MAINE STATE BAR ASSOCIATION
BOARD OF GOVERNORS MEETING
OCTOBER 26, 2021
1:00 P.M.

JOIN BY ZOOM:
HTTPS://US02WEB.ZOOM.US/1/83029224698?pwd=WTQ2fTlOMHo3SHVo2szTk1MZx1Qd209
MEETING ID: 830 2922 4698
PASSWORD: BOG1026

JOIN BY PHONE: (646) 558-8656
MEETING ID: 830 2922 4698
PASSWORD: 496540

MINUTES OF THE MEETING
The agenda and supporting documents for this meeting are available at MEBarmConnect.

The Maine State Bar Association promotes the honor, dignity and professionalism of lawyers, advances the knowledge, skills and interests of its members, and supports the public interest in a fair and effective system of justice.

Antitrust Statement
The Maine State Bar Association (MSBA) is organized to promote the honor, dignity and professionalism of lawyers; advance the knowledge, skills and interests of its members; and support the public interest in a fair and effective system of justice. The MSBA, its officers, Board of Governors and employees shall not, and do not, play any role in the competitive decisions of its members or their employees, or in any way restrict competition in any aspect of the legal profession. By adoption of this statement of policy, the MSBA makes clear its unequivocal support for the fair and effective policy of competition served by the antitrust laws and its uncompromising intent to comply strictly in all respects with those laws.

Governors Present: Bishop, Cloutier, Cramer, Cutcliffe, Dunitz, Faunce, Haddow, McDonald, McNally, Saufley, Stitham, Tebbetts, and Willey.
Governors Absent: Anton, Burbank, Day, Hall, Johnson, Kreckel, Neumann, Okun, and Peterson.
Staff Present: Armstrong and Seavey.

Item 1. Call to order and welcome.

President McDonald called the meeting to order at 1:05 p.m.

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Strategic Goal 1: Increase and expand access to legal information and legal services for all Maine residents.

- Objective 1.1: Convene a statewide working group to spotlight barriers to justice in rural areas and facilitate recommended steps to a more comprehensive approach to legal service delivery in Maine.
- Objective 1.2: Enact a rural practice initiative around: 1) the development of resources to help new lawyers starting and retiring lawyers exiting rural practice; 2) the use of message boards to facilitate conversations between retiring and incoming lawyers; and 3) exploring legislative avenues for either direct aid or loan forgiveness.
Item 2.  **ad hoc Rural Practice Committee report: Governor McNally.**

Chair McNally reported that the cancellation of the Career Fair was disappointing, but the Committee will regroup and focus on building a pipeline with UMaine Law and continue to find ways to attract and retain attorneys in rural areas. Governor Willey suggested that the Committee reach out to Husson University about its pre-law program as another pipeline avenue.

Item 3.  **ad hoc Civil Practice Committee report: Governor Faunce.**

Governor Faunce indicated that the Committee had not met since the last Board meeting. President McDonald asked if the Committee should continue to exist. There was consensus that, in light of the ongoing pandemic and continued delays in trials, it made sense for this Committee to continue to monitor the situation with the courts and advise the Board on what advocacy or steps the MSBA should take as things progress in the courts and with the pandemic. The following Committee members were confirmed: Bishop, Cutliffe, Dunitz, Echeverria, Faunce (chair), and Kreckel.

Item 4.  **Maine Commission on Indigent Legal Services (MCILS) report: Governor Burbank.**

In Governor Burbank’s absence, President-Elect Bishop reported that the Commission sent out a survey to rostered attorneys and the results of that survey are available on the Maine Legislature’s website. He also reported that he plans to hold an MCILS CLE at the Winter Bar Conference. Governor Tebbetts indicated that rostered attorneys are adjusting to the new rules, but it is a difficult process and many are considering dropping off the roster.

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**Strategic Goal 2: Promote diversity, inclusivity and equal opportunity in the Maine legal profession.**

- Objective 2.1: 1) Publish results of diversity survey; 2) issue annual diversity report; 3) create mentoring program with law school to build support systems for minority lawyers; 4) promote existing programs which incentivize BIPOC students to go to law school; 5) develop and offer CLEs on diversity, equality and inclusion throughout state; 6) recruit BIPOC lawyers for leadership academy; and 7) create new BOG seat for BIPOC Lawyers Section.

Item 5.  **Diversity Committee report: Chair McDonald.**

A. Meeting held October 14: minutes available at MEBarConnect.

B. Approved Diversity Committee Charter: draft charter available at MEBarConnect. **A motion was made, duly seconded, and voted in the affirmative to approve the Diversity Committee Charter.**

C. Diversity page on MSBA website: please note that this page is not public or final as it is still under construction. [https://www.mainebar.org/page/Diversity](https://www.mainebar.org/page/Diversity)

D. Next steps for Committee: The Committee has determined that it needs to broaden its scope and focus on all historically underrepresented groups. The Committee will use the next couple of months to reconstitute its membership with this in mind, and start fresh in January 2022.
Item 6. Relevant MSBA CLE programs.

A. **Moving Beyond Diversity: Understanding the Neuropsychology of Implicit Bias**: November 5, 2021 at 11:00 a.m. – 12:00 p.m. (Zoom webinar) with Mindbridge faculty, Executive Director Laura Ligouri and Implicit Bias Program Manager Katie Beane. At any given moment, our brains receive 11 million bits of information. However, only 40 of those bits can be processed consciously. To manage the remaining information overload, our brains create unconscious mental shortcuts, some of which are called implicit biases. This seminar will introduce the neuropsychology of implicit bias and the ways in which it is actualized on a day-to-day basis, especially within the legal field. Participants will explore the connection between implicit biases and judgment; how the brain’s automatic, unconscious processes can become impediments to justice; and how a lack of awareness of our biases can contribute to discriminatory behavior and disparate outcomes for clients from varying backgrounds.

B. **Me Too: Sexism, Bias, and Sexual Misconduct**: November 30, 2021 at 1:00 – 2:00 p.m. (webinar replay) with Philip Bogdanoff, Esq. As the "Me Too" movement shines a light on sexual misconduct and sexually inappropriate actions, it's time for lawyers of both genders to examine the effects of this kind of conduct in the legal community. When speaking on this issue, presenter Philip Bogdanoff has found that sexual misconduct and bias is a recurrent issue in our judicial system and that many attorneys are hesitant to report this misconduct. As a Summit County Assistant Prosecutor in Akron, Ohio, Bogdanoff was shocked to learn that a respected Judge he had appeared before had made sexually inappropriate comments to two young female assistant Summit County prosecutors, including one of Bogdanoff's former law clerks. The same Judge also attempted to kiss a defense attorney in his chambers and was sexually inappropriate with other females in the Court system. One prosecutor was so upset by this conduct she avoided this courtroom and found male prosecutors to represent the State before this judge. The Judge was eventually forced to resign and was disciplined for this misconduct. In this presentation Bogdanoff will review disciplinary cases involving inappropriate sexual conduct by judges, prosecutors, and attorneys. This interactive presentation even gives you the chance to pit your opinions about the violations against the actual rulings by the Ethics review boards in each case.

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**Strategic Goal 3**: Expand MSBA membership through initiatives designed to enhance member relevance.

- Objective 3.1: Expand on the success of pandemic-related innovations like Bar Talk to enhance the Bar’s role as an educator and information provider.
- Objective 3.2: Expand member engagement through a reinvigorated, reimagined section architecture, complete with online communities, section growth and engaged leadership.

Item 7. Membership.

A. Reviewed membership, new member, and resignation reports: Deputy ED Seavey reported current total member count is 2979. There were 51 new members since the September 28 meeting, of which 17 were new
members (dues-paying), 12 were reinstated members (also dues-paying), and 22 were student members. There was one resignation and one retirement during this same period.

**Item 8. Membership Committee report: Chair Bishop.**

A. New chair needed: Chair Bishop asked Deputy ED Seavey to set a Committee meeting for November to select a new chair.

**Item 9. Bar Talk.**

B. Next edition: November 10 with guest Jim Cohen, MSBA Legislative Counsel.
C. Governors provided the following suggestions for future Bar Talk guests: AOC representative to discuss shortages of clerks and marshals; Dean Saufley; Peter Mills in his role as UMaine Law Foundation President; Board of Overseers representatives; Darryl Ford to discuss domestic violence and sexual assault; and Jim Erwin in his role as UMaine Law School Board of Trustee.

**Item 10. Revisit strategic goals.**

President McDonald reported the board is halfway through the two-year strategic plan. He asked Governors to think about how we are doing and what we should focus on in the next year. Suggestions included: Leadership Academy recruitment; event with Leadership Academy and local schools; rural practice landing page on website; podcasts with practice tips and substantive law information; career fair; increased engagement on MEBarConnect; reorganize sections; increased engagement with sections and section chairs; upgrade legal research tools; Zoom lunch series with judges; and, increased engagement with High School Mock Trial Program.

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**General Business of the Board of Governors.**

**Item 11. Consent Items 11A-11B: A single motion was made and voted in the affirmative to accept items 11A-11B.**

*Note: All supporting documents available at MEBarConnect.*

A. Approved minutes of the September 28, 2021 meeting.
B. Set date of next Board of Governors meeting for Tuesday, December 7, 2021 at 1:00 p.m. (Zoom).

**Item 12. Treasurer’s report.**

*Note: All financial documents available at MEBarConnect.*

A. September financial statement is not available as we are still closing out year-end financials, but the preliminary statement will be available at the December meeting. We are still anticipating a significant surplus for the fiscal year.
B. Membership dues collection update: As of October 24, we have collected $449,585 of the $580,000 budgeted dues (77.51 percent). This compares to a collection rate of 78.47 percent at the same time last year.
C. Discussion of operating account surplus: The Board discussed the surplus of funds in the operating account, which is a result of ending several recent fiscal years with a surplus. The Board agreed that there should be $100,000 retained as an operating cushion, a policy needs to be created concerning surplus funds in the operating account, and that the funds would likely be invested in our investment accounts. The Board tasked ED Armstrong with determining the current amount of surplus funds in the operating account. A motion was made, duly seconded, and voted in the affirmative to task the Investment Committee to invest surplus funds in the operating account in excess of $100,000 based on its investment policy, and to create a policy for Board review on how to handle surplus funds in the future.

Item 13. Board of Governors reports.

A. President-Elect Bishop.
   1. 2022 Winter Bar Conference is January 27-28. There will be a variety/talent show held on the evening of January 27 and Derry Rundlett and Brett Baber will serve as hosts/emcees.
   2. 2022 Meetings Calendar is available in MEBarConnect. Please add these dates to your 2022 calendar.
B. Vice President Stitham: no report.
C. Immediate Past President Day.
   1. ED Evaluation: In Immediate Past President Day’s absence, President McDonald reported that the evaluation was distributed using Survey Monkey and he asked all Governors to complete the evaluation. This evaluation is a trial run, with the goal to have a solid evaluation tool and process in place by spring 2022.
D. Other Governors. No report.

Item 14. Executive Director’s report.

A. 2022 Board of Governors update: There is one vacancy in District 3 due to Governor Dunitz’s ascension to the Vice President seat. The Nominating Committee will meet soon to make a recommendation to the Board to fill this vacancy.
B. Retirement of Administration & Finance Director Lisa Pare in January 2022 after over 46 years of service to the MSBA.
C. NEBA Annual Meeting: October 28-30 in Bristol, RI.

Item 15. President’s report.

A. LRS – VLP low bono model discussion: President McDonald reported that he was approached by VLP ED Liz Stout about a partnership with MSBA LRS to create a low bono or modest means panel. He, ED Armstrong, and LRS Director MacArthur will meet with the LRS Committee for further discussion and will provide a recommendation to the Board at a later date.
B. Commission to Create a Plan to Incorporate the Probate Courts into the Judicial Branch: meeting on November 1 at 10:00 a.m. with opportunity for public comments at 11:30 a.m. – 12:30 p.m. After much discussion, the Board decided to survey MSBA members to determine if the MSBA should take a position. The survey will consist of one question: Do you support the incorporation of the Probate Courts into the Maine Judicial
Branch? Answer choices will be yes, no, or undecided, with the option for comments. ED Armstrong will prepare and distribute the survey to all members. She will also reach out to the Elder Law, Trusts & Estates, and Family Law Sections directly to determine if they want to advocate as a Section. Once the survey is complete, the results will be provided to the MSBA Legislative Committee for review and recommendation.

**Item 16. Committee reports.**

A. Review Committee membership.
B. Bylaws & Policies: Chair Saufley.
   1. Meeting held October 30: minutes available at MEBarConnect.
   2. Approved Committee’s recommended Bylaws amendments: amendments available at MEBarConnect. A motion was made, duly seconded, and voted in the affirmative to accept the recommended MSBA Bylaws amendments from the Bylaws & Policies Committee.
   3. Approved Committee’s recommendation to hold 2022 Annual Business Meeting in hybrid format (in-person and/or electronically) in conjunction with the 2022 Winter Bar Conference, allowing for the approval of Bylaws amendments. A motion was made, duly seconded, and voted in the affirmative to hold the 2022 Annual Business Meeting in a hybrid format (in-person and/or electronically).
C. Civics Education: Chair Willey: no report.
D. Continuing Legal Education: Liaison Stitham.
   1. Legal Year in Review: November 16-18 (virtual).
   2. Bridging the Gap will now be held virtually in December. Dates may change, TBD.
E. Finance: Chair Bishop: no report.
F. Judicial Evaluation: Chair Cramer: no report.
G. Legislative: Chair Okun: no report.
   1. Matt Scase, formerly of the Maine Justice Foundation, was the author of the Access to Justice column. However, he left the MJF and now works at MEJP. MJF ED Michelle Draeger will be our new point of contact for the Access to Justice column.
   2. Evan Roth, author of the Supreme Quotes column, has informed us that the February 2022 (winter) issue of the MBJ will be his last Supreme Quotes submission. He is working on a new article for the 2022 spring or summer edition of the MBJ.
I. Medical Legal: Chair Faunce reported that the Committee is continuing to work on the draft of the Code of Conduct.

**Item 17. Sections update: meetings, events, and information.**

A. Section Leader Orientation & Legislative Meeting: November 4 at 12:00 p.m. (Zoom).
B. Animal Law Section.
   1. Meeting: November 19 at 12:00 p.m. (Zoom).
C. Family Law Section.
   1. Meeting: November 25 at 12:00 p.m. (telephone).
D. New Lawyers Section planning end-of-year, in-person networking event, date TBD.
E. Real Estate & Title Section.
   1. Approved revisions to Title Standard 801: revisions available at MEBConnect. A motion was made, duly seconded, and voted in the affirmative to approve the revisions to Title Standard 801.
F. Governor section liaison reports: none.

Item 18. Old business.

There was no old business to come before the board.


There was no new business to come before the board.

Adjourned at 3:33 p.m.

Respectfully submitted,

Angela P. Armstrong
Executive Director