

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
Live with Remote Option
February 17, 2022
LIVE WITH REMOTE OPTION
MINUTES

Present for all or part of the meeting were:

Abby Sykas Karoutas
Cathy Shanelaris
Chrissy Hanisco
Christopher T. Regan
Donald H. Sienkiewicz
Heather Cherniske
James Shepard
Jason B. Dennis
Jesse W. Friedman
Jonathan M. Eck
Kathleen M. Mahan
Leslie C. Nixon
Leslie M. Leonard
Lindsay B. Courtney
Paul B. Kleinman
Richard Guerriero
Sandra L. Cabrera

Susan Aileen Lowry
Vanessa Wilson

Michael J. Iacopino, ABA Assoc. Delegate
Susanne Gilliam, ABA YLD

Justice Gary Hicks, NHSC Liaison
George R. Moore
Mary Jenkins
Paula Lewis
Lynne Sabeau
Deborah Hawkins
Allison Borowy

Guests:
Kathy Fox, NHBA Lobbyist

A meeting notice reminder, a link to the agenda and related materials were emailed to all governors on February 14th. 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 Richard Guerriero

President Richard Guerriero called the meeting to order at 4:03 pm.

REGULAR BUSINESS – CONSENT ITEMS

B. Membership Status Changes for January 2022 Paula Lewis

Director of Business Operations Paula Lewis noted an update to the member status changes- Attorney Julia Pothén date of change should be January 4, 2022.

C. Minutes of January 20, 2022 Meeting Susan Aileen Lowry

ACTION

On Motion to approve the consent agenda, with the correction to the member status changes noted.
Passed.

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

PRESENTATION / DISCUSSION / ACTION ITEMS

- D. NHBA Legislation Committee Recommendations – ACTION item Michael Iacopino, Chair
1. Review and Action on positions Kathy Fox, NHBA Lobbyist

Note- Heather Cherniske abstains from all motions in this section of the minutes

Bar President Richard Guerriero introduced Legislation Committee Chair Mike Iacopino. Mike shared that the committee is almost through all the bills to be reviewed. All the bills highlighted in yellow are the ones that have been found Inexpedient to Legislate (ITL) by the house committee. Many of the bills we opposed have been found ITL.

Mike reviewed how the Legislation Committee completes its work. First, they consider if the bill is of interest to lawyers and the NHBA, and secondly, they consider whether the bar take a position under the constraints of the Chapman decision. If the bill is of interest to the bar, and we can take a position, then the committee determines the position. In many instances, even when the committee feels the bar cannot take a position, it will recommend a position of Information (neutral), Information Positive, or Information Negative- often due to drafting issues, conflict with current statute, or that the bill will create unintended consequences. These positions allow the lobbyist to provide information to the sponsors that could improve the bill.

Chair Mike Iacopino started with the bills that the committee is recommending a position of Oppose.

HB 1073- This bill would repeal the right to know exemption for attorney/client work product. The reasoning is that the work product is important to what attorneys do. President Richard Guerriero added that the bar has submitted a letter of opposition to the House Judiciary committee.

Mike asked that as we go through the list, if someone has reservations, we will stop and discuss, otherwise he will continue with the recommendation of the committee. A motion to adopt the recommendations will be considered after the review is finished.

HB 1265- This bill would remove the judge's discretion to set aside rules in family court proceedings. The committee took a position that this is the function of the court. They felt this created a separation of powers issue.

Chair Mike Iacopino then moved on to discuss one bill that the committee is recommending the bar support.

SB 297 – This bill that makes it easier to obtain out of state discovery and testimony. It would improve the administration of justice. Especially in civil cases where it is difficult to obtain out of state discovery materials. This bill amends the current RSA 517.

Mike moved on to discuss the bills that the committee is recommending a position of Information.

President Guerriero asked Mike to clarify the meaning of the informational positions. The idea of a position of Information Negative indicates that the committee sees problems with the bill, but the NHBA cannot take a formal position of Oppose, or the problems don't rise to that level of concern. The position of Information Positive indicates that the committee feels that the bill would have a positive impact, but feels the bar cannot take a position, usually due to Chapman concerns. Sometimes this information conveyed by our lobbyist may sway a legislator to vote for or against. The Information Negative or Positive positions are not communicated to the legislature, but only the suggestions and comments by the committee are communicated. The negative / positive label is internal shorthand for us. This is a more transparent way to let people know there is a concern with the bill if the bar can't take a position.

The Legislation Committee felt that on HB 1343- (Allowing limited legal services to be provided by certain paraprofessionals) the bar could not take a position due to Chapman concerns. They felt there would not be substantial unanimity. Chair Iacopino shared that he has heard from lawyers that are both in support and against this bill. We are not the only legal organization struggling with this issue, he says, during the ABA House of Delegates meeting this came up. There was a resolution that was filed, and then withdrawn that opposed this idea.

Chair Iacopino continued the review of the information negative and information positive bills and described the reasons for the positions.

The board discussion HB 1346 (Establishing a commission to study the New Hampshire family court system). The board would like to add comments that the legislature should find a means to get input from the judiciary on this study commission. There was discussion regarding how our lobbyist, Kathy Fox communicates information to the representatives. She usually communicates with an in-person conversation. She noted that the House Judiciary committee voted 15-0 ought to pass, and the bill will now go to the full House to be voted on. She could also communicate this information when the bill gets the Senate, assuming the bill passes the House.

Mike added that we don't necessarily send a document to the legislature on the bills where we are communicating information to the sponsors. Mike adds if there is a bill that the board wants a more aggressive approach on, they should communicate that to Kathy, so she can relay their concerns. We leave it to Kathy to find the path to get the information across.

President Guerriero said there have been particular circuit court decisions that the public is dissatisfied with. He feels, that to attack these judges undermines the whole judicial system, and he worries that this commission might undermine the courts. Executive Director George Moore concurs; the commission as laid out in the bill is problematic without judicial members.

ACTION

On Motion: To recommend that this family court study commission find a vehicle to find representation of the judiciary and gain information to hear their views. Passed with one abstention, Heather Cherniske.

Chair Iacopino continued summarizing the remaining Information positions.

The board discussed the Legislation Committee's recommendations to take no position on CACR 24, (Providing that the attorney general be elected by a majority vote of the members of the general court in

a joint session). A motion was made to change the position to Oppose. President Guerriero expressed a concern that this is a political issue, and he is not sure whether the bar should weigh in. He thinks that the Chapman decision limits us from weighing in. Lobbyist Kathy Fox shares that CACRs have a higher majority needed to pass; usually at least two-thirds. The motion was withdrawn.

ACTION

On Motion: to accept the recommended positions as set forth in the Legislation Committee documents. Passed unanimously with one abstention, Heather Cherniske.

E. Status of Paraprofessional Bill- HB 1343

Richard Guerriero

President Guerriero noted that the bar has not taken a position on this bill. The reasoning is that raising concerns, even communicated as information, would be received as opposition, according to House Judiciary Chairman Ned Gordon and under Chapman, perhaps we cannot take a position.

F. Board Election Procedure and Openings

George Moore

1. Hillsborough North
2. Hillsborough South
3. Stafford County
4. Vice President

George updated the board on current status of the open seats. We will need a new candidate for Strafford, and the Hillsborough positions, as Abby Karoutas has changed to a job based in Merrimack County, and Leslie Nixon and Donald Sienkiewicz are term limited out. Paul Chant has submitted apertition to run for Vice President. George expressed thanks to Leslie and Donald for their service.

G. Treasurer's Report

Chris Regan/Paula Lewis

Treasurer Chris Regan said it is important to note the report is just a continuation of what we reported last month. The bar is running ahead of budget projections, with more new members joining than anticipated, and expenses running lower. He noted we will try to reallocate some funds. Some areas under consideration are member services, supporting access to justice recommendations, and possibly some capital improvements. Board members should contact Chris or Director of Business Operations Paula Lewis if they have questions.

The board discussed setting aside some money as a hedge against any potential increase in dues for the future. Executive Director George Moore responded that the Finance Committee is currently working on budgeting for next year. This will include a review of reserves we have on hand. This will come before the board in the May meeting where the board will be able to discuss and act on the proposed budget.

H. Economics of Law Survey

George Moore

We are moving forward on the survey and have signed a contract with the UNH Survey Center. Marcom Director Lynne Sabean and her team have developed new questions. The expected launch date is probably mid-March. We hope to have the final report prior to the annual meeting. Please encourage your colleagues to complete the survey.

I. Budget Process

Paula Lewis

Director of Business Operations Paula Lewis referred to the budget calendar that was distributed with the board materials and highlighted the portions that pertain to the board. Budget Buddy meetings, which are meetings between designated finance committee members and the managers are a part of the process. After those, the first draft budget is brought to the finance committee at their first meeting on April 14th. There is space for a second meeting if needed for revisions needed prior to the final draft. The final draft budget will be brought to the board on May 19th for their approval.

J. Proposed Protocol for Return to Live CLE and Section Programs

Mary Jenkins

Professional Development Director Mary Jenkins discussed her proposal. In that memo she identified a number of suggested protocol and precautions to return to some live CLEs May 1st. She reported that the CLE Committee had a lively in-depth discussion, and ultimately did not act on the memo, but unanimously acted on a recommendation that the CLE committee and NHBA observe any public health guidelines from the CDC and state /local regulations in place at the time of the event.

She has some concern that this recommendation by the CLE committee would put staff in a bind to have to abide by the health regulations on the day of the event, as the staff need more lead time to pivot to remote as need, and advising registrants, etc.

President Guerriero confirmed that we are planning on live events – The Bar Foundation event in April, Practical Skills in June and a live annual meeting. He says it looks like we are in sync with other groups. There was discussion about live Bar Foundation event.

Executive Director George Moore stated that people need to know what to expect when coming to live program. Our messaging as to guidelines, if any, has to be very clear.

Board members commented on the impressive document, and they should consider it. We will have to assess as we get closer to the event. Another member suggested that we consider a waiver form, that discusses who will enforce the protocols, maybe acknowledgment that people will follow protocols. The board discussed withholding credit if protocols are not followed. George asks the board to approve this as a working protocol for going back to part time live CLEs.

There was discussion about why the CLE Committee made the recommendation it did. The most predominant factor was that we don't know what the situation will be in May. Mary's intent is that we would modify if the COVID situation lessened or worsened. The CLE committee had wide-ranging opinions, about this; their position might be seen as a compromise position. The point is that the situation will change. The board discussed what would happen if state and federal guidelines don't agree. George suggests adding a paragraph that government guidelines will be analyzed when making decisions. Governor at Large Cathy Shanelaris suggests we add a sentence that the attendees agree to follow the protocols when attending.

ACTION

On Motion: To approve the protocol for now and put this item on the agenda for March and April, and the board will have an opportunity to reconsider. Add the wording to the protocol that decisions are subject to the then current CDC state and local regulations. This is protocol is for both CLE programs and Section events. Passed.

K. Executive Director's Report

1. Final Run Down of MYM and Statistics

Mary Jenkins

As of 4 pm today we have 579 registrants, and 71 for the tea and chocolate tasting. We have done tech checks with presenters. Registrants have received reminders about how to participate and get on the platform.

Executive Director George Moore commented that Mary was thrown into the planning of this event when she was hired, and she has done a wonderful job. Lynne Sabean and her staff have also done a great job.

2. Diversity and Inclusion Survey Out and on Website

George Moore

The Bar Foundation DEI survey is out, published and on our website. It is quite thorough, with charts and graphs and lots of information. We are very happy with how our consultant put it together. It will be used by a number of stakeholders and will allow us to now move forward on the diversity and inclusion initiatives.

L. President's Report

Richard Guerriero

1. Attacks in Media and Legislature on Circuit Court/Family Court Judges

This is really just about the rule of law. The judge made the best decision that she could. This attack on the judiciary and rule of law is insane. He intends to write the next president's column to address this issue. The public needs to know that the bar association stands behind the rule of law. He is asking for the board's permission to do so. Board members support Richard writing an article.

N. New Business

There are two new judicial nominees, and we are in the process of scheduling the interview meeting. We are aiming for March 2nd.

O. State Update

All Board Members

Board members are asked to report on issues of concern or interest for Association members that should be brought to the attention of the Board of Governors

Chris Regan noted that Attorney Alan Greene died a month ago. He was a longtime member of the Strafford county bar, and his death is a real loss.

Justice Hicks spoke about Mike Iacopino's dad, Vince who recently passed away. He was remarkable, had a great deal of integrity, and was a wonderful public utility judge. He had patience, understanding and a tolerance for rookie lawyers.

P. Adjournment
The board meeting adjourned at 6:18 p.m.

Respectfully submitted,

Deborah J. Hawkins for Susan Aileen Lowry, Secretary

Membership Status Changes	
Presented to the Board of Governors February 17, 2022	
<u>Active to INACTIVE:</u>	
273885	Braman, Nancy, Revere, MA (Effective January 4, 2022)
14582	Bassi, Courtney, Andover, MA (Effective January 7, 2022)
274417	Moccia, Anthony, Boston, MA (Effective February 7, 2022)
12507	Malia, Jr., Peter, Fryeburg, ME (Effective January 31, 2022)
<u>Active to INACTIVE RETIRED:</u>	
959	Goodwin, Rolf, Nashua, NH 03063 (Effective January 1, 2022)
1416	Lajoie, Ronald, Hopkinton, NH (Effective December 31, 2021)
19641	Depoian, Donna, Laconia, NH (Effective December 31, 2021)
18873	Taylor, William, Yarmouth, ME (Effective December 31, 2021)
<u>Active to FULL-TIME JUDICIAL:</u>	
9268	Attorri, Mark, Bow, NH (Effective January 31, 2022)
<u>Active to RESIGNED:</u>	
267720	Hiller, Benjamin, Medford, MA (Effective December 31, 2021)
<u>Active to DECEASED:</u>	
1004	Greene, Alan, Orlando, FL (Effective December 23, 2021)
7880	Davis, Emily, Thetford Center, VT (Effective December 16, 2021)
<u>Inactive to ACTIVE:</u>	
268522	LaMonica, Stephen, Groveland, MA (Effective January 12, 2022)

19880	Plummer, Marina, Warwick, RI (Effective February 3, 2022)
18103	Sarzana, Autumn, Newton, MA (Effective February 3, 2022)
14364	Borchers, Timothy, Medway, MA (Effective February 7, 2022)
274176	Arcidiacono, Philip, Concord, MA (Effective February 7, 2022)
<u>Inactive to INACTIVE RETIRED:</u>	
6879	O'Neil, Maureen, Hampton, NH (Effective January 1, 2022)
<u>Inactive Retired to ACTIVE:</u>	
20096	Pothen, Julia, Manchester, NH (Effective June 24, 2022) NOTE: DATE AMENDED TO JANUARY 4, 2022
<u>Inactive Retired to RESIGNED:</u>	
5638	Roberge, Carolyn, Clearwater, FL (Effective February 8, 2022)
<u>Suspended to DISBARRED:</u>	
8156	Dunn, David Charles, Manchester, NH (Effective January 14, 2022)
<u>Honorary Inactive to DECEASED:</u>	
1234	Iacopino, Vincent, Newbury, NH (Effective January 28, 2022)