



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

**December 9, 2022
Tigard, Oregon and via Zoom Videoconference**

Board Chair Gina Johnnie called the regular meeting of the Board of Directors to order at 9:12 a.m. Present in addition to Ms. Johnnie were board members Valerie Saiki, Akeem Williams (via Zoom), Chris Karlin, and Michelle Johansson. Board members Harshi Waters, Oren Haker, Steve Hill, and Ali Hilsher did not attend the meeting. BOG liaisons Matthew McKean (via Zoom) and Katherine Denning attended open session. In addition, PLF staff members Megan Livermore, Betty Lou Morrow, Heather Bowman, Matt Borrillo, Cindy Hill, Hong Dao, Kyra Hazilla, Tanya Hanson, Marci Sasik, Danae Crook, Kirsten Blume, Amy Hoven, Pam Stendahl, Maureen DeFrank, Sharnel Mesirow, Wendy Margolis, Isaac Alley, and DeAnna Shields 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 (Ms. Johnnie)

Ms. Johnnie asked meeting attendees to introduce themselves.

(A) Approval of Open Session Minutes

- i. 2022-10-07 Draft Open Session Minutes (BOD)

Approval of Executive Session Minutes in Open Session

- ii. 2022-10-07 Draft Executive Session Minutes (BOD/Claims)
- iii. 2022-10-07 Draft Special Executive Session Minutes (BOD)
- iv. 2022-11-10 Draft Executive Session Minutes (Standing BOD Meeting)

Mr. Karlin moved, and Ms. Saiki seconded that the above open session minutes of October 7, 2022, the executive session minutes of October 7, 2022, and November 10, 2022, and special executive session minutes of October 7, 2022, be approved as written. Motion passed 5-0 (4 absent).

(B) Committee Minutes

- i. 2022-08-11 Finance/Investments Committee Minutes

There was no discussion and no action required.

(C) Approve Changes to 2023 BOD Officers

Ms. Johnnie turned this portion of the meeting over to Ms. Livermore.

Ms. Livermore reminded the board that at the October 7, 2022, board meeting Oren Haker was elected Chair and Steven Hill was elected Vice Chair for 2023. We have since learned that Mr. Haker is taking a short leave of absence from work and the Board of Directors (to include today's meeting and the February 3, 2023, meeting). While we expect Mr. Haker to return thereafter, his absence will nonetheless make it difficult to be Chair in 2023. As such, and with the support of Mr. Haker and Mr. Hill, it is proposed that the board switch the order in which Steve Hill and Oren Haker serve as board Chair. Steve Hill would be Chair in 2023 (Mr. Hill has agreed to serve) and Oren Haker would be Vice Chair in 2023 and, in turn, would be Chair in 2024.

To that end, Ms. Livermore recommended the Board of Directors take the following actions: 1) remove Mr. Haker as 2023 Chair and Mr. Hill as 2023 Vice Chair; 2) allow additional nominations for the 2023 Chair pursuant to the PLF Bylaws; 3) nominate Mr. Hill as Chair and Mr. Haker as Vice Chair for 2023; and 4) vote to approve the nominations.:

1. Remove Oren Haker as the 2023 Chair and remove Steve Hill as the 2023 Vice Chair and Chair-Designate.

Ms. Saiki moved and Mr. Karlin seconded that the above be approved. Motion passed 5-0 (4 absent).

2. Allow additional nominations for Chair.

Ms. Johansson moved and Ms. Saiki seconded that the above be approved. Motion passed 5-0 (4 absent).

3. Nominate Steve Hill as Chair in 2023 and Oren Haker as Vice Chair in 2023.

Ms. Saiki moved and Mr. Karlin seconded that the above be approved. Motion passed 5-0 (4 absent).

4. Approve nominations of Mr. Hill and Mr. Haker as Chair and Vice Chair respectively in 2023.

Mr. Karlin moved and Ms. Johansson seconded that the board approve the nominations of Mr. Hill and Mr. Haker as Chair and Vice Chair respectively in 2023.

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

(A) General Claims Report

Mr. Borrillo reported.

The claim count at year-end is expected to be around 642 claims.

The Claims Committee met this morning. Claims pertaining to trusts and estates continue to be high.

Evaluations continue to be positive.

The claims department is in the process of hiring a new claims attorney and a new claims assistant.

(B) Recap/Summaries of Trials and Claim Trends

A recap of summaries of trials and claim trends was presented at the Defense Panel Conference in August. There is a slow trend downward on trials. Courts are ambitious right now, so we will see if trials pick up again.

We are watching trends.

3. General Counsel Report (Ms. Bowman)

(A) General Counsel Update

Ms. Bowman is now the PLF's General Counsel. She reported that she is getting up to speed.

(B) Licensed Paralegal Plan Update

Ms. Bowman reminded the board that the PLF has been tasked with providing coverage for Licensed Paralegals (LPs). She expects the new LP coverage plan will be presented to the board in February 2023 for consideration before it is sent to the OSB Board of Governors for approval. The new LP coverage will track closely with the PLF Primary Plan except where differences are warranted. Coverage will be limited to only the work paralegals are licensed to do. If they are doing work not allowed, there would be no coverage.

LP plans will have liability coverage limits of \$100,000 and a \$25,000 claims allowance, as compared to the \$300,000 indemnity and \$75,000 expense allowance for lawyers. Similarly, the LP assessment will be \$1,100 per year, which is 1/3 of the assessment paid by lawyers.

The PLF will re-evaluate coverage limits and assessments as we have more claims experience with LPs and have a better sense for how many covered parties will participate.

The lawyer's Primary Plan and Licensed Paralegal Plan will be managed as separate funds.

LPs will have access to the OAAP, PMAP and other PLF services. Even without the LP program, legal staff have had access to the OAAP and PMAP. Now LPs will be helping fund these services through their assessments.

Ms. Denning reported that the Bar will charge an annual fee for LP licensing, but the amount has not yet been determined. She also mentioned there is a House Bill in the works for putting in place the legislation necessary to get the LP program up-and-running. That House Bill is waiting for final rules from OJD.

4. Financial Reports (Ms. Morrow)

(A) 2022-October 31 Financial Statements

Net cash flow. We are at a negative of \$7.1 million, which is not entirely unexpected. The PLF relies on our portfolio to fund operations and we are at this point due to high inflation, a volatile market, lower numbers of covered parties, and the \$300 assessment discount in 2022. The assessment discount was expected to affect the bottom line but inflation and market performance have created a bigger gap. Ms. Morrow expects a deficit of \$10 to \$12 million by the end of the year.

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

(A) PMAP Update

Ms. Dao reported that her department is getting a lot of calls about lawyers in transition (retirement, people going solo) and improving office procedures. Many lawyers are still having staffing issues with training and onboarding with hybrid work.

CLE Programs. The PMAP ended the year with *Learning the Ropes* in November. It was an all in-person, 3-day program that went very well. There will be an audio version available on the website soon. The program operated on a very lean staff who worked hard to put this on in person. In addition to Learning the Ropes, the last 3 online CLEs produced by the PMAP were attended by nearly 1,000 people. The PMAP will continue to make these programs available.

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

(A) OAAP Update

Ms. Hazilla introduced Kirsten Blume, the OAAP's new attorney counselor associate. Since Ms. Blume started, the OAAP has been able to bring back some of the group meetings and Ms. Blume has facilitated some of them. Group registrations usually fill within an hour and the OAAP is seeing an increase in speaking engagement requests.

Ms. Hazilla referred the Board to the materials for information on the types of calls they have received but wanted to note that mental health issues and substance abuse rates are high. The percentage is higher than before and involves almost full-strength staffing. The calls are coming from lawyers as well as concerned family members.

7. Excess Program (Ms. Livermore)

(A) Excess Program Update

Ms. Livermore reported that we are in the middle of excess renewal season. We recently learned two large excess insurance carriers (CHUBB and The Hartford) have pulled out of the LPL market in Oregon. As a result, we are seeing a higher number of excess applications than usual this renewal season.

8. Communications Program (Ms. Hanson)

(A) Communications Department Update

Ms. Hanson reported that the department is gearing up for 2023 and has been working with the OSB on incorporating PLF assessment deadlines with their compliance calendar.

The Communications Department also plans to meet with all departments to see what their programming needs are and how the department can provide support.

9. Committee Reports (Board Members)

(A) Finance and Investments Committee

- i. Net Position Goal.

Mr. Karlin reported that at the last finance committee meeting, there was a robust discussion regarding the net position goal.

Ms. Morrow explained that the primary reason for having a net position is to ensure stability of the assessment when we are experiencing financially challenging times.

Ms. Morrow identified areas of financial exposure, as follows. More details are provided in the board materials.

1. Claims Costs – confidence level/new claims/adverse development of claims.
2. Operational contingencies.
3. Investment portfolio volatility.
4. Capital and infrastructure projects.
5. Bad faith claims.

The committee recommends a \$27,856,000 net position.

10. CEO Report (Ms. Livermore)

(A) CEO Update

Potential Gaps in Legal Malpractice Coverage. Ms. Livermore reported on ongoing work with the OSB to determine how many Oregon-licensed attorneys in private practice who do not qualify for PLF coverage may be practicing without coverage.

Programming for Licensed Paralegals (LPs). The PMAP is working with the OSB to prepare CLEs and other programming for LPs to support their licensing requirements and practice management. Our current CLEs are not quite the right fit for LPs.

NABRICO Conference 2023. We have begun planning for the NABRICO conference next year in Eugene.

Compensation Study. Ms. Livermore reported that we are almost done with the compensation study with Trüpp and the OSB. Our compensation consultant will be here in January to give a presentation for staff to discuss the new program.

BOD housekeeping issues. Ms. Livermore discussed with the BOD whether the PLF should add an LP to the board since we will soon be serving this new population of OSB licensees. She also discussed with the board whether they want to change how/where board meetings are held to improve engagement. Budgetary pressures may also dictate. The board was urged to consider whether they want to conduct business using hybrid, in-person only, or video conference only meetings and whether we should consider fewer out-of-town meetings.

(B) 2023 Committee Assignments

Ms. Livermore referred board members to the materials for next year's committee assignments.

(C) BOD Meetings (different options in the future)

See discussion #2 above.

11. Liaison's Report (Mr. McKean/Ms. Denning)

(A) BOG Update

Mr. McKean reported that the BOG met in November and gave highlights of that meeting:

1. Confirmed Lee Ann Donaldson as OSB 2023 President;
2. Confirmed David Rosen as OSB 2023 President-Elect;
3. Motion to rescind the vaccination policy was approved;
4. Motion to approve recommendation of amendments from the Policy and Governance Committee to RPC 8.4(a)(7) was approved;
5. 2023 OSB Budget was approved;

6. Motion to approve the Budget and Finance Committee's recommendation to grant 12 fund balance waivers was approved; and
7. Approved PLF 2023 Coverage Plans.

12. Unfinished and New Business

There was no unfinished or new business to discuss.

13. Executive Session

Ms. Johnnie 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 11:19 a.m.

These minutes were approved by the PLF Board of Directors at its February 3, 2023, board meeting.