

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

MINUTES OF AUGUST 3, 2013

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

ELDER LAW & DISABILITY RIGHTS SECTION MEETING OF AUGUST 1, 2013

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Matter One - Introduction

Matter 1.01 Location

Central Upper Peninsula at Steward & Sheridan PLC, 205 S Main St, Ishpeming, MI 49849.

Physically:

- * Rosemary Buhl (Chair-elect)
- * Caroline M. Dellenbusch
- * William D. Lucius
- * James B. Steward
- Paul A. Sturgul
- Angela M. Swanberg
- * Bradley A. Vauter (Chair)

* = Council Member

Telephone:

- * Jane A. Bassett
- * Patrick J. Bond (Secretary)
- * Christine Caswell
- Dolores M. Coulter (Past Chair)
- * Michele P. Fuller
- * David J. Kerr
- Harley D. Manela
- Robert D. Mannor
- * Michael A. Mestelle
- * John B. Payne (Treasurer)
- * Kelly J. McNerney Quardokus
- Jacquelyn A. Rygiel-Sprague
- * Sara Ann Schimke
- David D. Sprague
- * Beth A. Swagman
- Todd Tennis (lobbyist)
- * Erma S. Yarbrough-Thomas

* = Council Member

Matter 1.02 Approval of Minutes

Motion made to approve Minutes, seconded by Rosemary. Minutes approved.

Matter 1.03 Updated Bylaws

Payne moved to approve the amended bylaws. Discussion ensued regarding some last minute amendments to the amended bylaws. Motion approved with no abstentions and no nays . So the final bylaw vote will be done at the October Conference because to actually amend bylaws they first must be voted on by Council, and then published (i.e., in newsletter) and such publication circulated for thirty days. Then the vote is taken up after the thirty-day period during the following Council Meeting, at which time the entire Section Membership present at the meeting can either votes yeah or nay. A yeah vote has the effect of consummating the approval of the amendments.

David Kerr suggested establishing a three day waiting period before any email vote can be made in response to an emailed motion.

Discussion about clarifying definition of consultant members. The goal being to narrow down our definition of consultant members as previous language was very broad. Provision 5.2 – reads, "members of non-profit organization..." language to be added suggested by Dolores Coulter. Jim Steward discusses whether a "non-profit organization" includes "governmental agencies".

Matter 1.04 Treasurer's Report

John Payne reported. An balance of \$89,282 existed at end of June 2013.

Matter 1.05 Legislative Report

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

(a) Pooled Trust Legislation

Still dealing with opposition at DCH to HB 4013. Capital Services thinks it might be possible that the bill may proceed to a House vote in early Fall.

(b) Medicaid Expansion Legislation Moves to Senate Floor

Vauter discussed deciding whether we continue our support for the extension of Medicaid.

Jim Steward moved to still support, in concept, Medicaid expansion. Seconded by Buhl. The version Council agreed to support is, specifically, the S7 version of HB 4714, but Council does not agree to support the particular language found in 105(d) dealing with advance directives. That provision requires all enrollees to complete a DCH-approved advance directive form, which would then be transmitted to the Peace of Mind Registry Organization for inclusion in their registry. Jim Steward suggested that DCH should only *suggest* the enrollee obtain an advance directive. Vote approved (by all 15 members participating). No abstentions. No nays.

(c) Governor Signs Low-Income Energy Assistance Bill

Concerns SB 284, which the Governor signed into law on July 31st, which was assigned as Public Act 95 of 2013. The Act creates a permanent fund for people with low income who need assistance paying their utility bills.

Matter Two - New Business

Matter 2.01 Fall Conference Report

Beth Swagman reported. Swagman reminded us that back in April or so, Council approved up to \$2,500 for payment for the services of Committee members in organizing the Conference.

Matter 2.02 Payment of Honorariums for Fall Conference – Planning Ahead

Beth Swagman reported and listed a handful of people for payment of honorariums, to get this payment approved ahead of time for fiscal and efficiency purposes.

Swagman moved to prepare for the eventual payment of honorariums to: (a) Hon. Carl Marlinga for \$250, (b) Madelon Krissoff for \$250, (c) Peggy Costello for \$250, (d) RoAnne Chaney for \$250, (e) Victoria Vulevitch for \$250, (f) Claire Luz for \$250, (g) Peter Lichtenberg for \$250, and (h) Bob King, the keynote speaker (and speaker for the second session), for \$2,000. Motion approved (14 members voted because Payne had left). No abstentions. No nays.

Matter 2.03 Fall Conference Venue for 2014

Rosemary Buhl reported. She spoke about a conference at Mission Point Resort on Mackinac Island.

Possibly the dates between September 30 to Oct 3rd, as Mission Point seems to have accommodations between these dates. Room rates at \$119 per room for *any* room.

Rosemary Buhl and Caroline Dellenbusch moved to choose Mission Point for 2014 Fall Conference, approve the \$1,000 for the initial deposit, and thereafter arrange for the Mission Point Conference contract be reviewed. Motion approved (14 members). No abstentions. No nays.

Matter 2.04 Attorney Certification for "Specialist" in their Field

Jim Steward acting as a member of the State Bar's UPL committee reported that his committee is still working on this.

Matter 2.05 Pooled Trust Bill / Next Steps

See Matter 1.05(a) above.

Matter 2.06 Senate Substitute for HB 4712 / Public Policy Vote on Senate Substitute bill for Medicaid Expansion

See Matter 1.05(b) above.

Matter 2.07 Litigation

John Payne suggested litigation committee speak to a recent disappointing ALJ opinion regarding caretaker agreements relating to non-relative caretakers. The attorney representing the Medicaid applicant's authorized representative being attorney Linda S. Kaare. See her listserv email of July 29, 2013.

Brad Vauter suggesting possibly filing an amicus brief in support of the authorized representative's position. The issue concerns whether DHS should apply the strict caregiver rules under BEM only to family members and not to third party caretakers.

Jim Steward suggested Council assist on the appeal regarding the above caretaker matter. Steward later moved that Council Chairperson appoint two people to apply for amicus brief in support of the position of the authorized representative with up to \$3,000 available to pay for fees, and that we ask Council member John Payne to handle the brief. Seconded by both Patrick Bond and Michael Mestelle. Voted approved (14 voters). Payne abstained by not being present for vote. No nays.

Matter 2.08 Council Nomination

Brad spoke about nominating committee, including Caroline, Erma Thomas, Rosemary, and Brad work on matters about council nominations. Brad requested Council member's whose term is coming to an end to let their intention known whether they would like to be considered for re-election.

Matter 2.09 Spring 2014 Conference

David Kerr moved to authorize Harley to organize Spring Conference, the payment of the honorarium of \$1,000 to him. Motion approved (14 members). No abstentions. No nays.

**Matter Three -
Committee Reports**

Matter 3.01 POST Committee – Bob Anderson

Nothing of substance to report.

Matter 3.02 Litigation Committee – Sandy Mall

Nothing to report. But see the discussion with the caretaker agreements above.

Matter 3.03 Newsletter – Jane Bassett

Nothing reported.

Matter 3.04 Unauthorized Practice of Law – Bob Anderson

Nothing Reported.

Matter 3.05 Mental Health Issues – Christine Caswell

Nothing reported.

Matter 3.06 Other

Brad Vauter suggested forming a new committee. That being a publication committee specifically regarding advance directives. Will Lucius, Jim Steward, Bob Anderson, and Caroline Dellenbusch agreed to be on this ad hoc committee.

**Matter Four-
Announcements**

None.

**Matter Five –
Future Meetings & Adjourn**

Next meeting is September 7, 2013, at the law office of Caroline Dellenbusch PLC, located at 2944 Fuller Avenue NE, Suite 100, Grand Rapids, Michigan 49505. Phone: 616-451-4242.

Meeting adjourned at 12:32 p.m.