

State Bar Board

PETITIONS COURT FOR RULES VOTE, APPROVES PRESIDENT-ELECT CANDIDATES

WRITTEN BY LOWELL BROWN

THE STATE BAR OF TEXAS BOARD OF DIRECTORS voted to petition the Texas Supreme Court to order a 2021 rules vote of bar members and approved president-elect candidates for the 2021 election during its quarterly meeting on September 25.

Meeting by videoconference, the board also heard an update from President Larry McDougal on his diversity plan and voted to form task forces to review the attorney disciplinary process and to study the possible implementation of courthouse access badges in Texas.

Meeting highlights appear below. Go to youtube.com/statebaroftexas to watch the recorded meeting. Read the agenda and meeting materials at texasbar.com/bodmaterials.

2021 Rules Vote Ordered

The board voted to petition the Supreme Court to order a 2021 vote of bar members on proposed amendments to the Texas Disciplinary Rules of Professional Conduct and Texas Rules of Disciplinary Procedure, as provided by Texas Government Code 81.0877. On September 29, the court issued an order calling a referendum on the proposed rule changes. Under the order, voting will take place from February 2, 2021, to March 4, 2021, by paper and online ballot.

Over the past year and a half, the board approved six proposed amendments for inclusion in the next rules vote. Those proposals were submitted to the Supreme Court for inclusion on the February 2021 ballot, along with two more proposed amendments the board approved September 25:

- Proposed Rule 1.05(c)(10), Texas Disciplinary Rules of Professional Conduct, which permits a lawyer to disclose confidential information when the lawyer has reason to believe it is necessary to do so in order to prevent a client from dying by suicide, and
- Proposed amendments to Rule 8.03 of the Texas Disciplinary Rules of Professional Conduct and Rules 1.06 and 9.01 of the Texas Rules of Disciplinary Procedure to extend self-reporting and reciprocal-discipline provisions to cover certain discipline by a federal court or federal agency.

The Committee on Disciplinary Rules and Referenda approved each of the proposals before they came to the board. For a rule change to take effect under this process, it must be approved by the committee, the board, the State Bar membership, and the Supreme Court. For more information, go to texasbar.com/rulesvote.

2021 Election Update

The board approved the nominations of Sara Dysart, of San Antonio, and Laura Gibson, of Houston, as candidates for 2021-2022 State Bar president-elect, accepting the recommendation of the Nominations and Elections Subcommittee. The candidates will appear on the ballot in April 2021 along with any certified petition candidates. Potential petition candidates have until March 1 to submit nominating petitions to the State Bar for certification.

The board also agreed to accept electronic signatures on petitions for president-elect and director during the 2021 election cycle, provided the electronic signatures are facsimiles of the signors' own handwriting.

President's Diversity Plan

The board received an update from McDougal on his diversity plan. McDougal reported he plans to hold virtual community conversations on race relations for each of the 17 State Bar director districts around the state before his term as president ends in June 2021. The conversations would be styled on Dallas-based Project Unity's Together We Dine project.

McDougal offered the report in response to the board's vote on July 27 to require him to prepare a preliminary plan addressing controversy over his online comments by the September board meeting and providing a final plan by January 2021. Go to texasbar.com/bodmaterials and follow the links to the July 27 meeting to see the board packet materials, which include McDougal's online comments; a video-recorded apology from McDougal; joint statements issued by bar officers, committees, and sections; and comments submitted by bar members and the public.

New Task Forces

McDougal requested and the board approved the creation of the Task Force on Public Protection, Grievance Review, and the

Client Security Fund. The 21-member task force will study the attorney grievance process to ensure it remains fair to Texas lawyers while also protecting the public. McDougal also requested and the board voted to create the Courthouse Access Badge Workgroup to study the possible implementation of courthouse access badges in Texas, resuming the work of a 2018 task force.

Legislative Program

The board approved the 2021 State Bar legislative program, which is made up of proposed bills supported by State Bar sections. The proposed bills were circulated to all sections and considered by the board's Legislative Policy Subcommittee and the full board. Read the proposals at texasbar.com/legislativeprogram.

MCLE Committee Study

The board voted to ask the State Bar Minimum Continuing Legal Education Committee to study and report to the board regarding the possibility of categorizing CLE courses on the subject of mental health and substance use as eligible for "legal ethics/professional responsibility" credit.

Appointment

The board appointed Clifton L. Roberson, of Tyler, to the State Commission on Judicial Conduct to replace Steve Fischer, of El Paso, who is resigning from the commission.

New Director

Supreme Court Justice Debra Lehrmann formally administered the oath of office to the board's newest public member: Maria Hernandez Ferrier, the founding president and president emeritus of Texas A&M University-San Antonio.

Recognitions

McDougal honored two lawyers and two judges for exceptional service to the legal profession. Receiving board resolutions were Ralph L. Gonzalez, Richard L. "Dick" Tate, Judge R. O'Neil Williams, and the late Judge R.H. "Sandy" Bielstein.

Also, State Bar Executive Director Trey Apffel presented Staff Excellence Awards to Ophelia Soto, accounts receivable manager, and Zara Stanfield, a legal assistant for the Office of Chief Disciplinary Counsel who supports the Supreme Court's Unauthorized Practice of Law Committee.

Looking Ahead

The next board meeting is scheduled for January 22.

Comments to the board can be emailed to boardofdirectors@texasbar.com. To find your district directors, go to texasbar.com/board and click on "Board Members." **TBJ**

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