I. **Call to Order.** The Chair called the meeting of the Council of the Probate and Estate Planning Section to order at 10:22 a.m.

II. **Attendance.** Guests were introduced. [Snow, high wind, and white out conditions significantly affected attendance.]

A total of 5 officers and 13 members of the Council were present, representing a quorum.

A. **The following 5 officers of the Council were in attendance:**

   Amy N. Morrissey, Chair  
   Shaheen I. Imami, Chair Elect  
   James B. Steward, Vice-Chair  
   Marlaine C. Teahan, Secretary  
   Marguerite Munson Lentz, Treasurer

B. **The following 13 members of the Council were in attendance:**

   Susan M. Allan  
   W. Josh Ard  
   Christopher A. Ballard  
   Mark E. Kellogg  
   David P. Lucas  
   Raj A. Malviya  
   Michele C. Marquardt

   Richard C. Mills  
   Lorraine F. New  
   Patricia M. Ouellette  
   James P. Spica  
   Geoffrey R. Vernon  
   Nancy H. Welber

C. **The following 5 members were absent with excuse:**

   George F. Bearup  
   Constance L. Brigman  
   Rhonda M. Clark-Kreuer

   Hon. Michael L. Jaconette  
   David L.J.M. Skidmore

D. **The following ex-officio members of the Council were in attendance:**

   George W. Gregory

   Michael McClory

E. **The following guests were in attendance:**

   Rebecca Bechler  
   Raymond Harris  
   Robert B. Labe  
   Michael G. Lichterman

   Jeanne Murphy  
   Neal Nusholtz  
   Robert O'Reilly  
   Nicholas Vontroba
III. Minutes – Marlaine C. Teahan. The Minutes of the February 14, 2015 Council meeting were approved as corrected, by general consent.

IV. Treasurer's Report – Marguerite Munson Lentz. The State Bar’s financial report did not get to Ms. Lentz in time for preparation of a financial spreadsheet for January, 2015. A written report was included in the Agenda. The Treasurer’s Report was approved as submitted, by general consent.

V. Chairperson’s Report – Amy N. Morrissey. Ms. Morrissey welcomed those in attendance and reported on the following items:


• An email was received from the State Bar of Michigan (SBM) regarding the 50th anniversary of the Court of Appeals. Each Section has been asked to submit one case that has been the most influential in our practice area. Cases were suggested and discussed. Ms. Morrissey will submit a case for inclusion in the list of influential cases.

• An email was received from AARP requesting a meeting to discuss the UAGPPJA; Ms. Morrissey will reply and attend.

VI. Report of the Committee on Special Projects – Christopher A. Ballard

No action items were reported on and no votes were requested by CSP. A report was given regarding the following items discussed at the Committee on Special Projects (CSP):

• Community Property Trusts Ad Hoc Committee report;
• Insurance Committee report; and
• Artificial Reproductive Technology Committee report.

VII. Standing Committee Reports

A. Internal Governance

1. Budget – Marlaine C. Teahan reported that the Membership Committee will soon need money to fund their initiatives; this Committee is new and did not have a line item in this year's budget.


5. Nominating – George W. Gregory. The Nominating Committee consists of Mark Harder, George Gregory and Tom Sweeney. Those interested in serving as an officer or member of Probate Council should convey that interest to the Nominating Committee. In addition, individuals can be recommended to the Nominating Committee by others. The Committee has received some nominations for members and officers.

B. **Education and Advocacy Services for Section Members**

1. **Amicus Curiae – David L.J.M. Skidmore.** Pat Ouellette reported on behalf of the Committee that at the end of February, an Application For Consideration was received. The application requested the Probate and Estate Planning Section to submit an amicus curiae brief to the Court of Appeals in the Estate of Jesse Galvan, deceased. The issue presented involves an interpretation of MCL 700.3206 and the disposition of a decedent's remains. The Committee recommended that Council deny the request since the Committee felt that the law was clear. The Committee's suggestion was approved by general consent.

2. **Probate Institute – James B. Steward** reported that, compared to last year, we are ahead of the number of registrants for the Annual Institute. Work is ongoing for the Speakers' Dinner.

3. **State Bar and Section Journals – Richard C. Mills** reported that the Journal is on track to be published soon. Discussion ensued regarding an app for the Journal. Mr. Imami will send link to the developer for the ABA’s app to Mr. Mills for further investigation by the Committee.

4. **Citizens Outreach – Constance L. Brigman** had an excused absence. Ms. Morrissey reported on the Section brochures and how we can make them more searchable for online search engines.


6. **Membership – Raj A. Malviya** reported on three Committee initiatives, including hosting a vendor table at the May and June Annual Institutes, a social gathering at the Traverse City office of Smith Haughey Rice & Roegge, and meetings at Michigan law schools with 3Ls to explain benefits of Section membership and to encourage students to consider a future career in trusts and estates.

C. **Legislation and Lobbying**

1. **Legislation – William J. Ard.** Becky Bechler discussed that the current focus of the Legislature is on the Governor’s recent budget presentation which included 70 new fee increases.

   Ms. Bechler discussed the status of digital assets legislation. There was a very lively workgroup last week with attendees including a Google lobbyist and a member of the Uniform Laws Commission.

   The Elder Law and Disability Rights Section will take the lead on updating Michigan law in response to the passage of the ABLE Act. Also discussed were HB 4172, HB 4173, SB 19, and SB 50.

2. **Updating Michigan Law – Geoffrey R. Vernon** reported that Sen. Tonya Schuitmaker has agreed to sponsor the Qualified Dispositions in Trust Act. We are waiting on the Legislative Service Bureau to get a draft statute back to us.
3. Community Property Trusts Ad Hoc Committee – Neal Nusholtz reported on the mission of this brand new Ad Hoc Committee; a detailed report is contained in the February Agenda. Once the Committee has reviewed the statutes, case law and conducted a legislative analysis of Michigan and other jurisdictions, concerning Community Property Trusts, if advisable, the Committee will submit proposed legislation for review by CSP.

4. Insurance Ad Hoc Committee – Geoffrey R. Vernon. No further report other than that given at CSP.

5. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber. No further report other than that given at CSP.

D. Ethics and Professional Standards


E. Administration of Justice

1. Court Rules, Procedures and Forms – Michele C. Marquardt. No report.

2. Fiduciary Exception to Attorney Client Privilege Ad Hoc Committee – George F. Bearup. No report.

F. Areas of Practice

1. Real Estate – George F. Bearup. Report by Mark E. Kellogg on SB 24 related to proposed legislation allowing for the PRE exemption to be retained for 2 tax years under certain circumstances. The "by blood or affinity" language is used and is not clear; the committee will suggest using the specific relationships instead of the blood/affinity approach. Further, the committee would prefer a 3-year exemption in any case, or until sold, without the exemption being tied to any particular relationship.

Additional reporting on MCL 211.27a – language is used that uncapping can be avoided, under certain circumstances, for residential property provided it is not used for any commercial purpose. Since the definition of residential real property includes no commercial purpose, why is this extra language needed? These issues have been discussed with Rep. Pettalia’s office. In addition, discussions with Rep. Patella's office over the last few months have included requesting that this statute provide for no uncapping upon transfers to LLCs, corporations and business entities provided they are owned by the individuals excluded in the statute. We are getting pushback on this from Treasury against corporations. The question remains: Should we focus only on LLCs and drop corporations? This issue will be brought back to Council in the near future.
2. Transfer Tax Committee – Lorraine F. New. Tax nugget presented by Robert B. Labe. Rob submitted a revised report which has been placed into the February agenda online. The report discusses the tax changes suggested in the President’s State of the Union address. These changes are far reaching; however, it is unlikely that these changes will be made in this Congress. These concepts may continue in the country’s future discourse of tax policy.

3. Charitable and Exempt Organization – Lorraine F. New. In January, the Governor approved SB 623. The bill was filed with the Secretary of State on Jan. 15, 2015 and it was assigned PA 557 of 2014 with immediate effect. SB 623 was tie barred with SB 624 and 625. These bills include significant changes to charitable and exempt organizations. More information can be obtained at:

http://legislature.mi.gov/doc.aspx?2013-SB-0623; and


Updates to bylaws may be desirable to take advantage of the flexibility provided in the new act. Some changes include electronic voting and changes to indemnity provisions.


G. Liaisons

1. Alternative Dispute Resolution Section Liaison – VACANT. No report.


5. ICLE Liaison – Jeanne Murphy. No report.


10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz. No report.


VIII. **Other Business.** None.

IX. **Hot Topics.** None.

X. **Adjournment** – Council meeting adjourned at 11:21 a.m. Returned to CSP agenda and adjourned for the day at 12 noon.