

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
Thursday, February 21, 2013
Bar Center – Concord
3:00 P.M.

MINUTES

Present for all or part of the meeting were:

Lawrence A. Vogelman	Dennis L. Morgan
Jaye Rancourt	Jason Crance (by phone)
Lisa Wellman-Ally	Scott H. Harris
Peter E. Hutchins (by phone)	Philip L. Pettis
Robert R. Howard, III	Lanea Witkus
Jennifer L. Parent (by phone)	Russell F. Hilliard
Eric D. Cook	John D. MacIntosh
Quentin J. Blaine	Jeannine L. McCoy
Jonathan M. Eck	Denice M. DeStefano
Christopher T. Regan	Paula D. Lewis
Jacki A. Smith	Virginia A. Martin
Charles S. Temple	Daniel R. Wise
Judith L. Homan	Joanne M. Hinnendael
	Valenda Morrissette

A meeting notice reminder was emailed February 13th. A preliminary agenda and materials were emailed February 19th. Additional materials were emailed February 20th and distributed February 21st. 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 SESSION

A. CALL TO ORDER Lawrence A. Vogelman

The Regular Session of the February 21, 2013 Board of Governors meeting was called to order at 3:10 p.m. by President Larry Vogelman.

B. Membership Status Changes for February 2013 Denice DeStefano

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

C. Report on Dues Waivers as Approved by the Officers Denice DeStefano

The Board **approved the following waiver request:**

[REDACTED] – 25% waiver (\$661.25) of Active dues and Court fees for years 2008-29; 2009-10; 2010-11; 2011-12 & 2012-13. Balance of \$2,133.75 (includes \$50 late fee & \$100 reinstatement fee) payable in installments between now and the end of this fiscal year, May 31, 2013.

D. Minutes of January 17, 2013 Board Meetings Jeannine McCoy

Minutes of the January 17, 2013 Board of Governors meeting **were approved as presented.**

E. Ethics Committee Advisory Opinion #2012-13/4 Denice DeStefano
The Use of Cloud Computing in the Practice of Law

The Board **received** Ethics Committee Advisory Opinion #2012-13/4, *The Use of Cloud Computing in the Practice of Law.*

DISCUSSION / ACTION ITEMS

F. Legislation Reports John MacIntosh

- Legislative Orientation Session (1/31/13) Update
NHBA Lobbyist John MacIntosh gave a “shout out” to President-elect Jaye Rancourt, Executive Director Jeannine McCoy and Executive Assistant Valenda Morrissette for the great job they did in coordinating the legislative orientation session on January 31st. There were over 100 in attendance and John noted that this should be institutionalized as an annual event
- Committee Report
The Board viewed the recommendations for positions on bills using the Legislation Watch website, which provides access to the official General Court website with an informational overlay containing information on the Bar’s legislative review process.

After some discussion, the Board unanimously approved positions taken on the following bills:

SUPPORT- HB 652, HB671

OPPOSE – HB 387 (which has subsequently been defeated), HB 402 (which has subsequently been defeated), HB 590 (which has subsequently been voted ITL and laid on the table)

INFORMATION, POSITIVE – HB 389, SB 49

INFORMATION, NEGATIVE – HB 552, SB 96, CACR 3, HB 114, HB 121, HB296 (which has subsequently been defeated), HB 312, HB 413, HB 447, HB 539

INFORMATION – HB 200, HB 209, HB 238, HB 311, HB 578, HB 605 (which has subsequently been defeated), HB 648 (R. Hilliard abstained), HB 651, HB 670, SB 106, SB 108, SB 138, SB 145

G. Leadership Academy Update Lisa Wellman-Ally

Lisa Wellman-Ally reported that the group working with the UNH School of Law on a networking project is having difficulty in meeting the project deadline date of June. That group has been asked to meet with their advisors to explore other options for completing their project on deadline.

The next two modules are the Legislative Session and the Future of the Profession Session which will focus on technology issues.

H. Access to Justice Commission – *Justice Gap* Report Release Jeannine McCoy

Executive Director Jeannine began by thanking Communications Director Dan Wise, Legal Services Director Ginny Martin and Pro Bono Coordinator Carolann Wooding for the tremendous effort and time each of them spent on this endeavor.

The Report, summaries of the study, and economic analysis are available on the New Hampshire Access to Justice Commission's website. A summary of the study and economic analysis were distributed to the Board.

The NH Access to Justice Commission was created by the NH Supreme Court to bring together the courts, legal organizations, social service agencies and other parties to foster changes to improve citizens' access to the courts. The "Justice Gap" study was commissioned by the NH Access to Justice Commission and LARC and funded by the NH Bar Foundation. The economic impact study was supported by a grant from the ABA's Access to Justice Commission Expansion Project.

The legal needs assessment, a 48-page report available as a PDF at www.nhlegalaid.org, www.nhbar.org and on the website of the Access to Justice Commission at the Judicial Branch website, examines the obstacles to legal access for low-income people, details the programs currently offering services, and offers suggestions on how to close the gap.

The legal needs assessment shows that the combined efforts of the state's primary legal services providers – the NH Pro Bono Referral Program, NH Legal Assistance, and the Legal Advice & Referral Center – satisfied less than 6 percent of the need for legal help among low-income residents in 2010. That notwithstanding, NH has one of the higher pro bono participation rates in the country.

Appearing at the press conference Thursday, February 21st were Richard Uchida, Co-Chair of the Access to Justice Commission; former NH Supreme Court Chief Justice John Broderick, now the dean of UNH Law; Joseph Reilly, president and CEO of Centrix Bank, a longtime IOLTA Leadership Bank; and former state Senator Dr. James Squires, who is also the former president of Endowment for Health.

Board members were encouraged to read the reports.

I. Draft Public Access Policy Committee Rule Judy Homan

Judy Homan reported that the draft rule has been submitted to Chief Justice Dalianis. Once it is made available for dissemination it will be distributed to the board for review.

J. Insurance Agency Promissory Note "Forgiveness" Kelli Boyle

Executive Director Jeannine McCoy explained that in 2003, the NHBA auditors recommended a promissory note from the Agency to the Association for expenses over revenues.

Kelli Boyle, CPA with Nathan Wechsler & Company, P.A. (Bar's auditing firm), explained the reason for this recommendation was that, for federal income tax purposes; according to IRS rules, any liabilities that are accrued as of the end of an organization's fiscal year but have not been paid by the filing date of the organization's tax return must be reversed on the return. In the case of the NHBA Insurance Agency's return, this reversal would result in a reported profit and a tax obligation. Implementing the Promissory Note enabled reclassification of the "advances" made by the NHBA to the Insurance Agency from accrued expenses to short-term debt.

Ms. Boyle further explained the "forgiveness" of this "debt" would show up as an expense on the NHBA's audited financial statements and would be counted as taxable income for the Insurance Agency. (There would be no impact to the Consolidated Financial Statements of the Association and Agency.) The income to the Agency can be offset by the Agency's accumulated tax losses. (These "Net Operating Loss" deductions expire after 20 years.)

Director of Finance Paula Lewis reported that in the last fiscal year the Insurance Agency was able to pay its expenses 100% and is on track to do the same this fiscal year.

Russ Hilliard, Insurance Agency Board Chair, provided some background on why the agency was formed in the first place and what the expectations for the agency were.

Accumulated "cost" to the Association for the Agency member service over the first 10 years of operation (i.e. what the Agency "owes" the Association) is approximately \$630,000. The accumulated Net Operating Loss deductions for the Agency over that period of time amount to \$367,574.

The recommendation is for the Association to "forgive" Agency "debt" in the amount of \$367,574. This will allow the Agency to not realize any tax obligation for the resulting "income" and will reduce the balance of the amount "owed" from the Agency to the Association.

It was pointed out that the Insurance Agency was created as a wholly-owned, for profit subsidiary of the Bar Association due to insurance regulations. It functions as an integral part of the Association's services, but unlike other departments of the Association, its expense over revenue (i.e. cost to the Association) is handled as "debt." It was also noted that, while not reflected on the Association's financial statements, the Agency has an actual value owned by the Association, and an intrinsic value in terms of the service provided to members.

After discussion, questions and answers, a motion was made.

ACTION

On motion to approve forgiving NHBA Insurance Agency debt in the amount of \$367,574. PASSED (R. Hilliard and P. Hutchins abstained).

K. ABA House of Delegates Issues Russ Hilliard

Russ Hilliard reported that he emailed the link that shows the action taken on all resolutions at the ABA Midyear Meeting in Dallas earlier this month.

Russ also reported that ABA Day is April 16-17 in Washington, DC. Russ and Jon Ross will be participating, and will meet with several NH legislators on Capitol Hill.

L. President's Report Larry Vogelman

President Larry Vogelman reported on the following:

- National Association of Bar Presidents Meeting
Was held earlier this month in Dallas. Larry, President-elect Jaye Rancourt, Vice President Lisa Wellman-Ally and Executive Director Jeannine McCoy attended.
- Midyear Membership Meeting – March 8th
About 450 members have registered so far; there is still time and room for more registrants. Programming includes Talmage Boston, a well-known Dallas trial attorney and author in the morning and an afternoon panel on Civil Liberties on Trial - Promoting the Rule of Law that includes US District Court Judge Marcia Cooke, who sits in the Southern District of Florida, Michael Gunnison, assistant US attorney for the District of New Hampshire and Charles Swift is a Seattle attorney and former JAG officer who concentrates on criminal defense in military courts.

In addition, a Resolution Recognizing NH Public Defender's 40th Anniversary will be presented.

- Bench/Bar Meetings with Supreme, Superior and Circuit Courts – all went well.
- Update on SOLACE
SOLACE is up and running. Larry received a lot of positive reaction from members about the program after the last email about SOLACE.
- Veterans Outreach
The initial meeting was great, generating a lot of ideas and interested members. Diane Levesque with the Veterans Administration is a great resource and is very interested in helping. Larry noted that there were many folks in attendance that we don't usually see involved in the Bar. Ideas discussed included
 - Periodic volunteer lawyer clinic to be held at VA, coordinated by Veterans' Legal Outreach Coordinator
(first could be in conjunction with Foreclosure Project, for which we have resources)

- Judicial training about resources available for veterans (may assist in “diversion,” “alternatives to incarceration”)
 - Lawyer advocate training about resources available for veterans
 - “CASA-type” advocates to appear with veterans in court
 - Veterans’ Court or specific scheduling of veterans matters before the court
- Due to the lack of resources generally, Court leaders seem reluctant to support "specialty courts" at this time....but the conversation has started.

- Board Representative on Supreme Court Advisory Committee on Rules
Jennifer Parent’s term as the Board’s representative on the Supreme Court Advisory Committee on Rules is up and Larry is looking for anyone interested in serving in this capacity. Please let Larry, Jeannine McCoy or Denice DeStefano know if you are interested.

Jennifer Parent provided information on the time commitment involved, as follows:

- Committee meets four times a year, usually noon – 4:00 pm at the Supreme Court
- Time is spent reading materials in preparation for meetings
- Subcommittee assignments and work are part of the commitment
- Reporting to the BOG on items of interest

- Future of the Profession Conference Invitation
Larry reported that he is one of 32 invitees to this April conference in Indiana. He plans to attend and will report back to the Board.

M. Executive Director’s Report Jeannine McCoy

Jeannine McCoy reported on these items.

- Past President Dinner Activity Update that was given to the past presidents at their dinner on January 23 was provided to the Board, for their information.
- “You Should Know” Activity Report highlights include NHBA CLE was awarded the “Partners in Excellence” award from our online partners, InReach CE. The award was presented at the end of January to CLE Director Joanne Hinnendael who was attending the Association of Continuing Legal Education Administrators conference.
- Supreme Court Society’s Update to NHBA LRE Publications, *Patriots, Pirates, Politicians and Profit Seekers* is in the works to include NH cases that have gone to the US Supreme Court since it was first published in 1996.
- Bar Center **May** be Closed March 11 for Full Staff Training on New Software

N. Reporting from Around the Table All Board Members

Grafton County Governor reported on a recent social event held for Grafton County bar members where about 25 were in attendance.

Sullivan County Bar Governor Lanea Witkus asked when the next economic survey of Bar members will be done. Executive Director Jeannine McCoy reported that it is on her radar.

Public Sector Governor Chuck Temple reported on The Warren B. Rudman Center for Justice, Leadership and Public Policy at the Law Center.

Governor-at-Large Jacki Smith reported on two very successful Mock Trial competitions recently held in Hillsborough South, where UNH was one of the winning teams.

Belknap County Governor Judy Homan reported that the Belknap County Bar is having a dinner meeting and election of officers on Wednesday, March 28 at Hart's Turkey Farm in Meredith.

Vice President Lisa Wellman-Ally reported that the Sullivan County Bar is meeting on March 18 and will also be electing officers.

ADJOURNMENT

The February 21, 2013 Board of Governors Meeting adjourned at 5:20 p.m.

Respectfully submitted,

Denice DeStefano, for
Peter E. Hutchins, Secretary

NEW HAMPSHIRE BAR ASSOCIATION

Membership Status Changes

Presented to the Board of Governors February 21, 2013

Paid Active to **INACTIVE**

Brooks, Christopher C., Poultney, VT (effective February 11, 2013)
Callaghan, Daniel J., Roanoke, VA (effective February 4, 2013)
Childs, Brian M., Rochester, MN (effective July 1, 2012) waiver granted 1/17
Daum, Caryn L., Boston, MA (effective January 25, 2013)
English, Edward H., Andover, MA (effective February 1, 2013)
Miscio, Thomas R., Sanford, ME (effective July 1, 2012) waiver granted 1/17
Murphy, Lawrence J., Byfield, MA (effective February 13, 2013)
Rozzi, Anthony V., Haverhill, MA (effective January 30, 2013)
Salon, Neil W., Sharon, MA (effective January 25, 2013)
Wynes, Emily R., Lebanon, NH (effective January 28, 2013)

Paid Active to **INACTIVE RETIRED**

Hamilton, Joseph L., Palm Beach Gardens, FL (effective January 24, 2013)
Motejunas, Gerald W., Milton, MA (effective February 12, 2013)

Active to **RESIGNED**

Carter, George C., Lancaster, NH (effective January 28, 2013)

Paid Inactive to **ACTIVE**

Cioffi, Eric R., Templeton, CA (effective January 16, 2013)
Ejarque, Raymond W., Seattle, WA (effective January 14, 2013)
Gervais, Marc J., Medford, MA (effective February 11, 2013)
Sharrow, Jennifer R., Exeter, NH (effective January 23, 2013)

Paid Inactive Retired to **ACTIVE**

Rozzi, Anthony V., Haverhill, MA (effective February 13, 2013)

Paid Inactive to **INACTIVE RETIRED**

LaBelle, Lisa M., Salem, NH (effective February 11, 2013)

Honorary Active to **HONORARY INACTIVE**

Sheridan, Charles W., Jr., Concord, NH (effective January 18, 2013)

New Admittees selecting **INACTIVE** status

Heaton, Michelle C., Campton, NH (effective February 11, 2013)
Thorlin, John O., Arlington, VA (effective February 4, 2013)

Paid Inactive to **RESIGNED**

O’Keeffe, Celeste E., Madison, MS (effective January 29, 2013)

Suspended to **ACTIVE**

Burke, Michael M., S Portland, ME (effective January 30, 2012)
Cormier, B. Michael, Haverhill, MA (effective January 31, 2013)
Griffith, Diane V., Merrimack, NH (effective February 7, 2013)
Hahn, Edward L., Manchester NH (effective January 22, 2013)
Kennedy, Steven C., Concord, MA (effective January 22, 2013)
Prisby, Edward A., Southborough, MA (effective January 30, 2013)
Sarno, Samara R., York, ME (effective February 6, 2013)

Suspended to **INACTIVE**

Breen, Michael F., Washington, DC (effective January 25, 2013)
LaBelle, Lisa M., Salem, NH (effective February 11, 2013)