

**NORTH CAROLINA STATE BAR
SYNOPSIS OF COUNCIL ACTION
JANUARY 2016**

RECOGNITION OF NEW COUNCILORS – The following new councilors were recognized and welcomed:

Warren T. Savage, IV - District 10
Walter E. Brock, Jr. - District 10
Katherine Ann Frye - District 10
Eddie S. Winstead, III - District 11A
Terry R. Garner - District 16A
Clark R. Bell - District 19B
Ligon Bundy - District 20B
Kevin G. Williams - District 21
Andrea N. Capua - District 24
Alan LeCroy - District 25
David Neal Allen - District 26
Eben T. Rawls - District 26
Anna Hamrick - District 28
H. Russell Neighbors - District 29A

APPOINTMENTS – The Council made the following appointments:

Lawyer Assistance Program Board – Reed Acree of Salisbury was appointed to a three-year term. Darrin D. Jordan of Salisbury and Chris Budnick (clinician) of Raleigh were reappointed to three-year terms. Darrin D. Jordan of Salisbury was appointed as chair and Lanée Borsman of Linden was appointed as vice chair.

Disciplinary Hearing Commission – David W. Long of Raleigh was appointed to fill the unexpired term of Walter Brock, who had resigned to assume a position on the Council.

Board of Paralegal Certification – Warren Hodges of Winston-Salem was appointed to fill the unexpired term of Lisa Robinson. Lisa Robinson, the incumbent vice chair, had resigned. Robert C. Bowers of Charlotte was appointed as vice chair.

IOLTA Board of Trustees – Judge Jane V. Harper was appointed to fill the unexpired term of E. Fitzgerald Parnell, III, who had resigned.

Board of Law Examiners – Samuel S. Woodley, Jr. and William K. Davis were designated as Emeritus Members of the Board.

RECOMMENDATION FOR APPOINTMENTS SOUGHT – The Council and the President will make the following appointments at its meeting in April 2015. Anyone wishing to be considered or to nominate someone should contact Tom Lunsford at the State Bar office: 919-828-4620, tlunsford@ncbar.gov, PO Box 25908, Raleigh, NC 27611.

American Bar Association Delegates (2-year terms) – There are three appointments to be made. Barbara B. Weyher, Anthony S. di Santi and James R. Fox are not eligible for reappointment.

NC General Statutes Commission (2-year terms) - The President must make one appointment to this commission. Starkey Sharp is eligible for reappointment.

Legal Services of Southern Piedmont (3-year terms) - The President must make one appointment to this board. Calvin E. Murphy is not eligible for reappointment.

Disciplinary Hearing Commission (3-year terms) – There are three appointments to be made by the Council. Donald C. Prentiss and Beverly T. Beal are eligible for reappointment. Fred M. Morelock is not eligible for reappointment.

RANDOM AUDITS – Lawyers randomly selected for audit are drawn from a list generated from the State Bar’s database based upon judicial district membership designations. The randomly selected judicial districts used to generate the lists for the first quarter of 2016 were 20A, composed of Stanly County, and 29A, composed of McDowell and Rutherford Counties.

ETHICS COMMITTEE – Upon the recommendation of the Ethics Committee, the Council adopted one new ethics opinion. **2014 FEO 1**, *Protecting Confidential Client Information when Mentoring*, encourages lawyers to become mentors to law students and new lawyers (“protégés”) who are not employees of the mentor’s firm, and examines the application of the duty of confidentiality to client communications to which a protégé may be privy.

At its meeting on January 21, 2016, the Ethics Committee voted to publish **Proposed 2016 FEO 1**, *Contesting Opposing Counsel’s Fee Request to Industrial Commission*.

The Ethics Committee agreed **Proposed 2015 FEO 8**, *Representing One Spouse on Domestic and Estate Matters after Representing Both Spouses Jointly*; **Proposed 2015 FEO 9**, *Holding Out Non-Equity Lawyers as “Partners,”* and **Inquiry of Bricker**, *Duty of Defense Counsel Appointed after Defendant Files Pro Se Motion for Appropriate Relief* should be studied by subcommittees.

GRIEVANCE COMMITTEE – During the quarter the Grievance Committee considered 328 cases. Twelve lawyers received letters of caution, twenty-two lawyers received letters of warning, five lawyers received admonitions, six lawyers received reprimands, three lawyers received censures, and eleven lawyers were referred to the Disciplinary Hearing Commission.

RULE AMENDMENTS

Amendments for Which Supreme Court Approval is Pending - At its meeting on February 1, 2016, the Council adopted, subject to the Supreme Court's approval, the amendments described below.

27 N.C.A.C. 1B, Section .0100 Discipline and Disability Rules .0114 Formal Hearing .0115 Effect of a Finding of Guilt in Any Criminal Case

The proposed amendments to Rule .0114 break the section into five shorter rules, reorganize the rules, and make numerous substantive changes, including provisions for mandatory scheduling conferences, settlement conferences, default, sanctions and post-hearing procedures relating to stayed suspensions. The proposed amendments to Rule .0115 expand upon the documents constituting conclusive evidence of conviction of crime and detail the procedure for obtaining an interim suspension.

27 N.C.A.C. 1D, Section .1600 Regulations Governing the Administration of the Continuing Legal Education Program .1602 Course Content Requirements

The proposed amendments would allow credit for private/in-house CLE concerning professional responsibility and professional negligence/malpractice presented live by outside providers (providers not affiliated with the law firm) that are pre-qualified to present such programs.

27 N.C.A.C. 1D, Section .1500 Rules Governing the Administration of the Continuing Legal Education Program .1518 Continuing Legal Education Program

The proposed amendments would require sponsors of a "Professionalism for New Attorneys Program" to be accredited sponsors.

27 N.C.A.C. 1D, Section .2300 Certification Standards for the Estate Planning and Probate Law Specialty .2305 – Standards for Certification as a Specialist in Estate Planning and Probate Law

The proposed amendment eliminates the subject matter listings for related-field CLE and for the exam and, instead, states that those listings will be posted on the specialization program's website.

27 N.C.A.C. 1D, Section .3200 Certification Standards for the Utilities Law Specialty .3201 Establishment of Specialty Field .3202 Definition of Specialty .3203 Recognition as a Specialist in Utilities Law

.3204 Applicability of Provisions of the North Carolina Plan of Legal Specialization
.3205 Standards for Certification as a Specialist in Utilities Law
.3206 Standards for Continued Certification as a Specialist
.3207 Applicability of Other Requirements

The proposed amendments would create a specialty in utilities law. The proposed standards for certification are comparable to the standards for the other areas of specialty certification.

27 N.C.A.C. 1G, Section .0200 Rules Governing Continuing Paralegal Education
.0204 Fees

The proposed amendment would eliminate the \$75.00 accreditation fee for any CPE program that is being presented without charge to attendees.

PROPOSED AMENDMENTS TO BE PUBLISHED FOR COMMENT.

27 N.C.A.C. 1D, Section .0900 Procedures for Administrative Committee
.0905 Pro Bono Practice of Out of State Lawyers

The proposed amendment would specify that pro bono practice status for an out-of-state lawyer ends when the lawyer ceases working under the supervision of a North Carolina legal aid lawyer, and also provides that the status may be revoked by the Council without notice or an opportunity to be heard.

27 N.C.A.C. 1D, Section .1800 Hearing and Appeal Rules of the Board of Legal Specialization
.1804 Appeal to the Council

The proposed amendment would simplify the procedure by means of which a failed applicant can appeal a final decision of the Board of Legal Specialization to the State Bar Council.

27 N.C.A.C. 1D, Section .2700 Certification Standards for the Workers' Compensation Specialty
.2706 Certification Standards for the Workers' Compensation Specialty

The proposed amendment would make it clear that recertification in the workers' compensation specialty requires the specialist to earn at least six CLE credits in workers' compensation law courses in each year of the five-year period of certification.