

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

MINUTES OF FEBRUARY 2, 2013

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

ELDER LAW & DISABILITY RIGHTS SECTION MEETING OF FEBRUARY 2, 2013

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Matter One - Introduction

Matter 1.01 Location

Meeting took place at Don Rosenberg's office located at 1301 W. Long Lake Road, Suite 340, Troy, Michigan.

Matter 1.02 Present at Meeting

Physically:

* Rosemary Buhl
* John B. Payne
* Bradley A. Vauter
* Christopher William Smith
* Erma S. Thomas
Michele P. Fuller
Don L. Rosenberg
Sara Ann Schimke
Robert Mannor
David D. Sprague
Jacquelyn A. Rygiel-Sprague
Jules B. Olsman
Maria R. Messina
Megan Rose Butucel
Tracey Ann Rowens

Total: 11

* = Council Member

Telephone:

* Patrick J. Bond
* Christine Caswell
* Cynthia Jill Goodell
* James B. Steward
* Kelly J. McNerney Quardokus
* Beth A. Swagman
* Jane A. Bassett
* Michael A. Mestelle
* Caroline M. Dellenbusch
Harley D. Manela
Amy E. Peterman
Robert D. Mannor
Amy Rombyer Tripp
James B. Steward
Dolores M. Coulter
Robert C. Anderson
Todd Tennis (Capitol Services, Inc.)

Total: 18

* = Council Member

Matter 1.03 Approval of Minutes

December 2012 Minutes approved. There was no meeting in January 2013.

Matter 1.04 Treasurer's Report

Treasurer's report accepted, and no needed discussion about it at this time.

Matter 1.05 Legislative Report

See report of February 2012 by Ellen Hoekstra and Todd Tennis, our lobbyists from Capitol Services, Inc. (See attached report.) Some of the more pertinent issues are discussed below:

(a) Blue Cross Legislation

Blue Cross Legislation – On January 31st Bills 61 and 62 have now unanimously passed Senate. Governor vetoed bill in December after Republicans added an amendment dealing with abortion coverage.

(b) Medicaid Expanding

Michigan must soon decide if it wants to extend Medicaid under the Patient Protection and Affordable Care Act (ACA).

SB 41 would prohibit such expansion.

(c) Pooled Trust and EDRO Legislation

Rep. Heise introduced Bill HB 4013 regarding pooled trusts.

And introduced HB 4054 regarding Qualified Domestic Relations Orders, which would add that EDROs need to be in place before the retirement allowance effective date, or the Participant's death, whichever occurs first.

(d) Other Legislative Issues

Capitol Services reports no rumblings on estate recovery showing up soon.

Bill 4081-4082 creates income tax check-off for Alzheimer's Association.

SB 18 creates Medicaid Inspector General to investigate fraud.

SB 71 requires in-home health care services agency to be licensed.

SB 73 creates Vulnerable Adult Abuse Registry.

(e) No Fault Auto Insurance

The issue is whether individuals will still receive lifetime benefits. No bill has been reintroduced yet, but it is expected.

(f) Energy Hearings to Begin

The Public Service Commission announced on January 25th that they would begin holding public input meetings on energy and the environment.

Matter Two - Old Business

Matter 2.01 Pooled Trusts

Michele Fuller is continuing her efforts regarding legislation permitting Medicaid applicant's over 65-years to fund pooled trust, and have such funding not be deemed a Medicaid divestment. 42 USC 1396p(d)(4)(C) has no 65-year old age restriction.

Motion to approve HB 4103. Second by John B. Payne. Held: Unanimous.

Matter 2.02 Consultant Membership

Rosemary Buhl and Kelly Quardokus report how other Sections have been handling consultant membership, or otherwise persons not members of the Michigan Bar.

Their findings suggest the following concerns:

"As we are a section of the bar, it is prudent for us to be cautious in admitting members who are not related in any way to the legal field.

"Regardless of the restrictions we place on non-bar members regarding advertising, marketing, or otherwise, we have no one to police that type of activity.

"Involvement on the list-serv also creates concern, as we already have enough unauthorized practice of law."

Discussion also included whether it is appropriate to label these members as "consultant" members, as well as a discussion back to whether we even want members who are non attorneys, as well as a discussion whether permitting non-member might help facilitate the unauthorized practice of law.

Matter 2.03 Senate Bill 61 and 62, and 2093 and 2094 (Blue Cross / Medigap)

Although there is a new legislature, and thus new bill numbers—SB 61 and 62, those bills are identical in nature to the BC/BS related bills (1293 and 1294) in the last legislative session. It was moved, and adopted anonymously, that the section also note our opposition to the bills in their present form. The section will continue to try to work for amendments to the bills that keep medigap, particularly legacy medigap policies affordable and in place.

Matter 2.04 SBM Diversity Pledge

Brad had invited Daniel Levy or others to address this issue with the Council, but he hasn't heard back yet—so this issue is deferred.

Matter 2.05 Section Budget

Treasurer John Payne reports on his proposed budget. After a discussion, Jill Goodell motioned to accept Payne's proposed budget. Seconded by Jim Steward. Held: motions passed.

Matter 2.06 Fall 2012 Conference (Outstanding Payments to Speakers)

In the prior meeting a vote was taken to approve payments to certain persons regarding the 2012 Fall Conference. This vote was confirmed by an email vote in February 2012. The following payments were approved:

Sam Bagenstos, \$250 honorarium

Connie Brigman, \$250 honorarium

David Lipschutz, \$1,000 honorarium and travel expenses

Kevin Urbatsch, \$1,500 honorarium

Gabrielle Warner, \$250 honorarium

Richard Ryder, \$250 honorarium

Gary Bauer, a \$250 honorarium

Kevin Urbatsch is owed travel expenses, but he has not submitted any airfare or car-rental statements.

Matter Three - New Business

Matter 3.01 Section Donations and/or Sponsorship Request

John Payne moves to contribute \$500 to Consumer Voice on condition that they are able to find another donor to match it. Held: motion passed.

Matter 3.02 Section Priorities for Capitol Services

Issue tabled for next meeting

Matter 3.03 Fall Conference / Spring Seminar

(a) Spring Conference

e-blast is scheduled to be sent on Monday, February 4th regarding the March 15th conference.

(b) Fall Conference

Jill Goodell still taking suggests for speakers, topics, or keynote speakers. Also looking for one more committee member. Robert Mannor volunteered to assist committee.

Fall Conference is slated for Oct 1-4, 2013 (Tuesday through Friday). But the conference event (i.e., the first speaker will speak) will actually begin on Wednesday at noon, as usual.

Where:

Crystal Mountain Resort & Spa
12500 Crystal Mountain Drive
Thompsonville, Michigan 49683.

Matter 3.04 Bylaws

Angela Swanberg was volunteered by James Steward to join the ad hoc bylaws revision committee which includes Rosemary Buhl, Kelly Quardokus, Brad Vauter, and anyone else who cares to join them. At least 3 issues, and maybe more, will be addressed in by-law revisions: (1) Electronic or telephone or other means of voting between meetings, if needed; (2) making sure the bylaws reflect not only the term elderly, but also add disabled where needed, in accord with our section name; and 93) consultant membership.

Matter 3.05 Forms Posted on State Bar Website or Elsewhere on the Web

This primarily has been concerning recent chatter among the probate and elderlaw email list regarding Health Care Power of Attorneys and Financial Power of Attorneys. Issue tabled for next meeting.

Discussion strongly opposing continuing to have a fill-in-the-blank Financial Power of Attorney forms open to the public on the internet, because such forms may help provide the unauthorized-practice-of-law defense for the non-attorney, among other unintended publicly detrimental consequences.

Matter Four - Committee Reports

Matter 4.01 POLST Committee – Bob Anderson

Robert Anderson reported on behalf of himself and Caroline Dellenbusch, among others, regarding Brad Geller's January 28th email attaching his "Project Wildcat" paper entitled, Health Care Decision-Making for a Resident in a Nursing Home. Such document is a policy statement of the Michigan State Long-Term Care Ombudsman Program.

Matter 4.02 Litigation Committee – Sandy Mall

Issue tabled for next meeting.

Matter 4.03 Health Care Reform Committee – Delores Coulter

See Matter 1.05.

Matter 4.04 Newsletter – Jane Bassett

Jane will serve as newsletter editor, and continue to work with Christine Caswell. The newsletter should be going out shortly.

Matter 4.05 Unauthorized Practice of Law – Bob Anderson

Bob Anderson reports progress on his conferences with various people and organizations regarding the concern of inappropriate annuities being sold to veterans.

See Matter 3.05 for unauthorized practice of law regarding power of attorneys posted on the internet.

Matter 4.06 Public Outreach Committee – David Kerr

Issue tabled for next meeting.

**Matter Five -
Announcements**

No announcements.

**Matter Six –
Future Meetings & Adjourn**

Next meeting in March 2, 2013, at Caroline Dellenbusch's office in Grand Rapids.

Meeting adjourned at 12:51 p.m.