

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

PROPOSED MINUTES OF FEBRUARY 7, 2015

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

Matter One - Introduction

Matter 1.0 Location

Bond Estate Planning & Elder Law PC

Meeting convened at 10:01 a.m.

Matter 1.2 Attendance

Voting Council members present: Patrick Bond (chair), Michele Fuller (Secretary), Robert Mannor, John Payne (chair-elect), Sara Schimke (Treasurer), Christopher Smith.

Section members present: none

Voting Council members on phone: Rosemary Buhl (ex-officio), Christine Caswell, Jill Goodell, David Kerr, Michael Mestelle, Kelly Quardokus, David Sprague, James Steward, Beth Swagman

Section members on phone: Dolores Coulter, Robert Anderson, Patricia Dudek, Henley(?), Rogers(?), Paul Strgyl, Amy Peterman, Kelly (?), Raymond Harris, Mortenson,

Non-section members on phone: Todd Tennis

Matter 1.3 Approval of Minutes

Approval of the minutes for December 2014 was moved by Payne and seconded by Mannor. The motion passed unopposed. There was no meeting in January 2015.

Matter 1.4 Treasurer's Report – Sara Schimke

Larger financial report was circulated because it included two months of financials plus 2014 year-end summary. There was a concern raised regarding the \$1,000 expense for name badges for the fall conference. Sara will investigate and report at the next meeting.

Matter Two - Old Business

Matter 2.1 Litigation Committee-Sanford Mall

SBO Trust Litigation: In the court of claims action had a negative outcome from Judge Donafrio. Motion for reconsideration was denied. Brief was

written by Amy Peterman. We are not in a position to pursue claim of appeal versus overall objective. The time for filing expired this past Tuesday. The issue is now dead. The section has taken the matter as far as we could.

There is a concern raised by Cliff Flood regarding the engagement with RR regarding a ceiling for fees. The concern will be addressed by Sanford Mall and he will report back to the Section.

Status of pending claimants were discussed.

John Payne moved to pay Prince law firm \$2500 for Amy Peterman's work on the brief in support of the Motion for Reconsideration. Second by Bob Mannor.

Roll call vote taken. Unanimously passed. Brief will be available to others who are litigating upon request to Sanford Mall or Patrick Bond.

Ketchum Estate-waiting to see if the court of appeals takes action.

Matter 2.2 Spring Conference-Harley Manela

35 people have registered so far, which is above last year. Usually 100-110 attend and we already have 55 accounted for, so he anticipates a good turnout. Reviewed lineup of presenters.

Matter 2.3 Legislative Report-Todd Tennis

Highlights of the legislative report:

- a) There is a combining of two large departments: DHS and DCH.
- b) There is an unanticipated budget shortfall which took Lansing by surprise being \$300 million short, next year \$500 million short being addressed solely through cuts reducing numbers on public assistance.
- c) Rep. Cotter wants to address digital assets and fiduciary assets this year.
- d) Rep. Heise reintroduced HB 4034 pooled trust act.
- e) Pending bills increased penalties for elder abuse before senate judiciary committee.
- f) Legislation that did take effect: continuing care communities: different types of LTC level facilities on same site-passed and signed last year.
- g) Bill reintroduced that would have allowed inherited property from first degree relative continue to have principal residence exemption for 3 years.

SB 24

Matter Three - Legislation

Matter 3.1 Special Needs Trust Fairness Act

John Payne moved to send email blast to members of the ELDR Section to write their state reps in support. Second by Bob Mannor. Roll call vote passed unanimously.

Secretary (MPF) to file public policy position with the State Bar.

Matter 3.2 ABLE Act-Chris Smith

Chris Smith provided history of Act driven by consumers. The Act is very problematic and the Section needs to be proactive in implementation. Many components are unclear. Smith asked that this be made a priority for the Section. Discussion among section members discussed federal advocacy efforts by NAELA and an SSA advisory committee. Todd Tennis said he would monitor the situation.

Matter 3.3 Proposed VA legislation

References changes in law that were never passed. Comment period is open. The more comments the better. Could have draconian results for those who need aid and attendance benefits. March 24 deadline for comments.

Bob Mannor will prepare an outline of objections-for march meeting working with Anderson.

Dudek-NAELA partnered with VA orgs and had exceptions written into the law. Objections to the changes are that legislators need to be aware of are that: (1) cost shifting-federal to state. New rules make it very hard to qualify for aid and attendance people will depend on Medicaid programs for long term care needs, and (2) the proposals will force more people into institutional care sooner.

Mannor will work on comments for vote at ELDR meeting in March.

Matter Four-Section Membership

Matter 4.1 Council Seat Vacancy

William Lucius moved out of state leaving a vacancy on the council. Nominations should be emailed to Patrick Bond. Nominees should be individuals who have consistently attended meetings and contributed in some way.

Matter 4.2 Legal Consultant Member

Charlene Tope requested to become a consultant member of the Section. John Payne moved that she become a consultant member of the section. Kerr seconded. Roll call vote. 13 voted: 8 yes, 3 abstain, 1 no. Motion passed

Matter Five-Announcements

5.1 Florida decision regarding the prohibition of non-lawyers doing Medicaid planning-Bob Anderson

5.2 Mental health-Caswell
Will forward email to the section due to time constraints.

5.3 50th Anniversary of Medicare and Medicaid program-Styrgl

Matter Six – Future Meetings & Adjourn

John Payne moved to adjourn. Bob Mannor seconded.

Next Council meeting:

10:00 a.m., March 7, 2015 at Bond Estate Planning and Elder Law PC., St. Clair Shores, Michigan.