

**Bar Year:** 2013-14

**Section Name:** Probate and Estate Planning Section

**Current Mission Statement<sup>1</sup>:** The purpose of the Probate and Estate Planning Section is to enhance and improve the practice and administration of law pertaining to probate and estate planning by the study of statutes, cases, and procedures; by the consideration, drafting, and active support or opposition of proposed legislation; by the providing of advice to courts during the course of pending litigation; by the sponsoring of meetings and institutes ((together with publishing and disseminating pamphlets, brochures, a journal of the Section, and legal writings) as a means of education members of the Bar and public, all in connection with advancing the proper preparation of wills, trusts, tax returns, and other documents; the efficient administration of trusts as well as estates of decedents, minors, incompetents, and missing persons; and the advance planning for the orderly disposition of property, minimization of taxes, and well-being of persons.

**2013-14 Officers and Council Members:**

<b>Officer</b>	<b>Name</b>	<b>Address</b>		
Chair	Thomas F. Sweeney	151 S. Old Woodward Ave. Suite 200 Birmingham, MI 48009	248-988- 5867	<a href="mailto:tsweeney@clarkhill.com">tsweeney@clarkhill.com</a>
Chair-Elect	Amy N. Morrissey	345 S. Division Street Ann Arbor, MI 48104-2203	734-995- 9731	<a href="mailto:amorrisey@westermanpc.com">amorrisey@westermanpc.com</a>
Vice Chair	Shaheen I. Imami	31300 Northwestern Hwy. Farmington Hills, MI 48334	248-865- 8810	<a href="mailto:sii@probateprince.com">sii@probateprince.com</a>
Secretary	James B. Steward	205 S. Main Street Ishpeming, MI 49849	906-485- 6311	<a href="mailto:jamessteward@sewardsheridan.com">jamessteward@sewardsheridan.com</a>
Treasurer	Marlaine C. Teahan	124 W. Allegan Street Suite 1000 Lansing, MI 48933	517-377- 0869	<a href="mailto:mteahan@fraserlawfirm.com">mteahan@fraserlawfirm.com</a>

<b>Member</b>	<b>Term Ends</b>	<b>Member</b>	<b>Term Ends</b>
Murkowski, Hon. David M.	2014	Ouellette, Patricia M.	2015
Taylor, Robert M.	2014	Spica, James P.	2015
Bearup, George F.	2014	Skidmore, David L.	2015
Kerr, J. David	2014	Brigman, Constance L.	2016
Ballard, Christopher A.	2014	Allan, Susan M.	2016

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<sup>1</sup> Proposed modification of Mission Statement will be considered at the Section's annual meeting on September 6, 2014.

<b>Member</b>	<b>Term Ends</b>	<b>Member</b>	<b>Term Ends</b>
Welber, Nancy H.	2014	Lentz, Marguerite M.	2016
Ard, W. Josh	2015	Vernon, Geoffrey R.	2016
Clark-Kreuer, Rhonda M.	2015	New Lorraine F.	2016
Lucas, David P.	2015	Marquardt, Michelle C.	2016

**Council Meeting Schedule:**

<b>Meeting Type</b>	<b>Date</b>	<b>Location</b>
Probate Council and Section Annual	September 8, 2012	University Club, Lansing
Probate Council Meeting	October 12, 2013	Townsend Hotel, Birmingham
Probate Council Meeting	November 16, 2013	University Club, Lansing
Probate Council Meeting	December 14, 2013	University Club, Lansing
Probate Council Meeting	January 18, 2014	University Club, Lansing
Probate Council Meeting	February 15, 2014	University Club, Lansing
Probate Council Meeting	March 15, 2014	University Club, Lansing
Probate Council Meeting	April 19, 2014	University Club, Lansing
Probate Council Meeting	June 7, 2014	University Club, Lansing
Probate Council Meeting	September 26, 2014	University Club, Lansing

**General Budget Information Balance Sheet as of May 31, 2014**

<b>Revenue</b>	
Membership Dues	\$115,290.00
Publishing Agreements	\$ 650.00
Other	<u>\$ 35.00</u>
Total Receipts	\$115,975.00

<b>Disbursements</b>	
Journal	\$ 8,908.28
Chairperson's Dinner	
Travel	\$ 13,440.93
Lobbying	\$ 20,000.00
Meetings	\$ 11,231.94
Long Range Planning	\$ 1,000.00
Publishing Agreements	\$ 0.00
Support For Annual Institute	\$ 11,866.68
Amicus Briefs	\$ 361.50
Electronic Communications	\$ 600.00
Postage	\$ 100.00
Telephone	\$ 9.03
Officers	\$ 1,350.00
Other	\$ <u>21.33</u>
Total Disbursements	\$ 67,789.69*
 Increase (Decrease)	 \$ 48,185.31

Fund Balance as of May 31, 2013 is \$254,481.91

\*There are substantial additional expenditures for the current year ending September 30, 2014 for which bills have not been received or paid.

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**Events and/or Seminars:**

The Section has a strong partnership with ICLE and co-sponsors a significant number of seminars on a variety of estate planning and administration topics each year with ICLE and does not offer any seminars independent of ICLE. Programs are offered live at locations throughout Michigan, as well as via the internet. The Section also has co-sponsored a Probate and Estate Planning Certificate with ICLE

Seminars co-sponsored by the Section with ICLE during the 2013-2014 Bar Year included the following:

<b>Event or Seminar Title</b>	<b>Date</b>	<b>Location</b>
Veteran's Benefits and the Claims administration Process	August 6, 2013	ICLE Studio
Michigan's Trust Decanting Rules	September 12, 2013	ICLE Studio
Fundamentals of Estate Planning	October 1, 2013	Plymouth
Drafting an Estate Plan for an Estate Under \$5 Million	October 23, 2013	Plymouth
Document Assembly Systems for Estate Planners	November 13, 2013	Novi
Planning Techniques for the Taxable Estate	December 10, 2013	Plymouth
Annual Drafting Estate Planning Documents	January 23, 2014	Grand Rapids
Annual Drafting Estate Planning Documents	February 13, 2014	Plymouth
Drafting an Estate Plan for an Estate Under \$5 Million	February 26, 2014	Plymouth
Annual Medicaid & Health Care Planning Update	April 3, 2014	Grand Rapids
Annual Medicaid & Health Care Planning Update	April 22, 2014	Plymouth
Estate Planning for Second Marriages	May 21, 2014	ICLE Studio
Litigating a Trust Contest	May 7, 2014	Acme
54 <sup>th</sup> Annual Probate & Estate Planning Institute	May 8-10-2014	Acme
54 <sup>th</sup> Annual Probate & Estate Planning Institute	June 13-14, 2014	Plymouth
Drafting an Estate Plan for an Estate Under \$4 Million	June 25, 2014	Plymouth

## **Legislative Issues:**

The Section remained very active with respect to legislation during the Section's 2013-2014 Bar Year.

**The Section drafted and supported through both public policy position statements and additional efforts, the following legislation enacted by the Legislature:**

- SB 31-32. Clarifies the insurable interests of trusts enacted as PA 7 of 2014 (SB 31) and PA 8 of 2014 (SB 32).
- HB 4382 and 4384. Permits Guardians to request DNR orders in a variety of circumstances, enacted as PA 155 of 2013 (HB 4382) and 157 of 2013 (HB 4384).

**In addition, the Section sought to influence and supported through public policy statements the following legislation which remain pending in the legislature:**

- HB 5366 Guardian and conservator fiduciary access to digital assets.\*
- HB 5367 Personal representative access to digital assets.\*
- HB 5368 Definitions relating to fiduciary access to digital assets.\*
- HB 5369 Attorney in fact access to digital assets.\*
- HB 5370 Trustee fiduciary access to digital assets.\*
- SB 144 Scheduling hearings for developmentally disabled minors before age 18.
- SB 177 Scheduling hearings for minors before age 18.
- SB 293 Personal representative access to online accounts.\*

\*While the Section supports these statutory efforts in concept, it believes legislation based on the NCCUSL model law would be preferable.

**In addition, the Section sought to influence and took policy positions in opposing parts all or part of the following legislation which remains pending in the legislature:**

- Proposed Amendments to HB 4382, 4383 and 4384. Prior to enactment of HB 4382 and HB 4384, the Section opposed amendments to these bills which are contrary to the public policy position previously taken by the Section. It supported HB 4382 and HB 4384.

- SB 465 and 466. Opposed adoption of proposed Uniform Adult Guardianship and Protective Proceedings Act (UAPPJA), (except the portion covered by replacement legislation proposed by the Council which was adopted).
- SB 743. Voluntary Bar membership.

**In addition, the Section has reviewed the following legislation or proposed legislation and in some cases has been drafting language. In some cases, the Section has taken a public policy position and in other cases no such position has been taken at this time.**

- SB 731 Appointment of funeral representative.
- SB 831 Would extend personal residence exemption for three years after death.
- HB 4013. Would permit exclusion of income from pooled income trusts arrangements from the amount of earned income used to determine eligibility for Medicaid. The Section has supported this legislation by public policy statement.
- HB 4690 Would modify requirements for real estate affidavits.
- HB 4810 Permits continued use of Personal Residence Exemption if resident in nursing home, (PA 40 of 2014)
- HB 5162 Disposition arrangements for decedents.
- MCL 600.308, 600.861, 600.863 and MCR 5.801, MCR 7.102(9), MCR 7.103(A)(2), MCR 7.108(E)(1) and (2), MCR 7.109(B)(1)(b), MCR 7.210(A)(1), MCR 7.210(B)(1)(b) and MCR 7.102. Drafting amendments to MCL 600.308 and the described court rules for purpose of providing that all appeals from probate court will be to court of appeals. This would also require repeal MCL 600.861 and 600.863. The Section has supported this proposed legislation and proposed court rules by virtue of a public policy statement.
- MCL 600.867, MCR 2.614, MCR 5.802 (and other affected rules) including MCR 7.208, 7.209. • Drafting amendments to MCL 600.867, and MCR 5.802, MCR 7.08(D), and MCR 7.209(A)(1), (B)(1),(F)(1); (G)(1) regarding automatic stays for appeals to conform them to rules regarding automatic stays in appeals from circuit courts. The Section has supported this proposed legislation and proposed court rules by virtue of a public policy statement.
- MCL 211.27a (7)(s). Drafting proposed technical amendment regarding uncapping for property tax purposes. Section has supported this amendment by virtue of a public policy statement..
- Proposed directed trustee legislation.
- Proposed domestic asset protection trust legislation

- Proposed amendments to Jury Instructions J1 170.44 & 179.10 regarding undue influence. The Section has made a public policy statement in opposition to this proposal.
- Proposed artificial reproductive technology legislation.
- Proposed legislation to relieve ILIT trustees from prudent investor rule.

**Other Activities.**

- Submitted Amicus brief to Court of Appeals in Ducharme v Ducharme.
- Involvement in Self Help Task Force.
- Review and drafting of proposed SCAO forms.
- Review of EPIC for possible amendments.
- Drafting of Patient Guidelines for Health Care Decision Making
- Reviewed and revised Section Bylaws and Mission Statement for approval by Section members at annual meeting.
- Recommended that Section members approve proposal that the sole means of delivery of the Probate and Estate Planning Journal will be by electronic delivery.
- Participation in statewide informational citizen outreach project in August, 2014
- Revision of Section pamphlets.
- Review and Support of Probate Judges Association proposal to eliminate probate inventory fee for revenue neutral increased filing fees.
- Initiation of new CLE program with ICLE on Experts in Estate Planning.

Dated: June 1, 2014

Respectfully submitted,

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Thomas F. Sweeney  
 Chair, Probate and Estate Planning Section  
 State Bar of Michigan