

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
Thursday, November 17, 2022
4:00 p.m.

**LIVE WITH REMOTE OPTION
MINUTES**

Present for all or part of the meeting were:

Barry C. Schuster
Cathy Shanelaris
Chrissy Hanisco
Christopher T. Regan
James Shepard
Jesse Friedman
Kara Simard
Kathleen M. Mahan
Kyle D. Robidas
Leslie M. Leonard
Lindsay B. Courtney
Paul B. Kleinman
Paul Chant
Richard Guerriero
Scott J. Whitaker
Steven F. Hyde

Susan Aileen Lowry
Vanessa Wilson

Michael J. Iacopino, ABA Assoc. Delegate

Justice Gary Hicks

George R. Moore
Megg Acquilano
Paula Lewis
Lynne Sabeau
Deborah Hawkins

Guests:
Mysty Shappy, NHBF Associate Executive
Director
Lisa Wolford, NHBF IOLTA Enhancement
Committee

A meeting notice reminder, a link to the agenda and related materials were emailed to all governors on November 14th and updated on November 16th. 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 Paul Chant

President-Elect Paul Chant called the meeting to order at 4:08 p.m.

REGULAR BUSINESS – CONSENT ITEMS

B. Membership Status Changes for October 2022 Paula Lewis

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

ACTION

On Motion to accept the consent agenda as presented. Passed with two abstentions, Chrissy Hanisco and Scott Whitaker.

The Member Status Report is attached as a permanent part of these minutes.

PRESENTATION / DISCUSSION / ACTION ITEMS

D. NHBF IOLTA

Mysty Shappy, NHBF Associate Executive Director
Lisa Wolford, NHBF IOLTA Enhancement
Committee Chair

Lisa Wolford attended the meeting today to speak about IOLTA work of the foundation. She defined IOLTA (Interest on Lawyers Trust Accounts) as a method of raising money for charitable legal services enshrined in court rules 50 and 50a. In its heyday, it raised over a million dollars a year in New Hampshire. The civil legal agencies that presently benefit from IOLTA funding are 603 Legal Aid (which includes Pro Bono), New Hampshire Legal Assistance, The Disability Rights Center, and NHBA's Modest Means Program. Historically, with more funds, grantees can be broader than just legal service organizations under the Supreme Court Rule.

IOLTA revenue has been shrinking in recent years, partly due to covid, as well as the banks pulling back on their interest rates, due to very low interest rates from the Federal Reserve.

Mysty and Lisa and the IOLTA enhancement committee are instituting 2 new initiatives. First, they are enforcing compliance by the banks to be sure the rate comparability rule is being followed. Banks are required to pay interest rates on IOLTA accounts that are comparable to rates paid on other similar business accounts due to the express terms of Rule 50. The problem in the past has been determining what these comparable rates are. The NHBF is currently in the process of auditing the banks to determine their compliance with this rule and has hired a consultant to assist with this comparability audit process. The other initiative is an enhanced leadership bank program which allows them to get out of the rate comparability audit by agreeing to pay 65% of the federal funds target rate.

Lisa shared that they would like to give brief presentations around the state to let lawyers know about this program, to recognize the civil legal programs, and also thank the top participating banks. She is asking whether the board knows of any local and county bar meetings that are scheduled, where they could make a short presentation. Lisa is asking for the board to help give them ideas for presenting this info around the state. George suggested that the bar's Practical Skills program would be a good place to do so.

President-Elect Paul Chant added that he has been involved with the NHBF board in the past, and they had raised close to 2 million dollars at that time. He also added that a number of lawyers serve on bank boards, so it might be a good idea to try and identify those attorneys and reach out to them.

Banks that have signed on as leadership banks so far are Bank of America, Bar Harbor Bank and Trust, Jeanne D'Arc Credit Union. Salem, Service Credit Union, Sugar River, Northway, and Peoples which is now M and T bank after a recent merger.

Mysty also referenced the historical collection of IOLTA revenue. This leadership bank program is like a safe harbor, which eliminates their need to supply us with a lot of compliance paperwork. Once we get full reporting from all banks, she thinks we will have a substantial boost in moneys for civil legal services. Mysty and Lisa have done a great job with this.

Grafton County Governor Barry Schuster asked for a handout with basic talking points – Mysty will put that together. There is also some info about IOLTA on the NHBF website.

Mysty gave an example of the difference in funding received by the NHBF before and after joining the leadership bank program.

- E. Nomination of Kathleen M. Mahan for 2023-2024 President-Elect Paul Chant
(As called for by NHBA Bylaws Article 6, Section 3: On or before December 31st in each year, the members of the Board of Governors shall nominate a candidate for President-Elect.)

ACTION

On Motion to nominate Kate Mahan for President-Elect. Passed unanimously.

- F. Governor At Large Seat Vacancy- appointment needed George Moore

This seat became vacant when Kate Mahan resigned to run for Vice President in the special election. The board appoints someone to serve until the next election in April of 2023. The appointee can run for election to the remainder of the term at that time. The officers have discussed his potential appointment. George shares that he was approached a few years ago by Bob Lucic of Sheehan Phinney about getting involved with the board of governors. We didn't have a slot then for him, but we do now. He practices in Manchester. George feels it would be good to have him on the board. Bob is willing, and George feels like it would be a good fit, but this decision is up to the board. We have asked for other nominees, and there isn't anyone else that has expressed interest.

ACTION

On Motion to appoint Bob Lucic to the vacant Governor at Large seat. Passed unanimously.

- G. NHBA Bylaws Revisions for MYM – Article IV, Section IV Paul Chant

This change is being proposed as in actually running the Special Election, it was discovered that the 45-day time frame for accepting nominations, and then 45 days for holding the election was too long, and it should be shortened to 30 days each. This bylaws procedure was drafted a few years ago after David Ruoff was nominated to be a judge as he was about to become Bar President. However, the drafted procedure had never been tested.

ACTION

On Motion to approve this bylaw change. Passed. Unanimously.

- H. Treasurer's Report (narrative report, income statement, balance sheet) Chris Regan /Paula
Lewis

Treasurer Chris Regan reported the following. Financial performance is better than forecast for the first four months of the fiscal year ending May 31, 2023, with a current positive net contribution at nine months of \$315,093, \$133,419 better than budgeted. The factors contributing to the positive variance are revenues reported \$83,004 higher than budgeted, mostly from Membership Dues coming in higher than budgeted by \$70,630 and a net savings in expenses totaling \$50,415.

Chris recommends board members review the narrative report, it gives a very clear explanation of the budget and financial picture. It's an easy read.

Associate Executive Director for Business Operations Paula Lewis added that there are currently a couple of initiatives in process that the board should be aware of – upgrading the lower level seminar room and the member only center project. In addition, the NHBA and NHBF are participating with the Judicial Branch in the planning for the National Judicial Outreach Week (NJOW) project. We are offering staff support from NHBA and money from NHBF.

ACTION

On Motion to accept the Treasurer's Report as presented. Passed.

- I. Ethics Committee Opinion – Ancillary Businesses under Rule 5.7 Paul Chant

Executive Director George Moore outlined the main points of this opinion. It comes out of the real estate practice area, and refers to the instances of lawyers that are licensed real estate brokers as well as lawyers, and handling both areas and offering service and products that are not within the definition of the practice of law.

The opinion concluded while not prohibited, there are limitations to how a lawyer can conduct themselves in having a law-related business. They should proceed with caution if doing so. This opinion doesn't change the existing ethical standard but restates and reaffirms the former ruling.

ACTION

On Motion to endorse the opinion as presented. Passed with one abstention – Lindsey Courtney.

- J. Nomination and approval of Eileen Fox as member of the Paul Chant
Public Protection Fund Committee

It is required that the board approves this appointment. The chair of the Public Protection Fund Committee, Tom Quarles endorses this appointment, and Eileen is willing to serve. Executive Director George Moore spoke to her qualifications and heartily endorses her appointment.

ACTION

On motion to approve the nomination of Eileen Fox to serve on the Public Protection Fund Committee. Passed Unanimously.

- K. 150th Anniversary Update Lynne Sabean

Director of Marketing, Communications and Member Services, Lynne Sabean shared the progress of planning for this celebration. There was an open discussion at the last board meeting. As agreed at that meeting, a committee was put together to work on planning. There will be a focus on the events, activities and service projects. There is interest in some kind of activity, perhaps a fundraiser. The NHBA events calendar is quite full, but Lynne is not saying an event can't be planned. In terms of the service projects – there was some confusion about the 150 minutes of giving back – would this be in addition to any other service requirement or financial commitment? There was a list of volunteer ideas in the materials – she welcomes additional ideas. This is considered to be a living document.

There was also a speakers bureau idea. The Judicial Branch is also putting together an additional speaker's bureau as part of the March, 2023 judicial outreach project. Lynne has spoken with Jackie Waters, Deputy Director Access and Community Engagement for the NH Judicial Branch,

and she is excited about collaboration. There is also a draft promotion schedule and possible activities planned included in the board materials.

Director of Professional Development Megg Acquilano spoke about ideas for CLE. She has been brainstorming with CLE committee chair Jack Crisp. They have talked about putting together three- or four-part series about honoring the past but looking to the future. The parts would be stand-alone sessions.

L. Posting of Final Bench Bar June 2022 Conference Report George Moore

George shared that the report is complete. The planning committee has supplied edits and the report will be posted to the bar's website probably early next week. Once it is posted, we will be sending an email to the Bench Bar Conference attendees with the link to the report. The report will give us much more to work with for next steps of follow up. Justice Hantz Marconi, and Justice Donovan spent a lot of time on the final report as did rest of committee. They were a great group to work with.

It was asked if there will be a summary article in the Bar News. There is no plan for it at this time. A link will be sent to the board when posted.

M. President's Report George More

1. NHBA Involvement with NHSC Judicial Outreach Initiative

George spoke about this initiative. This item is on the agenda because it will involve using some NHBA and NHBF resources.

Several months ago, there was a request by Chief Justice MacDonald of the NHSC whether the NH Bar Foundation would be interested in partnering with the judicial branch on a public education project. The NHBF board agreed. Board members Rich McNamara and John Garvey are co-chairing the steering committee, which George is also on. The operations committee for this project is made up of NHBA Staff Paula Lewis, NHBF Staff Mysty Shappy, and from the Administrative Office of the Courts, Jackie Waters and Anne Zinkin.

There will be teams of judges and practitioners that will speak at venues about the Rule of Law. Activities will culminate on March 10 with a national celebration of women judges. The plan is to use the ABA script and modify to make it work for NH.

The second phase is to develop a speaker's bureau of judges that are willing to go out and speak periodically, as issues come up in the public sphere.

The group would also like to partner with a media outlet to produce a video documenting a day in the life of a judge – probably focusing on the Circuit Court.

The planning group will be looking for volunteers who are active litigation practitioners. George noted they may have the judges choose their own practitioners to partner with at the outset.

This will also be discussed at the Bench Bar meeting on 12/6 with the officers, according to Justice Hicks. He also shared that the Court also has a diversity and equity initiative going on.

1. MYM 2023 update

George shared that the MYM is coming into shape. There will be a full-page ad in the November Bar News, which is still general about the schedule. The first person we received a commitment from is Dana Remus, former chief counsel to the President, who has just stepped down from this position. Another confirmed speaker is the Sterling Professor of Law at Yale Law School, Akhil Reed Amar. We also expect to present a program on speaking to the press and limitations on attorney's 1st amendment rights by professor David Hudson of the Bentley School of Law in Tennessee. This will include a couple of NH practitioners. John Greabe is on board to participate.

There will be more information in the December Bar News. George feels this promises to be an interesting day. We expect there will be approximately 4 – 5 hours CLE credit. The exact amount of credit is not finalized. The presenters will be in person.

2. Upcoming Bench/Bar meeting 12/6 at NH Supreme Court

George mentioned that one topic is Rule 6.1. He would like ideas from the board about topics. Justice Hicks added that he is also asking his colleagues for topics. A combined agenda will be created soon.

3. NHSC Rule 35 Guidelines for the Utilization by Lawyers of the Services of Legal Assistants Under the NH Rules of Professional Conduct

George referenced the text that is in the board's packet of materials. This comes out of the legislation regarding paralegals representing people in court. The legislation and the rule put certain commitments on the lawyer in supervising the paralegal. This is a big change – it is only being piloted in certain areas; Manchester, Berlin and Franklin courts. Governor at Large Jim Shepard noted that RSA 173B has a criminal aspect and thinks perhaps this was overlooked. George will follow up with the Rules Committee on this issue. George will consult with Derek Lick, who sits on the Rules Committee.

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

- Paul Chant noted that he was at the DOVE training and there were only 2 new lawyers, which was very disappointing. Governors should promote this valuable program to other lawyers among us.
- Barry Schuster and Jonathan Eck attended the Grafton County Bar Meeting and promoted bar services.
- Cathy noted the Nashua bar is on 12/7 at Liquid Therapy – 4:30 – 7:00.

P. Adjournment

The meeting was adjourned at 5:16 pm.

Respectfully Submitted,

Deborah J. Hawkins

Deborah J. Hawkins for Susan Aileen Lowry, Secretary

Membership Status Changes	
Presented to the Board of Governors November 17, 2022	
<u>Active to INACTIVE:</u>	
276320	Davis, Christopher, Fort Collins, CO (Effective October 24, 2022)
272414	Keller, Duran, Lafayette, IN (Effective October 19, 2022)
2290	Scudder, Steven, Concord, NH (Effective November 1, 2022)
21125	Kline, Robert, Falmouth, ME (Effective November 1, 2022)
<u>Active to INACTIVE RETIRED:</u>	
276248	Eddy, Chelsea, Concord, NH (Effective October 24, 2022)
276318	DaCruz, Jeremy, Somerville, MA (Effective October 24, 2022)
8753	Babin, Roger, Plymouth, NH (Effective November 1, 2022)
<u>Active to SUSPENDED:</u>	
2340	Siegal, Byron, Quincy, MA (Effective October 26, 2022)
<u>Inactive to ACTIVE:</u>	
270650	Tabachnik, Tatyana, Franklin, MA (Effective October 28, 2022)
<u>Inactive to RESIGNED:</u>	
9063	Sykes, Kathleen, Yarmouth, ME (Effective October 25, 2022)
<u>Inactive Retired to ACTIVE:</u>	
430	Anderson, Kenneth, Gilford, NH (Effective October 25, 2022)
<u>Inactive Retired to LIMITED ACTIVE:</u>	
547	Cross, Jr., Edward, Amherst, NH (Effective October 17, 2022)
<u>Inactive Retired to RESIGNED:</u>	
140	Connelly, Mark, Contoocook, NH (Effective November 1, 2022)

<u>Limited Active to INACTIVE RETIRED:</u>	
547	Cross, Jr., Edward, Amherst, NH (Effective October 28, 2022)
<u>Honorary Active to HONORARY INACTIVE:</u>	
1837	Murdock, Jr., Frederick, Salem, NH (Effective September 12, 2022)
<u>Honorary Active to DECEASED:</u>	
2067	Prunier, Gerald, Hollis, NH (Effective October 18, 2022)
<u>Honorary Inactive to DECEASED:</u>	
791	Fernald, Richard, Portsmouth, NH (Effective April 14, 2020)