

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

PROPOSED MINUTES OF AUGUST 1, 2015

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

## **Matter One - Introduction**

Matter 1.0            Location

Steward & Sheridan PLC, 205 S. Main St., Ishpeming MI 49849

Meeting convened at 10:00 a.m.

Matter 1.2            Attendance

- Council members present: Christine Caswell, Jim Steward, Angela Hentkowski,
- Section members present: Caroline Dellenbush, Ryan Long, Kim Winokur, John Yonkers III, Susan Wideman, Paul Sturgul, Amy Tripp, Robert Anderson, Brad Vauter

Non-section members present:    Ryan Long

Council members on phone: Jane Basset, Patrick Bond, Michele Fuller, Rosemary Buhl, Sara Schimke, Howard Collens, Michael Mestelle, Christopher Smith, David Kerr, Jim Steward, David Sprague, Bob Mannor, Maria Messina, John Payne, Erma Thomas, Kelly Quardokus, David Sprague, Chris Smith, Beth Swagman,

Section members on phone: Darling, Garcia, Brad Vauter, Paul Sturgul, Jackie Rygiel-Sprague, Ray Harris, Amy Peterman, Dan Kosmowski, Judy McFalda

Non-section members on phone: Todd Tennis

Matter 1.3            Approval of Minutes

Approval of the minutes for May and June 2015 was moved by John Payne. Seconded by David Kerr. The motion passed unopposed.

Matter 1.4            Treasurer's Report – Sara Schimke

## **Matter Two - Old and New Business**

Matter 2.1            Amicus Brief

Jim Shuster requested that the Section write an Amicus Brief in support of his case. He submitted an application to DHS using a sole benefit trust (SBO) 10 months before the change in the policy. He reviewed the planning strategy, timeline and strategy for the case which is now pending in circuit court.

John Payne: Motion to approve the drafting and submission of an Amicus brief. Seconded by Jim Steward. Motion passed

John Payne: Motion to approve \$3,000 in payment for drafting the brief. Caswell seconded motion. Discussion progressed. Payne amended his Motion to increase payment from \$3,000 to \$5,000 for legal fees in drafting the brief. David Kerr seconded. Motion passed.

## Matter 2.2 Legislative Report-Todd Tennis

Reviewed the legislative report. The legislators are in recess right now. The big issue is that there is a new draft of the bill governing digital assets. Howard Collens gave an additional summary of the legislation. Todd agreed to try to connect with Senator O'Brien to talk to her (or her staff) about the senate bill she introduced regarding training caregivers to care for a loved upon discharge from hospital.

HR 246-Payne made a Motion to have the ELDR Section support this bill. Caswell seconded. No vote was taken and the chair recommended that this issue be tabled. John Payne withdrew motion.

## Matter 2.3 Ketchum Amicus Brief-Amy Peterman

Amy Peterman filed a Motion for leave to file a brief. She gave an overview of the substance of the brief.

## Matter 2.4 Fall Conference-Angela Hentkowski

Requested that those who haven't registered yet please do so. Requested approval to pay the honorariums in the total amount of \$5750.

Payne moved to approve the payment of honorariums. Seconded by Swagman. Motion passed unopposed.

## Matter 2.5 Letter to Nursing Homes-Anderson

Bob Anderson drafted a sample letter to nursing homes. Jim Steward agreed the concept is good and protects the consumer and suggested that the letter drafted by Anderson should bear additional review for tone. Pat Bond agreed to revisit the issue next agenda and revised to make it more consumer protection oriented.

### **Matter Three-Committee Reports**

#### Matter 3.1 2016 Fall Conference Venue Committee – Sara Schimke

The committee is working on obtaining quotes and compiling information from the following venues: Crystal Mountain (Thompsonville), Soaring Eagle (Mt. Pleasant), Bavarian Inn (Frankenmuth), Tullymore (Stanwood), Bay Valley (Bay City). Any additional suggestions for location should be sent to Sara Schimke. Final quotes and information will be presented at the September council meeting.

#### Matter 3.2 Nominating Committee – Patrick Bond

Council members Erma Thomas, Christine Caswell, Jane Basset, and Howard Collens all have their first term ending in September. All reported that they are willing to continue to serve another term. The Nominating Committee will also be making recommendations for new council member position and treasurer.

#### Matter 3.3 Unauthorized Practice of Law - Robert C. Anderson

Our state bar UPL has no committee like they do in Florida or Ohio. The matters are simply referred to the ethics committee of the state bar, but it is solely focused on the attorney violating the code of conduct or rules of ethics and doesn't address non-attorneys practicing law.

Matter 3.4 Obergefell Issues – Jane Basset, Jim Steward, & Brad Vauter  
Spousal Medicaid applications will be an issue because of Bridges. If anyone is doing a married Medicaid application for same sex couple, please let counsel know; Counsel wants to be involved and follow process. Most of the Estate planning issues won't be that big of a concern, other than dower, this will need to be changed. Most Michigan laws are gender neutral, using terms like "spouse." There is an individual that has already been tasked with examining statutes. We as a counsel need a group that will review the laws and regulations that affect us.

#### **Matter Four: Announcements**

John Payne regarding submitting Medicaid applications via facsimile. BAM 110 is clear on how requests should be made. It is suggested that you fax application and on the fax cover sheet write "request for assistance pursuant to BAM 110; please timely forward to the appropriate office." John Payne suggests we talk to the "higher-ups" at DHHS regarding submitting documents and applications via email.

#### **Matter Five: Next Meeting and Adjournment**

Next Meeting will be Saturday, September 12, 2015 at 10:00 a.m. location:  
Caroline Dellenbusch PLC  
2944 Fuller Avenue NE, Suite 100  
Grand Rapids, Michigan 49505  
616-451-4242

Motion to adjourn made by Jane Basset; seconded by Jim Steward; motion passed unanimously. Meeting adjourned at 12:16 p.m.