

Elder Law and Disability Rights Section [ELDRS] of the State Bar of Michigan
Section Meeting – JUNE 6, 2020
Webinar / Conference Call Only

Attendance by Phone: Christine Caswell*, Susan Chalgian*, Howard Collens*, Shannon DeWall*, Raymond Harris*, Angela Hentkowski*, Catherine Jacobs*, Greg Kish*, Robert Mannor*, Erin Mortenson*, Amanda Murray*, Theresa Orlaske-Rich*, Kelly Quardokus*, Tracey Rowens*, Nick Ryan*, Sanford Mall*, Jackie Rygiel-Sprague*, Christopher Smith*, Terri Winegarden*, Todd Tennis, Jean Doss, Beth Swagman, David Lucas, Don Rosenberg, Nadia Vann, Paul Sturgul, Harley Manela, and Brad Vauter

[*ELDRS Council Member]

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Chair Kelly Quardokus called the meeting at approximately 10:01 AM.

[A] ROUTINE BUSINESS

Agenda- Harley Manela asked to add to the Agenda a discussion of the 2021 Spring Conference. With the amendment, Howard Collens moved and Erin Mortenson seconded to adopt the agenda. Motion passed.

Minutes- Howard Collens moved and Erin Mortenson seconded to adopt the minutes. Motion passed.

Treasurer’s Report- Angela Hentkowski reported on the most recent Treasurer’s report.

[B] COVID-19 UPDATE

Kelly Quardokus recapped some of the things the ELDRS Section and the State bar have done to help practitioners with COVID 19 Preparedness and Response Plans.

[C] COMMITTEE REPORTS

Added to Agenda. Spring Conference – Harley Manela discussed the 2021 Spring Conference currently scheduled for March 19, 2021 at in at The Inn of St. John, unless something changes.

- 1. Fall Conference Update.** If permitted, the Fall Conference will be held October 7-9, 2020. Angela Hentkowski reported that we can delay registration until August so that we might know better about whether the conference will be held in person.
- 2. Disability Rights Committee** - Shannon DeWall discussed that the Committee continued meetings with MHAM about CMH “Hamster Wheel” issue on appeals for denial of services with collaboration with organizations such as ARC, meetings with the Michigan Federation of the Blind who are concerned

about discrimination in Guardian and Conservatorship cases, and an update on accessibility issues to be addressed in the Detroit courthouses from government leadership seems to be on hold since COVID -19.

3. Legislative Committee - Todd Tennis and Jean Doss gave the Capitol Services Legislative.

- a. Howard Collens discussed Remote Notary Witness Legislation
Howard Collens Moved and Angela Hentkowski Seconded a Motion that ELDRS Council adopt a public policy position that supports legislation, in concept, that:
 - (a) Ratifies acts of notarization and witnessing made under Executive Orders 2020-41 and 2020-74, as well as those that were intended to have complied with those orders;
 - (b) Allows remote witnessing of legal documents under EPIC; and,
 - (c) Allows remote notarization by individuals using an “other audio and visual communication technology” in addition to a “remote electronic notarization platform” approved under section 26b of the Michigan Law on Notarial Acts, by amending Michigan’s current law on notarial acts.

The approved motion includes a grant of authority to the chair of the Legislative Committee, Christopher Smith, and/or the co-chair of joint workgroup, Howard Collens, to work with our lobbyist and the Bills’ sponsors to modify, or approve modifications to, the final proposed Bills in accordance with the position taken by Council.

Christine Caswell, Susan Chalgian, Howard Collens, Shannon DeWall, Raymond Harris, Angela Hentkowski, Catherine Jacobs, Greg Kish, Robert Mannor, Erin Mortenson, Amanda Murray, Theresa Orlaske-Rich, Kelly Quardokus, Tracey Rowens, Nick Ryan, Sanford Mall, Jackie Rygiel-Sprague and Christopher Smith voted in favor of the motion. There were no opposed votes or abstentions.

- b. Christopher Smith and Todd Tennis discussed HB 5759 regarding Electronic Will. A bill supported by LegalZoom.
Christopher Smith Moved and Angela Hentkowski Seconded a Motion that ELDRS Council oppose HB 5795 as drafted. Current statutory will formalities and functions [evidentiary, protective (e.g. protected from undue influence, fraud, delusion, coercion, forgery or perjury) etc.] are not adequately addressed in this bill. The Section is willing to work with the sponsor and other Sections and colleagues to formulate and support a proposal that addresses the will formalities and functions missing in the current bill.

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- c. Christopher Smith and Erin Mortenson discussed the Power of Attorney Legislation sponsored by Representative Wozniak.
- d. Christopher Smith discussed the Governor's Task Force on Elder Abuse.

4. Litigation – No report, but Chair Ray Harris asked if anyone has relevant legal issues to let him know.

5. Membership and Education - Maria Messina Weirsmas and Tracey Rowens discussed the ELDRS Exchange, a virtual gathering to be held on Thursday, June 18, 2020 at 7:00pm. Discussion to include Zoom hearings, reopening offices, and as always practice questions.

The July ELDRS webinar will be: Name that Medicaid Program: Deciphering Non Long Term Care Medicaid with Attorney Lisa Ruby.

6. Administrative – No Report.

7. Bylaws – A discussion was had about the process for Updating our Bylaws for the Section.

[D] NEW BUSINESS

SBM Diversity Pledge: Howard Collins Moved and Christopher Smith Seconded that the ELDRS Section sign the State Bar of Michigan Diversity Pledge.

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[E] DISCUSSION QUESTION:

Paul Sturgul provided information on 1135 WAIVERS* of certain Medicare, Medicaid, HIPAA requirements when a disaster or National Emergency / Public Health Emergency has been declared.

REMINDER UPCOMING MEETING SCHEDULE DATES

NO JULY MEETING (4th of July weekend)

AUGUST 7, 2020 YOOPERS Elderlaw Conference (Tentative)

AUGUST 8, 2020*(*In person at Steward & Sheridan PLC / 205 S. Main St. Ishpeming, MI 49849 in the U.P) OR Webinar/ Conference Call

SEPTEMBER 12, 2020 State Bar of MI

OCTOBER 7-9, 2020/ FALL CONFERENCE- ANNUAL MEETING

Meeting Adjourned at approximately 12:15 PM.