

NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
Bar Center, Concord NH
Thursday, March 23, 2023
4:00 p.m.

**LIVE WITH REMOTE OPTION
MINUTES**

Present for all or part of the meeting were:

Barry C. Schuster
Chrissy M. Hanisco
Christopher T. Regan
James Shepard
Jason B. Dennis
Jesse W. Friedman
Jonathan M. Eck
Joshua Wyatt
Kathleen Mahan
Kristin Fields
Kyle D. Robidas
Leslie M. Leonard
Lindsay B. Courtney
Monique M. Schmidt
Paul B. Kleinman

Paul W. Chant
Richard Guerriero
Robert Lucie
Scott Whitaker
Susan Aileen Lowry
Vanessa Wilson
Michael J. Iacopino

Guest: Jill O'Neill, Executive Director NHLAP
George R. Moore
Megg Acquilano
Misty Griffith
Paula Lewis
Cindy Roberts

A meeting notice reminder, a link to the agenda and related materials were emailed to all governors on March 20, 2023. 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 Jonathan Eck

President Eck called meeting to order at 4:10 pm.

REGULAR BUSINESS – CONSENT ITEMS

B. Membership Status Changes for February Paula Lewis

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

C. Minutes of February 16, 2023 Meeting Susan Aileen Lowry

ACTION

Leslie Leonard noted that she did not attend the February 16th meeting, the meeting minutes have her down as being present. She asked to have her name be removed. On motion to approve consent items including the corrected minutes. Passed with two abstentions from Scott Whitaker and Jesse Friedman.

PRESENTATION / DISCUSSION / ACTION ITEMS

D. Collaboration with NHLAP and proposed LAP Assessment increase Jill O'Neill, Executive Director

Judge James O'Leary, Chair of the NH Lawyer Assistance Program, was unable to make the meeting. President, Jonathan Eck introduced LAP Executive Director, Jill O'Neill. Jonathan said Justice Hicks discussed this subject generally with him and said no motion is needed on this proposal. Justice Hicks and the Court would like to get the board's general thoughts and if the Board would be in support of it. Jill O'Neill, Executive Director of the NH Lawyers Assistance Program stated that they are seeking support and the endorsement of the Board of Governors for a \$10 increase in the LAP Assessment fee. She said currently the fee is \$20 per year. She said these fees are the program's sole source of income which currently supports one full-time position and programing costs. She said there has been a 67% increase in referrals to the program this fiscal year. If the requested increase were approved, the additional amount would be to support a full-time clinician or to contract with a clinical service to help with growing demand. She said we have a growing demand for services, together with a new strategic initiative with a staff of one. She said that she there has also been an increase in requests for training and speaking engagements. As part of the strategic planning efforts, they are looking to address attorney wellbeing holistically. Paula Lewis, NHBA Deputy Executive Director asked Jill if she is looking to increase the \$10 across the board for all statuses. Jill stated that if the change is approved the new cost would be \$30 and \$15.

Rockingham County Governor, Paul Kleinman asked Jill if she could provide statistics on the average number of attorneys needing assistance. Jill said this fiscal year we have served 96 legal professionals compared to 57 last year. She said when they look at the nationwide statistics and apply them to the Bar, they are looking at 1000 to 3000 within the state that have unmet needs. Paul asked for further clarification where the 1000 to 3000 number comes from. Jill said membership at the Bar for in state and out of state attorneys is roughly 8500-8600. We applied the national statistics which is 21-36% who struggle with a substance abuse. Then applied that to the Bar membership total which comes to 1000-3000 attorneys that struggle with a diagnosis, require clinical care and treatment. Paul asked if the clinician would be providing direct treatment and support. Jill said we do consultations then we refer out to other services for treatment. She said we apply a clinical skillset called motivational interviewing which requires some clinical knowledge.

Grafton County Governor, Barry Schuster asked if there is a trend on the types of issues you deal with? What are the qualifications that you want for volunteers? Jill said the types of issues are for burn out, stress management, mental health conditions, substance abuse disorder, gambling, cognitive decline, age-related issues and life transitions, grief, and loss. She said we are seeking volunteers who have experiences they can share.

President-Elect, Paul Chant asked if you will be able to find a person with a clinical background for \$70,000. Jill replied that the \$10 increase would enable then to hire someone for \$70,000. She said they are looking at full-time, part-time, or contracting out for services. Paul asked if \$10 increase is enough. President, Jonathan Eck asked Jill to explain when the last time the fees was increased. Jill replied that the last increase was approximately in 2013. She said a \$10 increase will be enough to continue to support what we're doing at a very cost-effective approach. She stated that we need to look at grant funding, but she doesn't have the capacity to look at it with the work volume. Paul asked what is the maximum fee that lawyers in NH pay? Paula Lewis replied that it's \$20 for active members and \$5 for inactive retired. The increase would make it \$30 for active members and \$15 for inactive retired. She said she would caution the Board about an increase for the inactive retired members.

Treasurer, Chris Regan who is actively involved with the NHLAP program as a NHLAP Board Member, said Jill and Judge Leary went to the Supreme Court to present this. He said the Supreme Court would like to see how the Bar Association feels about it. He expressed that he feels that Jill is stretched too thin to accomplish her work.

Paul Kleinman asked George Moore if there are other programs that have an allocated fee like this? Are we being asked to just provide support? Who sets the fee? He expressed a concern about how his constituency in Rockingham would feel about increasing the dues. Executive Director, George Moore responded saying that we are not talking about a Bar dues increase. He said this is a special assessment by the Supreme Court in their supervisory position over the NHBA to assess the members for services. It's identical to how the Supreme Court handles the fees for ADO and the Public Protection Fund Program. They are both examples of how the Supreme Court uses the NHBA as the vehicle to collect money that it feels is necessary to adequately oversee the legal system.

Strafford County Governor, Josh Wyatt asked Jill do you bill people's insurance for a revenue stream? Jill replied that we do not and we're not in a position right now to consider it. Josh asked about the insurance line item on Appendix C, if it is for employees' insurance or for professional liability? Jill replied that it's an umbrella coverage that covers the Executive Director, Officers and workers comp. Josh asked if it would cover the new clinician? Jill replied yes and she incorporated the cost into the clinician budget.

Paula Lewis expressed concern that increasing the price for the inactive retired to \$15 might be a problem. Vice President, Kathleen Mahan said it seems like people are generally in favor or see the need for an increase after a decade based on the supporting statistics. She asked whether it is fair to say that the Board supports an increase to the fee and to also note Paula's concern. Jonathan agreed and said if anyone else feels to the contrary to please let us know. Otherwise, that's what we'll report. Public Sector Governor, Lindsey Courtney said her office has a similar program. She said based on her work with them she didn't see how the increase will allow them to do the work that's needed. She said she doesn't think it's enough.

E. Treasurer's Report

Chris Regan /Paula Lewis

Treasurer, Chris Regan said we're just about on budget and less than \$600 under for the year. He said that CLE is still in the process of ramping up and the revenue number is down. He said he understands that coming up in April and May the numbers will improve. He said currently there are some reduced expenses that offset the lesser CLE number which is the reason it's within balance. He reported that the budget process for next year is in process. The Finance Committee is going to be meeting about the budget for next year which should be presented at the May meeting.

President, Jonathan Eck asked the staff if they can explain the shortage for registrations and fees of approximately \$235,000? Chris responded that it's from CLE's. Jonathan asked if someone could talk about why we're so off on registrations and fees revenue? Paula Lewis, NHBA Deputy Executive Director said there was a slower ramp-up for live CLE's than budgeted. She said the upcoming months of April, May and June are packed with new CLE offerings. Megg Acquilano, Director of Professional Development said there were some challenges in the beginning for her which impacted the programming. She said George and Paula have addressed the challenges are working with her on them. Megg said she feels good about the programming all the way through to December.

Paula suggested that Jonathan should look at advertising subscription revenues which are up \$68,000. She said Donna Parker, NHBA Advertising & Sponsor Sales Coordinator has done a great job. She said we were conservative on the membership dues based on our statistics, but we have gained revenue in that area as well. She

said both items make up for the deficit in CLE revenue. She said we don't like to see a fluctuation this large and said we probably will recoup some of the losses in April and May.

Jonathan asked if the CLE Committee is functioning well? Is the Committee coming up with ideas? George replied that they had to reach out to some individuals to stress the importance of selecting days/times for securing speakers. He said we need to have speakers booked so we can start advertising the programs and start holding them. Jonathan said the facilities and meals are running high is this an issue we need to track as we plan events. Paula replied that last June is included within this fiscal year and that number is from Annual Meeting last year and was planned for.

F. Board Election Slate

George Moore

Executive Director, George Moore said we have a full election slate except for Coos County which raises a separate issue that's on the agenda. He said the Coos County candidate Len Harden was not able to get 10 signatures. He suggested that the board should review whether we should retain the 10-signature requirement for a valid nomination petition in a county that has limited practitioners. He also thanked all the Board members that are continuing to run and serve on the Board. President, Jonathan Eck said at the Officers' meeting Paul Chant volunteered to reach out to the members from Coos County to encourage them to pursue a write-in for Len. He asked George if the By-Laws change will be ready for the next meeting which would state if there are fewer than twenty members in a county that a candidate would need to have 35% of the active members to qualify instead of ten signatures. George confirmed that is correct. Coos County Governor, Scott Whitaker offered to contact everyone to ask that they write-in Len instead of Paul. Jonathan said if Len receives enough write-ins, he will be elected otherwise they will go with plan B.

H. JCC Reappointment Request – John Mullen

George Moore

Executive Director, George Moore stated that by statute the NHBA appoints members to the Judicial Conduct Committee. Robert Mittelholzer submitted a letter requesting that John Mullen be reappointed to the Judicial Conduct Committee. George said Mr. Mullen has been an active member and recommended that the Board reappoint him for another term.

ACTION

On motion to approve JCC reappointment of John Mullen to the State of NH Judicial Conduct Committee for another 3-year term. Passed.

J. Ethics Committee Proposal Public Prosecutors and Referral Fees - **ACTION NEEDED** Jonathan Eck

President, Jonathan Eck introduced the Ethics Committee proposal. He said the proposal in the abstract states that a NH Public Prosecutor may not enter into a referral fee agreement with an active NH lawyer for matters that arose from the prosecutor's work as a prosecutor. It's a draft Ethics Committee opinion that needs to come before the Board for approval before it can become a published official opinion. Past President, Richard Guerriero gave a brief history of this proposal. Scott Whitaker, Coos County Governor who sits on the Ethics Committee said there isn't a rule prohibiting this conduct. He said NH is different from the ABA model rules. In NH a party doesn't have to do any work and can simply make a referral and receive a referral fee. The ABA model rules state you have to do some work which would prohibit a prosecutor from getting a referral fee. Jonathan stated that is what is called a naked referral fee which dates back to 2005 or 2006. Strafford County Governor, Joshua Wyatt said he cannot vote in favor of this because it's treating the comment as the rule, and it feels like they need to amend the rule instead of comment on the rule.

ACTION

On motion to approve the Ethics Committee opinion as drafted. Passed with two abstentions by Richard Guerriero and Scott Whitaker and one opposed Josh Wyatt.

K. President's Report

Jonathan Eck

President, Jonathan Eck said we have ABA Day in DC on Tuesday. George Moore, Jennifer Parent and Russ Hilliard and himself and possibly Jon Ross will be speaking with the NH Congressional Delegation. He said the issues they will be discussing are set by the ABA. This year's issues are LSC funding seeking an additional increase in legal services funding. Executive Director, George Moore added that this is something we do every year. He said the ABA is a voluntary bar association, and every year when the ABA releases the talking points, the Bar needs to check under the Chapman Rule to be sure the issues address the administration of justice or the practice of law and do not support a political opinion.

Jonathan said the last thing he wanted to report was regarding the online forums. He said it came to his attention some comments that were made from some disgruntled section members about the forums. He said he is addressing the concerns and asked the Board to look at the forums. He asked that they talk to their colleagues about it to help with any concerns. He asked that they share any concerns with the Board Officers or staff so they can be addressed. Executive Director, George Moore said a few years ago there was an issue with changing to forums. The Bar made the change for security reasons because the previous platform was not a secure space for sharing questions or having discussions and there was no password. He said there was a misconception at the time that the change was made so the Bar could make money from the new platform. He confirmed that this is not the case and that the Bar pays for this platform. He stated that we are happy to look at new platforms if anyone has any suggestions for a better product that is also secure to use.

L. Executive Director's Report

George Moore

1. MYM 2023 Evaluation

Executive Director, George Moore said the MYM was a great success. There were about 150 evaluations submitted. He said there was disapproval of Professor Amar reading from his book. Many people liked the panel discussion with Dana Remus, Professor Amar, and John Greabe. People said they wished they heard more from Dana Remus. He said the CaseLines demonstration received very differing reviews. People either loved it or hated it. Professor Hudson received great reviews and they thought he was very knowledgeable. He said a fair number of reviews complained about why the CaseLines demonstration was earlier in the day rather than last. He also said many people were unhappy with the food. People liked the layout of the smaller tables and were happy with the AV and audio. He said people did comment that the slides for the CaseLines study were too small. He asked if you see a staff member to be sure to thank them for all their hard work.

2. Planning for Annual Meeting

Executive Director, George Moore stated that Annual Meeting is Portsmouth on Friday, June 23, ending on Saturday, June 24th. He said there would be a breakfast brunch on Saturday morning. He said the 50-year member recognition has been moved to a separate event due to increased numbers of 50-year members. The event will be held at the Bedford Village Inn on Thursday, June 1st. He encouraged the Board to talk to their constituents to encourage them to attend the Annual Meeting.

N. New Business

Vice President, Kathleen Mahan shared that the NH Bar Foundation Annual Dinner will be held on May 11, 2023, at Manchester Country Club. She said the speaker is from Harvard Law School from the Democracy and Rule of Law Election Clinic. Executive Director, George Moore added that the speaker will be talking about election law in different states including NH as well as election integrity throughout the country. He encouraged the Board of Governors to attend and asked them to encourage others to attend as well. Kathleen asked members to consider submitting nominations for the Kenison and Kirby awards.

O. State

All Board Members

President, Jonathan Eck and President-Elect, Paul Chant spoke briefly about Paul and Kate's attendance at BLI to let the Board know about these meeting opportunities.

Q. Adjournment

The meeting was adjourned at 5:45 PM

Respectfully Submitted,

Cynthia L Roberts

Cynthia Roberts for Susan Aileen Lowry, Secretary

Membership Status Changes	
Presented to the Board of Governors March 16, 2023	
<u>Active to INACTIVE:</u>	
273879	Fazi, Michael, Nashville, TN (Effective February 7, 2023)
16272	Weatherhead, Steven, Swampscott, MA (Effective February 9, 2023)
8174	DiCroce, Camille, Fremont, NH (Effective February 8, 2023)
<u>Active to INACTIVE RETIRED:</u>	
16433	DeMato, Louis, Manchester, NH (Effective February 16, 2023)
<u>Active to RESIGNED:</u>	
265904	Nofsinger, Jennifer, Portland, ME (Effective February 9, 2023)
<u>Active to SUSPENDED:</u>	
4813	Fuller, Steven, West Palm Beach, FL (Effective February 10, 2023)
14368	Carroll, H. Paul, Newburyport, MA (Effective February 10, 2023)
15386	Wellman-Ally, Lisa, Claremont, NH (Effective February 21, 2023)
<u>Active to DECEASED:</u>	
1459	LeBrun, John, Henniker, NH (Effective January 29, 2023)
11004	Koziell, Paul, Scarborough, ME (Effective October 5, 2022)
<u>Inactive to ACTIVE:</u>	
268539	Pham, Katherine, Northborough, MA (Effective February 27, 2023)
<u>Inactive to DECEASED:</u>	
2114	Reardon, Judy, Manchester, NH (Effective December 16, 2022)
<u>Inactive Retired to DECEASED:</u>	
11357	Rotman, Shari, Bow, NH (Effective February 7, 2023)
<u>Suspended to DECEASED:</u>	
9960	Brighton, Jo Ann, Huntersville, NC (Effective March 5, 2020)

<u>Suspended to RESIGNED:</u>	
18036	Miller, Casey, Warner, NH (Effective February 9, 2023)
<u>Military Active to ACTIVE:</u>	
19001	Webster, Luke, Lebanon, NH (Effective February 28, 2023)