

Elder Law and Disability Rights Section Meeting minutes

June 2, 2012, Barron, Rosenberg, Mayoras & Mayoras, PC

Present in person: Caroline Dellenbusch*, Rosemary Buhl*, Sara Schimke*, Sarah Rubino, Patrick Bond*, John Payne*, Dolores Coulter, Ellen Hoekstra (Capitol Services), Todd Tennis (Capitol Services)

Present via telephone: Jim Steward*, J. David Kerr*, Michael Mestelle*, Brad Vauter*, Jill Goodell*, Beth Swagman*, Bob Anderson, Kelly Quardokus*, Art Malisow*, Angela Swanberg, Christine Caswell, Will Lucius*, Patti Dudek, Amy Tripp

*Indicates voting council members.

1. Meeting began at 10:00 am. Introductions were made for those present, and via telephone.
2. Approval of May Minutes. Motion made by John Payne. Seconded by Sara Schimke. Vote held, passed unanimously.
3. The Treasurer's report was made, as Treasurer; Patrick Bond forwarded most recent statements provided by the State Bar which shows a balance as of April 30, 2012 to be \$98,260.66.
4. Legislative Update (For complete analysis of the legislation, and other activity reported on, please see June 2012 Legislative Report prepared by Capitol Services)
 - a. Estate Recovery –still quiet. It is believed that this legislation may not move until after the election.
 - b. Check off for Alzheimer's—moving forward, two bills. Only controversy is that there are a limited amount of charities that are allowed to do this.
 - c. DCH Budget—had to reduce estate recovery amount
 - d. Vulnerable Adult Package—on Governor's desk.
 - e. Pooled Trusts—Kurt Heise's office has sent the bill to Legislative Services Bureau. Hope to have it back soon. After we get an "official draft" we need to review and meet with Heise again.
 - f. Medical Malpractice reform. Two sets of bills (house and senate) are moving forward. Bills would make it more difficult to take claims to trial. There would also be a significant change in how damages are calculated.
 - i. 1115/5669—addresses the caps for damages. Will make claimants hit damage cap sooner.
 - ii. 1116/5670—will create a new threshold that must be met before it can go to a jury.

- iii. The rest are other obstacles on getting claims into court. These bills are moving forward, but a lot of victims have been very vocal. They packed the house.
- iv. Discussion was held regarding the bills. These bills could/would force more people onto Medicaid. \$\$ is a major issue. The Medicaid issue is not included in the fiscal analysis. It has come up in discussion. Council agreed that this is a significant threat to people with disabilities, who already face many challenges. Other options, such as U-M Model –which avoids patient injury, not must the risk of it, should be considered.
 - 1. Patti Dudek recommended a work group with proper representation. Jim Steward commented that Trial Lawyers are aligned with us. Victims will be relegated to being wards of the state and moved into poverty, forcing them to go onto benefits.
 - 2. Jim Steward made a motion to oppose the bills, seconded by John Payne. Passed unanimously (Will Lucius not present for the vote)
 - a. Comment to vote to add the negative impact on people with disabilities and the increased cost of Medicaid.
- g. Uniform Arbitration bills, passed the senate, referred to house. Our task needs to be to come up with specific changes we would like. Possible amendments. Appears as if there is no intent to take up before fall.
- h. New Bills of interest:
 - i. 1153—vulnerable adult abuse registry
 - ii. SB 990—Principal residence tax exemption—allows homeowners to retain the principal residence tax exemption after moving into a nursing home/assisted living. Motion was made by Jim Steward to support this, seconded by Rosemary. Vote held, passed unanimously (Will Lucius not present).

5. Old Business

- a. Fall Conference –
 - i. Conference Committee led a discussion regarding the budget for the fall conference. Given the current projections, the current estimate is \$20,000.
 - ii. Discussion was held regarding scholarships. The council has never played an active role in the scholarships and this year the Conference Committee is attempting to make some general recommendations regarding scholarships.

1. In terms of the scholarships, the first to be addressed was the scholarships for Long Term Care Ombudsman. Motion was made by Beth Swagman, seconded by Brad Vauter to approve 5 full scholarships (Registration \$200 and Hotel \$300) for Long Term Care Ombudsman (minimum cost of scholarships to be \$2500). Discussion was held regarding changing the motion to allow more flexibility. Vote was held, with 4 in favor and 7 opposed. Therefore the motion did not pass.
 2. Kelly Quardokus followed up with an alternative motion, seconded by John Payne, to allocate the sum of \$3,000 to be made available for scholarships for the Long Term Care Ombudsman, to be determined how to be best used by the Ombudsman. Vote was held and passed unanimously.
 3. Next Scholarship issue was to address general scholarships. Beth Swagman made a motion to allocate an additional \$4,000 toward general scholarships. This was seconded by John Payne and passed unanimously.
- iii. Discussion was held to approve E-Blasts for the conference. Beth Swagman made a motion, seconded by John Payne, to approve 4 E-Blasts (total cost \$300). These will go to the ELDRS listserv, Probate Listserv, Consumer Law Listserv and Health Care Listserv. Motion was passed unanimously.
 - iv. Honorariums were also addressed. Motion was made by Beth Swagman and seconded by John Payne, to pay \$250 for each non-ELDRS or Probate Attorney and non-attorney speakers. Current estimate of speakers 7. ($\$250 \times 7 = \$1,750$.) Motion passed unanimously.
 - v. Hotel rooms. Motion was made by Jim Steward for the section to pay for the hotel room for honorarium recipients (not section members, etc), Seconded by David Kerr. Passed unanimously.
 - vi. Online registration will open July 1st and the deadline for scholarships is August 3rd. Deadline for registration is September 3rd.
 - vii. Discussion was held regarding outreach to other organizations. Motion made by John Payne, and seconded by Rosemary Buhl to authorize the conference committee to spend up to \$500 for groups other than attorneys. Vote held passed unanimously.
- b. Estate Recovery FOIA—results sent out to council members only. .

- c. By-law Changes—conversation tabled
 - d. Pooled Accounts Trusts—see legislative report
 - e. Collaboration with Health Care section— Caroline—webinar scheduled in June was postponed until Fall.
 - f. Unauthorized practice of Law definition-State UPL project. Conference call was held and \$ is needed for number of senior centers for power point presentations. Requesting \$\$ or the cost of printing. UPL committee to review and report to ELDRS council.
6. New Business—
- 1. HB 5669, 5670, 5671, and 5672; and SB 1115, 1116, 1117 and 1118—(moved up on agenda)—Amy Tripp led a discussion regarding these proposed bills which will significantly reform medical malpractice. Amy will represent the council in her testimony.
7. Committee Reports
- a. POLST—no update
 - b. Litigation Committee—tabled
 - c. Health Care Reform Committee—no report
 - d. Legislative Committee—no report
 - e. Newsletter—no report
 - f. Unauthorized Practice of Law—see above.
 - g. Outreach Committee—Just established contact with each other will look for date to discuss. UPL/SMB issue is a good intro.
8. Announcements—None
9. Upcoming meetings:
- a. August meeting will be Saturday August 4th at Steward & Sheridan, PLC in Ishpeming.
 - b. September meeting is Labor day weekend??
 - c. October will be fall conference
10. Motion made by John Payne to Adjourn, seconded by Pat Bond. Passed unanimously.

Meeting ended at 12:00 pm

Respectfully submitted by Rosemary H. Buhl