



## BOARD OF LEGAL SPECIALIZATION

State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016

June 12, 2019  
4:00 p.m.  
Cholla Room, First Floor

### Minutes Approved July 10, 2019

#### MEMBER ATTENDANCE:

P = Present; T = Present Telephonically; A = Absent

Bradley Jardine - P	Michael Goldberg - T
M. Maureen Anders - A	Abe Lai - T
James Anderson - T	Bridget O'Brien Swartz - A
Troy Bales - A	Elizabeth Ortiz - T
James Cross - T	David Shein - T
Robert Denison - T	Wendi Sorenson - A
Monica Donaldson Stewart - T	

#### OTHER ATTENDEES:

State Bar Staff: Sarah Corpening, Membership Administration & Services Manager  
Mona Fontes, MCLE Administrator

Minutes taken by Sarah Corpening

#### 1. Call to Order

Called to order by: Bradley Jardine, Chair  
Time: 4:00 p.m.

#### 2. Call to the Public

No public present.

#### 3. Review and Approval of minutes:

The minutes of the May 8, 2019 meeting were reviewed.  
Motion for approval by: James Cross  
Seconded by: Abe Lai  
Motion: Passed

#### 2. Executive Session 4:05pm

Motion to move into Executive Session by: Elizabeth Ortiz  
Second by: Jim Anderson  
Motion: Passed

### **3. Reconvene into Open Session. 4:08pm**

Motion to reconvene into open session by: Elizabeth Ortiz  
Second by: Robert Denison  
Motion: Passed

### **4. Consideration of Advisory Commission recommendations for Initial Certification Specialists in the following areas:**

#### Criminal Law Advisory Commission

1 Candidate for Initial Certification

#### Personal Injury and Wrongful Death Advisory Commission

2 Candidates for Initial Certification

#### Workers' Compensation Advisory Commission

1 Candidate for Initial Certification

Motion to accept the recommendations from the Criminal Law, Personal Injury and Wrongful Death, and Workers' Compensation Advisory Commissions to certify specialists as presented

By: Jim Anderson

Second by: Jim Cross

Motion: Passed

### **5. Advisory Commissions update on Peer Review Confidentiality**

Brad Jardine has contacted the Chairs of the Advisory Commissions for feedback on the Peer Review process. The feedback from the Tax, Real Estate and Bankruptcy Advisory Commissions indicates that there has been a noticeable decrease not only in the number of peer review responses, but also in the candor of the responses. For these particular practice areas, there is a smaller group of attorneys practicing in these areas. The decreases are attributable to lack of confidentiality of the responses – a change made by the Arizona Supreme Court.

The feedback from the Personal Injury and Wrongful Death Advisory Commission – this area of specialization has the largest number of specialists. With the large number of attorneys practicing in this area, there is no way to determine the chilling effect the Court's regulation has made on peer review.

Brad Jardine read a letter received on January 14, 2019 from Jeff Gross, Chair of the Real Estate Advisory Commission (REAC). In the letter, Jeff on behalf of the Commission, expressed concern about the decrease in the number of peer review responses received and the candor of those responses. The REAC urges BLS to take a hard look at the change made by the Court to the BLS Regulations and consider submitting a revision to the Regulations.

Brad will forward a copy of this letter to BLS. In addition, Brad will draft a letter on behalf of BLS to the State Bar of Arizona Board of Governors requesting consideration of a revision to the BLS Rules and Regulations. The draft letter will be sent to BLS for review and this matter will be placed on the July agenda for further discussion.

## 6. MCLE Regulation 107 – Certified Specialists – Dave Shein

The online MCLE affidavit currently allows only those CLE programs designated as eligible for Specialist credit to be claimed by specialists to meet their MCLE requirements. Dave believes the online MCLE system does not comply with the BLS Rules and Regulations - it is up to the individual practitioner and the audit system to determine if a particular program is advanced level and should be able to be claimed for specialist CLE hrs. Further he remembers at some point in the past, while Tom Griggs was Chair, BLS had this or a similar discussion and may have taken some formal action in this regard.

He gave several examples of types of programs which may not be designated as eligible for specialist credit, and may not be within the practice area for the specialist but may be very essential to a specialist staying current on areas of law which impact his/her area of specialization (ex. Transactional attorneys who draft complex LLCs need to keep up to date on IRS tax allocation changes). Mona and Sarah pointed out that only State Bar CLE programs are so designated as eligible for specialist credit and that the CLE presenter not staff determine whether the content of the program is of an advanced level or not.

After discussion, Dave Shein and Mona Fontes will work together as a taskforce of 2 to find practical solutions to address this issue and concerns. They will report back at the July meeting.

## 7. Staff updates – Sarah Corpening

**a. Standards Review by Advisory Commissions** - The Board of Governors has reviewed the proposed revisions to the Standards for Certification and they are being prepared for submission to the Court to meet the July 1 deadline.

**b. Certification Exams** – The certification exams were given later in April this year than in previous years, therefore some of the Advisory Commissions have not yet completed grading exams. Successful candidates are expected to be presented to BLS for certification at the July meeting.

**c. Advisory Commission Member Terms** – Advisory Commission members are appointed for 3-year terms by the President of the Board of Governors and serve until their successors are appointed. Commission members whose terms expire in 2019 have been sent the link to reapply for appointment. In addition, State Bar Section members have been sent an announcement of openings on each of the Advisory Commissions. Applications are due by June 14, 2019. Appointments are expected to be made by late July or early August.

**d. BLS Administrator Position** - A new BLS Administrator is expected to start on June 17, 2019. The new administrator served as a paralegal in the Air Force. She will be introduced to BLS at the July meeting.

8. **Date of next meeting** – July 10, 2019

9. **Meeting adjourned:** 4:49 p.m.