

**ELDER LAW & DISABILITY RIGHTS SECTION
OF THE
STATE BAR OF MICHIGAN**

MINUTES OF APRIL 6, 2013

TAKEN BY:
PATRICK J. BOND, SECRETARY
ELDER LAW & DISABILITY RIGHTS SECTION
STATE BAR OF MICHIGAN

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Matter One - Introduction

Matter 1.01 Location

Meeting took place at Bassett & Associates, located at 2045 Hogback Road, Ann Arbor, Michigan.

Matter 1.02 Present at Meeting

Physically:

* Jane A. Bassett
* Rosemary Buhl (Chair-elect)
Megan R. Butucel
* Christine Caswell
Dolores M. Coulter (Past Chair)
Ellen Hoekstra (lobbyist)
* David J. Kerr
Maria R. Messina
* Michael A. Mestelle
Todd Tennis (lobbyist)
* Bradley A. Vauter (Chair)

* = Council Member

Telephone:

Robert C. Anderson
* Christopher Berry
* Patrick J. Bond (Secretary)
* Caroline M. Dellenbusch
Michele P. Fuller
* Cynthia Jill Goodell
* John B. Payne (Treasurer)
* Kelly J. McNerney Quardokus
Jacquelyn A. Rygiel-Sprague
Sara Ann Schimke
Angela M. Swanberg
* Christopher William Smith
David D. Sprague
James B. Steward
* Beth A. Swagman
Amy Rombyer Tripp

* = Council Member

Matter 1.03 Approval of Minutes

March 2013 Minutes approved.

Matter 1.04 Treasurer's Report

Treasurer John Payne reported. Fund balance is \$98,495.

Matter 1.05 Legislative Report

See report of April 2013 by Ellen Hoekstra and Todd Tennis, our lobbyists from Capitol Services, Inc. (See attached report.) Some of the more pertinent issues are discussed below:

(a) Pooled Trust Update

In March Michele Fuller and Amy Trip, along with Capitol Services (ELDRS' Section lobbyist) me with Re. Earl Poleski (R-Jackson). Rep. Poleski is Chair of the House Financial Liability Committee where the pooled trust legislation was referred—House Bill 4013. Rep. Poleski thought he may be able to bring the Bill up for hearing sometime in late April or May.

(b) New Council and Commission Created by Executive Orders

Governor Snyder has set up two new bodies that deal with mental health services, both headed by Lt. Governor Calley.

The first is Executed Order No. 2013-6 and creates the Mental Health and Wellness Commission. The final report is due by December 20, 2013. In any event, it is an advisory board with the Michigan Department of Community Health (DCH). The Order seeks to focus on very broad issues much of it is a response to the recent school shootings. But the Commission's stated area of focus is: youth, veterans, education, public safety, long-term care, employment and independence, mental and physical health integration, societal impacts, services and delivery, and other areas proposed by the Commission Chair and the DCH Director.

This order lead to whether to weigh in with the Commission about:

The problem of over-medicated disabled adults. Commented by Brad Vauter.

The problem of nursing facilities refusing to accept disabled elder adults coming form mental health units with the excuse the they (i.e., the facility) are not equipment to accommodate the patient. Commented by Amy Tripp.

And the goal Executive Order No.: 2013-7 is to divert people with mental illness or substance abuse problems out of the criminal justice system and into treatment.

Motion made and approved that Council weigh in on the executive orders to offer it some specific goals or experts or both.

(c) Expanding Medicaid? Joint State-Federal Health Exchange?

Lobbyist Todd Tennis reports that Michigan looks like it won't approve bill for Medicaid expansion.

(d) House Health Policy Committee to Hold Long Term Care Hearing

Hearing is slated for April 9th for the House Health Policy Committee to hear testimony from the Department of Community Health, Blue Cross Blue Shield of Michigan, and the Michigan Association of Health Plans on the subject of "Long Term Care in Michigan."

(e) Guardian Authorized DNR

This is a package of bills reforming guardian-authorized do-not-resuscitate (DNR) orders. These bills are now in the House Judiciary Committee, and include HB 4382, 4383, and 4384. HB 4382 concerns where a DNR order applies and who can file an order. HB 4383 amends the Adult Foster Care Facility Licensing Act to revise the reference to the Michigan Do-Not-Resuscitate Act. HB 4384 amends EPIC so that a guardian could not execute a do-not-resuscitate order without visiting the ward within 14 days of execution and that the guardian would need to annually consult with the individual's attending physician regarding particular medical conditions that warrant a DNR.

Regarding guardian-authorized do-not-resuscitate order. Bill indicates DNR would apply to all setting outside the hospital. Bill 4382.

David Kerr suggested Council supports the bill in principle with some tweaking.

(f) BCBSM Bills Signed into Law

The legislation pass SB 61 and SB 62. This is legislation to convert Blue Cross/Blue Shield of Michigan into a non-profit mutual insurance company. They were signed into law on March 18th and are now PA 4 and PA 5 of 2013.

(g) Digitizing of Court Records

This is package of six bills: HB 4412, 4413, 4414, 4415, 4416, and 4417.

(h) ABA Now to Be Covered by State and BCBSM

A federal district court, in Potter vs BCBSM, ordered that BCBSM offer coverage for applied behavior analysis (ABA) for children with autism. The ruling will add about 500 children under BCBSM coverage for ABA. And the State is expected to add about 1,600 children.

**Matter Two -
Old Business**

Matter 2.01 Long-Term Care Ombudsman / Project Wildcat

Recently, Rosemary Buhl and Brad Vauter spoke with the ombudsman, Sarah Slocum, about Project Wildcat. Brad Geller, author of Project Wildcat, is reviewing comments made to him about his workproduct.

Jim Steward moved to send a written request to long-term care ombudsman office to inform those nursing facilities and other institutions that Ombudsman's office has withdrawn its prior correspondence that Project Wildcat is no longer approved as the Ombudsman Office's policy, until it gets appropriately revised. Motion approved unanimously.

Matter 2.02 Spring Conference

Brad Vauter commented he has not received negative feedback about March 2013's Spring Conference.

Matter 2.03 Consultant Membership Requests

Brad Vauter suggested Council needs to finally make a final decision on this discussion, and suggested we finalize it next meeting.

Matter 2.04 Pooled Trusts Bill – Meeting with Legislatures

Michele Fuller and Amy Trip spoke about meetings they had with some members of legislature in an effort to help make sure HB 4013, a bill that would allow persons age 65 and older to enter into a pooled trust account (pursuant to 42 USC 1396p(d)(4)(C)) without penalty.

Matter Three - New Business

Matter 3.01 Fall Conference

Beth Swagman presented the discussion. Beth moved to keep honorarium for key note speakers at \$1,500 but to give Bob King another \$500 for his final speaking day in consideration for his having to take three days off work and coming from such a long distance away.

Matter 3.02 Pooled Trust Bill – Meeting with Legislatures

See Matter 1.05(a).

Matter 3.03 Posting Information and Forms on Public Websites/ Or Participating with www.michiganlegalhelp.org

Council's consensus was that it doesn't so much have a concern with the posting of forms from the Supreme Court Administrative Office (scao forms) and is against others, like power of attorneys, among others.

Angela Tripp from www.michiganlegalhelp.org is willing to speak to our group about our concerns.

Matter 3.04 ADR Section Joint Program Request

Brad Vauter informed the group that the Council received correspondence from the ADR section offering to help with a training or other joint event in the future. I suggested we might want to take them up on a presentation at the fall or spring conference especially if they can integrate with elder law issues and such, or the family dynamics of who will care for mom.

Matter 3.05 Legislative Issues

We briefly discussed, but did not take a position, on the no-fault insurance change proposals.

Council voted to support the DNR Bills HB 4382, 83 and 84 with 3 abstentions, and the rest voting aye.

Matter Four - Committee Reports

Matter 4.01 POLST Committee – Bob Anderson

Nothing to report at this time.

Matter 4.02 Litigation Committee – Sandy Mall

Nothing to report at this time.

Matter 4.03 Health Care Reform Committee – Delores Coulter

Nothing to report at this time.

Matter 4.04 Newsletter – Jane Bassett

Jane Bassett reports. Mike Viterna is writing a VA update, among some others. Deadline is approaching.

Matter 4.05 Unauthorized Practice of Law – Bob Anderson

No report at this time.

Matter 4.06 Public Outreach Committee – David Kerr

No report at this time.

Matter Five - Announcements

No announcements.

Matter Six – Future Meetings & Adjourn

Next meeting in May 4, 2013, at Don Rosenberg's located at 1301 W. Long Lake Road, Suite 340, Troy.

Meeting adjourned at 12:23 p.m.