

Elder Law and Disability Rights Section Meeting minutes

April 7, 2012 Chalgian & Tripp Law Offices, PLLC

Present in person: Dolores Coulter, Ellen Hoekstra (Capitol Services), Caroline Dellenbusch*, Rosemary Buhl*, Christopher Smith*, Rob Longstreet*, Jill Goodell*, Beth Swagman*, Michael Mestelle*, Christine Caswell, J. David Kerr ("David") *, Laurie Murphy

Present via telephone: Jim Steward*, Bob Anderson, Patrick Bond*, John Payne*, Paul Sturgul*, Will Lucius*, Michele Fuller *, Kelly Quardokus*, Sara Schimke*, Art Malisow*, Harley Manela*

*Indicates voting council members.

1. Meeting began at 10:00 am. Introductions were made for those present, and via telephone.
2. Minutes:
 - a. Approval of March Minutes. Motion made by Paul Sturgul, Seconded by Jill Goodell, correction was suggested regarding denotation of Michael Mestelle as a voting member (need to add asterisk). Vote held, passed unanimously with corrections
3. The Treasurer's report was not made, as Treasurer; Patrick Bond has not received the information from the State Bar.
4. Legislative Update (For complete analysis of the legislation, and other activity reported on, please see April 2012 Legislative Report prepared by Capitol Services)
 - a. Estate Recovery –it is believed that this legislation may not move until after the election.
 - b. Autism coverage—the bills passed, which mandates coverage for the diagnosis and treatment of autism spectrum disorders. Despite active lobbying to have more parity, the bills passed without.
 - c. Dual Eligibles—Hearings are concluded, there is concern over the timeframe to implement the changes & disruption of services.
 - d. Check off for Alzheimer's—passed the House unanimously, sent to the Senate.
 - e. Budget—moving quickly Items of interest include:
 - i. *Aging Services to support community living: \$500,000 earmarked to expand community living options counseling, \$100,000 to extend elder abuse prevention programs, \$250,000 for community support for persons providing care to family members with Alzheimer's or*

dementia, \$250,000 for elder abuse in 2012-2013—to have more outreach and education to law enforcement.

- ii. *Dual Eligibles. Moving from fee for service to managed care.*
 - iii. *Including Behavioral Health Drugs on Preferred Drug list. (Savings were removed on Pharmaceutical savings line as result of this addition)*
 - iv. *Medicaid Estate Recovery. Still in there—references strengthening statutory changes to existing ER program.*
 - v. *MI CHOICE—increase, emphasis on transition, and reducing waiting lists.*
 - vi. *PACE—increasing funds.*
 - vii. *Autism Spectrum Disorder Coverage—Increase of \$34.1 in budget to fund treatment.*
 - viii. *Traumatic Brain Injury Treatment Project—funding restored*
 - ix. *Mental Health Services for Special Populations—one time funding included.*
 - x. *Children with Serious Emotional Disturbance Waiver—increase of funding.*
- f. DHS Budget also discussed
 - g. Vulnerable Adult Package—
 - i. *Senior Alert update—waiting for action, currently on the House floor.*
 - h. Pooled Trusts—Meeting with Kurt Heise was held, he has agreed to support this legislation. At least one more meeting will be necessary. Kurt Heise is a good sponsor for this bill, given his committee positions.
 - i. AARP report on Home Care Released—compares Michigan to other states in terms of dollars spent on in home care vs. institutional care. Michigan fares poorly among the states.
 - i. Conversation was held about the overall cost of Nursing Home care. David Kerr mentioned that Iowa, for example, has a significantly lower cost --\$4,500/ month average, as opposed to Michigan's average of around \$7,000/month. Paul Sturgul added that Minnesota and North Dakota have regulations that require facilities to charge the same rate for private pay services and Medicaid. This keeps the costs down. Jim Steward added that the situation in Michigan creates an environment where nursing homes have no incentive to provide residents with information on Medicaid. Lack of access to information is key. Jim also mentioned that Michigan should be looking into other federal programs to be able to get more funding for LTC, instead of

expanding Estate Recovery. David also brought up the partnership program—which has not yet been implemented, but we had been told it would be once Estate Recovery was approved. No one was aware of any movement on the partnership program. David further suggested that it would be beneficial for our section to Brain storm on cost saving measure that could compel the State to act and to continue to fund LTC.

- j. SB 92: our Amendments were reported and the bill was partially rewritten. Probate Council Committee is satisfied with changes. Final substitute will be taken up with the house.

5. Old Business

a. Fall Conference –

- i. Discussion was held regarding honoring Brad Gellar, who has stepped down officially from his role of conference planner. More discussions will follow to determine the best way to accomplish this. One suggestion was to name scholarships for non-lawyers after Brad.
- ii. Caroline will draft a letter to Brad from the Section officially thanking him for his years of service.
- iii. Beth Swagman reported that as the role of the committee has increased substantially, more support will be needed by the council as a whole. Goal is to have a brochure ready before June 1st with the primary speakers.
- iv. Discussion was held regarding the fee structure. The plan is to have 2 rates. 1) Conference rate and 2) reduced rate. This will eliminate the distinctions of private practice/non-profit/non-attorney, and allow it to be more of a case by case basis.
- v. Caroline is going to follow up with Sarah Slocum with the LTC Ombudsman to get information on the contract.
- vi. Kevin Urbach, out of San Francisco, has been confirmed as a “key note” speaker. In addition, Judith Stein and speakers regarding VA have been approached. Discussion was held regarding other speakers.
- vii. Theme is “Lost in Translation” October 3-5, we will start with Lunch

b. Estate Recovery FOIA—no update. Tabled until May meeting.

c. By-law Changes—conversation tabled until May meeting.

d. Pooled Accounts Trusts—Major case just released out of South Dakota which may affect approach—will definitely increase the importance of the need for legislation.

- e. Collaboration with Health Care section—Joint webinar/ or other collaboration with Healthcare section and ADR section suggested by HCS. Suggestion by council to have collaboration at fall conference with HEC and Consumer law Section.
 - f. Unauthorized practice of Law definition—tabled until Amy Tripp can report.
6. New Business—
- a. Website Issues—ELDRS has taken down all forms off of the website, until the issue can be sorted out. Goal is to provide information. Caroline has spoken with George Gregory (Probate Section chair) about goal. Janet Welch from SBM is involved, but does not want to make a decision. Caroline is attending a meeting through the SBM on ‘self help’ initiative. This will provide additional direction. Topic will be addressed more in May.
 - i. Discussion turned to the overall goal which is information and outreach—suggestions included providing training to legal aid, or doing workshops directly for clients (pro-bono)
 - 1. A committee was established to determine best way for section to proceed for outreach: Committee Members- David Kerr, Christopher Smith, Kelly Quardokus, Michele Fuller and Rosemary Buhl.
7. Committee Reports
- a. POLST—held pc a month ago, heard very little since. Surrogate language troublesome to some members of committee. Jim Steward reported that the language was removed. Other main concern is currently the DNR pilot which needs DCH approval.
 - b. Litigation Committee—
 - i. South Dakota PAT case is bad, it came out of nowhere. They are working on a response to this issue.
 - ii. 401k—filed complaint, injunction to be filled this week, ripeness is an issue. If the 6th circuit follows its own rules, it should be okay.
 - iii. Dual eligible—no plaintiffs yet
 - c. Health Care Reform Committee—Dolores Coulter—conference call next week, will report in May.
 - d. Legislative Committee—Brad Vauter—tabled until May.
 - e. Newsletter—John Payne –April 25th deadline
 - f. Unauthorized Practice of Law—Bob Anderson—tabled.
8. Announcements—none
9. Upcoming meetings:
- a. May meeting will be held on Saturday May 5th meeting at the office of Dellenbusch & Swagman, Grand Rapids.

- b. June meeting will be held Saturday June 2nd at Baron, Rosenberg, Mayores & Mayores, Troy.
- c. August meeting will be Saturday August 4th at Steward & Sheridan, PLC in Ishpeming.

10. Motion made by Rosemary Buhl to Adjourn, seconded by Beth Swagman.

Passed unanimously.

Meeting ended at 11:45 am

Respectfully submitted by Rosemary H. Buhl