

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

MINUTES OF JUNE 7, 2014

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

**ELDER LAW & DISABILITY RIGHTS SECTION
MEETING OF JUNE 7, 2014**

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Matter One - Introduction

Matter 1.01 Location

Bassett & Associates, PLLC, 2045 Hogback Road, Ann Arbor, MI 48105.
Meeting convened at 10:00 A.M.

Matter 1.02 Attendance

Present/Call-In/Absent			Voting Members	6/7/2014
Bassett	Jane	A.	*	P
Bond	Patrick	J.	Vice Chair	C
Buhl	Rosemary	H.	Chair	P
Caswell	Christine		*	
Fuller	Michele	P.	Treasurer	C
Goodell	Cynthia	Jill	*	C
Kerr	David		*	
Longstreet	Rob		*	C
Lucius	William	D.	*	C
Mannor	Robert	D.	*	
Messina	Maria	Rosaria	*	C
Mestelle	Michael	A.	*	
Payne	John	B.	Secretary	P
Quardokus	Kelly	McNerney	*	P
Schimke	Sara	Ann	*	P
Smith	Christopher	William	*	P
Steward	James	B.	*	
Swagman	Beth	A.	*	C
Thomas	Erma	S.	*	C
Coulter	Dolores	M.		P
Sprague	David	D.		C
Sturgul	Paul			
Swanberg	Angela			
Tennis	Todd		Lobbyist	P
Tripp	Amy	Rombyer		
Vauter	Bradley	A.	*	
Woods	Audra			

Matter 1.03 Approval of Minutes

Approved by John Payne. Approval of the minutes for May 3, 2014 was moved by Kelly Quardokus and seconded by Sara Schimke. The motion passed unanimously.

Matter 1.04 Treasurer's Report

Michele Fuller provided a report. Approximately \$3,000 less than last year. The balance is almost \$98,000. The report was accepted.

Matter Two - Old Business

Matter 2.01 State Tax Commissioner's Complaint –Brad

There are inconsistencies between the current state of the law related to uncapping of taxable value and principal residence exemption for real property taxation, on one hand, and the State Tax Commission's published policy booklet, on the other. There is also anecdotal evidence that local assessors are inconsistent in applying the uncapping law. Robert Anderson is requesting \$3,000 for assistance in drafting complaint and research for declaratory action. Brad Vauter and other Councilors and attorneys attended an STC meeting and made a request in writing for the STC to update the publication to reflect current law. The STC has not taken any action. If legal action is contemplated, the question arises of whether Robert Anderson will be the plaintiff?

Filing a complaint may be premature. Council will ask for an explanation of what the STC intends to do.

Rosemary will coordinate a meeting with Robert, Sandy Mall, David Kerr and other members of the litigation committee regarding a declaratory judgment action on the STC matter. Another objective will be to develop a process for referring matters to the litigation committee. The Council will take up the STC matter in August.

Matter 2.02 UAGAPPJA update—See Legislative Update.

Matter Three - New Business

Matter 3.01 Supreme Court State Bar task force report

Comments due August 4, 2014. The Negligence Section is expressing disagreement with the task force report because they lobby aggressively. They are concerned that the Bar is heading down a slippery slope that will restrict their ability to advocate. Rosemary Buhl, David Kerr, Brad Vauter and Kelly Quardokus will formulate the Section's response.

Todd Tennis says that the Section's response should be that forming separate entities for lobbying and advocacy would be burdensome. The Bar says the sections are overreacting.

Matter 3.02 Hearts and Flowers fund

Jane moved to set up a fund to recognize section members in distress or who are worthy of distinction to be held by Patrick Bond. John Payne seconded. Passed unanimously on voice vote.

Matter 3.03 Fall 2015 conference committee/location exploration committee

September 30 to October 2, 2015. Angela Swanberg, Sara Schimke, Amanda Murray, and Jacqueline Rydell-Sprague will explore locations.

Matter 3.03 ICLE conference

There has been no decision about coordination with ICLE and there has been no further request from ICLE. The Council will need to decide what the Section's objectives will be.

Matter Four - Committee Reports

Matter 4.01 Fall Conference Committee 2014 Beth Swagman

Beth Swagman reported that there will be e-Blasts next week. One sponsor, Michigan Poverty Law Program, has signed on. The Committee is looking for a second sponsor. Robert Mannor is looking for nonprofit organizations to

have tables and an organization that would pay for a coffee break or things like bags for handouts.

Matter 4.02 Other committees

Matter Five Legislative Update – Capitol Services, Inc.

The Legislature has one more week of session before the summer recess if they keep to their current schedule. While there is always the possibility of going an extra day or two if they are close to reaching a deal on a major issue, legislators are already eager to get back on the campaign trail. Major issues being currently being wrapped up are the “Grand Bargain” for the Detroit bankruptcy, new funding for transportation and roads, and of course the budget itself.

Changes to Pooled Trust Bill Fail to Win Support from DCH

Representative Heise (R-Plymouth) has championed our position on the pooled trust issue. He sponsored House Bill 4013 in 2013 to allow for persons aged 65 or older to utilize pooled trusts without penalty. Despite several revisions aimed at gaining approval from Department of Community Health, they remain opposed to the legislation. The reasons for the Department’s opposition have changed as attempts to address the Departments concerns have been offered. It appears that there are high-level administrators who will oppose the bill without regard to the bill’s particulars.

Time is running out in the current legislative session to gain any movement on the bill. We continue to work with legislative leaders and members of Governor Snyder’s administration to try and reach a compromise, but it seems more and more that the department has no interest in reaching any type of agreement.

Senator Schuitmaker Releases New Draft for Uniform Guardianship Legislation

Legislation to adopt most aspects of the Uniform Law Commission’s model legislation pertaining to multi-state guardianship proceedings has been altered significantly from its initial form. Senator Tonya Schuitmaker (R-

Lawton), the sponsor of the legislation, has recently released a new draft of Senate Bill 465 aimed at addressing some of the concerns raised by the Probate Judges Association and the Probate and Estate Planning Section of the State Bar. One of the major changes was to abandon the idea of creating an entirely new act to deal with guardianship jurisdiction and instead to incorporate it into the existing Estates and Protected Individuals Code.

Another change was the inclusion of a definition of “temporary absence” which stemmed from recommendations made by the Probate Section in 2010 in response to the initial release of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA). The new draft also inserts Article 4 of UAGPPJA which was left out of the original bill. This article contains language allowing for the registration of out-of-state guardians in Michigan so they may act on behalf of the ward in this state while retaining oversight of the guardianship in the ward’s home state.

Although some of these changes were made to accommodate concerns expressed by the Probate Judges Association and the Probate and Estate Planning Section, they will likely not go far enough to win the support of those organizations. The main proponents of the legislation – the AARP and the Alzheimer’s Association – hope to meet with representatives of the PJA and Probate Section in late June to see if there is a way to reach compromise.

The Section is not taking a position on this now. Rosemary Buhl, James Steward, Brad Vauter and others are participating in the conversation.

DHS Warrantless Arrest Bill Reported from Senate Committee

The Senate Judiciary Committee voted out SB 843, a bill that would allow the Department of Human Services director to grant limited police powers to the department’s Office of Inspector General agents. The bill sponsor, Senator Rick Jones (R-Grand Ledge), stated that the change was necessary to follow new federal guidelines stemming from the Farm Bill. This claim has been disputed, but nonetheless the committee voted the bill to the Senate floor.

SB 843 would allow agents of the Office of Inspector General to make arrests – even without warrants – of individuals whom they suspect of committing

felonies relating to Medicaid, welfare or food assistance fraud. In addition, the bill would permit the DHS director to authorize agents to carry firearms.

Although the Committee moved the bill on May 8, it has yet to be taken up on the Senate floor. It is unclear whether the delay is due to some hesitancy regarding the legislation or just the normal delay of non-appropriations bills this time of year. If the ELDRS Council and other organizations opposed to the change wish to have an impact on the bill's future, they will need to contact their State Senators and ask them to vote against SB 843.

DCH Proposes Rules to Reduce Medicaid Verification Extensions

The Department of Community Health has proposed a change to the Bridges Administrative Manual that would reduce the number of routine extensions an applicant may receive for the collection of documents for the purpose of verifying Medicaid eligibility. Currently, the rules allow for an applicant to receive up to three ten-day extensions to collect these verifications. The proposed rule would reduce this to two ten-day periods. Further extensions could be granted with the approval of a supervisor.

The proposed rules, if adopted, would take effect on October 1, 2014.

Legislature to Complete Budgets Next Week

As of this writing, conference committees are meeting to report the final versions of various budget bills. The leadership of the House and Senate – after concurring with Governor Snyder – issued “target” amounts for each budget area, and the conference committees will make their final adjustments presently. Unless something unexpected occurs, the Legislature is on pace to meet their goal of completing the budget by June 12.

It seems at this point that the majority of funding increases to programs in the Department of Community Health will be ensconced in the final version of the DCH budget. Proposed increases for the PACE program, the Home and Community Based Waiver and In-home services for seniors are likely to make the cut. Even one item that was not proposed by the governor – \$150,000 to the Alzheimer's Association – looks like it will be approved.

The one item that might not get the full funding proposed by the Governor is implementation of the Mental Health and Wellness Commission recommendations. Governor Snyder proposed approximately \$15 million for this purpose, which the House approved. The Senate version of the budget inserted only a \$200 placeholder, so the conference committee will determine that final number.

Newly Introduced Bills of Interest

HB 5558

CONSUMER PROTECTION (Leonard) Modifies application of consumer protection act to unfair trade practices in insurance code.

Reported in House (5/22/2014; By Judiciary) HB 5630

HUMAN SERVICES (Olumba) Creates Michigan Social Innovation Act.

Introduced (6/4/2014; To Education)

SB 938

NURSING HOME POLICIES (Hansen) Require establishment of patient care policies and compliance procedures based on nationally recognized guidelines or best-practice resources, and provide other general amendments.

Committee Hearing in Senate (5/28/2014)

SB 939

FOOD ESTABLISHMENTS (Nofs) Eliminate exemption from definition of food establishments for nursing homes, homes for the aged, and adult foster care facilities.

Introduced (5/14/2014; To Appropriations)

Matter Six – Announcements

No announcements.

Matter Seven– Future Meetings & Adjourn

Jane moved to adjourn. Kelly seconded. Upcoming Council meetings:

10:00 a.m., August 2, 2014 at Steward & Sheridan PLC, 205 S. Main Street, Ishpeming, MI 49849.

10:00 a.m., September 6, 2014 at Caroline Dellenbusch's office, 2944 Fuller Avenue NE, Suite 100, Grand Rapids, MI 49505

7:30 a.m., October 3, 2014 at Mission Point Resort, Mackinac Island, MI 49757 (Annual Meeting).