U.S. and Texas flags. Janet Monteros, Steve Fischer and Ray Mancera from the public were present at the meeting and spoke regarding the El Paso law school initiative. During the meeting, Chris Oddo from Austin and Scott Rothenberg from Houston were both sworn in as new district directors by Justice Phil Johnson.

***Present:***

**Board Members:** Rehan Alimohammad, Christy Amuny, Micah Belden, Amy Bryan, Alan Carmichael, Leon Carter, Jeff Chandler, Immediate Past Chair of the Board David Chamberlain\*, Immediate Past President Allan DuBois, Estrella Escobar, Chair of the Board Joe Escobedo, Jr., Sylvia Firth, Laura Gibson, Ricky Gonzalez, Ann Greenberg, August Harris, Rice Horkey, TYLA President Sam Houston, Joe Indelicato, John Jansonius, Sarah Keathley, Mary Martin, Rudy Metayer, Brian Miller, Gary Nickelson, Chris Oddo, Curtis Pritchard, TYLA President-elect Baili Rhodes, Lisa Richardson, Ruben Robles, Scott Rothenberg, Greg Sampson, Lance Sharp, Scott Sherwood, Rebecca Simmons, President Frank Stevenson, TYLA Immediate Past President Barrett Thomas, Andrew Tolchin, Travis Torrence, President-elect Tom Vick, Michael Wynne

**Liaisons\*:** Judge Barbara Hervey, Justice Phil Johnson, Tim Mountz, Judge Kerry Russell

**Section Representatives\*:** Erich Birch, Wendy Burgower, Philip Mack Furlow, Tina Green, Pat Maher, Audrey Moorehead

***Excused Absences:*** *Barbara Bass, Amy Bryan, August Harris, Angelica Hernandez, Judge Nelva Gonzales Ramos, Fidel Rodriguez, Jr., Scott Stolley, Brad Weber*

(\* = nonvoting)

**I. CONSENT AGENDA ITEMS**

**Upon motion properly made by John Jansonius and seconded by Lance Sharp, the following actions were taken regarding the Consent Agenda items:**

- a. Approval of minutes of Board meetings conducted on June 15-16, 2016
- b. Ratification of actions taken at the following Executive Committee meeting:
  - 1) **September 1, 2016:** Approved minutes of the March 10, 2016 Executive Committee meeting
- c. Approval of appointments to the following entities:
  - 1) **Scott Rothenberg (Houston)**, to fill an unexpired term for State Bar District 4, Place 5 Director, effective September 16, 2016 through Annual Meeting 2018
  - 2) **Delegates to the 2017 Fifth Circuit Judicial Conference:**

**President Frank Stevenson**  
**President-elect Tom Vick**  
**Executive Director Michelle Hunter**

**Immediate Past President Allan K. DuBois**  
**Chair of the Board Joe Escobedo, Jr.**  
**TYLA President Sam Houston**

d. Approval of request by the Tax Section to amend its bylaws [**Exhibit A**]

e. Approval of resolutions honoring: [**Exhibit B**]

1) **Cathy Maher (Dallas)**

2) **Lisa J. Soto (El Paso)**

## **II. REPORTS**

### **A. Report from the Chair of the Board:**

Chair of the Board Joe Escobedo reported that the Board is committed to a coordinated communications plan to inform our constituents how the State Bar serves members and the public. In October, a letter will go out from each director to all their constituents in each district. In February, a similar process will take place with an email blast. The blast email will provide links that allow constituents to access State Bar online resources easily. Directors received a PowerPoint presentation to present to local bar associations in their district. The presentation is MCLE accredited for the entire Bar year. The annual reports for the State Bar, the Commission for Lawyer Discipline, and the Board of Disciplinary Appeals were distributed, and Chair Escobedo recognized the work of BODA.

Chair Escobedo solicited candidates for the 2017-18 Chair of the Board. In accordance with Board policy, second-year voting directors interested in running for chair must notify the current Chair in writing before the January Board meeting of his or her intention to seek that position for the following Bar year. Directors must also submit a one- or two-page statement of their views and strategies relative to the issues they believe are of greatest significance to the Board and the State Bar.

Chair Escobedo reported that the annual meeting general assembly adopted two resolutions proposed by the General Practice, Solo and Small Firm Section, one addressing how long attorneys must maintain client property after termination of representation, and the other allowing the sale of a law practice. Because both resolutions propose changes to the disciplinary rules, the resolutions are being forwarded to the Board's DCAAP Committee for study. Kevin Mutscher spoke on behalf of the GP, Solo and Small Firm Section regarding the referral of the resolutions.

**Laura Gibson moved for approval to refer the 2016 Annual Meeting resolutions concerning retention of client property and sale of a law practice to the DCAAP Committee. Greg Sampson seconded. Motion carried. [Exhibit C]**

### **B. Report from the President:**

President Frank Stevenson reported on his many activities and speaking engagements since the Annual meeting, including the Tarrant County Bar Inaugural, new Section Chair orientation, various law school orientations, the Sunset Hearing, and the Pro Bono Coordinators Retreat. The Solo and Small Firm outreach CLE presentation was held on Wednesday in El Paso, and was very well received. The Supreme Court promulgated the State Bar Rules update approved at the April Board meeting that required all Texas attorneys to provide an electronic service email address to serve as their official email address in the statewide e-filing system. The State Bar began collecting these email addresses on July 1, with a compliance deadline of October 1.

The Texas Opportunity and Justice Incubator (TOJI) continues to move forward, and interviews were conducted on September 6 for the director job position. During Annual Meeting, law school deans and executive directors of metro bars were invited to an incubator roundtable. The Austin Bar Association has offered the use of

meeting room space and a free one-year membership to TOJI participants. Twenty-five volunteers from over 20 practice areas have volunteered to help with the incubator, and the State Bar will begin accepting applications from potential TOJI participants in October.

President Stevenson presented staff member Candiss Held with a presidential citation for her work with the Board.

Sunset Chair Trey Apffel gave an overview of the Sunset process to date. Most recently, on August 22, the Sunset Advisory Commission adopted a majority of the recommendations of the Sunset staff with several modifications from the Commission members. Those recommendations involve retaining the referendum requirement for State Bar rules, approving various enhancements to the grievance system, establishing an independent ombudsman's office under the Supreme Court to help oversee the attorney grievance system, requiring that more data on disciplinary actions be posted on the State Bar website, maximizing the use of the informal dispute resolution program in the grievance system, and continuing the State Bar for 12 years. These recommendations will now be drafted into a bill to be filed during the legislative session to begin in January. The Sunset process will continue until the end of the legislative session in May of 2017.

C. Report from the President-elect:

President-elect Tom Vick noted that he is enjoying his various duties this year serving as President-elect, including participating in a reading of the Declaration of Independence on July 1 in Weatherford. He reported that the Budget Committee held its first meeting yesterday to discuss the State Bar's budget process and timeline. Budget packets will be furnished to division and department directors on October 3<sup>rd</sup> with an October 14<sup>th</sup> completion deadline. The Budget Committee is scheduled to meet on Thursday, December 8<sup>th</sup> to finalize a proposed fiscal year 2017-18 budget for presentation to the Executive Committee and to the Board at the January meetings.

This year, the Committee Review Task Force has been appointed to review the Bar's standing committees. The State Bar Act requires the State Bar Board to conduct a comprehensive review of the standing committees biennially to determine whether there is a continued need for each committee and whether there is unnecessary overlap of committee activities. The task force will meet with each of the committee chairs and review the activities and accomplishments of each committee over the past two years, with a goal to complete the final report by the April Board meeting. **[Exhibit D]**

D. Report from the Immediate Past President:

Immediate Past President Allan DuBois reported on working with the TLAP staff on law firm outreach efforts. During the ABA Meeting in August, Bree Buchanan of TLAP spoke on a NCBP panel. TLAP also recently won a statewide Leadership Award from the Texas Suicide Prevention Council for their suicide prevention efforts. Immediate Past President DuBois noted that he presented the 2016 Texas Gavel Awards last week in Austin. He also reported that as of this week, a grand total of \$512,200 has been raised for the Sheeran-Crowley Memorial Trust, and he thanked the Board and staff for their support over the last year.

E. Nominations and Elections Subcommittee:

Immediate Past Chair David Chamberlain reported that the Nominations and Elections subcommittee met yesterday to consider potential nominees and begin contacting a number of individuals to gauge their interest. The subcommittee plans to conduct interviews in December in order to submit the names of two nominees to the Board in January for consideration. The State Bar has been notified by an attorney in Austin named Joe Longley who has indicated an interest in potentially filing as a petition candidate to run for president-elect. He has been circulating a petition by email to collect signatures and has sent out an email about his potential candidacy. Approximately 5000 signatures will need to be collected and submitted by March 1<sup>st</sup> in order to be eligible to run. The election will begin on April 3 and end on May 2. Also, staff has issued an RFP to 21 election services

providers to select a new provider to use for this upcoming election and will have a provider selected by late fall.

F. Commission for Lawyer Discipline/Chief Disciplinary Counsel:

John Neal gave a general report on the members and purpose of the Commission for Lawyer Discipline and the number of cases each year. Neal also reported on confidentiality provisions, a first quarter sanctions breakdown, the grievance referral program, and the ethics hotline. **[Exhibit E]**

G. Texas Young Lawyers Association:

TYLA President Sam Houston reported that at the ABA annual meeting in San Francisco in August, TYLA received a first place award in service to the public for their “*Strength in Unity*” project, first place in diversity for their “*Pregnancy in the Workplace*” project, and first place in comprehensive. Houston reported on upcoming TYLA activities and projects, including their first Board meeting in Corpus Christi the week prior, the “*Sexual Assault Survivor’s Guide*”, and Vote America! video rollouts.

H. Administration Committee:

Pat Maher reported that the Performance Measures and Strategic Planning subcommittee, chaired by Amy Bryan, is reviewing input gathered from the July Board retreat for the State Bar’s biennial strategic plan update. The subcommittee will recommend updates to the strategic plan at the January Board meeting.

Gary Nickelson reported that on September 1, the Executive Committee approved a *Texas Bar Journal* advertising policy submitted by the *Texas Bar Journal* Board of Editors. After an initial review by the Executive Committee, President Stevenson secured the pro bono help of Tom Leatherbury of Dallas to review and provide input on constitutional issues. The policy reflects the longstanding approach of the TBJ editorial staff in reviewing advertisements submitted for publication. This policy will serve as a model policy for all State Bar programs that accept advertisements, including State Bar Sections.

**On behalf of the *Texas Bar Journal* Board of Editors, Gary Nickelson moved for approval of the *Texas Bar Journal* Advertising Policy. No second needed. Motion carried. [Exhibit F]**

I. Audit and Finance Committee:

Wendy Burgower reported that the total amount of revenues for FY 2015-16 was \$42.6 million, with total expenditures and annual transfers of \$39.4 million. This resulted in a net excess of \$3.2 million. The State Bar’s fund balance as of May 31, 2016 is \$14.6 million. This represents an increase in fund balance of slightly over \$2 million resulting from FY 2015-16 financial activities, which included special Board commitment expenditures of approximately \$1.1 million. The actual net excess for the first two months of the current fiscal year was \$596,000, which resulted in a positive variance of \$379,000 at the end of July.

The CPA firm of Padgett & Stratemann is performing the State Bar’s financial audit for FY 2015-16, and Maxwell Locke & Ritter is performing the internal audit. Both audits will be presented for approval at the January Board meeting. Each year during the fall Board meeting, a representative from the State Bar’s Investment Manager, PFM Asset Management, LLC, makes a presentation to the Board. Barry Baughier, senior managing consultant with PFM, provided an investment presentation. The State Bar’s general fund portfolio is fully invested in U.S. treasuries, federal agency securities, commercial paper, FDIC insured certificates of deposit, and AAAM-rated money market mutual funds. Overall the portfolio is highly liquid and maintains high credit quality. For the period ending May 31, the portfolio generated a quarterly return of .18%, which outperformed the benchmark 6-month Merrill Lynch Treasury Index return of .07%. PFM representatives continue to work with State Bar’s CFO to place investments in those areas that will produce the highest yields while maintaining safety of principal and liquidity as required by the Public Funds Investment Act.

**On behalf of the Audit and Finance Committee, Burgower moved for acceptance of the May 2016 State Bar Quarterly Investment Report. No second needed. Motion carried. [Exhibit G]**

The Public Funds Investment Act also requires that the Board approve the State Bar's PFIA trainers on an annual basis, as well as adopt the State Bar's investment policy on an annual basis. The act also required the Board to annually review and adopt a list of qualified brokers that are authorized to engage in investment transactions with the State Bar.

**On behalf of the Audit and Finance Committee, Burgower moved for the following:**

**(1) Approval of PFM Asset Management, LLC, Patterson & Associates, and The University of North Texas Center for Public Management as the Public Funds Investment Act Trainers for State Bar staff and new directors. No second needed. Motion carried.**

**(2) Adoption of the SBOT current investment policy. No second needed. Motion carried.**

**(3) Adoption of the PFM broker/dealer list for investments. No second needed. Motion carried. [Exhibit H]**

J. Client Security Fund Subcommittee:

Rice Horkey reported that the Client Security Fund subcommittee met yesterday and reviewed 33 claims for a total of \$146,209.61 in payments to claimants. To date, the subcommittee has paid out a total of \$477,409.02 for the year.

K. DCAAP Subcommittee:

Tina Green reported that the DCAAP subcommittee met yesterday and received a briefing from the Chief Disciplinary Counsel about the disciplinary system. The subcommittee also discussed attorney succession planning resources for the State Bar website, including the final version of the "designation of custodian attorney" form that was handed out at the June Board meeting. The new process for designating a custodian attorney will provide peace of mind to attorneys, particularly solos, and create a safety net for clients whose information will be secure in the event a lawyer dies, resigns, becomes inactive, or is disbarred. Once an attorney completes the form and designates a custodian attorney, they will send it to the State Bar's membership department for their file.

L. Appeals/Grants Review Subcommittee:

Brian Miller reported that the Appeals/Grants Review Subcommittee received a request from the Texas Young Lawyers Association for authorization to seek outside funding from the Texas Bar Foundation, for their public service project called "*I Was First. You Can Be A Lawyer Too*". The subcommittee unanimously approved the request to seek funding from the Texas Bar Foundation for this project. Miller reported that the subcommittee also heard four appeals from attorneys who were denied certification by the Texas Board of Legal Specialization. In considering these appeals, the subcommittee is required to apply the substantial evidence standard with the burden of proof resting on the appellant. The first appeal submitted by Christopher Lauren Graham involved his application for certification in Criminal Law being denied by TBLS under the Standards for Certification, which allow for the denial of certification if the applicant has a finding of professional misconduct or pending disciplinary investigation. The second appeal submitted was from Laura Hayes for her application for certification in Family Law, which was denied by TBLS on the basis that Ms. Hayes did not meet the requisite task and experience requirements as required by the TBLS standards. The third appeal, submitted by Sandre Moncriffe, involved her application for certification in Family Law and was denied by TBLS because her unusual or exceptional experience was not equivalent to the TBLS Standards requirements. The fourth appeal submitted by Will Hughes involved his application for certification in Civil Trail Law being

denied by TBLs because the appellant did not meet the specific task and experience requirements and his experience did not demonstrate that he had sufficient trial experience as lead counsel.

On behalf of the Appeals/Grants Review Subcommittee, Miller moved for the following:

**(1) Approval of the recommendation to deny the appeal submitted by Christopher Lauren Graham and uphold the decision of the TBLs. No second needed. Motion carried.**

**(2) Approval of the recommendation to deny the appeal submitted by Laura Hayes and uphold the decision of the TBLs. No second needed. Motion carried.**

**(3) Approval of the recommendation to deny the appeal submitted by Sandre Moncriste and uphold the decision of the TBLs. No second needed. Motion carried.**

**(4) Approval of the recommendation to deny the appeal submitted by Will Hughes and uphold the decision of the TBLs. No second needed. Motion carried. [Exhibit I]**

M. Professional Development Subcommittee:

Joe Indelicato reported that the PDP Subcommittee met jointly with the CLE Committee in Austin on September 9<sup>th</sup> to discuss new topics for webcasts and hear staff reports. In fiscal year 2016, TexasBarCLE awarded 476 scholarships for live and video courses and 144 for online classes, and there were 87% more scholarship applicants this year than the year before. TexasBarBooks began offering scholarships about a year ago, and applicants can request up to three books per year and receive the digital or online version of the book. In the first year of the program, scholarships for more than \$8,400 worth of publications have been given to 21 recipients.

N. Insurance/Member Benefits Subcommittee:

John Jansonius reported that there are 6,359 major medical enrollments in the Texas Bar Private Insurance Exchange and enrollments are anticipated to grow an additional 21% this year. There are a total of 12,547 individuals enrolled in one or more products and this is anticipated to grow an additional 7% this year. The 2017 open enrollment period will run from November 1, 2016 to January 31, 2017, and open enrollment presentations will be conducted in Austin, Dallas and Houston. The subcommittee is also working to create an enhanced marketing strategy to increase member awareness and participation in the member benefits program.

O. Legislative Policy Subcommittee:

Gary Nickelson reported that the subcommittee met on August 18-19<sup>th</sup> to consider proposals that were submitted from seven Sections: ADR/Collaborative Law, African-American Lawyers, Construction Law, Family Law, LGBT Law, Poverty Law, and Real Estate, Probate, and Trust Law. The legislative submission and review process is set out in Part VIII of the State Bar policy manual and includes Sections submitting proposals as well as circulating them to all other Sections and Committees for review and/or comment, review by Legal Counsel, Section presentation to the subcommittee, analysis by the subcommittee, recommendation by the subcommittee, and presentation at the Board meeting. In making its recommendations, the subcommittee votes on whether each proposal conforms to the requirements of Section 8.01. If it finds that the proposal does conform, the subcommittee votes to recommend support, remain neutral, or oppose the proposed legislation. This year, the subcommittee recommends support of 24 of the 25 proposals. The African-American Lawyers Section proposal (Proposal 2, below) was found to not comply with Section 8.01.03. The ADR/Collaborative Law proposal (Proposal 1, below) was pulled out for further discussion.

**On behalf of the Legislative Policy Subcommittee, Gary Nickelson moved for the following:**

**(1) Adoption of the recommendations on proposals 2-25 related to compliance with Section 8.01.03 (Proposal 2 does not comply, 3-25 comply). No second needed. Motion carried.**

**(2) Adoption of the recommendations to support proposals 3-25. No second needed. Motion carried.**

Discussion ensued on Proposal 1. One Board member and two members of the public, Brett Christiansen and Larry Maxwell, spoke in support of the ADR/Collaborative Law proposal. Trey Apffel spoke in opposition to the proposal, as well as several Board members.

**After some discussion, Lance Sharp moved to postpone the question indefinitely. Christy Amuny seconded. Motion carried.**

[The full text of the Legislative Program is included in the report submitted by the Legislative Policy subcommittee.]

<b>2017 LEGISLATIVE PROGRAM – PROPOSED LEGISLATION TABLE OF CONTENTS</b>		
<b>TAB</b>	<b>PROPOSAL</b>	<b>COMMITTEE RECOMMENDATION</b>
<b>ADR/COLLABORATIVE LAW SECTIONS (TAB 1)</b>		
<b>1</b>	<i>Relating to the adoption of a uniform collaborative law Act.</i> Proposed New Chapter 161, Civil Practice and Remedies Code, (Uniform Collaborative Law Act).	Support
<b>AFRICAN AMERICAN LAWYERS SECTION (TAB 2)</b>		
<b>2</b>	<i>Relating to the creation of the Texas Commission on Criminal and Juvenile Justice.</i> Proposed New Chapter 415, Government Code, (Texas Commission on Criminal and Juvenile Justice).	Does Not Comply with Section 8.01.03
<b>CONSTRUCTION LAW SECTION (TABS 3-4)</b>		
<b>3</b>	<i>Relating to Texas choice of law and Texas venue for Texas construction contracts.</i> Proposed Amendments to Sections 272.001 (Voidable Contract Provision) and 272.002 (Contract Principally for Construction or Repair of Real Property Improvements), Business and Commerce Code.	Support
<b>4</b>	<i>Relating to the indemnity by architects and engineers within certain construction contracts.</i> Proposed Amendment to Section 130.002 (Covenant or Promise Void and Unenforceable), Civil Practice and Remedies Code.	Support
<b>FAMILY LAW SECTION (TABS 5-14)</b>		
<b>5</b>	<i>Relating to a suit for possession of or access to a child by a grandparent.</i> Proposed Amendments to Sections 153.432 (Suit for Possession or Access by Grandparent) and 153.433 (Possession of or Access to Grandchild), Family Code.	Support
<b>6</b>	<i>Relating to appeals in family law cases.</i> Proposed Amendments to Sections 6.709 (Temporary Orders During Appeal), 6.711 (Findings of Fact and Conclusions of Law), 9.007 (Limitation on Power of Court to Enforce), 109.001 (Temporary Orders During Pendency of Appeal), 109.002 (Appeal), 109.003 (Payment for Statement of Facts), 152.314	Support

	(Appeals), 153.254 (Child Less Than Three Years of Age), 153.258 (Request for Findings When Order Varies from Standard Order), 154.130 (Findings in Child Support Order), and 156.005 (Frivolous Filing of Suit For Modification), Family Code.	
7	<b><i>Relating to the marriage relationship.</i></b> Proposed Amendment to Section 3.401 (Definitions), Family Code.	Support
8	<b><i>Relating to child custody evaluations.</i></b> Proposed Amendments to Sections 107.009 (Immunity), 107.103 (Order for Child Custody Evaluation), 107.109 (Elements of Child Custody Evaluation), 107.110 (Psychometric Testing), 107.1101 (Effect of Potentially Undiagnosed Serious Mental Illness), 107.113 (Child Custody Evaluation Report Required) and 107.114 (Introduction and Provision of Child Custody Evaluation Report), Family Code. Proposed Amendment to Section 411.1285 (Access to Criminal History Record Information: Domestic Relations Office), Government Code.	Support
9	<b><i>Relating to children's birthdays.</i></b> Proposed Amendment to Section 153.314 (Holiday Possession Unaffected by Distance Parents Reside Apart), Family Code.	Support
10	<b><i>Relating to writs against associate judges.</i></b> Proposed Amendment to Section 22.221 (Writ Power), Government Code.	Support
11	<b><i>Relating to a suit for dissolution of marriage.</i></b> Proposed Amendments to Sections 6.202 (Marriage During Existence of Prior Marriage), 6.203 (Certain Void Marriages Validated) and 6.704 (Testimony of Husband or Wife), Family Code.	Support
12	<b><i>Relating to modifications of temporary orders.</i></b> Proposed Amendments to Section 156.006 (Temporary Orders), Family Code.	Support
13	<b><i>Relating to parents of a child.</i></b> Proposed Amendments to Sections 101.024 (Parent), 108.009 (Birth Certificate), 153.312 (Parents Who Reside 100 Miles or Less Apart), 153.313 (Parents Who Reside Over 100 Miles Apart), and 153.314 (Holiday Possession Unaffected by Distance Parents Reside Apart), Family Code.	Support
14	<b><i>Relating to marriage license definitions.</i></b> Proposed Amendments to Sections 2.001 (Marriage License), 2.004 (Application Form), 2.401 (Proof of Informal Marriage) and 2.402 (Declaration and Registration of Informal Marriage), Family Code.	Support
<b>LGBT LAW SECTION (TAB 15)</b>		



15	<p><b><i>Relating to certain statutory changes to reflect and address same-sex marriages and parenting relationships and to the removal of provisions regarding the criminality or unacceptability of homosexual conduct.</i></b></p> <p>Proposed New Section 1.0015 (Construction of Gender-Specific Terminology), Family Code. Proposed Amendments to Sections 2.001, 2.004, 2.401, 2.402, 3.401, 6.104, 6.202, 6.203 and 6.704, Family Code. Proposed New Section 51.015 (Construction of Gender-Specific Terminology), Family Code. Proposed Amendment to Section 51.02, Family Code. Proposed New Section 101.0012 (Construction of Gender-Specific Terminology), Family Code. Proposed Amendments to Sections 101.0015, 101.024, 101.025, 102.003, 102.006, 102.008, 102.009, 102.011, 108.008, 108.009 and 152.310, Family Code. Proposed New Section 153.318 (Same-Sex Parents: Alternating Mother’s Day or Father’s Day Possession), Family Code. Proposed Amendments to Sections 154.131, 155.001, 159.316, 159.401, 160.102, 160.201, 160.204, 160.301-160.313, 160.315, 160.404, 160.503, 160.505-160.508, 160.510, 160.602, 160.603, 160.605-160.607, 160.609, 160.622, 160.624, 160.631, 160.634, 160.636, 160.637, 160.703, 160.7031, 160.704, 160.705, 160.753-160.756, 160.759, 160.761, 161.005, 161.103, 161.106, 161.108, 161.109, 162.014, 162.402, 203.007, 231.108, 231.112, 231.115, 231.303, 233.0095, 233.019, 233.020, 233.028 and 262.205, Family Code. Proposed Repeal of Sections 2.001(b) and 6.204, Family Code. Proposed Amendments to Sections 32.0211, 85.007, 161.501, 163.001, 163.002, 171.012, 171.0123, 191.002, 191.0046 and 191.036, Health and Safety Code. Proposed New Section 192.0001 (Record of Maternity), Health and Safety Code. Proposed Amendments to Sections 192.002, 192.003, 192.0031, 192.005, 192.0051, 192.006, 192.008, 192.012, 192.027, 193.006, 552.013 and 574.045, Health and Safety Code. Proposed Repeal of Section 21.06, Penal Code.</p> <p><b><i>Proposing a constitutional amendment to repeal the unconstitutional provision of the state constitution (1) providing that marriage in this state consists only of the union of one man and one woman and (2) prohibiting this state or a political subdivision of this state from creating or recognizing any legal status identical or similar to marriage.</i></b></p> <p>Proposed Repeal of Section 32, Article I, (Marriage), Texas Constitution</p>	Support
<b>POVERTY LAW SECTION (TAB 16)</b>		
16	<p><b><i>Relating to the creation of a volunteer membership class of the State Bar of Texas.</i></b></p> <p>Proposed Amendment to 81.053 (Status of Certain Membership Classes), Government Code.</p>	Support
<b>REAL ESTATE, PROBATE AND TRUST LAW SECTION (TABS 17-25)</b>		

<p><b>17</b></p>	<p><b><i>Relating to decedents' estates.</i></b>  Proposed Amendments to Sections 22.07 (Court; County Court, Probate Court, and Statutory Probate Court), 31.002 (Matters Related to Probate Proceeding), 33.001 (Probate of Wills and Granting of Letters Testamentary and of Administration), 112.103 (Method of Proof of Signatures), 113.252 (Rights of Creditors), 114.103 (Effect of Transfer on Death Deed at Transferor's Death), 114.151 (Optional Form For Transfer on Death Deed) and 123.052 (Revocation of Certain Nontestamentary Transfers; Treatment of Former Spouse as Beneficiary Under Certain Policies or Plans), Estates Code. Proposed New Section 123.056 (Trusts with Joint Settlers), Estates Code. Proposed Amendments to Sections 123.151 (Designation of Former Spouse or Relative of Former Spouse on Certain Multiple-Party Accounts), 124.001 (Definitions), 201.054 (Adopted Child), 202.052 (Service of Citation by Publication When Recipient's Name or Address is not Ascertainable), 202.057 (Affidavit of Service of Citation), 202.151 (Evidence in Proceeding to Declare Heirship), 205.001 (Entitlement to Estate Without Appointment of Personal Representative), 251.001 (Who May Execute Will), 251.002 (Interests That May Pass By Will; Disinheritance), 251.051 (Written, Signed, and Attested), 251.103 (Period for Making Attested Wills Self-Proved), 251.104 (Requirements for Self-Proving Affidavit), 251.107 (Self-Proved Holographic Will), 252.152 (Prior Deposited Will in Relation to Later Will), 255.151 (Applicability of Subchapter), 255.401 (Posthumous Class Gift Membership), 255.451 (Circumstances Under Which Will May be Modified or Reformed), 256.003 (Period for Admitting Will to Probate; Protection for Certain Purchasers), 257.051 (Contents of Application Generally), 257.054 (Proof Required), 305.108 (Form of Bond), 308.051 (Required Notice Regarding Presentment of Claims in General), 359.001 (Account of Estate Required), 359.002 (Annual Account Required Until Estate Closed), and 401.006 (Granting Power of Sale by Agreement), Estates Code. Proposed New Section 405.0015 (Distributions Generally), Estates Code. Proposed Amendment to Section 456.003 (Duty of Eligible Institutions), Estates Code. Proposed Amendment to Section 311.005 (General Definitions), Government Code. Proposed New Section 112.011 (Class Gifts), Property Code. Proposed Repeal of Sections 303.003 (Service by Publication or Other Substituted Service) and 362.010 (Payment of Inheritance Taxes Required), Estates Code.</p>	<p>Support</p>
<p><b>18</b></p>	<p><b><i>Relating to guardianships for persons who have physical disabilities or who are incapacitated.</i></b>  Proposed Amendments to Sections 1055.003 (Intervention by Interested Person), 1102.002 (Contents of Application for Guardianship; Confidentiality of Certain Addresses), 1104.001 (Guardianship of the Person or Estate), 1101.153 (General Contents of Order Appointing Guardian), 1106.001 (Issuance of Certificate as Letters of Guardianship), 1106.002, (Expiration of Letters of Guardianship), 1155.002, (Compensation for Certain Guardians of the Person), 1253.051 (Appointment and</p>	<p>Support</p>

	Qualification of Nonresident Guardian), 1357.056 (Form of Supported Decision-Making Agreement), 1357.101 (Reliance on Agreement; Limitation of Liability) and 752.051 (Form), Estates Code. Proposed New Sections 752.052 (Relation of Attorney-In-Fact to Court-Appointed Guardian of Estate), 753.001 (Removal of Attorney-In-Fact), and 753.002 (Appointment of Designated Successor Attorney-In-Fact), Estates Code.	
<b>19</b>	<i>Relating to trusts.</i> Proposed Amendments to Sections 111.0035 (Default and Mandatory Rules; Conflict Between Terms and Statute), 111.004 (Definitions), 112.035 (Spendthrift Trusts), 112.038 (Forfeiture Clause), 112.054 (Judicial Modification or Termination of Trusts), 112.058 (Conversion of Community Trust to Nonprofit Corporation), 112.071 (Definitions), 112.072 (Distribution to Second Trust: Trustee With Full Discretion), 112.074 (Notice Required), 112.078 (Court-Ordered Distribution), 112.085 (Exceptions to Power of Distribution), and 113.018 (Employment of Agents), Property Code. Proposed Repeal of Section 114.0031 (Directed Trusts; Advisors). Proposed New Subchapter E, (Directed Trusts), Chapter 114, Property Code. Proposed Amendments to Sections 115.002 (Venue), 181.083 (Creating Additional Powers) and 240.0081 (Notice Required by Trustee Disclaiming Certain Interests in Property; Effect of Notice), Property Code.	Support
<b>20</b>	<i>Relating to the adoption of the Texas Revised Uniform Fiduciary Access to Digital Assets Act.</i> Proposed New Subchapter I (Texas Revised Uniform Fiduciary Access to Digital Assets Act) to Subtitle H of Title 2, Estates Code.	Support
<b>21</b>	<i>Relating to durable powers of attorney.</i> Proposed Amendments to Sections 751.002 (Definition of Durable Power of Attorney), Estates Code. Proposed New Sections 751.007 (Presumption of Genuine Signature), 751.008 (Validity of Power of Attorney), 751.009 (Meaning and Effect of Durable Power of Attorney), 751.010 (Judicial Relief), 751.011 (Co-Agents and Successor Agents) and 751.012 (Reimbursement and Compensation of Agent), Estates Code. Proposed New Heading to Subchapter B, Chapter 751 (Effect of Certain Acts on Exercise of Durable Power of Attorney), Estates Code. Proposed Amendment to Section 751.051 (Effect of Acts Performed by Attorney in Fact or Agent During Principal's Disability or Incapacity), Estates Code. Proposed New Subchapter B-1 (Duration of Durable Power of Attorney; Acceptance of and Reliance on Durable Power of Attorney), Estates Code. Proposed Amendments to Sections 751.101 (Fiduciary Duties), Estates Code. Proposed New Section 751.107 (Duty to Preserve Principal's Estate Plan), Estates Code. Proposed Amendment to Section 751.151 (Recording for Real Property Transactions Requiring Execution and	Support

	<p>Delivery of Instruments), Estates Code. Proposed New Subchapter E (Authority of Agent Under Power of Attorney), Chapter 751, Estates Code. Proposed Amendment to Section 752.051 (Form), Estates Code. Proposed New Section 752.052 (Modifying Statutory Form to Grant Specific Authority), Estates Code. Proposed Amendments to Sections 752.102 (Real Property Transactions), 752.108 (Insurance and Annuity Transactions), 752.109 (Estate, Trust, and Other Beneficiary Transactions), 752.111 (Personal and Family Maintenance) and 752.113 (Retirement Plan Transactions), Estates Code. Proposed Repeal of Sections 751.004 (Duration of Durable Power of Attorney), 751.053 (Effect of Principal's Divorce or Marriage Annulment if Former Spouse is Attorney in Fact or Agent), 751.054 (Knowledge of Termination of Power; Good-Faith Acts), 751.055 (Affidavit Regarding Lack of Knowledge of Termination of Power or of Disability or Incapacity; Good-Faith Reliance), 751.056 (Nonliability of Third Party on Good-Faith Reliance) and 751.058 (Effect of Revocation of Durable Power of Attorney on Third Party), Estates Code.</p>	
<b>22</b>	<p><i>Relating to the form and revocation of medical powers of attorney.</i>  Proposed Amendment to Section 166.155 (Revocation), Health and Safety Code. Proposed Repeal of Sections 166.162 (Disclosure of Statement) and 166.163 (Form of Disclosure Statement), Health and Safety Code. Proposed Amendment to Section 166.164 (Form of Medical Power of Attorney), Health and Safety Code.</p>	Support
<b>23</b>	<p><i>Relating to declaration for mental health treatment.</i>  Proposed Amendments to Sections 137.003 (Execution and Witness) and 137.011 (Form of Declaration for Mental Health Treatment), Civil Practice and Remedies Code.</p>	Support
<b>24</b>	<p><i>Relating to the disposition of remains.</i>  Proposed Repeal of Sections 692.003 (Manner of Executing Gift of Own Body) and Chapter 692 (Texas Anatomical Gift Act), Health and Safety Code. Proposed Amendment to Section 692A.005 (Manner of Making Anatomical Gift Before Donor's Death), 692A.006 (Amending or Revoking Anatomical Gift Before Donor's Death), 692A.007 (Refusal to make Anatomical Gift; Effect of Refusal) and 711.002 (Disposition of Remains; Duty to Inter), Health and Safety Code.</p>	Support
<b>25</b>	<p><i>Relating to the written declaration to designate guardian before need arises.</i>  Proposed Amendments to Sections 1104.203 (Requirements for Declaration) and 1104.204 (Form and Content of Declaration and Self-Proving Affidavit), Estates Code.</p>	Support

P. Section Representatives to the Board:

Pat Maher reported on the new Section chairs orientation and the Council of Chairs, and asked Board members to make every effort to attend their Section council meetings to which they are the advisors.

Q. Supreme Court Liaison:

Justice Phil Johnson reported that the Supreme Court held oral arguments this week. The Court is also focused on Access to Justice efforts. The Court has asked the Supreme Court Advisory Committee to look at the rule for qualifications of directors. The Committee will consider whether there should be a time limitation on disciplinary suspensions in order to be eligible to run as a director for this Board.

R. Court of Criminal Appeals Liaison:

Judge Barbara Hervey reported that the Court of Criminal Appeals was back in session last Monday. A reception honoring the 125<sup>th</sup> anniversary of the Court will be held on September 22 in Austin. The Court is working with the State Bar to roll out a Writ Academy at the Texas Law Center, and stipends will be offered to attendees.

S. Judicial Section Liaison:

Judge Kerry Russell reported that the annual judicial conference was completed last week, and Judge Jennifer Rymell will chair the Section this year. Judicial compensation will be an issue this year during the legislative session.

T. Out of State Lawyer Liaison:

Tim Mountz reported on the out-of-state lawyer population. There are approximately 10,714 lawyers licensed in Texas that are practicing outside the state, and that number is increasing. Section membership for in state attorneys is 43%, while the number of out of state attorneys who are members of Sections is 21%.

U. Report from the Executive Director:

Michelle Hunter made remarks about Candiss Held and introduced Spencer Walker, who will be taking over her position. Hunter presented Julie Marshall with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 12:24 p.m.

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<sup>1</sup> Exhibits A through I are available at [www.texasbar.com/bodcentral](http://www.texasbar.com/bodcentral) under Meeting Agendas and Minutes.