

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

MINUTES OF NOVEMBER 3, 2012

TAKEN BY:
PATRICK J. BOND, SECRETARY
ELDER LAW & DISABILITY RIGHTS SECTION

ELDER LAW & DISABILITY RIGHTS SECTION MEETING OF NOVEMBER 3, 2012

TABLE OF CONTENTS

Matter One - Introduction	1
Matter 1.01 Location	1
Matter 1.02 Present at Meeting.....	1
Matter 1.03 Approval of Minutes	1
Matter 1.04 Treasurer's Report	1
Matter 1.05 Legislative Report.....	2
 Matter Two - Old Business	 2
Matter 2.01 Pooled Trusts	2
Matter 2.02 Fall Conference (recap).....	2
Matter 2.03 Public Outreach Committee.....	2
 Matter Three - New Business	 2
Matter 3.01 Senate Bill 1293 and 1294 (Blue Cross-Medigap)	2
Matter 3.02 Section Budget	2
Matter 3.03 Section Newsletter – Reimbursement/Payment to Section Member	2
Matter 3.04 Fall Conference / Spring Conference.....	3
Matter 3.05 Bylaws.....	3
 Matter Four - Committee Reports	 3
Matter 4.01 POLST Committee.....	3
Matter 4.02 Litigation Committee – Sandy Mall	3
Matter 4.03 Health Care Reform Committee	4
Matter 4.04 Legislative Committee	4
Matter 4.05 Newsletter	4
Matter 4.06 Unauthorized Practice of Law	4
Matter 4.07 Public Outreach Committee.....	4
 Matter Five - Announcements	 5
 Matter Six – Future Meetings & Adjourn	 5

Matter One - Introduction

Matter 1.01 Location

Meeting took place at Carolyn Dellenbusch's office located at 2944 Fuller Avenue NE, Suite 100, Grand Rapids, Michigan.

Matter 1.02 Present at Meeting

Physically:

* Bradley A. Vauter
* Rosemary H. Buhl
* Robert J. Longstreet
* Beth A. Swagman
* Michael A. Mestelle
* Caroline M. Dellenbusch
* John B. Payne
* Christopher William Smith
Dolores M. Coulter
Todd Tennis (Capitol Services, Inc.)
Ellen Hoekstra (Capitol Services, Inc.)
Lisa Cooper (from AARP)
Lisa Dedden Cooper
Angela Maria Swanberg

Total: 12

* = Council Member

Telephone:

* Patrick J. Bond
* Christine Caswell
* Jane A Bassett
* William David Lucius
* J. David Kerr
* Sara Ann Schimke
* James B. Steward
* Erma Thomas
* Kelly J. McNerney Quardokus
* Michele P. Fuller
David D. Sprague
Jacqueline A. Rygiel-Sprague
Sanford J. Mall
Harley D. Manela
Paul A. Sturgul
Robert C. Anderson
Amy Rombyer Tripp

Total: 19

* = Council Member

Matter 1.03 Approval of Minutes

John Payne approved minutes. Carolyn seconded. Approved.

Matter 1.04 Treasurer's Report

Given by John Payne and Patrick J. Bond.

Matter 1.05 Legislative Report

See report of November 2, 2012 by Ellen Hoekstra and Todd Tennis by lobbyist Capitol Services, Inc.

Motion to support 5984 is approved.

Matter Two - Old Business

Matter 2.01 Pooled Trusts

See Litigation Committee notes under Committee Reports.

Matter 2.02 Fall Conference (recap)

Beth Swagman does recap of August 2012 Fall Conference at Crystal Mountain. See Beth Swagman and her Fall Conference committee email of November 2nd having attached her Fall Conference Planning Guide as well as bullet-point notes (entitled Review of the Fall 2012 ELDRS Conference) will be using in anticipation of planning for future conferences.

Matter 2.03 Public Outreach Committee

Nothing of significance discussed at this time.

Matter Three - New Business

Matter 3.01 Senate Bill 1293 and 1294 (Blue Cross-Medigap)

Brad Vauter offered comments and update.

Ellen Hoekstra commented about the legislation. See also Capitol Services Inc., legislative update.

Matter 3.02 Section Budget

Deferred until next meeting.

Matter 3.03 Section Newsletter – Reimbursement/Payment to Section Member

Because of Bylaws we need to approve Caswell's quarterly \$500 stipend for her help with the quarterly electronic newsletter. No one opposed. Held: motion passes.

John Payne has asked to step-down for his service as the editor of the newsletter.

Matter 3.04 Fall Conference / Spring Conference

Motion by Kelly Quardokus to authorize Harley to sign contracts to secure date with Spring Conference. JP seconded it. Motion approved unanimously.

John Payne moves to authorize a committee for Fall 2013 Conference, and to contract with Crystal Mountain.

Matter 3.05 Bylaws

Issue deferred until next month.

Matter Four - Committee Reports

Matter 4.01 POLST Committee

Bob Anderson reports that DHS approved the three-year pilot. James Steward also commented.

Brad Vauter will have Caroline write letter on behalf of Council expressing Steward's views of the problems with the anticipated pilot.

Matter 4.02 Litigation Committee – Sandy Mall

(a) Nursing Facility Transition Issues

Mall updated Council on his progress and a discussion of some of the legal issues presented.

(b) Spousal Refusal

Mall updated Council on his progress and a discussion of some of the legal issues presented.

(c) Spousal Retirement Account. Should it be Counted?

Question turns to "living with". If deemed "living with", Mall is confident CS's retirement plan is exempt. If IS is not deemed "living with", Mall says this is a more difficult issue. A discussion concern this ensued, including issues how this matter would be applied to a Waiver spouse.

(d) Pooled Accounts

Mall speaks about BEM 401, which previously indicated a transfer into person over 65 into pooled trust *is* divestment. Upon filing complaint DHS felt compelled to

change policy in more favor of ELDRS position, so policy now says such a transfer by someone over 65 into a pooled trust "*may* be divestment"—it's no longer per se.

State is appealing Mall's success in Masters case which held that a transfer to pooled trust by someone over 65 is for fair market value and thus not a divestment. This was a Macomb County case. David Kerr suggested ELDRS filing an amicus brief on matter.

Sandy Mall politely noted that his team's efforts have proven to exceed the monies Council has approved to fund the litigation. For what it's worth, Sandy will provide more information to Treasurer concerning this.

Christopher Smith made comments about his ongoing case.

Matter 4.03 Health Care Reform Committee

Discussion by Christopher Smith, as well as Lisa Cooper of AARP regarding events with the Affordable Care Act and the Blues regarding its medigap policies.

Brad Vauter asked for committee to help with this issue. Delores Coulter volunteered with the help of Chris Smith.

John Payne motion to approve an e-blast on medigap Legal Plans.

Matter 4.04 Legislative Committee

See comments in Section 1.05 above.

Matter 4.05 Newsletter

See comments in Section 3.03 above.

Matter 4.06 Unauthorized Practice of Law

Robert Anderson commented.

Matter 4.07 Public Outreach Committee

Nothing discussed at this time.

Matter Five - Announcements

Brad Vauter suggested allowing consultant members to be on the Council even though they may not be attorneys. Delores Coulter read our bylaws concerning it, which permitted such consultant member.

Amy Tripp noted we had discussed this issue several years ago. And she remarked that the purpose of the bylaws was not intended to allow membership to non-attorneys unless they represent a non-profit organization.

The issue has been tabled for discussion at next meeting.

Matter Six – Future Meetings & Adjourn

Next meeting is at J. David Kerr's office in Mt. Pleasant.

Meeting adjourned at 12:53 p.m. by motion of Brad Vauter.