

**ELDER LAW AND DISABILITY RIGHTS SECTION
COUNCIL MEETING
STATE BAR OF MICHIGAN**

**August 4, 2007
Brad Geller's Home**

COUNCIL MEMBERS PRESENT: Roxanne Chang, Priscilla Cheever, Dolores Coulter, Caroline Dellenbusch, Patricia Dudek, Brad Geller, Konrad Hittner, Sandy Mall, Harley Manela, John Payne, Don Rosenberg, Brad Vauter

SECTION MEMBERS PRESENT: Josh Ard

ALSO PRESENT: Todd Tennis

The meeting was called to order by Chair, Sandy Mall.

1. Introductions

No introductions needed.

2. Approval of Minutes

June 2, 2007 Minutes were reviewed but not approved.

3. Treasurer's Report

- As of June 30, 2007, ending balance was \$68,700.
- Brad Geller reported still outstanding balance of approximately \$10,000 owing from last fall, 2006 conference.
- Sandy Mall to follow up on status of NCCNHR contributions previously approved.

4. Old Business

a. Fall 2007 Conference Update

- Brad Geller anticipates a draft agenda in about 2 weeks
- Representatives Alma Smith & Rick Shaffer, Irene Kazieczko & Dr. Foley to attend
- No folks from Washington anticipated to attend because the ABA conference is at the same time
- \$700.37 spent for deposit for Crystal Mountain
- Brad Vauter suggested publishing conference in the Bar Journal/E-Journal; email to whole Bar is \$15/hr; SBM Announce email already went out.
- Any speakers to contact Brad re: date preference
- Note there is only fax or mail registration, no phone registration
- ELDRS meeting at conference scheduled for Thursday, October 11, 2007 at 8:30 a.m.

- b. Social Security Appeals Letter**
- Brad Vauter shared final version of letter signed by Sandy Mall today
 - Encourages Congress to add funds to Social Security hearing budget
 - Michigan is top 10 of “bad” states for administrative review for both SSDI & SSI hearings
 - Social Security Section of SBM also taking action & requesting we send copy of ELDRS’ letter.
- c. Dual Certification Letter to Paul Reinhart**
- Letter went out July 23, 2007
 - Paul Reinhart verbalized full “support” per Sandy Mall
 - Doug Chalgian was appointed Chair of the Certificate of Need committee
 - Letter should also be sent to Mike Dankert, Janet Olszweski. & Doug Chalgian, with cc to the in-house counsel for MDCH
 - Sandy Mall indicated Ron Styka, Attorney General for MDCH was contacted of issue but stated that MDCH is client and MDCH has not given authorization to address issue with nursing home.

5. Legislative Update

- a.** Todd Tennis provided the Council with the legislative update. In addition, see Capitol Services written report that was posted and distributed at the meeting.
- b.** Big focus on current budget shortfall and 2007-2008 budget
- c. Estate recovery (ER)**
- There was discussion/speculation regarding timing of public release of letter from the Feds in May to MDCH by Paul Reinhart in early July;
 - Rumor that ER may be administered through rule-making process with legislation simply giving power to DCH to implement ER
 - Should ramp up grass roots efforts to oppose in September
 - John Payne shared MDCH letter re: third party liability with SBO trusts; appears to be standard issue letter; no property authority; possible issue for ELDRS litigation committee
- d. Tax Deferment Package for Seniors & Elderly**
- Todd Tennis raised concern that bill inadvertently limited to elders who are disabled rather than persons who are elderly or disabled
 - Motion made by Don Rosenberg to send letter of support from ELDRS. Motion seconded by Patti Dudek; motion carried with 10 in support, 1 abstention by Priscilla Cheevers and no objections.
 - Balance of votes from council members will be solicited via Council listserv by Sandy Mall

- e. **Senior Alert Bill**
 - Comments/concerns include bill establishes an age cutoff and need to prove medical records of incapacity before alert issued
 - Roxanne Chang to draft comments
 - Todd Tennis to follow up and inquire why persons with disabilities not included

- f. **Home Improvements Credit**
 - Copy of bill to be forwarded to listserv
 - Patti Dudek will provide comments for review on bill

- g. **DCH seeking comments re: Proposed Medicaid Policy Change**
 - Changes to be reflected in Provider Manual
 - Includes provider qualification requirements
 - Also includes annuity & loan provisions
 - Patti Dudek to preview and provide comment (due by August 30)

6. Committee Reports

- a. **Elder Abuse Taskforce Recommendations – Roxanne Chang**
 - Dave McClory to join committee
 - Discussed proposed guardianship & conservatorship bills by Rep. Stiles office
 - Comments included bills should require accounting for any GA handling any amounts of \$\$ if no CA unless court order to contrary; unclear what “readily convertible to cash” means
 - Additional comments re: GA/CA bills to be obtained via Council Listserve
 - Will also provide support for rights of incapacitated & conservatees bills
 - Also new set of predatory lending bills; Josh Ard to review and provide comments

- b. **Litigation Committee – Patti Dudek**
 - Committee met last Wednesday August 2, 2007
 - Two tracks determined: 1.) Clearinghouse for documents, amicus briefs etc.; 2.) Litigation initiated by ELDRS
 - Clearinghouse/vault Don Rosenberg confirmed can be arranged with password for access and uploading documents
 - Focus on litigation will first be declaratory action for adhering to DRA & possibly home care taker and personal care contracts; other possible issues include attorney fees for private actions & calculation of medical expenses for indigent clients
 - Sandy Mall to follow up with SBM whether ELDRS can be a plaintiff and whether EDLRS funds can be used to support litigation efforts

- No motion at this time but confirmed support by council members to earmark funds for litigation from ELDRS budget; amount to be determined when scope of involvement/activity by ELDRS is identified.

7. New Business

- a. Tribute to George Cooney, Jr.**
 - Motion made by Brad Vauter to contribute \$250 to Wayne State Law School in honor of George Cooney, Jr. Motion seconded by John Payne. Motion carried with no objections.
- b. Elder Law Attorney/Client Survey request**
 - Sandy Mall shared request by Dr. Foley and high school student re: survey of elder law attorneys
 - Agreed it was OK to circulate on the listserv
- c. ICLE Proposal re: Spring Conference and Elder Law Institute**
 - Sandy Mall was contacted by ICLE to consider partnering with ICLE for ELDR spring conferences
 - Discussion surrounded fact that spring conference is a fundraiser for ELDRS
 - Motion made by Don Rosenberg to decline offer from ICLE to partner for ELDRS spring conference. Motion seconded by Patti Dudek. Motion carried with no objections.
- d. ADA Restoration Act**
 - Ask Patti Dudek for more information
- e. Medicaid proposed policy 0726-QAS (collecting nursing home tax)**
 - Email from Sarah Slocum
 - Discussion was had surrounding concerns of forced closure of nursing homes as a result; understanding that tax liability will be equally shared
- f. Long-term Care Partnership/LTCI premium issues**
 - Sandy Mall has been contacted by consumers re: long-term care insurance premiums, particularly related to Conseco and other carriers doubling & tripling premiums; look for support to address
 - Patti Dudek to follow up with LTC Partnership
- g. Council membership**
 - Identified need to review council member status; Sandy Mall to check website
 - Proposals for new members

The next meeting is scheduled for **September 8, 2007** at Mall Malisow & Cooney, P.C., Farming Hills. There being no other business the meeting was adjourned.

Minutes Respectfully Submitted by:

Roxanne J. Chang
On Behalf of Amy R. Tripp, Secretary