

The Health Care Law Section Council meeting was held on December 21, 2006 at David Rogers' office in Royal Oak. Teleconferencing was also made available for those who were unable to attend in person. The following Council members participated: David Rogers, Ann Hollenbeck, Margaret Marchak, Lisa Panah, Jennifer Kildea Dewane, Monica Wilkinson, Jan Anderson, Amy Barkholz, Joy Berent, Donna Craig, Rob Iwrey, Joanne Lax, Donna O'Connor, Tom Trenta. Kim Adams, Administrative Assistant, was also present.

1. Call to Order (*David Rogers*)

Rogers called the meeting to order at 3:15 PM.

2. Conflict Disclosures (*David Rogers*)

Rogers called for conflicts. There were none.

3. Review and Approval of Minutes of November 30, 2006 Council Meeting (*Ann Hollenbeck*)

In Hollenbeck's absence (late phone-in), Rogers called for comments or changes to the Nov. 30, 2006 minutes. Hearing none, a motion was made to approve the minutes. It was seconded and approved unanimously.

3.1 Timing of Distribution of Minutes (*David Rogers*)

Rogers reported that the Executive Committee discussed the timing of the distribution of the minutes. Rogers asked that the minutes be distributed right after the meeting but some felt that receiving the minutes then the agenda at a later date resulted in too much email. It was agreed that Adams would send Rogers the minutes immediately following the meeting and to attach the minutes to the agenda to send to the Council at a later date as usual.

4. Treasurer's Report (*Margaret Marchak*)

Marchak reported that she has not received the year end report from the state but expected it to be received by the next meeting. She said once these numbers are received, she would finalize the budget and present it at the January meeting.

5. Updates

5.1 Substantive Law Subcommittee Report (*Monica Wilkinson*)

Wilkinson reported that the Dec. 14 program entitled, Current Priorities in Health Care Regulatory Enforcement -- Fraud, CON and Licensing: *The View Of The Enforcers* was held. There were 53 registrants and close to 40 attended. An evaluation form has been sent but the information is not yet compiled. She said that the committee was very pleased with the turn out and the overall program.

She reported that the next program will be a teleconference held on Jan. 17, 2007 entitled, JCAHO'S new credentialing and Privileging Standards. Rachel Nosowsky, Assistant General Counsel, University of Michigan and Maria Abrahamsen, member, Dykema Gossett are the speakers. She reported that the program has been coordinated with Greg Druchas so there will be no overlap.

Another program on COB will be held Feb. 14, 2007. Shelly Lake and David Rosen will speak represent the providers and the payors side. A Malpractice Litigation Year in Review will be held in March and a Legislative Update program will be held in April. A follow-up on COB will happen at a later date in 2007.

Wilkinson informed the committee about the conversation the HCLS had regarding inviting more participation of regular members into activities. She said that the SLC will send out a general message to all members to invite their informal participation. They also discussed having an in-formal get-together(s). The technology sub committee will take on the project and will start with just one for now so that the committee can gauge the response. It is planned for March-April timeframe.

She also talked about ways in which the Listserv can see more activity and said that the SCL will make an effort to start posting to the list. Perhaps this greater use will lead to more use.

Rogers said that he had an exchange of emails with a Section member recently about introducing informal get-togethers. He said that the Michigan Health Care Lawyers Association in the past, many years ago, met once a month informally to talk about what's going on among health care lawyers. He asked if the Council felt that if we should coordinate something like this. There was a lengthy discussion on the pros and cons - by topic or by subcommittee? General or specific? Office setting or public venue? Berent said that this was the impetus for the specialty subcommittees of the HCLS and that over the years, the SLC has moved toward presenting discussions, panels, etc. but that's not why they were originally formed. Attendance increased when there was a "hot" issue to be discussed. Time slot was around 4 PM. Rogers said that he likes this idea and Wilkinson said that this is what the SLC is trying to implement. Berent offered the Henry Ford Health System as a potential location.

It was agreed to try to do something the end of January-early February.

5.2 Law Student Receptions (*Rob Iwrey and Amy Barkholz*)

Iwrey reported that Rogers forwarded information on what has been done in the past. This info was forwarded to individuals working on implementing the reception in March, 2007. Barkholz said that she is tracking down a contact at Cooley and will aim for similar timing as Rob's event.

5.3 Revisions of the Non-Profit Corporation Act Update (*Joanne Lax*)

Lax referred the Council to an article written by Jane Forbes of Dykema Gossett about the draft Act. This article was distributed via email this morning. Lax provided a brief overview and said that it looks like something will happen this spring.

5.4 JCAHO/COP Project Update (*Joy Berent*)

Berent reported that she reached Ann Williams and that Williams and her law clerk have been working on this project and is receptive in getting a committee together. Berent said that she needs to refer to past HCLS minutes for names of those who have expressed interest in assisting. She will then forward the names to Williams.

5.5 Website (*Eric Wexler*)

Deferred

5.6 Attorney-Client Privilege Task Force (*Eric Wexler*)

Deferred

5.7 Michigan Health Care Regulations Update (*Kim Adams*)

Adams reported that the index is current through Dec. 1, 2006 and its next update will be the first week of January, 2007.

5.8 2007 Annual Meeting Committee (*David Rogers*) -- Members: Lisa Panah, Margaret Marchak, Joanne Lax, Ann Hollenbeck, Joy Berent, David Rogers

Rogers asked that the committee to meet for a few minutes following this meeting to set a planning meeting date for January, 2007.

5.9 Pro Bono Work Group (*Robert Iwrey, Jan Anderson, Mike Fraleigh*)

Iwrey reported that there's nothing new to report.

5.10 Michigan Stark Law—Request for Legislature to take notice of Stark II Regulations (*Ann Hollenbeck; David Rogers*)

Rogers said that he got an email from Howard Marderosian who said that his office (Attorney General Health Professionals Division) drafted a request and has forwarded it to the Department of Community Health for review.

5.11 Section Survey (*Carol Tarnowsky*)

Rogers reported that he is still reviewing the survey.

6. Legislative Liaison Committee (*Jan Anderson*) – Members: Jan Anderson, Donna Craig, Donna O'Connor and Eric Wexler.

O'Connor reported that the State Bar has not distributed the emails and that she will follow-up after the holiday.

7. Request for Scholarship Funding for 2007 Spring Educational Conference of the National Association of the Administrative Law Judiciary (see attached email).

Rogers referred the Council to the request which was attached to the minutes and agenda emailed previously. He recapped the request of \$1000 for a scholarship to a deserving law student, plus \$200 for reception expenses, for the NAALJ conference to be held in Detroit next year. Rogers said that he is not familiar with the organization, but it appears most Michigan Administrative Law Judges who deal with health care law issues are members. The NAALJ asked that the HCLS consider this an annual gift. A lengthy discussion followed.

Berent suggested that HCLS should sponsor its own scholarship. Lax suggested that the scholarship might not benefit the HCLS mission. Rogers thought that criteria could be developed so that it is focused on health law and making sure that the HCLS name be on the scholarship. Iwrey asked, should our HCLS have a scholarship and if so, should it be done through this program? What is the benefit to the HCLS to fund the scholarship through this group? In answer to a question, Rogers stated his understanding that the scholarship would be used by the recipient to defray law school costs, and that it is not intended to pay for the student's attendance at the NAALJ conference. Rogers said that this is a national event in Detroit and perhaps we should support it this year as a way for the HCLS to show support for the NAALJ's having its meeting in Detroit. Rogers asked for discussion on whether the HCLS should fund the entire amount requested, or just the scholarship and not the reception costs, and discussion ensued. There was also extensive discussion about whether the HCLS wants a role in selecting the student, and to what extent the HCLS could control the selection criteria.

Rogers made a motion to approve a \$1000 scholarship with the restriction that the NAALJ provide the administrative oversight and expense and that the HCLS will work with the NAALJ on criteria and selection. The motion was seconded. The motion carried, Lax and Berent opposed. Lax stated that she wants the record to reflect that she supports a scholarship established under the HCLS.

8. Other Business.

Lax reported that she has 245 coffee cups in her office.

9. Next Meeting Date: Thursday, January 18, 2007, 3:00 pm.

Rogers reported that the meeting will be held via teleconference.

Subsequent meetings: Third Thursday of each month, 3:00 pm:
Feb 15, Mar 15, Apr 19, May 17, Jun 21, Aug 16, Sep 20

10. Adjourn

The meeting was adjourned at 4:25 PM.