

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
REMOTE
November 19, 2020
MINUTES

Present for all or part of the meeting were:

Daniel E. Will
Richard Guerriero
Robert R. Howard, III
Cathy Shanelaris
James Shepard
Lisa M. English
Jason B. Dennis
Jesse W. Friedman
Leslie M. Leonard
Joseph D. Steinfield
Scott J. Whitaker
Marcie A. Hornick
Leslie C. Nixon

Donald H. Sienkiewicz
Susan Aileen Lowry
Christopher T. Regan
Geoffrey M. Gallagher
Heather A. Cherniske
George R. Moore
Joanne Hinnendael
Lynne Sabeau
Paula Lewis
Ginny Martin
Deborah Hawkins
Allison Borowy
Michael Iacopino

A Go to Meeting notice reminder, a link to the agenda and related materials were emailed to all Governors on November 13th. The agenda is duplicated below in the order of consideration of agenda items. Unless otherwise noted, all motions reported are deemed to have been appropriately proposed, seconded and voted upon by those present.

A. Call to Order

Dan Will

President Dan Will called the meeting to order at 4:04.

REGULAR BUSINESS – CONSENT ITEMS

B. Membership Status Changes for October 2020

Paula Lewis

ACTION

On motion to accept member status changes as presented. Passed unanimously.
They are attached as a permanent part of these minutes.

C. Draft Minutes

1. Minutes of October 15, 2020 Meeting

Robert Howard

2. Minutes of October 30, 2020 e-meeting

ACTION

On motion to approve minutes as presented. Passed unanimously, with one abstention from October 15 minutes only (Susan Aileen Lowry).

PRESENTATION / DISCUSSION / ACTION ITEMS

D. Nomination of Sandra L. Cabrera for 2020-2021 President-Elect

Dan Will

(As called for by NHBA Bylaws Article 6, Section 3: On or before December 31st in each year, the members of the Board of Governors shall nominate a candidate for President-Elect.)

ACTION

On motion to nominate Sandra Cabrera for 2020-2021 President-Elect position, made by President Dan Will. Passed unanimously

E. NHBA Legislation Program and Lobbyist Role

Michael Iacopino

President Dan Will introduced Mike Iacopino, NHBA Legislation Committee Chair, who joined the meeting to discuss the NHBA legislation program.

Chair Iacopino shared with the board the importance of the lobbyist position for the Legislation Committee. He believes that this year is going to be crazier than usual due to the pandemic and truncated 2020 session. The lobbyist works to sift through and identify which bills will be of interest to the bar association, as well as being the face of the NHBA at the legislature. They provide needed information on pending bills. Our present lobbyist, John MacIntosh, Esq., has also been of great counsel regarding the implications of the Chapman and Keller constraints regarding the bar associations lobbying activities. John's retirement is a large loss to the committee. Mike said, as chair, he is interested in finding someone that has John's attention to detail and work ethic. He told the board that we have an experienced core group on the committee, which is large. Staff support has been excellent.

Chair Iacopino would like to see the legislation program continue to work this way for the NHBA. He believes this helps board and membership at large. He added that the committee from time to time communicates with NHBA Sections that have interest in legislation. Mike encourages the board to fill the position. It would be great to have someone with John's insight to fill the position.

President Will said we have had John as our lobbyist for years. In the last few years, some board members have questioned if we needed this function, particularly at the price to have a dedicated lobbyist. He says this is a good opportunity to ask Mike questions regarding the program. Dan spoke in support of the current process, and thinks it is important that we have a lobbying presence in the legislature.

There was discussion about hiring a lobbying firm versus a sole lobbyist. Mike responded that having a dedicated lobbyist is a luxury. He concurs that the preference is to have a dedicated lobbyist – but if the bar hires a lobbying firm that would work. It was noted that the danger when hiring someone with other clients is that the lobbyist could be pigeonholed due to the other clients they represent.

Not only does the lobbyist help the Legislation Committee, but they help the board as well, by communicating the voice the board wants presented to legislators at the statehouse.

Executive Director George Moore stated that the Dispute Resolution Committee (DRC) would like to approach the NH Supreme Court Rules Committee and request the same exemption from mandatory reporting to the Attorney Discipline Office (ADO) under rule 8.3 that is granted to the NHBA Ethics Committee members and volunteers for the New Hampshire Lawyers Assistance Program (NHLAP). The DRC is looking for board support of this request. It is important to have this shield for DRC, as the most common dispute is between lawyer and client. It is in the bar's interest to have these disputes resolved. This is a free service. This protection would enhance the committee's function.

There was discussion about what prompted this request. Committee Liaison Allison Borowy responded that the committee began discussions about this a year ago due to a concern that at present, they would have to report things to the ADO in the course of doing their business.

Sullivan County Governor Geoff Gallagher, who also serves on the NHBA Ethics Committee spoke about this rule from the perspective of that committee.

Information was shared about what happens when a professional conduct violation comes up in the course of working on a dispute. The process stops immediately, the case ends, and a recommendation and information about further non-bar options, including contact information for the ADO is then sent to the client. George added that in this case the dispute does not get resolved, and the case is closed.

There was further discussion about implications if there are professional conduct issues that need to be reported to the ADO, and whether this exemption would in all circumstances prevent a DRC committee member from making a report where appropriate. President-Elect Richard Guerriero stated that in his reading of the rule, there is nothing that should prevent them from reporting, but they would not get in trouble for not reporting a possible violation.

Several board members felt the requested exemption is a little different than the other two exemptions – as there is already a dispute between an attorney and a member of the public that has been brought forward.

It was decided that DRC Chair Charlie Bauer, as well as Brian Moushegian from the ADO will be invited to have a discussion with the board on this issue before there is a vote. Board members also requested that information on the DRC process be distributed as part of the background materials when this item is on the agenda.

The decision was tabled until the next board meeting. Executive Director George Moore will contact DRC Chair Charlie Bauer and Brian Moushegian from the ADO and invite them to the December board meeting.

G. Discussion of LARC/Pro Bono Merger and MOU with NHBA

George Moore

Executive Director George Moore brings this item as information only to the board. He spoke about the year-long work that has occurred on this initiative. The newly created organization would handle all requests for civil legal services, as a call center and clearing house to distribute cases to all the legal services organizations. This item is to give the board a heads up that he believes this work will result in a merger of LARC and the NH Pro Bono Referral System. The planning group is currently working on a draft MOU with the NHBA for their continuing relationship. The goal date for the completion of the merger is June of 2021.

As a result of this merger, the current NH Pro Bono Referral System, currently located at the Bar Center will be part of a more freestanding organization. The new company will get funding from the LSC (Legal Services Corporation). Historically the NHBA has provided a lot of support both in-kind, and financial, for Pro Bono. We can all be proud of this and the work that Associate Director Ginny Martin has done over the years to build Pro Bono. Our relationship will continue through the MOU.

Those involved believe this will be a better, stronger organization. George expects to come to the board at the January or February board meeting with the MOU for consideration and approval. NHBA will continue to provide similar administrative support Pro Bono has enjoyed while at the Bar Center, but they won't be located in our space as they are now. Under the new agreement, there will not be accounting support that is provided now.

The bottom line is that this is the best interest of all involved, lawyers, the public, and those providing support.

Director Ginny Martin and Cathy Shanelaris, a member of the NH Pro Bono Referral System Board, and the state planning working group, commented that there are a lot of details yet to be worked out.

George added that Attorneys Alan Reische and Brad Cook, of Sheehan Phinney's corporate department are guiding us through the merger process on a pro bono basis.

H. Treasurer's Report

Peter Hutchins/Paula Lewis

Director of Business Operations Paula Lewis shared highlights from this report, distributed to the board with the materials for today's meeting. Overall, the finances are in good shape despite the effects of the COVID-19 pandemic.

Revenue is below budget by \$80,329. Shortfalls in CLE Revenue, Section Dues, Non-dues Revenue, Advertising and Professional Announcement sales comprise the majority of the variance in addition to lower than expected Lawyer Referral Service Percentage Fee receipts which may be related to lower referrals received due to the COVID-19 pandemic.

Expenses are below budgeted by \$177,228 and are the reason the financial statements are reporting a positive bottom line year to date. Savings in personnel costs were experienced as attrition of staff that were not replaced earlier in the year when COVID cases were at their highest. NHBA has now filled those positions. Additionally, some NHBA staff are currently supporting the NH Bar Foundation and

their costs are being charged to the organization for which they are working, the NH Bar Foundation. Savings in event costs including Facilities & Meals, Publicity & Advertising and Professional Speaker & Faculty Expenses have helped the bottom line remain positive. Other savings has been experienced due to ABA, NABE and other organizations offering virtual conferences in lieu of in-person attendance.

Paula noted that the Pillsbury Condominium Association has used up their reserves, so if a building repair is needed, we may have additional unbudgeted expenses, as these costs are typically shared by the businesses in the building.

George added that this has been a very challenging budgeting year. We thought we might take a hit to revenue. But as we go forward, there are things that we budgeted for that we aren't doing but we are also doing things that we hadn't counted on. For example, we will not be spending money on national meetings, but have bought a virtual platform to be used for midyear meeting.

Legal Services Director Ginny Martin discussed NH Pro Bono Referral System finances. There was some concern about a shortfall since the golf tournament, an important fundraiser, was cancelled due to COVID. However, the dues check off raised \$10,000 more than anticipated. Ginny thanked George for his letter urging members to contribute. She noted that more money was received from the Legal Services Corporation which was focused on COVID response. The violence against women grant was also amended and more money was received.

Paula stated that the NHBA will continue its conservative posture regarding expenditures as COVID experts are saying it may be 2022 and the economic effects will still be felt.

I. Confirmation of Dues Waiver Rule Modification

George Moore/Paula Lewis

George spoke about this. At the last board meeting, the board voted to amend the dues waiver procedure to allow the committee's decision to be final but establishing an appeal process to the executive committee. Paula incorporated this in the redline change document that was distributed to the board for today's meeting. A few minor grammar changes have been pointed out and will be incorporated.

There were no additional comments from the board.

J. Waiver Ground Rules Modification – Delinquency Charges

Geoffrey Gallagher

Geoff spoke about his proposal. He had recently been involved in the review of a denied waiver request. It seemed to him that the standard that was being used when a member is only asking for a waiver of delinquency fees was too strict. He thinks there should be a little more give when reviewing payment of delinquency fees for someone who through no fault of their own missed the deadline, but then paid their dues. Geoff drafted a standard for these cases which was distributed to the board with today's materials.

After some discussion, during which varying opinions were expressed, it was decided the best way forward is to table the proposal for now, with the understanding that the members of the dues waiver committee will review it and explore the options, taking the board members comments into consideration.

President Dan Will thanked Geoff for bringing this issue up for board member consideration.

Executive Director George Moore asks that if other board members have comments to share, they can send them to Dan or George, and they will forward them to the committee.

K. President's Report

Dan Will

1. ABA Bar Association Delegate Appointee

Dan stated this is still in process, and he has no update at this time. He will have one at the next meeting in December.

2. Status Update on Diversity

Dan is glad to say this committee is officially launched. Talesha St. Marc is the chair. Other members are Sandra Cabrera, Hon. Susan Carbon, Heather Cherniske, Jason Dennis, Maya Dominguez, and Mary Tenn. He is hoping to have Talesha report to board from time to time.

L. Executive Director's Report

George Moore

1. Update on Mid-year Meeting

The advertising copy was distributed with the board materials. George stated that we are thrilled to have noted constitutional law scholar Erwin Chemerinsky speak. His topic will be recent US Supreme Court decisions of interest to lawyers. Maggie Goodlander, of UNH Franklin Pierce School of Law will moderate the Q and A session. Her resume includes clerking for Judge Merrick Garland and Justice Stephen Bryer. There will be a 30-minute Q and A period following Chemerinsky's remarks. More specifics will be in the December Bar News and ebulletin. The meeting will be all remote, with a mix of prerecorded and live content.

2. Forum/Listserv complaint

The board received both the original complaint and George's response. George spoke about complaints received and the bar's response. He urges board members to pass on any info they are hearing from members about the forums. It is an ongoing issue for some members. The NHBA will be offering trainings for those using forums. Of the 13 people that signed the complaint, some have not used the forums at all. It was asked to whom board members should refer members that have questions about the forums. George responded that he can speak with these members, but it might be better for them to speak with Lynne Sabeau, Nancy Gross, or Dorene Hartford, as they are more involved and know the technology.

M. Old Business, if any

There was no old business to address.

N. New Business- Ethics Committee Request

Geoffrey Gallagher

Sullivan County Governor and Ethics Committee Member Geoffrey Gallagher brought this item to the board to seek permission for the Ethics Committee to approach the NHBA Sections for input on a draft document on client file retention guidelines that the committee is working on. The plan is to approach the chair and vice chair and section coordinator, and maybe attend a meeting for the input. The board is in support of this and think it is a good idea. Geoff will reach out to Jo Hinnendael to arrange contact with the Sections.

O. State Update

All Board Members

Board members are asked to report on issues of concern or interest for Association members that should be brought to the attention of the Board of Governors

Grafton County Governor Marcie Hornick shared information about the Commission to Address Childhood Hunger that she sits on as the board's appointee. The next meeting is scheduled for the end of November. The commission has drafted a memo to send to the governor; the bottom line is that the whole family must be wrapped up in any solution to this issue. She plans to share more information next month.

Marcie also shared news about The Friendship House, located in Bethlehem, which is a division of North County Health Consortium. The program is slated for closure next month. There is a group that has been trying to work on ideas to keep it open – working through Governor Sununu, and Senators Hassan and Sheehan.

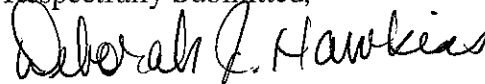
Leslie Nixon also commented on the homeless encampment in Manchester next to her office near the Hillsborough Superior Court, and the problems that it is creating. The problem is that the city can't do anything about it since it is state property. She has found needles and feces in her parking lot. What if anything can the bar do? It seems wrong that this isn't being addressed in a more proactive way. She says thoughts and suggestions are welcome.

George notes that this isn't a new problem, is a longstanding issue. When he practiced at Devine and Millimet, they had same issues with homeless people in Victory Park.

P. Adjournment

The November 19, 2020 Board of Governors meeting adjourned at 5:58 p.m.

Respectfully Submitted,



Deborah J. Hawkins for
Robert R. Howard, III, Secretary

| Membership Status Changes | |
|---|--|
| Presented to the Board of Governors November 19, 2020 | |
| <u>Active to INACTIVE:</u> | |
| 272821 | De Grim, Frank, Old Orchard Beach, ME (Effective October 15, 2020) |
| 17086 | Ahern, Christopher, Epsom, NH (Effective September 10, 2020) |
| 268175 | Wright, Ellen, Tewksbury, MA (Effective October 15, 2020) |
| 15586 | Holland, Lee, Maynard, MA (Effective October 12, 2020) |
| <u>Active to INACTIVE RETIRED:</u> | |
| 16220 | DiFruscia, Kathleen, Windham, NH (Effective November 10, 2020) |
| <u>Active to DECEASED:</u> | |
| 14604 | Hooper, Ashlie, Concord, NH (Effective October 22, 2020) |
| <u>Inactive to ACTIVE:</u> | |
| 266210 | Lieder Colliton, Caroline, Dorchester, MA (Effective November 9, 2020) |
| 16017 | Rossi, Lorraine, Middleton, MA (Effective November 10, 2020) |
| <u>Inactive to INACTIVE RETIRED:</u> | |
| 11849 | Sabatello, Alison, Medford, MA (Effective October 23, 2020) |
| <u>Inactive to RESIGNED:</u> | |
| 17756 | Sipos, Joseph, Newton, MA (Effective October 15, 2020) |
| <u>Inactive to DECEASED:</u> | |
| 379 | Arcidy, Louis, Bedford, NH (Effective November 19, 2019) |
| 8152 | DiLucci, Raymond, Concord, NH (Effective October 16, 2020) |
| 2810 | Bartlett, James, York, ME (Effective October 15, 2020) |
| <u>Inactive Retired to RESIGNED:</u> | |
| 9643 | Keith, Kathleen, North Andover, MA (Effective October 5, 2020) |
| <u>Honorary Active to HONORARY INACTIVE:</u> | |
| 2084 | Quinlan, Francis, Amherst, NH (Effective June 12, 2020) |
| <u>Suspended to ACTIVE:</u> | |
| 20386 | Mathews, Gordon, Keene, NH (Effective October 16, 2020) |

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|---------------------------------------|--|
| <u>Suspended to DISBARRED:</u> | |
| 17750 | Richey, Danielle, Conway, NH (Effective October 7, 2020) |
| | |
| <u>Resigned to DECEASED:</u> | |
| 6872 | McNally, W. John, Thetford, VT (Effective August 25, 2020) |