

# **MINUTES OF THE COUNCIL MEETING OF THE HEALTH CARE LAW SECTION**

## **STATE BAR OF MICHIGAN**

**December 8, 1999**

The Council meeting was held in Farmington Hills, Michigan in the offices of Mercy Health Services at 3:00 p.m. The following Council members attended: Gary McRay, Maria Abrahamsen, Gregory Drutchas, Gerald Griffith, James Falahee (by telephone), Nancy Lukey, Colleen McClorey, Keith Soltis, Andrew Wachler, Cynthia Wisner and Leslie Wizner.

1. Call to Order. The meeting was called to order by Gary McRay at 3:15 p.m.
2. Minutes. Action was deferred on the Minutes of the November 10, 1999 meeting, to permit further opportunity for review.
3. New Business.
  - a. Web Site Update. The update was postponed until the next meeting because Kathrin Kudner was out of town.
  - b. 1999 Year in Review. Nancy Lukey has received materials from Gary McRay regarding the format for the Year in Review and will begin work shortly on this project.
  - c. Treasurer's Report. Greg Drutchas presented the Treasurer's report. The Council reviewed the year-end results and noted that, because some budgeted funds had not been spent, the Section experienced a greater than anticipated surplus. The Treasurer's report was unanimously approved upon motion by Colleen McClorey and second by Nancy Lukey.

Greg Drutchas presented the proposed 1999-2000 budget. After extensive discussion, it was determined that the budget would be revised and presented for approval at the January meeting.
  - d. MSMS Bioethics Conference. Gary McRay has been in contact with Dave Fox of MSMS regarding the Section's participation in the MSMS Bioethics Conference scheduled for October 20-22, 2000 on Mackinac Island. We are to receive materials regarding the proposed conference. MSMS has solicited the Section's input regarding subject and speakers. Nancy Lukey and Colleen McClorey will coordinate the Section's participation

with MSMS. There has been no discussion yet as to whether the Section will participate financially in the conference. Ninety to one hundred attendees are anticipated.

e. Michigan Health Law Index Update. Gary McRay reported that he has discussed the update with Jon

Horenstein, the current chair of the Michigan Society of Hospital Attorneys (MSHA). The Kitch firm has done

some preliminary work on the update at the request of MSHA. The two organizations decided that the materials

would be forwarded to Dykema Gossett to complete the project. The update is to be available by the February 10

MSHA annual meeting. This will require that the materials be delivered to the Michigan Hospital Association,

which will reproduce them, between January 10 and January 17. The Section and Society will pursue joint

copyright of the update. The Section will advance the funds necessary to complete the project. The Section will

charge a modest fee for copies of the Index, sufficient to cover at least a portion of the cost of production, with a

market price to be charged to individuals who are not members of either the Section or Society.

f. MSHA Annual Meeting. Ms. Wisner described the program planned by the MSHA for its annual meeting on

February 10. The program will consist of a panel of speakers addressing the topic of state licensure enforcement

actions, including the availability of peer review materials in such proceedings. MSHA has requested a set of

Section mailing labels for the purpose of promoting their annual meeting. The Council concurred with this request.

g. Program Committee. The Council concluded that it wishes to sponsor a second annual seminar with MSMS.

A potential topic is the successes and failures of physician practice management arrangements, with the former

CFO of the Burns Clinic, who is now with the Northern Michigan Hospitals MSO, as a potential speaker. There

was some discussion regarding a request by the American Arbitration Association for an opportunity to address

the Section members regarding the new AAA health care arbitration program. The Council concluded that such a

presentation might be incorporated into a substantive program regarding arbitration, but that the Section would be

cautious regarding permitting one service provider to have preferred access to the membership.

h. Liaison Committee. Drew Wachler noted that the ABA will be offering a seminar June 9 and 10 in Chicago geared to physicians. Drew solicited suggestions for attorney speakers for the program.

i. Legislative Committee. Colleen McClorey circulated the comments submitted by the Payor Subcommittee regarding potential amendments to the Michigan HMO statute, as well as the Insurance Commissioner's response. She noted that no legislative proposal was expected during 1999. She also reported that there is some indication that a health plan liability bill will be introduced, which would apply to all payors, but it is unclear whether it will be introduced before year end.

4. Subcommittees. Gerry Griffith distributed minutes of the last planning session of the Subcommittee Co-Chairs. He reviewed the potential subjects and speakers set forth in the agenda. If the Health Care Provider Subcommittee is not able to schedule a speaker within the next week, that Subcommittee will schedule a round-table discussion of the recently published Fraud and Abuse Safe Harbor Regulations and the federal proposed Patient Confidentiality Regulations.

5. Manual Updates. Discussion of a possible update of the Confidentiality and Medical Record Retention Manuals was deferred until the January meeting.

6. Other Business. Each Council member is asked to come to the January meeting with at least one idea regarding a special project to be completed by the Section during 1999-2000.

The meeting adjourned at 5:00 p.m.