

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

MINUTES OF AUGUST 1, 2014

TAKEN BY:
JOHN B. PAYNE, SECRETARY
ELDER LAW & DISABILITY RIGHTS SECTION
STATE BAR OF MICHIGAN

**ELDER LAW & DISABILITY RIGHTS SECTION
MEETING OF AUGUST 1, 2014**

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Matter One - Introduction

Matter 1.01 Location

Steward & Sheridan, PLC, 205 South Main Street, Ishpeming, Michigan.
Meeting convened at 10:00 A.M.

Matter 1.02 Attendance

8/2/2014

Present/Call-In/Absent			Voting Members	
Bassett	Jane	A.	*	A
Bond	Patrick	J.	Vice Chair	C
Buhl	Rosemary	H.	Chair	P
Caswell	Christine		*	C
Fuller	Michele	P.	Treasurer	C
Goodell	Cynthia	Jill	*	A
Kerr	David		*	C
Longstreet	Rob		*	C
Lucius	William	D.	*	P
Mannor	Robert	D.	*	A
Messina	Maria	Rosaria	*	P
Mestelle	Michael	A.	*	C
Payne	John	B.	Secretary	C
Quardokus	Kelly	McNerney	*	C
Schimke	Sara	Ann	*	C
Smith	Christopher	William	*	C
Steward	James	B.	*	P
Swagman	Beth	A.	*	C
Thomas	Erma	S.	*	C
Coulter	Dolores	M.		C
Dudek	Patti			C
Garcia	Darling			C
Long	Ryan			P
Rygiel-Sprague	Jacquelyn	A.		C
Sprague	David	D.		C
Sturgul	Paul			P
Swanberg	Angela			P
Tennis	Todd		Lobbyist	C
Winokur	Kim			P
Wideman	Susan			P

Matter 1.03 Approval of Minutes

Approved by John Payne. Approval of the minutes for June 7 2014 was moved by Will Lucius and seconded by Jim Steward. The motion passed unanimously.

Matter 1.04 Treasurer's Report – Michele Fuller

Michele Fuller provided a report. Elder law seminar brought in \$34,000, up \$5,000 from prior year. The Treasury balance is currently \$93,800, up approximately \$5,000 from last year. The report was accepted.

Matter Two - Old Business

Matter 2.01 State Tax Commissioner's Complaint – Brad Vauter

David Sprague reported that he has been corresponding with Brad and the litigation committee. They have been pursuing administrative options, but the STC has not been responding. They are asking for \$3,000 to \$4,000 to start litigation. David Kerr asked about whether there will be an individual plaintiff or if it will be a declaratory judgment action. He observed that standing would be a problem. See litigation committee notes.

Matter 2.02 UAGAPPJA update

Rosemary, Brad and James Steward have been following this issue. There have been changes to the proposed litigation and more changes are likely. There have been meetings with persons from the ULC, Judge Milton Mack and others. Judge Mack and other judges say that this does not come up often and the judges involved work things out, others urge that the process be regularized. The consensus of those involved is that the Council should not take a position at this time.

Matter 2.03 Hearts and Flowers update

Pat Bond reported that there is \$293.70 after the flowers for John Ternes's memorial were purchased. Pat will provide an account monthly to the

Chair or the Vice Chair.

Matter 2.04 Supreme Court State Bar task force report – RHB

Rosemary sent out an email to the Council related to the Core Principles of Section Advocacy as proposed in the Recommendations of the State Bar Sections. A group of Section chairs and other officers have formulated a response to the task force report. The represented sections included Appellate Practice, Criminal, Family, Childrens, Consumer, Negligence, Real Property, and Alternative Dispute Resolution. Rosemary stated that the Section should be in favor of vigorous advocacy.

David Kerr moved and James Steward supported endorsing the Core Principles, as set forth in the Recommendations of the State Bar Sections – Task Force Review Committee. James Steward argued that Sections are voluntary and should not be subject to the restrictions on advocacy that apply to a unified bar. Therefore the Section should endorse the report.

Passed unanimously on roll call vote.

Matter Three - New Business

No new business.

Matter Four – Committee Reports

Matter 4.01 Fall 2015 Conference Committee/Location Exploration Committee - Sara Schimke, Jackie Rygiel, Amanda Murray and Angela Swanberg

They are considering the following venues: Amway Grand, Crown, Boyne, Treetops, Crystal Mountain, Mission Point, Bavarian Inn.

Matter 4.02 Fall 2014 Conference Committee - Beth Swagman

Beth Swagman moved to approve \$5,500 in honoraria. Seconded by Maria Messina. Approved on voice vote, unanimously.

Beth Swagman moved to approve 22 scholarship applicants with a fiscal impact of \$8,825.00. John Payne seconded the motion. Approved on voice vote. With Erma and Maria Messina abstaining.

Beth Swagman requested the Council's permission to consider additional scholarship applications. John Payne moved to permit the committee to consider an additional three late applications or a total of \$10,000 for scholarships. Pat Bond seconded. Approved on voice vote, with Maria Messina abstaining.

Beth Swagman moved to approve a late scholarship application for \$500.00. Seconded by Michael Mestelle. This would be the 23rd of the possible 25 scholarships. Approved on voice vote, unanimously.

Matter 4.03 Litigation Committee - Sandy Mall

Sandy and Rosemary had a conference call with David Kerr. Sandy, David Kerr, David Shaltz and Rosemary would review requests for litigation support.

John Payne filed in Wayne County Circuit Court for a writ of mandamus to Order Department of Community Health to enforce the nursing home Medicare and Medicaid bed dual-certification requirement. This was dismissed by Judge Murphy as not ripe. Judge Murphy stated that it would be necessary for the plaintiff to bring the matter as an appeal from a negative administrative decision in an involuntary discharge.

Matter 4.04 Other Committees

Matter Five - Legislative Update – Capitol Services, Inc.

The Legislature completed the budget process and recessed in mid-June. It appears that little will happen before they return in September.

Legislature Completes Budget Process – Adds Funding for Senior Programs

The Home and Community Based Waiver was increased by \$26 million to address the waiting list. Six million was also added for other senior in-home services, home-delivered meals, respite care, and implementation of 2012 elder abuse prevention legislation. The Program for All-Inclusive Care for the Elderly (PACE) will be expanded into Genesee, Ingham and Saginaw counties.

A pilot program at Department of Community Health will study services to Alzheimer's patients and their families. The Alzheimer's Association of Michigan will be receive \$150,000 to study to whether in-home services to Alzheimer's patients reduce costs compared to facility placement.

2015 Budget Makes Changes to how Mental Health Services are Funded

In February, the governor moved to eliminate current state funding of community mental health agencies and using money from the Healthy Michigan program. This has largely worked out. Enrollment in Healthy Michigan exceeded estimates. However, there are still problems with services that that were funded with state General Fund dollars and are not eligible for Medicaid reimbursement. Expanding Medicaid eligibility will reduce the number of consumers affected, but there will still unfunded services for CMHs to cover and CMHs will need to find funds for institutional programs that are not covered by Medicaid. There are funding gaps in implementing the Mental Health and Wellness Commission's recommendations.

Department of Community Health Continues Opposition to Pooled Trust Legislation

Despite proponents' efforts at accommodation, DCH officials are intransigent in opposition to allowing persons over 65 to use pooled special needs trusts.

Auditor General Finds Major Problems in Adult Protective Services

The Michigan Auditor General reports problems in APS investigations. The AG found that 20% of sampled cases were closed without addressing allegations and despite harm to a vulnerable adult, including cases where APS had neglected to file required police reports.

Matter Six – Announcements

Cookout at Jim and Betty Steward's to follow meeting. The Council extends best wishes to Jane Bassett in her bid for a seat on the Washtenaw County Probate Court.

Matter Seven – Future Meetings & Adjourn

Patrick Bond moved to adjourn. James Steward seconded. Upcoming Council meetings:

10:00 a.m., September 6, 2014 at Caroline Dellenbusch's office, 2944 Fuller Avenue NE, Suite 100, Grand Rapids, MI 49505

7:30 a.m., October 3, 2014 at Mission Point Resort, Mackinac Island, MI 49757 (Annual Meeting).