

**Philadelphia Bar Association
Board of Governors Meeting
March 31, 2016**

The meeting was called to order by Chair McKenna at 4:04pm.

Chair McKenna recognized Chancellor Alfano to introduce Court of Common Pleas Administrative Judge Jacqueline F. Allen and Jury Commissioner Daniel Rendine, to discuss juror yield and how we may help the court with petitions under the Post-Conviction Relief Act, where petitioners need counsel and there are no resources for it. Judge Allen's and Mr. Rendine's biographies were recited by Chancellor Alfano. Judge Allen has recently been named Administrative Judge of the Trial Division. Chancellor Alfano described his first opportunity to work with Judge Allen and the procedures she employed to run the meeting, which were very effective and well run.

Judge Allen reported as follows: She called attention to the 1991 Board of Governors' model pro bono policy which encouraged law firms to donate 50 hours per year per attorney to pro bono service. Convicted individuals seek redress from the court for issues that arise post-conviction and sentencing. The Post-Conviction Relief Act (PCRA) addresses these requests. There are currently 600 of those cases in Philadelphia unaddressed, because there are not enough certified attorneys to satisfy this need. These are cases that are already "triaged" as potential valid arguments. There are currently less than 10 attorneys certified to handle PCRA requests. The Bar Association is going to put on a CLE to train attorneys to take these cases and once certified, you will be "asked" to take a case. Judge Allen is asking attorneys to encourage their colleagues to take the CLE and take these cases. Judge Allen says that the bench will appreciate that this is a pro bono effort, because our help is needed. Judge Allen and Judge Leon Tucker will be traveling around and asking attorneys in the City to participate.

Judge Allen also discussed the lack of jury participation. She presented the principles behind jury selection and the requirements for jury service. The court is finding that the public is not responding to jury summons and this affects the bench and bar, and we will not be able to effectively try cases. We are facing delayed jury trials because of lack of jurors in the pool, Judge Allen said. This is putting a great strain on the courts and our participation rates are well below the national average. We need to work together to increase participation. The "hammer approach" from scoff law court was not effective, where threats were made of incarceration. Now we are taking a different approach of educating the public to understand why jury participation is so critical. We are partnering between the bench and the Bar Association for public service announcements and getting the word out and we will do Jury Appreciation week in the fall instead of Jury Appreciation Day in May. We need the Board's help to get the word out as well, Judge Allen explained.

Jury Commissioner Dan Rendine spoke on the jury issue as well. He thanked Chancellor Alfano for the opportunity to speak. Mr. Rendine commended Past Chancellor, Bill Fedullo, personally, and also commented on the persuasiveness of Judge Allen on the

PCRA issue. 546,000 people were summoned last year. 343,000 responded. 202,000 failed to respond, of those, 33,000 were undeliverable. They met with Chancellor Alfano and discussed the demographic that they needed to try to reach, and decided it was those who failed to respond. It is not a dire situation yet, but it is currently an inconvenience to those who do show up, because they are getting called more frequently than they should be. It will become a dire problem if we fail to address it. Commissioner Rendine echoed that the scoff law effort didn't work. In fact, the more liberal we are with granting excuses the better participation we were able to achieve. Commissioner Rendine echoed Judge Allen's request for the Board's assistance with this issue.

Upon consideration by the Board, the minutes of the February 18, 2016 meeting were unanimously approved without revision or comment.

Treasurer Regina Foley presented the Financial Report for the period through February 29, 2016. As of the end of February, we are running under budget \$64,723.00 when compared to budget. Revenues are under by \$97,231.00, which is primarily attributed to LRIS, with accommodation of reallocating the budget and LRIS collections, we will be able to see a decrease in the variance by April. Dues are slightly ahead of schedule from where we were last year and we are under budget by \$32,508.00 on expenses primarily attributed to saving on salaries and benefits and a variety of other expenses under budget because of cost-cutting measures, which is good news. After consideration, the report was approved unanimously.

There was a presentation on the resolution opposing HB 1800 by Workers' Compensation Co-chair Eric Pearson and Section Legislative Liaison Alexis Handrich. Although Ms. Handrich currently represents Plaintiffs, she indicated that the entire Section is in opposition to this bill, on both sides of the aisle and the judiciary. After meeting with Chancellor Alfano and the Cabinet, she reviewed a prior resolution the Board passed supporting HB 1105 which had language that is significant in connection with this current bill that related to the intrusion by politicians into medical professionalism and infringement on clinical practice and doctor-patient relationships without regard to established evidence based guidelines. Ms. Handrich doesn't believe the sponsors of the bill fully understand the implications of the bill as written. The bill has an amendment they oppose that adopts evidence based medical treatment guidelines. It requires all reasonable and necessary treatment comports with nationally recognized treatment guidelines selected by the Department of Labor and Industry and treatment that falls outside those guidelines will not be compensated by workers' compensation. The system is not broken, so this is a solution in search of a problem.

Workers that receive treatment when they trust their physician typically feel satisfied with their treatment and the overall goal on all sides is to get people back to work. The concern with the current language of the bill is that the standard will not be created by the patient and doctor as to what is best for the patient, but by some nationally recognized standard created by medical professionals who do not have any relationship to the legislature but are selected by them. The problem is there could be a situation where the patient has met the national guidelines but is not better and cannot go back to work. In that situation, the

person would continue to receive compensation benefits, and would not return to work. They are left with no option but to continue to stay out of work, which costs employers and carriers money and removes the opportunity to treat with doctors who have a relationship with the patient.

The lack of understanding by the bill's sponsors is evidenced by a recent town hall meeting that was conducted where it was clear that one of the sponsors did not understand the impact that the bill would have and thought this would be confined to a utilization review, which is a very small percentage of the medical review. As written, it is not so limited. There is also concern that the bill eliminates the judiciary's review over the credibility of an expert or medical witness.

The Section requests Board support its resolution in opposition to HB 1800. Chair McKenna mentioned that Charlie Klitsch circulated a revised version of the resolution earlier in the day. The Resolution passed unanimously.

Chair McKenna recognized Executive Director Mark Tarasiewicz regarding a meeting pertaining to Rocket Lawyer with ABA Executive Director Jack Rives on March 18, 2016 as part of ABA Bar Leaders Institute. The meeting was called by Executive Director Rives in connection with concerns expressed regarding Rocket Lawyer. 50 people attended, including several members from PA. Executive Director Rives said the ABA thinks it is not an LRIS but a limited purpose legal hotline. It's clear many disagree. He indicated that the ABA did terminate this program, but may start other programs with Rocket Lawyer or Legal Zoom in the future. There is a plan to do something with ABA Law Connect, which is the name of the ABA program, which was the technology back bone of the Rocket Lawyer program. We believe ABA made some financial investment in this program so they are looking to repurpose it. The meeting was valuable in confirming we need to remain vigilant and consider taking additional action in line with what is discussed below. Chicago has been as vocal as we have against this program.

Chair McKenna recognized Past Chancellor Sayde Ladov, Chair of LRIS, for a presentation of a resolution to sponsor a resolution to ABA House of Delegates supporting LRIS. The Executive Director of the ABA said they are going to keep options open, so the possibility of creation of new plan exists, Ms. Ladov noted. Philadelphia along with partners in other bar associations across the state have concerns that ABA is going to try to create a new program that will diminish the efficacy of LRIS services. However, this is counter-intuitive because ABA has policies on how LRIS programs are supposed to be conducted. Ms. Ladov stated that we are proud Philadelphia Bar's LRIS program comports with ABA policies. What ABA is trying to do would undermine its own policies. Charlie Klitsch, Past Chancellors Reich, Dandridge, Beaser and Ladov and ABA Delegate Butler Buchanan penned a resolution to give to ABA delegates authority to get a resolution on the table that will mandate that if the ABA tries to do something, they will need to get approval from their own Board of Governors so that there is transparency, unlike what happened with the pilot program. There were no questions or comments. The Motion was made and resolution passed unopposed.

Chair McKenna recognized Asst. Treasurer Klyashtorny to present a Resolution to Amend Bylaws Article IV to Allow Internet Voting in Bar Elections. This has been discussed in depth by the Board previously and thus we are moving forward in accord with prior discussions, Ms. Klyashtorny stated.. This will make voting easier and may increase number of people who vote. There are also budgetary cost saving considerations including costs to print and mail ballots and manpower to count the ballots. The resolution proposes to change the bylaws to allow Internet voting and the process for publishing and approving the bylaw change was explained. The bylaw change will be primarily to section 406 and it states the Board will determine date by which Internet voting will start, no less than 14 days prior to the annual meeting date. Members will vote on computers during that time period and during the day of the annual meeting and there may be a computer at the annual meeting. Amendment will allow the Board to set the date when internet voting will start and allow the Internet voting.

Former Chancellor Fedullo asked how it will work to prevent double voting. He also asked whether all Members of the Association have an email address. We are completely shutting out all in person and mail voting, Fedullo added. A concern was raised by those who don't have a computer or access to internet. However, Chancellor Elect Gross pointed out that currently per the Rules of Ethics all attorneys have to have a means to file lawsuits and receive communications from the Court electronically. YLD Chair Erin Lamb pointed out that the Bar collects email information. She spoke in support of the resolution on behalf of YLD that those members really want to online vote. There is a motivated group of people who vote in the election, and those motivated members will be increased by the ability to vote online. Executive Director Mark Tarasiewicz pointed out that there is a very small percentage of members who have not provided emails to the Bar Association. Members will only be permitted to vote once, with a password system to be agreed upon with a vendor.

Voting at the annual meeting is left in place to appease those who enjoy voting on the date of the annual meeting. The Association is completely eliminating voting by any other means. Mr. Turchi raised concern for those who are not proficient with computer. However, it was explained that it would not be effective to allow any other methods. It was mentioned that there are some attorneys who are no longer in practice, but are members of the Bar, so the theory that Ethics Rules require email are not applicable to that subset. Professor Rulli and Treasurer Foley pointed out that there will be computers available either at the Bar Association or at the meeting. Chief Financial Officer Susan Knight pointed out that these are some issues that need to be tweaked as to where the available computers will be located, but they will be provided.

Former Chancellor Ladov asked about safeguards that will be in place to prevent voter fraud. Director of Public and Legal Services Charlie Klitsch responded that NABE and other bars who have already implemented Internet voting have been consulted and we will send an RFP for a vendor who can provide sufficient security. The other bars that use this have done so successfully. Past Chancellor Kathleen Wilkinson questioned how much publicity has been made beyond the Board and the Committee. She also pointed out concern about election emails being directed to spam filter. Assistant Treasurer

Klyashtorny responded that spam filters should be checked. The idea is that if the resolution is approved, it will be published before the June Quarterly Meeting and they will provide feedback between now and then. YLD Chair Lamb pointed out that there was positive response during this campaign and people were begging for Internet voting.

Ira Lefton questioned how the vote on the bylaw change will be carried out and Assistant Treasurer Klyashtorny answered that it would be done by voice vote during the June Quarterly meeting. Past Chancellor Bill Fedullo pointed out that a test vote should be conducted before the real vote in November or December and it was stated that this would be done. Parliamentarian Shelli Fedullo expressed a concern about people knowing about Internet voting by publishing in the Bar Reporter with specific instructions. YLD Chair Lamb pointed out that this is no different than missing the ballot in the mail, but the alternative of voting in person was presented as a counter to this. Past Chancellor Wilkinson expressed the concern about if people had computer problems and it was pointed out by several people including Chancellor Alfano that this will be remedied by the computers at the Bar Association.

Larry Felzer asked what the window would be to cast votes, and would there be special provisions for someone who is ill or disabled. Executive Director Tarasiewicz pointed out that NABE says the recommended window is 14 days, and this has been adopted by a number of bar associations. This seems to be best practices, which contemplates an opportunity for everyone, which is what the resolution says. Larry Beaser pointed out that other non-profits he works for do this successfully with sufficient security. Erin Siciliano added that voting would be able to be accomplished on other mobile devices as well if there were errors on computers. Chair McKenna said this is not the end of the discussion, but this is a resolution to amend the bylaws to reflect Internet voting, and some of the process will be discussed and decided at later Board meetings, so that all of the Board's concerns can be addressed. Motion to amend bylaws was approved unanimously.

Chair McKenna recognized Executive Director Mark Tarasiewicz to report on membership, and commented that this is a standing item on our agenda, so the Board remains updated on the progress. A reminder invoice sent in February and email invoices were sent several times between December and February. During March reminders were sent weekly and \$10,000 generated from yesterday's reminder alone. To date we have collected \$1.572 million, which represents 84% of membership dues budget of \$1.875 million. Still no payment for three larger law firms which we expect will come in the next week and the total is \$75,000 for all three. We are also readying extension notice until Friday April 15. This is the second year we are doing this. Last year the extension notice, we captured close to \$100,000.

Chair McKenna recognized Treasurer Foley to present about her meeting with Senator Argall on SB 76 and the progress of the state budget. The meeting occurred on Monday, March 21, 2016. Treasurer Foley represented the Association at the meeting which was called by Sen David Argall. SB 76 is the bill which seeks to eliminate all school property taxes in PA by

- increasing the personal income tax,

- increasing the sales tax rate and
- expanding the sales tax to include professional services, including most legal services with the exception of business to business, criminal and family law matters.

We were part of a coalition of approximately 50 other organizations opposed to SB 76 to have dialogue with the sponsors of the bill, and the leaders of the PA Coalition of Taxpayer Associations, a statewide grassroots coalition that helped develop SB 76. This bill did not pass, but was close and it is clear they want to propose a bill related to eliminating and/or decreasing school property tax.

Themes brought up by both sides included balance, concern for tax shift and concern for senior citizens. What they really wanted to know is what we think won't work. Our voice was heard, so we need to continue to advocate our position. On behalf of our members Treasurer Foley was able to emphasize the fact that a tax on legal services would not work to address the themes raised that day and was able to discuss the talking points generated by Charlie Klitsch and our Bar Association staff. In particular, Treasurer Foley indicated that she stressed the fact that a sales tax on legal services would tax people at times of hardship, vulnerability and misfortune and that the purchase of legal services is rarely a choice and a sales tax would diminish access to justice.

Treasurer Foley indicated that it is unclear where things will go. It seems that there will be some compromise and the hope that one of the items sliced out of the bill will be this sales tax. Past Chancellor Fedullo pointed out the fact that we could lose revenue altogether to firms that have offices in neighboring states. This concern was also addressed by the representatives of the Chamber of Commerce. Chancellor Alfano thanked Treasurer Regina Foley, Executive Director Mark Tarasiewicz and Director of Public and Legal Services Charlie Klitsch who attended on behalf of the Association.

On Tuesday of this week Chancellor Alfano, Chancellor Elect Debbie Gross and Vice Chancellor Mary Platt met with approximately 25 former Chancellors and discussed where the Association is and where we are moving and answered questions they had. The former Chancellors reaffirmed support for direction we are heading. We will send them routinely financial and media updates that the Board gets. We have tried to increase visibility and therefore relevance of the Bar. He commended the Board and the Staff for these efforts. The idea was to really ramp it up this quarter for the purpose of increasing membership. Chancellor Alfano asked for suggestions and directed the appropriate staff for people to contact with suggestions for programming and CLEs. The Chancellor thanked everyone for buying into the need to look hard at the finances and add value to members, which is one of the most important things we do.

Chair McKenna reminded everyone of the April 5 Spring Quarterly reception. As of today we have 30 Board members who haven't yet signed up, so please come if you can. Parliamentarian Shelli Fedullo announced that she and Past Chancellor Bill Fedullo are co-chairs of Senior Law Center Gala. The mission of Senior Law Center is very important because the folks who the Senior Law Center works for don't have a support system. The

Gala will be May 4 at the Crystal Tea Room, and invitations will go out soon. All members of Board will get an invitation. Ms. Fedullo asked Board members to try to come, and get your firm to sponsor. Honorees for the event are Nolan Atkinson, a pioneer in diversity, Chief Justice (ret.) Ron Castille, Bob Heim, Judge Sandra Moss and the partner of the year is the PA Supreme Court's Elder Law Task Force. Ron Shaffer of Fox Rothschild will be inducted into the Hall of Fame. Past Chancellor Bill Fedullo also pointed out that support of the event helps our fellow Board member, Larry Felzer. The Marshall Dennehey band will perform thanks to Buck Buchanan.

The meeting moved to executive session at 5:12 p.m.

There being no further business, the meeting was adjourned at 5:30 p.m..

Respectfully submitted,
Jennifer S. Coatsworth
Assistant Secretary

**Board of Governors
Attendance
March 31, 2016**

Voting members

Present:

Gaetan J. Alfano
Deborah R. Gross
Mary F. Platt
Regina M. Foley
Jennifer S. Coatsworth
Natalie Klyashtorny
Lauren McKenna
Kevin Mincey
Lawrence Felzer
Jeremy Menkowitz
Peter Newman

Erin Siciliano
Ira Lefton
Myisha Lacey-Tilson
Maureen Farrell
Teresa Rodriguez
Maureen Olives
Eileen Quigley
Brad Rush
Joseph Turchi

Present on phone:

Rahat Babar
Erin Lamb

Katayun Jaffari
Scott Small

Absent:

Jacqueline Segal
Rachel Keene
Kathleen Kirkpatrick
Jeffrey Rosenthal
Julia Swain
Edward Beitz
James Funt
Angela Giampolo
Wendy Hess

Adam Taylor
Albert S. Dandridge III
Brad Shuttleworth
Matthew Olesh
Thomas Innes
Dina Ronsayro
Jennifer O'Leary

Non-voting members

Present:

Mark Tarasiewicz
William Fedullo
Rochelle Fedullo
Louis Rulli

Steven Sher
Mary-Kate Breslin
Butler Buchanan
Kathleen Wilkinson

Present on phone:

Lawrence Beaser

Absent:

Sophia Lee
Steven Bizar
Andrea Yannuzzi
Debra Coulbourn
Andrew Laver
Cheryl Disch