

Minutes of WC Section Council Meeting--October 4, 2013

Members Present: Palmer, Housefield, Rabideau, Parker, Combs, Frame, Esper, Flynn, Conklin, Kales, Sesi, Hamm and Bava. Also present was Joel Alpert who provided a report on H.R. 1982.

1. Chuck Palmer called the meeting at 9:05 a.m.
2. **Secretary's report:** Chris Rabideau submitted the minutes of the September 6, 2013 Section Council Meeting. A minor correction was made to the minutes, and following a motion to accept the minutes as corrected, the motion passed.
3. **Treasurer's Report:** Ella Parker submitted the Treasurer's report. She noted that the Section will be closing out the fiscal year with about a \$68,500 balance. Section dues will be coming in starting in November. Ella successfully paid the Boyne Highlands bill for the annual meeting. Following a motion to accept the Treasurer's report, the motion passed.
4. **Director's Report:** Director Kevin Elsenheimer and Deputy Director Jack Nolish were at a meeting in San Diego and were unavailable to give a Director's report.
5. **MCAC Report:** Jack Wheatley reported that the MCAC is moving its location. The move will be done sometime in April 2014, and notice of the new location will be sent out.
6. **Magistrate's Report:** No Magistrate's report presented.
7. **Old Business:**

A) HR 1982: Joel Alpert reported on HR 1982. This is the same bill as HR 5284 that was presented last year. Joel believes that the most significant part of the bill is the proportionality provision. He believes that HR 1982 is moving faster through Congress than last year's attempt. Director Elsenheimer, Director Arwood, and Director Zimmer signed a letter supporting HR 1982, which was sent to Representative Dave Camp, Chairman of the Committee on Ways and Means, and Representative Sander Levin, Ranking Member of the Committee on Ways and Means. According to Joel, the biggest road block has been getting the Congressional Budget Office (CBO) to give the bill a score. This tells Congress how much the bill will bring in or cost the Federal government. According to Joel, a main reason the bill is not being scored is that Medicare is not providing all the necessary information to CBO. Joel stated that the more sponsors that back the bill, then the more likely the bill will move up the ladder to get a score from the CBO.

Joel addressed questions regarding the specific provisions of the HR 1982, and

there was agreement that the 15% safe-harbor provision would be beneficial to both plaintiffs and defendants.

Chuck Palmer stated that the SBM has very strict limitations on lobbying for or against a bill, but that these limitations do not apply to the individual sections. The SBM does require the Council to advise the SBM in writing the Section's position and the Council members' votes.

After discussion, Chris Rabideau moved that the Council, representing both plaintiffs and defendants, support HR 1982 and authorize Chairperson Chuck Palmer to write a letter stating the Section's support for this legislation. The letter of support will be sent to the Michigan Representatives on the House Ways and Means Committee, Sander Levin and Dave Camp, and to Representative John Dingell. A copy will be sent to Doug Holmes. The motion was seconded by Rosa Bava, and passed unanimously.

B) 2014 Winter seminar in Mexico: The trip is being coordinated by Fred Bleakley and will take place between 2/15/2014 and 2/22/2014. 26 people are signed up. Chuck Palmer sent out an email blast extending the sign-up until 10/9/2013.

C) Summer Meeting: Chuck Palmer continues to gather proposals and hopes to have those to the Council members by the next meeting so that we can make a decision.

D) Subpoena update: Chuck Palmer suggested that those attorneys having difficulties with medical providers complying with subpoenas should attach a copy of the memo he prepared which clearly outlines the legal basis for subpoena compliance without patients' signatures. He will send an email blast of his memo to section members and Ella Parker will include it in the newsletter. Chuck Palmer will also contact the Health Care Section to have a dialogue with them on this issue because many of their members are counsel for the hospitals.

E) Medical records and billing update: Chuck Palmer informed the Council that of 35 states with statutes and rules on billing for records, only Oklahoma has a helpful provision for billing digital records. This provision states that the providers can only bill the actual cost not to exceed twelve cents a digital page. In doing his research, Chuck noted that MCL 333.26269 states that the first 20 pages the provider can charge \$20, 50 cents per page for pages 21-50 and 25 cents a page for page 51 and up. Ella Parker suggested that the Council work with the Michigan Administrative Hearing System (MAHS) on proposing a rule change on copying fees.

F) Winter Meeting: Andrea Hamm reported that the contract has been approved and the U Club is set for the meeting. Andrea has secured Marty Critchell, Daryl

Royal, and Commissioner George Wyatt for a panel discussion. Ella Parker suggested a flyer for the newsletter advertising the Winter Meeting and Chuck Palmer will send out an email blast. Matt Conklin contacted Magistrate Klaeren, and she stated that two magistrates will be available to volunteer for the panel discussion. The panel will discuss the definition of disability. Chuck Palmer will be the moderator. The Council will have a lunch meeting afterward. Andrea Hamm will make lunch arrangements, and the panel members will be invited to the lunch.

The meeting was adjourned at 10:05 a.m.

Respectfully Submitted,

Christopher J. Rabideau
WC Section Council Secretary