

ELDRS Section Meeting
March 2, 2019
State Bar of Michigan Office, 306 Townsend, Lansing, MI 48933

Attendance: In person - Christopher Smith*, Kelly Quadorkus*, Christine Caswell*, Robert Mannor*, Susan Chalgian*, Ray Harris*, Nick Ryan*, Theresa Rich*, Tracey Rowens*, Sara Schimke*, Maria Messina Wiersma*, Todd Tennis, Jean Doss, Erin Mortenson, John Roy Castillo, David Kerr, Catherine Jacobs, Brad Vauter, Tina Mullens; by phone - Howard Collens*, Angela Hentkowski*, Greg Kish*, Jackie Rygiel-Sprague*, Terri Winegarden*, Sanford Mall*, Harley Manela, Lisa Anderson, Beth Swagman, Jim Steward, Erma Thomas, Ryan Long, Paul Sturgul, James Bilicki, Kimberly Parks

*Denotes voting member

Chair Chris Smith called the meeting to order at 10:05 a.m.

Nick Ryan made a motion and Theresa Rich seconded to approve the agenda. Motion passed.

Theresa Rich a made a motion and Kelly Quardokus seconded to approve the February 2018 minutes with a correction. Motion passed.

Fall Conference Committee – The committee is still working on speakers for the 2019 conference. Angela Hentkowski provided Council with possible locations and costs for the 2020 conference. Kelly Quardokus moved and Ray Harris seconded that the 2020 conference be held at the DoubleTree in Bay City, October 7-9. Motion passed. Angela Hentkowski made a motion and Kelly Quardokus seconded that \$1,000 be approved for a deposit for the 2020 conference. Motion passed.

Treasurer's Report – Treasurer Bob Mannor reported that the Section is inching closer to negative revenue versus expenses. The Membership Committee will look at possibly monetizing the webinars, and a line item will be added to the budget for the webinar expenses, using money from the annual meeting budget.

Spring Conference – Harley Manela reported that Theresa Rich was the first person to register for the Spring Conference on March 15. About 65 people have signed up so far, including three from the Young Lawyers Section and four from Legal Aid. Tri-State Bank may be interested in sponsoring the spring conference in 2020. Only two people have signed up to be sponsors this year. Bob Mannor suggested giving potential sponsors an idea of what event looks like with quotes from attendees. Possibly the companies that provide sponsorship for the ICLE Fall Elder Law Conference would be interested in sponsoring the Section's Spring Conference. Kelly Quardokus, Maria Messina Wiersma, Tracey Rowens, and Chris Smith will work on sponsorships for 2020.

Membership Committee - Maria Messina and Tracey Rowens reported on possibly pairing up young lawyers with council members at the Spring Conference. The Young Lawyers Section requested ELDRS serve as a sponsor at the Annual Young Lawyers Summit, Friday-Sunday, May 17-19, at Motor City Casino and Hotel in Detroit. Discussion was held as to whether ELDRS should try to have a booth at this event, but it was decided not to do it this year. Tracey and Maria are going to Diversity & Inclusion Brunch on April 7. David Kerr suggested tapping probate and estate planning attorneys whose practices

have dwindled because of the changes in the estate tax laws. Kelly Quardokus suggested joint membership at reduced fee. Tracey said the committee would like to plan a special event for young lawyers. It was suggested to have a table at ICLE probate conference. Chris congratulated the committee for all of its hard work.

Attorneys with Disabilities - Chris Smith had communication with SBM regarding the Bar starting a conversation with attorneys with disabilities to find out what EDLRS and the Bar could do to assist them. There is going to be a workgroup to invite those interested to see what can do to encourage those with disabilities to the profession. SBM has not updated Access to Justice, so the Section will have opportunity to be a part of this as well. Christine Caswell, Kelly Quardokus, and Brad Vauter volunteered to help Chris Smith with this project.

Administrative Law Committee - Sara Schimke and Greg Kish reported that they are focusing on universal system at DHHS. Greg said the committee could use members and that they need to establish a relationship with someone in the department who would serve as an advocate. Jean Doss will work on that as well.

Legislative Committee – Brad Vauter brought attention to Michigan promulgated rules which are more stringent than federal law, but that the Michigan legislature is interpreting this as only applying for Michigan promulgated rules. Todd Tennis suggested making an inquiry to DHHS as to why it is not complying with federal law. Paul Sturgul explained that Wisconsin protected the assets of the community spouse. Both Michigan and Wisconsin SSI rules say that state rules cannot be more restrictive federal rules. Wisconsin exempts retirement funds. In spousal cases, Wisconsin allows protection of retirement funds for both spouses. Chris Smith referred this issue to the Administrative Law Committee and will consult with David Shaltz.

Mental Health – Chris Smith reported that ELDRS has been asked comment on the appropriateness of mental health questions on the admission form for the Bar; Chris thinks this a good opportunity for the section to have input. The Bar has a deadline of April 1, but the Section could ask for an extension. Chris said the Executive Committee will be involved in preparing the comments.

Chris Smith announced that May 21 is ELDRS legislative day at the capitol. The target is to reach 25 legislators.

Todd Tennis reported that end-of-life house bills 5075 and 5076 were questioning whether patients had enough say in their own end-of-life decisions. One of them really adds complexity to guardianships under EPIC. Having to have consent seemed reasonable. The bills died but may be coming back.

The isolation issue is back. ELDRS opposed the original bill and suggested one to amend Social Welfare Act regarding abuse and neglect. Sen. Lucido's SB 110, deals with guardianship, providing for a special guardian solely for visitation. Susan Chalgian reported that the Legislative Committee is confused regarding the second guardianship. Discussion was held as to alternatives. Chris Smith noted that this is not one of ELDRS priority issues.

Susan Chalgian moved and Kelley Quardokus seconded to oppose HB 110. The Council would like to see new bills consistent with SB 1220 introduced by then Sen. Marleau in 2018. Sara Schimke said Judge Mack (Ret.) is currently addressing this issue. Motion passed with 16 aye votes. No nays or abstentions. Three members did not vote.

POST is asking for comments on the new form. Caroline Dellenbusch and Bob Anderson have recommendations.

Chris Smith reported that the Council has three priority agenda items: increase waiver funding; caregiver contracts; and getting rid of the income waiver cap for PACE and waiver. Council will begin working on legislation that affects the three issues cited.

Bob Mannor moved and Maria Messina Wiersma seconded the following: i. The Elder Law and Disability Rights Section for the State Bar of Michigan supports an increase to MI-Choice Medicaid Waiver funding to ensure that all nursing home eligible older adults and adults with a disability have a choice of settings in which to receive care. Therefore, the Legislative Committee is empowered to research and draft proposed legislation that: (1) encourages family caregiving including getting rid of the onerous care contract requirements in BEM 405; and (2) allows individuals over the current MI Choice income waiver cap to qualify for MI Choice waiver services through a deductible and/or Miller Trust. Motion passes with 16 aye votes, no nay votes or abstentions, and three members not voting.

Litigation Committee - Ray Harris had no report as there are no current cases pending. Chris Smith asked for funding of the NAELA foundation be promoted at the Spring Conference.

The meeting adjourned at 12:35 p.m.