

**Philadelphia Bar Association
Board of Governors Meeting
April 29, 2021
Meeting held via Zoom**

Chancellor Lauren McKenna called the meeting to order at 4:04 p.m. and provided a welcome and turned the meeting over to Chair Riley Ross.

The minutes from the March 25, 2021, Board meeting were considered. A motion to approve the minutes was made, seconded and passed unanimously.

Treasurer Matthew S. Olesh presented the Treasurer's Report for the year through March 31, 2021. Treasurer Olesh told the Board that the Association is running ahead of budget by approximately \$30,000. This figure does not take into account the PPP loan, which he still expects to be forgiven. He told the Board that expenses are under budget by \$114,000, a significant portion of which is due to the approximately \$100,000 employee retention tax credit the Association received pursuant to the CARES Act.

Treasurer Olesh told the Board that expenses independent of the tax credit are still running under budget by \$20,000 for program services and recognized the Association staff for their hard work to make sure that expenses are not just meeting budget but under budget.

Treasurer Olesh told the Board that revenues are approximately \$84,000 in the red, with the biggest variable being membership dues, which are approximately \$61,000 under budget. He stated that there is a hope that a portion of that deficit is due to some large firms not having paid their membership dues yet. He also stated LRIS is also behind budget by approximately \$35,000 for the year. He told the Board that when the PPP loan is considered, then the Association is \$424,000 in the black for the year. Treasurer Olesh told the Board that the Association has applied for a second round of a PPP loan.

A motion to approve the Treasurer's report was made, seconded and passed unanimously.

The Board next considered a resolution opposing Pennsylvania House Bill 972, a bill which would ban girls and women who are transgender, and others who are intersex, from participating in school sports and heard a presentation from Yolanda French Lollis, Managing Attorney, AIDS Law Project of Pennsylvania, Thomas Ude, Director of Legal and Public Policy, Mazzoni Center, and Christopher Markos, Chair, Civil Rights Committee. Markos stated that the resolution is co-sponsored by the Civil Rights and LGBT Rights Committees and supported by the Women's Rights Committee, the Education Law Committee and the Public Interest Section. He provided the Board with some background on the bill and told the Board that the Pennsylvania Athletic Association opposed the proposed legislation and that Governor Wolf has said he would veto the bill if it were to pass. Markos also stated that the Association has in the past supported legislation that added sexual orientation and gender identity to the Pennsylvania Human Relations Act and expressed his hope that the Board will support this resolution.

Lollis told the Board that there are a myriad of problems with the bill. First it is based on unscientific and unproven assumptions as females as the "weaker sex." Second, Lollis stated that the bill only discriminates against students seeking to participate on girls or women's teams. Third, by denying gender-affirming opportunities for participating in a school activity, it compounds the

harm to transgender, intersex and non-binary students and that it will further marginalize groups and individuals who are already marginalized and Fourth, Lollis stated that the bill would likely violate Title IX, the Pennsylvania Constitution and the United States Constitution.

The resolution authorizes the Association to oppose the bill and any similar bill and she noted the harm caused to marginalized group targeted by such legislation whether the legislation passes or not.

Ude echoed the statements made by Markos and Lollis and told the Board that the bill attempts to address a problem that does not exist, that schools in Pennsylvania already have the authority to address any issues that arise and such issues have not arisen locally or elsewhere. Ude also stated that the bill does not address how to resolve disputes and that it seems logical to expect that if challenges are made against a particular student's participation the decisions are going to be made based on student's physical appearance. He noted that this affect transgender, intersex and non-binary students as well as those students who do not conform to other peoples' stereotypes. Ude urged the Board to support the resolution.

Chair of the Family Law Section Eileen Murphy told the Board her belief that the Family Law Section would support this resolution given its support of the transgender community and of similar resolutions in the past.

A motion to approve the resolution was made, seconded; and passed unanimously.

The Board next heard a presentation from Women's Rights Committee Co-Chairs Judy Berkman and Katayun Jaffari regarding a resolution supporting Senate Joint Resolution 1, which would remove the deadline for the ratification of the Equal Rights Amendment to the United States Constitution. Women's Rights Committee Co-Chair Jaffari thanked the Board and offered a personal story of her mother, who wanted to come to the United States from a very restrictive Middle Eastern country with the hopes that her daughters would be treated equally under the law. Women's Rights Committee Co-Chair Jaffari told the Board that Pennsylvania has its own Equal Rights Amendment and that the 50th anniversary of that amendment will be honored next month during a Chancellor's forum. She thanked the Association staff for their assistance in preparing for that forum.

Women's Rights Committee Co-Chair Berkman thanked Assistant Treasurer Jennifer Coatsworth for her work with the Pennsylvania Bar Association on this issue and told the Board that that this resolution was modeled after Coatsworth's work on the issue. Women's Rights Committee Co-Chair Berkman reminded the Board of the history of the federal Equal Rights Amendment and time limit for ratification that was included with the amendment. She told the Board that with Virginia's ratification of the amendment in January 2020, three-quarters of the state had ratified the federal Equal Rights Amendment. She said that there is a resolution currently pending in the United States Senate which was recently passed by the House of Representatives and which would remove any time limits for the ratification of the amendment. Women's Rights Committee Co-Chair Berkman told the Board that the resolution supports the Joint Resolution.

Women's Rights Committee Co-Chair Berkman told the Board that the federal amendment is needed so that sex is treated as a suspect class and subject to a strict scrutiny and compelling state interest judicial analysis. She also stated that the resolution is supported by the Women's Rights, the Delivery of Legal Services, Women in the Profession and LGBT Right Committees.

A motion was made to approve the resolution and the motion was seconded.

Women's Rights Committee Co-Chair Berkman also noted that on the May 18th primary ballot is an amendment to use similar language related to race and ethnicity to the Pennsylvania Constitution.

The Board next considered a resolution opposing Pennsylvania House Bill 605, which would require compulsory arbitration of all COVID-19 related personal injury claims. State Civil Litigation Section Co-Chair Denise Mandi provided the Board with information about the resolution. She told the Board that the State Civil Rights Section, unanimously supported the resolution.

Section Co-Chair Mandi told the Board that the bill would implement a one-size-fits-all approach to a class of cases varying greatly in complexity and she referred to specific concerns with the bill that are outlined in the proposed resolution. Section Co-Chair Mandi stated that the bill uses terms that are not defined and is overly broad and subjective. She further stated the State Civil Litigation Section believes that the current compulsory arbitration system, with perhaps some increases in the damage limitations, provided a better opportunity for prompt and inexpensive resolution of cases. Section Co-Chair Mandi stated that the bill is now pending consideration in the Pennsylvania Senate and requested expeditious action to oppose the bill, if the Board agrees and passes the resolution.

A motion was made to approve the resolution and the motion was seconded. A discussion followed during which Assistant Treasurer Coatsworth commended Section Co-Chair Mandi and the State Civil Section for acting so quickly on the issue. She stated that the Pennsylvania Bar Association's Civil Litigation Section passed a nearly identical recommendation and report. She also told the Board that her understanding is that there are negotiations about the bill happening in the Senate, that many of the areas of concern noted in the proposed resolution are being discussed, and that passage of the proposed resolution would significantly help the negotiation efforts.

Board member Dino Privitera recognized and thanked Section Co-Chair Mandi for her work on this issue and told the Board that he reached out to the Philadelphia Trial Lawyers' Association and knows that they are adamantly opposed to this bill as well. Privitera stated his belief that the bill is flawed on many levels and that it comes very close to depriving plaintiffs of their right to a jury trial and access to the courts.

Following the discussion, the Board unanimously approved the resolution.

The Board next received a report on activities of the American Bar Association House of Delegates from Delegate Abraham Reich. Delegate Reich told the Board that he and Buck Buchanan have been the ABA delegates for a number of years and that it is a pleasure working with him. Reich highlighted the following five resolutions that were passed and have become American Bar Association policy:

- Resolution 105 which advocated for allowing state bar examination test-takers to bring menstrual products into the exam in opaque containers, rather than clear containers, and that test-takers should not have to be accompanied when they need to use those containers.
- Resolution 106A related to the use of preferred pronouns in federal pleadings.
- Resolution 107A which urged legislation to de-criminalize abortions or miscarriages.

- Resolution 107B which urged states to adopt the principle that in administering elections for the President of the United States, the winner of that state's electors should be awarded to the candidate that won the popular vote.
- Resolution 107C which stated that a person's HIV status, alone, should not disqualify that person from military service.

The Board had no comments or questions in response to Delegate Reich's presentation.

Chancellor McKenna then made a presentation on the formation of a Membership Committee of the Association. First, Chancellor McKenna thanked Delegate Reich for the report and his work with the American Bar Association. Next, Chancellor McKenna told the Board that membership has declined over the recent years and that it is clear there is a need for more strategy and planning beyond the current membership efforts. She expressed her hope that additional efforts now, including around organizational structure, will allow for some consistency surrounding leadership changes and put the Association in a better place in future years with respect to membership.

She told the Board that she has asked Chancellor-Elect Payne and then Vice Chancellor Zucker to work with her in forming a Membership Committee. She stated that the focus of the committee would be to develop a specific strategy around membership that moves beyond the efforts during the membership renewal period and is more of a consistent and sustained approach. She stated that preliminary they have talked about members from each class of the Board joining the committee as well as leaders within the Association who do not sit on the Board. She welcomed Board members to share interest they have in the committee or thoughts and ideas on this issue with her and Chancellor-Elect Payne.

Executive Director Hurdle also expressed his excitement for this new effort.

Chancellor McKenna then made the following announcements:

- Chancellor McKenna reminded the Board that the Spring Quarterly meeting will be held on May 19, 2021. The meeting will in the form of a live panel and discussion on the issues around returning to normal following the Covid-19 pandemic.
- Chancellor McKenna told the Board about a celebration of the Pennsylvania Equal Rights Amendment anniversary to be held on May 25, 2021, and thanked Women's Rights Committee Co-Chairs Judy Berkman and Katayun Jaffari for the work they've done to prepare for the event.
- Chancellor McKenna told the Board that through the Diversity in the Profession Committee and the Chancellor's Diversity Advisory panel, the Association is in the process of preparing a diversity survey of the Association. She stated her belief that the only way to improve an organization is to know where it currently stands and that the survey will help do that. She stated the survey results will help the Board and the Association to elevate the discussion around needed efforts to continue with this important endeavor.
- Chancellor McKenna announced that the Association is planning program around an ABA report prepared by Stephanie Scharf and Roberta Liebenberg titled, *Practicing Law In the Pandemic and Moving Forward*. She stated that there is a lot to be learned from the hard work done by Scharf and Liebenberg and that a program on this topic is consistent with what

Association members are asking for.

- Chancellor McKenna told the Board that she was proud of all the work of the Judicial Commission and meeting its deadline. She told the Board that she heard from many people commending the work of the Commission and thanked Director of Public and Legal Services Charlie Klitsch and Chair of the Commission Niki Ingram for their work. Chancellor McKenna told the Board that she and Chair of the Commission Ingram authored an op-ed in the *Inquirer* and received great feedback from the general public for the work of the Commission.
- Chancellor McKenna also announced that the judicial retention poll will be emailed out to on Monday. Director of Public and Legal Services Charlie Klitsch told the Board that the poll is open to all attorneys, not just members of the Association, and requested that Board members encourage those attorneys in their networks to take the poll.
- Chancellor McKenna told the Board that she recently worked on an article with Jeff Blumenthal for the *Philadelphia Business Journal* which addressed the recent deaths of several members of the legal community, including former Chancellor Doreen Davis. Chancellor McKenna articulated her vision for a professional community and Association that recognizes the human side of our collective work.
- Chancellor McKenna provided the Board with an update regarding the Association's response to the Center for Urban and Racial Equity ("CURE") report from July 2019 on the First Judicial District ("FJD"). She told the Board that she has begun a dialogue with President Judge Idee Fox to better understand how the FJD was responding to the report and to see if the Association could support the FJD in that effort.
- Chancellor McKenna then recognized Chair of the Young Lawyers Division Andre Webb for him to tell the Board about the Law Week activities organized by the Young Lawyers Division. Division Chair Webb told the Board that, due to the pandemic, the events were held virtually again this year and that while in-person events are preferred, he was thrilled that they were able to partner and maintain relationships with so many schools. Chancellor McKenna thanked Division Chair Webb for the work and for making the Association look so good.

Executive Director Harvey Hurdle then provided the Board with his report. He told the Board that in March LRIS received the most calls it has since March of 2001. He highlighted how successful the CLE benefit has been, stating that the CLE benefit has been used 1,449 times which equates to \$77,850 in free CLE courses for Association members. He stated that the popularity of this benefit is one way to maintain members. Executive Director Hurdle also told the Board that the last pieces of furniture for the Association's office were being delivered this week with other items being delivered in the next two weeks. He said the Association is beginning to think about some live events in the near future as more people become vaccinated.

Executive Director Hurdle told the Board that he represented the Association at two national conferences over the past month which included leading a discussion on managing finances of bar associations at the Bar Leaders Institute and facilitating a discussion on back to work for bar executives at the Chief Executives Conference. He said it's been a great experience and important exposure for the Association. He also said he attend the Diversity in the Profession Committee meeting to start a discussion with affinity boards about ways to work together.

Next, Chair Ross asked two members of the Board to present their Board commitments. Board Vice Chair Kristine Calalang first provided an update on Family Law Section's charity drive. She then told the Board that her commitments are to sponsor three law students; use Association sponsor LawPay; like, re-Tweet and share Association social media posts; work with a section or committee to present a CLE or program; commit to attend quarterly meeting; and to commit to attend the Bench Bar conference.

Board member and Professor Diane Edelman provided the Board with some of her background and told the Board that she has committed to sponsoring ten law students, up from her commitment of five law students last year. She also told the Board that she has been working on various CLEs, including one that will celebrate the 20+ year associations with bar associations in Lyon, France and in Montreal, and thanked Tara Phoenix and the other Association staff for organizing the logistics of the multi-time zone program. Professor Edelman also told the Board that she has committed to sponsoring a public interest attorney attending a CLE.

Chair Ross had no other announcements.

The meeting was adjourned at 5:20 p.m. and the Board went into Executive session.

Board of Governors Attendance April 29, 2021

Voting members present:

Lauren P. McKenna

Wesley R. Payne, IV

Marc J. Zucker

Michael J. Stackow

Michael T. van der Veen

Matthew S. Olesh

Jennifer S. Coatsworth

Riley Ross

Kristine L. Calalang

Diane Penneys Edelman

Lawrence S. Felzer

Bethany R. Nikitenko

Dino Privitera

Wendi Barish

Erin Lamb

Andre J. Webb

Melanie J. Foreman

Damaris L. Garcia

Denise M. Mandi

Angella Middleton

Scott S. Small

Ying Zhou

P. Michael Jones

Marissa Bluestine

Eileen G. Murphy

Maureen Farrell

Arly Smith-Pearson

Joyce C. Sun

James R. Malone, Jr.

Mark Mazzanti

Absent:

P. Douglas Sisk

Neelima Vanguri

Craig R. Levin

Nipun J. Patel

Lauren Banton

Ernest Holtzheimer

Jordan Strokovsky

Hon. A. Michael Snyder

Nicholas S. Kamau

Reginald T. Shuford

Non-voting members present:

Wilson M. Brown
Abraham C. Reich

Harvey Hurdle

Absent:

Lawrence J. Beaser
Butler Buchanan, III

Invited guests present:

Lous S. Rulli
Rochelle Fedullo

