

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
Thursday, September 15, 2016
Bar Center – Concord, NH
4:00 P.M.
MINUTES

Present for all or part of the meeting were:

Scott H. Harris
Peter E. Hutchins
Robert R. Howard III
John A. Curran
Edward D. Philpot, Jr.
Jonathan M. Eck
Christopher T. Regan
Paul W. Chant (by phone)
Christopher Marshall
Kristin G. Fields
James P. Cowles
Sandra L. Cabrera
Daniel E. Will
Catherine E. Shanelaris

James A. Shepard
Sarah E. Lavoie (by phone)
Anthony J. Lenhart
Jennifer L. Parent
Kathleen M. Mahan
Russell F. Hilliard (by Skype)
Jeannine L. McCoy
Denice DeStefano
Joanne Hinnendael
Virginia A. Martin
Daniel R. Wise
Paula D. Lewis
Deborah J. Hawkins
Kristen E. Senz

A meeting notice reminder, preliminary Agenda and related materials were emailed September 9th. Additional materials were emailed September 14th and distributed September 15th. The Agenda is duplicated below in 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.

REGULAR BUSINESS

A. Call to Order

Scott Harris

The Regular Session of the September 15, 2016 Board of Governors meeting was called to order at 4:10 p.m. by President-Elect Scott Harris.

PRESENTATION / DISCUSSION / ACTION ITEMS

B. NHBA Insurance Agency

NHBA Insurance Agency Inc. board chair Russell Hilliard updated the board on work to ensure this important member service is maintained and strengthened in the coming years. The insurance agency board has been studying and planning for the future course of the agency in light of current staff person and licensed agent, Sue Morand's retirement (in five or so years). The insurance agency board has concluded that best course of action for Bar members is to sell the agency to Davis and Towle, a local insurance agency with experience serving association members similar to the NHBA. The proposal is to pay the NHBA the appraisal amount, if agreed upon, in mid-2017. Davis and Towle will continue to rent space from the Bar Association with a dedicated employee and will license the agency logo. Sue Morand will continue

working, but for Davis and Towle. It was noted that several NHBA Insurance Agency board members have used Davis and Towle and had good experiences with them.

The NHBA Insurance Agency, Inc. board will present more details and will be looking for action by the NHBA Board of Governors at a meeting in the next several months.

C. Orientation/Survey Follow-Up

Strategic Planning committee chair Ed Philpot reviewed the recommended action steps to pursue priorities identified during the board's member survey follow-up work done at the August 18th board orientation work session. There were three areas identified for focus; Transitions Out of Practice, Continuing Professional Development/Bar Services, and Legal Services.

Under the first area, **Transitions Out of Practice**, the plan is to talk with Bar members regarding issues in this area. The Bar Association has current tools that can be useful for these members. Ed explained that there will also be input sought from the board. They will plan CLE programs aimed at members looking to transition out of practice. He stated the "hit and run" micro-mentoring will be utilized, probably across all of the above focus areas. It is anticipated there will be other ways the action steps overlap across the three focus areas.

The second area of focus discussed was **Continuing Professional Development/Bar Services**. In that area, work has begun on development of "micro-learning" opportunities; Joanne Hinnendael, Director of Continuing Legal Education (CLE) spoke about the status. The development of targeted, quick CLE programs was one facet of the second focus area. Jo shared that the CLE department is working on developing 1-hour webcasts, and is working with the Substantive Law Sections for ideas and possible topics. They are also working with the Lawyers' Assistance Program, New Lawyer's and Ethics Committee(s) and Arthur G. Greene Consulting (practice management) for other topic ideas. On-line partner, InReach, has programs available to Bar members. Lastly, the Arizona Bar Association has produced YouTube "snippets" which we will opt-in to and make available for members as well. The plan is to gather a subgroup of the CLE committee to plan topics for this micro-learning. Ed Philpot invites the board to make suggestions about possible topics. Jo spoke about various marketing methods planned to publicize these new opportunities.

The third area of focus, **Legal Services**, encompasses several initiatives. There continues to be ongoing work to enable implementation of Virtual Pro Bono (also known as micro Pro Bono). Ginny Martin, Associate Executive Director for Legal Services updated the board on the progress. The main impediment continues to be issues with interpretation of Supreme Court rule 6.5. It was thought that this rule would not prevent attorneys from participating in a virtual pro bono program, but it has now been determined, after review by the Supreme Court Advisory Committee on the Rules that an amendment to Rule 6.5 will be necessary. It is predicted this could be a three to four month process. Members of the Pro Bono Governing Policy Board, and the NHBA's Ethics committee will be working on advocating for this change.

The other area under Legal Services that has been identified for work is a retooling of the Reduced Fee Referral program. Efforts will be made to get new lawyers involved by featuring information at the Practical Skills program. Attorneys may be recruited to create a "Lawyer Referral Service (LRS) toolkit", which could include "flat fee" models.

Ed Philpot notes that all of these focus areas are interrelated; education, marketing and service are a component of all. He asks that we keep all three of these focus areas on the monthly board agenda and identify people to report each month on status and address any actions needed from the board.

Ginny Martin added that Pro Bono has micro volunteering opportunities that are acceptable under the existing Supreme Court rules on ethics. A Bar News article is being prepared for the October (Pro Bono month) issue.

Jeannine thanked the board for their hard work at the August 18th work session. We came out of that session with great action steps, she said. The survey firm recommended packaging and promoting Bar services in actionable ways, and we need to keep this in mind.

D. Legislation - Revised Uniform Fiduciary Access to Digital Assets Act

John MacIntosh, NHBA Lobbyist and Michael Panebianco, chair of the NHBA Trust and Estate Section attended the meeting to discuss the possibility of having John assist with the introduction of the Revised Uniform Fiduciary Access to Digital Assets Act legislation in the 2017 session. Chair Panebianco shared the reasoning behind this request. Due to the growth of technology and digital assets, the current law is inadequate to allow access by an individual's fiduciary upon their death or should they become disabled. This is particularly a problem with those that have bank accounts that only exist online. Many social media outlets and email providers are now addressing these issues in their policies. This proposed legislation has been adopted in 19 states and there is legislation proposed in 12. It has been endorsed by many entities; from social media and tech companies to AARP and elder law associations.

ACTION

On motion to support and assist John MacIntosh in seeking sponsors for the proposed legislation.

PASSED. Unanimously.

E. Legislation – Supreme Court Service after age 70 for disqualifications

Scott Harris summarized the issue behind this request. Often, cases at the Supreme Court are decided by three or four justices due to conflict of interest issues. In the trial courts, retired judges are allowed to sit as referees when similar conflicts arise. Currently, there is no such arrangement for the Supreme Court. Under the constitution, judges must retire at age 70. In the next 3 years, there will be three Supreme Court justices retiring. There is a proposed legislative amendment that would allow a similar use of referees in Supreme Court cases. The Bar Foundation is in support of this proposal, as is the Judicial Council. They would like the Bar Association to support the amendment as well. Jennifer Parent spoke in support, and added that this is an access to justice issue. The board discussed possible issues with the proposal.

ACTION

On motion to support the concept of a law be proposed to allow former Supreme Court justices over 70 to sit on cases as referees.

PASSED. Unanimously.

F. Court Commission on Bar Association in the 21st Century

Executive Director, Jeannine McCoy updated the board on the latest developments. Materials were delivered to the office of chair Gordon MacDonald today (September 15, 2016). The cover letter and attached list of materials were distributed to the board, and reviewed. Some of the materials will be sent to the board to be

added to the Board of Governors' manual. She noted that the commission may make a request to interview board members. There are subgroups of the commission that have been formed to review the budget, as well as governance and services, comparison of NHBA to other bar associations, and "profession in the 21st century." The Commission's next meeting will be held at the Bar Center on Thursday, September 22nd at 3:00 p.m.; they have requested to meet with Jeannine and Paula Lewis, Director of Finance and IT at that meeting.

President-Elect Scott Harris discussed the commission's request for \$5000 to fund their work.

ACTION

On motion to approve the Supreme Court Commission on the New Hampshire Bar in the 21st Century request for \$5000 with the request that the commission provide an accounting on how the money was spent is used.

PASSED. Yes – 10, No – 4, with 5 abstentions (Richard Guerriero, Daniel Will, John Curran, Cathy Shanellaris, Kathleen Mahan).

G. Report on Leadership Academy

Denice DeStefano, Assistant Executive Director, updated the board on the 2016-2017 class. There are 13 participants. The year kicks off with a retreat on October 21st and 22nd. Unlike in prior years, this year's class has a homework assignment of attending a board of governors' meeting, as long as the board has no objection. None were expressed. Each participant will be connected with their county governor prior to the meeting. The plan is to have their governor help them to understand the workings of the board meeting.

H. Treasurer's Report/Update

Peter Hutchins shared highlights of the FY 2016 financials. The year ended better than budgeted. He also reported that the first two months of FY 2017 are revenue heavy due to the dues billing cycle. Member licensure renewal statistics were discussed. The majority of members have completed all three parts of the renewal process. A handout comparing renewal compliance for 2015-16 to the current year of 2016-17 was reviewed, showing more members have completed all aspects of their renewal process much earlier this year.

REGULAR BUSINESS-

I. President-Elect's Report

President-Elect Scott Harris reported on the following:

- Bar Foundation Annual Dinner

Scott encouraged the board to attend the Bar Foundation annual dinner, to be held on Wednesday, September 21, 2016 at the Radisson Hotel in Manchester beginning at 5:30 pm. Retired US Supreme Court Justice David Souter will be in attendance.

- Annual Meeting 2016

Scott invited board members to register soon for the upcoming 2016 annual meeting to be held Friday, October 28, 2016 at the Sheraton in Portsmouth. Immediate Past President Mary Tenn and the Bar staff have assembled a world-class program that is sure to sell out, said Scott.

- Annual Meeting 2017

President-Elect Harris gave a plug for Annual Meeting 2017 on June 23-24, 2017. This will be a return to a resort-based meeting at the Mountain View Grand Resort in Whitefield. This event features a 5K road race and a kids race. He added that one can run in the race, even if they don't attend the annual meeting.

J. Executive Director's Report

Executive Director Jeannine McCoy reported on the following:

- NHBA "Branding" Work

Jeannine asked Kristen Senz, Bar News editor to update the board on the branding work being done in conjunction with the Atom Group project on the new Bar Association web site. It includes design of a new logo for the Association. This is an optimal time for this work, as it will allow a unified look to Bar communications, which was a recommendation that came out of the recent member survey. Kristen described the goal and the process being used. Input will be sought from member groups prior to finalizing the suggested logo and design theme. Jeannine added that the work done by the board at the orientation around the topic of "why we do what we do" was passed along to the creative consultant working on the project.

- Personnel update

Jeannine shared she is working with Jackson Jackson and Wagner on the process of recruiting and hiring a Director of Strategic Communication. The position is being advertised on various online job sites, and through the ABA. The applications are being screened, and candidates will be interviewed soon, in hopes of getting the person on board in November. Dan will continue working through the end of the calendar year, mainly working on shepherding content migration from the old website to the new; various Bar Foundation projects and the response to the Court Commission.

K. State Update - Highlights

- Jonathan Eck shared that Dan Will will be recognized with the St. Thomas More award at the Red Mass on Thursday, October 13th.
- Ginny Martin noted that Cathy Shanelaris will be honored with the Bruce E. Friedman Pro Bono Award. The ceremony will be held on Tuesday, October 25th at 5:30 p.m. at the UNH Law School.
- John Curran updated the board on the recent meeting of the Supreme Court Advisory Committee on Rules. There is a major rewrite of the evidentiary rules. He referred the board members to the committee's web site and asked that they bring any question to him.
- Jo Hinnendael, CLE director shared that the Bar Center continues to host monthly court e-filing clinics.

L. Board Recognition

Plaques were presented to returning board members Cathy Shanelaris and John Curran.

REGULAR BUSINESS – CONSENT ITEMS

M. Dues Waiver Change to Standard Operating Procedure

As proposed in an e-mail message to the Board July 14, 2016, as a change to the “standard operating procedure,” the administrative staff are authorized to act on the recommendations of the Board’s Waiver Request Committee, and the BOG will review the actions for ratification at the next possible Board meeting (in order to provide feedback to the Committee).

N. Membership Status Changes for September 2016

The **board received** Membership Status changes, which are attached as a permanent part of these minutes.

O. Report on Dues Waiver Requests

The **board approved** the following waiver requests:

Four members received a 100% waiver of 2016 -2017 Active NH Supreme Court Fees, NHBA Dues and related late fees.

P. Minutes of August 18, 2016 Meeting- were accepted as presented.

Q. Board Approval of Public Protection Fund Committee- accepted (roster attached)

R. Appointment to Pro Bono Board: Roger Phillips - (term- 2015-2018- will serve the remaining two years of the term)

S. Reappointment to the New England Bar Association (NEBA) Board: Russ Hilliard (term 2016-2019)

ACTION

On motion to accept the consent items. **PASSED**. Unanimously.

ADJOURNMENT

The September 15, 2016 Board of Governors Meeting adjourned at 6:00 p.m.

Respectfully submitted,



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

Active to **INACTIVE**

268166 Desmet, Julianne M., Nashua, NH Effective June 23, 2016) New Admittee
268173 Fitzgerald, Kerry A., Boston, MA (effective August 16, 2016)

Active to **INACTIVE RETIRED**

5539 Heal, Laird J., Winchendon, MA (effective August 1, 2016)
265175 Lebeck, Julian H., Haverhill, MA (effective August 29, 2016)

Military Active to **ACTIVE**

18254 McCarthy, Amy H., Highland Falls, NY (effective August 12, 2016)

Honorary Active to **HONORARY INACTIVE**

500 Batchelder, William F., Plymouth, NH (effective July 31, 2016)

Inactive to **ACTIVE**

5507 Bunnell, Thomas G., Concord, NH (effective August 31, 2016)

Inactive to **INACTIVE RETIRED**

4799 Caron, Yolande N., Manchester, NH (effective September 1, 2016)

Inactive Retired to **ACTIVE**

4838 Michalik, James E., Milan, NH (effective September 1, 2016)

Inactive to **DECEASED**

10278 Tessimond, Arthur J., Oakland, CA (effective May 16, 2016)

Honorary Active to **DECEASED**

1187 Holton, John M., New London, NH (effective August 8, 2016)

Corrections:

The August 18 report incorrectly listed Attorney Henry J. Noonan's Bar ID # as 192. It should read 1883.

266165 Timothy French's location should read Lowell, rather than Pepperell, MA

Committee Roster

Printed Date: 9/12/2016

Public Protection Fund

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Position: CHAIR

Member: True

Committee Roster

Printed Date: 9/12/2016

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Position:
Member: True

Total Members: 10

