2015: The Challenge

• Where do you want profession to be?
  o Preferred future …

• What can the Association do?

• What will you do?

This section consists of outlines produced by groups of attendees consisting of various themes that the conference focused on, desired outcomes or worlds in the Year 2015, and work that the Association, as well as individuals and law firms, could undertake to achieve such preferred outcomes.
• Communication & Information
• Education
• Public Relations & Marketing
• Practice Support
• Access & Service Delivery
• Inclusion & Connectedness
THEMES

• Respect
• Recognition
• Self-determination
• Relevance
• Resources
• Work/life balance
• Control
• Understanding of the value of the legal profession
• Rewarding career
• Fair compensation
• Quality/ethical practice
• Efficiency
• Ability to make a difference
• Fear
• Representation
• More diversity in Bar
• Appreciation of value of legal services
• More efficient courts
• Affordability
• Communications & listening
• Technology driven
• Rules – both consumer & lawyer friendly
• High quality of legal services
• High quality of life
• Supply = demand → Ratio of lawyers
• World-wide practice
• Different forums for disputes
• Variety of legal service providers
• Trained advocates
• Paralegals
• Community oriented practice, not $ driven
• Expansion of value billing
• Better practices for alternative fee structure
• Universal Bar Membership
• Market driven legal services
• More discussions about
  o lack of diversity
  o embrace the change
  o more forums for discussion – survey
  o open to welcoming diversity
  o encourage law schools to be more diverse
     ▪ provide language instruction
     ▪ hire lawyers from diverse backgrounds
     ▪ survey on language skills
• Affordability → alternative
  o Dispute arena
  o Proposing changes to legislature
  o Help desk
  o Discussions with Court
  o Dissect procedure of case
• Education of value of lawyers
  o PR campaign
  o Courts holding Pro Se to rules
  o Educate clients/options
• Technology → Casemaker
  o Create a form bank (PDF fillable)
  o Kiosk system – Association charges a fee
• Civility in the Association of members
• Fear to refer and lose a client
PREFERRED FUTURE

- A profession in unity
- A profession that recognizes and supports its members
- A profession that welcomes diversity of opinion
- A profession that enhances opportunity for income, or balance or other personal goals
- A profession that remains civilized and civil

- We have developed a way to communicate the value of services
- Institutional advertising
  - Re: lawyers issue spot.
- Education
- Fiduciary obligation to clients
- Obligations to rule of law
WHAT WILL WE SEE IN TEN YEARS?

• Shift in billing approaches to clients
• Courts monitoring payments in marital cases
• Ethical rules may need changing
• We have transitioned into a system of compensation /representation that provides protection to clients and attorneys
  » More education about lawyers and their value
• Lawyers are perceived as necessary
• Courts will be perceived as fair and efficient
• ADR used appropriately
• All advocates held to the same standard
• Court supervision of pro se litigants/ hold them to all rules
• Aspirational rules re pro bono
• 50 hours of mandatory pro bono or cash
EXPAND LEGAL SERVICES

Create opportunities

- The law schools have developed a plan to enhance public education
- Educate the law students
- Law school loans → public policy
- The profession is valued. The impact of having a lawyer can be profound and last down through the generations.
- Attorneys are necessary for a civil society
- Help public understand:
  - Make a difference
  - Help people
  - Problem solvers

BAR: make more opportunities for school involvement and arrange participation

WHAT CAN YOU DO?
VISION FOR 2015

• Improve image of lawyers
  o Trusted advisors
  o Counselors

• Improve client satisfaction
  o Billing options
  o Technology to improve communication and access

• Provide options other than litigation and adversarial system
  o ADR
  o Mediation

• Educate public and clients which in turn improves image and satisfaction

• Proactive using technology
  o Communication
    ▪ E-mail, fax, cell phone
  o Keeping personal contact & using technology together
MARKETING & EDUCATION

• Newspaper Articles
  o Instead of just Bar News articles –
    public distribution papers
    ▪ Lawyers do good things that don’t 
      get publicized
  o Dedicate part of dues to public relations

• Educate lawyers about client satisfaction 
  problems

• Training (CLE’s)

• CLE’s on business of law
  o School classes on business of law
  o Billing options
  o How best to communicate with clients –
    setting expectations
  o Spread the work with other lawyers

• Bar makes recommendations to law schools

• Law schools need to cover practical skills
  o Client relationships

• Lay people on bar committees or focus group
  o To discuss public perception
  o Not only feedback but to outreach
• New Lawyers
  o Education
    ▪ Client communication/relations
    ▪ Billing
    ▪ Business of law

TECHNOLOGY

• Training for lawyers how to use new technology
  o How to use technology to communicate with clients
  o How to set rules for use of technology
JUST DO IT!

• No committee
• No conference

• Leadership takes action to implement
  o Education
  o Public relations

WHAT CAN WE DO?

• Volunteer to conduct CLE’s or mid-winter presentation

• Check back with Bar leadership re: implementation
ACTION PLAN

1. **Diversity:**
   a. Create a welcoming environment by opening up a discussion of diversity
   b. Forum on a dialogue of cultural diversity of bar members and clients (CLE)
   c. Encourage law firms and courts to hire people from diverse backgrounds

2. **Recognizing value of lawyers and their services**
   a. Educate through PR campaign
   b. Positive articles about what lawyers do for their communities
   c. Forums with community about rule of law and constitution

3. **Technology**
   a. Demystify ECF filing (“Basics 101”)
   b. Dialogue with legislature about electronic filing in State court
   c. Gather information about electronic filing in other states
   d. Programs about what technology is available to lawyers and law firms and what other NH lawyers are using
   e. Encourage continuance of Casemaker (inclusion of states)
   f. Email link to all members from the website

4. **Value billing**
   a. Look into what other firms are doing on alternative billing out there

5. **Civility/inclusion**
   a. Board of Governors/Courts introduce themselves to people at events
   b. Encourage all senior members to sign up for mentoring
   c. All judges should not sit together at events
“A MATTER OF ACTION”
ROAD MAP

• “Lobbying” (as permissible)
• Concerted action
• Money to local/county bars to facilitate face-to-face opportunities
• Bar should hire PR firm to:
  o Make public aware of value of lawyers
  o Public service initiatives
  o Explain how justice system works
• Facilitate health and malpractice insurance coverage
• Stress-related help
• Get members to work together to achieve life/work balance framework
• Unionization of lawyers
• CLE’s
  o More useful
  o Direct effect on increased revenues
• Listserv of real use
• Do better job to reach out to members (modeled on NH Trial Lawyers Assoc.)
LOBBY FOR CHANGE?

- Better screening of cases
  - Final decisions made at screening stage (species of “summary judgment”)
- Better compensation for public sector employees
- Clearing house
  - Mandatory pro bono
- Work/life balance (overall)
- Eliminate need to work crazy hours
- Value-billing (but how does this apply in litigation cases?)
- Stress – Reduce the Stress
- More family time
- Some NH courts have oppressive scheduling
  - Lobby for change?
- More civility – more face-to-face time between lawyers
- Greater respect for justice system
- Public education and outreach
- Concrete steps → firm schedule / time line
- 100% public access to lawyers (same as teachers)
  - “Unionized lawyers?” (like doctors?)
- Eliminate limited liability shields (globally)
  - (Disregarding market effects)
  - Deep satisfaction with craftsmanship and quality of my work
  - Enough resources (time, money, personnel, etc) to have these
  - Socially redeeming value to work

- Lobby – restoration of prosecutorial immunity (eroded in last 15 years)

- More opportunities to get together in non-practice settings
- Stem erosion of lawyer-to-lawyer-to-judge social contact (eroding due to schedule demands)
- Growth in size of bar has impacted social interaction
- Responsibility to filter problems
- Everyone should have access to legal representation
- Why shouldn’t lawyers be paid by government
- Mandatory pro bono out of law school
- Better pay for public sector attorneys
- Public sector
  - Serves executive but regulated by judiciary --- Conflict
- Need to create access and affordability
- Don’t want to be just hired gun
- Officials of court sworn to preserve integrity of legal system
- Resource allocation
- Reduce adversarial process with mandatory mediation program
- Collaborative law model
- Avoid litigation
- Parties may be more willing to submit to this system
- This model may be amenable to flat fee
- Criminal law prosecution model:
  - Open discussion/exchange between prosecutor and defense counsel
  - Negotiation – court assistance to extent practical
  - Trial
- Real satisfaction by upholding “real ideals” from law school.
- At the end of career, ability to apply great experience to valuable pro bono representation.
- Public tax to provide fund to enable lawyers to provide representation to all state residents who need it.
- Paradigm shift to remove private cases from system.
THE FUTURE
2010 – 1015

- Lawyers still relevant and needed, appreciated + high quality of life
- Everyone has access to a lawyer when needed (civil Gideon)
- High standard of practice and efficient recourse for failure (civil & criminal) to meet
- Dispute resolution system that is
  - Respected
  - Efficient
  - Fair
  - Reflects reality of MJP [multi jurisdictional practice] (integrate the best)
  - Affordable (when appropriate)
  - Accessible → Technology
    - Improve
    - Lawyer >> how to manage practice
- Gate keeper
- Public
  - Understands effective legal system, due process and values rule of law
- Professional conduct
- Reasonable norms
  - Client expectations
- Guide posts for work/life balance
- Mediation
- Engage legislature to enact civil Gideon (services Chapman)
- Funding
  - Decrease criminal sentences
- Continue with lawyer in schools
- Association resources for those who practice here (wherever from)
- Challenge = How can Association connect its members?
  - Association rep for law practice management & law office management service
  - Human resources/technology/software revisions, hands on consultation
I. PREFERRED SCENARIO – 2015

1) Access available to all but preferably with counsel and improved mechanism to process Pro Se (for those who don’t want counsel)
   Loan forgiveness, Americorp, civil legal services, Pro Bono requirements

2) The legal needs being unmet in 2005 are being met in 2015
   a) e.g. disability rights, class actions
   b) Legislation / civil penalties to counter disappearance of help for legal needs, which is the current trend. Use Rita as impetus.

3) Courts are adequately funded and technologically current
   a) ADR?
   b) Specialized courts?
   c) Rocket docket – specialized with judges with particular expertise
   d) Unbundled judicial services
   e) Educate legislature about importance of well funded courts.

4) Practice regulated to assure competence/integrity

Recognition that geography and boundaries are of less significance. Develop recommendations to accomplish this.

II. BAR’S ROLE

1) Continued cooperation and communication with Chief Justice and Courts in general
2) Be a leader in technological change (Casemaker) → “supersize me”
3) Civics Education – role of courts and lawyers in society
   a) Full time P.R./education/etc.
   b) Public forums/Outreach
   c) Encourage individual civic/non-profit involvement
4) Increasing Bar staff to provide continuity of efforts and be a face for Bar to deal with public concerns, etc.
5) Bar Foundation?
III. WHAT CAN WE DO AS LAWYERS, JUDGES, SECTIONS AND COMMITTEES?

1) Judges out in Outreach with public, Legislature
2) Bring people to court, including school classes, to see it work by co-coordinating with other groups (i.e. RSVP, AARP, etc.)
3) Building on Mock Trial program, Lawyer in Every School, get more bang per buck
   i) Publicize in local media
   ii) Continue involvement of participants, parents
4) Committee on Cooperation with Courts – smaller sub-groups Outreach to Legislators, etc.
5) Invite a/your legislator to court
6) Get involved in courthouse design to make them suitable, comfortable, amenable to up-to-date technology, and a changing legal system – ADR?
7) A dress code for all
8) Make sure all lawyers are aware of this and think about how to move on our action plans – again coordinate (minutes on Bar’s website)
9) Coordinate committee efforts through minutes, etc.
10) Continued outreach to new bar members through New Lawyers Committee
11) Involve more through video conferencing
12) Work with Chief Justice to require or make it uncomfortable not for every NHBA member to do one thing a year – lawline, speak to rotary, etc. in terms of outreach to the public.
13) Outreach to other professions
ASSIGNMENT:

1) Envision Future
   a) Not just litigation
   b) Variations OK around general consensus

2) How NHBA can help or at least not hurt

3) What lawyers – firms – sections can do

I. ENVISION WORLD

1) Law as art
2) Law as foreseeing problems
3) Lawyer as 1 stop-shop
   = Publicize value added

Life with MDP

Life without MDP

Increase access to Lawyers

Increase alternatives to trial

Unbundling judicial services
   Pre-litigation discovery

Unbundling legal services

Encourage networking with other attorneys – services, practice, states

WORK/LIFE

- Flexibility
- Telecommuting
- Increase alternatives to billable hour
  - flex
  - flat
  - flat plus bump
II. ROLE OF NHBA

1) Maintain ethics and professional image during change
2) Publicize added value
   a) Association marketing “point of purchase”
   b) Streaming court proceedings
3) Improving CLE
   a) Access over distance
   b) “Satellite” locations
4) Increase access to section and committee meetings over distance
5) More diversity and locations of social/networking events (counteract compartmentalization and isolation caused by flex-tech-unbundling)
6) Increase Bench-Bar communication and socialization
7) Increase access to attorneys for poor/midclass
   Increase pro bono/reduced fee
   Increase $ contributions for legal services. Use NHBF as conduit
8) Increase role of pro bono referral system
   o resources
   o publish resources

III. ROLE OF LAWYERS/FIRMS

1) Change culture to:
   a) Embrace pro bono as benefit to firm & client
   b) Realize it’s not all about billable hours
   c) Work/life balance
2) Be ambassadors for profession (LRE participation)
New Hampshire Bar Association
2005 Fall Conference
“A View of the Preferred Future”

Compiled by Marilyn MacNamara for Discussion Group 3, Saturday, 9/24/05

THE FUTURE OF THE PROFESSION

THE YEAR 2015

In 2015, the profession of law in New Hampshire is one that welcomes diversity of opinion, race, ethnicity, gender and practice area, to name a few elements of diversity.

Whether within or without the Bar Association, members of the profession recognize and support each other, hold their professional value and ethics in the highest regard and work to enhance the public’s perception of lawyers and the rule of law through volunteer involvement with schools or other institutions and 50 hours of support for Pro Bono service to low income clients and/or the equivalent in cash (measured by the billable hour rate charged to private clients or some other fair measure of the value of the individual’s compensation and contribution to the public good).

Opportunities for earning income are there for those who wish to be driven principally by economics but there is also support and tolerance for those who wish to balance income with outside interests or obligations.

The public image of lawyers as professionals has returned to one of respect and trust and the public has a better understanding of how lawyers contribute value and solve problems.

The “problem of pro se’s” hasn’t been solved but it’s been controlled through a multi-dimensional approach. First, the court and lawyers have changed rules and practices and now monitor payment of fees in domestic cases and other cases so that lawyers will be assured of fair compensation and clients will feel that costs are being controlled—much like costs are reviewed and controlled in other areas of law where assets and income are considered (i.e., thinking of marital property as an estate). Also, the court has an office of pro se support to provide procedural assistance to litigants—the flip side is that the procedural rules are enforced just as for lawyers.

The legislature has been supportive of the provision of legal services and has funded, at the very least, a comprehensive loan forgiveness program to enable lawyers to work in the public interest, including the lawyers who work for the State of New Hampshire as well as legal services and other selected activities.

Pierce Law has become active in teaching law students, with cooperation from NH professionals, about the practice of law and Pierce Law has become active in teaching NH lawyers about technology.

What does the Bar Association do?

Keeps members informed of technology advances and management issues and practices.

Promotes diversity by purposely involving people from many different types of practice, points of view, ethnicities, age, gender, ethnicity and so forth.
Launches a ten year plan starting now to tell the story of the profession to the public—why lawyers have value, what they contribute, the impact of mistakes that pro se clients make on their future and those of their children.

Develops a stronger and more active role in schools and coordinates participation by lawyers in schools not just once a year for law day, but regularly.

Serves as a resource for all attorneys—provides a welcome place to come with any problem and finds a way to help when asked.

Stays in touch with bar members through mailings, listserves, section meetings and personal visits and contacts. Find the isolated lawyers and bring them into the mix.

Bar Association looks for ways to enhance public understanding of lawyers and comes to the defense of the profession, including the court system, when unfairly attacked.

The Bar Association works closely with Pierce Law to develop programming that contributes to law school education and to those in the profession (ps, and other schools in the region as well).

The Bar Association’s CLE programs include programs about professionalism and give concrete tools to lawyers in NH who deal with uncivil colleagues, difficult employees, partners, associates—Human Resource Center.

What can we [as lawyers] do?
Participate in schools.
Do Pro Bono work.
Contribute Money for legal services
Participate in Bar Committees and Sections.
Speak up, early and often
Read the Bar News and stay informed.
Don’t whine, do something.