

**MINUTES OF THE COUNCIL MEETING OF  
THE HEALTHCARE LAW SECTION OF  
THE STATE BAR OF MICHIGAN**

**December 12, 2001**

The Council meeting was held in Novi, Michigan at the Trinity Office. The following Council members attended: Joy Berent, John Blanchard, Donna Craig, Arthur DeVaux, Greg Drutchas, Gerry Griffith, Carol Isaacs, Jennifer Kildea Dewane, Kathy Kudner, Nancy Lukey, Colleen McClorey, Keith Soltis, Phil Stoffan, and Melissa Markey on behalf of Cindy Wisner.

1. Call to Order. The meeting was called to order by Greg Drutchas at approximately 3:00 p.m.
2. Minutes. The minutes of the November 14, 2001 Council meeting were approved upon a motion duly made and seconded.
3. Old Business.
  - 3.1 Treasurer's Report. Melissa Markey gave the Treasurer's Report on behalf of Cindy Wisner. Ms. Markey stated that there were no new financial statements to present at this time, as the State Bar is still processing expenses. Ms. Markey further reported that the 2001 Year in Review expenses contained a billing error and were actually about 1/2 of what was previously reported.
  - 3.2 Membership Directory. Gerry Griffith reported that Phil Stoffan had put Gerry Griffith in touch with the State Bar's IS Department. The IS Department is working with Honigman's IS Department to run the Membership Directory. The Membership Directory will consist of four different lists of (1) attorneys; (2) students; (3) legal assistants; and (4) legal administrator members. They will be included in the directory if they pay their dues. Gerry Griffith reported that the Council has received 172 responses to the Membership Directory inquiries. Publication is expected at the end of January with a February distribution date. It was further reported that Gerry Griffith and Phil Stoffan would send one more e-mail reminder soliciting information from Members on the Membership Directory, but that the absolute cut-off date will remain December 15, 2001.
  - 3.3 Website Report. Kathy Kudner reported that Marge Marchak, Eric Wexler, Robert Iwrey, and Kathy Kudner met several weeks ago and went through various State Bar websites. The committee hopes to report to the Council in either January or February on the flexibility the Council will have in developing our website and how much the State Bar will pay for such development. The committee looked at other State Bar sections' websites and noticed that those sites did not look too different from the Health Care Law Section's website. Eric Wexler is asking certain questions of the State Bar. The committee will then put a web page together and then come to the Council for its approval.

- 3.4 HIPAA Work Group. Joy Berent gave the report on the HIPAA Work Group's progress. Kathy Kudner raised the issue that the MHA had recently sent out privacy charts. Joy Berent then stated that she was surprised to see the privacy chart from the MHA since the MHA is sponsoring the HIPAA Work Group project. Joy reported that she will call the MHA. Linda Ross at Honigman hopes to have the first draft of the most stringent analysis to all task force committee members. The HIPAA Work Group will then divide into six subgroups which will review and comment on the analysis. Joy Berent said that the HIPAA Work Group could use more people to assist in these efforts.

Further discussion took place regarding the fact that the MHA was approached by a group called Alliance to Endorse Alliance's Product. MHA referred to the HIPAA Work Group and asked the HIPAA Work Group to endorse the Alliance's HIPAA product. Cindy Wisner and Joy Berent will meet with Mike Callahan to further discuss this issue. There was discussion regarding the Council members' concerns about giving our work product to commercial companies for commercial purposes. Alliance would like the HIPAA Work Group's product now even before the reviews are done. It was decided that Carol Isaacs, John Blanchard, Donna Craig and/or Colleen McClorey will participate as a liaison and make a recommendation to the Council on this matter, as each of them are in a more independent role than those Council members who have firm affiliations.

- 3.5 ICLE Health Law Institute 2002. Nancy Lukey reported that the agenda is set for the program and looks good. It is her understanding that ICLE is lining up speakers and the seminar is set for March 7 and 8, 2002. Colleen McClorey will further look into setting up a dinner at 7:15 p.m. on March 7 for the Council members.
- 3.6 Healthcare Records Retention Manual. Greg Drutchas reported that the Healthcare Records Retention Manual has been sent to the State Bar for publication and will be published in 2002 and therefore titled the 2002 Healthcare Records Retention Manual.
- 3.7 Pro Bono. Nancy Lukey reported that the Pro Bono Work Group recently held a conference call. The Pro Bono Work Group decided to institute a spring program on advance directives. The spring program will be held in three areas, Grand Rapids, Lansing and Detroit, starting with Detroit. Discussion took place regarding having this held at the Detroit Medical Center - Pontiac location. The Work Group has scheduled a meeting in January and is gathering materials on advance directives for the Pro Bono Work Group's seminar. Donna Craig volunteered to send to the Work Group a publication she had previously worked on for MSMS. The Work Group is contemplating a training session for volunteers and is working on contacting the Elder Law Section to think about working with them.
- 3.8 Subcommittees. Gerry Griffith reported that the Technology Subcommittee held its first meeting on December 11, 2001. Gary Kendra presented on Genomic Solutions. There were about 12 people present at the meeting. The Technology

Subcommittee is also working on a session regarding HIPAA security regulations for April 2002. The Consumers Subcommittee is considering various other programs (i.e., educating attorneys and legal aide clinics, how to work with hospitals). Gerry Griffith also reported that the Consumers Subcommittee had discussions with a professor at Cooley that runs the 60+ Clinic. The subcommittee is also looking at whether there is some type of recognition for Access to Justice or pro bono credit. The Payors Subcommittee hopes to plan a Medicaid Hospital Access Agreement seminar that will be held both live and via teleconference. The Payors Subcommittee may also work on the regulatory activity in May regarding OFIS and contact Bob Smedes. The Provider Subcommittee plans to have a panel discussion on EMTALA and perhaps invite Walt Wheeler to speak. The Provider Subcommittee is also working on the annual legislative update which will be held in February at the State Bar building which has a large conference room.

3.9 2001 Year in Review. Discussion took place on the usefulness of the Year in Review. There was further discussion on whether we should instead turn to publishing newsletters and posting those on a listserve. Upon a motion duly made and seconded, with Gerry Griffith abstaining, the Council moved to eliminate the Year in Review. Gerry Griffith will compile a list of alternatives to the Year in Review and then following, a new proposal and budget will be developed.

3.10 Listserve. Greg Drutchas reported that he got all subcommittee chairs and Council members to be administrators on the Distribution Listserve. In order to post certain items, you need to e-mail Will Kramer at the State Bar whose e-mail address is wkramer@mail.michbar.org to obtain a password.

#### 4. New Business.

4.1 2002 State Bar Annual Meeting. Donna Craig has been meeting with the State Bar on preparing for the Section's Annual Meeting. There was discussion on the value of the Section's Annual Meeting. Donna stated that there would be no breakfast meeting for Section members. If we do a Section Annual Meeting, then the Section must pay for the room for the State Bar meeting. It is anticipated that it would be \$300 to \$400 for a meeting room. The Council will be responsible for payment. There was discussion on the fact that the space at Amway is limited and there are not a lot of small rooms. The State Bar is looking for alternatives. There was discussion on whether we might co-sponsor a program with another section. The Council agreed that the Annual Meeting was worth doing. The discussion then turned to who should be a speaker at the State Bar meeting. Donna Craig, Phil Stoffan, Art DeVaux and Jennifer Kildea Dewane stated that they would help with the Annual Meeting. There was discussion on asking Attorney General Jennifer Granholm to speak. John Blanchard volunteered to approach Attorney General Granholm to speak Thursday, September 26, 2002 at 10:30 to 11:30 a.m. As an alternative, the Council could also use a slot at 9:30 if the Attorney General would prefer to have that speaking slot. The Council had further discussion on second choice speakers and back-up for last minute cancellation in the event that the Attorney General is unable to attend.

- 4.2 Membership Criteria. Greg Drutchas reported that he had developed criteria for membership on the Council. There was discussion on whether these are guidelines versus criteria and further discussion on how to better phrase some of the criteria. John Blanchard volunteered to rework the proposed membership criteria and present back to the Council at the next meeting. John Blanchard will also work with Colleen McClorey on this issue.
- 4.3 Retreat. There was discussion on whether we should do a retreat and whether we might do one as a Section. The value of a retreat was discussed, having an education component, an open Council meeting, etc. It was decided that the Council would not plan a retreat at this time.
- 4.5 Section Wide Social Function. There was discussion on how various other sections have certain social functions. It was proposed to hold a barbeque at Greg Drutchas's house in Bloomfield Hills. Greg Drutchas kindly agreed to hold such an event and would look into possible dates.
- 4.6 Availability of Mailing List for Organizations to Use. Greg Drutchas reported that Jeanne Dunk and certain others had asked about the availability of using the membership list to create mailings for firm announcements. Upon a motion duly made and seconded, with Jennifer Kildea Dewane abstaining, the Council decided that the Health Care Law Section membership list should only be used for activities with an educational or section activity purpose. Jennifer Kildea Dewane reported that she would notify Jeanne Dunk of this decision.
- 5. Next Meeting Date. The next meeting of the Council is set for January 9, 2002 at 3:00 p.m. at the Trinity Offices in Novi.

There being no further business, the meeting was adjourned at 5:25 p.m.