

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

PROPOSED MINUTES OF APRIL 4, 2015

TAKEN BY:
MICHELE P. FULLER, SECRETARY
ELDER LAW & DISABILITY RIGHTS SECTION
STATE BAR OF MICHIGAN

Matter One - Introduction

Matter 1.0 Location

Bond Estate Planning & Elder Law PC

Meeting convened at 10:02 a.m.

Matter 1.2 Attendance

Council members present:

Patrick Bond (chair), Michele Fuller (Secretary), Christopher Smith, Maria Messina,

Section members present:

Rosemary Buhl, Jules Olsman

Non-section members present:

None

Council members on phone:

Christine Caswell, Kelly Quardokus, David Sprague, David Kerr, Jane Bassett, Angela Hentkowski Robert Mannor, Sara Schimke (Treasurer), John Payne (chair-elect), Jim Steward, Beth Swagman, Erma Yarbrough-Thomas, Howard Collens

Section members on phone:

Amy Tripp, Nicholas Ryan, Allison Bungardas, Paul Sturgyl, Garcia, Jackie Rygiel-Sprague

Non-section members on phone:

Todd Tennis

Matter 1.3 Approval of Minutes

Approval of the minutes for March 2015 was approved. Motion passed unopposed.

Matter 1.4 Treasurer's Report – Sara Schimke

Matter Two - Old and New Business

Matter 2.1 Legislative Report-Todd Tennis

If anyone has clients who have had issues with Henry Ford CCRC and the reimbursement of the resident after they have passed away, please notify David Honigman.

-Some key budget issues have been discussed. Governor's proposal a tax increase to meet the shortfall. DCH budget has been cut. There are key layoffs pending.

-Senate bill 64-takes the dept of regulatory affairs out of licensing regs for nursing homes regarding safety issues.

Jules Olsman: the bill is gibberish. He and Donna McKenzie met with initiators. The only federal regulation that NH have to abide by is Medicare regs. That's all. Why we have the SB suggests there is another option. The "peer reviewed" was an element they insisted on inserting. The section should meet with Courser and Cotter about the bill. Use of guidelines would not prevent them from being cited, Sarah Slocum advocated for this. Telling people to follow guidelines or follow your own. There is no resource to follow. They don't want to pay gov. Dept of reg. affairs to create guidelines.

ELDR's section should advocate against this bill. Peer reviewed vs. evidence based standards. Gives the facilities an out. It undermines resident safety. It puts tremendously onerous on the facilities to develop guidelines.

*vote to oppose SB 64.

John Payne: Motion that the ELDR council state that we support the concept of better NH standard of care, but we oppose the bill as written.

Discussion: some members support regulating but don't believe this is the way to do it. Many agreed that we should oppose it as it doesn't serve to protect residents. Duty of the nursing home to adopt self-regulating standards on their own frustrates the ability of the state to regulate NH and is self-serving. Other members observed that the state cannot delegate the regulations as being unconstitutional.

“Peer reviewed standards of care” and if they aren't identifiable, then what?

John withdrew motion

Jim Steward: Motion ELDR council opposes bill because it jeopardizes resident care and improperly delegates rule making to non-governmental entities.

Second: John Payne

Roll-call vote:

16 in favor

4 not present

1 abstention

Motion passes

Matter 2.2 ABLE Act-Todd Tennis and Amy Tripp

Todd Tennis and Amy Tripp met with Forlini regarding ABLE act regulations. Tried to get him to hold off and see how other states are regulating. They are making changes to the bill.

Amy Tripp: Discussed what prompted the legislation. They are reviewing 8 states that have legislation already. Want the payback included in the marketing materials to warn consumers.

Matter 2.3 Digital Assets-Howard Collens

Rep Forlini sponsored legislation. He is creating a smaller work group, with Howard Collens as part of it. Todd wants to facilitate a meeting with Howard Collens and Google to see if there are

any areas of compromise. They need more education as to the role of a fiduciary. They are struggling to force the big corporations to take responsibility for overseeing the administration of the asset upon disability and death of the owner.

Matter 2.4. Filling council seat vacancy-Pat Bond

Committee met after last meeting and recommended Howard Collens. Howard fills Will Lucius' spot. He would be up for reelection in the fall since Will's seat would be up for re-election.

Chris Smith: Motion to have Howard Collens as a council member.

Second: Maria Messina

Motion passes unanimously

Matter 2.5 Fall Conference-Angela Hentkowski

We have all of our speakers lined up. Looking at registration fee. Want to lower the legal aid and student fees significantly to \$50 for students and non-lawyers. Last year was \$200 for section members, \$125 for students and non-lawyers. Might get less scholarship requests. MGA interested in attending.

Budget is the same. \$30-35,000

We have a contract with Boyne mountain to fill the rooms and there is concern that with ICLE's fall conference we will have much lower attendance.

Members discussed spending some money on marketing and doing an e-blast, and that we need to have the information on the state bar website.

The committee will issue a save the date.

Council members want to have more info on finances before authorizing such a dramatic decrease in registration fee. Committee members confirmed that it would not cover the expense of food for the conference at \$50.

Paul Strugyl offered to sponsor the audio recording of the conference. Jules Olsman offered to see if the State Bar would record the sessions for free.

Matter 2.6 ICLE endorsement

ICLE: Jeff Kirky from ICLE wants the section to endorse their section. Spirited discussion ensued. Members discussed the pro's and con's of sponsorship. Members tasked Pat Bond with reaching out to Jeff Kirky to see if there were some concessions available to the Section in exchange for the endorsement. Pat agreed to follow up and advise Council members via email.

Matter 2.7 MI Health-Kelly Quardokus

There are problems with agents calling to opt out and fiduciaries. They have a form they have to mail out. If you don't opt out in time you will be enrolled. They have until May 1 to dis-enroll. Intro letters are going out to these folks. Particularly those that are covered by a pension health care or drug issue it will be permanently lost if they are enrolled. It is very hard to get through to the 3rd party agency who is doing the enrollment on behalf of the State. Salli Pung at pungs@michigan.gov is a contact person at DCH who knows anything. MI enrolls form is on-line.

DCH 1183 form. in My health link. authorization to release medical information

Matter 2.8 Announcements

VA legislation: Bob Mannor

No change. Keep pressure on system

Christine Caswell: April 25th deadline for newsletter articles

David Sprague took a trust officer position at Old National Bank.

Pat Bond: CCRC request for a speaker to talk about them. Kelly Quardokus may know someone.

Paul Styrgyl: elder law for Uper's the day before the elder section meeting in August

Matter Three –Adjournment

John Payne: Motion to adjourn

Rosemary Buhl: Second

12:21pm meeting adjourned