

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

**Wednesday, February 15, 2006**

The Health Care Law Section Council meeting was held via telephone. The following Council members participated: Jennifer Kildea Dewane, Cindy Wisner, Lisa Panah, Donna Craig, Rob Iwrey, Carol Tarnowsky, Ann Hollenbeck, Eric Wexler, Marge Marchak, Beth Derwin, Joy Berent, Mike Fraleigh and Amy Barkholz.

1. Call to Order. The meeting was called to order by Jennifer Kildea Dewane at approximately 3:05 p.m.
2. Conflict Disclosures (if any - specific agenda items). Art DeVaux and Marge Marchak abstained from voting on the motion pertaining to the U of M School of Public Health Symposium announcement described in Section 7.1 of these Minutes.
3. Minutes. The Minutes of the December 14, 2005 meeting and the revised Minutes of the January 18, 2006 meeting of the Health Care Law Section Council were approved on separate motions made and seconded.
4. Treasurer's Report. Donna Craig presented the Treasurer's Report. She reported that the Health Care Law Section has a positive balance and is in good shape.
5. Proposed Budget. Donna Craig reported on the proposed budget, and the addition of a legal fees line item for \$20,000. There was discussion on adding a line item for administrative support. The Council agreed to add this line item to the budget for \$5,000. The revised budget was approved on a motion made and seconded. Donna Craig indicated that she would distribute a revised budget to the Council later this week.
6. Updates.
  - 6.1 Substantive Law Subcommittee Report. Marge Marchak reported that the Legislative Update will be rescheduled for March. A program on telemedicine will also be held in March. The presentation on I'm Sorry legislation is scheduled for April. A program on CON legislation is planned for May. Two additional programs are being planned.
  - 6.2 Law Student Reception Update. Discussion on this was deferred until the next Council meeting.
  - 6.3 Revisions to the Nonprofit Corporation Act Update. Discussion on this was deferred until the next Council meeting.

- 6.4 HIPAA Task Force. Joy Berent reported that she followed up with Liz Callahan regarding possible future projects for the HIPAA Task Force. Ms. Callahan indicated that the task force was not interested and that they wish to disband.
- 6.5 JCAHO/COP Task Force. Jennifer Kildea Dewane reported that she spoke to Rachel Nosowsky who said she would contact people to join the task force. Ms. Kildea Dewane indicated that she would check on the status of this with Ms. Nosowsky.
- 6.6 Updates to Website Regarding Council and Committees. Eric Wexler reported that updates to the website were made regarding the Council and Substantive Law Subcommittee members. Mr. Wexler is pursuing finding health law students to work on updates to the website. He indicated that he would contact Nancy Lukey for assistance with soliciting interested students.
- 6.7 ICLE Health Law Update. Jennifer Kildea Dewane reported on the status of ICLE program planning. 100 people have registered so far.
- 6.8 ICLE Council Dinner Meeting.
- 6.8.1 Location. Lisa Panah reported on the restaurant selection for the Council dinner meeting on March 9, 2006. There was objection to the Palm Restaurant and the time. Council members indicated their preference for Ruth's Chris Steak House. Ms. Panah indicated she would make a reservation at Ruth's Chris Steak House for 7:15 p.m. as requested.
- 6.8.2 Invitation to Past Chairs. Jennifer Kildea Dewane discussed inviting past chairs to the HCLS Council dinner since there is no longer a dinner for Council members and past chairs at the annual meeting in September because of the changed format of the annual meeting. The Council agreed to invite past chairs. There was also discussion about inviting past chairs and Substantive Law Subcommittee chairs to the summer Chair's Grill. Ms. Kildea Dewane indicated that she would invite past chairs to the Council dinner and report to Lisa Panah on those indicating they will attend.
- 6.9 Michigan Healthcare Regulations. Lisa Panah reported on the status of the web-based index of Michigan healthcare regulations, selected Attorney General opinions and certificate of need standards. The State Bar has incorporated the index onto the web through the letter "n." Ms. Panah asked for volunteers to review the draft index and provide their input. Mike Fraleigh later volunteered. There was discussion on reimbursing firms for their work on large projects for the HCLS. In the past, the Council has reimbursed firms for \$5,000 for large projects. Mike Fraleigh volunteered to check on any State Bar of Michigan

reimbursement requirements and prepare a reimbursement policy for the HCLS that complies with any such requirements. The Council agreed to reimburse the Kitch firm for \$5,000 upon receipt of an invoice from the Kitch firm for its work on the web-based index on a motion made and seconded.

- 6.10 2006 Annual Meeting. Ann Hollenbeck reported that annual meeting planning is in the preliminary stages. The planning committee has met and discussed possible times and locations for the meeting. The committee discussed holding the meeting in Brighton or Ann Arbor in late September from 10 a.m. to 5 p.m. to give members time to get to the meeting on time. They would also like to hold a reception instead of a dinner. There was discussion on holding the meeting in Ann Arbor and having the reception at a nearby place of interest. It was mentioned that Laura Napiewocki has joined the planning committee.
- 6.11 Lunchbox Series Work Group. Beth Derwin reported on the status of planning the lunchbox meeting. It will be a lunch meeting held in May. The Zoomerang survey that Joanne Lax prepared is on hold. Ms. Derwin indicated that she would present ideas for topics at the next Council meeting.
- 6.12 Pro Bono Work Group. Rob Iwrey reported that he spoke with Katie Graham, the Chair of the Elder Law Section, regarding doing a joint outreach program on Medicare Part D. Ms. Graham indicated that she would present this to the Elder Law Section Council and report back to Mr. Iwrey.
- 6.13 Michigan Stark Law. Ann Hollenbeck reported that she spoke to Walt Wheeler, who directed her to Melanie Brimm, the head of the State Health Professionals Bureau. Ms. Brimm indicated that she was unaware of the letter sent by the Stark Law Task Force last year requesting that the state adopt the Phase II Stark regulations. She confirmed that she was responsible for handling this issue. Ms. Hollenbeck resent the letter to Ms. Brimm and told the Council that she would follow up with her in a few weeks. Amy Barkholz indicated that she knew Ms. Brimm and volunteered to help Ms. Hollenbeck if needed.
- 6.14 Section Survey. Eric Wexler reported that there has been a lot of traffic on the HCLS website. He indicated that he would pursue how to save costs for doing Zoomerang surveys with the State Bar.

## 7. Other Business.

- 7.1 U of M School of Public Health Symposium Announcement. Jennifer Kildea Dewane solicited input from the Council on the e-mail sent by Art DeVaux regarding using the HCLS mailing list and listserv to announce the U of M School of Public Health's upcoming symposium on health law

related issues to HCLS members. Joy Berent gave background information regarding the U of M group. The Council considered whether or not use of the HCLS mailing list and listserv to announce U of M's symposium would be in furtherance of "Section Business" as required by the HCLS Member Privacy Policy and consistent with the HCLS Bylaws. There was vigorous and extensive debate on whether or not the HCLS mailing list and listserv may be used to announce U of M's or any other third party event that may be of interest to HCLS members. Deep concerns were raised regarding using the HCLS mailing list and listserv for programs not sponsored by the HCLS, and the difficulty with where to draw the line. There were strong objections to the HCLS being used as an advertising vehicle for third party events. There was discussion on possibly posting the U of M program on the HCLS website instead of using the mailing list and listserv to announce the program. However, ultimately, there were too many unanswered questions, including who was making the request, and no decision was made regarding whether or not to support using the HCLS mailing list, listserv or website to announce U of M's program. Ms. Dewane and Eric Wexler agreed to follow up with Art DeVaux for more information and to address the Council's questions, and to report back to the Council for further discussion and decision at the next Council meeting.

A motion to vote on this issue was submitted to the HCLS Council via email. Specifically, a motion to allow the U of M School of Public Health to have information regarding the Symposium listed on the website, listserv, or both was approved by a majority vote of the Council. A majority vote of the Council also approved disseminating information on the Symposium via the HCLS website.

8. Next Meeting Date. The next Council meeting will be held at Ruth's Chris Steak House at 7:15 p.m. on March 9, 2006.
9. Adjournment. There being no further business, the meeting adjourned at approximately 5:00 p.m.