

**FEBRUARY 2017 MINUTES OF THE
ELDER LAW & DISABILITY RIGHTS SECTION
STATE BAR OF MICHIGAN**

February 3, 2017

Location: State Bar of Michigan, 306 Townsend, Lansing, MI. Participants had the option to appear by telephone.

Attendance:

- **In Person:** Michele Fuller-Urbatsch*, Beth Swagman*, Christine Caswell*, Caroline Dellenbusch*, Raymond Harris*, Michael Mestelle*, Kelly Quardokus*, David Kerr, Jill Goodell, Susan Chalgian, Jean Doss, Nick Ryan, Todd Tennis

- **On Phone:** Sara Schimke*, Christopher W. Smith*, Howard Collens*, Angela Hentkowski*, Robert Mannor*, John Payne*, Theresa Orlaske-Rich*, Jacquelyn Rygiel-Sprague*, James Steward*, David Sprague*, Erma Yarbrough-Thomas*, Robert Anderson, Harley Manela, Elizabeth Vincent, Paul Sturgul, Jacob Spear, Amanda Filizetti, Don Rosenberg, Brad Vauter, Christopher Berry, Patti Dudek

* Indicates Council member.

I. Executive Reports.

1. **Minutes.** The minutes from the December meeting were submitted for Council's approval. **Kelly Quardokus** moved to approve the minutes. **Christine Caswell** seconded the motion. The February minutes were approved unanimously.

2. **Treasurer's Report.** **Beth Swagman** presented her proposed budget. **Howard Collens** asked why the budget did not contain any allocation for litigation expenses. Beth indicated that the proposed budget assumed litigation would be funded exclusively through the MI NAELA Foundation, which raised some concerns by members regarding leaving all litigation decisions to NAELA. Also, based on other feedback, Beth is going to make some small tweaks to the budget. Approval of the budget was tabled until the March meeting.

3. **Committee Reports.** Michele Fuller-Urbatsch reiterated that committee reports are due the Tuesday before meetings.

II. New Business.

1. **GoToWebinar.** **Michele Fuller-Urbatsch** suggested that Council consider using GoToWebinar, which has several technology advantages such as knowing who is speaking and greater ability to control phone lines, but does require advanced registration and costs more. There was further discussion regarding whether the section should do webinars. **Robert Anderson** expressed concern that this would compete with NAELA Michigan as this is one of their main member recruiting tools. **Jim Steward** mentioned that there are also a number of free conference calling services. A decision to pay for GoToWebinar was tabled for further research.

Later in the meeting, Council discussed possibly delegating the webinar question to the Education and Outreach committee chaired by Erma Yarbrough-Thomas.

2. **Litigation Committee.**

- a) *Vansach Case.* The *Vansach* has to do with protective orders and the income allowance. **Kelly Quardokus** made the following motion: That the ELDR Law Council approve Jim Schuster to prepare the motion requesting approval for the ELDRS Section to submit an amicus brief to the Court of Appeals in the *Vansach* case, that he prepare the amicus brief, and that he receive the \$2500 stipend that the Council agreed to and that has been approved by the NEALA Michigan Board.

Michael Mestelle seconded. Motion passed: 16 yeas; 0 nays, chair abstained. Because this was funded from NAELA Michigan, there is no cost to ELDRS.

- b) *Litigation policies.* **Raymond Harris** presented the proposed litigation policy for the section. **Jim Steward** raised concerns regarding the requirement that a counsel be identified because there may be times where Council wants to take a position, but has not yet identified the proper counsel. The Committee agreed to strike that requirement.

Christine Caswell moved to approve the litigation policy with the above change. **Caroline Dellenbusch** seconded. Motion passed: 16 yeas; 0 nays, chair abstained.

A copy of the final proposal will be included with these minutes. Additionally, **Jill Goodell** finalized the Section's amicus request form, which will be published on the Section's website.

3. **Legislation Committee.**

- a) *POST.* **Robert Anderson** and **Caroline Dellenbusch** continue to represent the section in its efforts related to POST. Committee members still are not convinced that a second consent is needed to stop artificial life sustaining treatment like feeding tubes when there is already the broad ability to revoke a POST in the draft statute – a requirement that does not exist in any other state. A meeting with Right to Life is being planned for February.
- b) *Committee Goals.* The Committee indicated its goals for the upcoming year are: (1) Becoming more strategic in the use of the Section's members to respond to legislative positions taken by the Section; (2) Monitoring and reviewing legislative proposals which are likely to affect our members and their clients, and proposing support, opposition, or revisions for consideration by Council as the Committee determines to be appropriate; and (3) Researching and leading the proposal of one new piece of Michigan legislation that will either benefit individuals with disabilities and/or older adults.
- c) *Guardianship Statute.* There is proposed legislation that would make a change to EPIC to confirm that a Court can order a guardian to be compensated by the estate of the ward. The purpose is to expand the ability to compensate guardians, but **Michele Fuller-Urbatsch** indicated that the current language can be read to restrict compensation from other sources (such as an unsupervised trust). Michele is going to work Todd Tennis to see if this change can be made.
- d) *Probate Appeals.* **Susan Chalgian** volunteered to look into whether the ELDRS Section should make any comments to the proposed court rules implementing the ability to bring probate appeals directly to the Court of Appeals.

4. **Spring Conference.** **Harley Manela** reported on the Spring Conference, which looks to be on track. The Conference will be held on March 10, 2017, at the Inn at St. John.
5. **Fall Conference.** **Angela Hentkowski** made a motion to pay the \$2,500 deposit for Mission Point to host the 2018 Fall Conference. John Payne seconded.

Motion passed: 16 yeas; 0 nays, chair abstained.

6. **Legislative Training.** **Kelly Quardokus** indicated that **Jean Doss** will be doing a legislative training over lunch after the March 4th meeting in Lansing. Everyone is encouraged to attend. Please contact Kelly if you can attend.

The meeting was then adjourned.

Next Meeting: March 4, 2017, State Bar of Michigan, 306 Townsend, Lansing.