

ABA BAR LEADER
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Ready, set, change

Bar associations look toward the future

By Robert J. Bruchler



Fred Ury preaches the gospel of change, adaptation, and decisive decision making to bar leaders across the country. They are sometimes stunned and silenced by his sobering view of the future, so it was with some satisfaction that he noticed a bar executive eagerly scribbling notes and tapping on his calculator during a recent presentation.

Afterward, Ury asked the man what he found so compelling in the discussion.

“Oh, I stopped listening a few minutes in,” Ury recalls him saying. “After what you said, I said, ‘I’m done,’ so I was trying to figure how much it would take for me to retire.”

What lies ahead for bar associations and foundations might not really be so bleak, asserts Ury, president-elect of the National Conference of Bar Presidents and past president of the Connecticut Bar Association. But he, along with other observers and experts, believes that bars and similar associations are now confronting some of the most significant challenges to their structure—and their survival—that they have ever had to face.

“There are fundamental and irreversible changes that have resulted in a totally new landscape for what associations were designed to do,” agrees Harrison Coerver, a longtime strategist and adviser to associations. “It’s not that the old model was bad. It’s just a different environment now.”

From economic upheaval to tweets, from global trade to the Skype Town Hall, the world of business, communication, and leisure continues to evolve and change. The legal profession and the people who practice in it are no different: Just ask the users of the iPhone Fastcase app, or the increasing numbers of solo practitioners with virtual law offices.

Factor in droves of retiring Baby Boomers, new lawyers saddled with burdensome debt, and computer software titles like “No-Fault Divorce” selling for \$49, and it becomes clear to Coerver and others that bar associations need to shift their thinking to meet evolving member needs.

And fast.

Bar leaders must be willing to aggressively confront painful programming decisions, risky business choices, and untested strategies to help their associations remain relevant to current and potential members in the next few years ahead, Coerver, Ury, and others say. Failure to do so, they warn, puts them at risk for consolidation, closure, or relegation to marginal bar functions.

Despite the challenge, they say, bar associations are well positioned to play a major role in making their organizations—and the legal profession—more relevant and more responsive in the 21st century.

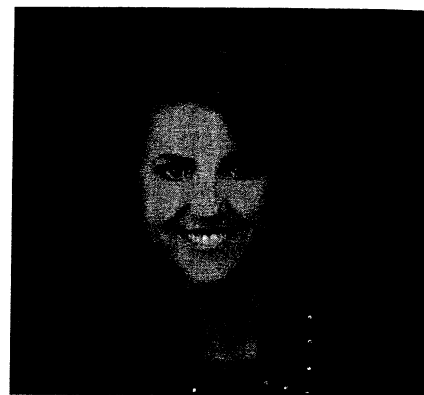
What’s going on out there?

“For the first time, association leaders are confronting the limits of association orthodoxy,” says Jeff De Cagna, a veteran strategy adviser to associations through his firm, Principled Innovation. “We have pushed things to the edge. I now believe we are at the edge.”

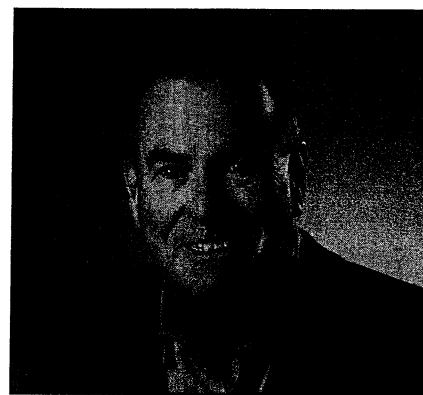
That edge, De Cagna and others say, has been developing for years. What Ury calls the three most significant changes—globalization, communications, and demographics—have been working together, along with ever-improving technology, to make 2011 so vastly different from the 1970s and ’80s.

“What we are seeing today is an aggregate effect of three decades of simple change,” says De Cagna, himself a former association executive who currently serves on the board of directors of the American Society of Association Executives Center for Association Leadership. “It’s not about change management any more. It’s about recognizing the value of societal transformation. [And] we are grossly underestimating the impact of our societal transformation.”

An attorney for more than three decades, Ury has only to think back to the early years of his practice to see the transformation in the legal profession. Back then, tax time in April meant a roomful of lawyers busy with nothing but preparing tax returns for clients. Today, tax work is done mostly via



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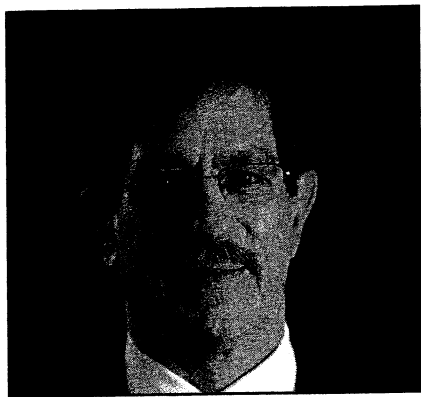


Harrison Coerver: “There are fundamental and irreversible changes that have resulted in a totally new landscape for what associations were designed to do. It’s not that the old model was bad. It’s just a different environment now.”

software and online, with no lawyers in sight. And the rapid development of communications and technology is readily apparent to him.

“People walk into my office with printouts of reviews of me they’ve read online,” he says. “They come in with the statute that applies to their case underlined that they printed off from the Internet. People are *sampling* us.”

Changes have prompted many attorneys to look less like traditional, legally schooled lawyers and more like business consultants who help their clients in specialized areas, according to Thomas Morgan, a George Washington University Law School professor and author of *The Vanishing American Lawyer*. The unprecedented loss of thousands of attorney jobs over the last few years, he says, points up the need



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Mary Loewenguth: "The word no can't be part of our vocabulary."

for lawyers to take a closer look at finding law-related niches that may prove more successful.

While Jim Calloway, director of the Management Assistance Program at the Oklahoma Bar Association, doesn't think lawyers will "completely vanish," he does think many will have to change their business models to compete with the increase in self-representation and nonlawyer document preparers, and to address an overreliance on billable hours. He points to surveys that show households with low to moderate incomes have a growing number of unmet legal needs.

"Maybe some lawyers won't get rich, but they can make some money on a lot of 30-minute meetings," he says. "There's some room for business between the \$79 divorce and the \$5,000 divorce. Or maybe they can charge \$100 a student to teach a small claims class."

Barriers to change

As the legal profession continues to navigate the changing landscape, there are growing concerns that many bar associations are struggling with the same sorts of issues as they try to help their members. That's not surprising to association industry consultant, speaker, and author Mary Byers.

"Most of what today's associations are doing is based on what they did dozens of years ago. But things have changed," says Byers, who recently collaborated with Coerver on the book, *Race for Relevance: 5 Radical Changes for Associations*.

A classic example, Coerver says, is how associations use technology. Surveys have shown that associations spend about 4 percent of their total revenues on technology—less than what the average association spends on meals at meetings and other functions. "Most associations are in a defensive mode when it comes to technology," he believes. "They upgrade out of default."

Indeed, many associations are reluctant to make significant changes, Byers and Coerver say, often for fear of alienating or losing members. And that's a problem—particularly when it comes to embracing technology—says Michael Rogers, a Fortune 500 consultant and author of the Practical Futurist column for MSNBC.com.

"Every organization has a bit of what I call an 'immune system' that tends to attack ideas that look foreign or dangerous. Usually, that's healthy—unless it blocks progress," Rogers says. "And certainly, the whole virtual world would seem to be very threatening to established ways of gaining and supporting members."

A combination of denial, nostalgia, and "psychological comfort" also keeps many associations from seriously addressing major changes, De Cagna notes. He sensed some of that discomfort when he spoke at this year's ABA Bar Leadership Institute about the need to address change.

"There is an attitude of respecting the tradition of law, but law is moving very rapidly right now," he says.

"You can't wait for the next charismatic leaders to come up, or the next budget cycle."

Says Calloway, "By our nature, we tend to be slow to move. But now is not the time for slow moving."

Grab the opportunities

The way Bryan Hetherington, president of the Monroe County (N.Y.) Bar Association sees it, there are two ways to view the type of changes encompassing the legal profession.

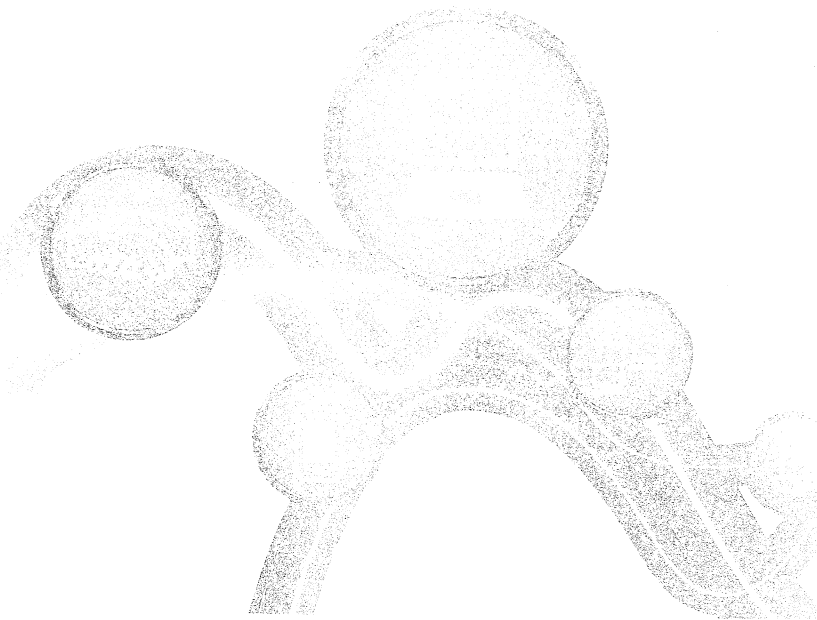
"It presents threats, or it presents sets of opportunities," he says. "We try to give lawyers and members the tools we need to cope with these changes. We have to be about helping our members respond to these changes thoughtfully. We think we're creating value for our members."

Many of the approaches that the 2,000-member bar takes—fostering technology, offering strong CLE, involving young lawyers in leadership, taking risks—are part of the proactive strategy that most associations should take as they look to thrive amid change and adaptation, observers and experts say.

It all begins, De Cagna and others believe, with a strong board and executive director who are ready to tackle difficult issues right away. "It begins with a seriousness of purpose," De Cagna says. "'Are we going to be serious, or are we just going to kick this down the road?'"



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Crucial to the effort, Coerver says, is a board that is “competency based,” rather than one that is composed mostly of older members who are on the board mainly because of longevity. This is a thorny issue for many associations, he concedes.

“We need people who have insight, who can engage leadership in conversation, who make gathering data a priority, who can analyze data and make the case for change,” he says.

Part of the conversation involves talking to members, not only to gauge their interests and desires, but also to make them aware that there is no going back to the old days, says Tom Lyons, a past president of the Rhode Island Bar Association who regularly partners with Ury to speak about the future of the legal profession and of bar associations.

“There’s no real improvement coming in the legal job market or the economy any time soon,” Lyons says. “You’re going to see more lawyers going solo, and bar associations can help these solos and small firms with start-up ideas.”

And talking to members doesn’t just mean sending out links to SurveyMonkey questionnaires, De Cagna and others say. While SurveyMonkey and other such tools can provide a quick (and useful) glimpse of members’ opinions of programs or services, it can often miss large segments of members who usually don’t respond to such surveys, as well as the in-depth knowledge that can be

culled from fewer, but more in-depth interviews and discussions.

“We need to do more listening,” Hetherington believes. “Surveys are good, but we have to put people together and talk.”

In their book, Byers and Coerver offer five “radical changes” that they believe associations such as bars need to take to navigate through the changes they face. They are:

- **Overhaul the governance model.** Byers says a board of five or six members, along with the executive director, will allow work to get done more quickly, with less unproductive debate on issues. “They don’t participate in social loafing, which is what happens when boards get bigger,” she believes. With a larger board, she says, “People figure, ‘Someone else will handle it,’ and things don’t get done.”

A BIG, BOLD SUCCESS STORY

Faced with stagnant membership, a hazy mission, and few prospects for growth, eight years ago, the Texas Trial Lawyers Association made a bold move—even by Texas standards.

The association tripled its membership dues.

“We had severe attrition [about 35 percent], but we expected it,” recalls Tommy Townsend, the association’s executive director. “But we provide value for those dues, and we didn’t back down from that value.”

Today, the association is nearly back to 2003 levels, there is a new headquarters building across from the state capitol, and the increased revenue has made the organization an influential voice for more than 2,300 trial lawyers in the state. While change did not come easy, Townsend says, it was vital to the association’s survival.

One of the critical first steps the association took to address its future, Townsend says, was to reach out to younger members. “We realized that we needed to reach out ... and quit being an old guys’ club,” Townsend says. “Our meetings got 10 to 15 years younger overnight.”

With an injection of five new, younger board members and an experienced association consultant—Harrison Coerver—the association took a thorough look at its mission and programs and opted for the dues increase as the chief way to support lobbying the state legislature on behalf of trial lawyers facing tort reform in Texas.

At the same time, the association beefed up its online services, increased educational opportunities, and provided exclusive content for association members, giving them increased value to match the increased dues. One of the most successful components of that effort was a Listserv that is “the preferred place for tort lawyers in Texas,” says Willie Chapman, the association’s communications director. “They call it their virtual law firm.”

The association honed its message by eliminating a broad, monthly newsletter in favor of an online edition that features only one in-depth story at a time.

Townsend’s advice to associations confronting change?

“Don’t table it. Just keep talking about it,” he says. “It wasn’t without a lot of internal bickering. These are all bright people with their own opinions. They’re risk-takers.”

—RJD

Empower the ED and staff.

Lawyers are trained to be lawyers, while an executive director and his or her staff have experience in running an association—and that's the job that needs to get done, Byers says. Adds Ury: "The executive directors are there for the long haul, and they have to buy in and embrace the fact that these changes are here for the long haul."

Rationalize the member market.

This can be a tough one for some associations to handle, according to Byers and Coerver, because it will likely mean losing members who might not be core to the association mission. "In trying to be all things to all people," Byers says, "we end up being nothing to anyone."

Rationalize programs, services, and activities.

Another tough one, experts say, because associations should seriously consider abandoning some programs and services that just aren't used much. A key question to ask, says Byers: "Knowing what we know now, would we start this program today?" If the answer is no, then it should probably go, she adds.

Bridge the technology gap. Developing and expanding online information and offerings is critical to growth, Byers and Coerver say. All members need to know about Facebook, YouTube, and the like—and how to use them to encourage communication, Coerver says.

Byers and Coerver urge bar associations to be proactive and begin the discussions and evaluations before they run into membership and programming trouble. "We're not saying that this is easy, or that it is for the faint of heart," Byers says. "Once you start the conversations, your path will become much clearer."

At the Monroe County bar, risk-taking and new approaches are part of the strategy, according to Hetherington and Executive Director Mary Loewenguth. Despite some reservations, the MCBA opted to take a very public stand on a controversial issue

involving public defenders. The bar has also broadened its CLE programs outside the city of Rochester after a large law firm in the city took its CLE business somewhere else. Those CLE programs were all made available online and through webinars.

The MCBA also faced a brief dilemma in reaching out to solos and small firms, Loewenguth says, when a chair couldn't be found to lead a proposed new committee for those members. At the suggestion of a member, a town hall-style meeting was still organized, giving solo and small-firm practitioners a chance to give program and membership feedback to the bar. "No can't be part of our vocabulary," Loewenguth believes.

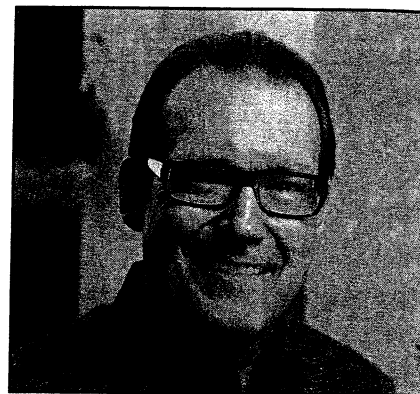
What will success require?

While the challenges to bar associations and foundations are likely to increase in the years ahead, observers and experts say, there will also be more opportunities for innovation and success. Bars that can harness their knowledge of the profession and combine it with technology will do well, Rogers predicts.

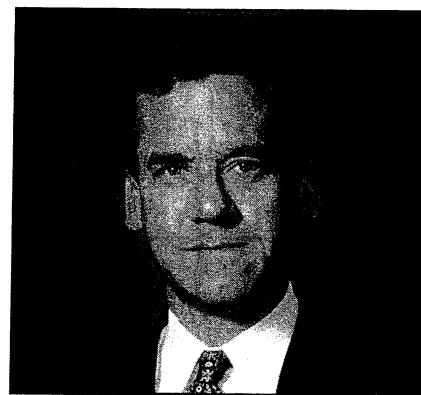
"I think the key service element going forward will be a combination of social networking and professional development," he says. "What's great about the virtual world is that it makes customization of content, and the creation of many defined-interest groups, very easy to do."

It is likely that the drive to specialize will continue in the legal profession, Morgan says, and bars should cater to that tendency. "There should be a greater focus on sections and committees," he believes. "If I [as a bar member] hang around more with the Antitrust Section than with the state bar as a whole, there should be opportunities there."

Another focus in the years ahead will be reaching out to young lawyers, while still meeting the expectations of several other generations—under the same bar roof. Getting members involved at a younger age will be key to keeping the association current, many experts say, as will keeping them involved in bar activities longer.



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"In the next five years," Ury predicts, "you'll see young lawyers driving the bus, especially with regard to technology."

Through it all, De Cagna says, leadership and knowledge will be vital to bar success.

"I think there is a huge opportunity to create value for 'new values' people," he says. "This is a time for courageous leadership, not leadership that is driven by self-interest, or just to get along. They need to be committed to the idea of change."

Not to act now, Hetherington agrees, could spell trouble.

"I think all bar associations are going to have to respond to these external changes," he says. "If we keep doing things the way we've been doing them, things are not going to end well for us." ■