



**OPEN SESSION MINUTES
OREGON STATE BAR
PROFESSIONAL LIABILITY FUND
BOARD OF DIRECTORS**

**February 3, 2023
Tigard, Oregon and via Zoom Videoconference**

Board Chair Steve Hill called the open session meeting of the Board of Directors to order at 9:03 a.m. Present in addition to Mr. Hill were board members Gina Johnnie, Michelle Johansson, Valerie Saiki (via Zoom), Akeem Williams (via Zoom), Harshi Waters (via Zoom) and Alexandra Hilsher (via Zoom). BOG liaisons Tasha Winkler and Ryan Hunt attended open session (via Zoom). RVK representative Cole Bixenman attended part of open session (via Zoom). In addition, PLF staff members Megan Livermore, Betty Lou Morrow, Heather Bowman, Matt Borrillo, Emilee Preble, Hong Dao, Kyra Hazilla, Tanya Hanson, Danae Crook, Rachel Edwards, Isaac Alley (via Zoom), Amy Hoven, Pam Stendahl, Maureen DeFrank (via Zoom), DeAnna Sheilds (via Zoom) and Douglas Querin (via Zoom) attended all or part of the meeting.

This meeting was noticed and conducted in compliance with the Oregon Public Meetings Law, ORS 192.610, et seq. and a quorum was verified.

1. Chair Report (Mr. Hill)

Mr. Hill introduced himself and thanked everyone for participating. He requested everyone to make an effort to attend the board meetings in person but will leave the Zoom option available. Mr. Hill also encouraged everyone to feel free to communicate with him throughout the year.

(A) Approval of Open Session Minutes

- i. 2023-12-09 Draft Open Session Minutes (BOD)

Approval of Executive Session Minutes in Open Session

- ii. 2022-12-09 Draft Executive Session Minutes (BOD/Claims)
- iii. 2022-12-09 Draft Special Executive Session Minutes (BOD)
- iv. 2023-01-12 Draft Executive Session Minutes (Standing BOD Meeting)

Ms. Johnnie moved, and Ms. Johansson seconded that the above open session minutes of December 9, 2022, the executive session minutes of December 9, 2022 and January 12, 2023, and the special executive session minutes of December 9, 2022, be approved as written. Motion passed 7-0 (2 absent).

(B) Committee Minutes

- i. 2022-12-09 Claims Committee Annual Meeting Minutes

There was no discussion and no action required.

2. General Counsel Report (Ms. Bowman)

(A) General Counsel Update

Ms. Bowman reported on the current status of the Licensed Paralegal Plan.

(B) Licensed Paralegal Plan Update

The PLF has been working to create a Plan to provide coverage for Licensed Paralegals (LPs). We had a draft Plan ready and initially planned to have separate Plans for LPs and attorneys. The coverage limits would have been \$100,000, claims allowance at \$25,000, and the assessment for LPs would be \$1,100. Everything was based on 1/3 of what it is for attorneys. However, there is some action in the legislature to have a minimum limit for LPs equal to that for attorneys. Such coverage would require us to charge the same assessment for LPs as attorneys. We have been provided the proposed final language for the legislation but will not know until it is passed what will be required of the PLF and the amount of LP coverage. We do not anticipate LPs will start practicing until late 2023 or the beginning of 2024. We hope to have a draft Plan for board review at the next meeting.

3. Claims Report – Open Session (Mr. Borrillo)

(A) General Claims Report

Mr. Borrillo reported that things are going smoothly in the Claims Department. We are having a good start to the year. The file count has been low for the past three years; however, they are starting to increase. It is difficult to estimate how many claims we will have this early in the year, but possibly between 700-750.

Ann Ledgerwood will be starting as a Claims Attorney later this month. She is a fantastic trial attorney, very well liked, and will hit the ground running.

(B) 2022 Claims Attorney and Defense Counsel Evaluations with sample Evaluation Form

Claim Evaluations are consistently high.

The PLF is going through a transition with many defense counsel members retiring. We have begun reaching out to the firms to schedule meetings and reconnect with them and discuss transition planning. The new attorneys we have connected with to date are receiving good mentoring and are capable of the job.

(C) 2022 Claims Statistics 2012-2022 (by Claim Year)

Mr. Borrillo referred the board to the materials.

(D) 2022 Claims Statistics 2012-2022 (by Year Closed)

Mr. Borrillo referred the board to the materials.

4. Financial Reports (Ms. Morrow)

(A) 2022-November 30 Financial Statements

Ms. Morrow referred the board to the materials and commented as follows.

Our net position has had a negative swing of \$17-\$18 million from November 30, 2021, to November 30, 2022. In October, Ms. Morrow estimated a \$13.5 million deficit. She is now projecting a December 31, 2022, deficit of \$12.5 million. The PLF's investment loss was \$7.8 million at November 20, 2022. Ms. Morrow is projecting a \$9.7 million portfolio loss at December 31, 2022. If the investment loss is extracted from the in-year deficit, it becomes a \$2.8 million deficit. The budgeted deficit for the same time period (to November 30, 2022) is \$5.4 million. The frequency of claims was lower than anticipated and severity was higher than anticipated. Most of the increase in severity is due to unanticipated increases in indemnity. In 2023, we budgeted for 720 new claims. If we receive 720 claims with a severity of \$23,000 per new claim, it is anticipated that any bottom-line benefit due to low frequency we have experienced since 2020 will begin to be erased in 2023.

Ms. Morrow requested approval for the December 31, 2022, indemnity reserves to be set at \$12.6 million (the same as June 30, 2022) and the expense reserves be set at \$8.9 million (was \$9.3 million on June 30, 2022). Ms. Morrow also requested approval for the cost of new claims for the first six months of 2023 to be set at \$23,500 per claim.

Ms. Johnnie moved, and Ms. Johansson seconded that the December 31, 2022, indemnity reserves be set at \$12.6 million; the expense reserves be set at \$8.9 million; and the cost of new claims for 2023 be set at \$23,500 per claim. Motion passed 7-0 (2 absent).

(B) 2022-December 31 RVK Quarterly Investment Performance Analysis

Cole Bixenman introduced himself. He has been working on the PLF account since 2016. Mr. Bixenman reported on the PLF's portfolio performance and referenced the distributed materials. Mr. Bixenman provided commentary on the overall market performance in 2022 and some historical context. Mr. Bixenman reminded the board that the PLF portfolio has enjoyed substantial growth over the past 8 years. He restated the PLF's investment policy of having a long-term view of the market. He recommended no changes to the portfolio at this time.

5. Practice Management Assistance Program (PMAP) (Ms. Dao)

(A) PMAP Update

Ms. Dao referred to the year-end reports for 2022. She reported that the PMAPs have increased their number of contacts by 23%. The increase was in part to better tracking and because they hired another Practice

Management Attorney, Isaac Alley. Out of 1400 contacts only about 15% of those are captured in the Universe database and reflected in the report statistics. Ms. Dao informed the group they are building a new software program that will be able to capture all of the contacts and data. They are testing the software now and it is working well. They anticipate going live with it in late Spring.

Ms. Dao shared some key elements from the report.

In December the PMAP met to outline a plan for operations in 2023. They are planning to scale back on the PLF sponsored CLEs this year and focus more on reviewing the 300+ Practice Aids available on the website and the PLF Handbooks.

6. Oregon Attorney Assistance Program (OAAP) (Ms. Hazilla)

(A) OAAP Update

Ms. Hazilla reported the OAAP had a very busy, productive year in 2022. She stated there are no typical days at the OAAP. They are helping people in so many ways, even just enabling attorneys to network through their Finding Meaningful Work group. They are currently offering their Mindfulness Group. Lawyers seem very happy to have virtual support groups but are also looking forward to more in-person meetings.

The OAAP was part of 38 CLEs that served over 3,000 people in the legal community in 2022. Ms. Hazilla informed the board that the OAAP met to make plans for 2023 and are looking forward to a great trajectory of CLEs again this year. The CLEs help build bridges and create a safe, inviting atmosphere for attorneys. OAAP Attorney Counselor Doug Querin reported on some of the statistics on mental health issues from the report and stated that lawyers can only really check one box, but they could be experiencing many stressors and challenges. Often, attorneys first report having problems within their profession, because it is a safe topic, and then open up regarding more sensitive topics and personal challenges as they feel more comfortable.

7. Excess Program (Ms. Preble)

(A) Excess Program Update

Ms. Preble reported that everyone renews excess coverage on January 1st. The renewal process has been going great. We are grateful for the help of Melanie Hughes. She has been a great addition to the Excess Program. We try to retain 92% of firms from the prior year. Last year we had 792 firms and as of today we are at 639, with 17 applications still being processed. Representatives from AON were here this week and we had some good meetings with them.

(B) Administrative Update

Ms. Preble reported that the PLF step pay system has been implemented. Trüpp completed their PLF compensation studies and presented the step pay system to the PLF staff last month. The managers met with each employee to review the step program and answer any questions. Overall, the change has been well received.

8. Communications Program (Ms. Hanson)

(A) Communications Department Update

Ms. Hanson reported on the current projects in the Communications Program. They helped send out New Year's cards to excess clients; assisted the OAAP with a refresh of their website and are working on the final details of their logo, business cards, and the InSight newsletter; assisted the PMAP in creating flyers to put up around the state to educate attorneys on our services; are helping with the handbook updates; the Annual Manager's Report; NABRICO marketing and contact materials; and lastly, Ms. Hanson reported that she will put together some talking points on LP coverage for different audiences to help explain the PLF and the services we provide.

9. CEO Report (Ms. Livermore)

(A) CEO Update

Ms. Livermore reported on the NABRICO planning. We are beginning to plan the content and have already locked in some of the logistics. We are setting a theme of the post COVID and new mobile practice work environment. Ms. Livermore also reported she will attend the Western Bar Conference in April at Ms. Hirschbiel's invitation.

Ms. Livermore informed the board of the research conducted at the request of the Board of Governors on out-of-state exemptions and the number of attorneys who are practicing in Oregon without malpractice coverage due to a loophole created by admission requirements and other regulations. The PLF added a question to the exemption form this year to find out if those claiming an out-of-state exemption from PLF coverage had malpractice coverage elsewhere. As of February 2, 2023, there were 2,005 out-of-state exemptions claimed. Out of those, only 174 reported not having malpractice coverage. The results will be provided to the Board of Governors Policy & Governance Committee so they can decide how they want to proceed related to the loophole.

Ms. Livermore let the board know that she spoke with Oren Haker. He is grateful for the opportunity to take a leave of absence from board service and, if the board approves, would like to extend his leave of absence to April and return in June. Mr. Hill responded that Mr. Haker is a tremendously valuable member of the board and would like to keep his director position open for him to return to in June. The remaining board members in attendance were in agreement with Mr. Hill.

11. Liaison's Report (Ms. Winkler/Mr. Hunt)

(A) BOG Update:

Mr. Hunt said there was nothing to report at this time.

12. Unfinished and New Business

There was no unfinished or new business to discuss.

13. Executive Session

Mr. Hill concluded the open session meeting and said they would move into executive session, pursuant to ORS 192.660(2)(f) and (h) to discuss claim matters and other executive session issues. See separate executive session minutes.

14. Adjournment

The meeting adjourned at approximately 11:50 a.m.

These minutes were approved by the PLF Board of Directors at its April 14, 2023, board meeting.