



April 27, 2019

The Honorable Mary E. Fairhurst  
Chief Justice  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929

*Re: Requests for Input about Bar Structure*

Dear Chief Justice Fairhurst:

On behalf of Cowlitz – Wahkiakum County Bar Association (“CWBA”), I am submitting these comments to the April 16, 2019 letter soliciting comments from Bar Leaders. I appreciate this opportunity to provide comments to assist you and the Workgroup with designing a new structure for the Washington State Bar Association (“WSBA”).

In preparation for these comments I solicited comments from the CWBA Bar Members and have incorporated their comments along with my own comments into this letter. CWBA are two relatively small counties located in southwest Washington, as the current President I represent approximately 100 licensed attorneys/limited license legal technicians (“LLLTs”). I believe CWBA to be progressive group of licensed attorneys/LLLTs having myself and another LLLT (Sherri Farr) serving on the Board this year. The only Bar Association in this State to have not only allowed LLLTs to join as equals to attorneys but to elect us on the Board in leadership roles.

Having said that I will address what I believe are important issues to our members.

### **Mandatory Bar vs Voluntary Bar**

There have been many discussions on whether the Bar Association should be mandatory or voluntary and what that would look like. We owe the public with competent attorneys/LLLTs that meet a standard level of education, training and licensing. If the Washington State Supreme Court was to separate out the functions currently housed with the WSBA into a mandatory bar and a voluntary bar it would provide the members with the freedom to participate in a voluntary bar should they choose and reducing the dues by the membership at large because the regulatory component would be less than what it is currently today. The dues would then cover only the mandatory components listed below.

- **Mandatory Bar – Washington State Supreme Court Oversight**
  - Regulatory –
    - Responsibility for administering the Bar Exam
    - Licensing and dues
    - Mandatory CLE reporting
    - Disciplinary Actions

- **Voluntary Bar**
  - Section Representations
    - Lobbying for political interests specific to that section
    - Development and Presentation of CLEs

Members could either establish a Voluntary Bar which would provide them the freedom to establish associations for their particular practice and be able to provide CLEs and lobbying for political interests. Or they could join their local Bar Associations. This would offer the local Bar Associations with more leadership opportunities to serve its Members.

### **Representation for all Members**

The current structure does not provide representation for all of its members and the public at large. Even though the Washington State Supreme Court ordered the Board of Governors (“BOG”) to have representation to include LLLTs and/or LPOs and public member not licensed to practice law. The BOG chose not to fill those Board spots. It is important that all members of the Bar have a voice and be able to provide input on issues before the Board which has a direct or indirect effect on our practices.

- **Transparency**

The members at large do not believe that the BOG has been transparent on their agendas. There should never be private meetings with decisions being made without notice to all Bar Members more than a 24-hour posting, especially if they are making decisions to change the bylaws, increase dues, reduce the number of BOG, etc. Additionally, Bar Members believe the BOG has been lobbying on political views that do not reflect the Members at large interests. They believe that political lobbying should be reserved for the Members and in particular to the Section Membership that it affects.

- **Seattle-Centric Values**

I have received a number of complaints about the WSBA BOG only representing the interests of Seattle. This ranges from the number of CLE’s available for free only being sponsored in Seattle or Olympia, not allowing members from the rest of the State to participate or to present at a CLE. With CLEs that are free only held in Seattle places significant financial burden on the attorneys residing in other parts of the State. In particular, an attorney residing in Spokane would have to fly to Seattle and potentially have to pay for hotel, rental car and meals would make it difficult for them to receive the same free CLE being offered to a Seattle attorney who would not have the extra expense.

The cost of an expensive office space in Seattle is not necessary. Finding space that is located in the central portion of the State would not only be more cost efficient for the WSBA to maintain, it also provides for all Bar Members to have better and equal access. This would reduce the overall budget and provide equal access to all Members, not just Seattle attorneys and LLLTs.

- **BOG – Term Limits**

Moving forward with representation of the members whether it be a BOG similar to what we currently have or a new BOG designed by the Washington State Supreme Court, I would suggest that there be new term limits imposed. First of all, it takes a BOG member

or President close to a year to learn how things work and what is truly expected from them. The term limit for a BOG Members should be two years with each BOG Member able to serve two terms, and the President for one two year term. The position of President should be rotated from Northern (Seattle area Counties), Southwestern (Southwest Counties), Central (Central Counties) and Eastern (Eastern counties) ensuring that no two president's can come from the same area two terms in a row. The rotation should provide the members that the needs from the other portions of the State are being met.

BOG members should be required to meet with the counties they represent frequently and if major decisions are to be made which will affect the members in those counties. The local county Bar Leadership should be informed so they can get feedback from their Bar Members to ensure their voices are being heard.

Our District BOG representative, Kyle Sciuchetti, has been very forthcoming with information and has tried to let us know about important issues at the WSBA. Because of his interaction with me and the Board I believe it has made our members feel they are being informed about issues the BOG is working on. I believe that change is slow but with consistency among all BOG members and their respective members would improve the faith we have in the BOG.

### **Mandatory Mal-Practice Insurance**

Currently today LLLTs and LPOs are required to maintain mandatory malpractice insurance. Attorneys are not required to maintain malpractice insurance, but I believe most attorneys do carry malpractice insurance in this State with approximately 14% not carrying insurance. The big concern would be that requiring mandatory malpractice insurance could place members with seeing their premiums rising because it would be required in order to maintain their license. However, it could reduce the need for the client protection fund. If there was a way to cap the insurance premiums to ensure that members are not paying outrageous premiums while providing the public with protection would make more members more likely willing to accept mandatory malpractice insurance.

### **Conclusion**

For the reasons stated above, I believe that separating the functions of the WSBA would be beneficial to its members and the public at large.

Thank you for allowing us to provide these comments. If you need further comments or have questions about the comments submitted here, please feel free to contact me at [LLLTT@premierlegaloffice.com](mailto:LLLTT@premierlegaloffice.com) or 360.931.0863.

Sincerely,

*/s/ Dianne Balch Loepker*

Dianne Balch Loepker  
CWBA President.