

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
REMOTE MEETING  
NOVEMBER 7, 2020**

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**PRESENT:** Abneri; Adigwe; Alcott; Alomar; Alsina; Bahn; Bartolotto; Bascoe; Battistoni; Baum; Behrins; Beltran; Ben-Asher; Billings; Bladykas; Boston; Brown; Buholtz; Buzard; Calderón; Carbajal=Evangelista; Chambers; Chandrasekhar; Chang; Christian; Christopher; Coffey; Cohen, D.; Cohen, M.; Cohen, O.; Crawford; Dean; Degnan; Doerr; Doxey; Doyle; Eberle; Effman; Engel; Eng; England; Fallek; Fennell; Fernandez; Filabi; Finerty; First; Fishberg; Fogel; Foley; Fox, G.; Fox, M.; Freedman, H.; Friedman; Frumkin; Gallinari; Galvan; Genoa; Gerbini; Gerstman; Getnick; Gilmartin; Gold; Good; Grady; Grays; Greenberg; Greisemer; Griffin; Grimaldi; Gross; Gutekunst; Gutenberger; Harper; Hartman; Heath; Heller; Holtzman; Jaglom; James; Jimenez; Jochmans; Kamins; Kapnick; Karson; Katz; Kelley; Kelly; Kendall; Kiernan; Kimura; Kobak; Kretser; Kretzing; LaBarbera; Lara; LaRose; Lau-Kee; Lawrence; Leber; Leo; Lessard; Leventhal; Levin; Levin Wallach; Levy; Lewis; Lindenauer; Lugo; MacLean; Madigan; Marinaccio; Markowitz; Maroney; Marotta; Martin Owens; Matos; May; McElwreath; McGinn; Meyer, H.; Meyer, J.; Miller; Millett; Milone; Minkoff; Miranda; Montagnino; Moretti; Morrissey; Mukerji; Muller; Mulry; Napoletano; Newman; Noble; Nolfo; Nussbaum; O’Connell, B.; O’Connell, D.; O’Donnell; Onderdonk; Owens; Palermo, A.; Palermo, C.; Perlman; Pessala; Pitegoff; Poster-Zimmerman; Purcell; Radick; Rangachari; Redeye; Reed, L.; Reed, M.; Richman; Richter; Rivera; Rivera Agosto; Robinson; Rosner; Rus; Russell; Ryan; Ryba; Safer; Samuels; Santiago; Scheinkman; Schofield; Schraver; Schwartz-Wallace; Scott; Seiden; Sen; Shafer; Shampnoi; Shishov; Sigmond; Silkenat; Simon; Slaviv; Smith; Sonberg; Spicer; Starkman; Stoeckmann; Strassler Rosenthal; Swanson; Sweet; Tarson; Taylor; Teff; Tesser; Triebwasser; van der Meulen; Ventura; Waterman; Weiss; Welden; Westlake; Wimpfheimer; Wolff; Woodley; Yeung; Young; Younger.

Mr. Brown presided over the meeting as Chair of the House.

1. Approval of minutes of June 13 and 27, 2020 meeting. The minutes were deemed accepted as distributed.
2. Report of Treasurer. Domenick Napoletano, Treasurer, reported that through September 30, 2020, the Association’s total revenue was \$17.7 million, a decrease of approximately \$1.5 million from the previous year, and total expenses were \$14.9 million, a decrease of approximately \$1.3 million over 2019. The report was received with thanks.
3. Report and recommendations of Finance Committee re proposed 2021 income and expense budget. John H. Gross, chair of the Finance Committee, reviewed the proposed budget for 2021, which projects income of \$19,292,955, expenses of \$18,802,064, and a projected surplus of \$490,891. After discussion, a motion was adopted to approve the proposed 2021 budget.
4. Address by Hon. Gerard J. Whalen – Presiding Justice, Appellate Division, Fourth Department. Presiding Justice Whalen provided an update on initiatives being undertaken

in the Fourth Department with respect to technology, virtual oral argument, and virtual bar admissions. The Chair received the report with thanks

5. Report and recommendations of the Committee on Bylaws. Robert T. Schofield, IV, chair of the Bylaws Committee, outlined proposed bylaws amendments to implement the recommendation of the Special Committee on Association Structure and Operations, approved by the House in June, to govern remote meetings of Association entities. The House was asked to subscribe to the proposed amendments to allow them to be placed on the agenda of the 2021 Annual Meeting. The proposed amendments received the required subscriptions to permit their consideration at the Annual Meeting.
6. Presentation of 2019 Root-Stimson Award. President Karson presented the Root-Stimson Award, which honors members of the profession for outstanding community service, to Prof. Elora Mukherjee of New York City. Prof. Mukherjee was recognized as the founder and director of Columbia Law School's Immigrants' Rights Clinic, which provides legal services to immigrants facing deportation hearings.
7. Report and recommendations of Committee on LGBTQ People and the Law. Christopher R. Riano, chair of the committee, presented a proposal to create a LGBTQ Law Section. After discussion, a motion was adopted to approve the proposal.
8. Report of President. Mr. Karson highlighted items contained in his written report, a copy of which is appended to these minutes.
9. Report of Nominating Committee. Sharon Stern Gerstman, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2021-2022 Association year: President-Elect: Sherry Levin Wallach, White Plains; Secretary: Taa R. Grays, New York City; Treasurer: Domenick Napoletano, Brooklyn; Vice Presidents: 1st District – Diana S. Sen, New York City and Michael McNamara, New York City; 2nd District – Aimee L. Richter, Brooklyn; 3rd District – Robert T. Schofield, IV, Albany; 4th District – Nancy Sciochetti, Saratoga Springs; 5th District – Jean Marie Westlake, East Syracuse; 6th District – Richard C. Lewis, Binghamton; 7th District – Mark J. Moretti, Rochester; 8th District – Kathleen M. Sweet, Buffalo; 9th District – Adam Seiden, Mount Vernon; 10th District – Donna England, Centereach; 11th District – David L. Cohen, Kew Gardens; 12th District – Michael A. Marinaccio, White Plains; 13th District – Orin Cohen, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2021: La Marry Jackson, Rochester (Diversity Seat); Sandra Rivera, Albany, and Thomas J. Maroney, New York City. Nominated as Section Member-at-Large was Simeon Baum, New York City. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2021-2023 term: Claire P. Gutekunst, Yonkers; Scott M. Karson, Melville; Bernice K. Leber, New York City; Michael Miller, New York City, and Sherry Levin Wallach, White Plains. The report was received with thanks.
10. Report of Task Force on Racial Injustice and Police Reform. T. Andrew Brown and Taa R. Grays, co-chairs of the Task Force, presented an informational report on the work of the

Task Force to date. They noted that the Task Force plans to present an interim report in January and final report in April 2021. The report was received with thanks.

11. Report and recommendations of Health Law Section. Karen Gallinari, the section chair, together with immediate past chair Hermes Fernandez and COVID-19 Task Force chair Mary Beth Morrissey, reviewed the section’s report containing recommendations with respect to the COVID-19 pandemic and the resolutions being offered by the section for the House’s consideration. After discussion, a motion to amend Resolution #1 to delete that portion relating to the suspension of resident physicians was approved, after which a motion to approve Resolution #1 was approved. Motions were then adopted to approve Resolutions #2 and #3. Mr. Brown abstained from voting on Resolution #3. The resolutions as adopted are as follows:

### **Resolution #1 Public Health Legal Reforms**

The seriousness and magnitude of the present COVID-19 pandemic are unprecedented over the course of the last hundred years by any measure - the number of lives lost, the number of people afflicted with serious COVID-19 illness and the complications of pre-existing co-morbidities, the risks to health care workers and other frontline and essential workers, disruptions to businesses and the New York State (“the State”) economy, impacts upon employment and family life, and the profound trauma, losses and bereavement persons, families, communities, especially communities of color, have suffered and continue to suffer. Public health law and preparedness play an essential role in addressing disasters and emergencies. New York, like the rest of the country, was unprepared to deal with the pandemic. The report of the Health Law Section recommends reforms to public health law addressing identified gaps in the law to strengthen the preparedness and capacities of the State both during the present and in future pandemics, and to protect the public’s health.

The New York State Bar Association recommends: State Government to: A.1.(a) Enact a state emergency health powers act addressing gaps in existing laws in New York, drawing upon the Model State Emergency Health Powers Act (MSEHPA), developed by the Center for Law and Public Health at Georgetown and John Hopkins Universities (2001), and other sources as appropriate; A.1.(b) Adopt crisis standards of care addressing gaps in existing laws in New York, drawing upon the Crisis Standards of Care, developed by the Institute of Medicine (2012); The Arc, Bazelon Center for Mental Health Law, Center for Public Representation and Autistic Self Advocacy Network Evaluation Framework for Crisis Standard of Care Plans (Evaluation Framework); and other sources as appropriate. A.1.(c) Provide comprehensive workforce education and training in the implementation of the above state emergency health powers act and crisis standards, including proper use and disposal of PPE and other equipment; A.2.(a) Appoint and maintain a core team of emergency preparedness experts to review evidentiary sources and draft legislation to strengthen emergency preparedness planning; and A.2.(b) Evaluate the public benefit and costs of laws and/or regulations waived during the COVID-19 emergency, and the Executive Orders and emergency regulations issued in response to the COVID-19 emergency and consider eliminating or amending those laws and/or regulations, as appropriate.

B.1.(a) Adopt resource allocation guidelines addressing gaps in existing laws in New York, drawing upon the New York State Task Force on Life and the Law 2015 Report, Ventilator Allocation Guidelines, the Evaluation Framework, and other sources as appropriate; B.1.(b) Issue emergency regulations mandating all providers and practitioners follow the ethics guidelines, and ensure: i. the needs of vulnerable populations, including persons and communities of color, older adults and nursing home residents, persons with disabilities, persons who are incarcerated, and immigrants, are met in a nondiscriminatory manner in the implementation of emergency regulations and guidelines; ii. provision of palliative care to all persons as an ethical minimum to mitigate suffering among those who are in institutional, facility, residential, or home care settings during the COVID-19 crisis; iii. provision of education and training to physicians, health care practitioners, and institutional triage and ethics committees; and iv. provision of generalist-level palliative care education and training for all health care workers and health-related service workers in all settings who are providing supportive care. B.2. Amend the New York State Public Health Law: Article 29-C “Health Care Proxy,” to require in the case of a State Disaster Emergency Declaration: B.2.(a) at least one, rather than two, witnesses, or B.2.(b) attestation by a notary public in person or remotely; B.2.(c) adoption of legislation or regulation as necessary to implement: i. procedural requirements for remote witnessing and execution of a health care proxy; ii. specific language to be included in the attestation of the notary public; iii. that the services of a witness and a notary public be made available by the facility where the individual executing the health care proxy is being treated; and iv. that the services of a witness and notary public be provided to institutionalized individuals without charge and regardless of their ability to pay. B.3. Nothing contained in the Resolutions herein calls for consideration of any proposed change to New York Law as to authority to terminate treatment over the objection of a patient or the patient’s surrogate.

## **Resolution #2 Legal Reforms in Care Provision, Congregate and Home Care, Workforce and Schools**

The New York State Bar Association recommends: State Government to: A.1. Evaluate the public benefit and costs of continuing the following laws and/or regulations which were waived by executive orders, for possible repeal and/or amendment: A.1.(a) Ability to Exceed Certified Bed Capacity for Acute Care Hospitals: Continue the waiver by the Governor’s Executive Orders 202.1 and 202.10 of the DOH regulations governing certified bed restrictions for the pendency of the State Disaster Emergency. A.1.(b) Temporary Changes to Existing Hospital Facility Licenses Services and the Construction and Operation of Temporary Hospital Locations and Extensions: Continue the waiver provided in Executive Orders 202.1 and 202.10 of the State requirements that restrict the ability of Article 28 facilities to reconfigure and expand operations as necessary, for the pendency of the State Disaster Emergency. A.1.(c) Anti-Kickback and Stark (AKS) Law Compliance during the COVID-19 Emergency: New York State to adopt the waivers provided by CMS and the OIG as to the Anti-Kickback and Stark Laws in substantially similar form for the state versions of the Stark Law and AKS during the State Disaster Emergency, each as tailored for the particular statute at issue. A.2. Congregate Care and Home Care: Ensure, as applicable to all congregate settings and residents thereof, and recipients of home care, including: A.2.(a) Older Adults, Persons with disabilities, Persons with disabilities in Residential Facilities or Group Homes, Persons confined in

Psychiatric Centers, Nursing Home and Adult Care Facilities Residents, and Nursing Home Providers and Adult Care Facilities Operators: i. Equitable allocation of scarce resources from the Public Health and Social Services Emergency Fund—established by the CARES Act—to older adults and their health care providers, prioritizing under-resourced long-term care providers; ii. Adequate provision of PPE; iii. Adequate levels of staffing; iv. Adequate funding of employee testing; v. Consistent and timely tracking and reporting of case and death data; vi. Adoption of non-discriminatory crisis standards and ethics guidelines; vii. Recognition and honoring of Older New Yorkers’ and New Yorkers’ with disabilities right to health and human rights, including rights to be free from abuse and neglect and to care in the most integrated setting, as protected under federal law and international conventions; and viii. Adequate resources for the Office of the State Long Term Care Ombudsman, which provides advocacy for nursing home residents and families and helps residents understand and exercise their rights to quality care and quality of life. A.2.(b) Persons incarcerated and correctional facilities and care: Ensure: i. Adequate access of persons incarcerated to COVID-19 testing, medical care and mental health and supportive services; ii. COVID-19 testing of correctional staff and adequate provision of gloves, masks and other protective equipment; iii. Release to the community of older persons and persons with disabilities who are incarcerated or living with advanced illness who do not pose a danger to the community; iv. Adequate funding of prison-to-community transitions including access to housing, meals, and supportive services, and non-discriminatory access to employment opportunities; A.2.(b): Recognition and honoring of the right to health and human rights of persons who are incarcerated, as protected under international conventions. A.2.(c) Immigrants in detention facilities: In its exercise of state police powers in the COVID-19 public health emergency, New York State must take steps, similar to those outlined above, in cooperation with federal agencies, to ensure: i. Reduction of risk of the spread of COVID-19 among immigrants being held in detention centers, and recognition and honoring of immigrants’ right to health and human rights, as protected under international conventions. A.3. Telehealth: Eliminate restrictions on the provision of care by telehealth and increase reimbursement for services provided via telehealth.

B.1.(a) Prioritize additional childcare funding and implementing novel childcare staffing strategies, such as utilizing staffing firms dedicated to child care to supplement the childcare workforce, to ensure quality childcare services, effective and sustainable facility operations and the health and safety of our children and childcare providers, enabling businesses to effectively reopen with sufficient childcare resources and support; B.1.(b) Prioritize education and training pertaining to crisis standards to assure all practitioners are supported as they exercise professional medical judgment in triage, treatment and services; and B.1.(c) Prioritize enhanced employee assistance and other mental health counseling programs to address and mitigate the moral distress suffered by frontline workers under crisis conditions. B.2. Enhance regulatory oversight, to ensure: B.2.(a) adequate and non-discriminatory allocation of resources to persons and communities of color and vulnerable populations in conformity with state and federal laws; B.2.(b) equitable access of persons and communities of color and vulnerable populations to health and mental health services in conformity with state and federal law, including palliative care as an ethical minimum to mitigate suffering among those persons who remain in institutional, facility, residential or home care settings, or are hospitalized during the COVID-19 crisis; and B.2.(c) provision of PPE and testing to

essential workers at highest risk in delivering essential services to vulnerable populations.  
B.3. Monitor conformity with state and federal laws barring discrimination.

### **Resolution #3 COVID-19 Vaccine and Virus Testing: Legal Reforms and Guidelines**

The authority of the State to respond to a public health threat and public health crisis is well-established in constitutional law and statute. In balancing protection of the public's health and civil liberties, the Public Health Law recognizes our interdependence, and that a person's health, or her/his/their lack of health, can and does affect others. This is particularly true for communicable and infectious diseases. Since the discovery of the smallpox vaccine in 1796, vaccines have played a crucial role in preventing the spread of dangerous and often fatal diseases. The New York Public Health Law mandates several vaccinations for students at school-age up through post-secondary degree educational levels, and for health care workers. The Public Health Law also mandates treatment for certain communicable diseases, such as tuberculosis. The New York State Bar Association recommends:

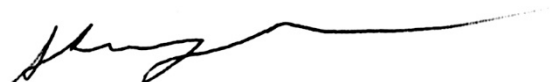
To protect the public's health, it would be useful to provide guidance, consistent with existing law or a state emergency health powers act as proposed in Resolution #1, to assist state officials and state and local public health authorities should it be necessary for the state to consider the possibility of enacting a vaccine mandate. A vaccine must not only be safe and efficacious; it must be publicly perceived as safe and efficacious. Diverse populations, including people of color, older adults, women, and other marginalized groups, must be represented in clinical trials. The trials also must follow rigorous protocols that will establish a vaccine's safety and efficacy through expert consensus of the medical and scientific communities. It is noted further that nothing in this Resolution or the underlying Report should be regarded as suggesting that emergency use authorization should be considered in determinations concerning any immunization requirement.

State Government to: A.1. Ensure Access to Virus Testing: Establish a coordinated statewide plan for Virus Testing to ensure: A.1.(a) frontline health care workers are prioritized in access to rapid diagnostic testing; and A.1.(b) the most vulnerable individuals from health status and essential business/employee standpoint have equitable access to rapid diagnostic testing. A.2. Adopt Ethical Principles Guiding Equitable Allocation and Distribution: Once available, a vaccine should first be equitably allocated and distributed based upon widely accepted ethical principles including maximizing benefit to the society as a whole through reducing transmission and morbidity and mortality; recognizing the equal value, worth and dignity of all human persons and human lives; mitigating suffering, health inequities and disparities; and ensuring fairness and transparency in decision making. Health care workers and other essential workers most endangered by COVID-19 and populations at highest risk must be afforded priority access to a vaccine. A.3. Encourage Public Acceptance and Educational Programs: Efforts must be made to encourage public acceptance. Public health authorities should build on existing systems and infrastructures including community-based organizations and networks. The campaign must acknowledge distrust in communities of color from a history of medical exploitation. Efforts should include linguistically and culturally competent educational and acceptance programs, and stakeholder community

engagement strategies, to build public trust, widely encouraging vaccine uptake and addressing vaccine hesitancy. A.4. Take Steps to Protect the Public's Health and Consider Mandate As May Be Necessary to Reduce Risks of Transmission and Morbidity and Mortality: Our state and nation have suffered terrible losses from COVID-19. As of September 3, 2020, 186,000 Americans, including 26,000 New Yorkers, have lost their lives. Unemployment has been at the highest levels since the Great Depression. Numerous businesses have closed. Should the level of immunity be deemed insufficient by expert medical and scientific consensus to check the spread of COVID-19 and reduce morbidity and mortality, a mandate and state action should be considered, as may be warranted, only after the following conditions are met and as a less restrictive and intrusive alternative to isolation, subject to exception for personal medical reasons: A.4.(a) evidence of properly conducted and adequate clinical trials; A.4.(b) reasonable efforts to promote public acceptance; A.4.(c) fact-specific assessment of the threat to the public health in various populations and communities; and A.4.(d) expert medical and scientific consensus regarding the safety and efficacy of a vaccine and the need for immunization. Enforcement of any immunization requirement should be along the lines of current New York law.

12. Report and recommendations of Task Force on Mass Shootings and Assault Weapons. Margaret J. Finerty and David M. Schraver, co-chairs of the Task Force, reviewed the Task Force's report and recommendations with respect to the role of mass shootings and assault weapons on gun violence in the United States. After discussion, a motion to table the report failed, as did motions to amend by deleting Recommendation #7 and Recommendation #8. A motion was then adopted to approve the report and recommendations.
13. Report of The New York Bar Foundation. Lesley Rosenthal, President of The Foundation, update the House members on Foundation activities, including the awarding of grants and the appointment of a lease negotiation team. The report was received with thanks.
14. Administrative items. Mr. Brown reported that the 2021 Annual Meeting schedule was available online and encouraged members to register for programs and events.
15. Date and place of next meeting. Mr. Brown announced that the next meeting of the House of Delegates would take place on Saturday, January 30, 2021 as a remote meeting.
16. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Sherry Levin Wallach  
Secretary







**SCOTT M. KARSON**

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**President's Report  
to the House of Delegates  
November 7, 2020**

2020 has been a challenging year – to say the least. The COVID-19 pandemic has affected all aspects of our lives – including the practice of law. Our members have worked tirelessly – around the clock – over the past eight months to meet the needs of their clients and the demands of their practices, through the myriad challenges wrought by the crisis. From advising on the safe reopening of law firms and courts, to advocating for solo and small firm practitioners struggling to maintain their practices, to helping recent law graduates prepare for the first-ever online bar exam, our members have risen to the occasion and helped steer our society and profession forward – a great testament to the vitality of our vocation. The members of our association have earned my respect, admiration and thanks.

And on the subject of thanks, I offer my sincere thanks to my fellow NYSBA officers for their support and wise counsel: President Elect T. Andrew Brown, Secretary Sherry Levin Wallach, Treasurer Domenick Napoletano and Immediate Past President Hank Greenberg. My thanks also go to our new Finance Committee Chair, John Gross, for his terrific work in assembling the Association's 2021 budget.

And thanks as well to our incomparable staff, led by Executive Director Pam McDevitt. By their dedication and hard work – much of it performed remotely – they have kept our association running efficiently and effectively during the pandemic with which we have lived for the past nine months. Special thanks to NYSBA's Director of Communications, Susan DeSantis, with whom I speak several times each day, consultant Liz Benjamin and the talented members of our Communications Department and Publications Department. In these tumultuous times, these folks have enabled NYSBA's voice to be heard publicly – loud and clear – on matters of great significance.

For example, I have issued statements on the following topics:

New York State Bar Association President Urges Patience Because No Voter Should Be Disenfranchised

<https://nysba.org/new-york-state-bar-association-president-urges-patience-because-no-voter-should-be-disenfranchised/>

NYSBA President Scott M. Karson Alarmed by Recent Spate of Attorney Harassment

<https://nysba.org/nysba-president-scott-m-karson-alarmed-by-recent-spate-of-attorney-harassment/>

Statement From NYSBA President Regarding Reports That 545 Parents of Children Separated at U.S. Border Cannot Be Found



<https://nysba.org/statement-from-nysba-president-regarding-reports-that-545-parents-of-children-separated-at-u-s-border-cannot-be-found/>

New York State Bar Association President Scott M. Karson Issues Statement on the Passing of Supreme Court Justice Ruth Bader Ginsburg

<https://nysba.org/new-york-state-bar-association-president-scott-m-karson-issues-statement-on-the-passing-of-supreme-court-justice-ruth-bader-ginsburg/>

New York State Bar Association President Scott M. Karson Issues Statement on the 100<sup>th</sup> Anniversary of the Enactment of the 19<sup>th</sup> Amendment

<https://nysba.org/new-york-state-bar-association-president-scott-m-karson-issues-statement-on-the-100th-anniversary-of-the-enactment-of-the-19th-amendment/>

New York State Bar Association President Scott M. Karson Issues Statement Mourning the Loss of Congressman John Lewis

<https://nysba.org/new-york-state-bar-association-president-scott-m-karson-issues-statement-mourning-the-loss-of-congressman-john-lewis/>

NYSBA President Scott M. Karson Says President Trump's New Policy on Diversity and Inclusion Is Unconstitutional and Abhorrent

<https://nysba.org/nysba-president-scott-karson-says-president-trumps-new-policy-on-diversity-and-inclusion-is-unconstitutional-and-abhorrent/>

Statement From NYSBA President Scott M. Karson Regarding Bostock v. Clayton County, Georgia

<https://nysba.org/statement-from-nysba-president-scott-karson-regarding-todays-u-s-supreme-court-decision/>

NYSBA Issues Statement Regarding New York's Remote Bar Exam

<https://nysba.org/nysba-issues-statement-regarding-new-yorks-remote-bar-exam/>

New York State Bar Association Condemns Effort To Remove U.S. Attorney Geoffrey Berman

<https://nysba.org/new-york-state-bar-association-condemns-effort-to-remove-u-s-attorney-geoffrey-berman/>

One member of our staff is deserving of special recognition: Ron Kennedy, who is retiring as NYSBA's Director of Government Relations at the end of this year, after 25 years of exemplary service. I have been privileged to work with Ron, as have many of you, and I know that you join me in offering him our very best wishes.

Technology has in many ways made our collective achievements possible. Videoconferences, whether via Zoom or Microsoft Teams, are now such a ubiquitous part of our lives that they have spurred the creation of a whole new class of online meeting etiquette.

Today is the third virtual meeting of the House of Delegates, and my second President's Report via Zoom. Public health and safety may prevent us from being together in Albany, but it has not prevented us from continuing to gather to adopt policy, acquire knowledge from distinguished members of the bench and bar, and carry on the business of the Association. The virtual meetings of the House of Delegates have had record attendance – over 200 delegates at both the April and June meetings – and have allowed for the participation of members who might otherwise have been unable to attend. The power of technology – the virtual bar center – will allow NYSBA to continue to reach and support its members in the years to come.

As you have probably heard me say by now, since I became your President on June 1, 2020, more than five months ago, I have not made a single live appearance at any Association event: no meeting; no program; no dinner; no reception; no travel – you get the picture. Nevertheless, technology has afforded me – and our Association – a full and productive schedule.

I have participated in as many as eight NYSBA-related Zoom conferences on a given day.

Regarding the Association, dozens of CLE webinars on numerous topics have been recorded over the past few months and are available on-demand through the NYSBA online store.

Our sections have produced virtual section meetings, networking events, and informational programming, keeping their members updated within their areas of practice while also attracting new members.

Our task forces and committees have relied on technology to continue their cutting-edge public policy work, including the virtual dialogues with members held by the Health Law Section and the Task Force on Mass Shootings and Assault Weapons.

Preparations are well underway for the 2021 Virtual Annual Meeting and for other virtual events and programming next year. We do look forward to the day that we can again gather in-person, and to the collegiality and warmth that these in-person gatherings bring.

The lease to One Elk Street – the Bar Center – will expire on December 31, 2021. I have appointed a team of negotiators to meet with the New York Bar Foundation – the owner of the Bar Center – to discuss terms of renewal. The Association loves this building, its location, its character and its history. We hope to remain here.

The crisis has taken a toll on the legal profession. Rates of mental illness, fatigue, substance abuse, and stress, already high for attorneys, risk rising even higher in these uncertain times. Yet we cannot lose sight that we are all in this together and can rely on our colleagues for support, despite the pressures of separation and quarantine. I am pleased to report that the Attorney Well-Being Task Force, superbly chaired by Hon. Karen Peters and Libby Coreno, is hard at work developing a report and recommendations to advance an innovative and comprehensive culture of wellness across all levels of the legal profession. These efforts will help improve the quality of life and legal practice for all members of the bar, from law students and young associates to senior partners and practitioners planning for retirement.

The Attorney Well-Being Task Force holds a weekly support group on Thursday at 4 p.m. via Zoom. These meetings are free, confidential, and open to all our members. Many of our members look forward to these weekly meetings as a chance to unwind, destress, and connect with their peers. I encourage you to participate, and to urge your colleagues to participate as well.

Our members have admirably supported the most vulnerable members of our community throughout the crisis, no more so than through exemplary pro bono service. The NYSBA Pro Bono Network, created by Chief Judge Janet DiFiore and my predecessor, Hank Greenberg, and chaired by former Chief Judge Jonathan Lippman, launched in April 2020. Since then more than 2,000 New Yorkers with unemployment insurance and small estates Surrogate's Court matters have been helped by pro bono services provided by this Network.

I am excited to announce that NYSBA and its Committee on Veterans will soon launch a new pro bono initiative to help those who were discharged from military service for reasons such as sexual orientation, gender identity, post-traumatic stress disorder, traumatic brain injuries and access to certain state veterans benefits.

Pro bono service is a hallmark of the legal profession and has always been a component of my own legal practice. I ran for the office of President Elect on a promise that I would lead by example by taking on a pro bono matter during my presidential term, and I am now in the process of fulfilling that promise. I encourage you, if able during this time of exceptional need, to do the same. There are many opportunities statewide, including through legal service providers, clinics, and bar association initiatives.

The advancement of access to justice is the foundation on which NYSBA is built. In September, I had the privilege to participate at the Chief Judge's 2020 Hearing on Civil Legal Services at the magnificent Court of Appeals, held under the auspices of the Permanent Commission on Access to Justice and its indefatigable leader Helaine Barnett. I sat on a panel with Chief Judge Janet DiFiore, Chief Administrative Judge Lawrence Marks and the Presiding Justices of our four Appellate Divisions: Rolando Acosta; Alan Scheinkman; Elizabeth Garry; and Gerald Whelan. We heard compelling and enlightening testimony from legal service providers and their clients. NYSBA stands ready to continue advocating for the full and fair funding of civil legal services and indigent defense.

2021 legislative priorities for the Association include an increase in the rate of compensation for attorneys who provide mandated representation; the provision of legal representation for persons in immigration matters; reform of New York State's parole system; and funding for the expansion of broadband access nationwide. The crisis has made it abundantly clear that broadband access not only expands access to justice, but facilitates telehealth, remote education, and connects rural communities with the virtual world.

NYSBA will also continue to advocate for the future of the profession, including through calling on the federal government to provide greater student loan relief for the many Americans carrying this heavy burden. More than 40 million Americans, mostly under 35 years of age, have student loan debt, and this financial pressure has been exacerbated by the COVID-19 crisis. Support for the next generation of attorneys will guarantee a bright future for the rule of law.

Additionally, I would like to applaud the Task Force on the New York Bar Examination and the Committee on Legal Education and Admission to the Bar (known as "CLEAB") for their recent work and guidance on the controversial New York Bar Exam. Initially, the Task Force called for a return to the traditional New York State Bar Examination in lieu of the UBE. Then, when the July 2020 examination was postponed because of the coronavirus, the Task Force recommended – and the Court of Appeals agreed – that the exam should be rescheduled for September 2020. However, limitations created by the coronavirus necessitated that the September exam be postponed as well, and the exam was postponed once again, this time to October, when it was administered as an on-line exam. The February 2021 exam will also be administered on-line.

As this process unfolded, we were called upon to address the strident demands of law school graduates, law school deans and others that because of the uncertainty and hardship brought about by these extraordinary circumstances, we should support their demands for what is known as the

“diploma privilege” whereby a diploma from an accredited law school would entitle the graduate to a license to practice of law – dispensing with the requirement of a bar examination. We thoroughly vetted the diploma privilege demand and opposed it as being contrary to the public interest.

NYSBA remains committed to supporting the integrity of the justice system throughout these troubling times. Specifically, NYSBA will advocate for a modern reorganization of our byzantine state court system; reform of the statutory power of attorney; and repeal of the archaic Judiciary Law Section 470 and its restrictive effect on the practice of law in New York State. These reforms would remove regulatory burdens on the profession and ensure that attorneys are able to protect their clients’ interests and effectively engage in the practice of law.

As the result of the coronavirus and its devastating impact on our state’s finances, the unified court system has been called upon to reduce its spending by \$300 million dollars. While the impact of those cuts is uncertain, the initial impact involved the denial of certification to 46 of 49 supreme court justices. A number of those justices have now commenced an age discrimination action. More to follow . . .

NYSBA members will continue to respond to the latest developments in law and policy. The Task Force on Racial Injustice and Police Reform, so ably co-chaired by President-Elect T. Andrew Brown and Taa Grays, will continue its important work in examining the disproportionate impact of police brutality on persons of color. The Task Force on Nursing Homes and Long-Term Care has been charged with examining the tragic effects of the COVID-19 crisis on institutional and community-based providers, the individuals they serve, and their families. The recently-formed Task Force on COVID-19 Immunity and Liability is hard at work reviewing the tort and contractual issues arising from the COVID-19 public health crisis, and the Task Force on Free Expression in the Digital Age is finalizing its review of how free speech and a free press have evolved in this turbulent digital age. Finally, the Task Force on the Presidential Election will continue to advise as our state and nation navigates through the most important election of our lifetimes.

The members of our sections and committees are hard at work as well addressing pertinent legal issues, and I am proud that during this meeting we will be converting our LGBTQ Committee into our newest section.

This week, we lost a great lawyer, public servant and valued member of our Association: Senator John Dunne. A formal memorial will be presented in due course. For now, I would simply ask that we observe a moment of silence in John’s memory.

It is the greatest honor of my professional life to serve as the 123<sup>rd</sup> President of the New York State Bar Association. I look forward to continuing this work, and to the day – hopefully before the end of my term – that we can see each other live once again.

Thank you.