

**Philadelphia Bar Association  
Board of Governors Meeting  
July 30, 2020**

The meeting was called to order by Chair Kamau at 4:05pm.

The minutes from the June 24, 2020 Board meeting were considered. A motion to approve the minutes was made and seconded and passed unanimously.

Assistant Treasurer Olesh presented the Treasurer's Report. This is the first report after passage of the revision of the budget due to the pandemic, which plans for a \$244,000 loss, and the first chance to compare performance to that revised budget. The main takeaway is that the Association is performing better than anticipated in the revised budget by about \$44,000. The Association is off to a good start and wants to stay that way. This is important since the budget calls for a significant loss, and the Association would like to outperform the revised budget. On the Revenue side, the three areas with biggest modifications were dues, CLE and LRIS. For dues the Association is doing \$22,000 better than revised budget projected. This is due in large part to the Board's efforts and the staff played a big role. The Association is doing about \$5,000 better than projected in CLE compared to the revised budget, thanks to CLE Director Tara Phoenix for her excellent work. LRIS is performing about \$4,000 better than the revised budget. Continuing to stay ahead on revenues in these areas will really help the Association outperform the revised budget, as it is currently doing.

The Finance Committee was conservative on budgeting which is bearing out as expenses are coming in lower than even anticipated. Staff is doing a good job at keeping expenses in check. Some examples of expenses that came in under budget include a savings on outsourced IT expenses, which were \$14,000 less than budgeted. CLE costs are under-budget by \$6,500 due to lack of in-person classes and cancellation of federal bench bar. Capital expenditures were underbudget by \$5,000. There was a savings of \$3,000, because the lease on copiers was terminated. However, the outsourced communications were more than expected by \$4,400.

The Board has the biggest impact on revenue and it needs to continue to focus on revenue generation. The Board should continue efforts to increase dues revenue and encourage membership and should also work to encourage engagement by promoting the virtual events the Association is conducting including CLEs, the Annual Meeting and Bench Bar. Overall, the Association is doing a good job at keeping expenses in check. The statement of operations provided shows how much is needed to hit budget.

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

Legislative Liaison Committee Co-chair Aaron Finestone presented a Resolution Opposing House Bills 2662, 2663 and 2664 and Any Similar Legislation Restricting the Eligibility of Lawyers to Run for the Office of District Attorney. The first bill requires five years' experience as a prosecutor and would preclude District Attorney Krasner from running. It creates a wall around the district attorneys' office and prevents reformers and outsiders from running. The second bill creates term limits and eliminates home rule. The third bill would end the office in Philadelphia only as electing the district attorney and requires appointment by the governor.

The bills are contrary to the public interest. Chancellor Snyder noted that all three bills were sponsored by Representative Martina White and all three seem to have Larry Krasner's name on them. The bills are designed to disguise the real reasons for the bills, as they seem to be innocuous. Mike Van Der Veen indicated the bills are horrible and we need to speak out against them by way of the resolution. Chair Kamau asked what is the basis of the authority for the bills. Mike Van Der Veen also pointed out that they seem rooted in dislike of Larry Krasner and Philadelphia. Erin Lamb commented that these bills are timed as the President intends to send federal troops into the City.

Chair Kamau asked Reggie Shuford if it were possible that legislation would come out of it. Reggie indicated that there could be, but there does not seem to be much chance of passage of the legislation. Mr. Finestone indicated it could be folded into another bill and legislators may not be aware. Director of Public and Legal Services Charlie Klitsch indicated that he is in touch with Association lobbyist Tony Crisci, and there is no movement on the bills, because House and Senate are out of session until September. Mr. Crisci pointed out that they don't only affect Philadelphia, but some of the other larger cities in Pennsylvania. There may be some Republicans in other counties who will have their own motives to run, so there might be Republican opposition elsewhere as well. The Association will strategize on the best way to publicize its position. Erin Lamb pointed out that there are a number of counties with limited candidates for District Attorney and these bills would narrow the candidates further. Chair Kamau pointed out that the Prosecutors' association is against these bills. This seems to be grandstanding by Rep. White.

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

Mr. Klitsch reported an update on HB 196. This is the bill that would create districts for election of appellate court judges. It would create 31 districts and 31 opportunities for gerrymandering and reprisals if a judge doesn't rule the way a particular legislator wants. The bill passed in the state House of Representatives late last year and was languishing in the State Government Committee in the Senate. Things were quiet until the Supreme Court ruled in favor of the governor in the case of the Republican members of the General Assembly suing the governor with a king's bench petition to lift the emergency order related to COVID-19. Within a few days, the Republicans added a few days to the legislative session and quickly voted the bill out of committee. Mr. Crisci made sure that all the senators in committee had the Association's letter opposing the bill and it was quoted on the floor during debate. Ultimately, the bill passed 26-24 in a close vote. Since it is a constitutional amendment the governor cannot veto. However, it has to pass again in both houses, so the Association will work to defeat it on the second round. Some strategies that will be employed will be to delay and call for hearings. Also, a coalition is being established to defeat the measure on the second round, and it will be led by Pennsylvanians for Modern Courts, whose new Executive Director is former Chancellor Debbie Gross. The coalition will include legal and non-legal groups. It needs to include non-lawyers. Secretary Jennifer Coatsworth commented that PBA also took a strong stance against the legislation. Chair Kamau asked if the Chamber of Commerce has been contacted. Executive Director Hurdle indicated that he spoke with former Chancellor Gross and the outlines of the coalition are formed, but there will be a broad-based coalition.

Board Chair Nicholas Kamau led a discussion on the admission to practice of the Class of 2020. The goal of the discussion was to get a sense from the Board on the proposal of a diploma

privilege, which grants the class of 2020 the opportunity to become full members of the Bar without taking the bar exam. The PBA has recommended this. There is limited opportunity and accessibility for those graduates to take the bar exam. There are also issues with access and Wifi connections and it will be exceptionally difficult to take the exam under current conditions. On the other hand, there are concerns about the bar, and ensuring that lawyers are qualified to practice law. Is it fair to current members of the bar to allow licensure without taking the test to which everyone else was subjected. Originally, there was a limit to this privilege for a year. The proposal now, which was passed by the PBA is for unlimited privileges, so that they would never have to pass the Bar.

Chancellor Snyder asked that the Board discuss this proposal, because he was initially very against a permanent diploma privilege, because the limited license to practice until a bar exam could be taken was a good compromise. However, over the past week, he became more aware of the issues and saw some of the draconian rules enacted by some of the states for conducting virtual bar examinations and provided several examples of those rules. He became convinced otherwise because of some of the information contained in a report from the PBA COVID-19 task force. There also are issues of internet insecurity and the lack of quiet environment needed for the exam. This is a new situation where students are facing an everchanging landmine of stresses, resulting in more likely not passing. There are already stresses on lack of jobs. He came around to thought of granting the unlimited privilege for this year. He also spoke to the chairs of the academic engagement committee from all of the area law schools who agree the privilege should be given for this one year.

Secretary Coatsworth indicated that she is now on the PBA Board of Governors and was present for that conversation and vote. She indicated that like Chancellor Snyder, before that call, she was also skeptical of granting an unlimited privilege. However, she was convinced by those on the PBA COVID-19 task force that concerns regarding disparate impact of diploma privilege on minorities would not be realized. The members of the PBA Task Force explained that over time, the attorneys granted the privilege would develop their own reputations through practice and the consideration of whether or not they passed the bar examination would not be a concern.

Amber Racine indicated that there are a few problems, because we are a licensed profession, so there could be an asterisk on those granted just diploma privileges. She believes the exam is flawed in its current form, but it is still a benchmark that is widely used, and she thinks that there will be an asterisk, and particularly this will impact minorities and there would be a disservice to those students. She thinks they should grant the diploma privilege for a year, but at some point, they should have to take the bar exam. She would amend the drafted resolution that indicates that any student who graduated law school and registered for the bar exam, is permitted to practice for one year past the expiration of the emergency order or whenever the bar exam is scheduled for the next in-person time.

Past Chancellor Fedullo indicated that there is a licensure issue. She doesn't think that students should have to take the bar examination remotely. She also pointed out that if they are ultimately required to take the exam, law firms and employers will need to be cognizant of the challenges of studying and will need to provide opportunity to devote time through studying. Judge Moss agreed with Amber and Shelli and indicated that they should be able to practice until the next bar exam is given in the normal practice. Reggie Shuford agreed with Amber, Shelli and J. Moss and added that the further disparate impact on attorneys of color would be

recognizable. This is pandemic number one, and perhaps there will be others or other global emergencies and it sets a bad precedent to allow this any time a catastrophe occurs. Larry Felzer agreed with Amber and others and added that it could have repercussions and could impact reciprocity issues and could prevent admissions to federal courts. Natalie Klyashtorny joined in these sentiments as well, and indicated the students should have to take the exam at some point in the near future, because it sets a bad precedent. Nikki Johnson-Huston suggested a reduction of fees and had concerns that any asterisk would have a double impact on attorneys of color.

Arly Smith-Pearson disagreed and didn't see the purpose in making this class take the bar after practicing for a year or two. She pointed out that Wisconsin has had diploma privileges for years and they enjoy reciprocity and we likely know attorneys who have been licensed this way and we don't know, because you establish your reputation in practice. She also pointed out that passage rate is very high on both first and second try. She highlighted some of the challenges these law students are facing this year. Ben Barnett agreed with Amber and indicated that he thought that at some point in time this class should be required to take the bar exam, but we should be reasonable with the timing. Shelli is concerned that these students will be studying for the bar exam while working and their employers may not be sympathetic to this. Mike Van der Veen agreed with Amber, because there is always a time where people are having really hard time, and they still endure and take the exam. Erin Lamb agreed with Arly and thought downplaying the effect of the pandemic and comparing it to 911 is inappropriate. She also indicated things used to be done via apprenticeships.

Jim Berardinelli agreed with Amber Racine. He is concerned that if you give a one-year diploma privilege, they should be required to have some sort of mentorship or supervision and should not be permitted to own their own practice. Riley Ross indicated that others would know about the diploma privilege, because of the graduation year. He liked Amber's revised version of the resolution. He thought it could be taken at a later time, because the bar exam is not a measure of how good a lawyer you are, but it is a measure. Wendi Barish also expressed concern about new lawyers being able to obtain malpractice insurance. She also mentioned those who did not pass the bar exam previously and need to take it again. She also stated that she liked the idea of supervision, similar to DE. Chancellor Snyder indicated that it will be a challenge to get lawyers who will take on the responsibility of supervising these lawyers.

There is a general sense that the Board agrees that the recent graduates should not be required to take the bar exam remotely. Amber read her friendly amendment to Option two of the proposed resolution. Chancellor Snyder indicated that the language of the friendly amendment is already included in option 2 and Amber indicated it does not have the inclusion of those who did not previously fail the bar exam. Larry Beaser pointed out that there are three options:

1. Does the diploma privilege end at one year or last for their career
2. If diploma privilege forever, can you get the privilege if you failed before
3. Should there be supervision

Chair Kamau raised a new issue. He believes it's important that all lawyers pass a bar exam because it's a gate-keeping mechanism, but given current circumstances, it is a cost-benefit analysis. It is difficult to say how someone could pass the exam while practicing law and working. There has to be a requirement that they be provided the opportunity to study by their employer. There are also considerations about study materials. The passage of time between law school and administration of the exam poses a significant challenge, because you are out of

practice from studying. He proposed a potential amended bar exam that might eliminate the MBE. Amber pointed out that there is a significance to licensure and there need to be revisions to the actual administration of the exam in the future. Anyone who is registered for the bar examination and can't take it this year has to take it whenever it can be safely administered.

Leslie John indicated that she took two bar exams about four years apart and indicated that she stepped up and met the challenges. It was tough and it will be tough, but the students will need to step up and do what is necessary. She pointed out that we must protect the public. It's important to ensure that they eventually take the exam and pass it. Reggie Shuford agreed and stated that it is important to the public, the profession and the individual, because there is a sense of accomplishment in passing the exam and a basic level of competency. Alisha Rodriguez indicated that she has taken four exams. Two of them were taken while she was working, and it was difficult, but you have to endure. Right now, the standard is the bar exam. She thinks the privilege should be extended, but the students would be required to eventually take the exam. Chair Kamau indicated he has also taken four exams and acknowledged that it is a challenge, but it's been done. He again suggests that the MBE be removed for the exam for the persons with the diploma privilege. Chancellor Snyder indicated that a resolution that is limited and is consistent with the PBA proposal will have more traction.

Doug Sisk indicated that this is not going away and this is a good start and the practice will have to be permanently modified. Riley Ross commented that there will be many things that will change due to experiences of COVID and the bar exam should be considered to be remediated in the future and a bigger change might be needed moving forward. Reggie Shuford suggested to forecast the potential of larger reform as an issue moving forward.

Chair Kamau took a vote on who was in favor of full diploma privilege. There were three in favor. Chair Kamau took a vote on limiting the diploma privilege to one year. This was passed by a majority.

Chair Kamau attempted to take a third vote on whether those who failed in July and February 2019 should receive the diploma privilege for one year. Past Chancellor Fedullo suggested the privilege be limited to February 2019 failures. Chair Kamau took a vote on whether individuals who failed a previous exam and were registered for the July 2020 exam, qualify for the diploma privilege.

There was a motion to table the issue so the questions could be formulated in a more clear and succinct fashion so that the matter can be considered more clearly and succinctly. However, it was pointed out that we are close and the Board needs to put out a position sooner rather than later because other groups have taken a position.

There was a motion to reopen the conversation. The motion was seconded and passed. There was a vote on the issue of whether an individual who failed the February 2020 Bar exam be entitled to the limited diploma privilege. There were four votes against this measure and everyone else voted in favor.

The next issue, as presented by Larry is whether there should be a preceptorship program for those who are granted the diploma privilege. This issue was withdrawn and was not required to vote. Larry read the entire resolution as amended:

**NOW, THEREFORE, BE IT RESOLVED**, that the Philadelphia Bar Association urges the Pennsylvania Supreme Court to amend the Pennsylvania Bar Admission Rules to allow current registrants for the Pennsylvania Bar Examination, who have received a Juris Doctorate or Bachelor of Laws degree in 2020 from a law school accredited by the American Bar Association, and who otherwise qualify for bar admission, including but not limited to individuals who failed the exam in February 2020, to have the option of receiving a diploma privilege to be admitted to the practice of law in the Commonwealth of Pennsylvania, which diploma privilege to practice law would continue until the earlier of (i) one year after termination of the Governor's declaration of a disaster emergency; or (ii) the date on which the individual is notified that the individual failed the Pennsylvania Bar Examination.

Riley Ross revisited his earlier suggestion that the diploma privilege not be limited to February 2020 unsuccessful test-takers and be extended to those who failed the exam on previous occasions. Past Chancellor Fedullo suggested the language should include all individuals who are currently registered for the bar exam. Larry Beaser also raised the point that the Board of Law Examiners may have difficulty letting someone practice who has failed the bar exam. That said, the Board of Law Examiners will add whatever language they wish anyway. Chancellor Snyder suggested limiting the privilege to those who graduated law school in 2020. Judge Moss agreed because the goal is to protect the current graduates and if we consider individuals who have failed at different times before, we are going astray. Meghan Claiborne commented that the way we are currently defining it, it would preclude anyone who is from another jurisdiction from taking the bar exam in Pennsylvania; she asks whether we should include this group. Judge Moss responded in the negative and maintained that the diploma privilege should be limited to individuals who graduated from law school in 2020.

Amber Racine pointed out that the limitation to only 2020 graduates is inconsistent with what was previously passed, i.e. February 2020 failures should be given the diploma privilege. Riley Ross stated that he does not see a difference between failure in February and failure in July 2020, given that the point is that no one should be taking the bar exam at this time. Chancellor Snyder responded that the Association is charged with acting as a professional trade association to represent the interests of lawyers and to protect the public from unlawful practice. Thus, wouldn't we be providing an opportunity for failures to have a backdoor entrance to practice?

Alisha Rodriguez alerted the board to the fact that it was debating a point that is only going to affect a small portion of people. The statistics show that for the July 2019 exam, out of 928 test takers, only 18 were on their 4<sup>th</sup> or more attempt, which is about 2% of the people who were registered. This small percentage does not warrant this level of debate especially after the motion has already passed. Riley moved to amend the resolution as follows: If you were registered to take the exam in July 2020, should you be eligible for the diploma privilege. The motion was seconded and passed.

The entire resolution, as amended, was moved, seconded and passed with some dissent. Assistant Treasurer Olesh abstained from all votes related to the topic of diploma privilege.

Executive Director Hurdle presented his Executive Director's report. He thanked the Board for the great numbers. The Board got 123 new members which translates to \$25,000. There was 80% participation. The leaders were Andre Webb, Chancellor Snyder, Hillary Ladov, and Amber Racine. The numbers will be publicized at the next meeting. July will be as good if not better and the Association will likely be about \$50,000 better.

Since the pandemic started, the Association hosted 200 virtual events, with 5,000 people zoomed in, with 3,000 of those being unique. These were non-CLE events only and there were additional CLEs.

The LRIS average is increasing substantially over the last few weeks and should increase further once courts open. Construction on the space starts August 10 and he thanked the staff for helping to clear the space.

C6 participation in the paycheck protection loans was included in the most recent version of the legislation, and the Bar Association will qualify, which will significantly improve the financial situation. Even if the Association can't get that, a different provision will provide some additional funding for the Association.

Chancellor Snyder provided his Chancellor's announcements. He thanked the Board for its efforts at renewals, which is what he and Executive Director Hurdle and Chair Kamau asked. There continues to be traction in the Inquirer regarding the eviction issue and the positions that the Board has taken and it mentioned the Bar Association's efforts in this regard. City Council passed emergency housing protection acts, which referenced the Bar Association's work.

There is a growing battle between District Attorney Krasner and Senator Toomey, over the invasion of federal troops.

He encouraged the Board to register and bring others to the summer quarterly meeting on August 7, 2020. The program will be wonderful. He hopes to see everyone.

Chair Kamau made his announcements and thanked the Board for its productivity and collegiality in the debates during today's meeting. He also thanked the Board for making the calls for membership.

The meeting was then adjourned at 6:10pm.

Respectfully submitted,  
Jennifer S. Coatsworth  
Secretary

**Board of Governors**  
**Attendance**  
**July 30, 2020**

**Voting members**  
**Present**

Hon. A. Michael Snyder (Ret.)  
Jennifer Coatsworth  
Kathleen Kirkpatrick  
Matthew Olesh  
Riley Ross  
Meghan Claiborne

Francesca Iacovangelo  
Alisha Rodriguez  
Michael van der Veen  
James Berardinelli  
P. Douglas Sisk  
Neelima Vanguri

Wendi Barish  
Kris Calalang  
Erin Lamb  
Craig Levin  
Nipun Patel  
Andre Webb  
Arly Smith-Pearson

Reuben Asia  
James Tolerico  
Cheryl Upham  
Mark Mazzanti  
Rochelle Fedullo  
Amber Racine  
Reginald Shuford

**Absent:**

Lauren McKenna  
Wesley Payne  
Marc Zucker  
Nicholas Kamau  
Benjamin Barnett  
Dominique Ward  
Diane Penneys Edelman

Lawrence Felzer  
Dino Privitera  
Hillary Ladov  
Michael Zanan  
Tom Innes  
Randi Rubin  
Maureen Farrell

**Non-voting members present:**

Lawrence Beaser  
Leslie John

Harvey Hurdle

**Absent:**

Abraham Reich  
Butler Buchanan

**Invited guests present:**

Natalie Klyashtorny  
Nikki Johnson-Huston

Hon. Sandra M. Moss (Ret.)



