

**MINUTES OF THE COUNCIL MEETING OF
THE HEALTH CARE LAW SECTION OF
THE STATE BAR OF MICHIGAN**

Wednesday, December 14, 2005

The Health Care Law Section Council meeting was held at the offices of Trinity Health in Novi, Michigan. The following Council members participated: Jennifer Kildea Dewane, Cindy Wisner, Lisa Panah, Rob Iwrey, Joanne Lax, Carol Tarnowsky, Art DeVaux, Ann Hollenbeck, Eric Wexler, Marge Marchak, Beth Derwin and Joy Berent.

1. Call to Order. The meeting was called to order by Jennifer Kildea Dewane at approximately 3:10 p.m.
2. Conflict Disclosures (if any - specific agenda items). There were no conflicts to report.
3. Minutes. The Minutes of the November 16, 2005 meeting of the Health Care Law Section Council were approved on a motion made and seconded. Lisa Panah requested a volunteer to take minutes at the next Council meeting since she cannot attend. Ann Hollenbeck volunteered.
4. Updates.
 - 4.1 Substantive Law Subcommittee Report. Marge Marchak reported that a presentation on I'm Sorry legislation is being planned. The Legislative Update is scheduled for February 10, 2006.
 - 4.2 Law Student Reception Update. Discussion on this was deferred until the next Council meeting. Rob Iwrey volunteered to work on planning a law student reception with David Rogers.
 - 4.3 Revisions to the Nonprofit Corporation Act Update. Art DeVaux reported that there was nothing new to report.
 - 4.4 HIPAA Task Force. There was discussion on whether or not to continue the HIPAA Task Force. There was discussion on having the Task Force review and comment on an unpublished Michigan court opinion regarding HIPAA and ex parte meetings. Cindy Wisner volunteered to follow up with Liz Callahn on this.
 - 4.5 JCAHO/COP Task Force. Discussion on this was deferred until the next Council meeting. Cindy Wisner suggested that the JCAHO/COP Task Force collaborate with the HIPAA Task Force on a HIPAA issue involving Medicare conditions of participation. Jennifer Kildea Dewane indicated she would follow up with Rachel Nosowsky and Cindy Wisner will follow up with Liz Callahan.

- 4.6 Updates to Website Regarding Council and Committees. Eric Wexler suggested that the Council distribute a Zoomerang survey to the Health Care Law Section members to get a sense of what people think of the website and whether or not they are using the website and believe that any improvements should be made. Council members discussed also surveying members on Section activities and distributing the survey at the ICLE meeting in March. Eric Wexler volunteered to check on the cost of the survey, and Carol Tarnowsky volunteered to help prepare the survey with Mr. Wexler and Jennifer Kildea Dewane.

Eric Wexler also discussed transitioning responsibility for the website to someone else. There was discussion on Steve Bender taking primary responsibility with assistance from health law students who could update and work on the website for academic credit. Eric Wexler agreed to follow up with Steve Bender and Cindy Wisner to pursue soliciting health law students. He agreed to serve as the primary contact until a replacement is found.

- 4.7 ICLE Health Law Update. Jennifer Kildea Dewane went over the draft agenda that was sent to Council members. She reported on the status of ICLE program planning and acknowledged Sheldon Stark for his hard work. Council members indicated their support for sponsoring the reception. Lisa Panah volunteered to plan the Council meeting dinner, and Carol Tarnowsky volunteered to help.

- 4.8 Michigan Healthcare Regulations. Lisa Panah reported that the State Bar of Michigan continues to work on implementing the web-based index of Michigan healthcare regulations, selected Attorney General opinions and certificate need standards. She suggested that discussion on transitioning responsibility for updating and working on the index to others should be deferred until the index is closer to being completed.

- 4.9 2006 Annual Meeting.

4.9.1 Committee Members. The 2005 Annual Meeting committee was updated to include Jennifer Kildea Dewane, Joy Berent, Ann Hollenbeck and Beth Derwin. Ms. Dewane requested Council members to notify her or any of the committee members of program and speaker ideas.

- 4.10 List of Individuals Interested in Participating in Section Activities. Jennifer Kildea Dewane reported that the list of individuals who have expressed an interest in participating in Section activities has been updated to include:

Steven Bender (benders@trinity@health.org)
Amanda Coulter (a.coulter@shrr.com)
Christian Schafer (schachri@mcare.med.umich.edu)
Lou-Ann Richards

- 4.11 Lunchbox Series Work Group. Joanne Lax and Beth Derwin reporting on the status of planning a lunchbox meeting. It is tentatively planned for May and the Work Group is in the process of determining a location. There was a discussion on choosing a location that is accessible to members, like Brighton, and holding a breakfast meeting to attract more attendance. The Council discussed preparing a Zoomerang survey to assess what time of day the Section members prefer to meet. There was agreement with Cindy Wisner's recommendation for the leaders of the Substantive Law Subcommittees to assist with determining topics and speakers.
- 4.12 Pro Bono Work Group. Rob Iwrey led the discussion on possible pro bono projects including a consumer guide on Medicare Part D. Beth Derwin suggested that Mr. Iwrey make certain that this would not be duplicative with what other State Bar sections are doing. Eric Wexler's suggested that the Section assist the Detroit Legal Aid Society with healthcare related matters. This was turned down since it involves furnishing legal services and the Section must focus on educational activities. However, Cindy Wisner recommended that the Pro Bono Work Group create and provide to Section members a list of healthcare related places where individual lawyers can volunteer their services on their own. There was also discussion on checking with other State Bar sections, like the Elder Law Section, on how we can assist them in pro bono related activities.
- 4.13 Michigan Stark Law. Ann Hollebeck reported that she does not believe there has been any response from the Michigan Department of Community Health to the letter that was sent by the Stark Law Task Group requesting that MDCH take notice of the Phase II Stark regulations. Ms. Hollenbeck distributed a draft follow up letter to MDCH for review and discussion. Council members recommended that Ms. Hollenbeck further check on the status of the Section's initial request, find out who the right person is to contact at MDCH regarding this matter and set up a meeting with that person.
5. House Bills 4670 and 5375 (Physician Lawsuit Legislation). Beth Derwin reported on her investigation of the draft legislation. Providing care to the indigent and uninsured appears to be the basis of the draft legislation. HB 4670 has been amended to address education. The bills have been posted on the Section website. There was discussion on the fact there being disparate views on this legislation. Council members agreed that it should notify Section members of this legislation, but not take a position on it.
6. Other Business.
- 6.1 HCLS Newsletter. Cindy Wisner summarized the history of the newsletter and the difficulty associated with doing it, due to factors including the lack of support from the State Bar of Michigan, which published the two

newsletters prepared by the Section long after the topics were current, lack of Michigan health law related topics and lack of writers.

- 6.2 Specialty Law Certification. Cindy Wisner suggested reinstating pursuit of specialty law certification. There was discussion on the Council's decision to not pursue this and the lack of support from the State Bar of Michigan for specialty law certification.
7. Next Meeting Date. The next Council meeting will be held via telephone on January 18, 2006.
8. Adjournment. There being no further business, the meeting adjourned at approximately 4:40 p.m.