

BY-LAWS OF THE STATE BAR OF MONTANA

PREAMBLE

The Montana Supreme Court defined the respective roles and responsibilities of the Court, the State Bar and members of the Bar in *In re the Petition of the State Bar of Montana for a Dues Increase*, 2001 MT 108, 305 Mont. 279. The Court's Opinion and Order reaffirmed its constitutional duty to govern and to control the practice of law in the State of Montana, including its exclusive authority to set annual membership dues. The Court also reaffirmed the historic purposes for which the Bar was established and continues to exist. Those purposes are: to aid the courts in maintaining and improving the administration of justice; to foster and maintain on the part of those engaged in the practice of law high standards of integrity, learning, competence, public service, and conduct; to safeguard proper professional interests of members of the Bar; to encourage the formation, maintenance, and activities of local bar associations, to provide a forum for the discussion of and effective action concerning subjects pertaining to the practice of law, the science of jurisprudence and law reform, and relations of the Bar to the public; and to insure that the responsibilities of the legal profession to the public are more effectively discharged.

ARTICLE I MEMBERSHIP

SECTION 1 - PERSONS INCLUDED IN MEMBERSHIP

The membership of the State Bar must in each case comply with the conditions and requirements of membership as set forth in these by-laws, the licensure statutes, the Rules for Mandatory Continuing Legal Education, Rules on Lawyer Disciplinary Enforcement, the Rules on Fee Arbitration, and other rules adopted by the Supreme Court. Commencing January of 1999, voluntary paralegal associate memberships are permitted. Residence in the state of Montana is not a condition of eligibility to membership in the State Bar.

SECTION 2 - ENROLLMENT

(a) Lawyers. Every person who becomes licensed to practice law in this state must enroll with the State Bar by signing and filing in the State Bar office, within ten days after admission to practice, an enrollment form containing information required by the State Bar in accordance with Executive Policy. After enrollment, a lawyer must promptly report to the State Bar any change with respect to any of the information contained in the Enrollment Form. The State Bar will send communications to the latest mailing address provided by a member. The State Bar is required to maintain for the Supreme Court, as part of its records, information about attorneys registered with the Bar. This information includes the attorneys' main mailing address.

(b) Paralegals. Every person who elects to become a paralegal associate member must enroll in the State Bar Paralegal Section by signing and filing in the State Bar office upon enrollment an application containing the information required by the State Bar in accordance with Executive Policy.

SECTION 3 - CLASSES OF MEMBERSHIP

(a) The members of the State Bar are divided into eight classes:

(i) The class of active members includes all members of the State Bar licensed to practice law in the State of Montana. The class of active members does not include any judicial members, inactive members, active military service members, senior members, emeritus members, resigned members and paralegal associate members.

(ii) The class of judicial members includes elected or appointed members of the Montana judicial system who devote full time professional activity as judges, and retired judges who are eligible for temporary judicial assignment and are not engaged in the practice of law. The Montana judicial system includes Supreme Court justices, district court judges, the chief water judge, the workers' compensation judge, attorneys serving as justices of the peace, attorneys serving as city judges, standing masters, federal administrative law judges residing in Montana, and federal trial, appellate and bankruptcy judges residing in Montana. Judicial status is also accorded to members of the State Bar who are justices or judges of other courts

of record of the United States or of the several states, or who are retired from such courts and are not engaged in the practice of law.

(iii) The class of inactive members includes those persons who are eligible for active membership but are not engaged in the practice of law in Montana. Such persons have filed with the association written notice requesting enrollment in the class of inactive members or were transferred to inactive as per Rule 12 of the Rules for Continuing Legal Education.

(iv) The class of active military service members includes those who are full time active military service of the United States.

(v) The class of senior members includes those who are 70 years and older who are not engaged in the practice of law in Montana.

(vi) The class of emeritus members includes members who have applied for and been granted emeritus status pursuant to subsection (g) of this section.

(vii) The class of resigned members includes lawyers who were previously a member of the State Bar of Montana but submitted an unqualified letter of resignation from membership to the State Bar of Montana.

(viii) The class of paralegal associate members includes those who have voluntarily enrolled as paralegal associate members.

(ix) The class of inactive/disability members includes members who have been transferred to such status as per Rule 28 of the Rules for Lawyer Disciplinary Enforcement.

(b) Except as provided in subsection (g) of this section, only active and active military service members may practice law in the State of Montana. No person other than an enrolled active member or active military service member of the State Bar may practice in this state or in any manner claim to be authorized or qualified to practice law.

(c) "Voting" members are active, active military service and judicial members except Supreme Court justices. Only voting members may hold office or vote in any election conducted by the State Bar, except that paralegal associate members may vote for and become officers in the Paralegal Section.

(d) Any judicial member who is no longer serving in a judicial office may change his or her classification to that of an active or inactive member by filing with the State Bar office a written request for transfer to the class of active or inactive members and by paying the applicable dues.

(e) An inactive, emeritus, or senior member may be readmitted to active status by submitting a verified application in writing to the Clerk of the Supreme Court and satisfying all of the following requirements:

(i) payment of dues for active membership, for the year in which they are reactivated, as provided in Section 4;

(ii) completion of CLE, as may be ordered by the Supreme Court and in accord with the Rules of Mandatory Continuing Legal Education;

(iii) payment of all license taxes, including those waived during emeritus or senior status, in compliance with Section 37-61-211, MCA.

(f) Except as provided in subsection (g) of this section, no inactive, emeritus, or senior member or Supreme Court justice may practice law in this state or hold office or vote in any election conducted by the State Bar. No judicial member may practice law in this state.

(g) The State Bar may grant emeritus status to a member who meets the qualifications in this subsection, so that the member may provide pro bono or volunteer services to low-income individuals even if the member does not otherwise maintain an active practice. A member who is granted status as an emeritus attorney may practice law only as provided in this subsection. The Executive Director must approve the grant of emeritus status upon application by a lawyer who:

(i) has engaged in the active practice of law for a minimum of 10 out of the 15 years immediately preceding the application for emeritus status or has judicial status;

(ii) has no record of public discipline for professional misconduct imposed at any time within the past 15 years by the courts of the State of Montana, any commission of the Montana Supreme Court, or any other jurisdiction in which the member has been admitted, and who did not resign or retire from the practice of law with disciplinary charges pending;

(iii) agrees to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Montana Supreme Court for disciplinary

purposes;

(iv) neither asks for nor receives compensation of any kind for the legal services authorized hereunder; and

(v) does not engage in the practice of law except in association with a qualified provider of legal services in Montana to persons unable to pay for such services. For purposes of this section, a "qualified provider" is a not-for-profit legal aid organization that is approved by the State Bar's Access to Justice Committee and provides malpractice insurance that will cover the emeritus member.

(vi) annually completes 25 hours of pro bono legal services through a qualified provider. If the member fails to complete the 25 required hours of pro bono service by April 1, the attorney will no longer be eligible for emeritus status and will become an inactive member. A lawyer member may appeal any non-approval of emeritus status by the Executive Director to the Board of Trustees.

(h) A resigned member may be readmitted to active status pursuant to the procedures set forth in the Supreme Court Rules of Admission and the Rules for Lawyer Disciplinary Enforcement.

(i) An active military member may be readmitted to active or inactive status through an application in writing filed with the State Bar office and payment of membership dues for the year in which the lawyer is reactivated.

SECTION 4 - MEMBERSHIP DUES

(a) Effective March 1, 2009, annual dues for each active member are two hundred dollars (\$200), except a member's dues for the year of admission are fifty (\$50.00) dollars. Effective March 1, 2009, annual dues for each inactive member are one hundred twenty-five dollars (\$125), except a member's dues for the year of admission are fifty (\$50.00) dollars. Annual dues for each senior member are fifty (\$50.00) dollars. There are no annual dues for judicial, emeritus, or active military service members. The annual dues for paralegal associate members are determined by the Board of Trustees. All active members must pay, in addition to membership dues and at the same time, an assessment to the Lawyers' Fund for Client Protection. The amount of the assessment is determined annually by the Board of Trustees, but may not exceed thirty-five dollars (\$35.00). All dues and assessments paid for the Lawyers' Fund for Client Protection must be paid to the State Bar. The dues constitute a fund for the payment of the expenses of the association. The payment made for the Lawyers' Fund for Client Protection and indemnity bond, if any, must be used for that purpose only. Dues are in addition to the annual license fee. Active military service members must pay all Court ordered assessments, which include but are not limited to: the assessment for the Lawyers' Fund for Client Protection, the assessment for the Office of Disciplinary Counsel and the annual license fee.

(b) When the State Bar expends funds derived from members' dues in furtherance of the Bar's mandate in Article III of the Constitution of the State Bar, through lobbying the State legislature pursuant to the duty to participate in "improving the administration of justice and law reform," the Bar must, on application of a dues-paying member stating the member's objection to the Bar's lobbying position, refund to the objecting member an amount representing an aliquot portion of the dues expended in lobbying a particular issue, in a manner prescribed by the Board of Trustees. The amounts of money pertinent to each piece of legislation upon which the State Bar of Montana has lobbied and the position that the Bar advocated will be published in the June issue of *The Montana Lawyer* following the regular session of the Legislature. Refund applications must refer to specific bill or resolution numbers. Claims must be made by July 10, and payments will be made by August 1 of each legislative year. If the State Bar expends dues funds in connection with public positions apart from the Legislature, such as filing an amicus brief, the Board of Trustees will establish a refund procedure similar to the procedure for lobbying, including notice in *The Montana Lawyer* of the position taken, the amount expended, and the right of members to a refund of dues.

(c) Dues and assessments are payable April 1 of each year, except, when a person is first admitted or readmitted to the State Bar, dues and assessments for the entire fiscal year of admission or readmission are payable at the time of admission or readmission.

(d) The State Bar office will mail statements of dues and assessments not less than thirty (30) days prior to the due date to all members. A second notice will be sent to any member whose

dues or assessments remain unpaid on the due date. The second notice will specify that the member will be suspended unless the dues and assessments, plus a \$50.00 late payment penalty, are paid within thirty (30) days from the date of mailing of such notice. The membership of any member who does not pay the dues and assessments, plus the \$50.00 late payment penalty, within thirty (30) days from the date of mailing of the second notice will be suspended. No person whose membership is suspended for nonpayment of dues and assessments may practice law during the period of suspension.

(e) (i) The Executive Director must certify the names of all members suspended from membership for non-payment of dues or assessments to all courts of record in the State of Montana and publish the names in *The Montana Lawyer* magazine. The Executive Director must provide twenty (20) days written notice of the intent to certify to each suspended member prior to publication in *The Montana Lawyer*.

(ii) When a lawyer member suspended for non-payment of fewer than three years' membership dues and assessments makes full payment of unpaid amounts for all years in which the payments are due, by credit card, cashier's check or money order, together with a penalty of \$200.00 for each year in which the member did not make the required payments, the Executive Director must reinstate the member and certify the fact of the member's reinstatement to all parties to whom notice of suspension was sent. However, in the case of any lawyer whose membership dues or assessments are in arrears for a period of three or more consecutive years, no application for reinstatement may be granted unless ordered by the Montana Supreme Court. In case of hardship the Board of Trustees may order waiver of dues or penalties. A request for a waiver of dues or penalties must be made in writing and filed with the State Bar office and must provide documentation of financial hardship and circumstances.

(f) When a member who is licensed to practice law files with the State Bar office a written notice of such member's surrender of his or her license, such person shall thereupon cease to be a member of the State Bar, and the Executive Director will remove the person's name from the membership register. Resignation of membership does not terminate any disciplinary matters that may be ongoing before the Supreme Court.

(g) A member who changes status from active to inactive or senior during the course of a fiscal year may not receive a refund for the difference in dues between active and inactive or senior.

(h) A member may submit payment for all dues and assessments by check, money order, cashier's check or credit card.

SECTION 5 - PRACTICE REQUIREMENTS

(a) To practice law in the state courts of Montana, a member must:

(i) have paid dues and assessments for active membership, as set forth in Section 4;

(ii) have completed all continuing legal education, as set forth in the Rules for Mandatory Continuing Legal Education;

(iii) have paid all license taxes, including those waived during emeritus or senior status;

(iv) be free of suspension or other discipline imposed by the Montana Supreme Court Commission on Practice which prohibits the practice of law, or through Rule 10 of the Rules on Fee Arbitration.

(b) The practice of law by any member who fails to satisfy the elements listed in (a) may constitute a misdemeanor in accord with §37-61-214, may preclude the collection of attorneys' fees in accord with §37-61-215, may constitute contempt of court in accord with §37-61-210, MCA.

SECTION 6 - ELECTRONIC COMMUNICATIONS

The State Bar of Montana may send notices to its members, including dues notices and election ballots, and members may communicate with the State Bar of Montana, via electronic mail, provided that technology is used to assure the identity of the person(s) sending the electronic mail.

SECTION 7 - SUBMISSION OF RESOLUTIONS

(a) The Past Presidents Committee of the State Bar of Montana is responsible for review of all member resolutions at the Annual Business Meeting. No resolution shall be presented to the membership unless the proposed resolution has been first presented to the Committee pursuant to this Section. However, these rules do not apply to any proposed resolution seeking to amend or repeal the Constitution or By-

laws as provided in Article XV of the By-laws.

(b) Every action of the membership provided for in Article VII, Section 4, of the By-laws (i.e. modifications or rescission of any action or decision of the Board, instructions to the Board, and any other action of the members for the purpose of declaring policy of the State Bar of Montana) shall be taken by the adoption of a resolution to be voted on by the members as further provided in the By-laws.

(c) Except for good cause shown to the Past Presidents Committee, and except for resolutions proposed by the Board, every resolution which any member desires to present to the membership for adoption shall be submitted to the Executive Director at least 45 days in advance of the annual meeting. The Executive Director shall deliver copies of the proposed resolution to the members of the Past Presidents Committee, who shall examine the resolution as provided in this Section.

(d) Every resolution, whether proposed by the Board or by a member of the State Bar of Montana, must be prepared in typewritten form and published to the membership attending the meeting in suitable form (i.e. hard copy, electronic form or projection) and not less than 48 hours before the commencement of the membership meeting. Copies of any member-sponsored resolution will be at the cost of the sponsoring member. The Executive Director shall deliver a copy of each proposed resolution to the members of the Past Presidents Committee and to the Trustees. The remainder of the copies shall be placed in a conspicuous place at the annual meeting so that members of the State Bar may receive copies for examination and study before the meeting.

(e) Within 20 hours of the annual meeting the Past Presidents Committee shall meet and consider each resolution properly submitted to the Executive Director. Reasonable notice of the Past Presidents Committee will be provided to the membership by appropriate, cost-effective means. Any member of the State Bar of Montana shall have the right to attend the meeting of the Past Presidents Committee. At such meeting the Past Presidents Committee shall:

(i) Hear explanations and comments from any member of the State Bar regarding the proposed resolution, but the Committee shall have the right to limit the time available to any member for such purpose.

(ii) Examine the proposed resolution for scurrilous or defamatory material and ensure that any proposed resolution is consistent with the Constitution of the State Bar (Article III), the By-laws of the State Bar of Montana, and Orders of the Montana Supreme Court unless the purpose of the resolution is to amend the Constitution or Bylaws. Where the proposed resolution contains scurrilous or defamatory material, or conflicts with the Constitution or By-laws (without seeking to amend the same), the Past Presidents Committee may either eliminate such material or, if such material cannot be eliminated without destroying the purpose of the resolution, suppress said proposed resolution from presentation at the time of the meeting.

(iii) Make minor changes in grammar, spelling or form, without changing the meaning of the resolution with the consent of the sponsor;

(iv) Endorse on the copy of the resolution to be retained in the minutes of the State Bar a recommendation that the resolution pass, not pass, be modified, or that it be transmitted without recommendation. At the annual meeting any member of the Committee may express the member's personal views in a discussion of the resolution, but the Committee shall not state arguments for or against any particular resolution.

(f) Any resolution presented to the membership meeting under the foregoing procedure may be amended from the floor.

A summary of all resolutions shall be posted on the State Bar's website 30 days in advance of annual meeting and shall be published in the last issue of *The Montana Lawyer* before the annual meeting of the State Bar.

ARTICLE II OFFICERS

SECTION 1 - TITLES, TERMS, QUALIFICATIONS

(a) The officers of the State Bar are a President, a President-Elect, a Chair of the Board of Trustees, and a Secretary/Treasurer. Only members of the State Bar residing and practicing law in Montana are

eligible to serve as and vote for officers of the association. The term of office of the President, President-Elect and Chair of the Board of Trustees is one year. The term of the Secretary-Treasurer is two years. The term of each officer shall run until the qualification of a successor. Paralegal associate members are not permitted to hold any State Bar office or vote in any State Bar election except those of the Paralegal Section.

(b) The President-Elect, at the expiration of the term as President-Elect, succeeds to the Presidency of the State Bar.

(c) Any member of the State Bar who is a resident of Montana and practices law in this state may be nominated as a candidate for President-Elect or Secretary-Treasurer by a petition signed by not less than twenty-five members. Nominating petitions must be filed with or mailed to the State Bar of Montana at least sixty days before the election date specified by the Board of Trustees. In the event no member is nominated as President-Elect or Secretary-Treasurer, the Board of Trustees must nominate one or more qualified candidates for such office. Election of the President-Elect and Secretary-Treasurer must be by secret ballot of all members eligible to vote and the candidate receiving the greatest number of votes cast is elected. The mailing, return and canvass of the ballots must be conducted in the same manner as provided for the election of Trustees.

(d) The Board must elect a Chair of the Board from its members at the time of the annual meeting of the Association. The chair assumes office at the conclusion of the annual meeting.

SECTION 2 - DUTIES OF OFFICERS

(a) President. The President is the chief executive officer of the association. The President is a member-at-large of the Board of Trustees and a member of the Executive Committee. The President must preside at all meetings of the association and of the Executive Committee. The President may make the appointments to, and designate the chair of all standing committees; create and appoint special committees; and is a member, ex-officio, of every committee.

(b) President-Elect. The President-Elect is a member-at-large of the Board of Trustees and the Executive Committee; and performs all other duties assigned by the President or Board of Trustees. Before assuming the office of president, the President-Elect must present to the Board of Trustees for its consideration a proposed plan of State Bar goals and objectives for the succeeding year.

(c) Chair of the Board of Trustees. The Chair of the Board is a member of the Executive Committee. The Chair presides at all meetings of the Board of Trustees and must temporarily perform duties of the President in the event of temporary absence or disability of the President. In the event of the death or permanent disability of the President, the Chair must temporarily serve until replaced in that function as provided hereafter in these By-Laws. If a permanent replacement for the deceased or disabled president is not selected, the Chair of the Board must serve the unexpired term of the office of the deceased or disabled President.

(d) Secretary-Treasurer. The Secretary-Treasurer is a member-at-large of the Board of Trustees and a member of the Executive Committee. The Secretary-Treasurer must confer with the Executive Director and the administrative staff of the State Bar as to

(i) The keeping of proper minutes and records.

(ii) The maintenance of correct membership files and mailing lists.

(iii) The general operation of the headquarters office.

(iv) The methods and procedures used in the receipt, collection and safe-keeping of all funds of the State Bar.

(v) The procedures for disbursement and audit of such funds.

The Secretary-Treasurer must assist the Executive Committee in preparing the annual budget and in presenting it to the Board of Trustees and make recommendations to the Board of Trustees as to the association's affairs, as required.

(e) Immediate Past President. The Immediate Past President is a member of the Executive Committee. Responsibilities include:

(1) organizing the local bar leadership conference; (2) chairing the Past Presidents Committee; (3) serves as a liaison with out of state Bar members; (4) performs other duties as assigned by the State Bar President or Board of Trustees.

SECTION 3 - COMPENSATION

The officers of the association receive no compensation for their services, but receive reimbursement of their expenses as may be authorized and directed by the Board of Trustees.

SECTION 4 - COMMENCEMENT OF TERM OF OFFICE

The terms of all out-going officers of the association end and the terms of their successors commence at the conclusion of the annual meeting.

ARTICLE III BOARD OF TRUSTEES

SECTION 1 - COMPOSITION OF BOARD

The affairs of the association are managed and directed by a Board of Trustees consisting of the three officers of the association and the immediate past-president of the association, all of whom are members-at-large of the Board, and sixteen members from the areas hereinafter designated. The rights and powers of the members-at-large of the Board are the same as those of elected members.

SECTION 2 - STATE BAR AREAS

(a) For the purposes of conducting elections of the members of the Board of Trustees, the state is divided into the following areas, with members of the Board to be elected from each area by the voting members of the bar in such area:

Area Total Trustees By County

- A 1 Flathead & Lincoln
- B 3 Lake, Mineral, Missoula, Ravalli & Sanders
- C 1 Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell & Silver Bow
- D 2 Cascade, Glacier, Pondera, Teton & Toole
- E 1 Blaine, Carter, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Hill, Judith Basin, Liberty, McCone, Meagher, Musselshell, Petroleum, Phillips, Prairie, Powder River, Richland, Roosevelt, Rosebud, Sheridan, Treasure, Valley, Wheatland & Wibaux
- F 3 Broadwater & Lewis and Clark
- G 2 Gallatin, Park & Sweet Grass
- H 3 Big Horn, Carbon, Stillwater & Yellowstone

(b) The Board of Trustees must periodically, but at least every ten years, review and, as necessary, amend subsection (a) of this section to reasonably reflect one member-one vote.

SECTION 3-TERM/QUALIFICATIONS/NOMINATION/ELECTION

(a) The term of office of each elected member of the Board of Trustees is two years. The term of office commences at the conclusion of the annual meeting of the association next following the trustee's election. A voting member is eligible to vote only in the area in which the member resides. A voting member may represent an area only if the member both resides in the area and either maintains a law practice or serves as a judicial officer in the area.

(b) A voting member becomes a candidate to be elected to the Board of Trustees by filing with the State Bar a petition signed by ten voting members residing in the candidate's area. Nominating petitions must be filed with or mailed to the State Bar office at least sixty days before the election date specified by the Board of Trustees. In the event there is no petition to fill the office of Trustee in any area, the Board of Trustees must nominate a qualified candidate or candidates for such office or offices. The Executive Director must mail written ballots containing the nominations for the office of Trustee for each area to every member residing in the area not less than thirty days before the election date. A member votes by mailing the marked ballot, in a sealed envelope, to the Executive Director not less than ten days before the specified election date. The President must appoint a committee of not less than three members to canvass and record the votes. The candidates receiving the greatest number of votes cast in each area are elected.

(c) Any Trustee who fails to attend two successive meetings of the Board of Trustees without good cause shall forfeit his or her office Good cause shall be determined by the Board.

SECTION 4 - POWERS AND FUNCTIONS

(a) The Board of Trustees have general charge of the affairs and activities of the association. The Board must:

- (i) Fix the time and place of the annual meeting of the association;
- (ii) Fix the date of election of officers and trustees;
- (iii) Make appropriations and authorize disbursements from the funds of the State Bar in payment of the necessary expenses of the association, its officers and committees;
- (iv) Cause proper books of accounts to be kept, procure a biennial audit thereof by a certified public accountant, and submit a copy of the biennial audit report to the Supreme Court;
- (v) Receive, consider and take action on reports and recommendations submitted by committees, sections and the assembly of members of the association at any annual or special meeting;
- (vi) Fill vacancies, however arising, in the membership of the Board of Trustees, or in any office which may be vacant, including the office of President filled temporarily by the Chair of the Board of Trustees;
- (vii) Adopt policies, not inconsistent with the association's Constitution and these By-Laws, for the orderly administration of the association's affairs and activities;
- (viii) Report annually the financial status of the Bar to the Supreme Court;
- (ix) File with the Supreme Court in March 2012 and every three years thereafter a special report analyzing the dues structure in light of the Bar's responsibility to address the Bar's purposes enunciated in Supreme Court orders and in the Preamble to these Bylaws.

(b) When the Board exercises its power of appointment under subsection (a)(vi), the person appointed to fill a vacancy holds office at the pleasure of the Board of Trustees. In the exercise of this authority, the Board may call for a special election, to be held under procedures prescribed by the Board.

SECTION 5 - MEETINGS OF BOARD OF TRUSTEES

(a) The Board of trustees must hold a regular meeting each year at the time of the annual meeting of members of the State Bar and approximately every three months thereafter on dates set by the Executive Committee.

(b) Special meetings of the Board may be held at any time upon call of the President, call of the Executive Committee, or called by the President upon written requests signed by five members of the Board. Notice of the time and place of regular and special meetings of the Board must be given to each member by the Executive Director by mail, email or telephone at least two days before the meeting. At any regular or special meeting of the Board any business may be transacted that is within the power of the Board, whether or not specified in the call or notice of the meeting. Action of the Board may also be taken by mail, email, or telephone vote.

(c) A majority of the Trustees constitutes a quorum.

(d) The Executive Director must publish a summary of the minutes of each meeting or of any mail or telephone action of the Board of Trustees in *The Montana Lawyer* magazine with a notation that any interested person may obtain a copy of the minutes of the Board or Executive Committee meeting upon request to the State Bar.

(e) Any member of the State Bar may attend any regular meeting of the Board of Trustees.

SECTION 6 - COMPENSATION

The members of the Board of Trustees receive no compensation for services to the association, but they may be reimbursed for necessary expenses incurred in the performance of their duties.

SECTION 7 - EXECUTIVE SESSION

The Board of Trustees may hold closed or executive sessions if the presiding officer determines that:

- (a) The matter(s) involves issues of individual privacy; or
- (b) The matter(s) would have a detrimental effect on the litigating position of the State Bar.

The presiding officer's determination may be overruled by a majority vote of the full Board. The Board of Trustees may not take formal action during executive/closed session.

ARTICLE IV EXECUTIVE COMMITTEE

SECTION 1 - MEMBERS; SELECTION

There is an Executive Committee consisting of the President, President-Elect, the immediate Past-President, the Secretary-Treasurer and the Chair of the Board of Trustees.

SECTION 2 - POWERS AND DUTIES

The Executive Committee manages the State Bar of Montana and makes ministerial decisions necessary to implement the policies of the Board. The Executive Committee is not authorized to initiate the taking of any referendum or poll of members of the association.

The Executive Committee must prepare an annual budget for submission to the Board of Trustees, and performs such other duties prescribed by the Board of Trustees.

SECTION 3 - MEETING; QUORUM

The Executive Committee meets at the call of the President, or at the call of the Executive Director, or upon written demand of at least three of its members. All members of the Executive Committee must be given at least 48 hours notice by mail, email or telephone, of the time and place of any meeting. Three members present at a meeting constitutes a quorum. Action of the Executive Committee may also be taken by mail, email or telephone vote. The Executive Director must post notice of all Executive Committee meetings and agendas on the State Bar of Montana's website. Any member of the State Bar may attend any regular meeting of the Executive Committee.

SECTION 4 - EXECUTIVE SESSION

The Executive Committee may hold closed or executive sessions if the presiding officer determines that:

- (a) The matter(s) involves issues of individual privacy; or
- (b) The matter(s) would have a detrimental effect on the litigating position of the State Bar.

The presiding officer's determination may be overruled by a majority vote of the Executive Committee. The Executive Committee may not take formal action during executive/closed session.

ARTICLE V AMERICAN BAR ASSOCIATION DELEGATE

ABA DELEGATE

(a) ABA Delegate. Any voting member who is a resident of Montana may be nominated as a candidate for delegate to the House of Delegates of the American Bar Association by a petition signed by not less than twenty-five active members. Nominating petitions may be filed with or mailed to the State Bar at least sixty days before the election date specified by the Board of Trustees. In the event that no member is nominated as delegate, the Board of Trustees must nominate one or more qualified candidates for the office. The delegate must be elected in the same manner as an officer of the Association, and the ballots must be mailed, returned, and canvassed in the same manner as provided for the election of trustees. The term of office of the ABA delegate is two years, and elected in even years.

(b) ABA Young Lawyer Delegates. The Board of Trustees may appoint a qualified member to the position of "ABA Young Lawyer Delegate" to the House of Delegates of the American Bar Association. A qualified member is any voting member who is a resident of Montana and was admitted to his or her first bar within the past five years or is less than 36 years old at the beginning of his or her term. The Board may make such appointment upon nomination by the New Lawyer Section. The Board will confirm the appointment of the young lawyer delegate. In the event that no member is nominated as young lawyer delegate by the New Lawyer Section as requested by the President, the Board of Trustees may solicit and appoint a qualified member to the office. Prior to appointment, the Board will discuss, develop and approve the mechanism for funding the position's anticipated travel and

lodging costs. The term of office of the ABA young lawyer delegate is two years and, beginning at the conclusion of the State Bar Annual Meeting in 2017, nominated and selected in odd years.

ARTICLE VI EXECUTIVE DIRECTOR

EXECUTIVE DIRECTOR

The Executive Director of the State Bar is the chief executive officer and manager of the administrative staff and is in direct charge of the State Bar office, its records, property and equipment. The Executive Director is hired by the Board of Trustees under terms of employment and compensation fixed and reviewed annually by the Executive Committee. Subject to the general control of the officers, Executive Committee, and Board of Trustees and as appropriate and consistent with the requirements of this constitution and the by-laws, the Executive Director must:

- (a) Attend meetings of the Executive Committee and Board of Trustees, and keep and disseminate the minutes of such meetings.
- (b) Collect, deposit and disburse the association's funds pursuant to the budget, and invest surplus funds at the direction of the Executive Committee.
- (c) Maintain membership lists, and member files.
- (d) Advise and assist the officers, trustees, sections and committees.
- (e) Make the arrangements for association meetings.
- (f) Perform such other duties as may be directed by the Board of Trustees or officers, or as prescribed by the State Bar's constitution or by these by-laws.

ARTICLE VII MEETINGS OF THE ASSOCIATION

SECTION 1 - ANNUAL MEETING

The State Bar must hold an Annual Meeting at a time and place as is designated by the Board of Trustees.

SECTION 2 - SPECIAL MEETINGS

Special meetings of the members of the State Bar of Montana may be held at times and places designated by the Board of Trustees. A special meeting may also be called upon a petition signed by not less than twenty percent of the active members of the State Bar of Montana.

SECTION 3 - NOTICE OF MEETINGS

The Executive Director must provide all members of the State Bar at least fifteen days notice for all special meetings of the State Bar of Montana and at least sixty days notice for the annual meeting of the State Bar of Montana.

SECTION 4 - POWERS OF ANNUAL MEETING

At any annual or special meeting of the State Bar of Montana the members present constitute a quorum. By a majority vote of those present, the members may modify or rescind any action or decision of the Board of Trustees and may also instruct the Board as to future action and the Board shall be bound by any such action. The right to direct, modify or rescind an action of the Board does not include the power to invalidate payments previously made under the direction of the Board.

SECTION 5 - RESOLUTIONS

The Board of Trustees must adopt Policies for the submission and adoption of Resolutions by the State Bar. The Policies may provide for the adoption of Resolutions by mail ballot, electronic voting, vote of members present at an Annual or Section meeting of the State Bar, or by any other means that the Board determines to be appropriate.

SECTION 6 - CONFERENCE FOR MEMBERS

At each annual meeting the agenda for the Board of Trustees will include a time and place at which any member of the State Bar shall have an opportunity to confer with the Board and present any complaints or suggestions for the improvement of the State Bar.

**ARTICLE VIII
STANDING COMMITTEES**

SECTION 1 - APPOINTMENT AND REMOVAL

(a) Appointment and Term. The members of each standing committee are appointed by the President for a term of three years, so arranged that the term of office of only one-third of the members expires in any year. The chairman of each committee is designated by the President for a term of one year. A vacancy in any committee must be filled by appointment by the President for the unexpired term. Members of committees serve until the appointment of their respective successors. A majority of the members of any committee constitutes a quorum for the transaction of business. Each committee must keep a record of its meetings and proceedings and submit an annual report to the Board of Trustees. The Board of Trustees may assign powers or duties to any standing committee in addition to those initially prescribed for the committee.

(b) Removal. If any member of a standing committee is absent without excuse at two consecutive meetings of the committee, the member's position on the committee is vacated. The chair of the committee must report the absences to the President. The President must notify the member of his or her removal from the committee, and appoint a replacement for the balance of the term of office. The President may also remove a committee member for good cause stated in a written notice to the removed member.

SECTION 2 - COMMITTEES CREATED

The Board of Trustees, by majority vote, may create standing committees of the State Bar and prescribe their powers and duties.

SECTION 3 - Ad Hoc COMMITTEES

The Executive Committee may create ad hoc committees of the State Bar and prescribe their powers and duties.

SECTION 4 - EXPENSES

The members of standing committees receive no compensation for services to the association, but they may be reimbursed for necessary expenses incurred in the performance of their duties.

**ARTICLE IX
SECTION ORGANIZATION AND ACTIVITIES FOR
LAWYER MEMBERS**

SECTION 1 - ESTABLISHMENT OF SECTIONS

(a) The Board of Trustees may establish, consolidate, rearrange, and discontinue sections. The Board of Trustees, upon application, may establish a section dedicated to a field of law not committed to any other section or withdrawn from an existing section. The Trustees may discontinue a section, but only after notice by mail to the members of said section with an opportunity for section members to comment.

(b) An application to the Board of Trustees for establishment or amendment of a section must set forth:

- (i) The field of law to which the existing or proposed section is to be dedicated, which must be within the purposes of the State Bar;
- (ii) A statement of the need for the proposed action;
- (iii) The proposed by-laws or by-law amendments for the government of such section;
- (iv) The name of the several committees, if any, of the proposed section;
- (v) A list of members who have signified their intention of applying for membership in the proposed section or a statement by existing members indicating their approval of a consolidation or amendment.

SECTION 2 - MEMBERSHIP OF SECTIONS

All members are entitled to enroll in any section upon application and payment of appropriate dues.

SECTION 3 - SECTION OFFICERS AND COUNCIL

Each section must have a chair and council and such other officers as the section bylaws may provide. The council of a section consists of the officers ex-officio and such other members as may be provided in

the by-laws. No change in the by-laws of any section is effective until approved by the Board of Trustees.

SECTION 4 - SECTION DUES

The members of any section may be required to pay section dues in such amount and for such purposes as the section, with the approval of the Board of Trustees, may determine. The dues must be paid to the State Bar office.

SECTION 5 - SECTION MEETINGS

The officers and council of each section may arrange for meetings of the section at such times and places as the council may determine.

SECTION 6 - REPORTS

Each section will submit to the Board of Trustees an annual written report of their activity, specifically including the names of newly elected officers.

SECTION 7 - EXPENSES

Expenditures out of the dues of sections may be made only by direction of the council of the section. The members of sections receive no compensation for services to the association, but the officers and directors of sections may be reimbursed for necessary expenses incurred in the performance of their duties.

**ARTICLE X
PARALEGAL SECTION ORGANIZATION AND ACTIVITIES**

SECTION 1 - MEMBERSHIP

There is a paralegal section of the State Bar of Montana. Any member of the State Bar may be a member of this section. Any paralegal who satisfies the membership requirements of the paralegal section By-Laws may join this section.

SECTION 2 - SECTION ORGANIZATION

The paralegal section must be organized according to its By-Laws.

SECTION 3 - SECTION DUES

The members of the paralegal section will pay dues in such amount as the Board of Trustees determines. The dues must be paid to the State Bar Office.

SECTION 4 - SECTION MEETINGS

The officers and council of the paralegal section will meet during the Annual Meeting. The section council officers may schedule and hold special meetings at other times as provided in the bylaws.

SECTION 5 - EXPENSES

Expenditures out of the dues of the paralegal section may be made only by direction of the council of the section.

SECTION 6 - SELF-SUPPORTING

The paralegal section must require payment of dues by its members in an amount sufficient to pay all of the expenses of the section.

**ARTICLE XI
LAWYERS' FUND FOR CLIENT PROTECTION**

The Board of Trustees must establish a Lawyers' Fund for Client Protection and provide rules of procedure for its administration. The Board may purchase a bond for additional client protection.

**ARTICLE XII
OFFICIAL PUBLICATION: NOTICE TO MEMBERS**

SECTION 1 - THE MONTANA LAWYER

The Montana Lawyer and the website www.montanabar.org are the official publications of the State Bar of Montana. All official notices must be published in *The Montana Lawyer* and posted on the website, and such publication constitutes notice to all

members. *The Montana Lawyer* must be sent to members electronically or mailed to all members at their address of record.

SECTION 2 - AUDIT PUBLICATION

At the conclusion of each audit or review of the financial records of the Association, *The Montana Lawyer* must include a notice that copies of the audit or review are available to interested members.

ARTICLE XIII REFERENDUM PROCEDURE

SECTION 1 - TRUSTEES MAY INITIATE

The Board of Trustees may, by affirmative vote of two-thirds of its membership, refer any question of association policy to its members by mail or electronic ballot.

SECTION 2 - ANNUAL OR SPECIAL MEETINGS MAY INITIATE

Members may, at an annual or special meeting, vote to approve or disapprove any action of the Trustees regarding changes in association policy, the constitution or bylaws, by affirmative vote of a majority of those voting. Such a resolution of members may also be submitted and voted upon electronically.

SECTION 3 - MEMBERS MAY INITIATE BY PETITION

Members may petition the association for a change in association policy, constitution or bylaws. If members submit a petition signed by not less than ten percent of voting members, the requested action or resolution will be submitted to a vote of all voting members.

SECTION 4 - PROCEDURE

Mail or electronic ballots for use in any such referendum must be prepared, distributed, returned and canvassed in accordance with regulations prescribed by the Board of Trustees. The result of the referendum, when determined, must be published by the Board of Trustees in *The Montana Lawyer*, and controls the action of the association, the Board of Trustees, the officers, sections and committees.

ARTICLE XIV RULES OF PROFESSIONAL CONDUCT

RULES OF PROFESSIONAL CONDUCT

The rules of professional conduct approved from time to time by the Supreme Court are the standards governing the practice of law in this state.

ARTICLE XV AMENDMENT

SECTION 1 - AMENDMENT OF BY-LAWS

These by-laws may be amended or repealed at any meeting of the Board of Trustees provided notice setting forth the proposed amendment must be given to all Board of Trustee members in the notice of the meeting. These bylaws may also be amended by members as provided in article XIII, section 3.

SECTION 2 - AMENDMENT OF DUES ASSESSMENT

Annual membership dues are set in the sole discretion of the Supreme Court. The Bar acknowledges that in its Opinion and Order In re the Petition of the State Bar of Montana for a Dues Increase, 2001 MT 108, 305 Mont. 279, the Court declared its intention to implement future dues changes only after giving the Bar membership notice of the proposed change and a ninety-day period to comment on the proposed change.

Amended May 21, 2016