

September 19, 2012

Kris Curtis, CPA, CISA
Legislative Auditor
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Ms. Curtis:

Thank you for the Division's thorough review of the Alaska Bar Association and the opportunity to respond to your preliminary audit report.

Sunset and Fiscal Note

The Board concurs with extending the sunset date of the Alaska Bar Association Board of Governors until June 30, 2021.

There will be no fiscal note attached to any bill filed with the Legislature to extend the sunset date of the Board, as the Board will not be seeking any state funding for its operational costs. The Board obtained state funding only during the limited time frame between 1981 and 1986, and only for the per diem and travel expenses of the three public members who sat on the Board. For the past 26 years, the Board has paid those expenses without state funding.

As noted in the audit, the operations of the Board are funded entirely by Bar members through bar dues, admission fees, Continuing Legal Education (CLE) seminar fees, Lawyer Referral Service charges, convention fees, and interest income. Ironically, a decision to sunset the Board would have a multi-million dollar fiscal impact to the state.

Response to Recommendation No. 1: The Board should recommend to the Alaska Supreme Court that mandatory minimum CLE for attorneys be increased.

The Board takes its responsibility to provide continuing legal education (CLE) programs very seriously. Over the past thirty years, the number and variety of programs have increased substantially.

The Board has worked closely with the Alaska Supreme Court in setting the framework for a mandatory CLE program. But it's important to remember that the Supreme Court, in the exercise of its constitutional rule-making

authority under Article IV, Section 15 of the Alaska Constitution, makes the final determination regarding the size and scope of a mandatory CLE requirement.

Those early efforts culminated in a voluntary CLE program enacted by the Court in September 1999 with the first reporting year in 2000. The Court advised that every active member of the Bar Association should complete at least 12 credit hours of approved CLE, including one hour of ethics CLE each year. The Court wrote in its comment to Rule 65 that it wasn't convinced a mandatory rule was necessary and believed that a CLE program could become successful by using incentives to encourage voluntary participation in CLE rather than sanctions to penalize non-compliance with a mandatory rule. It envisioned a three-year pilot project with an assessment at the end of that period of the project's results.

Then in 2008, following committee and Board meetings as well as meetings with the Court itself, the Court decided that the time had come for a mandatory program. As you've noted, the current program requires three credit hours of approved mandatory ethics CLE and a recommended nine additional hours of voluntary CLE. Again, the Court advised that at the end of three years, it would assess the project's results, including recommendations and statistics provided by the Board and would determine whether an expanded mandatory CLE program was necessary.

Those reports have been submitted to the Court together with a proposal for refinement of the current rule to make it easier for members to determine the procedures for compliance. The Board hopes an administrative rules conference will be scheduled so that this proposal can be discussed and to assist the Court in its review of the program since the 2008 amendment.

In this regard, you can be assured that the Board will continue to work with the Court and make suggestions to the Court about a program that, in the introductory words of Bar Rule 65, "promote[s] competence and professionalism in members of the Association" as they provide fulfill their responsibilities to clients, the courts, and the people of the State of Alaska.

Lawyers' Fund for Client Protection

The Lawyers' Fund for Client Protection program is referenced on page 9. However, claims for reimbursement due to a lawyer's dishonest behavior can arise from any circumstances described in Alaska Bar Rule 45 and are not limited to fee arbitration proceedings.

Financial statements.

Attachment 1 lists the total liabilities and net assets for the general fund as \$4.1 million. This amount includes accounts receivable funds. The majority of the accounts receivable is bar dues income which is earned each month. These assets will be spent down through the year by the 2012 budgeted expenses of \$2.8 million. If the Bar Association closed its doors midyear, the unearned bar dues funds would have to be paid back to the Bar members.

Concluding comments.

It is also our belief that the present management system of the Bar Association provides a variety of public service, ensuring both accountability and good management. As an instrumentality of the state, the Bar Association is subject to legislative audits. Its meetings are open to the public. Members of the public sit on discipline and fee arbitration panels as well as on the Board of Governors. Its rule-making and discipline functions are overseen by the Supreme Court, which assures a sound investigative and judicial process. The Board provides public service through activities such as its pro bono program, which includes programs such as the Martin Luther King Day of Service and the Elizabeth Peratrovich Legal Clinic at the AFN Conference, and through its Sections and committees work, such as the Law Related Education Committee activities in the schools and website legal guides. Finally, the statewide lawyer membership on the Board also ensures that the Bar Association is both responsive to the needs of its members, and qualified to address such issues as admission standards and peer review.

Thank you for the opportunity to comment on the audit report. We believe that the Board has demonstrated its continuing commitment to improving the legal profession and service to the public.

Sincerely,
Alaska Bar Association

Hanna Sebold
President