NOTICE OF HOUSE OF DELEGATES MEETING

DATE: November 20, 2014

TO: Members of the House of Delegates

FROM: Mark A. Dubois, President

RE: MONDAY, December 15, 2014, Meeting of the House of Delegates, Dakota Restaurant, Silas Deane Highway, Rocky Hill, CT

There will be a meeting of the House of Delegates on **Monday, December 15, 2014 at 6:00 pm** at the Dakota Restaurant, Rocky Hill, CT.

The menu is dinner with champagne toast at $40.00. Please RSVP to the CBA Law Center no later than Thursday, December 11, 2014. Please click: [HOD Meeting Registration](#).

Except in compelling circumstances, refunds of dinner payments will not be granted for cancellations received after 10:00 a.m. on the day of the meeting. Please include the CBA member’s name on all firm, corporate legal department, or government agency checks. If you need assistance at the meeting, please contact us at least one week prior to the event.

Please return, with your payment, to: CBA Law Center, 30 Bank Street, New Britain, CT 06051 or **fax with credit card information to (860)223-4488.**

[ ] Visa  [ ] MC  [ ] Amex  Card #:__________________________  Exp. Date:_______

Billing Zip Code:_______ Amount: $_______ Signature:__________________________

NAME: __________________________________________________ PHONE: __________

ADDRESS: ________________________________________________

Dinner @ $40.00

# CHD141215
1. Call to Order and Roll Call. (Ms. Rutkowska)

2. Report of the Secretary. (Mr. Saeed)
   Approve Minutes from the September 22, 2014 meeting of the House of Delegates.* Bates #004

3. Report of the Legislative Policy and Review Committee. (Mr. Frank)
   A. Consider and act on a FASTTRACK request from the Business Law Section to support amending the Connecticut Business Corporation Act (the “CBCA”) to incorporate recent change in the Model Business Corporation Act (the “MBCA”). These amendments are designed to keep the CBCA generally consistent with the MBCA as it is updated. Specifically, the Section proposes to amend the CBCA regarding (1) the definition of a “Qualified director” (2) inclusion of certain items in the Certificate of Incorporation (3) requirements for advance of expenses to a director of a corporation (4) defining certain terms relating to conflicting interest transactions of directors (5) a corporate director or officer (or a related party of an officer or director) engaging in a business opportunity without first offering the opportunity to the corporation. Bates #007

   B. Consider and act on a FASTTRACK request from The Estates & Probate Section to support the “Uniform Fiduciary Access to Digital Assets Act” that ensures account-holders retain control of their digital property and can plan for its ultimate disposition after their death. Unless the account-holder instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have always had to tangible assets, and the same duty to comply with the account-holder's instructions. Bates #015

   C. Consider and act on a FASTTRACK request from The Estates & Probate Section to support the “Uniform Recognition of Substitute Decision-Making Documents Act” which is a joint endeavor of the Uniform Law Commission and the Uniform Law Conference of Canada. The project was undertaken to promote the portability and usefulness of substitute decision-making documents for property, health care, and personal care, without regard to whether the documents are created within or outside of the jurisdiction where a substitute decision is needed. Bates #028

4. Consider request by Elder Law Section for an Association position on “An Act Concerning Compassionate Aid in Dying for Terminally Ill Patients” (Raised Bill 5326). Note that this request may be opposed by the Human Rights and Responsibilities Section and therefore comes directly to the House for consideration.* (Mr. Frank) Bates #046

5. Review report of the Constitution Review Committee* (Mr. Horton) Bates #061
**Adjourn House of Delegates Meeting & convene Board of Governors meeting **

**BOARD OF GOVERNORS SPECIAL MEETING**

1. Review and Approve the Awards Committee Recommendations
2. Report of the President and approval of the Nominating Committee

**Adjourn Board of Governors Meeting and reconvene House of Delegates meeting**

6. Report of the Treasurer. (Mr. Gordon)
   Treasurer’s Report and Financial Statements for period ending November 30, 2014.* Bates #078

7. Report of the Membership Chair. (Mr. Shapiro)
   Review changes in membership as of November 30, 2014.* Bates #084

8. Report of the Delegate to the American Bar Association (Mr. Hawkins)

9. Report of the President-Elect (Mr. Clendenen)
   a. Awards Dinner (April 16, 2015)
   b. Annual Meeting & Legal Conference (June 15, 2015)

10. Report of the President. (Mr. Dubois)

11. Report of the Executive Director (Mr. Brown)


13. New Business
   a. Consider and Act on a request from CT Legal Services, New Haven Legal Assistance
      Association, and Greater Hartford Legal Aid to share the CBA’s 2015 membership list for
      an open-ended period of time, limited to two (2) mailings per calendar year. * Bates #089

14. Executive Session (if necessary)

15. Adjournment

*materials included
MEETING OF THE
CONNECTICUT BAR ASSOCIATION
HOUSE OF DELEGATES
CBA LAW CENTER, NEW BRITAIN
Monday, September 22, 2014, 6:00p.m.

1. Call to Order and Roll Call

President Dubois called the meeting to order at 6:15 pm

Assistant Secretary Rutkowska took the following role call:

The following Officers were present: President Dubois, Past-President Knox, Secretary Saeed, Treasurer Gordon, and Assistant Secretary-Treasurer Rutkowska.

The following House members were present or participating by phone: Marchand, Lewis, Conover, Curley, Broder, Murphy, Herring, Cerrato, Gaston, Shearin, Sconyers, Parisot, Cohen, Craven, Jean-Louis, Mr. Fragoso, Lema, Hwang, Dezinno, Cooney, Pace, Bonee, Berescik-Johns, Ms. Das, Gianquinto, Goldfarb, Esparance, Hrekul, Gugliotti, Menjivar, Kirkeby, Lowry, Shapiro, Leighton, Janes, Monaghan, Jameson, Castricone, Wheelock, Leonhardt, Simonetti, Schatz, Weiner, Chen, and Sexton.

The following CBA staff were present: Brown and Chapman.

The following guests were present: Past-President Hawkins, Arrasate, Cruz.

2. Report of the Secretary

On a motion by Saeed, seconded by Mr. Fragoso, the minutes from the June 16th, 2014 and July 21st, 2014 House of Delegates meeting were approved unanimously.

3. Report of the Treasurer

Gordon reported on the financial statements for the period ending June 30, 2014 and for the period ending August 31, 2014.

4. Report of the Membership Chair

Shapiro reported on changes in membership as of August 31, 2014 and on programs being considered to increase membership.
5. **Report of the Legislative Policy and Review Committee**

Elder Law section requests the House of Delegates to consider and act on the following:

a. A request seeking a three year reauthorization to support legislation and/or administrative and regulatory advocacy that would increase the minimum Community Spouse Protected Amount to the maximum Community Spouse Protected Amount in the Medicaid long-term care coverage group for married couples. Previously approved by the House of Delegates on October 11, 2011.

b. A request seeking a three year reauthorization to support legislation that would increase the availability of home and community based services for the elderly and individuals under age sixty-five, including but not limited to, increasing the number of persons served in various Medicaid waiver programs and/or increasing the availability of services under the Money Follows the Person Program. Previously approved by the House of Delegates on October 11, 2011.

On motion by Simonetti, seconded by Janes, the actions were approved unanimously.

6. **Report of the President**

Dubois reported as follows:

a. All House of Delegates must sign the conflict of interest disclosure statement
b. On motion by Knox, seconded by Weiner, the House of Delegates Election Committee was approved (Jean-Louis abstained)
c. On motion by Gordon, seconded by Shapiro, the motion to have the CBA express support for the Civics First event was approved after a presentation by Weiner
d. On motion by Cohen, seconded by Curley, the motion to create an Immigration Law committee was approved.
e. After much discussion, and on motion by many, seconded by many, the motion to create a Medical Marijuana committee was approved. Goldfarb, Pace, Herring, Knox, Jean-Louis abstained.
f. Discussion was had on request to limit the size of the Special Committee on Standards of Title.
g. On motion by Gaston, seconded by Cohen, the motion to have CBA sections support the CBA Professional Symposium was approved.
h. On motion by Shearin, seconded by Cerrato, a motion to leave decisions about blackout dates for programs based on religious holidays to bar leadership was approved.

7. **Report of the Executive Director**

Brown reported as follows:

a. 280 events run by CBA
b. CT Lawyer going online

c. Creation of an all bar calendar

d. Connecticut Legal Conference June 15

e. Awards Dinner April 16

8. **New Business**

Bonee and Cerrato request the House of Delegates to consider and act on the following resolution re: the CBA Lawyer Referral Service Policy:

The Connecticut Bar Association shall continue to maintain, facilitate and operate a Member to Member Lawyer Referral Service to connect Members seeking to refer law practice matters among themselves which relate to, and seek, their listed preferred areas of practiced and certified specialties; any member of the public as a non-Member of the Association seeking a referral to a licensed lawyer for legal services who contacts the Connecticut Bar Association for this purpose shall immediately be referred to the County or Local bar association’s Lawyer Referral Service wherein either the caller’s residence is located, or the caller’s case in controversy is located.

After much discussion, on motion by Curley, seconded by many, it was decided to postpone discussion on the matter indefinitely.

9. **Adjournment**- On motion by Dubois, seconded by many, the meeting adjourned at 8:45 pm.
The CBA Business Law Section position request is as follows:

**Proposed Legislative Concept:**

The Business Law Section requests a position which supports amending the Connecticut Business Corporation Act (the "CBCA") to incorporate recent change in the Model Business Corporation Act (the "MBCA"). These amendments are designed to keep the CBCA generally consistent with the MBCA as it is updated.

**Explanation:**

The Section seeks approval to propose legislation that would amend the CBCA regarding (1) the definition of a "Qualified director" (2) inclusion of certain items in the Certificate of Incorporation (3) requirements for advance of expenses to a director of a corporation (4) defining certain terms relating to conflicting interest transactions of directors (5) a corporate director or officer (or a related party of an officer or director) engaging in a business opportunity without first offering the opportunity to the corporation.

**Potential CBA Opposition:**

None Expected

**Strength of Section Position:**

Unanimous

**Fiscal Impact (on the State):**

None
Connecticut Business Corporation Act
2015 Amendments

Proxies:

Qualified Director:

Section 33-605 (MBCA 1.43)

Sec. 33-605. Qualified director. (a) For purposes of sections 33-600 to 33-998, inclusive, a qualified director is a director who, at the time action is to be taken under:

(1) Section 33-724, does not have (A) a material interest in the outcome of the proceeding, or (B) a material relationship with a person who has such an interest;

(2) Section 33-773 or 33-775, (A) is not a party to the proceeding, (B) is not a director who sought approval for a director’s conflicting interest transaction under section 33-783 or a disclaimer of the corporation’s interest in a business opportunity under section 33-785, which approval or disclaimer is challenged in the proceeding, and (C) does not have a material relationship with a director described in either subparagraph (A) or (B) of this subdivision;

(3) Section 33-783, is not a director (A) as to whom the transaction is a director’s conflicting interest transaction, or (B) who has a material relationship with another director as to whom the transaction is a director’s conflicting interest transaction; or

(4) Section 33-785, would be a qualified director under subdivision (3) of this subsection if the business opportunity were a director’s conflicting interest transaction; or

(5) Section 33-636(b)(6) is not a director (A) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (B) who has a material relationship with another officer to whom the limitation or elimination would apply.

(b) For purposes of this section:

(1) Material relationship means a familial, financial, professional or employment relationship that would reasonably be expected to impair the objectivity of the director’s judgment when participating in the action to be taken; and

(2) Material interest means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director’s judgment when participating in the action to be taken.

(c) The presence of one or more of the following circumstances shall not by itself prevent a director from being a qualified director:
Nomination or election of the director to the current board by any director who is not a qualified director with respect to the matter, or by any person that has a material relationship with that director, acting alone or participating with others;

Service as a director of another corporation of which a director who is not a qualified director with respect to the matter, or any individual who has a material relationship with that director, is also a director; or

With respect to action to be taken under section 33-724, status as a named defendant, as a director against whom action is demanded or as a director who approved the conduct being challenged.

Certificate of Incorporation:
Section 33-636 (MBCA 2.02)

Sec. 33-636. Certificate of incorporation. (a) The certificate of incorporation shall set forth: (1) A corporate name for the corporation that satisfies the requirements of section 33-655; (2) the number of shares the corporation is authorized to issue; (3) the street address of the corporation's initial registered office and the name of its initial registered agent at that office; and (4) the name and address of each incorporator.

(b) The certificate of incorporation may set forth: (1) The names and addresses of the individuals who are to serve as the initial directors; (2) provisions not inconsistent with law regarding: (A) The purpose or purposes for which the corporation is organized; (B) managing the business and regulating the affairs of the corporation; (C) defining, limiting and regulating the powers of the corporation, its board of directors and shareholders; (D) a par value for authorized shares or classes of shares; (E) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; (3) any provision that under sections 33-600 to 33-998, inclusive, is required or permitted to be set forth in the bylaws; (4) a provision limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of duty as a director to an amount that is not less than the compensation received by the director for serving the corporation during the year of the violation if such breach did not (A) involve a knowing and culpable violation of law by the director, (B) enable the director or an associate, as defined in section 33-840, to receive an improper personal economic gain, (C) show a lack of good faith and a conscious disregard for the duty of the director to the corporation under circumstances in which the director was aware that his conduct or omission created an unjustifiable risk of serious injury to the corporation, (D) constitute a sustained and unexcused pattern of inattention that amounted to an abdication of the director's duty to the corporation, or (E) create liability under section 33-757, provided no such provision shall limit or preclude the liability of a director for any act or omission occurring prior to the effective date of such provision; and (5) a provision permitting or making obligatory indemnification of a director for liability, as defined in section 33-770, to any person for any action taken, or any failure to take any action, as a director, except liability that (A) involved a knowing and culpable violation of law by the director, (B) enabled the director or an associate, as defined in section 33-840, to receive an improper personal gain, (C) showed a lack of good faith
and a conscious disregard for the duty of the director to the corporation under circumstances in which the director was aware that his conduct or omission created an unjustifiable risk of serious injury to the corporation, (D) constituted a sustained and unexcused pattern of inattention that amounted to an abdication of the director’s duty to the corporation or (E) created liability under section 33-757, provided no such provision shall affect the indemnification of or advance of expenses to a director for any liability stemming from acts or omissions occurring prior to the effective date of such provision; and (6) a provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, prior to the pursuit or taking of the opportunity by the director or other person; provided that any application of such a provision to an officer or a related person of that officer (A) also requires a determination by the board of directors by action of qualified directors taken in compliance with the same procedures as are set forth in section 33-783 subsequent to the effective date of the provision applying the provision to a particular officer or any related person of that officer, and (B) may be limited by the authorizing action of the board.

(c) The certificate of incorporation need not set forth any of the corporate powers enumerated in sections 33-600 to 33-9978, inclusive.

(d) Provisions of the certificate of incorporation may be made dependent upon facts objectively ascertainable outside the certificate of incorporation in accordance with subsection (1) of section 33-608.

(e) As used in this section “related person” has the meaning specified in section 33-781(5).

Advance for Expenses:

Section 33-773 (MBCA 8.53)

Sec. 33-773. Advance for expenses. (a) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred in connection with the proceeding by an individual who is a party to the proceeding because that individual is a member of the board of directors if the director delivers to the corporation:

(1) A written affirmation of the director’s good faith belief that the relevant standard of conduct described in section 33-771 has been met by the director or that the proceeding involves conduct for which liability has been limited under a provision of the certificate of incorporation as authorized by subdivision (4) of subsection (b) of section 33-636; and

A signed written undertaking of the director to repay any funds advanced if (1) the director is not entitled to mandatory indemnification under section 33-772 and (2) it is ultimately determined under section 33-774 or 33-775 that the director has not met the relevant standard of conduct described in section 33-774 is not entitled to indemnification.
(b) The undertaking required by subdivision (2) of subsection (a) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) Authorizations under this section shall be made:

(1) By the board of directors: (A) If there are two or more qualified directors, by a majority vote of all the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee consisting solely of two or more qualified directors appointed by such a vote; or (B) if there are fewer than two qualified directors, by the vote necessary for action by the board in accordance with subsection (c) of section 33-752, in which authorization directors who are not qualified directors may participate; or

(2) By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director may not be voted on the authorization.

Court-Ordered Indemnification and Advance for Expenses:

Section 33-774 (MBCA 8.54)

Sec. 33-774. Court-ordered indemnification and advance for expenses. (a) A director who is a party to a proceeding because he is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall: (1) Order indemnification if it determines that the director is entitled to mandatory indemnification under section 33-772; (2) order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by subsection (a) of section 33-778; or (3) order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable (A) to indemnify the director or (B) to advance expenses to the director, even if, in the case of (A) or (B), he has not met the relevant standard of conduct set forth in subsection (a) of section 33-771, failed to comply with section 33-773 or was adjudged liable in a proceeding referred to in subdivision (1) or (2) of subsection (d) of section 33-771, provided if he was adjudged so liable his indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

(b) If the court determines that the director is entitled to indemnification under subdivision (1) of subsection (a) of this section or to indemnification or advance for expenses under subdivision (2) of subsection (a) of this section, it shall also order the corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subdivision (3) of subsection (a) of this section, it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.
Directors' Conflicting Interest Transactions

Section 33-781 (MBCA 8.60)

Section 33-781. Definitions. As used in sections 33-781 to 33-784, inclusive:

(1) "Director's conflicting interest transaction" means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, (A) to which, at the relevant time, the director is party, (B) respecting which, at the relevant time, the director had knowledge and a material financial interest known to the director, or (C) respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

(2) "Control", including the term "controlled by", means (A) having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise, or (B) being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

(3) "Relevant time" means (A) the time at which directors' action respecting the transaction is taken in compliance with section 33-783, or (B) if the transaction is not brought before the board of directors of the corporation, or its committee, for action under section 33-783, at the time the corporation, or an entity controlled by the corporation, becomes legally obligated to consummate the transaction.

(4) "Material financial interest" means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director when participating in action on the authorization of the transaction.

(5) "Related person" means: (A) The director's spouse, or a parent or sibling thereof; (B) a child, grandchild, parent or sibling of the director, or the spouse of any thereof; (C) an individual (i) living in the same home as the director, or (ii) a trust or estate of which a person specified in subparagraph (A) or (B) of this subdivision or clause (i) of this subparagraph is a substantial beneficiary; (D) an entity, other than the corporation or an entity controlled by the corporation, controlled by the director or any person specified in subparagraphs (A) to (C), inclusive, of this subdivision; (E) a domestic or foreign business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the director is a director, (ii) unincorporated entity of which the director is a general partner or a member of the governing body, or (iii) individual, trust or estate for whom or of which the director is a trustee, guardian, personal representative or like fiduciary; or (F) a person that is, or an entity that is controlled by, an employer of the director.

(6) "Fair to the corporation" means, for purposes of subdivision (3) of subsection (b) of section 33-782, that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was (A) fair in terms of the director's dealings with the corporation, and (B) comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.
Required disclosure means disclosure of (A) the existence and nature of the director's conflicting interest, and (B) all facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

Business Opportunities

Section 33-785 (MBCA 8.70)

Sec. 33-785. Taking advantage of a business opportunity. (a) A director's taking if a director or officer or related person of either pursues or takes advantage, directly or indirectly, of a business opportunity that action may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, officer or related person in a proceeding by or in the right of the corporation on the ground that such opportunity should have first been offered to the corporation, if (1) before becoming the director, officer or related person becomes legally obligated respecting the opportunity, the director or officer brings it to the attention of the corporation and: (1A) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the same procedures set forth in section 33-783 as if the decision being made concerned a director's conflicting interest transaction; or (2B) shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 33-784 as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making required disclosure, as defined in section 33-781, in each case the director or officer shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director, or officer; or (2) the duty to offer the corporation the particular business opportunity has been limited or eliminated pursuant to a provision of the certificate of incorporation adopted (and in the case of officers and their related persons, made effective by action of qualified directors) in accordance with Section 33-636(b)(6).

(b) In any proceeding seeking equitable relief or other remedies based upon an alleged improper pursuit or taking advantage of a business opportunity by a director or officer, the fact that the director or officer did not employ the procedure described in subsection (a)(1)(A) or (B) of this section before taking advantage of the opportunity shall not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

(c) As used in this section related person has the meaning specified in section 33-781(5).
Sec. 9. Subsection (f) of section 34-32c of the general statutes is repealed and the following is substituted in lieu thereof *(Effective October 1, 2014)*:

(f) Upon the filing of the certificate of reinstatement with the Secretary of State, reinstatement shall be effective, the legal existence of the reinstated limited partnership shall commence and it shall be revested with its rights and powers under this chapter. If reinstatement follows cancellation of the limited partnership by forfeiture, as provided in section 34-32b, then the reinstatement shall relate back to and take effect as of the effective date of the cancellation, and the limited partnership shall resume carrying out its business as if the cancellation had never occurred. No action or proceeding, civil or criminal, to which the limited partnership is a party at the time of reinstatement shall be affected by such reinstatement except that the court shall, under the circumstances, determine. The reinstated limited partnership shall be estopped to deny its legal existence during such time as its rights and powers were forfeited.

Sec. 10. Subsection (f) of section 34-216 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective October 1, 2014)*:

(f) Upon the filing of the certificate of reinstatement with the Secretary of State, reinstatement shall be effective, the legal existence of the reinstated limited liability company shall commence and it shall be revested with its rights and powers under sections 34-100 to 34-242, inclusive. If reinstatement follows dissolution by forfeiture, as provided in section 34-215, then the reinstatement shall relate back to and take effect as of the effective date of the dissolution by forfeiture, and the limited liability company shall resume carrying out its business as if the dissolution by forfeiture had never occurred. No action or proceeding, civil or criminal, to which the limited liability company is a party at the time of reinstatement shall be affected by such reinstatement except as the court shall, under the circumstances, determine. Any claim against the limited liability company barred as provided in section 34-213 and not otherwise barred, shall be relieved of such bar upon reinstatement of the limited liability company and the reinstated limited liability company shall be estopped to deny its legal existence during such time as its rights and powers were forfeited.
The **CBA Estates & Probate Section position** request is as follows:

**Proposed Legislative Concept:**

**Uniform Fiduciary Access to Digital Assets Act (UFADAA)** is a relatively new uniform law promulgated by the Uniform Laws Commission dealing with access to digital assets (including email, online financial accounts, gaming accounts, etc.) by fiduciaries (including Executors, Trustees, Conservators and Agents under powers of attorney).

**Explanation:**

**Uniform Fiduciary Access to Digital Assets Act (UFADAA)** is an important update for the Internet age. A generation ago, files were stored in cabinets, photos were stored in albums, and mail was delivered by a human being. Today, we are more likely to use the Internet to communicate and store our information. This act ensures account-holders retain control of their digital property and can plan for its ultimate disposition after their death. Unless the account-holder instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have always had to tangible assets, and the same duty to comply with the account-holder’s instructions.

**Potential CBA Opposition:**

None expected

**Strength of Section Position:**

Unanimous endorsement by the Estates & Probate Executive Committee.

**Fiscal Impact (on the State):**

None
UNIFORM FIDUCIARY ACCESS TO
DIGITAL ASSETS ACT

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-THIRD YEAR
SEATTLE, WASHINGTON
JULY 11-17, 2014

Copyright © 2014
By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

October 6, 2014
UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Fiduciary Access to Digital Assets Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Account holder” means a person that has entered into a terms-of-service agreement with a custodian or a fiduciary for the person.

(2) “Agent” means an attorney in fact granted authority under a durable or nondurable power of attorney.

(3) “Carries” means engages in the transmission of electronic communications.

(4) “Catalogue of electronic communications” means information that identifies each person with which an account holder has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) “[Conservator]” means a person appointed by a court to manage the estate of a living individual. The term includes a limited [conservator].

(6) “Content of an electronic communication” means information concerning the substance or meaning of the communication which:

(A) has been sent or received by an account holder;

(B) is in electronic storage by a custodian providing an electronic-communication service to the public or is carried or maintained by a custodian providing a remote-computing service to the public; and

(C) is not readily accessible to the public.

(7) “Court” means the [insert name of court in this state having jurisdiction in matters
relating to the content of this act].

(8) “Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of an account holder.

(9) “Digital asset” means a record that is electronic. The term does not include an underlying asset or liability unless the asset or liability is itself a record that is electronic.

(10) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) “Electronic communication” has the same meaning as the definition in 18 U.S.C. Section 2510(12) [as amended].

(12) “Electronic-communication service” means a custodian that provides to an account holder the ability to send or receive an electronic communication.

(13) “Fiduciary” means an original, additional, or successor personal representative, [conservator], agent, or trustee.

(14) “Governing instrument” means a will, trust, instrument creating a power of attorney, or other dispositive or nominative instrument.

(15) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(16) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(17) “Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this [act].

(18) “Power of attorney” means a record that grants an agent authority to act in the place
of a principal.

(19) “Principal” means an individual who grants authority to an agent in a power of attorney.

(20) “[Protected person]” means an individual for whom a [conservator] has been appointed. The term includes an individual for whom an application for the appointment of a [conservator] is pending.

(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(22) “Remote-computing service” means a custodian that provides to an account holder computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Section 2510(14) [, as amended].

(23) “Terms-of-service agreement” means an agreement that controls the relationship between an account holder and a custodian.

(24) “Trustee” means a fiduciary with legal title to property pursuant to an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(25) “Will” includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

**Legislative Notes:** States should insert the appropriate term for a person named in a conservatorship or comparable state proceeding to manage another’s estate in paragraph (5), the appropriate court in paragraph (7), and the appropriate term for the individual that would be subject to a conservatorship or comparable state proceeding in paragraph (20).

In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in paragraphs (11) and (22).

**SECTION 3. APPLICABILITY.**

(a) This [act] applies to:
(1) a fiduciary or agent acting under a will or power of attorney executed before, on, or after [the effective date of this [act]]; 

(2) a personal representative acting for a decedent who died before, on, or after [the effective date of this [act]]; 

(3) a [conservatorship] proceeding, whether pending in a court or commenced before, on, or after [the effective date of this [act]]; and 

(4) a trustee acting under a trust created before, on, or after [the effective date of this [act]]. 

(b) This [act] does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer’s business. 

SECTION 4. ACCESS BY PERSONAL REPRESENTATIVE TO DIGITAL ASSET OF DECEDENT. Subject to Section 8(b) and unless otherwise ordered by the court or provided in the will of a decedent, the personal representative of the decedent has the right to access: 

(1) the content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b) [as amended]; 

(2) any catalogue of electronic communications sent or received by the decedent; and 

(3) any other digital asset in which at death the decedent had a right or interest. 

Legislative Note: In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in paragraph (1)(C). 

SECTION 5. ACCESS BY [CONSERVATOR] TO DIGITAL ASSET OF [PROTECTED PERSON]. Subject to Section 8(b), the court, after an opportunity for hearing under [state conservatorship law], may grant a [conservator] the right to access:
(1) the content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b) [as amended];

(2) any catalogue of electronic communications sent or received by the [protected person]; and

(3) any other digital asset in which the [protected person] has a right or interest.

Legislative Note: In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in paragraph (1)(C).

States should insert the appropriate term for a conservator or comparable fiduciary throughout this Section.

SECTION 6. ACCESS BY AGENT TO DIGITAL ASSET OF PRINCIPAL.

(a) To the extent a power of attorney expressly grants an agent authority over the content of an electronic communication of the principal and subject to Section 8(b), the agent has the right to access the content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b) [as amended].

(b) Subject to Section 8(b) and unless otherwise ordered by the court or provided by a power of attorney, an agent has the right to access:

(1) any catalogue of electronic communications sent or received by the principal;

and

(2) any other digital asset in which the principal has a right or interest.

Legislative Note: In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in paragraph (a)(3).

States may also need to amend their power of attorney statutes and forms to include this power.
SECTION 7. ACCESS BY TRUSTEE TO DIGITAL ASSET.

(a) Subject to Section 8(b) and unless otherwise ordered by the court or provided in a trust, a trustee that is an original account holder has the right to access any digital asset held in trust, including any catalogue of electronic communications of the trustee and the content of an electronic communication.

(b) Subject to Section 8(b) and unless otherwise ordered by the court or provided in a trust, a trustee that is not an original account holder has the right to access:

(1) the content of an electronic communication that the custodian is permitted to disclose under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b) [as amended];

(2) any catalogue of electronic communications sent or received by the original or any successor account holder; and

(3) any other digital asset in which the original or any successor account holder has a right or interest.

Legislative Note: In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes are incorporated into state law, the phrase should be deleted in paragraph (b)(1)(C).

SECTION 8. FIDUCIARY AUTHORITY.

(a) A fiduciary that is an account holder or has the right under this [act] to access a digital asset of an account holder:

(1) subject to the terms-of-service agreement, copyright law, and other applicable law, may take any action concerning the asset to the extent of the account holder’s authority and the fiduciary’s power under the law of this state other than this [act];

(2) has, for the purpose of applicable electronic privacy laws, the lawful consent
of the account holder for the custodian to divulge the content of an electronic communication to
the fiduciary; and

(3) is, for the purpose of applicable computer-fraud and
unauthorized-computer-access laws, including [this state’s law on unauthorized computer
access], an authorized user.

(b) Unless an account holder, after [the effective date of this [act]], agrees to a provision
in a terms-of-service agreement that limits a fiduciary’s access to a digital asset of the account
holder by an affirmative act separate from the account holder’s assent to other provisions of the
agreement:

(1) the provision is void as against the strong public policy of this state; and

(2) the fiduciary’s access under this [act] to a digital asset does not violate the
terms-of-service agreement even if the agreement requires notice of a change in the account
holder’s status.

(c) A choice-of-law provision in a terms-of-service agreement is unenforceable against a
fiduciary acting under this [act] to the extent the provision designates law that enforces a
limitation on a fiduciary’s access to a digital asset, and the limitation is void under
subsection (b).

(d) As to tangible personal property capable of receiving, storing, processing, or sending
a digital asset, a fiduciary with authority over the property of a decedent, [protected person],
principal, or settlor:

(1) has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for purposes of any applicable computer-fraud and
unauthorized-computer-access laws, including [this state’s law on unauthorized computer
access].

**Legislative Note:** *A state with a computer trespass statute should add the appropriate reference in paragraphs (a)(3) and (d)(2) and may want to amend the statute to be in accord with this act.*

**SECTION 9. COMPLIANCE.**

(a) If a fiduciary with a right under this [act] to access a digital asset of an account holder complies with subsection (b), the custodian shall comply with the fiduciary’s request in a record for:

1. access to the asset;
2. control of the asset; and
3. a copy of the asset to the extent permitted by copyright law.

(b) If a request under subsection (a) is made by:

1. a personal representative with the right of access under Section 4, the request must be accompanied by a certified copy of [the letter of appointment of the representative or a small-estate affidavit or court order];
2. a [conservator] with the right of access under Section 5, the request must be accompanied by a certified copy of the court order that gives the [conservator] authority over the digital asset;
3. an agent with the right of access under Section 6, the request must be accompanied by an original or a copy of the power of attorney that authorizes the agent to exercise authority over the digital asset and a certification of the agent, under penalty of perjury, that the power of attorney is in effect; and
4. a trustee with the right of access under Section 7, the request must be accompanied by a certified copy of the trust instrument[, or a certification of the trust under [cite trust-certification statute, such as Uniform Trust Code Section 1013],] that authorizes the trustee...
to exercise authority over the digital asset.

(c) A custodian shall comply with a request made under subsection (a) not later than [60] days after receipt. If the custodian fails to comply, the fiduciary may apply to the court for an order directing compliance.

(d) [Instead of furnishing a copy of the trust instrument under subsection (b)(4), the trustee may provide a certification of trust. The certification:

(1) must contain the following information:

(A) that the trust exists and the date the trust instrument was executed;

(B) the identity of the settlor;

(C) the identity and address of the trustee;

(D) that there is nothing inconsistent in the trust with respect to the trustee’s powers over digital assets;

(E) whether the trust is revocable and the identity of any person holding a power to revoke the trust;

(F) whether a cotrustee has authority to sign or otherwise authenticate; and

(G) whether all or fewer than all cotrustees are required to exercise powers of the trustee;

(2) must be signed or otherwise authenticated by a trustee;

(3) must state that the trust has not been revoked, modified, or amended in a manner that would cause the representations contained in the certification of trust to be incorrect; and

(4) need not contain the dispositive terms of the trust.

(e) A custodian that receives a certification under subsection (d) may require the trustee
to provide copies of excerpts from the original trust instrument and later amendments
designating the trustee and conferring on the trustee the power to act in the pending transaction.

(f) A custodian that acts in reliance on a certification under subsection (d) without
knowledge that the representations contained in it are incorrect is not liable to any person for so
acting and may assume without inquiry the existence of facts stated in the certification.

(g) A person that in good faith enters into a transaction in reliance on a certification under
subsection (d) may enforce the transaction against the trust property as if the representations
contained in the certification were correct.

(h) A person that demands the trust instrument in addition to a certification under
subsection (d) or excerpts under subsection (e) is liable for damages, including attorneys’ fees, if
the court determines that the person did not act in good faith in demanding the instrument.

(i)] This section does not limit the right of a person to obtain a copy of a trust instrument
in a judicial proceeding concerning the trust.

Legislative Note: The bracketed language in paragraphs (d)-(i) allows states that have already
enacted the Uniform Trust Code or a similar law permitting a certification of trust in lieu of
furnishing a complete copy of the trust instrument to delete the bracketed language when setting
out procedures concerning a trustee’s request. States that have not adopted the Uniform Trust
Code or a certification of trust procedure may choose to include the bracketed language, which
is a slight modification of the language in Uniform Trust Code Section 1013.

SECTION 10. CUSTODIAN IMMUNITY. A custodian and its officers, employees,
and agents are immune from liability for an act or omission done in good faith in compliance
with this [act].

SECTION 11. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
applying and construing this uniform act, consideration must be given to the need to promote
uniformity of the law with respect to its subject matter among states that enact it.
SECTION 12. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 13. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.

Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

SECTION 14. REPEALS; CONFORMING AMENDMENTS.

(a) …. 

(b) …. 

(c) …. 

SECTION 15. EFFECTIVE DATE. This [act] takes effect….
The **CBA Estates & Probate Section position** request is as follows:

**Proposed Legislative Concept:**

**Uniform Recognition of Substitute Decision-Making Documents Act (URSDDA)** is another new uniform law promulgated from a joint project between the Uniform Laws Commission and the Uniform Law Conference of Canada dealing with the recognition of substitute decision-making documents (POAs, Health Care Directives, Appointment of Conservators, etc.) among the states and Canada.

**Explanation:**

**Uniform Recognition of Substitute Decision-Making Documents Act (URSDDA)** validates documents appointing an agent or other representative that are signed in another state or country (Canada). It provides choice of law rules on initial validity and interpretation and protects providers who rely on such documents. It mandates acceptance in certain circumstances and applies to documents relating to property, health, or personal care.

**Potential CBA Opposition:**

None expected

**Strength of Section Position:**

Unanimous endorsement by the Estates & Probate Executive Committee.

**Fiscal Impact (on the State):**

None
UNIFORM RECOGNITION OF SUBSTITUTE
DECISION-MAKING DOCUMENTS ACT

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-THIRD YEAR
SEATTLE, WASHINGTON
JULY 11-17, 2014

WITH PREFATORY NOTE AND COMMENTS

Copyright © 2014
By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

October 1, 2014
ABOUT ULC

The Uniform Law Commission (ULC), also known as National Conference of Commissioners on Uniform State Laws (NCCUSL), now in its 123rd year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- ULC strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- ULC statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- ULC keeps state law up-to-date by addressing important and timely legal issues.
- ULC’s efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- ULC’s work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- Uniform Law Commissioners donate thousands of hours of their time and legal and drafting expertise every year as a public service, and receive no salary or compensation for their work.
- ULC’s deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws.
- ULC is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.
UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

DAVID ENGLISH, University of Missouri-Columbia School of Law, 203 Hulston Hall, Columbia, MO 65211, Chair

ULC Members
TOM IVESTER, Oklahoma State Capitol, 2300 N. Lincoln Blvd., Room 529A, Oklahoma City, OK 73105
PETER F. LANGROCK, P.O. Drawer 351, Middlebury VT 05753-0351
JEFFREY REX McLAUGHLIN, 321 Blount Ave., Guntersville, AL 35976-1105
BRADLEY MYERS, University of North Dakota School of Law, 215 Centennial Dr., Stop 9003, Grand Forks, ND 58202-9003
ELISA WHITE, 419 Natural Resources Dr., Little Rock, AR 72205

ULCC Members
MYRIAM ANCTIL, Ministere de la Justice, 1200 Route de L’Eglise, 4E Etage, Quebec, QC G1V 4M1
ARTHUR CLOSE, 234 4th Ave., New Westminster, BC V3L 1N7
PETER J.M. LOWN, Alberta Law Reform Institute, 402 Law Ctr., University of Alberta, 89th Ave. & 111th St., Edmonton, AB T6G 2H5
MARIE RENDEAU, Department of Justice Canada, International Private Law Section, Ottawa, ON K1A 0H8

Reporter
LINDA WHITTON, Valparaiso University Law School, 656 S. Greenwich St., Wesemann Hall, Valparaiso, IN 46383-4945

EX OFFICIO
HARRIET LANSING, 1 Heather Pl., St. Paul, MN 55102-2615, President
ELISA WHITE, 419 Natural Resources Dr., Little Rock, AR 72205, Division Chair

AMERICAN BAR ASSOCIATION ADVISORS
ROBERT L. SCHWARTZ, University of New Mexico School of Law, 1 University of New Mexico, Msc 11 6070, Albuquerque, NM 87131-0001, ABA Advisor
ROLF C. SCHUETZ, JR., 218 73rd St., North Bergen, NJ 07047-5704, ABA Section Advisor

EXECUTIVE DIRECTOR
JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, Executive Director

Copies of this Act may be obtained from:
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
111 N. Wabash Ave., Suite 1010
Chicago, Illinois  60602
312/450-6600
www.uniformlaws.org
**UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT**

**TABLE OF CONTENTS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prefatory Note</td>
<td>1</td>
</tr>
<tr>
<td>SECTION 1. SHORT TITLE.</td>
<td>3</td>
</tr>
<tr>
<td>SECTION 2. DEFINITIONS</td>
<td>3</td>
</tr>
<tr>
<td>SECTION 3. VALIDITY OF SUBSTITUTE DECISION-MAKING DOCUMENT</td>
<td>4</td>
</tr>
<tr>
<td>SECTION 4. MEANING AND EFFECT OF SUBSTITUTE DECISION-MAKING DOCUMENT</td>
<td>5</td>
</tr>
<tr>
<td>SECTION 5. RELIANCE ON SUBSTITUTE DECISION-MAKING DOCUMENT</td>
<td>6</td>
</tr>
<tr>
<td>SECTION 6. OBLIGATION TO ACCEPT SUBSTITUTE DECISION-MAKING DOCUMENT</td>
<td>8</td>
</tr>
<tr>
<td>SECTION 7. REMEDIES UNDER OTHER LAW</td>
<td>10</td>
</tr>
<tr>
<td>SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION</td>
<td>11</td>
</tr>
<tr>
<td>SECTION 9. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT</td>
<td>11</td>
</tr>
<tr>
<td>SECTION 10. APPLICABILITY</td>
<td>11</td>
</tr>
<tr>
<td>SECTION 11. REPEALS; CONFORMING AMENDMENTS</td>
<td>11</td>
</tr>
<tr>
<td>SECTION 12. EFFECTIVE DATE</td>
<td>11</td>
</tr>
</tbody>
</table>
UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

Prefatory Note

Statutes in all Canadian and United States jurisdictions permit individuals to delegate substitute decision-making authority. The majority of these statutes, however, do not have portability provisions to recognize the validity of a substitute decision-making document created in another jurisdiction, nor do many have provisions to protect good faith reliance on a substitute decision-making document created within the jurisdiction. Lack of recognition and acceptance of a substitute decision-making document defeats the purpose of a substitute decision-making plan. Once an individual has lost capacity, rejection of a substitute decision-making document often results in guardianship, which burdens judicial resources and undermines the individual’s self-determination interests. The Uniform Recognition of Substitute Decision-Making Documents Act (the “Act”) is a joint endeavor of the Uniform Law Commission and the Uniform Law Conference of Canada (the “ULCC”), undertaken to promote the portability and usefulness of substitute decision-making documents. The ULCC version of the Act closely tracks the Act’s substantive provisions with variations as needed to reflect differences in style and terminology. The ULCC version of the Act was approved at the Annual Meeting of the ULCC in August 2014.

In the Act, the term substitute decision-making document is intended to be an omnibus designation for a document created by an individual to delegate authority over the individual’s property, health care, or personal care to a substitute decision maker. Jurisdictions use different nomenclature for a substitute decision-making document. Common terms include power of attorney, proxy, and representation agreement. In some jurisdictions, delegated authority over property, health care, and personal care may be granted in one document. More commonly, separate delegations are made with respect to property decisions and those affecting health care and personal care. The Act does not apply to documents that merely provide advance directions for future decisions such as living will declarations and do-not-resuscitate orders. The critical distinction for purposes of this Act is that the document must contain a delegation of authority to a specific decision maker. The Act applies to all substitute decision-making documents, including pre-existing documents, whether created in the enacting jurisdiction or under the law of another jurisdiction.

The Act embodies a three-part approach to portability modeled after the Uniform Power of Attorney Act (2006) (the “UPOAA”). First, similar to Section 106 of the UPOAA, Section 3 of the Act recognizes the validity of substitute decision-making documents created under the law of another jurisdiction. The term “jurisdiction” is intended to be read in its broadest sense to include any country or governmental subdivision that permits individuals to delegate substitute decision-making authority. Second, like Section 107 of the UPOAA, Section 4 of the Act preserves the meaning and effect of a substitute decision-making document as defined by the law under which it was created. Third, Sections 5 and 6 of the Act protect good faith acceptance or rejection of a substitute decision-making document without regard to whether the document was created under the law of another jurisdiction or the law of the enacting jurisdiction. Under Section 6(c), refusals in violation of the Act are subject to a court order mandating acceptance and to liability for reasonable attorney’s fees and costs. Sections 119 and 120 of the UPOAA
contain similar provisions. The remedies under this Act are not exclusive and do not abrogate any other right or remedy in the adopting jurisdiction. The Act is designed to complement existing statutes that do not adequately address portability and recognition of substitute decision-making documents.
UNIFORM RECOGNITION OF SUBSTITUTE DECISION-MAKING DOCUMENTS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Recognition of Substitute Decision-Making Documents Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Decision maker” means a person authorized to act for an individual under a substitute decision-making document, whether denominated a decision maker, agent, attorney-in-fact, proxy, representative, or by another title. The term includes an original decision maker, a co-decision maker, a successor decision maker, and a person to which a decision maker’s authority is delegated.

(2) “Good faith” means honesty in fact.

(3) “Health care” means a service or procedure to maintain, diagnose, treat, or otherwise affect an individual’s physical or mental condition.

(4) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(5) “Personal care” means an arrangement or service to provide an individual shelter, food, clothing, transportation, education, recreation, social contact, or assistance with the activities of daily living.

(6) “Property” means anything that may be subject to ownership, whether real or personal or legal or equitable, or any interest or right therein.

(7) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) “Substitute decision-making document” means a record created by an individual to authorize a decision maker to act for the individual with respect to property, health care, or
personal care.

Comment

The definitions in Section 2 explain the meaning of terms used in the Act and should not be read to define the meaning of terms used in a substitute decision-making document. The meaning of a term used in a substitute decision-making document is determined by the law of the jurisdiction under which the document was created. See Section 4 Comment.

The definitions of “health care,” “personal care,” and “property” in this section are intended to be read in their broadest sense to include any substitute decision-making document created by an individual to authorize decisions with respect to that individual’s property, health care, or personal care. The scope of the decision-maker’s authority under such a document, however, is to be determined by the law under which the document was created. For example, authority with respect to “health care” may include authority to withhold or withdraw life prolonging procedures in some jurisdictions and not in others. See Charles P. Sabatino, The Evolution of Health Care Advance Planning Law and Policy, 88 Milbank Q. 211, 220-221 (2010). See, e.g., Ind. Code § 30-5-5-17 (West 2009) (requiring specific language to authorize a decision maker to request withdrawal or withholding of health care).

SECTION 3. VALIDITY OF SUBSTITUTE DECISION-MAKING DOCUMENT.

(a) A substitute decision-making document for property executed outside this state is valid in this state if, when the document was executed, the execution complied with the law of the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was executed.

(b) A substitute decision-making document for health care or personal care executed outside this state is valid in this state if, when the document was executed, the execution complied with:

(1) the law of the jurisdiction indicated in the document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was executed; or

(2) law of this state other than this [act].

(c) Except as otherwise provided by law of this state other than this [act], a photocopy or electronically transmitted copy of an original substitute decision-making document has the same
effect as the original.

**Legislative Note:** The enacting jurisdiction should examine its statutes that authorize delegation of substitute decision-making authority for property, health care, and personal care and amend, if necessary for consistency, the terminology and substance of Section 3.

**Comment**

This section specifies the requirements for recognition of the formal validity of a substitute decision-making document executed in another jurisdiction. The meaning and effect of the document is determined as provided in Section 4.

Section 3(a) provides that a substitute decision-making document for property decisions executed in another jurisdiction will be recognized as valid if the execution of the document complied with the law under which the document was created. This approach to portability of substitute decision-making authority for property decisions is consistent with Section 106 of the Uniform Power of Attorney Act.

With respect to a substitute decision-making document for health care or personal care, Section 3(b) provides that a document created under the law of another jurisdiction is valid if the execution complied with the law under which the document was created or the law of the jurisdiction where the document is presented for acceptance. This approach to recognition of substitute decision-making documents for health care is followed by a number of states. See, e.g., Conn. Gen. Stat. § 19a-580g (West 2011); N.C. Gen. Stat. Ann. § 32A-27 (LexisNexis 2011); W. Va. Code § 16-30-21 (LexisNexis 2011). Section 3(b) is also consistent with Section 2(h) of the Uniform Health-Care Decisions Act (treating a power of attorney for health care as valid “if it complies with this [Act], regardless of when or where executed . . . .”).

The term “jurisdiction” is intended to be read in its broadest sense to include any country or governmental subdivision that permits individuals to delegate substitute decision-making authority. While the effect of this section is to recognize the validity of a substitute decision-making document created under other law, it does not abrogate the traditional grounds for contesting the validity of execution such as forgery, fraud, or undue influence.

This section also provides that unless another law in the jurisdiction requires presentation of the original substitute decision-making document, a photocopy or electronically transmitted copy has the same effect as the original. The term “law” is to be read broadly to include statutes, the common law, as well as court and administrative rules. An example of other law that might require presentation of the original substitute decision-making document is the mandate in most jurisdictions for presentation of an original power of attorney in conjunction with the recording of documents executed by an agent. See Unif. Power of Atty. Act § 106 cmt. (2006).

**SECTION 4. MEANING AND EFFECT OF SUBSTITUTE DECISION-MAKING DOCUMENT.** The meaning and effect of a substitute decision-making document and the
authority of the decision maker are determined by the law of the jurisdiction indicated in the
document or, if no jurisdiction is indicated, the law of the jurisdiction in which the document was
executed.

Comment

This section provides that the meaning and effect of a substitute decision-making
document is to be determined by the law under which it was created. Section 4 recognizes that a
substitute decision-making document created in another jurisdiction may be subject to different
default rules. For example, a decision maker with authority over insurance transactions may
have authority to change beneficiary designations under the default rules of one jurisdiction but
additional examples of common differences among power of attorney default rules). Likewise,
the scope of authority under health care power of attorney and proxy statutes varies by
jurisdiction. See Charles P. Sabatino, The Evolution of Health Care Advance Planning Law and
Policy, 88 Milbank Q. 211, 221 (2010). Statutes or the common law in a jurisdiction may also
impose public policy limits on a decision maker’s scope of authority in certain contexts or for
certain medical procedures. Examples include decisions on behalf of pregnant patients and
consent to forgo procedures such as artificially supplied nutrition and hydration or to perform
procedures such as sterilization and psychosurgery. Id. Section 4 clarifies that an individual’s
intended grant of authority will not be enlarged by virtue of the decision maker using the
substitute decision-making document in a different jurisdiction.

This section also establishes an objective means for determining what jurisdiction’s law
was intended to govern the substitute decision-making document. The phrase, “the law of the
jurisdiction indicated in the substitute decision-making document,” is intentionally broad, and
includes any statement or reference in a substitute decision-making document that indicates an
individual’s choice of law. Examples of an indication of jurisdiction include a reference to the
name of the jurisdiction in the title or body of the substitute decision-making document, citation
to the jurisdiction’s statute, or an explicit statement that the substitute decision-making document
is created or executed under the laws of a particular jurisdiction. In the absence of an indication
of jurisdiction in the substitute decision-making document, Section 4 provides that the law of the
jurisdiction in which the substitute decision-making document was executed controls. The
distinction between “the law of the jurisdiction indicated in the substitute decision-making
document” and “the law of the jurisdiction in which the substitute decision-making document
was executed” is an important one. For example, an individual may execute in one jurisdiction a
power of attorney that was created and intended to be interpreted under the laws of another
jurisdiction. A clear indication of the jurisdiction’s law that is intended to govern the meaning
and effect of a substitute decision-making document is therefore advisable in all substitute
decision-making documents.

SECTION 5. RELIANCE ON SUBSTITUTE DECISION-MAKING DOCUMENT.

(a) [Except as otherwise provided by [insert a cross-reference to statutes in the enacting
jurisdiction, if any, that have different requirements for protected acceptance of a substitute decision-making document. A person that in good faith accepts a substitute decision-making document without actual knowledge that the document is void, invalid, or terminated, or that the authority of the purported decision maker is void, invalid, or terminated, may assume without inquiry that the document is genuine, valid, and still in effect and that the decision maker’s authority is genuine, valid, and still in effect.

(b) A person that is asked to accept a substitute decision-making document may request and without further investigation rely on:

1. the decision maker’s assertion of a fact concerning the individual for whom a decision will be made, the decision maker, or the document;

2. a translation of the document if the document contains, in whole or in part, language other than English; and

3. an opinion of counsel regarding any matter of law concerning the document if the person provides in a record the reason for the request.

Legislative Note: The enacting jurisdiction should examine its statutes that authorize delegation of substitute decision-making authority for property, health care, and personal care to determine whether those statutes have different requirements for the protections afforded by Section 5 to persons that accept a substituted decision-making document. A specific cross-reference in Section 5 to those statutes is advisable. For example, if the enacting jurisdiction has adopted the Uniform Power of Attorney Act, Section 5(a) may be revised to read: “Except as otherwise provided by Section 119 of the Uniform Power of Attorney Act, [citation], a person that in good faith accepts . . . .” An enacting jurisdiction should examine these statutes to determine whether the use and definition of terms such as “good faith” are consistent with this Act. Appropriate amendments should be made where necessary for consistency.

Comment

Section 5 permits a person to rely in good faith on the validity of a substitute decision-making document and the validity of the decision maker’s authority unless the person has actual knowledge to the contrary. The introductory phrase to subsection (a), “except as otherwise provided by statute other than this [act],” indicates that other relevant statutory provisions, such as those in a jurisdiction’s power of attorney statute or health care proxy statute, may supersede
those in Section 5. For example, Section 119(b) of the Uniform Power of Attorney Act permits persons to rely on a presumption that an individual’s signature is genuine only if the power of attorney is purportedly acknowledged. See Unif. Power of Atty. Act § 119 cmt. (2006).

Absent stricter requirements emanating from another statute in the jurisdiction, the Act does not require a person to investigate the validity of a substitute decision-making document or the decision maker’s authority. Although a person that is asked to accept a substitute decision-making document is not required to investigate the validity of the document, the person may, under subsection (b), request a decision maker’s assertion of any factual matter related to the substitute decision-making document and may request an opinion of counsel as to any matter of law. If the substitute decision-making document contains, in whole or part, language other than English, a translation may also be requested. Subsection (b) recognizes that a person that is asked to accept a substitute decision-making document may be unfamiliar with the law or the language of the jurisdiction intended to determine the meaning and effect of the document.

SECTION 6. OBLIGATION TO ACCEPT SUBSTITUTE DECISION-MAKING DOCUMENT.

(a) Except as otherwise provided in subsection (b) or by law of this state other than this [act], a person that is asked to accept a substitute decision-making document shall accept within a reasonable time a document that purportedly meets the validity requirements of Section 3. The person may not require an additional or different form of document for authority granted in the document presented.

(b) A person that is asked to accept a substitute decision-making document is not required to accept the document if:

(1) the person otherwise would not be required in the same circumstances to act if requested by the individual who executed the document;

(2) the person has actual knowledge of the termination of the decision maker’s authority or the document;

(3) the person’s request under Section 5(b) for the decision maker’s assertion of fact, a translation, or an opinion of counsel is refused;

(4) the person in good faith believes that the document is not valid or the decision
maker does not have the authority to request a particular transaction or action; or

(5) the person makes, or has actual knowledge that another person has made, a report to the [local office of adult protective services] stating a belief that the individual for whom a decision will be made may be subject to abuse, neglect, exploitation, or abandonment by the decision maker or a person acting for or with the decision maker.

(c) A person that in violation of this section refuses to accept a substitute decision-making document is subject to:

(1) a court order mandating acceptance of the document; and

(2) liability for reasonable attorney’s fees and costs incurred in an action or proceeding that mandates acceptance of the document.

**Legislative Note:** The enacting jurisdiction should examine its laws that authorize delegation of substitute decision-making authority for property, health care, and personal care to determine whether those laws have different requirements for acceptance of a substitute decision-making document than those provided in Section 6. When differences exist, a specific cross-reference in Section 6 is advisable. For example, if the enacting jurisdiction has adopted the Uniform Power of Attorney Act, Section 6(a) may be revised to read: “Except as otherwise provided in Section 120(b) of the Uniform Power of Attorney Act, [citation], a person shall accept . . .”. An enacting jurisdiction should also examine its laws to determine whether the use and definition of terms such as “good faith” are consistent with this act. Appropriate amendments should be made where necessary for consistency.

The phrase “local adult protective services office” is bracketed to indicate where an enacting jurisdiction should insert the appropriate designation for the governmental agency with regulatory authority to protect the welfare of the individual who executed the substitute decision-making document. For example, the designation may include an office of local law enforcement.

**Comment**

As a complement to Section 5, Section 6 enumerates the bases for legitimate refusals of a substitute decision-making document and the sanctions for refusals that violate the Act. The introductory phrase, “except as otherwise provided . . . by law other than this [act],” allows a jurisdiction through common law and other statutes to impose stricter or different requirements for accepting a substitute decision-making document and the authority of the decision maker. For example, Section 120 of the Uniform Power of Attorney Act (the “UPOAA”) requires that a power of attorney be accepted no later than seven business days after presentation. In a jurisdiction that has enacted the UPOAA, Section 120 would supersede the provision in Section
Subsection (b) of Section 6 provides the bases upon which a substitute decision-making document may be refused without liability. The first paragraph of subsection (b) permits a person to refuse to act in response to the authority in a substitute decision-making document if “the person would not otherwise be required in the same circumstances to act if requested by the individual who executed the substitute decision-making document.” An example of such a circumstance in the health care context is a statute that permits an attending physician to refuse to use, withhold, or withdraw life prolonging procedures from a patient otherwise qualified to request use, withholding, or withdrawal of life prolonging procedures. See, e.g., Ind. Code § 16-36-4-13(e), -13(f) (West 2007). The UPOAA contains a similar basis for refusing substitute decision-making authority for property decisions. See Unif. Power of Atty. Act § 120(b)(1) (Alternative A) (2006).

The last paragraph of subsection (b) permits refusal of an otherwise valid substitute decision-making document if the person believes that the individual for whom decisions will be made is subject to abuse, neglect, exploitation, or abandonment by the decision maker or someone acting in concert with the decision maker (paragraph (5)). A refusal under this paragraph is protected if the person makes, or knows another person has made, a report to the governmental agency authorized to protect the welfare of the individual for whom decisions will be made. This basis for refusing an otherwise valid substitute decision-making document is also a feature of the Uniform Power of Attorney Act. See id. at § 120(b)(6) (Alternative A) (2006).

Subsection (c) provides that a person that refuses a substitute decision-making document in violation of Section 6 is subject to a court order mandating acceptance and to reasonable attorney’s fees and costs incurred in the action to mandate acceptance. An unreasonable refusal may be subject to other remedies provided by other law. See Section 7 Comment.

SECTION 7. REMEDIES UNDER OTHER LAW. The remedies under this [act] are not exclusive and do not abrogate any right or remedy under law of this state other than this [act].

Comment

The remedies under the Act are not intended to be exclusive with respect to causes of action that may accrue in relation to a substitute decision-making document. The Act applies to many persons, individual and entity (see Section 2 (defining “person” for purposes of the Act), that may serve as decision makers or that may be asked to accept a substitute decision-making document. Likewise, the Act applies to many subject areas over which an individual may delegate decision-making authority. Remedies under other laws which govern such persons and subject matters should be considered by aggrieved parties in addition to remedies available under
this Act.

SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the [states] that enact it.

SECTION 9. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersed Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 10. APPLICABILITY. This [act] applies to a substitute decision-making document created before, on, or after [the effective date of this [act]].

SECTION 11. REPEALS; CONFORMING AMENDMENTS.

(a) . . .

(b) . . .

(c) . . .

Legislative Note: The enacting jurisdiction should examine its statutes that authorize delegation of substitute decision-making authority for property, health care, and personal care and set forth in this section necessary repeals and conforming amendments.

SECTION 12. EFFECTIVE DATE. This [act] takes effect…. 
The CBA Elder Law Section position request is as follows:

**Proposed Legislative Concept:**

The Elder Law Section supports efforts to promote the concept of Aid in Dying for adult, competent, terminally ill patients with appropriate safe-guards. It is important that additional specified safeguards be addressed in any legislation that passes.

**Explanation:**

During the 2014 Legislative session the Elder Law Section took no position on Raised Bill 5326 nor to the request of the Human Rights and Responsibilities (HRR) Section, instead opting to study the issue thoroughly. Understanding that this same bill will appear in the 2015 legislative session, the Elder Law Section completed its study, and at its meeting of November 19, 2014, took the following actions:

1. Voted in favor of taking a position on Aid in Dying legislation.
2. Voted in favor of promoting the concept of Aid in Dying for adult, competent, terminally ill patients with appropriate safe-guards.
3. Voted in favor of opposing the specified requirements in the authorization of the HRR Section to HB 5326.

**Background:**

The Elder Law Section proposes that the HRR section’s authorization be amended to replace the specified safeguards included in their March 10, 2014 CBA authorization to “An Act Concerning Compassionate Aid in Dying for Terminally Ill Patients” (Raised Bill 5326). The requirements include:

1. Care givers and heirs cannot be witness to the request by the patient;
2. Two independent physicians must sign off on the terminal nature of the illness;
3. Nothing in this Act shall limit the jurisdiction or authority of the Office of Protection and Advocacy for People with Disabilities to exercise its statutory powers;
4. The two independent physicians referenced in #2 above must advise the patient of the availability of counseling with a psychologist, psychiatrist or licensed clinical social worker.

Representatives of the Elder Law Section and the Human Rights and Responsibilities Section met on the evening of 12/1/14 with lengthy discussion addressing the specified safeguards. The Elder Law Section and the HRR Section are still in a healthy dialogue regarding these safeguards and hope to come to a resolution shortly.

**Potential CBA Opposition:**

It is anticipated that the Human Rights and Responsibilities Section may oppose some of the requested modifications as of 12-2-14.
**Strength of Section Position:**

Substantial and very strong support. Small minority opposed.

**Fiscal Impact (on the State):**

None anticipated.
AN ACT CONCERNING COMPASSIONATE AID IN DYING FOR TERMINALLY ILL PATIENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2014) As used in this section and sections 2 to 18, inclusive, of this act:

1. "Adult" means a person who is eighteen years of age or older;

2. "Aid in dying" means the medical practice of a physician prescribing medication to a qualified patient who is terminally ill, which medication a qualified patient may self-administer to bring about his or her death;

3. "Attending physician" means the physician who has primary responsibility for the medical care of the patient and treatment of the patient's terminal illness;

4. "Competent" means, in the opinion of the patient's attending physician, consulting physician, psychiatrist, psychologist or a court, that the patient has the capacity to understand and acknowledge the
nature and consequences of health care decisions, including the
benefits and disadvantages of treatment, to make an informed decision
and to communicate such decision to a health care provider, including
communicating through a person familiar with the patient's manner of
communicating;

(5) "Consulting physician" means a physician who is qualified by
specialty or experience to make a professional diagnosis and prognosis
regarding the patient's terminal illness;

(6) "Counseling" means one or more consultations as necessary
between a psychiatrist or a psychologist and a patient for the purpose
of determining that the patient is competent and not suffering from
depression or any other psychiatric or psychological disorder that
causes impaired judgment;

(7) "Health care provider" means a person licensed, certified or
otherwise authorized or permitted by law to administer health care or
dispense medication in the ordinary course of business or practice of a
profession, including, but not limited to, a physician, psychiatrist,
psychologist or pharmacist;

(8) "Health care facility" means a hospital, residential care home,
nursing home or rest home, as such terms are defined in section 19a-
490 of the general statutes;

(9) "Informed decision" means a decision by a qualified patient to
request and obtain a prescription for medication that the qualified
patient may self-administer for aid in dying, that is based on an
understanding and acknowledgment of the relevant facts and after
being fully informed by the attending physician of: (A) The patient's
medical diagnosis and prognosis; (B) the potential risks associated
with self-administering the medication to be prescribed; (C) the
probable result of taking the medication to be prescribed; and (D) the
feasible alternatives and health care treatment options, including, but
not limited to, palliative care;
(10) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records;

(11) "Palliative care" means health care centered on a terminally ill patient and such patient's family that (A) optimizes the patient's quality of life by anticipating, preventing and treating the patient's suffering throughout the continuum of the patient's terminal illness, (B) addresses the physical, emotional, social and spiritual needs of the patient, (C) facilitates patient autonomy, the patient's access to information and patient choice, and (D) includes, but is not limited to, discussions between the patient and a health care provider concerning the patient's goals for treatment and appropriate treatment options available to the patient, including hospice care and comprehensive pain and symptom management;

(12) "Patient" means a person who is under the care of a physician;

(13) "Pharmacist" means a person licensed pursuant to chapter 400j of the general statutes;

(14) "Physician" means a person licensed to practice medicine and surgery pursuant to chapter 370 of the general statutes;

(15) "Psychiatrist" means a psychiatrist licensed pursuant to chapter 370 of the general statutes;

(16) "Psychologist" means a psychologist licensed pursuant to chapter 383 of the general statutes;

(17) "Qualified patient" means a competent adult who is a resident of this state, has a terminal illness and has satisfied the requirements of this section and sections 2 to 9, inclusive, of this act, in order to obtain aid in dying;

(18) "Self-administer" means a qualified patient's act of ingesting medication; and
"Terminal illness" means the final stage of an incurable and irreversible medical condition that an attending physician anticipates, within reasonable medical judgment, will produce a patient's death within six months.

Sec. 2. (NEW) (Effective October 1, 2014) (a) A person who (1) is an adult, (2) is competent, (3) is a resident of this state, (4) has been determined by such person's attending physician to have a terminal illness, and (5) has voluntarily expressed his or her wish to receive aid in dying, may request aid in dying by making two written requests pursuant to sections 3 and 4 of this act.

(b) A person is not a qualified patient under sections 1 to 18, inclusive, of this act, solely because of age, disability or any specific illness.

(c) No person, including, but not limited to, an agent under a living will, an attorney-in-fact under a durable power of attorney, a guardian, or a conservator, may act on behalf of a patient for purposes of sections 1 to 18, inclusive, of this act.

Sec. 3. (NEW) (Effective October 1, 2014) (a) A patient wishing to receive aid in dying shall submit two written requests to such patient's attending physician in substantially the form set forth in section 4 of this act. A valid written request for aid in dying under sections 1 to 18, inclusive, of this act, shall be signed and dated by the patient. Each request shall be witnessed by at least two persons who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is (1) of sound mind, and (2) acting voluntarily and not being coerced to sign the request. The patient's second written request for aid in dying shall be submitted not earlier than fifteen days after the patient submits the first request.

(b) At least one of the witnesses described in subsection (a) of this section shall be a person who is not: (1) A relative of the patient by blood, marriage or adoption; (2) at the time the request is signed,
entitled to any portion of the estate of the patient upon the patient's
death, under any will or by operation of law; or (3) an owner, operator
or employee of a health care facility where the patient is receiving
medical treatment or is a resident.

c) The patient's attending physician at the time the request is signed
shall not be a witness.

d) If the patient is a resident of a residential care home, nursing
home or rest home, as such terms are defined in section 19a-490 of the
general statutes, at the time the written request is made, one of the
witnesses shall be a person designated by such home.

Sec. 4. (NEW) (Effective October 1, 2014) A request for aid in dying as
authorized by sections 1 to 18, inclusive, of this act, shall be in
substantially the following form:

REQUEST FOR MEDICATION TO AID IN DYING
I, ...., am an adult of sound mind.
I am a resident of the State of Connecticut.

I am suffering from ...., which my attending physician has
determined is an incurable and irreversible medical condition that will,
within reasonable medical judgment, result in death within six
months. This diagnosis of a terminal illness has been confirmed by
another physician.

I have been fully informed of my diagnosis, prognosis, the nature of
medication to be prescribed to aid me in dying, the potential
associated risks, the expected result, feasible alternatives and
additional health care treatment options, including palliative care.

I request that my attending physician prescribe medication that I
may self-administer for aid in dying. I authorize my attending
physician to contact a pharmacist to fill the prescription for such
medication, upon my request.

INITIAL ONE:

.... I have informed my family of my decision and taken their opinions into consideration.

.... I have decided not to inform my family of my decision.

.... I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die if and when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my attending physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full responsibility for my decision to request aid in dying.

Signed: ....

Dated: ....

DECLARATION OF WITNESSES

By initialing and signing below on the date the person named above signs, I declare that the person making and signing the above request:

Witness 1 .... Witness 2 ....

Initials .... Initials ....

.... 1. Is personally known to me or has provided proof of identity;

.... 2. Signed this request in my presence on the date of the person's signature;
.... 3. Appears to be of sound mind and not under duress, fraud or undue influence; and

.... 4. Is not a patient for whom I am the attending physician.

Printed Name of Witness 1 ....

Signature of Witness 1 .... Date ....

Printed Name of Witness 2 ....

Signature of Witness 2 .... Date ....

Sec. 5. (NEW) (Effective October 1, 2014) (a) A qualified patient may rescind his or her request for aid in dying at any time and in any manner without regard to his or her mental state.

(b) An attending physician shall offer a qualified patient an opportunity to rescind his or her request for aid in dying at the time such patient submits a second written request for aid in dying to the attending physician.

(c) No prescription for medication for aid in dying shall be written without the qualified patient's attending physician first offering the qualified patient a second opportunity to rescind his or her request for aid in dying.

Sec. 6. (NEW) (Effective October 1, 2014) When an attending physician is presented with a patient's first written request for aid in dying made pursuant to sections 2 to 4, inclusive, of this act, the attending physician shall:

(1) Make a determination that the patient (A) is an adult, (B) has a terminal illness, (C) is competent, and (D) has voluntarily requested aid in dying;

(2) Require the patient to demonstrate residency in this state by presenting: (A) A Connecticut driver's license; (B) a valid voter
registration record authorizing the patient to vote in this state; (C) evidence that the patient owns or leases property in this state; or (D) any other government-issued document that the attending physician reasonably believes demonstrates that the patient is a current resident of this state;

(3) Ensure that the patient is making an informed decision by informing the patient of: (A) The patient's medical diagnosis; (B) the patient's prognosis; (C) the potential risks associated with self-administering the medication to be prescribed for aid in dying; (D) the probable result of self-administering the medication to be prescribed for aid in dying; and (E) the feasible alternatives and health care treatment options including, but not limited to, palliative care;

(4) Refer the patient to a consulting physician for medical confirmation of the attending physician's diagnosis of the patient's terminal illness, the patient's prognosis and for a determination that the patient is competent and acting voluntarily in requesting aid in dying.

Sec. 7. (NEW) (Effective October 1, 2014) In order for a patient to be found to be a qualified patient for the purposes of sections 1 to 18, inclusive, of this act, a consulting physician shall: (1) Examine the patient and the patient's relevant medical records; (2) confirm, in writing, the attending physician's diagnosis that the patient has a terminal illness; (3) verify that the patient is competent, is acting voluntarily and has made an informed decision to request aid in dying; and (4) refer the patient for counseling, if required in accordance with section 8 of this act.

Sec. 8. (NEW) (Effective October 1, 2014) (a) If, in the medical opinion of the attending physician or the consulting physician, a patient may be suffering from a psychiatric or psychological condition or depression that is causing impaired judgment, either the attending or consulting physician shall refer the patient for counseling to determine
whether the patient is competent to request aid in dying.

(b) An attending physician shall not provide the patient aid in dying until the person providing such counseling determines that the patient is not suffering a psychiatric or psychological condition or depression that is causing impaired judgment.

Sec. 9. (NEW) (Effective October 1, 2014) (a) After an attending physician and a consulting physician determine that a patient is a qualified patient, in accordance with sections 6 to 8, inclusive, of this act and after such qualified patient submits a second request for aid in dying in accordance with section 3 of this act, the attending physician shall:

(1) Recommend to the qualified patient that he or she notify next of kin of the qualified patient's request for aid in dying and inform the qualified patient that a failure to do so shall not be a basis for the denial of such request;

(2) Counsel the qualified patient concerning the importance of: (A) Having another person present when the qualified patient self-administers the medication prescribed for aid in dying; and (B) not taking the medication in a public place;

(3) Inform the qualified patient that the qualified patient may rescind his or her request for aid in dying at any time and in any manner;

(4) Verify, immediately before writing the prescription for medication for aid in dying, that the qualified patient is making an informed decision;

(5) Fulfill the medical record documentation requirements set forth in section 10 of this act; and

(6) (A) Dispense such medications, including ancillary medications intended to facilitate the desired effect to minimize the qualified
patient's discomfort, if the attending physician is authorized to
dispense such medication, to the qualified patient; or (B) upon the
qualified patient's request and with the qualified patient's written
consent (i) contact a pharmacist and inform the pharmacist of the
prescription, and (ii) deliver the written prescription personally, by
mail, by facsimile or by another electronic method that is permitted by
the pharmacy to the pharmacist, who shall dispense such medications
directly to the qualified patient, the attending physician or an
expressly-identified agent of the qualified patient.

(b) The attending physician may sign the qualified patient's death
certificate that shall list the underlying terminal illness as the cause of
death.

Sec. 10. (NEW) (Effective October 1, 2014) With respect to a request by
a qualified patient for aid in dying, the attending physician shall
ensure that the following items are documented or filed in the
qualified patient's medical record:

(1) The basis for determining that the qualified patient requesting
aid in dying is an adult and is a resident of the state;

(2) All oral requests by a qualified patient for medication for aid in
dying;

(3) All written requests by a qualified patient for medication for aid
in dying;

(4) The attending physician's diagnosis of the qualified patient's
terminal illness and prognosis, and a determination that the qualified
patient is competent, is acting voluntarily and has made an informed
decision to request aid in dying;

(5) The consulting physician's confirmation of the qualified patient's
diagnosis and prognosis, confirmation that the qualified patient is
competent, is acting voluntarily and has made an informed decision to
request aid in dying;

(6) A report of the outcome and determinations made during counseling, if counseling was recommended and provided in accordance with section 8 of this act;

(7) Documentation of the attending physician's offer to the qualified patient to rescind his or her request for aid in dying at the time the attending physician writes the qualified patient a prescription for medication for aid in dying; and

(8) A statement by the attending physician indicating that all requirements under this section and sections 1 to 9, inclusive, of this act, have been met and indicating the steps taken to carry out the qualified patient's request for aid in dying, including the medication prescribed.

Sec. 11. (NEW) (Effective October 1, 2014) Records or information collected or maintained pursuant to sections 1 to 18, inclusive, of this act shall not be subject to subpoena or discovery or introduced into evidence in any judicial or administrative proceeding except to resolve matters concerning compliance with the provisions of sections 1 to 18, inclusive, of this act, or as otherwise specifically provided by law.

Sec. 12. (NEW) (Effective October 1, 2014) Any person in possession of medication prescribed for aid in dying that has not been self-administered shall dispose of such medication in accordance with section 21a-252 of the general statutes.

Sec. 13. (NEW) (Effective October 1, 2014) (a) Any provision in a contract, will, insurance policy, annuity or other agreement, whether written or oral, that is entered into on or after October 1, 2014, that would affect whether a person may make or rescind a request for aid in dying is not valid.

(b) Any obligation owing under any currently existing contract shall
not be conditioned or affected by the making or rescinding of a request
for aid in dying.

(c) On and after the effective date of this section, the sale,
procurement or issuance of any life, health or accident insurance or
annuity policy or the rate charged for any such policy shall not be
conditioned upon or affected by the making or rescinding of a request
for aid in dying.

(d) A qualified patient's act of requesting aid in dying or self-
administering medication prescribed for aid in dying shall not: (1)
Affect a life, health or accident insurance or annuity policy, or benefits
payable under such policy; (2) be grounds for eviction from a person's
place of residence or a basis for discrimination in the terms, conditions
or privileges of sale or rental of a dwelling or in the provision of
services or facilities in connection therewith; (3) provide the sole basis
for the appointment of a conservator or guardian; or (4) constitute
suicide for any purpose.

Sec. 14. (NEW) (Effective October 1, 2014) (a) As used in this section,
"participate in the provision of medication" means to perform the
duties of an attending physician or consulting physician, a psychiatrist,
psychologist or pharmacist in accordance with the provisions of
sections 2 to 10, inclusive, of this act, and does not include: (1) Making
an initial diagnosis of a patient's terminal illness; (2) informing a
patient of his or her medical diagnosis or prognosis; (3) informing a
patient concerning the provisions of this section and sections 2 to 18,
inclusive, of this act, upon the patient's request; or (4) referring a
patient to another health care provider for aid in dying.

(b) Participation in any act described in sections 1 to 18, inclusive, of
this act by a patient, health care provider or any other person shall be
voluntary. Each health care provider shall individually and
affirmatively determine whether to participate in the provision of
medication to a qualified patient for aid in dying. A health care facility
shall not require a health care provider to participate in the provision of medication to a qualified patient for aid in dying, but may prohibit such participation in accordance with subsection (d) of this section.

(c) If a health care provider or health care facility is unwilling to participate in the provision of medication to a qualified patient for aid in dying, such health care provider or health care facility shall transfer all relevant medical records to any health care provider or health care facility, as requested by a qualified patient.

(d) A health care facility may adopt written policies prohibiting a health care provider associated with such health care facility from participating in the provision of medication to a patient for aid in dying, provided such facility provides written notice of such policy and any sanctions for violation of such policy to such health care provider. Notwithstanding the provisions of this subsection or any policies adopted in accordance with this subsection, any qualified health care provider may: (1) Diagnose a patient with a terminal illness; (2) inform a patient of his or her medical prognosis; (3) provide a patient with information concerning the provisions of sections 1 to 18, inclusive, of this act upon a patient's request; (4) refer a patient to another health care facility or health care provider; (5) transfer a patient's medical records to a health care provider or health care facility, as requested by a patient; or (6) participate in the provision of medication for aid in dying when such health care provider is acting outside the scope of his or her employment or contract with a health care facility that prohibits participation in the provision of such medication.

Sec. 15. (NEW) (Effective October 1, 2014) (a) Any person who without authorization of a patient wilfully alters or forges a request for aid in dying, as described in sections 3 and 4 of this act, or conceals or destroys a rescission of such a request for aid in dying with the intent or effect of causing the patient's death, is guilty of attempted murder or murder under section 53a-54 of the general statutes.
(b) Any person who coerces or exerts undue influence on a patient to complete a request for aid in dying, as described in sections 3 and 4 of this act, or coerces or exerts undue influence on a patient to destroy a rescission of such request with the intent or effect of causing the patient's death, is guilty of attempted murder or murder under section 53a-54a of the general statutes.

Sec. 16. (NEW) (Effective October 1, 2014) (a) Nothing in sections 1 to 17, inclusive, of this act, authorizes a physician or any other person to end a patient's life by lethal injection, mercy killing, assisting a suicide or any other active euthanasia.

(b) Any action taken in accordance with sections 1 to 18, inclusive, of this act, does not constitute causing or assisting another person to commit suicide in violation of section 53a-54a or 53a-56 of the general statutes.

(c) No report of a public agency, as defined in section 1-200 of the general statutes, may refer to the practice of obtaining and self-administering life-ending medication to end a qualified patient's life as "suicide" or "assisted suicide", and shall refer to such practice as "aid in dying".

Sec. 17. (NEW) (Effective October 1, 2014) Sections 1 to 18, inclusive, of this act, do not limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

Sec. 18. (NEW) (Effective October 1, 2014) Nothing in this section or sections 1 to 17, inclusive, of this act, shall preclude criminal prosecution under any provision of law for conduct that is inconsistent with this section or sections 1 to 17, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:

<table>
<thead>
<tr>
<th>Section</th>
<th>Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>2</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Section</td>
<td>Date</td>
<td>Type</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td>------------</td>
</tr>
<tr>
<td>Sec. 3</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 4</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 5</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 6</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 7</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 8</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 9</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 10</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 11</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 12</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 13</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 14</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 15</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 16</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 17</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
<tr>
<td>Sec. 18</td>
<td>October 1, 2014</td>
<td>New section</td>
</tr>
</tbody>
</table>

**Statement of Purpose:**
To allow a physician to prescribe medication at the request of a mentally competent patient that has a terminal illness that such patient may self-administer to bring about his or her death.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]
October 30, 2014

Mark Dubois, President
CONNECTICUT BAR ASSOCIATION
P.O. Box 350
30 Bank St
New Britain, CT 06050-0350

Re: Report of the Constitution Committee on the C.B.A. Constitution

Dear Mr. President:

The Constitution Committee, consisting of Tom Gugliotti, Ira Bloom and Wes Horton, presented its preliminary report to President Knox on May 1, 2014 concerning the numerous comments we received during the spring from the general membership on the current Constitution. Thereafter, we met with officers and members of the House of Delegates on Wednesday, September 10 and Saturday, September 13 to hear their views on a wide variety of issues concerning the Constitution. Approximately 40 delegates and officers attended one or both of the meetings.

We promised a report to the House later in the fall on our recommendations. This is that report. It has two annexes. The first is our compilation of the consensus of delegate opinions in September. The second is a catalogue of our findings and conclusions concerning existing constitutional anomalies. While the Committee believes they are best resolved by moving to unicameral governance, we understand there is substantial opposition to such a move, so many of our specific recommendations are meant to ameliorate some of the conflicts and ambiguities of bicameral governance. The general philosophy of our recommendations is that the House and not the Board be in charge of policy and meet frequently enough to consider policy matters in a timely manner, and that the Board and not the House be in charge of administration and implementing House policies.

Committee Recommendations

A. Article III (Membership) should be revised to clarify that the House decides policy questions, and that the Board decides administrative matters, including application of House policy to individual cases.
B. Article IV, § 1 (Annual Meeting) should be revised to have the House set the annual meeting time and place and to eliminate when the House must meet in relation to that meeting.

C. Article IV, § 2 (Special Meetings) should be callable by the House as well as the Board.

D. Article IV, § 3 (Referendum) should be ordered by the President (not the Board) automatically on written petition of 150 (not 50) members. If our recommendation H. is not adopted, this section should also allow a referendum on a Board vote on any policy matter.

E. Article V, § 1.B. (House powers) should delete the ambiguous “decision-making” and retain “policy making”. The House makes policy, the Board executes it. A less than 2/3rds vote by the Board should be stayed pending the automatic review by the House. A 2/3rds or higher vote by the Board should be reviewable by the House on petition by 10 members of the House filed within 5 days of a Board vote, but the Board’s decision should not be stayed unless and until the House votes to stay it.

F. Article V, § 1.C. (House meetings) should raise the required annual number from 4 to 6. Provision should be made for emergency meetings of the House.

G. Article F, § 1.F. (House quorum) should be reduced from 20 to 7 so that action can be taken quickly if necessary.

H. Article V, § 2.B. (Board power) is too broad. The Board should not have the power to do everything the House can do. Except for budget and legislative matters, the House should be the sole policy-maker.

I. Article V, § 3 (Executive Committee) should be expanded to all 7 officers. We do not recommend giving it specific powers independent of the President. It should have an explicitly advisory role to the President.

J. Article V, § 5 A-D (Sections and Committees) should be revised to put policy issues in the control of the House and administrative issues in the control of the Board. We also believe the Young Lawyers Section should be treated like other sections and that the number of committees required by the Constitution should be limited to those that are indispensable (such as audit and nominating).

K. Article VI, §2 and § 3A (District Delegates) should provide that the number of District delegates is 55 (to provide for more involvement of the Bar) and that the inflexible 1-delegate-per-230-members be deleted in favor of proportional representation of in-state members with reapportionment, as it is now, every 6 years.
L. Article VI, § 3C (Affinity Delegates) should be substantially revised: (i) the limit on the number of such delegates should be raised from 6 to 8; (ii) the definition of “affinity” should be restricted to disadvantaged groups; (iii) the House should itself certify as a policy matter what groups qualify or later should be disqualified; (iv) each certified group should select its delegate; and (v) the Board should have one affinity seat with the member selected by the Board.

M. Article VI should have two new sections adding (i) 2 YLS delegates to the House and 1 member to the Board, and (ii) 1 out-of-state delegate to the House.

The Committee also recommends approval of items 1, 2, 3, 4, 5 and 6 (but not 7) of the Consent Agenda (see Annex I).

The Committee looks forward to continuing discussions and communications with the CBA officers, House delegates and Board members to obtain further guidance and input that may assist in moving this project forward. As soon as the House has voted in principle on our (or any other) recommendations, we will be happy to draft appropriate language and to conform other provisions of the Constitution for consistency. The House will then have to decide whether the work as a whole is appropriately called an amended Constitution, proper for final adoption by the House, or rather a new Constitution, proper for presentation to the membership. If the House substantially adopts our suggestions, we recommend presenting the final product to the membership as a new Constitution. Once that is done, we recommend that the President put us out to pasture and create a new committee, with new members, to review all by-laws and other Association policies to bring them into compliance with the new or revised Constitution.

Respectfully submitted,

Wesley W. Horton, Chair
ANNEX I

COMPILATION OF VIEWS OF HOUSE MEMBERS
AT SEPTEMBER MEETINGS OF CONSTITUTION COMMITTEE

CONSENT AGENDA ITEMS:

1. Should all House of Delegate and Board of Governor members be members of the CBA? Yes.

2. Should there be “removal procedures” if HOD members or BOG members fail to attend a specified number of meetings without an approved excuse. This subject is not presently covered by the Constitution, nor does it appear within the By-Laws of the Association. Neither does there appear to be such a provision in the House of Delegates Rules of Procedure. Many in attendance at the meetings were under the impression that the Constitution – or some other governing document – established such rules. The general consensus of the September meetings was that there should be some mechanism to encourage and enforce attendance at meetings of the bodies for which a member has been elected. The details should be worked out through adoption of a suitable by-law. Some of the discussion included the observation that the “removal” of a member of the HOD or BOG should be pursuant to a Constitutional authorization, and not left to a by-law or lesser document.

[Note: the Committee emphasized that its charge from the HOD was to review the Constitution – not to review by-laws or rules of procedure. In fact, by-laws and rules of procedure cannot be adjusted until the principal governing document – the Constitution – has been finalized. There will be a need for such “truing up” of these subordinate governance documents with the Constitution, when completed.]

3. Should the Executive Director be a non-voting member of the Board and House? General consensus answer was “Yes”. Being a member, albeit “non-voting”, gives the ED certain privileges at meetings that she/he might otherwise not have. For example, the ability to present a motion, or to take the floor during discussion on a motion. Some concern was expressed that providing too much specificity as to the ED’s duties within the Constitution could lead to employment law issues. Upon analysis, it appears that the issue of delineating duties (to be avoided in a Constitution) and the ability to take the floor or make a motion, are sufficiently distinct so as to not negate the benefit of having the ED designated as a non-voting member of the HOD and BOG.

4. The Constitution presently contains an “indemnification” provision. See Article XII. The purpose of such provision is to give certain protections to an officer, HOD, Board member and others in leadership, in the proper conduct of their duties. It is agreed that the usual “corporate indemnification” is essential for the proper administration of the Association. However there is concern that the existing language is not adequate. The Committee proposes consulting with a corporate law expert to obtain the best possible language for this provision.
5. The Committee has noted the need to clarify the membership status of law student members. Note that under Article III, Section 1, Paragraph B, law students are non-voting members. The tenure of a law student membership may need to be reviewed and reconsidered from the standpoint of timing of taking the bar examination, admission to the bar, etc. The consensus was that this should be examined and considered.

6. Should the Council of Bar Presidents have an advisory role to the House? The Council of Bar Presidents is established in the By-laws (Section XIV) and is not separately provided for in the Constitution. The Presidents referred to in this By-law are the local and county (and affinity?) bar presidents. The Council, per the By-law, is entitled to have a representative at every BOG meeting (non-voting), and may attend and have the floor at the HOD (non-voting). This is not a Constitutional position. This subject is not necessarily before this Committee. However, there seemed to be a negative “take” on the role of such Council. Query, wouldn’t encouragement of such Council advance the interest of engagement by the other bars in cooperation with the Association?

7. Not on the specific agenda, but raised at the September 10th meeting – not at the September 13th meeting: Should the role of the CBA treasurer be made more specific? At the discussion on September 10, the consensus appeared to be that this was not necessary.

REGULAR AGENDA ITEMS:

1. See the above comments, for the Consent Issues.

2. Shall the CBA continue to be a bicameral organization? Broad consensus was “yes”.

3. What is the effect of the tabling of a matter that is brought to the House, after a decision has been made at either the Executive Committee level or BOG level? Should there be a “stay” of the decision that comes from the EC or BOG and is before the HOD for review and decision. This question breaks down into three component parts. There was no clear consensus on the consequence of a matter coming up from the EC for consideration by the HOD.

First, as to a decision made by the EC, which comes before the HOD for review and final approval, if the matter is “tabled”, the decision of the EC below is essentially rendered null and void. Some expressed the concern that the need for speed in getting decisions may sometimes require action by the EC. So, the reasoning goes, the HOD should not be able to overturn that decision of the EC. There is disagreement on whether exigent circumstances compels a departure from the decision making process resting with the duly elected and organized governing bodies. There may be a need to identify certain circumstances under which truly exigent circumstances demand a means to make a decision by less than a vote by the HOD or BOG. It may be useful to identify
such clearly exigent circumstances, and create a mechanism of as broad an approval process as possible, utilizing modern electronic communication tools.

Second, if a matter comes before the HOD as a result of a decision by the BOG upon a less than 2/3 vote of the BOG (see Constitution, Article V, Section 2, Paragraph B), and the HOD merely tables its consideration of the matter, what effect? The consensus appeared to be that the BOG decision will survive the tabling. The BOG is a Constitutionally created governing body, and its decisions should be given full faith and credit, unless the HOD specifically votes to the contrary. A “tabling” is not voting to the contrary.

Third, if the BOG votes on a measure, which vote does not satisfy the 2/3 rule mentioned above, requiring action by the House, what is the status of the measure approved by the BOG? Is there a “stay” of that action? There were strong feelings on either side of the “stay” issue, and no consensus was discerned. This will require further consideration by the Committee before it can make its recommendation.

Some of the above may be appropriate for inclusion in the Constitution document (i.e. Second and Third points), but some portions of this subject may be better included in the By-laws (First point).

4. Should the EC have the power to act in lieu of the BOG or HOD between its meetings? Article V, Section 1, Paragraph B provides that “...the House of Delegates shall be the primary decision-making and policy-making body of the Association.” There appeared to be a consensus that the general answer to this question is “No”, but with some possible limited exception driven by exigent circumstances. Such exigent circumstance might include the need to provide a prompt response to a legislative initiative when there is not sufficient time to call a meeting of the HOD or BOG. The general role of the EC should be advisory in nature. See also the above comments about encouraging and providing for the use of modern electronic means of communication to obtain a decision from the BOG or HOD in lieu of resorting to the more limited cohort of the EC.

5. Should the EC be given the power to overrule a decision of the President? No.

6. Should all officers of the Association be members of the Executive Committee? Article V, Section 4 of the Constitution identifies the officers of the Association and their duties. Note that the immediate past president is specifically included as a member of the Executive Committee. Newly added Article V, Section 3 specifically creates an Executive Committee. Per that section, the EC is composed of the President, President-elect, Vice President and Immediate Past-president. Not included in this definition of EC are the Secretary, Treasurer and Assistant Secretary-Treasurer. At the meeting of Sept. 10 there appeared to be a consensus that all officers should be included as part of the EC. At the meeting of Sept. 13, there was a contrary
view expressed, noting that “a smaller group can act and react more quickly; there are issues of a quorum”.

7. Should the CBA continue to provide for “affinity delegates”? Yes. That simple answer also leads to a good deal more substantive discussion, including “what is an affinity organization” as it relates to creating separate membership in the CBA’s governing bodies? See #8, below.

8. Should the CBA continue to maintain a maximum of 6 affinity delegates? The overall consensus seems to be to increase the number of possible affinity delegates, or to remove the cap and leave it to the other governing provisions as to how many such delegates there are at any one time. The concept of “affinity” seems to need refinement, so as to provide for participation by “disadvantaged” members, not just groups that come together because of some common interest or heredity.

9. Does the definition and qualification of how an affinity group is to be certified need to be changed? Yes. It was uniformly agreed, with the strong concurrence of the present ED, that the Executive Director should not have the responsibility (burden) of certifying a group as an “affinity” organization. Consideration should be given to the overall qualification requirements for a group to be so designated. General consensus that the HOD should determine whether a group qualifies as an “affinity” organization, in accordance with standards that should be included in the Constitution. See the present criteria, set out in Article VI, Section 3, Paragraph C-1. The Committee might look for further guidance in the constitution documents collected from other states.

There was also favorable discussion about adding one affinity seat in the BOG.

10. Should there be a YLS delegate to the HOD. Yes. A large percentage of the Association membership is found in the YLS section. Consensus included increasing the number of YLS members in the HOD to two and providing one seat in the BOG, as well. This would be in addition to the HOD seat currently provided for a YLS member as the Assistant Secretary-Treasurer, pursuant to custom and practice. Consideration should be given to incorporating this “custom” into one of the appropriate governing documents of the Association.

11. Should out of state members be given a designated seat on the HOD. Yes. Out of state members constitute a large constituency (400 members), whose interest and participation should be solicited and cultivated. Creation of such seat will require some adjustment, provision or other accommodation to allow for “distance participation”.

12. Should the designation of House Districts and numbers of delegates be reconsidered? Subject to the matters discussed above that per force will add to the HOD membership numbers, the consensus was not to revise the present district structure or calculation of HOD members. Under the present Constitution, each district gets one HOD delegate per every 230 Association members (or any part thereof) within a district. See, Constitution, Article VI, Section 3, Paragraph A.
13. Should the use of proxy votes continue to be prohibited? There is no provision presently in the Constitution regarding the use or prohibition of proxy votes. Similarly, there is nothing in the By-laws dealing with proxies. The HOD Rules of Procedure, Article 4, addresses “Voting”. That article provides that voting shall be by voice vote, or the chair is in doubt, by standing vote. Subject to all the above, the governing documents, including the Constitution, By-laws and Rules incorporate Roberts Rules of Order. Generally, and subject to consultation with the most current RRO, proxy voting is discouraged as be “incompatible with the essential characteristics of a deliberative assembly...”. RRO, Sec. 44.

14. Should the HOD continue to have a minimum of 4 meetings and the BOG have a minimum of 6 meetings per year? Consensus was that the number of meetings per year for each body should be reconsidered, particularly to address some of the issues discussed about the need for quick action by the Association and the existence of exigent circumstances that might otherwise send the decision-making power to a non-elected body. Question of whether the present practice of conducting an HOD meeting at the annual meeting should be revised. The current Constitution, Article IV, Section 1 provides that there shall be a meeting of the HOD “within 30 days of the annual meeting of the Association.” However, the Constitution also provides that “Every meeting of the Association shall include a meeting of the House of Delegates.” See, Article IV, Section 4. As a consequence, at each annual meeting there is scheduled a meeting of the HOD. This appears to be at best an inconsistency. There is a consensus to correct this inconsistency by not requiring that there be an HOD meeting at the annual meeting. Perhaps this should go further, to revise the Constitution to delete the necessity of an HOD meeting every time there is a meeting of the Association. It is not evident how or why this rule came about in any event.

Consensus to increase the HOD meetings to at least 5, and maybe 6 per year. Meetings generally should not be scheduled during the months of July and August. This consideration can and should be handled through a By-law and not the Constitution.

15. Should the HOD continue to have 3 year terms, and the BOG 2 year terms? Consensus, Yes.

16. Should the HOD and BOG have term limits? Consensus, No. Some discussion as to the possible benefit of creating more opportunity for other Association members to participate in the management and governance of the Association.

17. Should a referendum require only 50 signatures? Current provision found in Constitution Article IV, Section 3. Consensus is to increase the number of signatures required. At the Sept. 13 meeting, the discussion ranged from increasing to 150 to a high of 10% of Association members, or 900 signatures. At the Sept. 10 meeting there was a consensus to increase the number of signatures, but to a level of 150. Discussion about requiring multi-district considerations. Consensus was not to include such criteria, other than the number of required signatures.
18. Should the CBA have a limited number of standing committees? The Constitution talks about “committees”, but as ancillary to “sections”, that is, practice groups. See Article V, Section 5. The Constitution also provides for the creation of specific working committees, to undertake specific tasks on behalf of the organization. See, Article V, Section 1, Paragraph D. There is also, of course, the Executive Committee. Article V, Section 3. In a bit or redundancy, or ambiguity, Article V, Section 5 also mentions creation of Sections and Committees. Subsection A of that part provides that such Sections and Committees may be created for the purpose of making recommendations for action by the HOD or BOG.

In any event, no specific “governing committees”, except as mentioned above, are mentioned. However, the By-laws contain specific provision for the establishment of 8 “standing committees”. See By-laws, Article VIII.

The entire coordination and reference to “Committees” in the Constitution should be addressed and clarified, so as to separate the concept of a “practice area committee” (a nascent “Section”) from a governing or management “committee”, such as are typically associated with the standing committees found in the By-laws.

There needs to be a reconsideration as to who appoints committees. Article V, Section 1, Paragraph D provides that the HOD shall appoint committees. Article V, Section 5, Paragraph 5 says that committees shall be appointed by the President.

19. Should there be a Council of Section Chairs with an advisory role to the HOD? Consensus was “No”.

20. Should the Constitution provide further requirements regarding the submission of an amicus curiae brief? No. The present statement of “Purpose”, Constitution, Article II, when read in its entirety, and when giving proper weight to each component part, should provide sufficient guidance and flexibility when necessary. The consensus was that no revision is needed in this statement of Purpose, which “drives” the question of the Association’s role in an amicus matter. At the present time, the existing HOD Rules provide guidelines for entering an amicus, in Article 8. That Article (Rule) is supplemented by a specific and separate Standard/Procedure of Authorizing CBA Amicus Curiae Briefs. In relevant part, the Standard provides that the issues to be addressed and the positions to be advanced in any amicus brief must be “consistent with the overall goals and the mission of the CBA.” That language incorporates the statement of purpose found in Article II of the Constitution.

21. Is the CBA Constitution statement of Purpose, Article II, appropriate or sufficient? The consensus is that the statement of Purpose is sufficient, again, when it is read in its entirety. Suggestion was made however, that the modern term “rule of law” be incorporated into the statement of Purpose.
22. Should there be a membership requirement for service on the BOG that includes a minimum number of years as a member of the CBA, or years in practice? Consensus was "No".
ANNEX II

CONNECTICUT BAR ASSOCIATION
EXISTING CONSTITUTION ANOMALIES

The following is a catalogue of apparent anomalies within the CBA Constitution, primarily dealing with the respective powers and duties of the House of Delegates and the Board of Governors.

The starting premise of this memorandum is that the House of Delegates is directly elected by the CBA Membership, and per the existing Constitution, “shall be the primary decision-making and policy-making body of the Association”. Constitution, Article V, Section 1. Several of the following observations and comments suggest that this mandate for primacy in the decision making authority with the House is contradicted by the evident delegation or ceding of that authority to the Board of Governors.

While the ceding of such authority may be a convenience for the officers of the Association, it may not always be consistent with the provisions of the Constitution. It may be that such bifurcation of decision making does not foster harmony or co-operation within the organization, both as to the governing bodies, and within the Association itself.

1. Article V, Section 1.B. provides that the House of Delegates shall be the primary decision and policy making body, and that all “significant decisions” and “policies" of the Association “shall be made by the House of Delegates.” That does not seem to be the case throughout the document. Subject possibly to the provisions of Article V., Section 2.B., this provision is simply in conflict with many other provisions throughout the document, as discussed in part below. Further discussion on Article V. Section 2.B., below.

2. Excluded from this designation of authority are “budgetary matters and those matters which are addressed by the Association’s legislative policies”. That last item (legislative policies) is in effect self-executing, and defers to already adopted policies, so is not an issue. “Budgetary matters” on the other hand directs attention elsewhere to find where the authority lies for that type of matter, if not with the House, per the stated exclusion. Currently, the budgetary process is covered by Article IX, Section 3. That section provides for the manner in which an Association budget is promulgated and adopted. Per that section, budget materials are to be “sent to all Members of the House of Delegates”. The budget shall be “considered by the Board of Governors”. These phrases leave uncertain the question of who prepares the budget materials that are circulated. Further language says that the budget shall be approved by the Board of Governors (“If the budget is not approved by the Board of Governors . . . ”), which appears to follow the suggestive language of Article V, Section 1. B., mentioned above (excluding “budgetary matters”). It might be useful, if not necessary to clearly identify what powers are ceded to the Board, to refer in Article V, Section B., that the budgetary matters not included within the House’s authority are as described in Article IX, Section 3.
3. Article III, Section 1.A. provides, inter alia, for the establishment of procedures for becoming a member of the Connecticut Bar Association. This may contradict the primacy mandate of Article V, Section 1.B. In any event, there may be a fair question as to why the Board, rather than the House, establishes the criteria for membership in the Association. That would certainly seem to involve a “significant decision” and/or a “policy” that is within the defined authority of the House.

4. Article III, Section 3 deals with censure of a member, or outright expulsion from the Association. Same issue regarding scope of authority – in the House.

5. Article III, Section 5 deals with setting dues amounts, and suspending the payment of dues under certain circumstances. The House is designated as having authority over the former, but the Board is designated as having authority over the latter? Aside from the conflict with Article V, Section 1.B., what is the rationale for giving one body the authority to set dues, and giving another body the authority to suspend those dues?

6. Article IV, Section 1 provides for the setting of an Association annual meeting date. Why is it that the Board of Governors sets that date? Note, too, that this section provides that the House of Delegates shall conduct a meeting within 30 days of that annual meeting. This addresses to some extent the concern that has been expressed regarding the difficulty presented when the House meeting is set for the same day as the annual meeting. Note, too, that this provision as presently written does not require that the House meet before or after the annual meeting. Subject for discussion as to why this provision is in the document in the first place.

7. Note that Article IV, Section 2 provides for a call of a special meeting. The initial procedure would be for the Board to initiate that. No specific comment on this section, other than to point out that the provision exists.

8. Article IV, Section 3 provides for the infamous referendum. From our conference sessions we have received input regarding the number of signatures required to initiate a referendum. Consistent with the on-going questions about the “authority” of one body versus the other, it may be fair to ask why such referendum is not called by the President, upon certification of the necessary signatures. That would simplify the process and mechanics of certification, obviating the requirement that Board meet to vote on calling such referendum. Same question, possibly, as to the provision that provides “Any referendum shall be overseen by the Board of Governors”. Perhaps more critical to this subject is why there is not a parallel provision for a referendum on a vote taken by the Board of Governors? See the parallel provision in Article V., Section 2. B., which provides that any decision by the Board of governors by less than a 2/3 vote “shall be referred to the House of Delegates for its consideration”. While this provides some type of oversight in the case of a “close vote”, it is not truly parallel with the referendum provision as it pertains to decisions by the House. Since as currently structured, a decision by the Board can be as far reaching and important as a decision by the House, there is no logic that supports a referendum process for the House, but not the Board. Finally, it seems
disjointed for this referendum question to come under the heading of "Meetings of the Association". Probably would be better located in some other section, or in a specific section solely for this subject.

9. Our conference sessions with membership, as reflected in our consensus report already suggests that the provision of Article V., Sec. 1.C. regarding House meetings should be modified. At present, the minimum number of meetings is set at 4. By comparison, the Board of Governors is required to meet "monthly", except that it need not meet in any month when the House of Delegates has a meeting or in the months of July and August. When you do the math on this, the Board is only "required" to meet 6 times – compared to 4 times currently for the House. (12 months – 4 months when House meets = 6 meetings). This calls into question why there seems to be a reliance upon meetings of the Board to do and decide things that the House, as having "primary decision maker", can and should address.

10. Article V, Section 2.E. specifies that a quorum of the Board of Governors shall be seven members. No doubt this is considered to be a benefit, permitting Association business to be conducted with as few as 7 decision makers. On the other hand, this may be perceived as a disadvantage to those who might prefer Association business to be conducted and approved by a larger cohort of people. It is sometimes said, logically, that it is easier to get business done with a smaller group. Though true, this is also sometimes a concern. By the same token, attention might be given to the fact that the House, per Article V., Section 1.G. can adopt rules for conducting its own business. New rules are technically adopted at the first meeting of the House after election. This is difficult to follow, since not all the House is elected at one time, but rather, there are elections of some members of the House yearly. So, technically, new rules are adopted each year. Adoption of rules is supposed to be on the first agenda after the election of new House members. It may be useful, particularly contemplating more frequent meetings of the House, to adopt a quorum rule similar to that of the Board, or by adopting a rule that provides that a quorum are those present at the meeting. This would make conduct of business, even amongst a larger body, less subject to the vagaries of attendance. Note, too, that this Section does already support “alternate means of attendance” at House meetings. This should probably be encouraged, particularly for House members who otherwise have to travel a great distance to get to the CBA Headquarters in New Britain.

11. Article V, Section 2 addresses the Board of Governors. Subsection 2.A. indicates simply “There shall be a Board of Governors as set forth in Article VII.” Article VII contains only two sections, is found near the end of the Constitution, and should perhaps be incorporated into this Article V.

12. Article V, Section 2.B. articulates the “powers” of the Board of Governors. That section begins with an acknowledgment that the powers of the Board are “subject in all respects to the authority and discretion of the House of Delegates . . . ” It continues however, to provide that between the meetings of the House, the Board can meet, and serve as the “administrative board of the Association”, and shall “have the power and
authority to do and perform all acts that the House of Delegates might perform”. Given this broad delegation of power, it calls into question any reason why there should be a House at all. The only *raison d'être* for the House, then, is to occupy spatial time during which, as presently provided, it meets making a Board meeting unnecessary. There is a potential distinction between the Board serving as the “administrative board of the Association” on the one hand, and the more broad empowerment of the Board having virtually all of the policy and decision – making authority initially reserved for the House, on the other hand.

13. Article V, Section 3 identifies the existence and composition of an Executive Committee. There is no guidance as to what role the Executive Committee fills. There has been some discussion as to whether the composition of the Executive Committee should be augmented with the other officers, being the Secretary and Treasurer.

14. Article V, Section 5 discusses “Sections and Committees”. In general, there seems to be some confusion regarding those groups that represent practice areas who meet periodically, which are commonly known now as “sections and committees”, and specifically appointed “task committees”, such as a Constitution Review Committee.

15. Article V, Section B provides that the President shall appoint the Chair of each Section, except the Young Lawyers Section. This may be worthy of consideration. In practice, each Section designates its chair, and there can be little argument that the Sections should designate their chair. It may be appropriate to revise this section to say that each section shall designate its chair, which designation is subject to confirmation by the Association President. Further search is necessary to find in the Constitution document the manner in which the Chair of the Young Lawyers Section is to be selected, since that is subject to the exclusion mentioned above. A “word search” did not turn up such provision.

16. Article V, Section 5. B provides that dues for each Section are to be in an amount approved by the Board of Governors. Since the House has primary decision and policy authority, why isn’t this the prerogative of the House? Same question as to the Board having exclusive approval over use of Section funds. Same question as to why the Board of Governors is given the authority to determine the amount of “reimbursement” the Association takes from Section funds, to cover the cost of “... servicing such section. ...”

17. Article V, Section 5. B overall, contains too many provisions, each unrelated to the other, and at the very least, should be separated into distinct subsections.

18. Article V, Section B., at the very end, provides that Sections – except the Young Lawyers Section, shall continue from year to year. What does that mean, particularly as it relates to the exclusion from the “continued existence” of the Young Lawyers Section?
19. Article V, Section 5. D. contains what appears to be a stray reference to “Boards” (“All annual reports of Committees or Boards...”). There appears to be only one “Board” – the Board of Governors. Was it intended, expected or current practice for the Board of Governors to render a report to the House? Or, to itself, in the absence of a House meeting? Looks like this is only a stray reference which should probably be removed from the document.

20. Article V, Section 5. D., last sentence, says that the House may adopt legislative policies which modify this Section of the Constitution. First, it should be made clear that this relates NOT to this Section (5), but this SUB-SECTION (only) – 5.D. Not appropriate to have a Constitution modified by fiat of a policy.

21. Article V, Section 2 provides in part that there shall be a maximum of elected House of Delegates members at 50. In light of the fact that we are considering increasing the number of affinity delegates and Young Lawyer Section delegates, consideration should be given to increasing this number (50). Such increase would not be to reflect the affinity or YLS members, since those numbers are outside the calculus of the 50 member rule provided for in this section. Rather, consideration might be given to the dilution effect of increasing the number of “non-elected” delegates, who come by way of affinity or YLS membership. It may be a good thing to increase affinity or YLS membership – but the counter to that is the dilution effect on the elected membership.

22. Article VI, Section 3 contains an anomaly which may not be subject to correction but may still be worth mentioning. Under that section, provision is made for one House member per 230 members in a district. If a district has 231 members, it then gets two members. Seems to present what may be an unavoidable disproportionate voting benefit for that district with 231 members.

23. Article VI, Section 3.B. provides for election of six members to the House, to be elected by a vote of the combined Association Section chairs. As now worded, about all that is said is that each section chair shall be entitled to cast one vote “for each delegate”. This seems to present an unclear process as to how the potential candidates for these House seats are nominated, and how the voting works. Evidently, this process has been in place for some time, and has worked without controversy – but this may be a good time to make this clearer to avoid future controversy.

24. Article VI, Section 3.C. deals with Affinity Delegates. No substantive comments are offered here, except to note that the consensus report contains certain recommendations regarding Affinity Delegates, from “definition” to expanded number of seats. This includes as well a revision to the “certification” process. Attention should also be given to the “decertification” process.

25. There presently appears to be a “numbering problem” within this Article/Section. See sub-section #4 (duplicates” and following numbers. The numbering error then ties back to at least one prior reference that is relevant to this error. See
Section 3.B, which refers to Section 5 – but it is unclear as to what reference this really pertains to, given the error.

26. Article VII (whose location may be inappropriate: see above) deals with the Board of Governors. Currently, Board members are not elected by the Association membership, but by the members of the House from each district. Consideration might be given, if two governing bodies are retained, to modifying the manner in which members of the Board are elected. Consideration might be given to an Association wide election, on a District basis.

27. Article VIII deals with terms of office. Presently, there are no term limits to members of the House or Board. There are term limits for officers. In order to be consistent with the objective of wishing to increase participation in the governance of the Association, such as by increasing the number of affinity and YLS delegates, the same logic might apply to term limits overall, for House and Board members.

28. What is the rationale for vesting in the Board of Governors the power to fill vacancies in the executive offices, per Article VIII, Section 1? Why is that not the prerogative of the Association-wide elected body, the House?

29. What is the rationale for vesting in the Board of Governors the power to create the Nominating Committee, per Article VIII, Section 2? The combined effect of these two provisions is that the Board of Governors, a rather small constituency, essentially controls who moves into executive positions within the Association.

30. What is the rationale for vesting in the Board of Governors, under Article IX, Section 1, the designation of depositories for Association funds?

31. Note the provision in Article XI, for amending the Constitution by a 2/3 vote of House members present and voting. Amending the Constitution is a fairly serious matter. If a vote of 2/3 present and voting is good enough to amend the Constitution, why should this not be considered for “quorum purposes” for other actions to be taken by the House? To the extent that the size of the House increases, such method to determine a quorum works in favor of ensuring that business will move ahead, without risk of insufficient attendance.

**COMMITTEE CONCLUSIONS:**

The Constitution Committee is of the opinion that there are (at least) two ways to address the above issues:

1. Use these anomalies as a reason and basis for changes in the CBA Constitution, which would in some manner include the migration away from the current bicameral system of governance.
2. Alternatively, address these anomalies by re-alignment of designated authority to more conform to the stated principal mandate of the existing Constitution to the effect that the House of Delegates shall be the principal decision making and policy making body.
This report summarizes the consolidated financial affairs of the Connecticut Bar Association and the CT Bar Institute for the period ending November 30, 2014

Included with this report, please find for period ending November 30, 2014 the following.
1. Executive Summary – (two pages)
2. Section Fund Balance Listing - (1 page)

1. EXECUTIVE SUMMARY
   *Snapshot of the key budgetary drivers for this period.*
   - **Overall Performance.** We are on-budget 5 months of the way through the year. Although membership and overall revenue is down $66,550 we also have $67,160 less expenses.
   - **Membership Dues.** Overall membership is slightly up versus this time last year, however our attorney memberships is down by 200, or about 2.3%. Our renewal calling efforts continue, however we believe we have collected most of what we will collect for dues revenue for the current bar year. Additional membership incentive campaigns are being designed to encourage mid-year enrollments. The planning for the 2016 renewal cycle will begin in January.
   - **Events & Education.** We are five months into the education and event season. We currently expect both areas to meet budget expectations.
     - Education is tracking ahead of last year at this time by $38,430.
     - Other events are tracking behind last year at this time by $29,025. This is a timing issue which will resolve itself as the year progresses.
   - **Professional & Contract Services** are on track to meet budget.
   - **Facilities related expenses** are on track to meet budget.
   - **Other areas to watch include:**
     - Publications which needs additional revenue to make projected budget
     - Insurance, a fixed cost that may exceed budget because of price increases after the budget was completed.
   - **Other financial matters**
     - Annual audit has been finalized. A clean audit was received.

2. Statement of Revenue and Expenses
   *Summary of 2015 Fiscal Year, as of November 30, 2014*
   **REVENUE 41.6% of the way through the fiscal year**

   - Annual Budgeted Revenue $3,296,864
   - Percent of Budget Achieved 37.70%
   - Actual Revenue Earned $1,242,995 This is $66,550 behind this point last year.

   - Total Dues Budgeted $2,022,089
   - Total Dues Collected $1,933,445 This is $95,505 behind this point last year.
   - $ 88,644 left to collect to achieve budget
   - % of Budget Achieved 39.84% at a point 41.6% of the way through the year
Total Dues Earned $ 805,602 This is $39,794 behind this point last year.
Total Dues to be Earned $1,127,843
% Dues Revenue Achieved 95.6% for the year
Non Dues Revenue Budget $1,274,775
Collected to Date $ 437,393
Percent of Budget Achieved 34.3% at a point 41.6% of the way through the year.

Receipts for section dues are less than last year by $1,168.
Management is carefully monitoring this and has launched a membership recruitment campaign to address this issue. Revenue for all other categories is immaterial at this point of the fiscal year.

EXPENSES 41.6% of the way through the fiscal year
Annual Budgeted Expenses $3,260,261
% of Budget Expended 32.05%
Actual Expenses $1,045,045

Professional service fees are slightly above budget at this point in the year because of 1-time payments which cover the balance of the year.

3. Cash Report
As of November 30 the General Fund Cash position of $1,945,715 is $338,553 higher than at the same time last year ago ($1,607,162). This month we added a new section which shows unrestricted cash reserves after withdrawals for operations and reserve items.

<table>
<thead>
<tr>
<th>General Fund Accounts</th>
<th>11/30/2014 Amount</th>
<th>11/30/2013 Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petty Cash</td>
<td>$ 150</td>
<td>$ 150</td>
</tr>
<tr>
<td>Bank of America checking</td>
<td>$ 20,520</td>
<td>$ 71,445</td>
</tr>
<tr>
<td>Bank of America (checking)</td>
<td>$ 1,219</td>
<td>$ 6,083</td>
</tr>
<tr>
<td>TD Bank Payroll</td>
<td>$ 2,459</td>
<td>$ 2,363</td>
</tr>
<tr>
<td>Merrill Lynch Institutional Fund (unrestricted)</td>
<td>$ 1,671,367</td>
<td>$ 1,527,121</td>
</tr>
<tr>
<td><strong>General Fund Sub-Total</strong></td>
<td><strong>$ 1,695,715</strong></td>
<td><strong>$ 1,607,162</strong></td>
</tr>
<tr>
<td>Dime Bank Brokerage (as of 10/31/14)</td>
<td>$ 245,682</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>General Fund Total</strong></td>
<td><strong>$ 1,941,397</strong></td>
<td><strong>$ 1,607,162</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section Fund Accounts (Restricted)</th>
<th>11/30/2014 Amount</th>
<th>11/30/2013 Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merrill Lynch Institutional Fund</td>
<td>$ 724,242</td>
<td>$ 750,332</td>
</tr>
<tr>
<td><strong>Total General Fund and Section Fund</strong></td>
<td><strong>$ 2,665,639</strong></td>
<td><strong>$ 2,357,494</strong></td>
</tr>
</tbody>
</table>

Unrestricted Cash Reserves after Net Withdrawals for Operations

<table>
<thead>
<tr>
<th>Account Description</th>
<th>11/30/2014 Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund Subtotal</td>
<td>$ 1,695,715</td>
<td></td>
</tr>
<tr>
<td>Net cash withdrawalss for operations (3 yr average)</td>
<td>$ 801,500</td>
<td>7 months remai</td>
</tr>
<tr>
<td>Elevator Repair (Approved by BOG in Nov. 2014)</td>
<td>$ 250,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Unrestricted Reserves (including Dime Bank)</strong></td>
<td><strong>$ 889,897</strong></td>
<td></td>
</tr>
</tbody>
</table>
4. **Itemized Section Funds**

Cash in the Section Funds account ($724,242) is $26,090 lower than the November 2013 balance of $750,332. Section Dues received through November 30 total $315,850 ($6,150) below the budgeted amount for FY 2015 ($322,000).

The attached report now includes a projection the available balance at the end of the Bar year, assuming there is no incremental income or expense from Section Activities. This will assist the sections in planning activities for the year.

5. **Young Lawyers’ Section**

Fiscal year expenses amount to $7,934, or 12.6% of the budgeted amount of $62,900. Young Lawyer income to date amounts to $8,440 or 65.4% the budgeted amount of $12,900.

<table>
<thead>
<tr>
<th></th>
<th>Budget 14-15</th>
<th>Actual 14-15</th>
<th>Budget 02-15</th>
<th>Actual 02-15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>$6,800</td>
<td>$6,590</td>
<td>$46,300</td>
<td>$6,370</td>
</tr>
<tr>
<td>Travel</td>
<td>$1,600</td>
<td>-</td>
<td>$10,600</td>
<td>$1,564</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>$4,500</td>
<td>$1,850</td>
<td>$6,000</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12,900</strong></td>
<td><strong>$8,440</strong></td>
<td><strong>$62,900</strong></td>
<td><strong>$7,934</strong></td>
</tr>
</tbody>
</table>
Connecticut Bar Association / CT Bar Institute  
Executive Summary Revenue and Expense Summary  
Period Ending November 30, 2014

<table>
<thead>
<tr>
<th></th>
<th>Budget FY 2015</th>
<th>Budget 5 mo. FY 2015</th>
<th>5 Mon. Act. 5 mo.</th>
<th>5 Mon. Var. to Budget</th>
<th>% of Budget =41.6%</th>
</tr>
</thead>
<tbody>
<tr>
<td>REVENUE:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dues</td>
<td>$ 2,029,889</td>
<td>$ 845,787</td>
<td>$ 813,127</td>
<td>$ (32,660)</td>
<td>40.06%</td>
</tr>
<tr>
<td>Continuing Legal Education</td>
<td>$ 244,050</td>
<td>$ 101,688</td>
<td>$ 103,383</td>
<td>$ 1,696</td>
<td>42.36%</td>
</tr>
<tr>
<td>Meetings</td>
<td>$ 466,225</td>
<td>$ 194,260</td>
<td>$ 131,146</td>
<td>$ (63,114)</td>
<td>28.13%</td>
</tr>
<tr>
<td>Publications</td>
<td>$ 210,000</td>
<td>$ 87,500</td>
<td>$ 51,076</td>
<td>$ (36,424)</td>
<td>24.32%</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>$ 292,700</td>
<td>$ 121,958</td>
<td>$ 125,389</td>
<td>$ 3,431</td>
<td>42.84%</td>
</tr>
<tr>
<td>Ancillary Income</td>
<td>$ 54,000</td>
<td>$ 22,500</td>
<td>$ 18,874</td>
<td>$ (3,626)</td>
<td>34.95%</td>
</tr>
<tr>
<td>GRAND TOTAL REVENUE</td>
<td>$ -</td>
<td>$ 3,296,864</td>
<td>$ 1,373,693</td>
<td>$ 1,242,995</td>
<td>37.70%</td>
</tr>
</tbody>
</table>

| EXPENSE:             |                |                      |                   |                       |                     |
| Personnel Expense    | $ 1,336,710    | $ 556,963            | $ 486,804         | $ 70,159              | 36.42%              |
| Employee Benefits    | $ 117,735      | $ 49,056             | $ 40,791          | $ 8,265               | 34.65%              |
| Professional Services| $ 207,100      | $ 86,292             | $ 71,702          | $ 14,590              | 34.62%              |
| Contract Services    | $ 399,200      | $ 166,333            | $ 97,407          | $ 68,926              | 24.40%              |
| Off-site events      | $ 465,761      | $ 194,067            | $ 130,379         | $ 63,688              | 27.99%              |

A  Ahead of Budget  
T  On Track  
W  Watch  
R  At Risk  

37.70% revenue earned at 41.6% through the year
### Executive Summary Revenue and Expense Summary

<table>
<thead>
<tr>
<th></th>
<th>Budget FY 2015</th>
<th>Budget 5 mo. FY 2015</th>
<th>5 Mon. Act. FY 2015</th>
<th>5 Mon. Var. to Budget</th>
<th>% of Budget</th>
<th>A</th>
<th>T</th>
<th>W</th>
<th>R</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Development</td>
<td>$15,500</td>
<td>$6,458</td>
<td>$3,630</td>
<td>$2,828</td>
<td>23.42%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travel</td>
<td>$65,300</td>
<td>$27,208</td>
<td>$10,128</td>
<td>$17,080</td>
<td>15.51%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communication</td>
<td>$146,200</td>
<td>$60,917</td>
<td>$38,510</td>
<td>$22,407</td>
<td>26.34%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utilities</td>
<td>$63,255</td>
<td>$26,356</td>
<td>$20,788</td>
<td>$5,568</td>
<td>32.86%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supplies</td>
<td>$48,000</td>
<td>$20,000</td>
<td>$10,593</td>
<td>$9,407</td>
<td>22.07%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
<td>$17,500</td>
<td>$7,292</td>
<td>$2,800</td>
<td>$4,492</td>
<td>16.00%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insurance</td>
<td>$37,000</td>
<td>$15,417</td>
<td>$16,929</td>
<td>$(1,512)</td>
<td>45.75%</td>
<td>W</td>
<td>May exceed budget</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finance</td>
<td>$95,000</td>
<td>$39,583</td>
<td>$41,525</td>
<td>$(1,942)</td>
<td>43.71%</td>
<td>W</td>
<td>May exceed budget</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes</td>
<td>$24,000</td>
<td>$10,000</td>
<td>$10,231</td>
<td>$(231)</td>
<td>42.63%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debt Obligations</td>
<td>$26,000</td>
<td>$10,833</td>
<td>$10,159</td>
<td>$674</td>
<td>39.07%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation</td>
<td>$156,000</td>
<td>$65,000</td>
<td>$52,669</td>
<td>$12,331</td>
<td>33.76%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contingency</td>
<td>$40,000</td>
<td>$16,667</td>
<td>$-</td>
<td>$16,667</td>
<td>0.00%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Operating Expense</strong></td>
<td><strong>$3,260,261</strong></td>
<td><strong>$1,358,442</strong></td>
<td><strong>$1,045,045</strong></td>
<td><strong>$313,397</strong></td>
<td>32.05%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Operating Revenue</strong></td>
<td><strong>$3,296,864</strong></td>
<td><strong>$1,373,693</strong></td>
<td><strong>$1,242,995</strong></td>
<td><strong>$(130,698)</strong></td>
<td>37.70%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Surplus (Deficit)</strong></td>
<td><strong>$36,603</strong></td>
<td><strong>$15,251</strong></td>
<td><strong>$197,950</strong></td>
<td><strong>$182,699</strong></td>
<td>32.05%</td>
<td>T</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>FY 2015 Balance</td>
<td>Available balance at 6/30/15. Does not project income or expense from section activity</td>
<td>FY 2014 Balance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------</td>
<td>---------------------------------------------------------------------------------------</td>
<td>-----------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative Law</td>
<td>$5,282.74</td>
<td>$3,182.74</td>
<td>$6,013.33</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alternative Dispute Resolution</td>
<td>$9,426.51</td>
<td>$6,535.51</td>
<td>$10,306.49</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Animal Law</td>
<td>$3,852.15</td>
<td>$3,187.15</td>
<td>$2,035.29</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Antitrust</td>
<td>$1,918.66</td>
<td>$917.66</td>
<td>$2,363.36</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appellate Advocacy</td>
<td>$4,637.28</td>
<td>$2,537.28</td>
<td>$5,080.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Business Law</td>
<td>$22,865.70</td>
<td>$14,199.70</td>
<td>$28,074.11</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child Welfare</td>
<td>$2,778.35</td>
<td>$1,497.35</td>
<td>$3,062.27</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Law and Bankruptcy</td>
<td>$24,992.59</td>
<td>$17,922.59</td>
<td>$34,974.61</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Finance</td>
<td>$3,554.87</td>
<td>$3,554.87</td>
<td>$(1,455.71)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Law</td>
<td>$11,892.66</td>
<td>$8,896.66</td>
<td>$15,888.14</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consumer Law</td>
<td>$975.61</td>
<td>$(515.39)</td>
<td>$1,407.11</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminal Justice</td>
<td>$4,697.54</td>
<td>$371.54</td>
<td>$4,643.94</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disability Law</td>
<td>$1,955.93</td>
<td>$674.93</td>
<td>$2,407.43</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education Law</td>
<td>$2,753.61</td>
<td>$1,087.61</td>
<td>$2,751.28</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elder Law</td>
<td>$55,230.41</td>
<td>$47,110.41</td>
<td>$56,635.76</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Law</td>
<td>$13,284.24</td>
<td>$9,644.24</td>
<td>$15,789.91</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estates and Probate</td>
<td>$187,137.96</td>
<td>$170,967.96</td>
<td>$180,874.17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Family Law</td>
<td>$21,746.15</td>
<td>$11,400.15</td>
<td>$26,371.79</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Practice</td>
<td>$14,655.91</td>
<td>$8,334.91</td>
<td>$15,529.06</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial Institutions</td>
<td>$27,036.79</td>
<td>$24,635.79</td>
<td>$27,748.29</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Franchise Law</td>
<td>$3,257.28</td>
<td>$2,711.28</td>
<td>$2,758.28</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health Law</td>
<td>$15,412.97</td>
<td>$12,227.97</td>
<td>$17,410.26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Rights and Responsibilities</td>
<td>$2,489.96</td>
<td>$1,523.96</td>
<td>$3,326.73</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indian Law</td>
<td>$867.00</td>
<td>$412.00</td>
<td>$1,017.50</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insurance Law</td>
<td>$12,823.25</td>
<td>$9,218.25</td>
<td>$14,271.01</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intellectual Property</td>
<td>$3,132.22</td>
<td>$(402.78)</td>
<td>$3,011.22</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International Law &amp; Practice</td>
<td>$1,368.00</td>
<td>$1,368.00</td>
<td>$1,400.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labor and Employment Law</td>
<td>$27,562.47</td>
<td>$19,127.47</td>
<td>$27,121.63</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law Librarians</td>
<td>$908.39</td>
<td>$453.39</td>
<td>$901.39</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LGBT</td>
<td>$4,220.87</td>
<td>$2,834.87</td>
<td>$4,770.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Litigation</td>
<td>$81,428.10</td>
<td>$65,958.10</td>
<td>$81,120.58</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Media and the Law</td>
<td>$1,168.50</td>
<td>$1,168.50</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paralegals</td>
<td>$3,912.65</td>
<td>$3,121.65</td>
<td>$1,988.88</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planning and Zoning</td>
<td>$42,371.97</td>
<td>$37,191.97</td>
<td>$41,203.08</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td>$2,510.15</td>
<td>$2,510.15</td>
<td>$347.53</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Utility Law</td>
<td>$5,454.86</td>
<td>$3,928.86</td>
<td>$4,588.64</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Real Property</td>
<td>$39,982.87</td>
<td>$27,256.87</td>
<td>$41,329.80</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small Firm Practice</td>
<td>$8,636.37</td>
<td>$5,031.37</td>
<td>$10,588.52</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sports and Entertainment Law</td>
<td>$(206.74)</td>
<td>$(1,487.74)</td>
<td>$522.17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax</td>
<td>$36,385.28</td>
<td>$30,505.28</td>
<td>$33,485.80</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technology Law</td>
<td>$1,560.97</td>
<td>$1,560.97</td>
<td>$1,633.97</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Veterans &amp; Military Affairs</td>
<td>$1,755.00</td>
<td>$1,755.00</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>$4,042.28</td>
<td>$(983.72)</td>
<td>$15,684.37</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women in the Law</td>
<td>$2,521.56</td>
<td>$176.56</td>
<td>$1,350.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$724,241.89</strong></td>
<td><strong>$750,331.99</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section Dues - Received through Nov 30 $315,850 $322,000 $317,018 $341,295

% Difference (+/-) 1.90% -9.29%
Membership Report
As of December 1, 2014
For House of Delegate’s Meeting on December 15, 2014

By: Douglas Brown, Executive Director and Jonathan Shapiro, Membership Committee Chair

This report is a snapshot of changes in Membership from November 6 to December 1, 2014.

Membership Status:

Attorney membership is down 2.4% since December, 2013. Overall membership is up by .03%.

<table>
<thead>
<tr>
<th></th>
<th>11/6/14</th>
<th>120/1/14</th>
<th>35 day change</th>
<th>%</th>
<th>12/1/13</th>
<th>12 month change</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney Members (paid)</td>
<td>7984</td>
<td>7848</td>
<td>136</td>
<td>1.7%</td>
<td>8184</td>
<td>-200</td>
<td>-2.4%</td>
</tr>
<tr>
<td>Non Attorney members</td>
<td>1182</td>
<td>1220</td>
<td>-38</td>
<td>-3.1%</td>
<td>951</td>
<td>231</td>
<td>24.3%</td>
</tr>
<tr>
<td>Total Paid Members</td>
<td>9166</td>
<td>9068</td>
<td>98</td>
<td>1.1%</td>
<td>9135</td>
<td>31</td>
<td>0.3%</td>
</tr>
</tbody>
</table>

The 100% Club is stronger than last year with 80 firms participating, this is up from 63 firms at this time last year. Efforts to recruit both new and returning members are ongoing. The current list of 100% club firms is attached to this report.

The table to the right shows the amount collected this period and the remaining opportunity for collections from renewals. All of the remaining members have been contacted at least 5 times by a combination of email, mail and phone. At this point it is unlikely that more than 10% would rejoin half-way through the year.

<table>
<thead>
<tr>
<th>Dues Potential</th>
<th>#</th>
<th>Dues Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorneys yet to renew</td>
<td>533</td>
<td>$128,380</td>
</tr>
<tr>
<td>Others yet to renew</td>
<td>45</td>
<td>$3,825</td>
</tr>
<tr>
<td>Projected Renewal Rate</td>
<td>10%</td>
<td>$13,221</td>
</tr>
</tbody>
</table>

New Member Demographics
These are “new members” which means that they have joined the CBA for the first time, or they were not a member in 2013-2014. This information is current as of November 15, 2014.

<table>
<thead>
<tr>
<th>Bar Admit Date</th>
<th>Attorneys</th>
<th>Gov’t Attorneys</th>
<th>Out of State Attorneys</th>
<th>Faculty Group</th>
<th>Associates</th>
<th>Government Associates</th>
<th>Law Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/01/2014 - 6/30/2015</td>
<td>64</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>7/1/2013 - 5/31/2014</td>
<td>9</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>7/1/2012 - 6/30/2013</td>
<td>8</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>18</td>
</tr>
<tr>
<td>7/1/2009 - 6/30/2012</td>
<td>20</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Admitted prior to 2009</td>
<td>100</td>
<td>21</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>99</td>
</tr>
</tbody>
</table>
Resigned Members
These are members who have affirmatively told us that they will not be renewing or have “resigned” as of November 15th

<table>
<thead>
<tr>
<th>Stated Reason</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retired</td>
<td>44</td>
<td>26.0%</td>
</tr>
<tr>
<td>Not specified</td>
<td>25</td>
<td>14.8%</td>
</tr>
<tr>
<td>Out of state</td>
<td>26</td>
<td>15.4%</td>
</tr>
<tr>
<td>Not Practicing</td>
<td>17</td>
<td>10.1%</td>
</tr>
<tr>
<td>Cost / Value</td>
<td>21</td>
<td>12.4%</td>
</tr>
<tr>
<td>Gun</td>
<td>6</td>
<td>3.6%</td>
</tr>
<tr>
<td>Firm Not Paying</td>
<td>5</td>
<td>3.0%</td>
</tr>
<tr>
<td>Maybe later</td>
<td>3</td>
<td>1.8%</td>
</tr>
<tr>
<td>Other bar</td>
<td>3</td>
<td>1.8%</td>
</tr>
<tr>
<td>Hangup</td>
<td>2</td>
<td>1.2%</td>
</tr>
<tr>
<td>Judge</td>
<td>2</td>
<td>1.2%</td>
</tr>
<tr>
<td>Maternity Leave</td>
<td>3</td>
<td>1.8%</td>
</tr>
<tr>
<td>Unemployed</td>
<td>2</td>
<td>1.2%</td>
</tr>
<tr>
<td>Government</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Health</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>In House</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Not mandatory</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Got no referrals</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Suspended</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Too busy</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Dues not discounted</td>
<td>1</td>
<td>0.6%</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>1.2%</td>
</tr>
<tr>
<td></td>
<td>169</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

81 members were moved into a ‘bad contact’ category because we cannot locate them after searching publicly available databases.

Membership campaign initiatives.
- All of the members who have not yet renewed have been contacted at least once by phone, and at least 3 separate times by email.
- Postcard mailers to non-renewing members and prospective members (different post cards to each group).
- Calling campaigns to drive renewals. Calling campaign for new members has not started.
- Dues in installments launched
- Referral program launched
- New member participation bonus launched
- Section Membership drive in development process.
Membership demographics by bar admit date & other
Our membership by bar admit date (as an indicator of age) shows how reliant we are on members admitted since 2009 and highlights the need for programs to grow the ranks of more newly admitted lawyers (as of November 15th):

<table>
<thead>
<tr>
<th>All Attorneys</th>
<th>06/01/2014 - 6/30/2015</th>
<th>135</th>
<th>2%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7/1/2013 - 5/31/2014</td>
<td>151</td>
<td>2%</td>
</tr>
<tr>
<td></td>
<td>7/1/2012 - 6/30/2013</td>
<td>175</td>
<td>2%</td>
</tr>
<tr>
<td></td>
<td>7/1/2009 - 6/30/2012</td>
<td>429</td>
<td>5%</td>
</tr>
<tr>
<td>Admitted prior to 2009</td>
<td>5912</td>
<td>75%</td>
<td></td>
</tr>
<tr>
<td>Attorneys over 75 years old</td>
<td>279</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>Retired</td>
<td>164</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>Hardship Waiver</td>
<td>30</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>Faculty (Law School Group)</td>
<td>106</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>Out of State (all dates)</td>
<td>467</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7848</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Membership initiatives in discussion
The Membership Committee met on October 21 to discuss the state of membership and the following projects:

1. Review of Research Systems (FastCase v. Casemaker) as it relates to member usage. They will use the law librarian’s technical report and “test drive” both systems to form a recommendation.

2. Review of membership dues categories & structure. They will provide input on whether and how we might improve our membership categories to increase overall membership. This would include both categories of membership and associated dues structures. Specific questions include:
   a) Should we offer a greater discount to Government Service Attorneys, Judges and Legal Service Attorneys? Members of this group have asserted that (i) many of the traditional benefits to practicing attorneys are not as valuable to those in this practice, and (ii) their compensation structure is different from a practicing attorney and that dues should be more heavily discounted.
   b) Should we offer a group rate to certain government or legal service agencies, as we do for law school faculty?
   c) Should we create a dues category (other than Associate Member) for Attorneys who are licensed to practice but work in non-legal jobs (e.g., jobs that do not require a law degree or bar admission).

3. Ongoing review of membership benefits and programs.
## Membership Detail

<table>
<thead>
<tr>
<th>In-state Attorneys without special payment status (by admit date)</th>
<th>As of December 1, 2014</th>
<th>As of November 6, 2014</th>
<th>As of December 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Dues</td>
<td>Members</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>06/01/2014 - 6/30/2015</td>
<td>$ -</td>
<td>190</td>
<td>134</td>
</tr>
<tr>
<td>7/1/2013 - 5/31/2014</td>
<td>$ 140</td>
<td>157</td>
<td>140</td>
</tr>
<tr>
<td>7/1/2012 - 6/30/2013</td>
<td>$ 195</td>
<td>166</td>
<td>163</td>
</tr>
<tr>
<td>7/1/2009 - 6/30/2012</td>
<td>$ 230</td>
<td>397</td>
<td>392</td>
</tr>
<tr>
<td>Admitted prior to 2009</td>
<td>$ 280</td>
<td>5563</td>
<td>5518</td>
</tr>
<tr>
<td>Attorneys over 75 years old</td>
<td>$ 125</td>
<td>256</td>
<td>254</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>6729</strong></td>
<td><strong>6601</strong></td>
<td><strong>6889</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Government Service Attorneys, Judges, Legal Service Attorneys</th>
<th>As of December 1, 2014</th>
<th>As of November 6, 2014</th>
<th>As of December 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Dues</td>
<td>Members</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>06/01/2014 - 6/30/2015</td>
<td>$ -</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>7/1/2013 - 5/31/2014</td>
<td>$ 110</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>7/1/2012 - 6/30/2013</td>
<td>$ 160</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>7/1/2009 - 6/30/2012</td>
<td>$ 180</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>Admitted prior to 2009</td>
<td>$ 220</td>
<td>397</td>
<td>394</td>
</tr>
<tr>
<td>Attorneys over 75 years old</td>
<td>$ 95</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>485</strong></td>
<td><strong>480</strong></td>
<td><strong>496</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Attorneys with Discounted Dues</th>
<th>As of December 1, 2014</th>
<th>As of November 6, 2014</th>
<th>As of December 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Dues</td>
<td>Members</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>Retired</td>
<td>Free</td>
<td>164</td>
<td>164</td>
</tr>
<tr>
<td>Hardship Waiver</td>
<td>50%</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Faculty (Law School Group)</td>
<td>Flat</td>
<td>106</td>
<td>106</td>
</tr>
<tr>
<td>Affinity</td>
<td>Flat</td>
<td></td>
<td>21</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>300</strong></td>
<td><strong>300</strong></td>
<td><strong>293</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Out of State Attorneys</th>
<th>As of December 1, 2014</th>
<th>As of November 6, 2014</th>
<th>As of December 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Dues</td>
<td>Members</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>All admittance dates</td>
<td>$ 160</td>
<td>470</td>
<td>467</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non Attorneys</th>
<th>As of December 1, 2014</th>
<th>As of November 6, 2014</th>
<th>As of December 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Dues</td>
<td>Members</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td>Law Students</td>
<td>$ -</td>
<td>733</td>
<td>780</td>
</tr>
<tr>
<td>Paralegal Students</td>
<td>$ -</td>
<td>251</td>
<td>247</td>
</tr>
<tr>
<td>Associate Members</td>
<td>$ 85</td>
<td>179</td>
<td>174</td>
</tr>
<tr>
<td>Public Service Employees</td>
<td>$ 67</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1182</strong></td>
<td><strong>1220</strong></td>
<td><strong>951</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Membership</th>
<th>As of December 1, 2014</th>
<th>As of November 6, 2014</th>
<th>As of December 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Dues</td>
<td>Members</td>
<td>Change</td>
<td>% Change</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>9166</td>
<td>9068</td>
<td>9135</td>
</tr>
</tbody>
</table>
The Connecticut Bar Association Salutes Its 100% Club Members

The following firms have reached the 100% Club milestone—all attorneys at these firms are members of the Connecticut Bar Association:

**Firms with more than 10 Attorneys**

Axinn Veltrop & Harkrider LLP  
Berchem Moses & Devlin PC  
Bershtein Volpe & McKeon PC  
Brody Wilkinson PC  
Brown Jacobson PC  
Brown Rudnick LLP  
Cacace Tusch & Santagata  
Carmody Torrance Sandak & Hennessey LLP  
Cohen and Wolf PC  
Collins Hannafin Garamella Jaber & Tuozzolo PC  
Cooney Scully and Dowling  
Cramer & Anderson LLP  
DanaherLagnese PC  
Gilbrede Tusa Last & Spellane LLC  
Gordon Muir and Foley LLP  
Halloran & Sage LLP  
Hinckley Allen & Snyder LLP  
Howard Kohn Sprague & FitzGerald LLP  
Ivey Barnum & O'Mara LLC  
Kahan Kerensky & Capossela LLC  
Kainen Escalera & McHale PC  
Lynch Traub Keefe & Errante PC  
Mayo Crowe LLC  
McCarter & English LLP  
McGann Bartlett & Brown LLC  
Milano & Wanat LLC  
Montstream & May LLP  
Neubert Pepe & Monteith PC  
Nuzzo & Roberts LLC  
Parrett Porto Parese & Colwell PC  
Pomeranz Drayton & Stabnick LLC  
Pullman & Comley LLC  
Regnier Taylor Curran & Eddy  
Reid and Riege PC  
Rogin Nassau LLC  
Saxe Doernberger & Vita PC  
Secor Cassidy & McPartland PC  
Shipman & Goodwin LLP  
Siegel O'Connor O'Donnell & Beck PC  
Suisman Shapiro  
Susman Duffy and Segaloff PC  
The Pellegrino Law Firm PC  
Updike Kelly & Spellacy PC  
Waller Smith & Palmer PC  
Willinger Willinger & Bucci PC  
Wofsey Rosen Kwasinski & Kuriansky LLP  
Zangari Cohn Cuthbertson PC  
Zeisler & Zeisler PC  
Zeldes Needle & Cooper PC

**Firms with 6 to 9 Attorneys**

Ackerly Brown LLP  
Berman Bourns Aaron & Dembo LLC  
Broder & Orland  
Budlong & Barrett LLC  
Chinigo Leone Maruoz  
Chipman Mazzucco  
City of Hartford  
Coan Lewendon Gulliver & Miltenberger LLC  
Conway Londregan Sheehan & Monaco PC  
Cranmore FitzGerald & Meaney  
Curtis Brinckerhoff & Barrett PC  
D'Amico Griffin & Pettinicchi LLC  
Donahue Durham & Noonan PC  
Dzialo Pickett & Allen PC  
Farrell Geenty Sheeley Boccalat & Guarino PC  
Fogarty Cohen Selby & Nemiroff LLC  
Ford & Paulekas LLP  
Garrison Levin-Epstein Richardson Fitzgerald & Pirrotti PC  
Gesmonde Pietrosimone & Sgrignani LLC  
Horton Shields & Knox PC  
Jacobs Walker Rice & Barry LLC  
Livingston Adler Pulda Meiklejohn & Kelly PC  
MacDermid Reynolds & Glissman PC  
Michelson Kane Royster & Barger PC  
Mulvey Oliver Gould & Crotta  
Murphy Laudati Kiel Buttler & Rattigan LLC  
Schoonmaker George & Blomberg PC  
Tinley Nastri Renehan & Dost LLP  
Tobin Carberry O'Malley Riley & Selinger PC  
Ury & Moskow LLC  
Yamin & Grant LLC
Dear Attorneys Dubois and Brown,

As you may know, for a number of years the CBA has shared its membership list with Connecticut Legal Services, New Haven Legal Assistance Association, and Greater Hartford Legal Aid. This allows us to send fundraising letters and other materials to CBA members. We split the list among the three agencies based on service area, so CBA members only receive mailings from one legal aid agency. We usually receive an excel spreadsheet from the CBA and split the list among ourselves.

Last year, the House of Delegates approved the sharing of this list with the legal aid agencies. Approval was limited to use of the list for two mailings in 2014.

We’d like to request approval for the use of the CBA’s membership list in 2015 for two mailings and, if possible (and the HOD is willing) approval of use of the list for an open-ended period of time, limited to two mailings per calendar year.

I believe there is a meeting of the HOD in January; Alexis Smith suggested I contact you both about adding this item to the agenda. Please let me know if this can be added, or if there is another person I should reach out to in regards to this matter.

Please let me know if you have any questions or need additional information.

Thanks,

Avery Moore