

NEW HAMPSHIRE BAR ASSOCIATION  
BOARD OF GOVERNORS MEETING  
Thursday, February 20, 2020  
Fratello's Italian Grill, Manchester, NH  
Meeting at 4:00 p.m.  
Dinner at 5:30 p.m.

**MINUTES**

Present for all or part of the meeting were:

Edward D. Philpot, Jr.	Donald H. Sienkiewicz
Daniel E. Will	John A. Curran
Richard Guerriero	Susan Aileen Lowry
Peter E. Hutchins	Christopher T. Regan
Robert R. Howard III	Geoffrey M. Gallagher
David W. McGrath	Jennifer Parent
Sandra Cabrera	Heather Cherniske
Jonathan M. Eck	Hon. James P. Bassett
Christine M. Hanisco	George R. Moore
Catherine E. Shanellaris	Joanne Hinnendael
Lisa M. English	Paula Lewis
Jason B. Dennis	Deborah Hawkins
James P. Cowles	John MacIntosh
Joseph D. Steinfield	Jack Crisp
Scott Whitaker	

A meeting notice reminder, a link to the preliminary agenda and related materials were emailed to all Governors on February 13<sup>th</sup>. Additional materials were provided on February 14<sup>th</sup>. 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 Edward Philpot Jr.

President Edward Philpot called the meeting to order at 4:00 p.m.

**REGULAR BUSINESS – CONSENT ITEMS**

B. Membership Status Changes for January 2020 Paula Lewis

C. Minutes of January 6, 2019 Meeting Robert Howard

**ACTION**

On Motion to accept the consent agenda. Passed. Unanimously.

**PRESENTATION / DISCUSSION / ACTION ITEMS**

D. Report from the Legislation Committee John MacIntosh

NHBA lobbyist, John MacIntosh, spoke about the process of reviewing legislation. He explained the different positions that are taken and explained the difference between the Information, Information

Positive, and Information Negative positions, and the history behind them. The legislation chart that the board received as part of their materials is sorted by position.

The Legislation Committee recommended a position of Support for one bill that is an overhaul of the probate process. They recommended the position of Oppose for three bills. Two of the three have been recommended ITL (Inexpedient to Legislate) as of this meeting. This year there is a comments section in the software which generally summarized the positions of the committee members.

John summarized the number of bills reviewed and what positions were recommended. There were eight Information Negative, one Information Positive, thirteen Information, one Support, three Oppose.

The board had expressed concern about HB 1157 – Relative to the liability of New Hampshire media. John let the board know that this bill has been voted Inexpedient to Legislate. The Legislation Committee took an Information position. John noted that it is within the board’s authority to take a different position on this bill, but the bill is dead. Many of the bills with an Information Negative position are dead, although many are still in committee. He noted that the legislature is aiming to be done with their work by May as this is an election year.

**ACTION**

On motion to adopt the positions of the Legislation Committee.

Passed: Unanimously.

E. Initiatives to Reestablish Professionalism Day George Moore

Executive Director George Moore is bringing this item to the board for information purposes. He has heard from the CLE committee, as well as the LRE committee about reestablishing this program. It wouldn’t necessarily need to be the same format as the former professionalism program of the NHBA. George invited the board to contact him with any thoughts they have about this. There will probably be a group that will be planning it. If any board members want to participate, please let him know. Ed also commented that people found it valuable in years past.

F. Draft Bar Policy for publishing non NHBA competing events George Moore

This was discussed at a past meeting. George asked Jen Pinckney to draft a policy in response to this discussion. The draft policy allows competitors to advertise in our outlets as long as their events don’t directly compete with NHBA offerings in the same time and place. For-profit providers must pay normal advertising rates. There was discussion about the non-compete parts of the policy. The NHBA is a private entity and therefore this restriction is allowable.

Jack Crisp shared his perspective of the importance of this policy as CLE chair. There was discussion about the amount of revenue the NHBA realizes from CLE. Clarification was asked for by Jonathan Eck regarding CLEs that are presented by local and county bars- if a fee is charged, under the policy, would they have to pay for the promotion?

There will be no vote today, the policy is in the discussion and comment phase. This will be on a future agenda for a vote.

CLE Director Joanne Hinnendael added that the NHBA currently sends out notices for the local county bars at no charge. She is not sure if we do so for the larger Manchester, Nashua or Salem bar associations. She adds that CLE pays for their ads in the Bar News, as do other legal organizations such as NHAJ (New Hampshire Association for Justice).

There were also questions about the meaning of 'close proximity' timing wise. It was suggested that perhaps the time limit should be defined more closely. Jo responds that she communicates with others about their events and works with Marcom to try to avoid conflicts.

Ed suggests everyone email their questions to George and the board will discuss again at the April meeting.

G. Judicial Nomination Process – Interim procedure discussion Edward Philpot, Jr.

Merrimack County Governor John Curran left the room at President Philpot's request. He has been nominated by the governor to the Circuit Court bench.

There is a subcommittee of the board currently working on revising the NHBA board of governors' judicial nomination process.

Sullivan County Governor and subcommittee chair Geoffrey Gallagher stated the governor nominated three individuals to the circuit court bench this week. Their public hearing date is March 11<sup>th</sup>. The subcommittee recommends that for now, the board should continue with the current process.

There was discussion about the process and timeline. The board requested that the nominee's applications be made available at the NHBA office as soon as they are received. It was agreed that the board would be notified so they could come in and review the information in advance of the meeting with the nominee. It was also agreed that staff would schedule the nominee to arrive a few minutes after the board convenes so that aren't left waiting around. The board felt this would be more respectful of the nominee's time.

The subcommittee will continue its work on the nomination process.

H. Introduction of Bar News Editor Scott Merrill George Moore

George apologized to the board that Scott was unable to attend this meeting due to a death in his family. He will be invited to the next board meeting. George spoke briefly about Scott's background and experience

I. LRE Standing Committee Proposal and Bylaws Change Edward Philpot Jr.

President Ed Philpot discussed this proposal, which was distributed in the meeting materials. He notes that NHBA involvement in LRE for 75 years can be documented.

Members of the committee are Chair Jennifer Eber, Allison Ambrose, Jack Crisp, Judge Martin Honigberg, Judge Landya McCafferty, Kaitlin O'Neil, Steve Scudder, Jim Steiner, Phil Waystack, and Howard Zibel, who wrote the proposal. All have been very active in LRE. The committee, supported by Ed, are looking to formalize the committee so that it becomes a standing committee of the NHBA. The purpose for this action is to enhance program continuity, support staff, more regular meetings and

participation among NHBA members. Current members have committed to staying on the committee. This committee currently participates in the statewide civics roundtable with other organizations, such as NH Public Radio, NH Historical Society, Citizens Count, NH Humanities Council and the NH Institute for Civics Education.

Ed shares that the LRE committee has activities around the anniversary celebration for the 19<sup>th</sup> amendment planned. This year's theme for ALIES (A Lawyer in Every School) is the 19<sup>th</sup> amendment. Ed spoke about the ABA travelling panels, which will be here from April 27<sup>th</sup> through May 8<sup>th</sup>. Watch the website for more information. The accompanying curriculum is up on ABA web site, and we will post it on the NHBA website soon.

These are the types of things the committee works on.

If the board agrees with this proposal, a bylaws change would need to go the full membership for a vote at the Annual meeting.

There was discussion about any possible downside to this proposal. The only one might be that we create a committee and it becomes inactive down the road.

George spoke to this. He feels the people on this committee will be active. LRE is a great vehicle to get young lawyers involved and actively engaged in the NHBA. He supports it and sees virtually no downside. There have been five separate iterations of committee since 1988. Ed has been involved since 1987.

Others stated that this is very important and shocked that it hasn't happened before now.

#### ACTION

On motion to make the LRE to become a standing committee of the NHBA.

Passed. Unanimously.

#### J. President's Report

Edward Philpot Jr.

##### 1. Request for formation of Appellate Law Section

Ed stated there has been a request to create an appellate law section. He feels this section would dovetail with the federal practice section. There seems to be a lot of interest among lawyers for this section. Doreen Connor, who represents civil attorneys and Lisa Wolford who represents criminal attorneys have agreed to work on the petition for creation of this section.

Ed stated that the discussion of the public sector law section revitalization will be discussed at the April meeting. Lisa noted that the part of this proposal is waiving the fee, and the group was given a deadline of May 6, 2020 for action. She is concerned they won't be able to meet this deadline. Ed responded that the board will also consider pushing out the deadline as well as reviewing the proposal. This will be on the agenda for the April meeting.

### 1. Report on Affinity Partners testing of Identillect Services

George stated that we asked the Tech Connect/Affinity staff to do some beta testing on the product. Member Services & LPM Coordinator Laura Keeler has tested it as well. George participated in a conference call last week with Affinity and they endorsed the product. There had been a question about CJIS (Criminal Justice Information Services) compliance from Sullivan County Governor Geoffrey Gallagher. The organization believes they are compliant with all CJIS requirements; however, they are not certified because the certification process costs millions of dollars. George checked with other bars, and this lack of certification doesn't cause a problem with them. Identillect is willing to talk about concerns members may have about this.

George has the contract on his desk, and we are in process establishing a relationship. There will be a 25 – 28%-member discount based on this relationship. The NHBA is not paying for it. Identillect will get an endorsement, and our members will get a discount. It is geared at solo and small firm practitioners. Identillect will provide some webinar trainings as part of the agreement. We have had a lot of questions from members about encryption. George doesn't see any reason not to do it. There will be an article in the next Bar News announcing the relationship.

George notes it won't work if using Microsoft on an Apple device, no products will. There are more robust products out there, but they are much more expensive.

There was discussion about the process when the company is subpoenaed. He checked with Arkansas bar, which only had two instances of being subpoenaed. There were no issues.

### 2. Board nomination update

George reviewed which seats for which we have not received petitions. The deadline is March 1<sup>st</sup>.

### 3. Closing Law Practice Pamphlet and CLE

George has written this pamphlet. It has been vetted by ADO and the NHBA Ethics Committee. He has added some suggested best practices. Some states, such as Maine, have created requirements for practice closing by mandatory court rule. The NHBA often fields phone calls from clients of attorneys who are no longer practicing.

George invites anyone that would like to review the draft to let him know. The plan is to post the final product on the website with useable templates, as well as make hard copies available. He hopes to have it ready in the next few weeks.

There will be CLE on April 3<sup>rd</sup> on this topic chaired by Russ Hilliard entitled *Best Practices for Closing a Law Practice*.

Ed commented that this is an expansion of the checklist developed a few years ago by a subcommittee of the board, led by Lanea Witkus.

- L. Old Business – Board subcommittee report on HB 1693- An Act extending the committee to study whether non-attorney legal professionals could be licensed to engage in the limited practice of law.

Governors Chrissy Hanisco, Richard Guerriero and Cathy Shanellaris have been working to gather information about this bill in order to advise the board on what, if any position should be taken. They prepared a brief survey and sent it to the NHBA family law section. The results showed overwhelming disagreement with licensing non-attorney legal professionals – 82% (57 people) strongly disagreed or disagreed. It was a four-question survey. The subcommittee also asked if the Legislature should create a court navigator program. About 80% disagreed with this option as well.

Chrissy updated the board on legislative action. The current bill is to extend the study committee; it is expected to pass. No further activity by the study committee will happen until after May. Cathy will put together a written report with survey results and send it out to the board.

President Philpot added that he just returned from the National Conference of Bar Presidents meeting where this topic was discussed. There was an interesting discussion about the economics involved. He also shared that he testified at an earlier legislative committee hearing that the Bar Association believes moving in this direction would require a lot of study.

Cathy will send links to the actual legislation with her report. The State of Washington currently has a program in place.

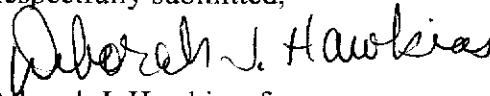
Justice Bassett shared that he recently attended a judicial meeting where this was a major topic of discussion. Legal “navigators” are also being discussed at the NH Access to Justice Committee. There is a 2019 published report from Georgetown that reviews navigator models, which will be looked at by this Access to Justice Committee. Chrissy said they circulated this report with the survey to the family law section. There are a wide variety of ‘navigator’ models. The question about this is cost – who is going to pay for it. Washington model is very different with licensed non-license practitioners.

Currently this function is being performed by court staff that get pulled away from their job, so we may already be paying for it, it was noted. This conversation has started and will continue.

**M. Adjournment**

The February 20, 2020 Board of Governors meeting adjourned at 5:25.

Respectfully submitted,



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

## Membership Status Changes

Presented to the Board of Governors February 20, 2020

### Active to INACTIVE:

266589 Carbone, Matthew, W Newton, MA (Effective December 27, 2019)  
269612 Svirik, Sultana, Revere, MA (Effective 12/31/2019)  
11849 Sabatello, Alison, Medford, MA (Effective January 1, 2020)  
10558 Larkin, Benjamin, Dover, NH (Effective December 30, 2019)  
1151 Hickok, Marshall, Gilford, NH (Effective December 31, 2019)  
19859 Barnard, Victoria, Richmond, NH (Effective December 30, 2019)  
270212 Foley, Patrick, St. Louis, MO (Effective December 30, 2019)  
842 Fox, Eileen, Manchester, NH (Effective January 9, 2020)  
14270 Wright, Shayna, Manchester, NH (Effective January 17, 2020)  
272486 Duffy, James, Southborough, MA (Effective January 9, 2020)

### Active to INACTIVE RETIRED:

192 Burlingame, Roger, Gilmanton IW, NH (Effective December 27, 2019)  
194 Burnett, Rand, Westmoreland, NH (Effective December 20, 2019)  
1436 Latici, Steve, Gilmanton, NH (Effective December 30, 2019)  
2148 Richardson, Gary, Hopkinton, NH (Effective December 31, 2019)  
1793 Moquin, Edward, Manchester, NH (Effective December 31, 2019)  
131 Brooks, Gary, Hanover, NH (Effective December 31, 2019)  
1700 McKenney, Robert, Amherst, NH (Effective December 31, 2019)  
1533 Lynn, Robert, Windham, NH (Effective January 1, 2020)  
10479 Goodnow, Judith, Bow, NH (Effective January 17, 2020)

### Active to RESIGNED:

762 Eskin, Ronald, Lowell, MA (Effective December 31, 2019)  
12505 Macek, Edward "Ted", Milford, MA (Effective January 16, 2020)

### Active to DECEASED:

16006 Mitchell, Lynne, Plymouth, NH (Effective December 25, 2019)  
8810 Manougian, Victor, York, ME (Effective December 20, 2019)

### Inactive to ACTIVE:

265675 Mathews, III, Edward, Portsmouth, NH (Effective December 27, 2019)  
19947 Johnson, Steven, Salida, CO (Effective January 6, 2020)  
269890 Cafran, Sarah, Armonk, NY (Effective January 2, 2020)  
17169 Storey, Jessica, New Hampton, NH (Effective January 14, 2020)  
13814 Koegler, Carolyn, Hopkinton, NH (Effective January 2, 2020)  
9286 Champagne, Susan, Manchester, NH (Effective January 17, 2020)  
10479 Goodnow, Judith, Bow, NH (Effective January 17, 2020)

**Inactive to INACTIVE RETIRED:**

15838 Gervais, Marc, Watertown, MA (Effective December 31, 2019)  
16865 Moore, Karen, Bedford, MA (Effective January 24, 2020)

**Inactive to RESIGNED:**

264683 Page, Blaine, Boulder, CO (Effective December 31, 2019)  
2361 Sklar, Debbie-Ann, Bedford, NH (Effective January 1, 2020)

**Military Inactive to MILITARY ACTIVE:**

265834 Hebert, Jason, USAF, Italy (Effective January 29, 2020)

**Judicial to ACTIVE:**

176 Coughlin, John, Amherst, NH (Effective January 7, 2020)

**Honorary Active to INACTIVE RETIRED:**

858 Friberg, John, Hopkinton, NH (Effective December 31, 2019)

**Resigned to DECEASED:**

2695 Yeaton, Vinton, Dover, NH (Effective January 25, 2017)