

**BOARD OF BAR COMMISSIONERS
JANUARY 19, 2001, MEETING MINUTES
Bar Center, Albuquerque, New Mexico**

MEMBERS PRESENT:	Colin C. Alcott Jacquelyn Archuleta-Staehlin John H. Clough Virginia R. Dugan David N. Hernandez Dennis E. Jontz J. Kevin Kiser Richard L. Kraft	Daniel J. O'Brien Monica M. Ontiveros M. Jane Shuler John S. Stiff Mary T. Torres Charles J. Vigil Christiane Wilson Carolyn A. Wolf
MEMBERS ABSENT:	Bryan P. Biedscheid B. Paul Briones Stephen E. Doerr	A. Drew Hoffman Russell B. Mann Elizabeth E. Whitefield
OTHERS PRESENT:	Kris Becker Gwenn Bolling Cheryl Bruce Maggie Gombos Tonya Herring	Trent Howell Madonna Rutherford Chief Justice Patricio Serna Joyce Stowers

President Hernandez announced the results of the Board election and welcomed new Commissioners: Dennis E. Jontz, First Bar Commissioner District; Russell B. Mann and M. Jane Shuler, Sixth Bar Commissioner District; Christiane Wilson, Legal Assistants Division Liaison; and Bryan Biedscheid, Young Lawyers Division Chair. John H. Clough will continue as the Senior Lawyers Division Delegate until the Senior Lawyers Division Board names a new delegate. Commissioners Daniel J. O'Brien and Richard L. Kraft were re-elected to the First and Sixth Bar Commissioner Districts, respectively.

1. Approval of November 17, 2000, Meeting Minutes

Commissioner Torres made a motion to approve the November 17, 2000, meeting minutes. Commissioner Kiser seconded, and the motion passed.

2. President's Report

President Hernandez reported the following:

- A. Board members were encouraged to attend the Annual Judicial Reception at La Posada in Albuquerque following the Board meeting; and,
- B. Board committee assignments have been finalized, and a roster identifying committee assignments was distributed.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. Staff announcements: Director of Communications Joe Conte has resigned to take the job of Communications Director with the State Bar of Georgia. A search is being conducted for his replacement. Liz Ringle, Lawyers Care Coordinator, will be going on maternity leave within the next several weeks and is not sure if she is returning to her position. Madonna Rutherford had an accident in the print shop, smashing and breaking two of her fingers. The incident was reported to Worker's Comp and OSHA;

- B. President Hernandez' focus for the Board in 2001 is to encourage vision and creativity in thinking about the big issues and in improving service to the members and the public. Specific topics will be identified for discussion at future meetings. Commissioners were encouraged to contact Cheryl with suggestions for discussion;
- E. The Albuquerque Bar Association invited Cheryl to work with them on Law Day activities.
- F. At a recent meeting with the Solo Section Board, George Weeth, Chair of the Section, shared his observation that the State Bar budget disclosure is not effective in letting members know what the State Bar is doing. He further commented that the State Bar needs to come up with alternate ways of informing the membership. At the same meeting, the Section heard a presentation on working with the media. Cheryl noted that the State Bar should provide training on handling public relations and managing the media. She also reported that she and Maggie Gombos will work with the Section on CLE planning and marketing to help increase the Section's membership;
- G. Cheryl and several other staff members attended Chief Justice Serna's swearing-in ceremony, and the Chief Justice will swear-in the new Commissioners later in the meeting;
- H. Timelines for the 2000 audit have been established, and the audit will be presented to the Board at the June meeting;
- I. The LegalEd satellite broadcast of the Professionalism Program is scheduled for February 24th. Commissioner Kraft is the program moderator;
- J. The Bar Leadership Conference is scheduled for the afternoon of March 30th following the Board meeting. Bar leaders, including local and voluntary bar presidents and State Bar section and committee chairs, have been invited to attend;
- K. Work is proceeding on the YLD Leadership Training Program Conference. One of the dates proposed for the conference conflicts with the previously scheduled October 5th Board meeting. Alternate dates for the Board meeting were discussed, and the Board approved moving the Board meeting to October 12th;
- L. President Hernandez, Commissioner Torres, Maggie Gombos, Carolyn White, and Cheryl are attending the NABE and NCBP Midyear Meetings in San Diego;
- M. Commissioners were encouraged to become Fellows of the State Bar Foundation;
- N. The Law Office Management Conference has been rescheduled for April 20th. A draft schedule was distributed; and,
- O. Patrick Lopez, formerly director of the State Bar's Center for Legal Education, is Chief Justice Serna's Administrative Assistant.

4. Report from Finance Committee

Secretary-Treasurer and Finance Committee Chair O'Brien reported on the following action from the January 19th Finance Committee meeting:

- A. **Investment Policy**
The Finance Committee approved the Investment Policy with minor additional changes.
- B. **Dues/Fee Waivers**
The Committee approved 13 fee waivers, all of which met the criteria.
- C. **Dues Waiver Request for Legal Services Attorneys with Low Income**
This item was tabled.
- D. **Authorization for Strategic Planning Committee to present 2002 Budget recommendations to Finance Committee for approval**
The Committee approved staff's request for the Finance Committee to approve any Strategic Planning Committee recommendations that affect the 2002 budget, noting that the full Board would address those matters when the 2001 budget is submitted to the full Board;
- E. **Aging Accounts Receivable**
The Committee reviewed outstanding accounts receivable and will continue to review these accounts at each subsequent meeting;

F. Collection Contract

Two firms expressed interest in handling the State Bar's collections. The Committee agreed to accept both contracts and use the two firms alternately;

G. Audit RFP

The process for reviewing the two proposals received for the 2002 audit was discussed. The RFP Committee will weigh the criteria, score the proposals and conduct interviews; and the full Board will make the final decision at the March 30th meeting.

Commissioner Torres made a motion to approve the Finance Committee report. Commissioner Vigil seconded, and the motion passed.

5. Acceptance of Financials

Secretary-Treasurer O'Brien reported on the November 2000 financials, noting that there was nothing extraordinary. Commissioner Wolf moved to accept the financials. Commissioner Alcott seconded, and the motion passed.

6. Approve "Statement of Policy Regarding Lawyers' Opinion Letters in Mortgage Loan Transactions"

A task force of the Real Property, Probate and Trust Section worked for the past two years to create a "Statement of Policy Regarding Lawyers' Opinion Letters in Mortgage Loan Transactions," and the Section submitted the "Statement" for Board approval. Commissioner Wolf questioned why the Board was being asked to approve the forms. Maggie Gombos noted that the Section addressed its reasons for this request in the letter to the Board included in the Board materials. Ms. Bruce also noted that Nancy Cusack, Chair of the Real Property, Probate and Trust Section, was available by phone if the Board wished to address questions directly to her. Following extensive discussion regarding the Board's authority, the Board decided that it lacked sufficient expertise to give its approval. Commissioner Torres made a motion for President Hernandez to send a letter acknowledging the Section's efforts, and explaining the Board's decision not to formally approve the forms. Commissioner O'Brien seconded, and the motion passed.

7. Discussion of Multijurisdictional Practice

President Hernandez explained that the American Bar Association (ABA) has requested that each state study the issues surrounding multijurisdictional practice (MJP) and send comments or a representative to a hearing at the ABA Midyear Meeting in San Diego in February. The ABA Commission on MJP has been directed to file the final report at the ABA Annual Meeting in August 2001. President Hernandez asked the Board for permission to appoint a task force to study the MJP issue. Following the Board's endorsement of appointing a task force, Commissioners Shuler and Wolf agreed to co-chair the task force; and Jack Clough, Mike Murphy, Carol Skiba, Orlando Lucero and Stuart Shanor were suggested as additional members. The Board also suggested running an announcement in the *Bar Bulletin* to solicit additional members. The task force will be asked to present its recommendations to the Board at the June meeting.

8. Approval of Client Protection Fund Claims

Following the Committee on Committee's recommendation, the Client Protection Fund now works with the Consumer Attorney Assistance Program (CAAP), as do fee arbitration, peer assistance and UPL. Tonya Herring, the CAAP attorney/coordinator, noted the \$2,500 cap on claims, and recommended the Board's approval of paying the four claims currently before the Board, since all four met all requirements. Commissioner Torres moved to approve the four claims. Commissioner Archuleta-Staehlin seconded, and the motion passed.

9. Report on Annual Convention

A. Overview of Plans

Annual Convention Planning Committee Co-Chair Torres reported on the two meetings of the Annual Convention Planning Committee, as follows:

- In order that convention attendees have the opportunity to get the full 15 MCLE credits, CLE's will begin at 7 a.m.;
- A plenary session will be held Thursday afternoon followed by the Welcoming Reception;
- The Past Presidents' Dinner will be held Thursday evening;
- The train ride will be Friday afternoon, and the President's Reception will be Friday evening; and,
- The Professionalism Course will be offered twice -- Friday morning and Saturday afternoon.

Commissioner Torres further reported that convention subcommittees have been formed for speakers, CLE's, sponsors, social events, and outreach and marketing. Marketing initiatives will include train-related themes, encouraging early registration with possible incentives, postcards from the Sheraton Tamarron, personal phone calls and blast e-mail teasers. Chief Justice Serna will also ask judges to clear their calendars for the convention dates.

B. Foundation-sponsored event

The State Bar Foundation Board has determined to sponsor the dinner on Friday evening and has requested Board approval to sponsor an event in conjunction with the Friday night dinner. Commissioner Torres made a motion to approve the Foundation's co-sponsoring an event at the Friday evening function. Commissioner O'Brien seconded, and the motion passed.

C. Annual Awards

Executive Director Cheryl Bruce reported that annual awards were given just a couple of months ago, and in order for the annual awards to be presented at the 2001 convention in June, solicitation for nominations would need to begin immediately. She suggested delaying presentation of this year's awards until next year's convention. Following discussion regarding the importance of annual awards with regard to attendance at convention, Commissioner Ontiveros made a motion to proceed with the annual awards this year. Commissioner Kraft seconded, and the motion passed.

10. Building Tour and Orientation

The Board took a tour of the building and received departmental orientation from staff.

11. Report on Commission on Professionalism

In the absence of Commissioner Doerr, Executive Director Cheryl Bruce reported on the work of the Commission on Professionalism. The Commission met three times between October and December and has adopted a definition of professionalism, developed a mission statement, and approved five goals. The Commission is working through four ad hoc committees to complete year one objectives. The first professionalism course of 2001 will be offered through satellite broadcast to 19 sites on February 24th, and the Southwest Bench and Bar Conference, scheduled for February 23-24, will have its own professionalism panel that same weekend.

12. Reports from Divisions

A. Young Lawyers Division

In the absence of Young Lawyers Division (YLD) Chair Bryan Biedscheid, Chair-elect Trent Howell reported that YLD is working with the law school on a mentorship program, mock interviews, Law Week, and a brown bag lunch program. Planning for the YLD Leadership Program is also in the final stages of development. Commissioner and Chair of the YLD Leadership Program Training Commission, Rick Kraft, added that the planning committee is composed of four subcommittees, and that law firms will be contacted for sponsorships. The first session of the YLD Leadership Program will be held in September, and registration will be limited to 25 participants.

President Hernandez reminded Trent and all Commissioners that young lawyers should be encouraged to attend the Annual Convention.

B. Senior Lawyers Division

Senior Lawyers Division (SLD) Delegate Jack Clough reported on a prospective project for the Division. He noted that he is working with Barbara Swann, Executive Director of the International Senior Lawyers Project, on a project that involves recruiting experienced senior lawyers to travel all over the world contributing their time and services. He further explained that law firms and other entities are providing support for the project. He has asked Ms. Swann to do a presentation at an upcoming SLD meeting, and he is working with staff to produce a mailing regarding the project that will be sent to the entire Senior Lawyers Division membership.

C. Legal Assistants Division

Legal Assistants Division Liaison Christiane Wilson reported that the Division is working on an outreach program to high schools and a mentorship program as recruitment efforts to get new members interested and involved in the Division. With 200 former members, the Division has established a new inactive status category for members who have retired or changed careers, and the Bylaws have been revised to reflect the change. She finally noted that the 2001 budget is being presented at the next meeting, and the Division is planning to give two to four scholarships this year.

13. Report from Legal Services and Programs Committee

A. Committee's Annual Report

Legal Services and Programs (LSAP) Committee Chair Sarah Singleton reported that the Committee was formed a few years ago to enhance access to legal services for the poor in New Mexico, including planning, pro bono and pro se activities. The Committee has taken on the additional responsibility of serving as an advisory committee to the Bar's legal services programs. She noted that the Pro Se Subcommittee was not particularly active in 2000, as a result of State Bar members who question the role the organized bar should have in assisting with pro se efforts. The Supreme Court appointed a task force to address pro se issues and concerns.

B. “Law Access-New Mexico” Report

Ms. Singleton reported that the LSAP Committee is looking into a federally-funded program for a centralized statewide helpline to refer cases, and the Committee is reviewing options to get financial support from the Federal government and the New Mexico Legislature. Since a business plan is needed to justify funding, the Committee developed a plan entitled “Law Access—New Mexico,” a copy of which has been provided to the Board. A portion of money needed to support the project would fund new technology for a computer system for access and referrals, and the rest would support the infrastructure and personnel. The Committee estimates that the start-up costs would be approximately \$750,000; however, Ms. Singleton clarified that the Committee is not considering the State Bar for support or funding, but rather approval to proceed working on the project.

C. IOLTA Committee

Ms. Singleton provided background on New Mexico’s IOLTA program, in which banks send interest from trust accounts to the Center for Civic Values for use in specified areas. New Mexico lawyers voluntarily participate in IOLTA, and New Mexico’s IOLTA revenues are less than half of other states’ revenues from the program. Most states have mandatory IOLTA, and some have an opt-out option. New Mexico is in small minority as a voluntary state, but making New Mexico’s IOLTA program mandatory was not viewed favorably.

An IOLTA Committee has been formed to look into an opt-out option. The Committee is working on a proposal and will meet with the Center for Civic Values Board. Ms. Singleton reported that the committee has asked for a representative from the State Bar or the Board to serve on the Committee, and the Board designated Ms. Singleton to represent the State Bar on the Committee.

D. “Building Connections: Communities, Law Schools and Equal Access to Justice” Meeting Report

Ms. Singleton reported on a two-day meeting she attended on behalf of the State Bar. Hosted by the UNM Law School, the purpose of the meeting was to discuss collaborative efforts to support equal access to justice. She explained that law schools nationwide are discussing access to the civil legal system through social services, private practice, law schools and legal services programs.

14. New Business

Following the swearing-in of the new Commissioners by Chief Justice Serna, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS
MARCH 30, 2001, MEETING MINUTES
Bar Center, Albuquerque, New Mexico**

MEMBERS PRESENT:	Colin C. Alcott B. Paul Briones John H. Clough Virginia R. Dugan (by phone) David N. Hernandez A. Drew Hoffman Dennis E. Jontz J. Kevin Kiser	Daniel J. O'Brien M. Jane Shuler John S. Stiff Mary T. Torres Charles J. Vigil Elizabeth E. Whitefield Christiane Wilson Carolyn A. Wolf
MEMBERS ABSENT:	Jacquelyn Archuleta-Staehlin Bryan P. Biedscheid Stephen E. Doerr	Richard L. Kraft Russell B. Mann Monica M. Ontiveros
OTHERS PRESENT:	Chris Baum Kris Becker Gwenn Bolling Cheryl Bruce Kara Kellogg Judge William Lang	Sandy McKay Madonna Rutherford Bob Sabin (by phone) Joyce Stowers Bill Stratvert

1. Approval of January 19, 2001, Meeting Minutes

Commissioner Torres made a motion to approve the January 19, 2001, meeting minutes. Commissioner Alcott seconded, and the motion passed.

2. President's Report

President Hernandez reported the following:

- A.** He attended the NCBP (National Conference of Bar Presidents) Midyear meetings, and noted two significant issues: Utah is in favor of MDP (multidisciplinary practice) and is moving forward with it; Oregon, Washington and Idaho are proposing rule changes for reciprocity and one bar exam for admission into all three states; Colorado will only grant reciprocity to states that grant the same to Colorado, and since New Mexico does not reciprocate, Colorado will no longer allow New Mexico attorneys reciprocity. A four-corners state reciprocity agreement is being considered.
- B.** He attended the Western States Bar Conference, and aside from Texas and California, many of the western states' bars look to New Mexico as a leader.
- C.** He and Executive Director Cheryl Bruce had lunch with Chief Judge Parker to discuss CLE and Federal Court/State Bar partnerships.
- D.** The Long Range Planning Retreat for the Board of Bar Commissioners will be August 9-11th at the Lodge at Cloudcroft.
- E.** Bill Chappelle filed a complaint with the Attorney General's Office regarding solicitation at his home from MBNA, the bar-endorsed credit card company. Staff informed the Board that MBNA has been advised not to use language that implies they are soliciting "on behalf of the State Bar." Maggie Gombos reported that home telephone numbers are not given to endorsed vendors.
- G.** He attended the Southwest Bench and Bar Conference.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. Virginia Dugan had surgery and is recovering at home.
- B. The Leadership Conference following the Board meeting had 22 registered. The Conference was reinstated in 1998 as an annual outreach program to local and voluntary bar presidents, section and committee chairs. She noted that interest in the conference is decreasing, and suggested that the Board consider whether to continue the conference in future years.
- C. She, Commissioner Torres, Virginia Ferrara and Chief Justice Serna attended the Chief Justices' Professionalism Conference. Commissioner Torres reported that there were 35 chief justices in attendance, and the focus of the conference was the chief justices' role in lawyer professionalism developing Professionalism Commissions. The other major issue discussed was Multijurisdictional Practice. Other issues discussed included unauthorized practice of law and how technology will change the practice of law.
- D. Staff changes: Sandy McKay replaced Joe Conte as Communications Director; Joyce Stowers is in the process of replacing two staff in her division; and Liz Ringle had her baby and is on leave.
- E. She has started aggressive interaction with sections on marketing, member recruitment and services. She noted the significant section money that continues to come back to the State Bar at the end of each year.
- F. The Long Range Planning Retreat, scheduled for August 9-11, will be held all day Friday and half of Saturday, and the Board meeting will be held on Thursday. A facilitator will be chosen, and Commissioners were invited to give suggestions to Commissioner Torres. Commissioners were also encouraged to share ideas and initiatives on new programs for the Strategic Planning Committee's consideration in planning the retreat.
- G. Chief Judge Parker has encouraged other federal judges and magistrates to participate in the Annual Convention. He has also agreed to work with our Commission on Professionalism on a rule for state courts to require professional behavior.
- H. The Bar is working on a compensation survey, in collaboration with the New Mexico Legal Administrators Association.
- I. She is working with the Children's Law Section on a collaborative Law Day program. The section will present a mock trial to local middle schools, and a skit will be presented during the Albuquerque Bar's Law Day luncheon.
- J. The proposed amendments to the Rules of Professional Conduct, drafted by the ABA Ethics 2000 Commission, were mailed to Commissioners; and she encouraged Commissioners to review the proposed amendments.
- K. The Multijurisdictional Practice (MJP) Task Force has been appointed, and Commissioners Wolf and Shuler are serving as Co-chairs. Commissioners were advised that ABA MJP information is on the ABA's Web site.
- L. The New Mexico Defense Lawyers Association is interested in having the State Bar collect its dues. Commissioner Torres moved to approve collection of the Defense Lawyers Association dues, beginning with the 2002 dues collection. Commissioner O'Brien seconded, and the motion passed.
- M. The New Mexico Defense Lawyers Association is also interested in cosponsoring a Law Office Management Assistance Program (LOMAP.)
- N. The New Mexico Hispanic Bar's Annual Banquet is April 20th at La Posada in Albuquerque. The State Bar will assist with promotion, marketing and printing.
- O. Jerry Roehl has contacted the State Bar regarding the Roehl Trial Lawyers Circle of Honor. Five notable deceased trial lawyers have been selected to be honored at a reception in May at the Bar Center.

- P. New Mexico Trial Lawyers Association, as well as several other sections and voluntary bars, will work with the State Bar to cosponsor the required 2001 Professionalism Program for their members.
- Q. The Federal Bar is working with the State Bar on two CLE's.

4. Report from Finance Committee

Finance Committee Chair Dan O'Brien reported on the following action from the Finance Committee meeting:

- A. The investment policy has been approved and investment options include a trust account at 5.9% interest (plus transaction fees) and U.S. Treasury Bonds at 4.5% interest. Since the trust account is more liquid, the Finance Committee decided on that option for a one-month trial, and will re-evaluate the options at the next meeting.
- B. The Committee reviewed and approved four fee waiver requests.
- C. The Committee discussed a request from a pro bono attorney that pro bono attorneys be given a \$100 bar dues discount. Commissioner Torres made a motion to approve the discount for pro bono attorneys. Commissioner Whitefield seconded the motion, but after a straw poll vote, the motion failed. Following discussion, the item was tabled in order to obtain criteria for determining how to define a pro bono attorney and to allow staff to prepare a budget impact analysis.
- D. The RFP Committee interviewed Atkinson & Co. and Meyners + Co., the two companies that submitted bids for a three-year Audit contract. The Board then discussed the details of the two bids and options, and directed the Executive Director to negotiate further with the two firms. Following Cheryl Bruce's negotiations and final discussion by the Board, Commissioner Clough made a motion to approve the Meyners + Co. bid. Commissioner Torres seconded, and the motion passed.

5. Acceptance of Financials

Secretary-Treasurer O'Brien reported on the financials. Commissioner Alcott made a motion to accept the financials. Commissioner Stiff seconded, and the motion passed.

6. Appointments to DNA-People's Legal Services, Inc., Board

Two vacancies exist on the DNA-People's Legal Services, Inc., Board for two-year terms. Executive Director Wilson Yellowhair sent a letter requesting that the Board reappoint Judge Peggy Nelson. Letters of interest were received from Jack Clough, Michelle Henrie, Bruce Herr, Karl Johnson, Judge Peggy Nelson, Lawrence Ruzow, Patrick Simpson, Geoffrey Sloan, and Tim Vollmann. Commissioner Wolf then suggested a vote by secret ballot. Following a count of the secret ballot vote, Jack Clough and Judge Peggy Nelson were appointed to the DNA-People's Legal Services, Inc., Board for two-year terms.

7. Approval of Recipients for 2000-2001 Annual Awards

Commissioner Whitefield, Chair of the Annual Awards Committee, reported on the Committee's recommendations for 2001 annual award recipients as follows:

Distinguished Bar Service Award - Raymond Hamilton, Henry F. Narvaez and Presiliano A. Torrez
Distinguished Bar Service Non-Lawyer Award - Garry Spencer and Harold Daum
Seth D. Montgomery Distinguished Judicial Service Award - Rudy S. Apodaca
Outstanding Contribution Award - Ann Halter
Outstanding Contribution Non-Lawyer Award - Bee J. Clem

Outstanding Contribution to People with Disabilities Award - V. Colleen Miller and Therese E. Yanan

Outstanding Judicial Service Award - Judge Albert S. "Pat" Murdoch and Judge Neil P. Mertz

Outstanding Program Award - Lawyers Care Referral Program, Southwest Bench & Bar Conference and Summer Law Clerk Program

Outstanding Young Lawyer of the Year Award - Trent A. Howell

Professionalism Award - Felix Briones, Jr.

Quality of Life—Legal Employer Award - New Mexico Court of Appeals and Daniel J. O'Brien

Outstanding Contribution Certificates (for the Summer Law Clerk Program) -

Charles K. Purcell	Patrick T. Simpson
Craig T. Erickson	Sean Olivas
Joseph Goldberg	Ramon M. Gonzales
James R. Wood	Jerry Todd Wertheim
Carolyn A. Wolf	Robert M. White

Commissioner Vigil made a motion to accept the Committee's recommendations. Commissioner Torres seconded, and the motion passed. Commissioner Whitefield noted that although Bruce Richardson, one of the award nominees, did not meet the award criteria, he should be acknowledged and recognized for his public service contributions, and the Board requested that a letter be sent to him for his efforts.

8. Appointment of Board Liaison to CCV Board (Center for Civic Values)

Commissioner John Stiff's term as liaison to the CCV Board has ended, and a new liaison needs to be appointed. Commissioner Stiff expressed his willingness to continue to serve on the CCV Board for another year. Commissioner Torres made a motion to appoint Commissioner Stiff as liaison to the CCV Board. Commissioner O'Brien seconded, and the motion passed.

9. Approval of Lawyers Assistance Contract

Bill Stratvert, Judge William Lang and Kara Kellogg reported on the Lawyers Assistance Contract. Mr. Stratvert explained that the Lawyers Assistance Committee assists lawyers with substance abuse problems, and the Committee is working to attract more lawyers into recovery. The Bar has had a contract with the National Council on Alcohol and Drug Dependency (NCADD) since 1995 to operate a helpline and to conduct interventions in substance abuse cases; however, several Committee members have complained about the way NCADD is currently handling State Bar members. He reported that the former executive director of NCADD has created her own company, Jill Anne Yeagley & Associates, and the Committee is requesting terminating the NCADD contract with a 30-day cancellation notice, and signing a new contract with Jill Anne Yeagley's company. Ms. Kellogg and Judge Lang explained that by switching to Ms. Yeagley, members would be better able to get the special assistance required. Commissioner Whitefield made a motion to terminate the contact with NCADD and sign a new contract with Jill Anne Yeagley. Commissioner Clough seconded, and the motion passed.

10. Approval of Amendments to Rule 24-102

The Supreme Court has requested minor procedural amendments to Rule 24-102 to allow the court to more accurately track the process for issuing citations and suspension orders for failure to pay Bar dues. Commissioner Wolf made a motion to approve the amendments to Rule 24-102. Commissioner Alcott seconded, and the motion passed.

11. Executive Session

The Board went into Executive Session to discuss a potential litigation matter.

12. Approval of Malpractice Insurance Committee's Recommendation Regarding Endorsement Renewal of ANLIR Professional Liability Insurance Program

Bob Sabin, Chair of the Committee, explained the history of the State Bar's endorsement of ANLIR as the professional liability insurance program since 1994, and that the Committee has considered the pros and cons of renewing the endorsement over the past year. Mr. Sabin reported that when the issue of endorsing malpractice insurance started, many solos and small firms were unable to get liability coverage at any price. The Committee investigated creating a New Mexico Bar captive company to provide liability insurance, as well as considering other options over the past year. In working through questions and issues, the Committee met with ANLIR management, who suggested hiring an outside auditor to evaluate a proposed rate increase. The auditor determined that ANLIR's rates were fair and reasonable and in line with rates of other insurance companies. After discussing and considering options, the Committee recommended the Bar's endorsement of ANLIR for an 18-month term with a 180-day cancellation notice. The State Bar would have ultimate authority on spending risk management funds. The Committee requested the Board's approval for the Executive Director and Committee Chair to negotiate details of the contract, and for the Executive Director and President to review and approve the final contract after it is presented to the ANLIR Board. Commissioner Alcott made a motion to accept the Committee's recommendations. Commissioner Torres seconded, and the motion passed.

13. Report on Annual Convention

Annual Convention Planning Committee Co-Chair, Mary Torres, provided an overview of the convention schedule, speakers and sponsorship options. Talking points and a call list were handed out to the Commissioners for marketing and promotion of the convention. Commissioner Wolf requested that bios on the speakers be sent to the Commissioners following the meeting.

14. Report on Commission on Professionalism and Mandatory Professionalism CLE Course

In the absence of Commission on Professionalism Co-chair Steve Doerr, Cheryl Bruce reported that the Commission has developed a definition of professionalism, a mission statement and goals and objectives, which were handed out to Commissioners for approval at the next meeting, pursuant to the Supreme Court Order that requires that any action of the Commission needs final approval of the Board of Bar Commissioners. Four subcommittees were appointed to fulfill the goals and 2001 objectives of the Commission. She further noted that Chief Justice Serna has indicated his willingness to write a letter for the *Bar Bulletin* cover to remind members that the professionalism requirement was issued by the Supreme Court, not the State Bar.

15. Reports from Divisions

A. Young Lawyers Division

Young Lawyers Division (YLD) Chair Bryan Biedscheid reported that he is working with Joyce Stowers and Laurie Hedrich to shift the HIV/AIDS Hotline from YLD to Lawyers Care, and that the YLD Board will vote on the issue at its next meeting. He noted the Call-in Program, scheduled for April 28. He is also working on a Mock Interview Program, reestablishing the mentorship program between the Bar and UNM Law School, and providing the Creed of Professionalism to first-year law students.

B. Senior Lawyers Division

Senior Lawyers Division (SLD) Delegate Jack Clough reported on the Board election results, and Brad Zeikus was elected the new chair of the Division. He reported that a mailing on the International Senior Lawyers Project was mailed to the Division membership.

C. Legal Assistants Division

Legal Assistants Division (LAD) Chair Christiane Wilson reported that the Division sponsored a paralegal certification course in March and will cosponsor a CLE on e-mail and Internet issues during Annual Convention. LAD is also working on a mentorship program for its membership and outreach to non-members. Among the Division's other activities, LAD Board members are speaking in schools, and the Division has a committee, which provides review, and information updates for the Division's Web page. Ms. Wilson also reported that an outside site has contacted the Division to name the LAD page an outstanding Web page. Finally, Ms. Wilson asked for approval of the Division's 2001 budget. Commissioner Torres made a motion to approve the LAD budget. Commissioner Whitefield seconded, and the motion passed.

16. Report on State Bar Web Site and Technology Discussion

President Hernandez led a presentation of the Bar's Web site, discussed what other bars are doing and what the State Bar of New Mexico can do to increase benefit from and use of its site. Following the presentation, President Hernandez invited comments and suggestions from the commissioners for the site. Commissioner Alcott mentioned a possible consortium between New Mexico and other bars, such as Oklahoma and Texas. Commissioner Stiff recommended access to forms and downloadable materials and stated that the Web site is a worthwhile investment. Commissioner Briones expressed the value of electronic publications. Commissioner Torres suggested that Commissioners interested in the development of the Web site should participate in the Strategic Planning Committee meetings to give input on the direction of the Web site.

17. Report on State Bar Foundation

This item was tabled.

18. Report on LOMAP (Law Office Management Assistance Program)

This item was covered under the Executive Director's Report.

19. Report on Final Status of Real Property, Probate and Trust Section's "Statement of Policy Regarding Lawyers' Opinion Letters in Mortgage Loan Transactions"

This item was tabled.

20. Report on Task Force on Electronic Filing

Commissioner Dennis Jontz, Chair of the Task Force on Electronic Filing, reported on the work and recommendations of the Task Force. He noted that features the Task Force would like to see implemented were identified in the report included in the materials. He provided background on the Task Force's discussions of what was needed, and what was possible and feasible without regard for cost. Since the Court has budget limitations, the Task Force requested that the State Bar urge support for funding for electronic filing. The Task Force further recommends that the State Bar's

Web site be enhanced to accommodate electronic litigation and video depositions. The Task Force also recommended that the Technology Utilization Committee (TUC) assist in implementing the recommendations, as well as assisting with training, implementation and accessibility. The Task Force requested the Board's adoption of all the recommendations. Commissioner Briones made a motion to adopt recommendations 1-5 of the Task Force Report. Commissioner Torres seconded, and the motion passed.

21. New Business

Executive Director Cheryl Bruce reported that all of the state's legal services providers will merge into one corporation, effective January 2002.

**BOARD OF BAR COMMISSIONERS
JUNE 14, 2001, MEETING MINUTES
Sheraton Tamarron Resort
Durango, Colorado**

MEMBERS PRESENT:

Colin C. Alcott	J. Kevin Kiser
Jacquelyn Archuleta-Staehlin	Russell B. Mann
Daniel J. Behles	Daniel J. O'Brien
Bryan P. Biedscheid	Monica M. Ontiveros
B. Paul Briones	M. Jane Shuler
Stephen E. Doerr	Mary T. Torres
Virginia R. Dugan	Charles J. Vigil
David N. Hernandez	Elizabeth E. Whitefield
A. Drew Hoffman	Christiane Wilson
Dennis E. Jontz	Carolyn A. Wolf

MEMBERS ABSENT:

Richard L. Kraft
John S. Stiff

OTHERS PRESENT:

Kris Becker	Sandy McKay
Cheryl Bruce	Madonna Rutherford
Maggie Gombos	

1. Approval of March 30, 2001, Meeting Minutes

Commissioner Torres made a motion to approve the March 30, 2001, meeting minutes. Commissioner Whitefield seconded, and the motion passed.

2. President's Report

President Hernandez reported on the demographic information of the Bar's 2001 membership as follows: 6,976 total members, of which 5,100 are instate; 1,400 inactive; 2,342 female; 4,634 male; 1,294 minorities; and 1,615 solo practitioners.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. The Annual Convention Planning Committee was thanked for its efforts. She particularly acknowledged Chief Justice Serna for his assistance on the Planning Committee and with marketing activities. Those activities included sending letters to all voluntary bars and submitting a letter for the cover of the *Bar Bulletin*;
- B. Sandy McKay, Eric Rude and the Communications staff were thanked for their work on the Convention Program;
- C. Carolyn White resigned. The search for a new Associate Executive Director will be conducted after the convention;
- D. The subcommittees of the Commission on Professionalism have met regularly and are making great strides due to their diligent efforts;
- E. The Strategic Planning Committee has been busy, and Committee Chair Torres will report on the work of the Committee under that agenda item;
- F. The Multijurisdictional Practice Task Force has met. Co-Chairs Shuler and Wolf will report on the work of the Task Force under that agenda item; and,
- G. Membership outreach and marketing efforts are improving. An active budget plan will be developed and implemented for 2002.

4. Report from Finance Committee

Finance Committee Chair Dan O'Brien reported on the following actions from the Finance Committee meeting:

- A.** The Committee reviewed investment options and recommended placing the funds in a money market account at an interest rate of five (5) percent. The account is Federally insured and receives two (2) percent more interest than the current account. Commissioner Torres made a motion to approve investment in the money market account. Commissioner Whitefield seconded, and the motion passed.
- B.** The Committee recommended a \$30,000 one-time principal reduction on the Bar's mortgage to be paid from cash reserves. Commissioner Alcott made a motion to approve the one-time principal reduction and review again in one year at the audit meeting to evaluate whether it is prudent to again consider another principal reduction. Commissioner Hoffman seconded. Commissioner Torres requested an amendment to the motion to review again during this budget cycle that will start next month. The motion passed with the amendment.
- C.** The Committee recommended pursuing a reduced interest rate on the Bar Center mortgage. President Hernandez agreed to meet with the Wells Fargo Bank to request a reduction of the interest rate;
- D.** Accounts receivable were reviewed, and a subcommittee was formed to investigate collection of advertisers' accounts;
- E.** The Committee recommended writing-off a portion of Bar Center pledges and attempting to collect on others;
- F.** A subcommittee was formed to review the request to discount dues for legal services provider attorneys;
- G.** The Audit and Management Letter were reviewed; Commissioner Torres noted that the Management Letter was very favorable;
- H.** Termination of the Bar's LegalNet Contract was discussed. Commissioner Jontz explained that maintenance had previously been provided free of charge, but it will now cost between \$10,000-\$20,000 to maintain the databases. Commissioner Jontz and Executive Director Cheryl Bruce will look into options to move the databases to the Bar's Website; and,
- I.** Executive Director Cheryl Bruce suggested charging sections for blast e-mails to their section membership. This item was tabled for further consideration of a policy that staff will draft for the next Finance Committee meeting.

Commissioner Torres made a motion to accept the Finance Committee Report. Commissioner Whitefield seconded, and the motion passed.

5. Acceptance of 2000 Audit and Management Letter

Commissioner Torres made a motion to accept the 2000 Audit and Management Letter. Commissioner Whitefield seconded, and the motion passed.

6. Acceptance of Financials

Secretary-Treasurer O'Brien reported on the financials. Commissioner Wolf made a motion to accept the financials. Commissioner Torres seconded, and the motion passed.

7. Approval of Client Protection Fund Claims

Executive Director Cheryl Bruce provided a brief history of the Client Protection Fund, established in 1992 as a restricted account. Prior to 2001, the Client Protection Fund Committee reviewed claims and the Committee made recommendations to the Board. In 2000, the Committee on Committees

recommended that Client Protection Fund claims be handled through the Consumer Attorney Assistance Program (CAAP). The CAAP attorney now reviews and recommends claims to the Board for payment from the capped Client Protection Fund. Commissioner Briones inquired as to whether or not a mechanism for restitution was in place. Maggie Gombos explained that although restitution had been requested, no formal mechanism is in place for reimbursement or for the collection of fines; and neither the Disciplinary Board nor the Court have pursued such a program. President Hernandez asked Commissioner Whitefield to raise the issue at the next Disciplinary Board meeting and to report back to the Board at its August meeting. Following discussion, the Board decided to have this matter placed on the agenda for the next Board meeting for further discussion.

Cheryl Bruce reported that staff recommended paying three out of the four claims that were filed. Commissioner Wolf made a motion to approve staff's recommendations. Commissioner Alcott seconded, and the motion passed.

8. Report on Strategic Planning Committee Meetings

Committee Chair Mary Torres reported that the current focus of the Strategic Planning Committee is the Bar's Web site development. She noted that the Committee has met several times and is very active. Three subcommittees were formed to study the various areas of development. She concluded that the Committee will provide a full, comprehensive report with recommendations at the Long Range Planning Retreat.

9. Report on MJP Task Force

Multijurisdictional Practice (MJP) Task Force Co-chair Jane Shuler reported that an MJP survey was published in the *Bar Bulletin*. Over 350 responses had been received to date. There is considerable interest in MJP and many concerns are being raised. Executive Director Cheryl Bruce noted that the ABA's Web site has all-inclusive information regarding MJP, and she encouraged commissioners to review the site. The ABA has studied the issue for two years and will present a report to the ABA House of Governors.

10. Report on Member Finder and Attorney Pages

Communications Director Sandy McKay reported that the Member Finder is up and running. She encouraged commissioners to visit the site and to perform a search for attorneys. A sample attorney page was given to all in attendance. Ms. McKay explained that searches could be conducted under many categories such as name, firm, practice area, etc. The Bar is actively marketing the Member Finder with photo and bio options available in the near future. Commissioners were encouraged to sign up for an attorney page. A suggestion was made to include inactive attorneys in the on-line listing, and Ms. McKay agreed to address this issue.

11. Report on Proposed IOLTA Rule Revision

Sarah Singleton reported that a committee was formed to look at proposed changes to the IOLTA Rule. The committee recommended that IOLTA be voluntary with an opt-out option rather than a mandatory account. A program that is completely involuntary would be susceptible to challenge. The Supreme Court has yet to approve the amendment to the rule. However, the rule had never been presented to the Court with an easy opt-out option that may lead to its approval. Lawyers would be required to complete a Supreme Court form containing an opt-out option as opposed to being required to write a letter of request. Sarah further explained that IOLTA money is intended only to be applied to temporary pooled funds. Interest is presently being paid to the clients. Under this proposal, administration fees exceeding interest would be remitted to the Center for Civic Values. Commissioner Torres made a motion to approve the amendment to the IOLTA Rule. Commissioner Archuleta-Staehlin seconded, and the motion passed.

12. Report on Annual Convention

A. 2001 Durango Report

Annual Convention Planning Committee Co-chair Mary Torres reported favorable attendance numbers for the convention. Executive Director Cheryl Bruce described the vigorous marketing and outreach efforts. Commissioner Doerr noted that several new members attended this year's convention. Commissioner Hoffman inquired about past registrations. Cheryl Bruce stated that the numbers have been steadily decreasing since 1987, the first year for mandatory CLE. The Board discussed the pros and cons of holding the Annual Convention in the summer as opposed to the fall. The impact of a family-oriented convention on attendance was also addressed and the Board voted on whether or not to continue convention. The consensus voted to continue holding the convention, but to conduct more marketing and outreach.

Commissioner O'Brien made a motion to appoint a subcommittee study this year's demographics and poll convention goers to determine their reasons for attending. The subcommittee was required to report back to the Board in the next couple of months. Commissioners Torres, O'Brien, Whitefield, Briones, Wolf, and Wilson volunteered to serve on the subcommittee. Commissioner Torres amended the motion requesting that the subcommittee meet several times in July and report to the Board at the August meeting. Commissioner Wolf seconded, and the motion passed with the amendment.

B. Selection of Dates for 2002 Convention

The Board discussed coordinating the timing of the convention with the Bench and Bar Conference. Although the Bench and Bar Conference is normally held in the spring, this year's summer convention was so successful that the Board decided to hold convention in the summer again and suggested moving the Bench and Bar Conference to the fall--September or October. Commissioner Dugan agreed to coordinate the rescheduling of the Conference to the fall with the Bench and Bar Committee. Following discussion, the Board decided to postpone the change until summer of 2003.

C. Discussion of Possible 2002 Sites

Suggestions for possible sites included Scottsdale, Tucson, Sedona, Angel Fire, Flagstaff, and the Santa Ana Tamaya (Albuquerque). Staff was asked to research sites and dates for the convention subcommittee to consider prior to the August Board meeting.

13. Report on Commission on Professionalism, Mandatory Professionalism CLE Course, and Approval of Commission's Definition of Professionalism, Commission's Mission Statement and First-Year Goals

A. Report on Commission and CLE Program

Commission on Professionalism Co-chair Steve Doerr reported on the work of the Commission subcommittees and their assignments. He further reported that feedback on the professionalism program has been good, and that the program format must be interactive and open for discussion by the participants.

B. Approval of Definition, Mission and Goals

Mr. Doerr explained that, pursuant to the Supreme Court's Order creating the Commission, the Board of Bar Commissioners must approve the definition, mission and

goals of the Commission. He then asked for the Board's comments and approval. Legal Assistants Division Chair Christiane Wilson stated that her Division's Board reviewed the definition and noted that the definition lacked mention of a lawyer's behavior toward his or her staff as well as toward the opposing attorney's staff. Mr. Doerr stated that the Commission's discussion included staff and although not specifically spelled out, their definition implied the inclusion of behavior toward staff. Executive Director Cheryl Bruce further reiterated that the Commission discussed all aspects of the definition and believed that it was all-inclusive. Commissioner O'Brien suggested amending the language from "...other lawyers..." to "...other members of the legal profession..." Commissioner Whitefield suggested including information, resources and materials under the goals defining the statewide clearinghouse. Commissioner Wolf made a motion to approve the definition, mission and goals with the amendments. Commissioner Whitefield seconded, and the motion passed.

14. Reports from Divisions

A. Young Lawyers Division

Young Lawyers Division (YLD) Chair Bryan Biedscheid reported that the Division was holding its Retreat at the Sheraton Tamarron immediately following the convention. He also reported on a new mentorship program with the Law School, noted that the plans for the Leadership Program are encouraging, and that he and Trent Howell attended the ABA Spring Conference.

B. Senior Lawyers Division

Senior Lawyers Division (SLD) Delegate Dan Behles reported that Brad Zeikus is the Chair of the Division, and that the Division has a strong group of new board members. He further reported that the Division is working on programs, such as providing free legal advice and retirement seminars along with other programs for its members, and that the Division is also assisting with the KOB-TV call-in program. The Division is also assisting with the Bill Kitts Mentor Program, and finalizing the sale of a law practice rule for presentation to the Board at a future meeting.

C. Legal Assistants Division

Legal Assistants Division (LAD) Chair Christiane Wilson reported that the Division held a luncheon and sponsored a CLE at the convention. Legal assistants from the Colorado Bar were invited to attend. The Division is sponsoring luncheons around the state and is coordinating several CLE seminars with the Bar's CLE Director. She further reported that the Division does not recommend making professionalism a requirement for legal assistants at this time, but members are encouraged to attend the program. Those who do will receive one ethics and one professionalism credit.

15. Report on State Bar Foundation

Executive Director Cheryl Bruce reported that the Bar Foundation was sponsoring Friday night's dinner at convention. Although the Foundation has taken on specific activities, it needs to first solicit trustees to fund those endeavors. One of the activities the Foundation would like to undertake is an advertising campaign to enhance the profession and improve public confidence. She also reminded the Board that Foundation membership includes all of the past presidents of the Bar.

16. Report on Final Status of Real Property, Probate and Trust Section's "Statement of Policy Regarding Lawyers' Opinion Letters in Mortgage Loan Transactions"

President Hernandez reported on the background of the Real Property, Probate and Trust Section's Opinion Letter considered by the Board at the January 2001 meeting. The Section created the document and asked for the Board's approval; however, it was discovered that no other bars approve or endorse this type of document. Commissioner Wolf noted that when the matter was brought to the Board's attention, the Board was not clear regarding its responsibility to approve such a document, even though that role is outlined in the State Bar's Bylaws. Commissioner Ontiveros reiterated that the Board should not be involved with approving forms or documents of this nature.

17. Report on Task Force on Advisability of the Adoption of a Death Penalty Moratorium

Task Force Co-chair Rudy Apodaca reported that the Task Force on Advisability of the Adoption of a Death Penalty Moratorium was created by the Board based on the ABA's Resolution requesting bars to study the death penalty. The Task Force has only begun to study all of the information that must be reviewed. For this reason, no substantive information was reported. Rather, Judge Apodaca wanted to inform the Board that the group is working on a report and recommendations to present to the Board in the future. He further explained that the Task Force formed four subcommittees that are exploring whether the death penalty is being imposed fairly and under due process. The name of the Task Force and whether it should include "moratorium," as well as a prosecutorial obstacle, are among the problems that the Task Force has confronted. With the exception of a public defender and a former Assistant Attorney General, no other public prosecutors are among the Task Force members. Commissioner Alcott stated that the District Attorney's Association requested the appointment of two district attorneys, since the Association feels that the State Bar appointed a heavy defense-attorney membership to the Task Force. Judge Apodaca stated that he too was concerned that the Task Force membership could be biased or unbalanced, and stated that the members have a duty to uphold the law and to be impartial. Commissioners Archuleta-Staehlin and Behles also expressed concern regarding the balance of the membership asserting that the report might be one-sided or based on personal opinions and beliefs. Judge Apodaca assured the Board that the report would not be slanted or biased, and that the Board's issues of concern were addressed by the Task Force at its first meeting. Commissioner Alcott proposed putting the matter on the August agenda and appointing two members of the District Attorney's Association to the Task Force. Commissioner Wolf stated that the issue was far too important and sensitive to make a decision at this time. Due to time constraints, no action was taken by the Board, but the matter will be placed on the agenda for the August Board meeting.

18. Discussion Regarding Appointment to Civil Legal Services Commission

Sarah Singleton reported on the creation of new Civil Legal Services Commission. Pursuant to a new law passed by the Legislature and signed by the Governor in the last session, a new Civil Legal Services Fund was established. The Fund will be supported by an increase in civil filing fees, and those funds will be deposited into a "Civil Legal Services Fund," with annual revenues estimated at \$1.4 million. A Commission will be established to oversee the Fund and will be composed of five members who are experienced in civil legal matters affecting low-income people. Two members are to be appointed by the Governor; two by the Supreme Court; and one by the State Bar. The Court's appointment is a one-year term, and the Bar's appointment is a three-year term. The Court suggested that Justice Pamela Minzner, Judge Peggy Nelson and Sarah Singleton be appointed to represent the Court and the Bar. Other suggested appointees include Delores Sandoval, Stan Sager, Jay Mason, Cindy Gray and Karen Meyers. The Legal Services and Programs Committee recommended Stan Sager or Karen Meyers. Concern was expressed regarding the Commission's lack of diversity and the fact that it is comprised solely of Anglos. Commissioner Briones recommended considering Dolph Barnhouse; however, Ms. Singleton noted that Mr. Barnhouse has not been very involved with the Bar's Legal Services and Programs Committee. Additionally, she stated that someone who had been involved extensively with

the Bar over a number of years would provide more continuity to the Commission. President Hernandez asked Ms. Singleton if she was willing to be a Board or Court appointment, and she indicated her willingness to serve on the Commission. Commissioner Torres made a motion to appoint Ms. Singleton to the Civil Legal Services Commission as the Board's appointment. Commissioner Doerr seconded. Commissioner Wolf suggested that the Board recommend appointing Stan Sager as one of the Court's appointees if Justice Minzner was not willing to serve on the Commission. Commissioner Torres amended her motion to include the Board's support of a team approach to the Commission. The motion passed with Commissioner Torres' amendment.

19. Report on Complaints Against MBNA

Maggie Gombos reported that the Bar has received several complaints from members regarding MBNA's solicitations. She explained that MBNA is a large company that aggressively solicits members at least four times per year. The program generates a great deal of revenue for the Bar at approximately \$5,000-\$6,000 per year. Cheryl Bruce noted that the Bar's five-year contract with MBNA is up for renewal this year. Consequently, the Board will need to determine whether or not to continue the program at that time.

20. New Business

There being no further business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS
AUGUST 9, 2001, MEETING MINUTES
The Lodge
Cloudcroft, New Mexico**

MEMBERS PRESENT: Colin C. Alcott Daniel O'Brien
Daniel Behles Monica M. Ontiveros
Bryan Biedscheid John S. Stiff
B. Paul Briones Mary T. Torres
Stephen E. Doerr Charles J. Vigil
Virginia Dugan Elizabeth E. Whitefield
David Hernandez Christiane Wilson
Dennis E. Jontz Carolyn A. Wolf
Richard L. Kraft
Russell B. Mann

MEMBERS ABSENT: Jacquelyn Archuleta-Staehlin
A. Drew Hoffman
M. Jane Shuler

OTHERS PRESENT: Gwenn Bolling Christine Halter
Cheryl Bruce Sandy McKay
Sandra Byer Joyce Stowers
Maggie Gombos

1. Approval of June 14, 2001, Meeting Minutes

Commissioner Torres made a motion to approve the June 14, 2001, meeting minutes. Commissioner Dugan seconded, and the motion passed.

2. President's Report

President Hernandez reported on the following:

- A.** Wells Fargo presented two options for consideration to reduce the mortgage rate:
 - 1. Variable rate. 6.75% (Prime plus zero percent) adjusted annually; and an origination fee of \$6,030.
 - 2. Fixed rate. 7.50% with a five year fixed rate; and an origination fee of \$6,030.Commissioner Alcott made a motion to defer a decision on the matter until the Finance Committee could assess the two options and report its recommendations to the Board at the October 12 meeting. Commissioner Dugan seconded, and the motion passed.
- B.** He and Commissioner Torres attended the NCBP annual meeting in Chicago. He noted that many problems, ideas and thoughts were shared among Bar presidents in the numerous constructive breakout group sessions. He also reported that Executive Director Cheryl Bruce presented two of the programs during the NABE meetings that were held preceding the NCBP sessions. He reported that Ms. Bruce is very well respected around the country and has been appointed to the NABE Executive Committee's Program Planning Committee and the Chief Staff Executives Leadership Committee.
- C.** MJP and MDP issues continue to be major issues nationwide. He reported that 12 states have adopted rules for MDP, 15 states are against MDP, and the remaining states, including New Mexico, continue to study the issue.

- D. The December 7th Board meeting will begin in the early morning, so that it will conclude by 1:00 p.m. when the scheduled Leadership Training Institute begins. As a result, the Finance Committee will meet on Thursday evening, December 6th.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. Christine Halter, the new Associate Executive Director, attended the NABE and NCBP annual meetings in Chicago.
- B. LREP and Lawyers Care have returned to full staffing.
- C. Diana Sandoval, Assistant Director of Publications in the Communications Division, will be on an extended medical leave for eight to ten weeks beginning on August 20th.
- D. Peggy Shannon has been hired in a full-time temporary position to assist the Communications Division with marketing and to assist with writing and editorial duties during Diana Sandoval's temporary disability leave.
- E. CLE will be launching a one-year pilot program for online CLE within the next month. The agreement is with Legalspan, an online CLE company out of Arizona. SBNM will receive revenue on State Bar online CLE programs and will also participate in a revenue sharing agreement for other online programs offered by Legalspan. After the one-year commitment, CLE will have the option to continue the contract or to build an online option on the State Bar's Web site.
- F. The Board election schedule is as follows:
 - August 9 – Board Officers nominated
 - September 27 – election notice published
 - October 29 – nominating petition deadline
 - November 7 – ballots mailed
 - November 8 – profiles published in *Bar Bulletin*
 - November 30 – count ballotsCommissioners with terms ending include: Elizabeth Whitefield, Jacquelyn Archuleta-Staehlin, Steve Doerr, Jane Schuler and Kevin Kiser.
- G. Ernest Calderón, President-Elect of the Arizona Bar, will be visiting at the October Board meeting, and has a special interest in meeting with the Legal Assistants Division regarding how the State Bar's division was established.

4. Report from Finance Committee

Secretary-Treasurer O'Brien reported on the following matters discussed and action taken by the Finance Committee at their August 9, 2001, meeting:

- A. Based on discussion by the Finance Committee, Commissioner Briones proposed that State Bar dues be reduced for lawyers working full-time in Legal Services: 50 percent reduction for members earning below \$25,000 and 25 percent reduction for members earning below \$30,000. The total impact on the budget to accommodate these reduced dues would be \$322.50, based on information provided to a subcommittee by Madonna Rutherford. Commissioner Torres made a motion to accept Commissioner Briones' recommendation. Commissioner Wolf seconded. Commissioner Doerr made an amendment to the motion to reduce dues by 50 percent for qualified attorneys whose incomes are less than \$30,000. Commissioner O'Brien seconded, and the motion passed.
- B. Commissioner Briones recommended that income qualification for a hardship waiver for lawyers over 70 years of age be increased to \$20,000. Commissioner Doerr made a motion to accept the recommendation. Commissioner O'Brien seconded, and the motion passed.

- C. Annual Convention revenues totaled \$143,000, and expenses totaled \$121,000 excluding expenses allocated for direct labor. Gwenn Bolling reported that direct labor totaled approximately \$7,000.
- D. The revenue shortfall from the Lawyers Care Referral Program's \$25 referral fee and recent changes to the program were discussed. Cheryl Bruce noted that the program would never be self-supporting because of the time, labor and advertising necessary to promote the program, and she encouraged the Board to determine whether the State Bar has an obligation to provide the referral program as a public service. The Board decided to continue providing the referral service, but to limit the subsidy to Lawyers Care for 2002 to \$62,000. Any revenues generated by the referral fee would remain part of the Lawyers Care budget, thus reducing the State Bar subsidy. Commissioner Briones made the motion to lower the budgeted amount for 2002 to \$62,000. Commissioner Doerr seconded, and the motion was approved.
- E. The Finance Committee proposed changes in the travel policy as follows. Rather than being required to purchase the "cheapest air fare," the policy would read, "...a reasonable fare will be sought and selected." In addition, while State Bar executive staff may be used to make reservations and credit card arrangements, officers and others traveling would be allowed the flexibility to make their own travel arrangements and reservations, and the State Bar would provide reimbursements. Commissioner Torres moved to accept the Finance Committee's recommendations. Commissioner O'Brien seconded, and the motion was approved.
- F. Commissioner Torres moved to accept the Finance Committee's report. Commissioner Alcott seconded, and the motion passed.

5. Acceptance of Financials

Commissioner Torres made a motion to accept the financials, as presented by Finance Committee Chair O'Brien. Commissioner Behles seconded, and the motion passed.

6. Report on the Executive Committee Meeting

President Hernandez reported that he had called an Executive Committee meeting on July 20th to discuss the continuation of the Task Force on the Advisability of the Adoption of the Death Penalty and a fee arbitration question. Following discussion regarding the mission, membership composition, and continuation of the Task Force, the Executive Committee recommended disbanding the Task Force as an official committee of the State Bar.

Regarding the second matter on the Executive Committee agenda, the Committee agreed with Cheryl's recommendation and instructed her to handle.

7. Decision on Task Force on Advisability of the Adoption of Death Penalty Moratorium

President Hernandez reported that peers at the NCBP meetings determined that the Task Force presented definite *Keller* concerns. Judge Rudy Apodaca and Todd Wertheim, Co-chairs of the Task Force, joined the Board meeting (Mr. Wertheim by phone and Judge Apodaca in person) and requested that the Board reconsider the recommendation to disband the task force. Judge Apodaca stressed that the mission of the Task Force was not ideological, but that it was instead an issue regarding the administration of justice. The expenses of the Task Force were discussed, and Commissioner Doerr expressed his concern that membership dues were being used for the growing expenses of the Task Force. Commissioner Torres argued that the issue was divisive among the diverse constituencies of the State Bar, and that the Board had made a mistake in approving the creation of the Task Force. Judge Apodaca assured the Board that the Task Force had made no preconceived conclusions, that the membership of the task force *was* balanced, and that it would be fair and objective in its work. Mr.

Wertheim noted that there were four substantive areas of study related to the administration of justice that the Task Force was addressing.

After lengthy discussion regarding the composition of the Task Force and whether or not the Task Force should continue independently of the State Bar, Commissioner Wolf made a motion to continue the Task Force and to expand the membership composition of the Task Force to include two prosecutors, to be recommended by the District Attorney's Association and that President Hernandez would make the additional appointments to represent prosecutors. Commissioner Briones seconded the motion. Commissioner Torres suggested an amendment to the motion, adding that the membership of the Task Force would include one member of the Board of Bar Commissioners, also to be appointed by the President. Commissioner Wolf accepted the amendment; Commissioner Alcott seconded, and the amended motion was approved.

8. Approval of Sponsoring Judicial Reception

Commissioner Torres presented a request from the Court of Appeals Judge Celia Foy Castillo for the Bar to sponsor a portion of a reception in Las Cruces to honor federal, state and local judges. Commissioner Torres noted that the event would be an excellent opportunity to reach out to the public and invite them to meet judges in an effort to improve the public's perception of the judicial system. Following discussion regarding the dollar amount for sponsorship, a voice vote carried the motion to give \$300.

Commissioner Torres requested that a standard policy be developed regarding judicial receptions. It was decided to continue considering each request on a case-by-case basis.

9. Consideration of Creating a Committee to Study Providing Guidelines to Members Regarding the Gramm-Leach Bliley Act

President Hernandez suggested the formation of a committee to devise guidelines for lawyers pertaining to the requirements of the Gramm-Leach Bliley Act. The sample would be published in the *Bar Bulletin*, in CLE materials, and on the Web site as a membership service. Commissioner Torres suggested appointing a committee to draft guidelines since some members may be unaware of this act.

10. Report on Strategic Planning Committee Meetings

Strategic Planning Committee Chair Mary Torres outlined the schedule and objectives for the retreat. Sandy Hughes, consultant from the National Center for Non-profit Boards, would be the facilitator.

11. Report on Status of ANLIR Agreement

Executive Director Cheryl Bruce reported that the agreement had not yet been finalized. Negotiations have taken more time than expected, as three drafts have been sent back and forth thus far.

12. Report on Activities of Committees

Membership Services Director Maggie Gombos reported the following:

- A.** ADR has been examining the Uniform Mediation Act.
- B.** The Professional Liability Committee will continue to conduct free risk management seminars and will be analyzing the malpractice insurance survey results.
- C.** The Committee on Diversity will hold a reception on Thursday, Sep. 20th at the Sheraton Old Town in Albuquerque to showcase its new programs and to encourage more members to volunteer for bar work.

- D. The Bench and Bar Relations Committee has been making progress toward planning its 2002 conference.
- E. The Committee on Women has been working on revisions to the *Handbook on Gender Equality in the Courts* and has been drafted a brochure on domestic violence.
- F. The Law Office Management Committee will sponsor the second annual LOMAP on October 5th.
- G. The MJP Task Force has been active, and the final report will be presented at the October 12th Board meeting.

Communications Director Sandy McKay reported the following:

- A. The Board of Editors has been providing guidance to the staff editors regarding the *Bar Journal*.
- B. PLEC (Public Legal Education Committee) has formed two subcommittees: one to draft a litigation publication for the public; and another to work on a "Q & A" series to distribute to print media for newspapers statewide.

13. Report on Annual Convention

A. 2001 Durango Preliminary Financial and Demographic Report

Preliminary financial information was provided, and final reports on demographics and financials will be presented to the Finance and Annual Convention Committees at their next meetings.

B. Selection of Site and Dates for 2002 Convention

Commissioner Torres reported that the Annual Convention Planning Committee selected and recommended the Hilton Sedona Resort in Arizona as the site of the 2002 Convention. The dates chosen were July 25th - 27th. Since the format for the 2001 was successful, the committee will not make significant changes for the 2002 convention. A mystery dinner will be held on Saturday night, and a dinner dance or similar function will be held on Friday night. The possibility of a day trip to the Grand Canyon or another guest/family trip will be considered. Commissioner Whitefield moved to approve the committee's recommendations. Commissioner Doerr seconded, and the motion passed.

14. Report on Compensation Survey

Executive Director Cheryl Bruce reported that the 2001 Compensation Survey, developed in partnership with the Association of Legal Administrators, was ready to be designed and printed. The survey will be mailed in October, and the results should be ready for publication and distribution in early 2002.

15. Reports from Divisions

A. Young Lawyers Division

YLD Chair Bryan Biedscheid reported a successful YLD Retreat, held in Durango following the convention. Other successful YLD events reported included: the Bench and Bar social in Santa Fe, a barbeque at the UNM Law School following the bar exam, planning for the new mentorship program at the Law School, and the brown bag luncheon series around the state. He also reminded the Board of the announced the division's co-sponsorship of the Leadership Training Institute, to begin September 7th.

B. Senior Lawyers Division

Senior Lawyers Division (SLD) Delegate Dan Behles reported that the division will be working with YLD on mentorship programs, and the division has been assisting with the KOB Call-In. Regarding the revisions to the Sale of Law Practice Rule, the division will submit its final draft for approval at the October Board meeting. Commissioner Behles requested funds for mailings to members, and Executive Director Cheryl Bruce informed him that funds were available upon request.

C. Legal Assistants Division

Legal Assistants Division (LAD) Chair Christiane Wilson introduced Sandra Byer, Chair-elect for the LAD Division. Ms Wilson reported that the Annual Convention proved to be very successful for the division and that 35 members of the Colorado division attended and met with the LAD board. LAD is also reviewing its bylaws as well as planning its annual meeting and holiday reception.

16. Report on Leadership Training Institute

Commissioner Kraft announced that the deadline to apply for the new Lawyers' Leadership Training Institute was the next day; however, letters of recommendation would be accepted the following week. Executive Director Cheryl Bruce informed the Board that the program was a premier program, and was quickly becoming a model nationwide. The only other similar programs were offered at only two other bars – Cincinnati Bar and Illinois State Bar, although neither program was as inclusive as the New Mexico program. Ms Bruce reported that the NABE and NCBP mid-year meetings for 2002 would also focus on leadership, and that it was likely that the New Mexico program would featured in both programs.

17. Report on Membership Services

Membership Services Director Maggie Gombos compared use of membership services during the first six months of 2000 to use in 2001 and reported increases in: disability insurance, legal research, MBNA credit card (large increase), Verizon Wireless and the Lawyer's Assistance Hotline. She speculated that increases could be attributed to the fact that the Web site has facilitated the ease of obtaining information and has made signing up for services more convenient.

18. Nomination of 2002 Officers

Commissioner Torres nominated Commissioner Vigil for Secretary/Treasurer, and Commissioner Alcott seconded. Commissioner Doerr moved that nominations cease, and Commissioner Torres moved that Commissioner Vigil be elected by acclamation. Commissioner Jontz seconded, and the motion passed. Commissioner Torres nominated Commissioner O'Brien for Vice President. Commissioner Alcott seconded, and moved the Dan O'Brien be elected by acclamation. Commissioner Jontz seconded, and the motion passed. Commissioner Doerr nominated Commissioner Alcott for President-Elect. Commissioner Torres seconded, and moved that Colin Alcott be elected by acclamation. Commissioner Ontiveros seconded, and the motion passed.

19. New Business

A. President Hernandez reported that ABA Delegate Rondolyn O'Brien had resigned as the State Bar's delegate to the American Bar Association, and that notice would be published soliciting applications for a new ABA delegate.

- B.** Executive Director Cheryl Bruce reported that Sarah Singleton, at the request of the Center for Civic Values, had requested the Bar's assistance with distribution and collection of an IOLTA opt-out form. Ms Bruce recommended that the Center pay for printing the form and that the Bar could include the form in the dues mailing. Ms. Singleton agreed that the suggestion would be cheaper and easier. Commissioner Briones moved to approve the request to include the opt-out form with the dues mailing. Commissioner White seconded, and the motion passed. Ms. Bruce noted that the form and the request to include it in the annual dues mailing would have to be approved by the Disciplinary Board, and perhaps the Supreme Court.

There being no additional new business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS
OCTOBER 12, 2001, MEETING MINUTES
Bar Center
Albuquerque, New Mexico**

MEMBERS PRESENT:	Daniel Behles Bryan Biedscheid B. Paul Briones Stephen E. Doerr David Hernandez A. Drew Hoffman Richard L. Kraft Russell B. Mann Daniel O'Brien	Monica M. Ontiveros Jacquelyn Archuleta-Staehlin John S. Stiff Mary T. Torres Charles J. Vigil Christiane Wilson Carolyn A. Wolf M. Jane Shuler
MEMBERS ABSENT:	Colin C. Alcott Virginia Dugan Dennis E. Jontz	J. Kevin Kiser Elizabeth E. Whitefield
OTHERS PRESENT:	Kris Becker Cheryl Bruce Ernest Calderon Jack Clough Maggie Gombos	Christine Halter Sandy McKay Madonna Rutherford Gary Spencer Joyce Stowers

1. Approval of August 9, 2001, Meeting Minutes

Commissioner Torres made a motion to approve the August 9, 2001 meeting minutes. Commissioner Doerr seconded, and the motion passed. Executive Director Cheryl Bruce requested clarification regarding a reference in the minutes under Agenda Item Number 4, subsection D. concerning the revenue generated by the Lawyers Care Program. She noted that during the discussion regarding the Lawyers Care budget at the August meeting, staff understood that revenues generated by Lawyers Care above the budgeted amount would remain in the Lawyers Care budget. She explained that the phrase, "thus reducing the subsidy," included in the minutes were, therefore, misleading. Commissioner Behles moved to amend the previously approved minutes to eliminate the phrase "thus reducing the subsidy" from the minutes under Item number 4, subsection D. Commissioner O'Brien seconded the motion to amend the minutes, and the motion passed.

2. President's Report

President Hernandez reported the following:

- A.** The State Bar co-sponsored the Bernalillo County Courthouse Open House held on September 25, 2001.
- B.** Although the MDP Task Force has not met its obligations and will likely not have a report ready by the end of the year, Mark Riley, Chair of the Task Force, will be invited to provide a status report at the December Board meeting. He also noted that the Supreme Court is interested in receiving the Board's recommendations.
- C.** He provided the welcoming remarks at the Annual Conference of the ABA's Lawyers Assistance Commission, held in Albuquerque in late September.
- D.** The State Bar of Arizona's President-elect Ernie Calderon was introduced and welcomed to the Board meeting.

- E. He was a guest at the Colorado Bar Association's Annual Convention.
- F. The new admittee swearing-in ceremony was held on September 24th in Santa Fe.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. She congratulated President-elect Torres as one of seventeen attorneys nationwide selected to participate in the "People to People" Program in South Africa in December. President Eisenhower began this ambassador program, and its purpose is to teach lawyers about justice systems in other countries. President Hernandez commented that he would like to participate in the program to be held in China in late 2002 or early 2003. Commissioner Torres requested funding for the round trip portion to New York since she would be serving as an ambassador for the State Bar of New Mexico. Ms. Bruce stated that it would be a germane use of dues money for Commissioner Torres to represent the Bar. Commissioner Doerr made a motion to increase the 2001 budget line item for officer travel. Commissioner Behles seconded. Commissioner Wolf moved to increase the budget line item to \$1,000 to cover Commissioner Torres' airfare. Commissioner Hoffman seconded, and the motion passed.
- B. Chief Judge James Parker has requested that the State Bar co-sponsor a reception for Judges Christine Armijo and Chip Johnson. Ms. Bruce encouraged the Board to approve the request. She suggested that the Board revisit the need to develop a judicial reception policy, however no action was taken at the meeting. Commissioner O'Brien moved that \$250 be given for co-sponsoring the reception. Commissioner Hoffman seconded, and the motion passed.
- C. The Bench and Bar Directory was mailed the week of October 8th. She noted the enhancements in the 2001 Directory. She further noted that the Bar's promotional pages had been redesigned and were published together in one section rather than the pages being scattered throughout the Directory. A number of problems contributed to the late completion of the Directory including major transitions in the Communications Division, printing demands for the summer Annual Convention and an employee's medical leave. The State Bar's present Webmaster and former Communications designer and layout employee, Veronica Cordova, was given the responsibility to assemble the Directory from cover to cover in two weeks. Ms. Bruce noted that she awarded Ms. Cordova with a spot bonus for her efforts. Ms. Bruce further commended Sandy McKay and the entire Communications Division for their efforts.

4. Report from Finance Committee

Secretary-Treasurer O'Brien reported on the following matters discussed and action taken by the Finance Committee at their October 12, 2001, meeting:

- A. The Accounts Receivable Policy was amended due to the delinquency of several customers. Under the new policy, accounts that are overdue by 30 days will be charged 1.5% interest. After 90 days, customers will receive letters informing them that ads will be pulled after 120 days. The new policy will take effect January 1, 2002; however, accounting personnel will include letters in the next two billings notifying customers of the changes in the policy. Commissioner Doerr moved to approve the amended policy, as proposed by the Finance Committee. Commissioner Briones seconded, and the motion passed.
- B. As requested by the Committee, staff met with Jennifer Bean regarding the firm's outstanding balance and the dispute over the amount owed to the State Bar. All checks and payments were accounted for, and Bean and Associates agreed on the amount due. As of the date of the Finance Committee meeting, the State Bar had not received payment.

- C. Approximately ten days before the meeting, staff realized that line item#365 in the 2002 budget did not include the \$83,000 principle on the mortgage for the Bar Center. Upon realizing the error, the State Bar's auditors recalculated necessary expenditures and revenues, and the Executive Director adjusted other line items in order to balance the budget. In addition, to assist in covering the shortfall, the Finance Committee recommended increasing the rates for room rentals by \$25 for profit entities and by \$15 for governmental entities. Internal charges (for CLE and Court Regulated Programs) will not increase. The Board considered approval of these and other budget matters when the 2002 budget was considered for approval later in the meeting.
- D. Commissioner Doerr commented on the significant revenue generated in 2001 from the professionalism CLE course. Ms. Bruce reminded the Board that since the professionalism course had been subcontracted to the Center for Legal Education, most of the revenue goes to CLE; however, the Bar has received \$10 per attorney per course. She stated that the Commission on Professionalism will be one of the 2002 course providers, and she believes that many State Bar members will choose the Commission's course offering, therefore generating significant revenue for the State Bar in 2002.
- E. Commissioner Behles moved to adopt an amendment to the State Bar's 401K Plan that allows staff to sign up one month following eligibility rather than on two specific dates during the year. Previously, employees who missed the cut-off date were required to wait as long as 18 months according to the previous policy. Commissioner O'Brien seconded, and the motion passed.
- F. President Hernandez commented that since interest rates have recently fallen, the State Bar may want to renegotiate the mortgage rate with the representative at Wells Fargo, Charlie Wilkinson. This matter will be considered at a future meeting.

5. **Approval of 2002 Budget**

Secretary-Treasurer O'Brien presented the 2002 budget and outlined several of the major changes from the 2001 budget. Commissioner Doerr questioned the decrease in direct labor in line item 152, and Ms. Bruce explained that the auditors based the amount for direct labor on the actual totals from 2000 and also reviewed the actual amounts through June of 2001 in order to project the expense for 2002. Madonna Rutherford further explained that staff charges time to specific programs, which is how the expense for direct labor is projected.

Following further discussion, Commissioner Kraft moved to approve the 2002 budget, with changes outlined by the Finance Committee earlier in the meeting. Commissioner Hoffman seconded, and the motion passed. After the motion was approved, Commissioner Briones stated his concerns regarding projected revenues to be generated from Web site advertising; however, since the budget had been approved, the Board noted the concern but took no further action.

Commissioner O'Brien requested authority for the Finance Committee to review and approve the budget disclosure document so that printing deadlines could be met for publication in the *Bar Bulletin*. He reminded the Board that the disclosure document is published to allow members 30 days to challenge any expenditures in the 2002 budget before final submission of the budget to the New Mexico Supreme Court. Commissioner Kraft moved to authorize the Finance Committee to review and approve the budget disclosure document. Commissioner Doerr seconded, and the motion passed.

6. **Acceptance of Financials**

Secretary-Treasurer Dan O'Brien reported on the August 2001 financials. Commissioner Briones moved to accept the August financials, as presented by Secretary-Treasurer O'Brien. Commissioner Doerr seconded, and the August 2001 financials were accepted.

7. Approval of MJP (Multijurisdictional Practice) Task Force Report and Recommendations

Task Force Chairs Jane Shuler and Carolyn Wolf presented the report and recommendations of the MJP Task Force. Commissioner Torres, also a member of the Task Force, stated her disagreement with Items III.B and possibly C in the report (see Task Force Report and Recommendations attached as Addendum "A" to these minutes).

The Task Force recommended that non-admitted counsel should register with the Supreme Court and pay disciplinary fees, but not be required to pay State Bar fees. Commissioner Torres voiced her opinion against pro hac vice, stating that such counsel should not be treated any differently from in-house counsel since they are practicing in New Mexico. She also questioned how such counsel would obtain information regarding changes in New Mexico law and recommended that such attorneys meet MCLE requirements and comply with the New Mexico Rules of Professional Conduct. Jack Clough, a member of the Task Force and attending the meeting as a guest, referred to Idaho's rules as an example. In Idaho, in-house counsel are certified, pay bar dues and are required to meet all other criteria aside from taking the Idaho bar exam. He further stated that a cost provision and a vehicle for notifying counsel of relevant rules and opinions would be necessary. Commissioner Wolf noted that such counsel could obtain information about the New Mexico Rules and notices on the Bar's Web site.

Commissioner Behles questioned the recommendation for Section III.C. He inquired as to why such counsel did not need to be admitted as required of specialty lawyers who have offices. Commissioner Wolf noted that patent and tax lawyers, etc., operate separately from the regular court system.

President Hernandez instructed the Board to consider the Task Force recommendations one section at a time.

- I. Attorney Licensing and Regulation
 - A. The Board agreed that Multistate Bar Exam scores would be accepted for a two-year time frame as long as a standard score was determined.
 - B. Mr. Clough explained true reciprocity versus admission by motion, and the Board agreed with this recommendation by the Task Force. President Hernandez noted that Colorado admits attorneys on true reciprocity after five of the seven required years of experience.
- II. Transactional Practice
 - A. The Task Force saw the issue of whether transactional lawyers are violating the unauthorized practice of law as the most radical issue of all reviewed; however, Commissioner Briones stated that this situation occurs frequently. Mr. Clough noted that true reciprocity would help New Mexico and would reflect the reality of a mobile society.
 - B. Regarding New Mexico law, Commissioner Shuler stated that only in-state counsel could be retained. Commissioner Wolf added that out-of-state lawyers practicing New Mexico law would be a matter of unauthorized practice of law.
- III. Litigation and Administrative Practice
 - A. Commissioner Shuler noted that government lawyers would be limited to a one-year license.
 - B. Commissioner Wolf moved that the phrase "acceptable fees" replace disciplinary fee with regard to the requirements for non-admitted attorneys in addition to registering with the Supreme Court.
 - C. Commissioner Ontiveros inquired whether the Board should eliminate Section C, which addresses federal and specialty lawyers. Commissioner Wolf moved to eliminate Section C. Commissioner Behles seconded, and the motion passed.

- D. This item regarding foreign attorneys does not fall within New Mexico regulatory review and is the current law.
- E. Commissioner Wolf moved to add the phrase "acceptable fee" to this item. Commissioner Behles seconded, and the motion passed.

8. Approval of State Bar Delegate to ABA

President Hernandez reviewed the candidates to be considered for the new State Bar Delegate to the ABA to replace Rondolyn O'Brien, and instructed the Board that the vote would be held by secret ballot. Commissioner Archuleta-Staehlin suggested that the candidate who received the most votes be elected. Commissioner Doerr suggested that a run-off be held between the top two candidates in the event of a tie. Following the secret ballot vote, Sarah Singleton tied with Charlie Pharris. Following the run-off secret ballot vote, Sarah Singleton was appointed as the State Bar Delegate to the ABA for a two-year term.

9. Approval of 2002 Dues and Licensing Form

Cheryl Bruce outlined the proposed changes to the 2002 Dues and Licensing Form, and requested any comments or suggestions for additional changes. Commissioner Doerr suggested that all lawyers should be required to sign the form to signify that all information on the completed form is accurate, including the opt-out section for submission of personal information. Commissioner O'Brien moved to approve the dues form, including Commissioner Doerr's recommendation. Commissioner Doerr seconded, and the motion passed.

10. Approval to Co-sponsor Women's Bar Gala

Commissioner Archuleta-Staehlin announced that the second annual Women's Bar Gala event would be held on November 10th at the Gruet Winery in honor of the 1st 100 (plus) women attorneys. She noted that a portion of the proceeds would be used for a scholarship fund or to provide assistance to a UNM law student. She requested in-kind sponsorship for printing the programs and tickets. Executive Director Cheryl Bruce encouraged the Board to support the request, and she noted that funds to support the expenses were available in the Committee Pool. YLD Chair Bryan Biedscheid offered assistance from the YLD budget, if additional funds were needed. Commissioner Doerr moved to co-sponsor the event, as requested and outlined above. Commissioner Kraft seconded, and the motion passed.

11. Approval of Client Protection Fund Claims

Commissioner O'Brien moved to approve staff's recommendations for payment of the claims submitted. Commissioner Doerr seconded, and the motion passed.

12. Approval of Amendment to Employee Handbook Re: Personal Time Off (PTO)

Discussion was tabled by both the Finance Committee and the Board of Bar Commissioners for further study. Commissioner Vigil, whose firm has used such a policy for a number of years, offered to put together a task force to study the pros and cons of the policy.

13. Report on Commission on Professionalism Meeting; Distribution of Retreat Notes; and Approval of CLE Guidelines and Criteria, Amended Professionalism Definition, and Amended Creed

- A. Commissioner Doerr reported on the September 25, 2001, Commission meeting.
- B. Recommendations from the Board of Bar Commissioners generated at the Long-Range Planning Retreat were distributed to the Commission at the September meeting. These

professionalism-related suggestions will be considered by the Commission for implementation during the 2002 Bar year.

- C. Commissioner O'Brien moved to approve the CLE Criteria and Guidelines, as submitted and approved by the Commission. Commissioner Biedscheid seconded, and the motion passed.
- D. Commissioner Briones moved to approve the amended definition of professionalism. Commissioner O'Brien seconded, and the motion passed.

14. Report on Status of ANLIR Agreement

Cheryl Bruce reported that the ANLIR contract was executed after final negotiation and modifications. Carroll and Associates is the new broker for ANLIR. Ms. Bruce also noted that she will be attending the ANLIR Board meeting in Richmond, Virginia, from November 16-18, 2001. After several Board members expressed concerns regarding ANLIR's higher rates and their decisions not to renew with ANLIR, Ms. Bruce noted that she would share those concerns with Bob Sabin, Chair of the Bar's Professional Liability Insurance Committee, and with the President and CEO of ANLIR.

15. Report on Annual Convention

Associate Executive Director Christine Halter reported on preliminary plans discussed by the Annual Convention Planning Committee at their October 11, 2001, meeting. Highlights included:

- A. Group discount on bus transportation to Sedona (a possible CLE program to be offered in transit).
- B. State Bar sponsored picnic with group games and a carnival for children on Friday afternoon.
- C. Mystery dinner theater on Friday night.
- D. Dinner dance with live band outside by pool on Saturday.

Arizona State Bar President Ernie Calderon offered to host the State Bar of New Mexico to an ice cream social and offered to partner with New Mexico on social events in conjunction with the Arizona Bar Board's retreat. Mr. Calderon further offered the Arizona Bar's assistance in marketing the State Bar's Annual Convention and also offered his assistance in getting Senator McCain to speak at the Convention.

16. Report from Strategic Planning Committee on Web Site

Executive Director Cheryl Bruce reported that the Strategic Planning Committee plans to interview the vendors that had submitted proposals for the Web site redesign. Commissioner Doerr expressed concern over considering only two or three vendors and recommended that the Board take its time to explore more options.

17. Reports from Divisions

A. Young Lawyers Division

YLD Chair Bryan Biedscheid reported that 70-80 law students were involved in the mentorship program. YLD recently received requests from several attorneys wishing to serve on YLD committees. He announced that Trent Howell would be visiting the Texas YLD prior to accepting this leadership position. Other events reported included: four brown bag luncheons, Law Day in Las Cruces in conjunction with the Judicial Reception, and the reformatted Bridge the Gap CLE and luncheon. YLD was pleased to see 126 new admittees, and the Division intends to follow up with them and encourage their involvement in YLD.

B. Senior Lawyers Division

SLD Chair Dan Behles requested approval of the final draft of the "Sale of a Law Practice Rule." Commissioner Doerr moved to approve that the rule be sent to the Supreme Court. Commissioner Hoffman seconded, and the motion passed. He also reported that the Division had been assisting with the KOB call-in.

C. Legal Assistants Division

Legal Assistants Division Chair Christiane Wilson reported that the ballots for the 2002 elections were being mailed and that the new officers would assume their positions on January 1st. She announced that the LAD annual meeting would be held in conjunction with a full day of CLE. Ms. Wilson also announced that she met with Arizona's President-elect Ernie Calderon during his visit to the State Bar. Arizona would like to begin a Legal Assistants Division and requested that New Mexico serve as a liaison and advisor.

18. Report on Leadership Training Institute

Commissioner Kraft provided a recap of the first two sessions of the Leadership Institute, noting the Institute's success. He presented a preview of the third session. Executive Director Cheryl Bruce added that the State Bar program is a model for NABE (National Association of Bar Executives) and NCBP (National Conference for Bar Presidents). As a result, the State Bar has received much national recognition and interest.

19. Report on Pre-paid Legal Services, Inc.

President Hernandez reported that the letter from the Disciplinary Board included in the packets was in follow-up to the complaints against Pre-paid Legal Services, Inc. that the Board of Bar Commissioners had received in 2000. He noted that Pre-paid Legal Services, Inc., is classified as an insurance company and is not regulated by the Disciplinary Board, so the State Bar cannot regulate or take any action against the company. The Board took no action on this matter.

20. Report on ABA House of Delegates

Briggs Cheney was not in attendance; therefore, this agenda item was tabled.

19. New Business

A. Executive Director Cheryl Bruce reported that the AOC has received a grant from the State Justice Institute to provide information to self-represented litigants through a Web site. The \$50,000 grant would cover the initial set-up of the Web site, but would not be sufficient to cover the costs of maintenance and updates. Ms. Bruce noted that the Bar has been invited to assist with the project. She further explained that the Bar has never taken a stance on the pro se issue and that there is dissension among members on this issues, especially in Southern New Mexico. Commissioner Doerr suggested running a notice in the *Bar Bulletin* informing members that the State Bar has been approached to assist on this matter. He also recommended that local bars be notified. Commissioner Briones commented that many of his constituents opposed pro se and that there was potential for malpractice suits. Since several Board members had left the meeting when this issue was discussed, Commissioner Ontiveros recommended that the item, including Commissioner Doerr's suggestions, be discussed when the full Board was present. The Board requested that Ms. Bruce ask the AOC for an extension to respond to a willingness to assist with the

project. Note: This item was on the Special Projects, Inc., Board agenda and will, therefore, be considered at the December Special Projects Board meeting.

- B.** Executive Director mentioned the need to discuss a pro bono military assistance program soon. She commented that the ABA has several options and urged the Board to visit the ABA Web site regarding this matter. Ms. Bruce urged the Board to consider *Keller* constraints, as previous assistance to Gulf War military personnel was found not to be a germane use of members' dues.

There being no additional new business, the meeting was adjourned.

**BOARD OF BAR COMMISSIONERS
DECEMBER 7, 2001, MEETING MINUTES
Bar Center
Albuquerque, New Mexico**

MEMBERS PRESENT:

Colin C. Alcott	Richard L. Kraft
Jacquelyn Archuleta-Staehlin	J. Kevin Kiser
Daniel J. Behles	Russell B. Mann
Bryan P. Biedscheid	Daniel J. O'Brien
B. Paul Briones	Monica M. Ontiveros
Stephen E. Doerr	M. Jane Shuler
Virginia R. Dugan	Charles J. Vigil
David N. Hernandez	Christiane Wilson
A. Drew Hoffman	Carolyn A. Wolf
Dennis E. Jontz	

MEMBERS ABSENT:

John S. Stiff
Mary T. Torres
Elizabeth E. Whitefield

OTHERS PRESENT:

Kris Becker	Sandy McKay
Cheryl Bruce	Madonna Rutherford
Maggie Gombos	Joyce Stowers
Christine Halter	

1. Approval of October 12, 2001, Meeting Minutes

Commissioner Doerr made a motion to approve the October 12, 2001, meeting minutes. Commissioner Alcott seconded, and the motion passed.

2. President's Report

President Hernandez reported the following:

- A. The State Bar has not yet developed a policy on Federal Judge's receptions. At the previous meeting, the Board approved \$250 to be allocated for co-sponsorship of Judge Armijo's and Judge Johnson's receptions combined. Chief Judge Parker was very appreciative of the Bar's collaboration and stated that the amount of funding is not as important as the gesture. He requested co-sponsorship from the State Bar for Harris Hartz. Commissioner O'Brien moved to approve \$125 for a reception for Judge Hartz based on the amount that had been previously approved for Judges Armijo and Johnson. Commissioner Wolf seconded, and the motion passed.
- B. He announced that a reception would be held that evening at Drew and Tila Hoffman's house at 6 p.m. Members of the Supreme Court, Court of Appeals, Federal Court and participants in the Leadership Training Institute were also invited.
- C. He attended the Oklahoma Bar Annual Convention in Tulsa and reported that attendance was approximately 800. He attributed the convention's success to the following features: CLE provided five or six tracks per practice section, and attendees competed in a chili cook-off and participated in People's Choice Awards and Karaoke. In addition, hospitality rooms sponsored by law firms or vendors competed nightly for the best receptions. These receptions were more intimate than the typical reception, and they promoted personal interaction among convention attendees.

- D. He also attended the Valencia County Bar Association meeting on November 29th with Executive Director Cheryl Bruce and Associate Executive Director Christine Halter. His presentation covered an update on the ABA's survey on multidisciplinary practice and the State Bar's Web site offerings. Ms. Bruce provided an update on membership services.
- E. Board of Bar Commissioners meetings for 2002 were announced as follows: February 8, April 26, July 25, September 13, October 24, and December 6. Due to budgeting constraints, Commissioner Alcott will not hold a Long-Range Planning Retreat in 2002, but will assist Commissioner O'Brien with a retreat in 2003.
- F. He offered to provide information regarding the ABA's Task Force on Human Rights to interested commissioners.
- G. He announced amendments to the dues form that were approved by the officers after the last Board meeting. Numerous confusing opt-out privacy options were eliminated and were replaced with a simple statement informing members that their contact information would be released unless they call the Systems Manager to explore other options.

3. Executive Director's Report

Executive Director Cheryl Bruce reported the following:

- A. The Supreme Court approved the 2002 budget on the previous day. President-elect Torres presented an overview of the budget, and there was good dialog between the Court and State Bar officers on numerous topics including membership outreach and compliance with the professionalism course.
- B. The United States and New Mexico flags were purchased and are displayed in the lobby of the State Bar Center.
- C. She reminded the Board that President-elect Torres was in transit to New York to participate in the "People to People" Program in South Africa.
- D. She will be speaking to the Chaves County Bar Association on December 11th. The presentation will focus on membership services and State Bar Web site content. The PowerPoint presentation that was developed by the Webmaster and Membership Services for the "Bridge the Gap" seminar was used at the Valencia County Bar meeting and will be used at the Chaves County Bar meeting.
- E. Approximately 1,400 members have not yet completed the professionalism requirement with only two weeks remaining until the deadline. The majority of those 1,400 members resides in the Albuquerque area and are the same people who do not meet the MCLE deadlines every year. The online CLE now available will assist members in meeting compliance deadlines. Additionally, the MCLE Board and Court Regulated Programs staff are working with the Pennsylvania Supreme Court to provide online access to MCLE records in the near future.
- F. She attended the NABE Law Day Planning Committee meeting in Chicago on November 30th. The purpose of the meeting was to develop ideas for increasing public awareness.
- G. Dues forms were mailed the previous day, and she congratulated the Accounting staff for meeting the deadline.
- H. The 2001 salary survey data is being compiled by a CPA firm, and the results will be available in the spring.
- I. The final session of the Lawyers' Leadership Training Institute will be held this weekend. She extended thanks to Commissioner Kraft, Maggie Gombos, and Christine Halter for helping coordinate the program.
- J. The Annual Judicial Reception honoring new judges statewide who were sworn-in in 2001 will be held on January 18th. The State Bar will cosponsor the event in conjunction with the Albuquerque Bar Association.
- K. President Torres and the officers will be sworn in at the Supreme Court in Santa Fe on January 4th. The Modrall Firm is sponsoring a luncheon at the El Dorado Hotel following the ceremony.
- L. The winter issue of the *Bar Journal* will be printed and mailed before Christmas.

- M. She commended the Women's Bar Association for a successful Gala. Commissioner Archuleta-Staehlin, past president of the Women's Bar Association, formally thanked the State Bar for its support of the Women's Bar Gala that raised money for scholarships. She expressed her hope that this would be the beginning of a long-term relationship between the two organizations.

4. Report from Finance Committee

Secretary-Treasurer O'Brien reported on the following matters discussed and action taken by the Finance Committee at the December 7, 2001, meeting:

- A. Blast e-mail requests from voluntary bars and sections have increased in frequency. The committee discussed whether or not the State Bar should continue to provide the service free of charge. They determined that e-blasts were a membership service that should be provided free of charge, and that each organization will monitor the quantity and frequency of e-blasts so as not to annoy members.
- B. The PTO policy and the training and education policy for staff were tabled for discussion in February. Revisions were still being made to the policies and therefore could not be submitted at this time.
- C. Executive Director Cheryl Bruce requested a budget amendment of \$20,000 to be allocated to the Communications Division. The division has been short-staffed since the previous Communications Director eliminated a desktop publishing position for the 2001 budget. Funds will be appropriated from money previously allocated to Web site redesign, since it is not anticipated that the full \$100,000 will be needed for the Web project. Commissioner Doerr moved to approve the allocation with the caveat that the level of support be re-evaluated next year. Commissioner O'Brien seconded, and the motion passed. Ms. Bruce noted that the budget amendment would be reported to members in the 2003 budget disclosure.

5. Report on Meeting with Supreme Court RE: Approval of 2002 Budget

This item was covered in the Executive Director's report. The 2002 Budget was approved by the Supreme Court.

6. Acceptance of Financials

Director of Administration Madonna Rutherford reported on the October 2001 financials. Commissioner Wolf moved to accept the October financials, as presented by Ms. Rutherford. Commissioner Archuleta-Staehlin seconded, and the October 2001 financials were accepted.

7. Approval of Web site Redesign Recommendations

On behalf of Commissioner Torres, Chair of the Strategic Planning Committee, Cheryl Bruce reported that interviews with prospective vendors had been cancelled due to scheduling conflicts. Ms. Bruce reported that recommendations would be made to the Board at the February meeting.

8. Approval of E-Blasts for Sections and Voluntary Bars

This item was covered in the Finance Committee report. The Board voted to approve e-blasts for sections and voluntary bars free of charge.

9. Approval of Co-sponsorship of Reception Honoring Harris Hartz

This item was covered in the President's report. The Board voted to provide \$125 to cosponsor the reception for Judge Hartz.

10. Approval of Volume Discount for Purchase of Attorney Pages

Christine Halter informed the Board that large firms have requested volume discounts for the purchase of attorney pages for members of their firms. Commissioner Doerr reminded the Board that this issue had been previously discussed and the Board decided not to offer volume discounts; all members would be charged the same amount of \$100 annually. Commissioner Alcott suggested that a group page be offered at a higher price. Commissioner Vigil noted that the Rodey firm has seven groups and would be more likely to purchase group pages. Cheryl Bruce replied that staff would research the costs of setting up such a page and report on the details in February.

11. Approval of 2002 Supreme Court Committee and Board Liaisons

In President-elect Torres' absence, President Hernandez requested volunteers to serve as liaisons to the 2002 Supreme Court Committees and Boards, and the following appointments were made:

Courts of Limited Jurisdiction – Carolyn A. Wolf
Rules of Criminal Procedure for District Courts – Donald C. Schutte
Rules of Civil Procedure for District Courts – Charles J. Vigil
Appellate Rules – Robert D. Castille
Rules of Evidence – John S. Stiff
Uniform Jury Instructions-Civil – John S. Stiff
Uniform Jury Instructions-Criminal – Donald C. Schutte
Minimum Continuing Legal Education (MCLE) Board – B. Paul Briones
Legal Specialization Board – Daniel J. Behles
Board of Bar Examiners – David N. Hernandez
Children's Court Rules – James H. Dawdy, Jr.

12. Report from MDP Task Force

In the absence of MDP Task Force Chair Mark Riley, President Hernandez reported that the task force met and formed three subcommittees. The task force will be meeting again in January or February and hopes to have a report available at the Annual Convention meeting next summer.

13. Report on Commission on Professionalism Meeting

Commissioner Doerr reported that the Commission on Professionalism held its final meeting of the year on November 8th. Bill Parnall, Chair of the Subcommittee on Internal and External Communications, drafted and published a letter to the editor of the *Albuquerque Journal*, and staff drafted a press release to be sent to the media as well. Commissioner Doerr informed the Board that membership was in transition due to the nature of the membership assigned by the Supreme Court. He also commented that next year's goals had been established. Cheryl Bruce thanked Commissioner Doerr for his dedication to the Commission over the last couple of years and announced that he had agreed to serve as co-chair of the committee to plan the Commission's 2002 MCLE program.

14. Report on Agreement with MBNA

Director of Membership Administration and Support Division Maggie Gombos reported that the initial endorsement agreement with MBNA had automatically been renewed for two years. She also informed the Board that the program is currently generating approximately \$5,000 per year in non-dues revenue. In addition, complaints of offensive marketing tactics have fallen off dramatically since members can now opt out of MBNA mailings.

15. Reports from Divisions

A. Young Lawyers Division

YLD Chair Bryan Biedscheid reported on the success of the law school mentorship program that has matched more than 50 students to mentors. He and Trent Howell spoke to the law school in October regarding the program. The Leadership Training Institute is over budget at present, but he hopes that the budget will be balanced when all revenue has been recorded. The Today's Law School Program has served 327 members of the public and cost YLD only \$291 to produce. YLD held ten brown bag luncheons statewide throughout the year. Finally, Chair-elect Trent Howell attended the Texas Bar Convention.

B. Senior Lawyers Division

SLD Chair Dan Behles reported that a core group of volunteers in the division had been participating in the KOB Call-in Program and found it personally rewarding. He announced the SLD Social to be held at the Bar Center on December 12th. SLD requested time on the Annual Convention program to address issues affecting senior lawyers, e.g. estate planning. Mr. Behles also reported that Bob St. John was elected as the new chair of the SLD Board. Finally, Stevan Schoen is exploring SLD involvement in the ABA Annual Meeting.

C. Legal Assistants Division

LAD Chair Christiane Wilson reported that Sandra Byer was elected as the new chair of LAD and Linda Stocky as chair-elect. Marcia Treadwell will serve as secretary and Teri McHugh will serve as treasurer. Ms Wilson announced that the 2002 annual meeting will be held in January in conjunction with two and one-half days of CLE. She will be attending the Colorado LAD meeting to discuss mandatory versus voluntary paralegal certification. Along these lines, Ms. Wilson informed the Board of the present confusion over the term "legal assistant" versus "paralegal." TVI has changed the certification term to paralegal since many in the profession are now eliminating the term "legal secretary" to be politically correct. She concluded with a report that disbarred attorneys may want to become legal assistants, and the division is looking into that matter.

16. Report on Leadership Training Institute

Commissioner Kraft reported that the State Bar's Leadership Training Institute has become a model program that other bar associations will copy and thanked all involved who helped to coordinate the program. He announced that 21 students would graduate on December 8th at a celebration held at Sheraton Old Town. Commissioner Kraft invited all Board members to stay and attend the Institute following the Board meeting.

17. Report on ABA House of Delegates

Briggs Cheney was not in attendance; therefore, this agenda item was tabled.

18. Presentation of Outgoing Commissioner Awards

Outgoing commissioners Jacque Archuleta Staehlin, Steve Doerr, Bryan Biedscheid and Christiane Wilson were presented plaques in appreciation of their service on the Board of Bar Commissioners. President Hernandez was also presented with a plaque and gifts for his service as president of the Bar.

19. New Business

A. Client Protection Fund Claim

Cheryl Bruce reported on a \$250 Client Protection Fund Claim for Becky Mirabel against suspended attorney Dennis Quintana. She stated that staff recommended approval of the claim. Commissioner Doerr moved to approve the claim. Commissioner O'Brien seconded, and the motion passed.

B. BBC Committee Appointments

In the absence of President-elect Mary Torres, Cheryl Bruce reported on appointments to two of the Board's committees as follows:

Finance Committee

Chuck Vigil, Chair
Colin Alcott
Paul Briones
Virginia Dugan
Jane Shuler Gray
Dennis Jontz
Rick Kraft
Dan O'Brien
Monica Ontiveros
Carolyn Wolf
Tracy Ahr

Executive Committee

Mary Torres, Chair
Colin Alcott
Dan O'Brien
Chuck Vigil
Virginia Dugan
Elizabeth Whitefield
Jane Shuler Gray

There being no additional new business, the meeting was adjourned.