



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

**June 24, 2022  
Bend, Oregon and via Zoom**

Chair Gina Johnnie called the regular meeting of the Board of Directors to order at 9:16 a.m. Present in addition to Ms. Johnnie were board members Harshi Waters, Oren Haker, Steve Hill, Michelle Johansson, and Ali Hilsher. Board members Akeem Williams and Chris Karlin did not attend the meeting. In addition, PLF staff members Megan Livermore, Betty Lou Morrow, Madeleine Campbell, Matt Borrillo, Cindy Hill, Hong Dao, Kyra Hazilla, Emilee Preble Tanya Hanson, and Heather Bowman attended all or part of the meeting. Valerie Saiki attended open session.

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 (Ms. Johnnie)**

**(A) Approval of New PLF Public Board Member.**

Ms. Johnnie requested approval from the Board for the appointment of public member, Valerie Saiki.

*Mr. Hill moved and Mr. Haker seconded that the Board approve the appointment of Ms. Saiki. Motion passed 6-0 (2 absent; 1 vacancy).*

**(B) Approval of Open Session Minutes.**

**i. Draft Open Session Minutes (04/22/22) Board of Directors Meeting:**

**Approval of Executive Session Minutes in Open Session.**

**ii. Draft Executive Session Minutes (04/22/22) Board of Directors Meeting:**

**iii. Draft Special Executive Session Minutes (04/22/22) Board of Directors**

**Meeting:**

iv. **Draft Executive Session Minutes (05/26/22) Standing Board of Directors**

**Meeting:**

*Ms. Johansson moved and Mr. Haker seconded that the April 22, 2022, open session minutes and the April 22, 2022, executive session, April 22, 2022, special executive session, and May 26, 2022 executive session minutes be approved. Motion passed 6-0 (2 absent; 1 vacancy).*

**(B) Committee Minutes (Open Session):**

- i. 2021-11-30 Final Finance/Investments Committee Minutes
- ii. 2022-01-31 Final Finance/Investments Committee Minutes

**(C) CEO Evaluation:**

Ms. Johnnie reported that the CEO evaluation will be held in executive session. Since Ms. Livermore began her position mid-year last year, there was an evaluation at the end of last year and a second one mid-year this year. Going forward, her evaluations will be annually.

**2. General Counsel Report (Ms. Campbell)**

**(A) Proposed PLF Coverage Plan Changes for 2023:**

Ms. Campbell presented three proposed changes to the Board for the new plan year for all coverage plans (primary, excess, and pro bono), as follows:

1. Amendment to the notary exclusion (Exclusion 13) to reflect current Oregon law regarding remote notarization.
2. Examples were added to the contractual liability exclusion (Exclusion 18).
3. Amendment of the language of Exclusion 20 regarding privacy violations and cyber liability and splitting the exclusion into two separate exclusions.

Ms. Campbell's memo to the board regarding the proposed changes can be found in the meeting materials. There was some discussion regarding Exclusions 18 and 20 related to the extent of coverage, claims experience and possible malpractice traps for lawyers related to these plan provisions.

*Mr. Haker moved and Mr. Hill seconded that the three proposed changes listed above be approved. Motion passed 6-0 (2 absent; 1 vacancy).*

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

**(A) General Claims Report:**

Mr. Borrillo reported that everything is going smoothly.

Year-to-date, we are at around 300 claims; this extrapolates to an estimated 640+ claims for the year (up a bit from prior estimates). As was previously discussed, we are falling in line with the national trend of frequency down and severity up. This is the trend in Canada as well. Mr. Borrillo said that the quarterly report reflects many settlements. It is still difficult to get into the courts. Trust/estate claims continue to be high since 2017.

The evaluations of claims attorneys continue to receive very high marks.

We are on track for the defense panel conference, August 18-20, at Skamania Lodge.

**4. Financial Reports (Ms. Morrow)**

**(A) 2022-February 28 Financial Statements:**

Ms. Morrow reported that the bear market has taken a toll on PLF investments. The portfolio value has decreased by approximately \$7 million. The federal reserve will likely continue to raise interest rates which will have the consequence of depressing job growth. But this is a standard response to upward spiraling inflation. In May, there was a loss of only \$218,000, which is relatively flat compared to March and April. Through the end of April, the PLF's portfolio has lost about 9.5%. Ms. Morrow has spoken with RVK and there is no pressure to divest/invest in any funds that are currently in/outside of the portfolio. Mr. Morrow will be reviewing actual allocations versus goal allocations to determine if rebalancing is required. Ms. Morrow reminded the board that the PLF has never made it an investment philosophy to outguess the market or respond to the market with a knee jerk reaction. The value of having the surplus in net position allows the PLF to ride out market swings. Ms. Morrow also reminded the board the PLF's 10 year average ROI is approximately 7.5% which is respectable given the goals of the portfolio. Namely to support operations.

The PERS actuarial numbers have not yet been received from the State. Ms. Morrow reminded the board that would be the final entry on the 2021 financial statements.

Provisions for Claims. The total average cost of new claims is \$4.5 million. This represents the cost of new claims through the end of April. We budgeted for 820 claims for the year. The projected annualized claims are under budget by almost \$2 million at an estimate of \$22,500/claim.

Operations. Salaries and benefits are the largest portion of operating costs. Within payroll, there are small variances, but no concerning trends. Benefits and Payroll Taxes remain under budget because the 2022 PERS actuarial data will not arrive until 2023.

Excess Program. The Ceding Commission is slightly below budget; also slightly below last year. The excess program also suffers the vagaries of the markets. There is a narrow margin on the excess program so any market turbulence will directly and significantly go to the program net position.

Balance Sheets. The PLF cannot subsidize the excess program in any way. The PLF is diligent in segregating the two balance sheets. The excess program currently has an in year loss of \$168,000.

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

**(A) Practice Management Assistance Program Update:**

Ms. Johnnie said she wanted to publicly say thank you to Ms. Dao and the Practice Management Assistance Program for assisting a client.

Ms. Dao reported that the statistics on number of people who accessed the program and presentations can be found in the materials. CLE and Practice Aid access numbers have increased. The PMAs have not been having in-person meetings but lawyers are now requesting in-person visits. The PMA survey shows 100% satisfaction.

Departmental Collaboration. The OAAP and PMAP collaborated on 2 CLEs. The turnout was great. Rachel Edwards collaborated with a PLF claims attorney and a family law attorney to present a CLE about malpractice tips and traps in family law. It received great reviews. There are more CLEs coming in the summer and fall.

Staffing Update. New PMA Isaac Alley joined the PMAP team on June 1. Before coming to the PLF, Mr. Alley served as the managing attorney for the nonprofit law firm Immigration Counseling Service. He has over eight years of legal management experience. Additional information about Mr. Alley's background can be found in the materials.

Shredding Events. Two shredding events have been held that included shredding over 800 boxes. Three more events are coming up. Out of metro area shredding will be scheduled when DeAnna Shields returns from her sabbatical. It will include rural areas. Attorneys are very grateful for this service.

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

**(A) OAAP Report**

Ms. Hazilla gave an update. Since April, including yesterday's CLE, the OAAP has served almost 800 people. They have provided a lot of MHSU presentations to lawyers and judges. Following every CLE, they see an increase in personal contacts reaching out to the OAAP.

Ms. Hazilla and Mr. Querin worked with PLF staff, among others, on planning the Well-Being Stakeholders Conference that was presented on June 13. The conference was the next step to the ABA Task Force Report on lawyer well-being. It was well-attended. Presenters were Chief Justice Walters and a national speaker Terry Harrell, along with former OSB President, Vanessa Nordyke. Work groups will follow, starting in September, with stakeholders in the Oregon legal community. A conference video will be available for those who could not attend the conference but want to attend the workgroups.

Ms. Hilsher asked if the OAAP presents at law firms. Ms. Hazilla said they do.

There is another burnout presentation scheduled in November.

**7. Excess Program (Ms. Preble)**

**(A) Excess Program 2022 Renewal Update:**

Ms. Preble reported that the renewal for 2022 is largely concluded. It was very successful. Applications continue to come in.

Ms. Preble reported that an offer has been made to someone for the excess underwriter position. That person will join the team in early July. She is not a lawyer but has a strong insurance background. She will bring

a unique and valuable skillset to the PLF and will work closely with Ms. Preble and Mr. Crawford, who was previously in this role.

## **8. Communications Program (Ms. Hanson)**

### **(A) Communications Department Update:**

Ms. Hanson reported that Communications Specialist, Emily Massey was hired 2 months ago. She has been a great help already and has the experience and skillset that allows her to hit the ground running. We are happy to have her on our team.

Red Book Update. (Oregon Statutory Time Limitations Handbook). We contracted with the Bar to coordinate and produce the book. It is almost complete and will be finished in July. A survey will be sent to covered parties, asking if they want a printed version to avoid printing more than we need. 1,000 to 2,000 people have requested them in the past.

BarBooks. There is a new platform for BarBooks that is now up and running, partially funded by the PLF.

Ms. Livermore, Ms. Campbell and Ms. Hanson meet regularly with the OSB Communications Team to collaborate on messaging and other things. Ms. Livermore said we just had an opportunity to see that collaboration in action and the work done so far proved to be helpful in establishing a joint communication plan.

Ms. Hanson reported that we have a design partner, HUB Collective, who is extremely helpful in developing ads for our various programs (OAAP, Excess, PMAP). These are the first professionally designed ads we have had. HUB has also been helping us work with OAAP rebranding.

## **9. Committee Reports (Board Members)**

### **(A) Finance/Investments Committee (Ms. Morrow)**

- i. 2022-March 31 - RVK First Quarter Performance Report.

Ms. Morrow reported on the March 31, 2022, RVK flash report.

Comparative Performance. The ten-year fund performance is at 6.96%. Looking at the indexes, you can see that historically, we have outperformed the indexes.

Comparative Performance – Composite. The specific indices show how the PLF has performed against them. In reviewing the aggregates, the PLF is consistently ahead of the indices.

Ms. Morrow wants the board to know that she understands the importance of our portfolio and is vigilant about protecting PLF capital. This includes working rebalancing funds, considering the advisements of RVK, bringing RVK to committee meetings to update and inform the committee, and most importantly, not engaging in any panic, knee jerk response to market variations.

- ii. 2022 Assessment and Net Position Template.

Ms. Morrow said that the Finance and Investments Committee will bring recommendations for the net position goal to the August board meeting. The materials for today's meeting are currently for review only. Ms. Morrow apologized for the format of the net position report and promised the document at the August meeting would be legible.

Ms. Morrow reported on a 2019 application we submitted to the State to make a lump sum payment on our PERS account to pay down PERS liabilities. The payment comes with a PERS match of up to 25%. We recently received notification that we can now make that contribution. The payment needs to be made by December of 2023 but we must commit to make the payment in 2022. Ms. Morrow recommends we make the maximum payment of \$500,000 this year, rather than wait until 2023.

The PLF is starting at 5% as the marker for staff COLA increases. The PLF will work with the OSB to determine the appropriate percentage. Ms. Morrow stated that she fully expects a deficit budget in 2023. She also stated there is no appetite to increase assessments in 2023 beyond the current amount of \$3,300.

iii. 2021 Audit Update.

Ms. Morrow said we are halfway through 2022 and still do not have final audited financial statements due to the delay in receiving actuarial data from PERS. This is later than it has ever been during Ms. Morrow's tenure at the PLF.

**10. CEO Report (Ms. Livermore)**

**(A) 2023 Proposed Board Meeting Schedule:**

Ms. Livermore referred the Board to the meeting schedule in the materials. June and October locations have not been determined yet. In August, the PLF is hosting the NABRICO conference. It will be held in Eugene and a board meeting will be held in conjunction with the conference. BOG meeting dates are also included in the schedule, for BOG liaisons.

**(B) CEO Update:**

Management Training. The Board suggested this when Ms. Livermore was hired. She extended the offer to the management team. The training is through Portland State and two training sessions have been held so far. Four additional sessions remain. Ms. Livermore thanked the Board for supporting us in doing that.

BarBooks. The BarBooks platform is up and running. Everyone is excited to have it back. The PLF contribution will be in the 2023 budget. Ms. Johansson asked if this would be ongoing for lawyers to rely on. Ms. Livermore said yes. It is not necessarily permanent, depending on the PLF's financial status, but as long as we have the money to support it, it will be there. It is good use of loss prevention money to spend.

Coverage for Licensed Paralegals. The Board of Governors is discussing this topic again today at their BOG meeting (the whole plan). If approved by the BOG today, it will go to the Supreme Court in July. The expectation is that they will approve the plan. The PLF is preparing a coverage plan. It sounds like the new licensing program will be up and running by next year. Ms. Livermore wants the PLF to be ready by early next year. She plans to

bring a coverage plan to the Board in October and the BOG could approve the plan in November. That will allow PLF staff to be prepared to hit the ground running when the OSB starts licensing new LPs.

**11. Liaison's Report (Ms. Denning/Ms. Clarke/Ms. Graham/Ms. Hirschbiel)**

**(A) BOG Update:**

BOG liaisons were unable to attend the PLF board meeting due to conflicts with BOG meetings. No report.

**12. Unfinished and New Business**

There was no unfinished or new business to discuss.

**13. Executive Session**

Ms. Johnnie concluded the open session meeting at 11:19 a.m. Ms. Johnnie said they would move into executive session at approximately 11:30 a.m., pursuant to ORS 192.660(2)(f) and (h) to discuss claim matters and other executive session issues. See separate executive session minutes.

**14. CEO Evaluation – Open Session Report**

The Board reconvened in open session at 1:14 p.m.

*Ms. Johansson moved and Ms. Waters seconded that a 10% pay increase would be provided to Ms. Livermore, effective July 1, 2022. Motion passed unanimously 6-0 (2 absent; 1 vacancy).*

**15. Adjournment**

The meeting adjourned at approximately 1:16 p.m.

**These minutes were approved by the PLF Board of Directors at its August 18, 2022 board meeting.**