

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

**MINUTES OF FEBRUARY 1, 2014**

**APPROVED MARCH 1, 2014**

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

# ELDER LAW & DISABILITY RIGHTS SECTION MEETING OF FEBRUARY 1, 2014

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## Matter One - Introduction

### Matter 1.01            Location

The meeting convened at 10:00 a.m., at Barron Rosenberg, Mayoras & Mayoras, 1301 W. Long Lake Road, Suite 340, Troy Michigan 48098.

### Matter 1.02            Attendance

Present/Call-In/Absent			Councilors	P/C/A
<b>Bassett</b>	<b>Jane</b>	<b>A.</b>	*	P
<b>Bond</b>	<b>Patrick</b>	<b>J.</b>	Vice Chair	C
<b>Buhl</b>	<b>Rosemary</b>	<b>H.</b>	Chair	P
<b>Caswell</b>	<b>Christine</b>		*	C
<b>Fuller</b>	<b>Michele</b>	<b>P.</b>	Treasurer	C
<b>Goodell</b>	<b>Cynthia</b>	<b>Jill</b>	*	C
<b>Kerr</b>	<b>David</b>		*	P
<b>Longstreet</b>	<b>Rob</b>		*	C
<b>Lucius</b>	<b>William</b>	<b>D.</b>		C
<b>Mannor</b>	<b>Robert</b>	<b>D.</b>	*	P
<b>Messina</b>	<b>Maria</b>	<b>Rosaria</b>	*	P
<b>Mestelle</b>	<b>Michael</b>	<b>A.</b>	*	C
<b>Payne</b>	<b>John</b>	<b>B.</b>	Secretary	P
<b>Quardokus</b>	<b>Kelly</b>	<b>McNerney</b>	*	C
<b>Schimke</b>	<b>Sara</b>	<b>Ann</b>	*	P
<b>Smith</b>	<b>Christopher</b>	<b>William</b>	*	P
<b>Steward</b>	<b>James</b>	<b>B.</b>	*	C
<b>Swagman</b>	<b>Beth</b>	<b>A.</b>	*	C
<b>Vauter</b>	<b>Bradley</b>	<b>A.</b>	*	C
<b>Yarbrough-Thomas</b>	<b>Erma</b>	<b>S.</b>		C
Anderson	Robert	C.		C
Coulter	Dolores	M.		C
Dellenbusch	Caroline	M.		C
Manela	Harley	D.		P
Olsman	Jules	B.		P
Peterman	Amy	E.		P
Swanberg	Angela			C
Sprague	David	D.		C
Sturgul	Paul			C
Tennis	Todd		Lobbyist	C

### **Matter 1.03      Approval of Minutes**

A motion to approve the December 7, 2013 minutes was offered by Pat Bond; seconded by Chris Smith. Passed, unanimously.

### **Matter 1.04      Treasurer's Report**

No treasurer's report was presented. Brad Vauter said that dues are down due to a drop in section membership. Rosemary says that the Bar will be looking at membership. It was suggested that the Section send letter of appreciation to Victoria Vuletich, who declined her honorarium for speaking at the Fall Conference.

## **Matter Two - Old Business**

### **Matter 2.01      Spring Conference March 14, 2014**

Speakers are lined up. Harley Manela says the e-blast went out. Deadline for materials is March 7. Materials will only be provided electronically.

### **Matter 2.02      UAGPPJA**

James Steward, Brad Vauter, Rosemary Buhl, Judge Mack, representatives of the Alzheimer's Association, AARP and Benjamin Orzeske from the Uniform Law Commission met to discuss the UAGPPJA. Judge Mack expressed concerns at that meeting. One point made by Judge Mack is that conflict in jurisdiction comes up so seldom that when it does happen they work it out with the other state.

There was discussion and analysis of pros and cons. James Stedman said that enactment would result in major changes and some revisions would be necessary. Council will not take any action at this time.

## **Matter Three - New Business**

### **Matter 3.01      ICLE collaboration**

ICLE is identifying Elder Law as a key area. Jeff Kirkey from ICLE is proposing collaboration with the Section on an Elder Law seminar. This is a complicated issue. The Section would not want its conferences to be co-opted by ICLE. David Kerr suggested that Jeff Kirkey attend our Fall Conference.

## **Matter Four - Committee Reports**

### **Matter 4.01            Fall Conference Committee 2014 – Beth Swagman**

Beth Swagman reports that the Fall Conference is coming together. The committee is approaching speakers. Speaker compensation is being considered. The committee asked that the Council consider capping speaker expenses at \$1,000. John Payne responded that this should be in the committee's discretion. Brad Vauter said that there could be alternatives to be more flexible. The consensus was that the committee should decide what speaker compensation and expenses should be.

### **Matter 4.02            POST Committee – Robert Anderson/Caroline Dellenbusch**

Robert Anderson reported on the POST issue. ELDRS is not officially part of the POST coalition. He suggested that ELDRS become a part of the coalition and make a financial commitment. The POST coalition is interested in having the Section publish the POST Guide, in the interest of statewide implementation. David Kerr had a concern about actions to end life and wanted to know what the advantages of POST would be. Caroline Dellenbusch said that the intent is to give people choice. David said that he would like a better explanation. Robert Anderson observed that Michigan Right to Life is part of the POST coalition. Robert Mannor expressed concern about doctors being the final arbiters, but James Steward said that the coalition is working to avoid giving the decision to the doctor. James said that the patient advocate should be the decision-maker, which is one of the objectives of the POST documents. Robert Anderson will ask the coalition to provide a proposal regarding the ELDRS participation.

### **Matter 4.03            Litigation Committee – Sandy Mall**

No report.

### **Matter 4.04            Newsletter – Jane Bassett**

The next issue of the newsletter is on track.

### **Matter 4.05            Unauthorized Practice of Law Committee – Robert Anderson**

Robert Anderson discussed Medicaid practitioners who are not attorneys, such as "Medicaid Done Right." The Florida EL Committee presented a memorandum regarding Medicaid planning and UPL. This is similar to the Ohio SC decision. This was adopted by the Florida State Bar. The Florida action may be found at the following URL:

<http://www.floridabar.org/tfb/TFBLawReg.nsf/9dad7bbda218afe885257002004833c5/34fac28eda9ca382852579ac006aff21!OpenDocument#FAORequestReMedicaidPlan>

Medicaid planning by nonlawyers is being monitored by the UPL Committee. Danon Garland is the contact person at the Bar regarding UPL.

Brad Vauter wondered if anyone had heard about something that Michael Lebenbom, who represents long-term care facilities, mentioned to him. Michael related that some groups are going into nursing homes and offering to act as guardians and conservators and promising to get Medicaid. Brad Vauter suggested that Michael Lebenbom take this to the UPL committee.

**Matter 4.06                    Mental Health Committee – Christine Caswell**

The Mental Health and Wellness Commission issued its report.

**Matter 4.07                    Legislative – combined with Capitol Services -- Brad Vauter**

The Michigan State Bar contacted us regarding voluntary bar membership. Jules Olsman, Bar Board of Governors liaison, says that the bill is intended to destroy the bar. The bill grew out of an effort to get the Bar to stop talking about dark money in judicial elections. Janet Welch says that no one knows how it would work out if the bar could no longer require membership. States where membership in the Bar Association is voluntary require a fee to support the disciplinary apparatus and licensing. The push for a voluntary bar is an effort to block Bar lobbying. John Payne and Brad V said that states with voluntary bars are not much cheaper, and the bar associations are active. Jim Steward says that the bill does not replace any of the functions now handled by the Bar. David Kerr suggested doing some research into the reasons that the integrated bar was implemented. Kelley Quardokus moved to oppose the bill. Michael Mestelle seconded the motion. Todd said that this is a serious bill. It is not saber-rattling. Rosemary said that without regard to the desirability of a voluntary bar, this bill does not provide any framework to replace the Bar's functions. Brad Vauter opposed the motion. Jane Bassett abstained. All other votes were in favor of the motion.

Todd Tennis reported on a Medigap work group meeting. There would be negative repercussions from the Blue Cross legislation. Amendments to minimize the negative effects may be offered, but major changes are unlikely. Chris Smith said that there is no momentum toward ensuring that Medicare members under 65 will have access to Medigap plans. There are about 65,000 persons in that group who are covered by legacy plans. Todd will work with Senator Marlowe to address the problems.

Todd Tennis mentioned the Mental Health and Wellness Commission. There will be a followup meeting on February 4, 2014 in the House Appropriations Room at the state capitol. There will be legislation spawned by the Commission's work.

Todd Tennis says that SB 636 regarding termination of telephone land-line service, which passed in the Senate, but did not move forward in the House. Phone providers contended that there would be rigorous federal regulation that would need to be satisfied before land-line service could be terminated, but there was vigorous opposition from consumer groups.

**Matter 4.08                    Vulnerable Adult Abuse – Maria Messina**

Vulnerable adult abuse committee: Maria Messina says that there will be a vulnerable adult abuse panel at the Fall Conference. She said that the objective will be to have various aspects and stages of the response to abuse covered. The committee will be approaching probate judges about suggestions for GAL training or other materials.

**Matter 4.09                    Community Outreach – Kelly Quardokus**

August 6, 2014 is picked for “Who Do You Trust” presentations by Bar members at libraries, senior centers, and other venues. The next meeting of the WDYT committee is February 11, 2014. WDYT is looking for volunteers.

**Matter 4.10                    Care Advocacy – David Kerr**

The health-care decision-making committee will try to have a draft document by the March ELDRS meeting.

**Matter Five– Announcements**

None to report.

**Matter Six– Future Meetings & Adjourn**

Next meeting is March 1, 2014, at Chalgian & Tripp, 1019 Trowbridge Road, East Lansing, Michigan 48823.

John Payne moved to adjourn, seconded by Sara Schimke. The meeting adjourned at 11:59 a.m.