

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

Wednesday, January 26, 2005

The Council meeting was held via telephone conference. The following Council members participated: Cindy Wisner, Kathy Kudner, Marge Marchak, Lisa Panah, Jennifer Kildea Dewane, Phil Stoffan and Eric Wexler. Special guest Bill Whitbeck also participated.

1. Call to Order. The meeting was called to order by Cindy Wisner at approximately 3:05 p.m.
2. Special Guest: Bill Whitbeck, Chief Judge, Michigan Court of Appeals. Cindy Wisner introduced special guest, Bill Whitbeck, who is entering his fourth year as Chief Judge of the Michigan Court of Appeals. Judge Whitbeck spoke to the Council about changes in procedures the Court of Appeals is making. He reported that the Court is seeking suggestions by June 1, 2005, for improving the Court of Appeals operations. Judge Whitbeck indicated he will provide Cindy Wisner the form and format to be used for submitting suggestions. The Court welcomes suggestions from all attorneys who may be interested. Ms. Wisner reported that she will solicit suggestions from the Health Care Law Section.
3. Conflict Disclosures (if any - specific agenda items). There were no new conflicts of interest to report.
4. Minutes. Since there was no quorum, review and approval of the Minutes of the December 15, 2004 Health Care Law Section Council meeting was deferred to the next Council meeting.
5. Old and Recurrent Business.
 - 5.1 Treasurer's Report. Cindy Wisner provided the Treasurer's Report. There was discussion on the format of the report.
 - 5.2 Budget (2004-2005). Cindy Wisner reported that the proposed budget was prepared by Donna Craig with input from the other Health Care Law Section Council officers. Ms. Wisner discussed key elements of the proposed budget, including income from seminars and expenses for marketing. There was discussion on increasing the budget for marketing expenses. Further discussion on the proposed budget was deferred until the next Council meeting when Donna Craig will be present.
 - 5.3 Annual Meeting 2005. Cindy Wisner reported that the State Bar of Michigan has asked whether or not the Health Care Law Section would like to reserve a room at the 2005 annual meeting. There was discussion

on not going through the State Bar but planning the Health Care Law Section annual meeting on our own. Ms. Wisner requested suggestions for candidates to participate on the annual meeting planning committee, which may include non-Council members and non-Health Care Law Section members.

- 5.4 Attendance on Calls and at Meetings. There was discussion on improving participation and scheduling Council meetings for every other month instead of every month. Further discussion on how to approach the lack of participation by some Council members was deferred to the next Council meeting.

5.5 State Bar Special Projects.

- 5.5.1 Court Rule Revisions. There was discussion on possibly approaching the Health Care Law Section to determine their interest in preparing comments to proposed Court Rule revisions. The Council members expressed little interest in doing same.

- 5.5.2 AHLA Affiliation. Eric Wexler volunteered to investigate the terms and benefits of affiliation with the AHLA and report back to the Council.

- 5.6 Tort Reform and Lawyer Comments. Cindy Wisner reported that a Council meeting was held regarding whether or not to respond to President Bush's tort reform initiative and comments regarding lawyers. The general consensus was that the Health Care Law Section is diverse and it would not be possible or prudent to take a position on behalf of the Section.

- 5.7 Proposed Amendments to Nonprofit Corporation Act. There was nothing new to report.

6. January Updates.

6.1 Substantive Law Subcommittee Report.

- 6.1.1 Coffee Cups. Cindy Wisner reported that commemorative coffee mugs are now available for speakers.

- 6.1.2 Teleconferences. Marge Marchak reported that the legislative update is set for February 10, 2005 at Foster Swift, and an insurance program is being planned for the end of February.

- 6.1.3 Payer Committee Appointment. Marge Marchak reported that Jeanne Dunk resigned from the Payer's Substantive Law Subcommittee and has been replaced by Anne McDermott from M-Care.

- 6.1.4 Grant/Funding Request/Opportunity. Cindy Wisner reported that the Health Care Law Section, through the Consumers Substantive Law Subcommittee, was requested to make a donation to the U of M Law School Pediatric Advocacy Initiative. There was discussion on whether or not making donations comports with the Health Care Law Section's mission and purposes. The Bylaws of the Health Care Law Section were reviewed and it was determined that they do not preclude the Section from making donations.

A motion was made and seconded, but not approved due to the lack of quorum, for the Health Care Law Section to generally make contributions on a case-by-case basis for specific projects.

- 6.2 Health Care Intensive Study Update. There was nothing new to report.

- 6.3 ICLE 2005. Marge Marchak reported that the ICLE program is planned. There was discussion on whether or not to hold future annual meetings at the same time as the ICLE program. Further discussion on this was deferred to the next Council meeting.

The Council members expressed considerable interest in offering an educational program on health savings accounts. It was felt it was too late to add a session to the ICLE program, but that a separate teleconference seminar on the topic would be worthwhile.

- 6.4 ICLE Dinner Meeting Planning. Marge Marchak reported that she will notify the Council members of the dinner meeting details by e-mail.

- 6.5 Other Business.

- 6.5.1 HIPAA Task Force. Jennifer Kildea Dewane reported that the HIPAA Task Force is currently finishing up work on two projects - Guidance on HIPAA vs. state law relating to disclosures of PHI to law enforcement and guidance relating to the definition of personal representative under the MMRAA and HIPAA. The Task Force is also trying to get a subcommittee together to develop specific guidance regarding HIPAA and Research. The HIPAA Task Force is planning on meeting every other month and would like to dissolve sometime after implementation of the HIPAA Security Rule on April 21, 2005. The Council members agreed that dissolution of the HIPAA Task Force would be appropriate at that time.

- 6.5.2 Stark Law Task Force. Cindy Wisner reported that the Stark Law Task Force plans to submit a letter to the Michigan Department of Community Health requesting that the Department incorporate the Phase II Stark II regulations into the state "Stark" law. The draft letter will be submitted to the Council for approval via e-mail before the next Council meeting.

7. Upcoming Dates 2005. Cindy Wisner reported that the next Council meeting will be held in March 3, 2005.
8. Adjournment. There being no further business, the meeting adjourned at approximately 4:40 p.m.