

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
May 20, 2021
REMOTE
MINUTES

Present for all or part of the meeting were:

Daniel Will
Richard Guerriero
Sandra L. Cabrera
Chrissy Hanisco
Cathy Shanelaris
Kate Mahan
Kristin G. Fields
James Shepard
Lisa M. English
Jesse Friedman
Joseph D. Steinfield
Leslie Nixon
Donald H. Sienkiewicz
Jonathan M. Eck
Christopher T. Regan
Geoffrey Gallagher

Jennifer Parent
Hon. Gary E. Hicks

George R. Moore
Joanne Hinnendael
Paula Lewis
Lynne Sabean
Deborah Hawkins
Allison Borowy

Guests:
Lindsay Robinson, NHBA Gender
Equality Committee
Lauren Simon Irwin, NHBA Gender
Equality Committee
Stephen Buckley, Nh Municipal Assoc.

A meeting notice reminder, a link to the agenda and related materials were emailed to all governors on May 17th. 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 welcomed everyone and called the meeting to order at 4:04 p.m. Associate Senior Justice Gary Hicks is returning as the board liaison now that the Court has its full complement of Justices. Justice Bassett will be co-chairing the Access to Justice Commission.

B. Procedure for Voting on Zoom

Allison Borowy

Executive Assistant Allison Borowy explained the procedure for voting on Zoom using the reactions buttons for yes (green check) and no (red "X") that are accessed through the reactions icon at the bottom of the screen. This makes it easier for the votes to be counted. Members can also use the "hand" emoticon to raise their hand if they have a question.

REGULAR BUSINESS – CONSENT ITEMS

C. Membership Status Changes for April 2021

Paula Lewis

The status changes are attached as a permanent part of these minutes.

D. Minutes of April 15, and 22, 2021 Meetings

Robert Howard

ACTION

On Motion to approve the consent agenda. Passed.

PRESENTATION / DISCUSSION / ACTION ITEMS

E. NHBA Gender Equality Committee – Parental Leave Policy Discussion

Lyndsay Robinson, Chair, Gender Equality Committee
Lauren Simon Irwin, Member, Gender Equality Committee

President Dan Will introduced the guests from the Gender Equality Committee, Lyndsay Robinson and Lauren Simon Irwin. He explained that no action will be taken today. The board will vote on the request at their June 17th meeting.

Lindsay Robinson gave the background for this request. The New Hampshire Bar Association Gender Equality Committee began researching parental leave policies for firms in New Hampshire in 2018. After speaking with various size law firms throughout the state, they discovered there was a strong need and desire for a sample or template policy form to use when crafting a firm's own plan. Many firms did not have a policy or the resources/information available to create a policy. This research also sparked law firms to review their current policies and update them. Since researching other firm policies, firms have reached out to committee members requesting information on their findings/research to assist them as they create and/or revise their policy.

After reviewing other firm policies and reviewing federal and state laws, the Gender Equality Committee put together a sample policy. The Gender Equality Committee is not adopting this template as a formal policy but view it more as a sample / informational document for firms.

The Committee hopes that this template can be made available to members of the New Hampshire Bar Association in the event they would like to create or revise their firm policy. It would be informational and used as a resource to firms. The Committee will periodically review the policy to determine if there are any changes to the law. The Committee would like to make the template available on the bar's website and include an article in the Bar News to make attorneys aware of the sample policy.

Committee member Lauren Simon Irwin spoke about the project. She explained that they reached out to many law firms. Most large firms had leave policies, but smaller ones did not. They found there was a need, so the policy was drafted. She added that she and Heather Burns, another member of the Gender Equality Committee reviewed the policy to be sure it complied with current NH statute in this area.

The committee's goal in drafting the policy was to help firms and walk them through the process of drafting their own policy.

The board discussed the policy. It was suggested that it would be helpful if the actual RSA was cited in the policy. The language is there, but not the actual statute citations. It was noted that the policy is gender neutral and does not require the parents to be birth parents.

It was also discussed whether the policy had been vetted or circulated anywhere else. The committee members responded that they began the process in 2018, and they worked with Rachael Nadeau, an employment lawyer when drafting the policy. The entire Gender Equality Committee has reviewed it several times.

Lauren would like to start with getting this sample approved first and then work with firms to get samples. It was a challenge to get firms to share, but the policies could be posted without identifying the firm.

President Will stated that approval of the policy will be put on the June board agenda, with the RSA citations added. He asked the board to consider any liability that the association might have for placing on its web site. Executive Director George Moore will have our counsel review the policy to be sure it is in accordance with good law and principles. He will report back at the June meeting.

There was discussion about what other forms and/or samples the association supplies for members. Vice President Sandra Cabrera has asked for this list and can share with the board. It was noted that we publish disclaimers with all the forms and samples we provide for members.

F. Treasurer's Report/FY 22 Budget Presentation and Approval **ACTION**

Richard Guerriero/Paula Lewis

President-Elect Richard Guerriero, who chairs the finance committee, complimented Associate Executive Director Paula Lewis for the great job she did on the budget preparation and adoption process. This budget is a level funded, balanced budget. There are some line item changes that reflect changes in staffing and benefits, and adjustments from Pro Bono leaving the Bar Center. One such item is the occupancy cost. The NHBA now pays for the share that Pro Bono has paid for in the past pro-rated by each department. There are also increases in electric and cooling, as the Pillsbury Street building board voted to maintain a higher air flow at least into the fall, as recommended by the CDC.

Paula also spoke about the capital budget. She shared that the telephone system will be updated prior to June 1. The new system will be in the cloud. The association will pay a monthly rate and will hold no physical assets. Net2Phone is the provider. This shift will help with our disaster recovery plan as well. The new costs are the same as what we are currently paying. We needed to replace our phone system as we have begun to have problems. The phone system expense has come off the capital budget since it will be replaced during our current fiscal year.

She also discussed the PC replacement plan, and a document management system which will be implemented this year. Paula explained that we will be starting with the executive department, and

we must free up staff time to allow for the planning and preparation, which is the biggest piece of this project.

ACTION

On Motion to approve both the annual operating and the capital budget for FY22 as presented. Passed.

G. Board Elections Results- Appointments needed **ACTION**

Dan Will

1. ABA Association Young Lawyer Delegate

Attorney Susanne Gilliam submitted a letter of interest, which the board has in their materials. Dan proposed she be appointed.

ACTION

On Motion to appoint Attorney Susanne Gilliam as the ABA Association Young Lawyer Delegate. Passed.

1. Strafford County Governor Seat- remaining 1 year of term (vacated by Chris Reagan to run for Treasurer)

Current Strafford County Governor Chris Regan has identified a candidate to be appointed to this seat, Abigail Sykas Karoutas. Chris spoke about her background and interest. She was a member of the first Leadership Academy class and then went on to chair the steering committee that oversees the program. She is no longer involved with that program. Abby is a “get involved and get the work done” kind of person. He has spoken to her and she is willing to take on the position.

ACTION

On Motion to appoint Abigail Sykas Karoutas to the remaining 1 year of the Strafford County Governor term. Passed.

H. Post Judgement Period and Closing of Case

Jason Dennis

Out of State Governor Jason Dennis was unable to attend this meeting, so this item was deferred to the June board meeting.

I. NHBF Statewide Diversity and Inclusion Survey

George Moore

Executive Director George Moore updated the board on the status of the survey. The Bar Foundation is funding it. They have partnered with a survey company named Parker Analytics, based in New York City. They are branching out into the non-profit world and are interested in working with us. It is expected the survey will be done over summer.

Please talk it up amongst your colleagues. The higher the rate of response, the better the data will be. The survey will involve stakeholders other than just members of the bar association and will be deployed statewide. Mary Tenn is involved on behalf of the Bar Foundation. Talesha Saint-Marc,

Chair of the Diversity Committee is working on it also, as well as Chief Justice Gordon MacDonald. George is very encouraged and believes progress on this project will be made quickly.

J. Executive Director's Report
1. Legal Services update

George Moore

There is a lot of work involved in the process of detaching the Pro Bono entity from the Bar Center. Effective June 1, the six current employees will no longer be employees of the NHBA. They will begin working at the Legal Advice and Referral Center on Green Street in Concord as part of the newly formed 603 Legal Aid company.

Associate Executive Director for Legal Services Ginny Martin is retiring after 25 years at the Bar Association. The association is giving the staff certificates and letters of appreciation at a gathering next week. Ginny will be receiving a President's Award for lifetime achievement at the Annual Meeting. All of the justices of the NH Supreme Court will be sharing testimonials at the award ceremony, which will be prerecorded.

2. Bar Foundation Annual Appeal Kick-Off

This event, which will be completely virtual and prerecorded, is set to air Wednesday the 26th at 4 p.m. There will be information about this year's Bar Foundation initiatives including civics, diversity and 603 Legal Aid fundraising. Chief Justice MacDonald will speak, as well as Sonya Bellafant, the new director of 603 Legal Aid. This is a fundraiser and George urges the governors to donate.

3. Annual Meeting update

There are ads in the Bar News and the information is up on the website. The program will consist of awards, recognition of 50-year members, the passing of the gavel, and a CLE. There will also be a networking social at end of day. Staff has put a lot of work into this event.

Noted for the minutes- Justice Hicks left the board meeting at this time.

K. Hampstead School Board vs. SAU #55 Case- Discussion

George Moore

George introduced this agenda item. There were a lot of background materials distributed to the board. The New Hampshire Municipal Association has asked the NHBA to take a position on this case. The goal today is to have a general discussion about the issues raised and whether the bar can take a position. As a unified bar, the board needs to keep in mind our obligations under the Chapman decision and whether the association should take a position. The issues raised by this case do involve the practice of law and administration of justice, which are permissible. George shares that we are not planning on taking a vote today, since this is a complicated issue, but we would like to have a discussion. This item will be put back on the agenda for June. There is also pending legislation at the General Court to deal with the attorney-client privilege issues, so we should decide on how to direct our lobbyists.

President Dan Will shared that the Department of Justice filed an amicus motion for reconsideration along with NH Municipal Association and others since it will have an impact on how they proceed with doing their public service jobs. One could make an argument that this is only a public sector problem which could impact the view on to the extent of which the association should take a position. Others take a more expansive view of this as this could set a problematic precedent, for invading the privilege in other types of cases.

President-Elect Richard Guerriero stated that in his mind there are two questions – would other bar members have an interest in it, and secondly, with the Chapman decision in mind, should we weigh in, and if we do, what is our position.

The board discussed the many angles of the issue. There is no history on the bar weighing in on the specific issue of attorney-client privilege. This is a fundamental aspect of being an attorney. Concern was expressed about taking a position regarding pending litigation, however most members felt comfortable with the bar taking a position on pending legislation before the General Court.

Richard notes that there is considerable precedent for the bar opining on pending legislation. He urges everyone to think about it, read the materials, and then come back in June to discuss possible action.

Richard also shared that he has asked Chris Hawkins, a member of the bar's Ethics Committee to do a 10-minute summary on the case at the annual ethics CLE next week. Richard will share that this is on the agenda for the board of governors in June, and this will be broadcast to wide array of attorneys, so they will have a chance to express their opinion.

The time frame for a NHBA response was discussed. Dan stated it would be tough to participate in the litigation, and the June meeting may be too late. It seems that on a practical level, taking a position through legislation may be the best option.

Executive Director George Moore pointed out that the bar could file a pleading in the current litigation depending on whether the current pending briefs are granted. There would be the ability for the bar to join an amicus brief or look to join the litigation and file its own brief.

There was discussion about whether there is another side to this issue. Some board members had difficulty thinking there might be, but Richard commented that he thinks there is another side—as evidence that the Justices ruled the way they did.

Some board members advocated for the board coming in next month prepared to discuss both potential rebriefing as well as any legislation effort. Richard has talked to Margaret Byrne, as well as Stephen Buckley, both of the NH Municipal Association and the legislation is pending now. We may need to move more quickly than waiting for the June meeting. George added we could wait a few days and call a special meeting.

The board decided to confer with our lobbyist Kathy Fox as to how soon we need to act. They also would like to give the NHBA Legislation Committee Chair Mike Iacopino a heads up and have him attend any special meeting on this topic. Once we know the time, a special meeting prior to June will need to be called to determine what position on the pending legislation should be taken.

1. Bench/Bar meeting report

Dan reported that Richard, Sandra, George, and Immediate Past President Ed Philpot met with full court on May 11th.

They shared that the courts will be open in full soon. The Court is considering lessons learned from remote operations during the pandemic, taking advantage of efficiencies gained, and what technologies to continue. They would like NHBA feedback. Dan suggests we could put this on the June agenda, or send comments to George and Dan.

The Court also emphasized its support for diversity initiatives. George shared our NHBA and NHBF work. The Court will be adding a position – staff coordinator for diversity and inclusion issues.

The budget was also a central topic of discussion. They are looking to expand the number of circuit court judges to 47 as well as expansion of space at 1 Granite Place to enable moving the ADO and Bar Admission office to that building. It was also reported that the ADO assessment is being reduced from \$205 to \$185.

George shared that he asked about status of the ABA wellness pledge consideration - they have decided they are not going to sign it but encourage firms to sign in.

Lastly, there was a discussion with the Supreme Court of the board's judicial vetting process and the board's process in coming up with the revised policy. George asked Richard to speak to this issue since he has handled the vetting process in light of Dan's recusal. Richard explained to the board that he reviewed the vetting process with the Supreme Court. Richard noted some member of the court had concerns about the limited information that was provided in the letters of recommendation and also about the timing of the letters. The board then discussed whether there should be a further revision of the process. There was a discussion of whether to change the timing of notification to the governor and the nominee, especially if the recommendation will be anything less than qualified. Regarding the latter point, members of the committee who drafted the vetting policy confirmed that the intent of the language in the policy is that the nominee and the governor are to be notified at the same time. The committee members stated they considered and rejected other alternatives. Richard asked the board to consider whether to alter the vetting process and specifically whether to alter the timing of notification to the nominees. Joe Steinfeld suggested that the board not change the vetting process at this time because the policy was just revised in the last six months and because the issues raised had been expressly considered by the committee. Joe suggested letting more time pass. Richard asked if anyone on the board sought further revision of the policy or had a motion regarding the policy. There was no motion. The board opted for the policy to remain as written and as it is being implemented.

2. Bar Center Reopening

The Bar Center will be reopening to public and members June 1st with staff back 100% and following masking protocol.

M. State Update

All Board Members

There was board discussion about an opinion by one member that he feels like there has not been enough pushback to courts. He states the court has said it was going to keep some of the technology gains, but this has not been the case. There seems to be a variation from court to court and judge to judge.

George responded that it was shared at the Committee on Cooperation with the Courts meeting yesterday that scheduling conferences, pretrials etc. will be done remotely, according to Judge Nadeau. Judge King was clear that they have 31 judges on the bench now and need more to deal with the backlog. The Circuit Courts will stay very remote for a while due to this problem.

Several board members stated this is not what is happening – especially for criminal – you are expected to go. It seems to be up to the individual judges.

Dan suggested he and George will reach out to Judge Nadeau with that feedback. The ability to do some things remotely has been a huge time saver for practitioners.

The Court has also asked the Access to Justice commissioners for input on what has worked well. Another board member asked about the mechanism that the court has to get feedback from the bar. It was suggested the Court set up a way to evaluate what has worked and what has not. George added that the Supreme Court is holding stakeholder meeting virtually on June 10th. He shared that he has been invited to participate, and board members should send him a list and he can articulate what events are more efficient remotely.

The board also discussed surveying bar membership. George shared that Judge King reported that the Circuit Court sent out a survey and received 1100 responses.

Director of Marketing and Communications Lynne Sabeau shared that the court is asking for submission of comments by June 1st – the email address and further information is in the May Bar news.


Members of the board felt that the practitioner suggestions don't ever seem to come to fruition. Many have taken on more work during the pandemic in an effort to stay in business and will have a problem when the court reopens as they will be required to appear all over the state. They were surprised they haven't given people more options.

Dan suggests members feed information to he and George, and they can get it to the Supreme Court. The board members should also take advantage of other outlets noted today. They will communicate with Judges Nadeau and King to express concerns shared at today's meeting.

N. Adjournment

The meeting was adjourned at 6:06 p.m.

Respectfully Submitted,



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

Membership Status Changes

Presented to the Board of Governors May 20, 2021

Active to INACTIVE:

- 270834 Resnick, Paige, Washington, DC (Effective March 8, 2021)
- 272078 Eyt, Alina, Bedminster, NJ (Effective April 12, 2021)
- 273988 Utz, Jr., Peter, Dillingham, AK (Effective April 1, 2021)
- 268068 Goreneveld-Meijer, Nicolaas, Jefferson, ME (Effective April 26, 2021)
- 4043 Cornell, Lesley, Rye, NH (Effective April 23, 2021)
- 270195 Wyman, Allison, New York, NY (Effective April 8, 2021)
- 265385 Connair, Jeremy, Golden Valley, AZ (Effective April 28, 2021)
- 1330 Kehoe, Maureen, Westfield, NJ (Effective April 21, 2021)
- 8231 Stalter, Oliver, Needham, MA (Effective May 1, 2021)
- 6533 Jankowski, Shari, Newbury, NH (Effective May 1, 2021)
- 18293 Chase, Jennifer, Lee, NH (Effective May 2, 2021)

Active to INACTIVE RETIRED:

- 17126 Mallinson, Catharine, Leominster, MA (Effective April 12, 2021)
- 12936 Robinson, Beverly, Amherst, NH (Effective April 20, 2021)
- 6892 Schrepfer, John, Manchester, NH (Effective April 30, 2021)
- 263 Baker, Roberta, Peru, VT (Effective May 1, 2021)
- 898 Gardner, Mark, New Castle, NH (Effective May 5, 2021)
- 272082 Poole, Caitlin, Ctr. Barnstead, NH (Effective April 25, 2021)
- 686 Dufault, Larry, New London, NH (Effective May 12, 2021)

Active to HONORARY ACTIVE:

- 17526 Bloomenthal, Robert, Gilford, NH (Effective May 13, 2021)
- 2426 Stark, Rodney, Goffstown, NH (Effective May 13, 2021)
- 2721 Wheat, James, Hopkinton, NH (Effective May 13, 2021)
- 2131 Remus, Paul, Bedford, NH (Effective January 1, 2021)
- 7879 Cunningham, John, Concord, NH (Effective May 13, 2021)

- 1495 Little, III, Silas, Francestown, NH (Effective May 13, 2021)
- 19662 Tedeschi, Frederick, Wolfeboro, NH (Effective April 21, 2021)
- 722 Early, James, New Haven, CT (Effective May 13, 2021)
- 2403 Span, Robert, Brentwood, NH (Effective May 13, 2021)
- 1675 McDowell, III, Joseph, Manchester, NH (Effective May 13, 2021)
- 2332 Shirley, James, Goffstown, NH (Effective January 7, 2021)
- 2438 Stein, Robert, Hopkinton, NH (Effective January 1, 2021)
- 1814 Moses, Robert, Amherst, NH (Effective May 13, 2021)

Active to DECEASED:

- 423 Cowie, Thomas, Plymouth, NH (Effective March 22, 2021)
- 158 Cook, Ronald, New Durham, NH (Effective May 10, 2021)

Active to RESIGNED:

- 269536 Schroeder, Jeanette, Chicago, IL (Effective April 11, 2021)
- 266588 Burke, Kevin, Wantagh, NY (Effective April 30, 2021)

Inactive to ACTIVE:

- 268545 Baran, Nicholas, Forest Hills, NY (Effective April 22, 2021)
- 2693 Yardley, Benjamin, Augusta, ME (Effective May 5, 2021)

Inactive to INACTIVE RETIRED:

- 19314 Smith, Richard, Cape Elizabeth, ME (Effective April 19, 2021)
- 286 Carlisle, Rose-Marie, Columbia, SC (Effective April 19, 2021)
- 13815 Kobuszewski, William, Beverly, MA (Effective April 14, 2021)
- 14780 Lisnik, Jr., John, Auburn, ME (Effective April 20, 2021)
- 2269 Schierberl, Alice, Portsmouth, NH (Effective April 25, 2021)
- 15585 Hoeck, Nanette, Hockessin, DE (Effective April 23, 2021)
- 2850 Walsh, Sheri, Concord, NH (Effective April 26, 2021)
- 687 Dufault, Mary Lou, New London, NH (Effective April 28, 2021)
- 2872 Pruden, Glenn, Spring Hill, TN (Effective April 30, 2021)

Inactive to HONORARY INACTIVE:

- 1491 Lipsky, Aaron, Keene, NH (Effective May 13, 2021)
- 17902 Tedeschi, Mary Ellen, Wolfeboro, NH (Effective April 1, 2021)
- 8751 Andrews, John, East Rochester, NH (Effective May 13, 2021)

Inactive Retired to ACTIVE:

- 273682 Farrell, Jennifer, Framingham, MA (Effective April 27, 2021)

Inactive Retired to RESIGNED:

- 255 Barradale, David, Bedford, NH (Effective March 22, 2021)
- 10035 Nebesar, Peter, Watertown, MA (Effective April 1, 2021)
- 18295 Clark, Peter, Hanover, NH (Effective April 30, 2021)
- 2813 Colsia, Dawn, Chapel Hill, NC (Effective May 1, 2021)
- 2061 Prew, Jonathan, Amherst, NH (Effective May 6, 2021)

Inactive Retired to HONORARY INACTIVE:

- 2208 Rowe, Robert, Amherst, NH (Effective January 1, 2021)
- 1345 Kelly, Raymond, Weare, NH (Effective May 13, 2021)
- 1673 McDonough, Peter, Manchester, NH (Effective May 13, 2021)
- 962 Gordon, Irvin, Contoocook, NH (Effective May 13, 2021)
- 2000 Perkins, Arthur, Concord, NH (Effective May 13, 2021)
- 2573 Trombly, Arthur, Keene, NH (Effective March 2, 2021)
- 1721 McNeil, Jr., Malcolm, Durham, NH (Effective May 13, 2021)
- 933 Gillis, Laurence, Cape Coral, FL (Effective April 1, 2021)
- 1344 Kelly, Lawrence, West Lebanon, NH (Effective January 22, 2021)
- 2163 Ritzo, James, Portsmouth, NH (Effective May 13, 2021)
- 1180 Holmes, Gary, Kittery, ME (Effective May 13, 2021)
- 1221 Hunter, Carroll, Aiken, SC (Effective May 13, 2021)
- 173 Buffum, Paul, Wilton, NH (Effective May 13, 2021)

Honorary Inactive to DECEASED:

- 4042 Cornelius, Richard, Keene, NH (Effective April 4, 2021)
- 1625 Martin, Jr., Willard "Bud", Ctr Sandwich, NH (Effective April 5, 2021)
- 1451 Leahy, Jr., Albert, Exeter, NH (Effective April 19, 2021)

Suspended to ACTIVE:

- 15122 Burns, Christopher, Portsmouth, NH (Effective April 28, 2021)

Part-Time Judicial to RESIGNED:

- 7873 Cardello, Bruce, Plainfield, NH (Effective April 1, 2021)

Judicial to INACTIVE RETIRED:

- 1072 Hamel, Gregory, Dunn Loring, VA (Effective May 1, 2021)

Pro Bono Active to INACTIVE RETIRED:

- 7939 Stratton, Constance, Concord, NH (Effective May 10, 2021)