

# The CBA's Restructuring Journey

BY CHARLIE WILLMAN



While attending various bar leadership training programs, including the National Conference of Bar Leaders and the ABA's Bar Leadership Institute, I learned that many state bar associations are either in the process of examining their governance structures, or have already amended their governance structures, with the goal of creating a more effective and responsive leadership. While specifics varied from bar to bar, many of the associations noted plans to both (1) create a smaller governing body to promptly and effectively meet the needs of the association, and (2) create one governing body (rather than two or more) to make decisions for the association.

A 2023 report by McKinley Advisors summarized the rationale for this type of strategic restructuring:

Tackling the hard work of reinventing governance now is sure to reap dividends, enabling leaders to navigate the changing landscape more nimbly. Systemically building strategic agility into governance structures will enable associations to evolve to meet the shifting needs of members, attract the next generation of leaders and achieve greater mission impact.<sup>1</sup>

With these goals in mind, the CBA is in the process of determining whether it is time to embark on its own restructuring journey. This month's message explains where we are in the process and what happens next.

### The Current State of the Association

The CBA Bylaws (bylaws) were last amended in October 2024 but have been in place since the CBA was formed in 1897.<sup>2</sup> While most state bar associations have mandatory membership, membership in the CBA is voluntary. The CBA has approximately 17,000 members and an annual budget of \$4.1 million. For most of its existence, the CBA was primarily managed by its board of governors, but the board of governors has more recently delegated the primary management of the CBA to the executive council. The board of governors is comprised of approximately 155 to

160 members and meets twice annually—usually in October and June. The executive council has 26 members and meets every other month.

The general powers of the board of governors are established in section 5.1 of the bylaws, which states:

- The board of governors is the CBA's board of directors.
- The corporate authority and powers are delegated to and exercised by the executive council as the organizational leadership body of the board of governors.
- The individual members of the board of governors primarily serve as ambassadors and conduits of communication between the CBA and its members.
- The board of governors retains the governance power and authority specified in the bylaws, including the power and authority reserved by section 6.1 of the bylaws.
- The board of governors may refer to the general CBA membership (for action pursuant to section 4 of the bylaws) any matters it considers necessary or appropriate.

The general powers of the executive council are set forth in section 6.1 of the bylaws, which states:

- All CBA corporate powers are exercised by or under the authority of the executive council, except as otherwise provided in the bylaws.
- All business and affairs of the CBA are managed under the direction of the executive council, except as otherwise provided in the bylaws.
- Referral of a matter to the board of governors nullifies the action taken by the executive council on the matter.
- The executive council has no power or authority with respect to (1) amending the bylaws or the CBA Articles of Incorporation; (2) any matter as to which the board of governors, by resolution, restricts the authority of the executive council; (3) any matter that the president refers to the board of governors before executive council action on the matter; and (4) any matter that any three members of the executive

council, by affirmative vote at an executive council meeting and notwithstanding a larger negative vote by other members of the executive council, refer to the board of governors before adjournment of the meeting at which the executive council takes action on the matter.

As many of you may recall, the CBA lost three of its leaders in February 2024, and conflict arose among the members of the executive council on how to best move forward. These matters were referred to a special meeting of the board of governors on May 16, 2024. At that meeting, several committees were formed, including (1) a Bylaws Committee to examine the existing bylaws with an eye toward restructuring the CBA's governing structure; (2) an Internal Relations Committee to review and develop policies and procedures regarding the working relationships between the CBA, the DBA, and CBA-CLE, and to recommend revisions to the CBA's bylaws to facilitate cooperation between the three organizations; and (3) a committee to assist and advise the Joint Management Committee regarding the terms and conditions of the CBA executive director's employment. Since that time, it has been determined that the third committee should be merged with the second committee, as their work is similar. Thus, most of the restructuring groundwork will be carried out by the Bylaws and Internal Relations committees.

As noted in last month's message, I'm working closely with the Bylaws Committee and have asked them to specifically consider (1) whether the CBA should adopt a more traditional board of directors that meets on a regular basis with the executive director and CBA sections and committees to review and make decisions regarding operations and finances, and (2) whether the CBA should reduce the size of the current executive council for this new board of directors to help it more effectively manage the CBA's operations. To date, the Bylaws Committee has only met on a few occasions, but things are ramping up. Since assuming my presidency, and after consulting with DBA President Danaé Kinnett, I have elected to reappoint the past members and have appointed several new members. The committee will now examine

the structure of the CBA and review and make recommendations for revisions to our bylaws by mid-October, with the intention of presenting these recommendations to the board of governors at its next meeting on November 5, 2025. The Internal Relations Committee will be carrying out its own assessments in the coming months.

### **Why Consider a Restructure?**

Restructuring is not an attempt to disenfranchise any local bar or any other entity that appoints members to the board of governors or executive council. Rather, the CBA is striving to improve operations and clarify responsibilities in a few key areas.

### *Ensuring Fiduciary Duties Are Met*

All members of nonprofit boards of directors have fiduciary duties to the organization to provide effective and timely direction, to ensure the organization remains economically viable, and to allow the organization to timely and effectively meet the needs of its members. The CBA operates under the day-to-day leadership of the executive director, Nicoal Sperrazza, and the CBA staff. While a larger governing board allows for direction from many different sources, a smaller board of directors, in my view, would allow the governing board members to be more fully engaged in the operational needs of the CBA and would allow the board to provide clear direction to Sperrazza and her staff on a regular basis.

In addition, updated guidance on various processes and procedures is needed to enable the organization to run more efficiently. For example, our existing bylaws fail to clearly provide for procedures for calling meetings, for determining whether there is a need for an executive session, and for timely, remote voting between meetings, as well as a host of other internal decision-making procedures for the executive council and the board of governors.

### *Clarifying Relationships Between the CBA, DBA, and CBA-CLE*

There is also a pressing need to create written agreements between the CBA and CBA-CLE, and between the CBA and the DBA. While

CBA-CLE operated under the direction of the CBA for years, it is now an independent corporation with its own board of directors and is designated as a “supporting organization” of the CBA under IRS regulations. It also has its own executive director, Dan Sweetser, whereas Sperrazza is the executive director for both the CBA and DBA. All three organizations share office space and some staff. While there has been an unwritten sharing of costs and staff, this can lead to internal operation problems from time to time. Late in 2023, under the direction of the then CBA president, efforts were started to create this structure. Some progress was made, but more work is needed. The Internal Relations Committee is leading these efforts and

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will be working with the Bylaws Committee to create a clear organizational structure for the sharing of duties and expenses between the three organizations.

### *Clarifying the Role of the JMC*


Finally, there is a need to review the role of the Joint Management Committee (JMC). Section 7.2 of the bylaws grants the JMC the responsibility to appoint the executive director “at the will of the [JMC] and at such compensation and under such insurance as the [JMC] may determine.” Thus, JMC members—who may or may not also be on the executive council—make financial and operational decisions for the CBA, which can lead to potential conflict of interest

issues. Further, the duties of the JMC listed in its definition in the bylaws state:

[The JMC] makes studies and recommendations on all issues involving the joint operation of offices of the DBA, CBA, and CBE-CLE, including staff salaries and fringe benefits, division of costs, transfers of assets between the organizations, office policies and procedures, and related matters, as well as any special issues referred to it by the President, governing board, or executive council or executive committee of any of these organizations. Any such studies or recommendations are subject to approval by each organization’s board.

In addition to the above abrogation of the duties of the executive council, the description of the JMC is somewhat at odds regarding the extent of the joint operations of the three organizations. Moreover, CBA-CLE is granted membership on the JMC even though it essentially operates independently of the CBA and DBA. To fulfill their fiduciary duties, the CBA, DBA, and CBA-CLE need a joint management structure by written agreement that allows for important recommendations to be made by the board of directors of each organization, enabling each to make independent decisions in the best interest of that body. As noted above, the Internal Relations Committee has been tasked with providing clarity and direction on these issues.

### **A Final Note**

While I have my own opinions, these restructuring decisions are best left to the work of the two committees as described above. These committees should not represent just my view but incorporate all their findings to best serve the interest of the CBA. As always if you have comments, criticisms, or other thoughts you would like to share, please send me an email at [president@cobar.org](mailto:president@cobar.org). 

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### **NOTES**

1. “Next-Level Governance: Leading with Strategic Agility” (McKinleyAdvisors 2023).
2. The CBA Bylaws can be found at <https://www.cobar.org/About-the-CBA/Governance>.