

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
Thursday, May 19, 2011
Bar Center – Concord, NH
3:00 P.M.

MINUTES

Present for all or part of the meeting were:

Marilyn B. McNamara
Jennifer L. Parent
Lawrence A. Vogelmann
Peter E. Hutchins
Robert R. Howard, III
Jaye Rancourt
Jacki A. Smith
Catherine Broderick (phone)
Christopher T. Meier (phone)
Sheila J. Burnham
John G. McCormick
Quentin J. Blaine (phone)

Victor W. Dahar, Jr.
Philip L. Pettis (phone)
Christopher T. Regan
Russell F. Hilliard
Jason R. Crance (phone)
Derek D. Lick
Beth Deragon
Jeannine L. McCoy
Denice M. DeStefano
Paula Ludlam
Daniel R. Wise
Joanne M. Hinnendael

A meeting notice reminder, preliminary agenda and materials posting notice were emailed May 14th. The additional information was emailed May 19th and distributed at the meeting. 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

Marilyn McNamara

The Regular Session of the May 19, 2011 Board of Governors meeting was called to order at 3:13 p.m. by Bar Association President Marilyn B. McNamara.

B. Membership Status Changes for May 2011

Denice DeStefano

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

C. Minutes of April 21st Board Meeting

Peter Hutchins

Minutes of the April 21, 2011 Board of Governors meeting **were approved** as presented.

D. Financial Statements for March 2011

Rob Howard

The Board received financial statements through March 31, 2011, as reviewed and approved by the BOG Committee on Administration.

- E. Reappointment of William R. Hall to the NH Judicial Conduct Committee for a 3-year term (7/11 – 7/1/14) Marilyn McNamara

The **Board approved** the reappointment of William R. Hall to the NH Judicial Conduct Committee for a 3-year term (7/11 – 7/1/14).

PRESENTATION / DISCUSSION / ACTION ITEMS

- F. 2011-2012 Budget Proposal Jennifer Parent
Jeannine McCoy

Executive Director Jeannine McCoy reported it was another strong year for the Association, financially. Jeannine highlighted items contained in the budget narrative. Of concern are the cut-backs in grant funding to both the Pro Bono Program and Law Related Education programs.

President-elect and Finance Committee Chair Jennifer Parent noted that the Finance Committee is watching the Board Reserves with an eye towards rebuilding over the next several years.

ACTION

On motion to approve the Association budget for the 2011-12 year as presented.
PASSED (unanimously).

- G. Proposed Amendments to NHBA Constitution & Bylaws Denice DeStefano

Assistant Executive Director and Co-Chair of the BOG Committee on Administration of the Bar, Denice DeStefano, reviewed the proposed amendments to the Bar's Constitution and Bylaws. Questions were asked and answered and changes made as suggested by those present.

Denice explained the next step is to schedule a Special Business Meeting at the Bar Center for the membership to review and act on the proposed amendments. Any proposed amendments to the Bar's **Constitution** must also be approved by the NH Supreme Court before they can take affect.

The proposed amendments as modified and approved for presentation to the membership by the Board of Governors are attached as a permanent part of these minutes.

- H. Schedule Special Business Meeting and Budget Info Session Jeannine McCoy

Executive Director Jeannine McCoy explained that when there are proposed amendments to the Bar's Constitution and/or Bylaws, or other important business to come before the membership and the Annual Meeting location is a distance from Concord, we generally schedule a Special Business Meeting at the Bar Center to address these items.

Because we also schedule, over the summer, a Budget Info Session for members, it is Jeannine's intent to schedule both the Special Business Meeting and the Budget Info Session on the same date, as yet to be determined, at the Bar Center.

- I. Appointments to LARC Board Marilyn McNamara
- Kenneth Bartholomew of Concord
 - Larry Edelman of Portsmouth

The **Board approved** the appointments of Kenneth Bartholomew and Larry Edelman to the Board of LARC for 3-year terms. (P. Hutchins abstained).

- J. Request for Support for the Puerto Rican Bar Association Larry Vogelman

Vice President Larry Vogelman addressed the Board about supporting the Puerto Rico Bar Association, which has been the target of litigation, a gag order, and other punitive actions, by approving a Resolution he drafted for the Boards consideration. According to the resolution, the Puerto Rican Bar Association “has been the target of attacks by forces whose goal has been to punish it for providing ...services and taking principled positions...

ACTION

On motion to approve the Resolution as presented in support of the Puerto Rico Bar Association. **PASSED** (one nay vote due to lack of information; P. Pettis).
(Resolution is attached as a permanent part of these minutes).

- K. Consideration of Gender Equality Committee Proposal Beth Deragon

Gender Equality Committee Chair Beth Deragon recapped the concept proposed and submitted to the Board at their April meeting, to create a voluntary certification process for legal employers of non-discriminatory, family-friendly employment policies.

Beth further explained that upon approval from the Board, the Gender Equality Committee will begin working on an outline of the program, develop criteria, etc. which will come back to this Board for approval when finalized by the Committee.

ACTION

On motion to approve the concept proposed by the Gender Equality Committee to create a voluntary certification process for legal employers of non-discriminatory, family-friendly employment policies. **PASSED.**

- L Update on New Lawyers Committee – Battle of the Bands Proposal Jaye Rancourt

Governor-at-Large and Board Liaison to the New Lawyers Committee Jaye Rancourt, reported that Kelleigh Murphy has resigned as Co-chair of the New Lawyers Committee and that Jon Strasburger as agreed to remain as Chair. The New Lawyers Committee is meeting this evening to discuss their proposal for another Battle of the Lawyer Bands this coming year. Jaye, Jon and Denice DeStefano met to review a detailed timeline and task list for coordinating a battle of the bands, which Jon Strasburger agreed would be useful.

The Committee, tonight, is discussing whether another venue is needed, if the originally proposed September 18, 2011 date is still feasible and if the Committee still wishes to pursue this endeavor. Jaye would like the Board to approve the New Lawyers Committee hosting a Battle of the Lawyer Bands pursuant to using the timeline and task list provided as well as collaborating with Jaye and Denice DeStefano throughout the process.

ACTION

On motion to approve the New Lawyers Committee hosting a Battle of the Lawyer Bands pursuant to using the timeline and task list provided as well as collaborating with Jaye and Denice DeStefano throughout the process. **PASSED.**

EXECUTIVE SESSION

The Board went into Executive Session.

PRESENTATION / DISCUSSION / ACTION ITEMS (continued)

M. President's Report, Including:

Marilyn McNamara

- NHBA Annual Meeting -
President Marilyn McNamara reminded Board members to sign-up for the Annual Meeting and to encourage others to attend. Award recipients are as follows:

Grimes Award for Judicial Professionalism is going to the Honorable Paul S. Moore
E. Donald Dufresne Award for Outstanding Professionalism is going to John B. Garvey
Distinguished Service to the Profession is going to Robert A. Wells

In addition, four Public Sector/Public Interest lawyers and two New Lawyers have been awarded Scholarships to this year's Annual Meeting.

N. President-Elect Report, Including:

Jennifer Parent

President-elect Jennifer Parent reported on the following:

- Rules Committee Public Hearing, Friday, June 17, 2011 –
All Rules Committee meetings are now public and the Committee will take comments on proposed rules changes in writing or in person. The next Public Hearing is Friday, June 17th.
- Leadership Academy –
The final Leadership Academy session will be Friday, May 20th on how lawyers can work with business people. The Leadership Academy projects were presented at the May 5th Bar Foundation Annual Dinner.

A "graduation" ceremony for the participants will be held on Saturday night at the Annual Meeting Banquet. Planning is underway for next year's Leadership Academy Program.

The Battle of the Lawyers, a leadership academy project, went very well. There was great attendance at the event that was a fundraiser for the Campaign for Legal Services.

O. Executive Director's Report, Including: Jeannine McCoy

Executive Director Jeannine McCoy reported on the following:

- Board Election –
As there was no candidate for one governor-at-large position in the 2011 Board election, the Board of Governors must appoint someone for a special one-year term. As called for in the Constitution & Bylaws, in the 2012 election a special election will be held for the remaining two-years of the three-year governor-at-large term.

Jennifer Parent nominated Jonathan Eck of Devine, Millimet & Branch; an attorney active in the NLC and the ABA YLD, who has expressed interest in the position.

ACTION

On motion to approve the appointment of Jonathan Eck to the Board of Governors, as a Governor-at-Large for a one-year term with a special election in 2012 to fill the remaining two-years of the term. PASSED.

- ABA Task Force on the Preservation of the Justice System – NH Meeting 5/26
Hearings begin at 11:00 am at the UNH School of Law.
- NHLA Advocacy –
Thanks for all that has been done to-date. We may be asking for more help in advocating funding for NHLA in the very near future.
- Court Updates –
Chief Justice Dalianis sent a letter to Nashua Mayor Donnalee Lozeau advising that the Court is rescinding their amendment to HB2 (to consolidate Hillsborough South to North) and will instead seek to introduce the consolidation as a separate bill in the 2012 legislative session.

A list of current Court clerks and deputy clerks was distributed as confidential information at this time.

A “job board” offer for laid off Court staff is being implemented by the Association. Court staff can post free job seeking advertisements to the Bar’s website and those in the legal community looking to hire can review and directly contact those seeking positions. It is anticipated that this will also be extended to our-of-work public sector members shortly. Bar staff is also looking into offering an information session for out-of-work members.

- You Should Know Activity Update
Distributed with some sections highlighted for the Board’s information.

- Giving Back – recognition of lawyer’s volunteer activities is in the works for the May *Bar News*.
- Paula Ludlam, NHBA Director of Finance & IT, reported that PPF claims related to the McCaffrey matter are being processed as quickly as possible.
- Assistant Executive Director Denice DeStefano and Executive Director Jeannine McCoy met with representatives from the Court: AOC Director Don Goodnow, Security Manager Jason Jordanhazy, and Chief Technology Officer Peter Croteau and representatives from American Alarm & Communications, Inc.: David Croston, Chief Technology Officer, Bill McLaughlin and Scott Cole, Integrated Systems Consultant to talk about the Court security expedited access project. The discussion also included using court security access cards for dual functionality in eCourt and eFiling credentialing (a concept not yet considered by the Court).

P. Reporting on Issues, Interests, Concerns from Association Member-Constituents Around the State All Board Members

Phil Pettis, Rockingham County Governor, reported on a Rockingham County Bar luncheon for new lawyers. About 50 people attended this great event.

Chris Regan, Strafford County Governor, reported on a lunch meeting at the Courthouse on Friday for Strafford County Bar members. Chris also reported that some missing case files and documents were causing concerns in Strafford County.

Governor-at-Large Jaye Rancourt reported that the Federal Court now requires their own ID’s or a valid drivers’ license for access to the Federal Court.

Russ Hilliard, Association ABA Delegate, reported that apparently a computer glitch resulted in numerous default notices being sent from Merrimack County Probate Court.

ADJOURNMENT

The May 19, 2011 Board of Governors Meeting adjourned at 5:30 p.m.

Respectfully submitted,

Denice M. DeStefano, for
Peter E. Hutchins, Secretary

NEW HAMPSHIRE BAR ASSOCIATION

Membership Status Changes

Presented to the Board of Governors May 19, 2011

Paid Full Time Judicial to INACTIVE RETIRED

Jones, Michael E., Billerica, MA (effective April 20, 2011)

Paid Inactive to INACTIVE RETIRED

Cullinane, John F., Amesbury, MA (effective April 18, 2011)

Paid Active to INACTIVE

Cioffi, Eric R., Long Beach, CA (effective May 11, 2011)
DiCosola, Gyda M., Albuquerque, NM (effective May 1, 2011)
Feeney, Catherine A., Newport, NH (effective May 1, 2011)
Milliken, Laura J., Warner, NH (effective May 11, 2011)
Paterson, Janice C., Boston, MA (effective April 25, 2011)
Rutherford, Michael C., North Reading, MA (effective April 27, 2011)
Wallner, Jonathan R., Rochester Hills, MI (effective April 28, 2011)

Paid Inactive to ACTIVE

Fellian, Nicole M.S., Hopkinton, NH (effective May 5, 2011)

New Admittees selecting INACTIVE status

Reppucci, Gina M., Highland Park, NJ (effective April 4, 2011)

Proposed amendments for 2011 Special Business Meeting, as approved by the BOG 5/19/11

CONSTITUTION OF THE NEW HAMPSHIRE BAR ASSOCIATION

ARTICLE

II

Membership

Section 3. The membership of this Association shall consist of two classes known respectively as "active" members and "inactive" members. Every member shall be an active member unless, upon request and payment of any required Administrative Fee as set by the Board of Governors, that person is enrolled as an inactive member. No person shall be eligible for enrollment as an inactive member who is engaged in the practice of law in this State, or who occupies a position the duties of which require the giving of legal advice or service in this State. Any inactive member in good standing may change classification to that of an active member by filing with the Association written application for transfer to the class of active members and by paying the dues required of active members and any required Administrative Fee as set by the Board of Governors. No inactive member shall be entitled to practice law in this State, or to hold office or vote in any meeting, election or referendum of the Association. An inactive member may attend meetings of the Association and participate in the debates of such meetings, and shall be entitled to receive the official publications of the Association and such notices and other materials as are mailed to active members. **Members of the judiciary including Justices, Judges and NH Masters** who are wholly prohibited by statute from engaging in the practice of law, **or who are designated as "essentially full time members of the judiciary" by the AOC and not engaged in the practice of law,** shall be considered Full Time Judicial members ~~unless they elect to become inactive members.~~

Section 6. If the membership dues **or any court/mandatory fees collected by NHBA** of any member for any year are not paid ~~prior to the first day of the fifth calendar month following the date of mailing of the invoice by the Association for such~~ **when due or in compliance with any policies set by the Board of Governors,** that member shall be assessed a delinquency penalty as set periodically by the Board of Governors and the Association shall thereupon give written notice by ~~registered or certified mail, postage prepaid~~ **first class mail, electronically, or any technologies that can accomplish the same result,** to such member who is in arrears advising that member thereof and of the provisions of this Section. If the arrears in dues are not paid by the last day of the sixth month following such mailing by the Association of its dues invoice for that year, the membership of such person shall be suspended **administratively,** subject, however, to the provisions of Section 7 of this Article. **The administrative suspension notice shall be sent to the member by registered or certified mail, return receipt.** Whenever a member ~~se~~ administratively suspended for non payment of membership dues makes full payment of the arrears, and in addition a sum as set periodically by the Board of Governors as a charge for reinstatement that person shall automatically be reinstated as a member.

ARTICLE III

Meetings of the Association

Section 4. At any meeting of the Association, the right to vote shall be limited to active members **present at the meeting** ~~at any meeting properly noticed,~~ **and** those active members present shall constitute a quorum.

ARTICLE V

Board of Governors

Section 3. The Board of Governors shall fill any vacancy in the ranks of its elected membership, including any created by the absence of a qualified nominee submitting the required petition for an annual Board election subject, however, to the provisions of Section 6, Article VI of the By-Laws. Such vacancy shall be filled from the county in which the vacancy occurs in the case of vacancy in the office of Governor elected from a county or division and otherwise, from the membership at large, until the next regular election and the Board shall provide for an election at that time for the balance of the unexpired term.

Proposed amendments for 2011 Special Business Meeting, as approved by the BOG 5/19/11

BY-LAWS OF THE NEW HAMPSHIRE BAR ASSOCIATION

ARTICLE II

Membership Dues

Section 1. Fiscal Year. The fiscal year of the Association shall be from June first to May thirty first following, and all membership dues shall be payable within thirty (30) days of the date of the Association's invoice for such or in compliance with any policies as set by the Board of Governors, which shall be deemed the date of mailing for such invoice.

Section 3. Full time Judicial Members. ~~Court judges who are~~ Members of this category may attend regular New Hampshire Bar Association Continuing Legal Education programs without payment of additional continuing legal education registration fees beyond the yearly regular CLE fee paid by the Administrative Office of the Courts to the Association to cover such CLE attendance.

Section 6. Inactive ~~Members~~ and Inactive Retired Members. To be eligible for this membership fee category, a request to change to Inactive membership status must be made within thirty (30) days of the membership dues billing. The Board of Governors may waive this 30 day deadline for good cause shown.

ARTICLE VI

Nomination and Election of Governors and Officers

Section 1. Governors Representing Counties. Nominations for Governors representing counties or divisions shall be made by petition signed by at least ten (10) active members having their principal offices in the county or division concerned, and filed with the Association not later than ~~February 15th~~ **March 1**. No member may sign more than one such petition.

Section 2. Governors at Large. Nominations for Governors at Large to be elected in any year shall be made by petition signed by any twenty five (25) or more active members filed with the

Association not later than ~~February 15th~~ **March 1**.

Section 3. Public Sector Governor. Nominations for Governor, meeting the criteria as established by the Public Sector/Public Interest Task Force¹ for representing public sector members, shall be made by petition signed by any twenty-five (25) or more active members filed with the Association not later than ~~February 15th~~ **March 1**.

Section 4. Officers and Delegate. Nominations for Vice President, Secretary, Treasurer, and the Delegate(s) to the American Bar Association House of Delegates shall be made by petition signed by any twenty five (25) or more active members of the Association, filed with the Association not later than ~~February 15th~~ **March 1**. On or before December 31st in each year, the members of the Board of Governors shall nominate a candidate for President Elect.

Section 5. Ballots and Voting. The Association shall prepare separate ballots for each county or division which shall contain the names of all persons nominated for the Office of Governor from that county or division; and a ballot for the election at large of the officers of the Association, delegate(s) to the House of Delegates of the American Bar Association, and Governors to be elected at large, which shall list below each office the names of the nominees therefore. Below the name of each office shall be printed the words "Vote for not more than" followed by a number designating how many persons are to be voted for. All ballots shall designate briefly the manner in which each nominee was nominated, as "Nominated by Petition," or "Board of Governors Nominee." The names of the nominees shall be arranged in the alphabetical order of their surnames, and at the right of the name of each candidate and on the same line there shall be a square. Following the names printed on the ballots, after the name of each office to be filled, shall be as many blank lines for write in votes, without squares at the end thereof, as there are persons to be elected to that office. The Association shall mail, either by first class mail, electronically or any technologies that can accomplish the same result as technologies specifically listed in this section, the county or division ballots to the active members of the Association having their principal offices in the county or division concerned and the ballots for elections at large to all active members, in each case not later than ~~March 15th~~ **April 1**. Voting shall be by secret ballot according to the double envelope system, via electronic voting or any technologies that can accomplish the same result as technologies specifically listed in this section. The ballots shall be returned to the Association not later than April 15th unless a weekend or holiday, upon which the following business day will be used; and no ballots received after that date shall be counted.

Section 6. Certification of Elections. If paper ballots are used and returned to the Association, the President may designate a ballot observer. The ballots shall forthwith be canvassed by a board of at least three (3) tellers, the count shall be certified to the Executive Director, and the candidates receiving the highest number of votes for their respective offices shall be declared elected, subject only to the limitation that not more than three (3) Governors at Large shall have their principal offices within the same county. **A write-in candidate must receive at least the same number of write-in votes as the number of signatures required on a Nomination Petition to be eligible for election to that office.** If any person is elected Governor at Large but is ineligible to serve because of such limitation, the person receiving the next highest number of votes for such office shall be declared elected. In case of a tie vote, the tellers shall determine the successful candidate by a lot drawn by the candidates. In the case of electronic voting, the certified results will be provided to the Executive Director no later than 10 am on the first business day following the close of balloting.

RESOLUTION IN SUPPORT OF PUERTO RICO BAR ASSOCIATION

WHEREAS: The Colegio de Abogados de Puerto Rico – the Puerto Rico Bar Association – founded in 1840, is the oldest professional organization in Puerto Rico, and provides a panoply of services to its members and to the people of Puerto Rico, and serves as a moral force in the society, in defense of civil and human rights;

WHEREAS: Over the past several years, the Bar Association has been the target of attacks by forces whose goal has been to punish it for providing such services and taking principled positions, attacks including the elimination of mandatory enrollment and the prohibition of engaging in any speech or promoting activities that have political or religious content;

WHEREAS: Pending is a class action litigation to prohibit the Bar Association from providing compulsory life insurance as part of the membership dues and to obtain over \$4 million reimbursement of premiums paid from 2002 to 2006 00 with no notice provided to members until after final judgment, and with a gag order preventing the Bar Association from communicating to its members information about the lawsuit, including that they can opt out of the lawsuit and how to do so;

WHEREAS: The Bar Association is at risk of losing its headquarters, which has served as an important forum for the expression of public concerns in Puerto Rico, as the building serves as collateral to pay the judgment;

WHEREAS: On February 10, the president of the Bar Association, Osvaldo Toledo, was held in contempt and fined \$10,000 for violating the gag order by meeting his fiduciary duty to the members and speaking publicly about the case, in response to members' inquiries about the litigation and the procedure for opting out. He refused to pay the fine and was taken into custody at the federal prison in Guaynabo, Puerto Rico;

WHEREAS: As attorneys, we expect and rely upon our bar associations to communicate with and advocate for its members, to ensure that attorneys be able to practice our profession without intimidation, obstacles or undue interference, strengthening the organization and the profession, thereby ensuring the separation of powers and the independence of the Judicial Branch and maintaining a health and democratic civil society.

BE IT THEREFORE RESOLVED that we:

1. Support the Puerto Rico Bar Association and its President Osvaldo Toledo, and the continuation of the Puerto Rico Bar Association as a beacon for the attorneys and the people of Puerto Rico; and
2. Express deep concern about the lack of notice to members of the certified class, the gag order preventing discussion of the litigation, its effect on the bar, and effective ways of opting out.
3. Communicate this resolution to the President's Task Force on the Status of Puerto Rico, the Bar Association and its President; and
4. Authorize its distribution to the national press and elsewhere.