

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

March 7, 2002

The Council meeting was held at McCormach & Schmick's in Troy, Michigan. The following Council members attended: Joy Berent, Kathy Kudner, Jennifer Kildea Dewane, Nancy Lukey, Greg Drutchas, Gerry Griffith, Cindy Wisner, Donna Craig, Carol Isaacs, John Blanchard, Colleen McClorey, Maurice McMurray and Arthur deVaux.

1. Call to Order. The meeting was called to order by Greg Drutchas at approximately 7:15 p.m.
2. Minutes. The minutes of the February 6, 2002 Council meeting were approved, as revised, upon a motion duly made and seconded.
3. Old and Recurrent Business.
 - 3.1 Treasurer's Report. Cindy Wisner reported that the Council has a fund balance of \$75,000. She also reported that the Council has been invoiced and will pay Honigman \$5,000 for its Preemption Matrix work. The Council has also been invoiced by Foster, Swift, Collins & Smith, P.C. for the Healthcare Record Retention Manual payment. There was discussion regarding the expenses for the Joint Program with the Michigan Society of Healthcare Attorneys. Through a letter dated March 6, 2002, addressed to Greg Drutchas as Chair, Phil Stoffan reported that costs exceeded revenues by \$6,338.89. As the Council has agreed to split the loss with the Michigan Society of Healthcare Attorneys, the Council's proportionate share of this loss is \$3,169.45.
 - 3.2. Update on Legislative Briefing. Donna Craig reported that she and Colleen McClorey attended the Legislative Briefing held by the State Bar on February 13, 2002. The purpose of this meeting was for the State Bar to explain that the Council can have an impact on bills which the State Bar is taking a position on. Colleen presented the Attorney General's position on recent Blue Cross Blue Shield of Michigan legislation which would privatize BCBSM through a letter dated February 27, 2002 from the Attorney General. This led to a brief discussion on whether the Council should do a program regarding any new BCBSM legislation. Further discussion on potential Certificate of Need legislation was discussed. There was also discussion on the self-referral legislation in the Michigan Public Health Code's licensing provisions. Kathy Kudner reported that the self-referral legislation is at its second reading in the House.

- 3.3. Reports on Special Projects and Work Groups.
- 3.3.1 Fraud Manual. Greg Drutchas reported that the Fraud Manual is to be published sometime in May of 2002.
- 3.3.2 Pro Bono Work Group. Nancy Lukey reported that the Pro Bono Work Group sent an e-mail to Section members as to who would be interested in participating in the Pro Bono Work Group's upcoming program on Advance Directives. There was discussion on possible places for the Pro Bono Work Group program to take place. North Oakland Medical Center in Pontiac was suggested. The Offices of Services and Aging thought hospitals would be good locations as well as senior centers in the Detroit area. There are two people who have responded that they would like to help. The Pro Bono Work Group is still gathering advance directive forms.
- 3.4 Health Care Records Retention Manual. Jennifer Kildea Dewane reported that she had received her mailed copy of the Health Care Records Retention Manual on March 7, 2002. There was discussion on ordering extra copies for future requests. It was decided that the Council should have 100 extra copies printed by the State Bar. There was discussion on giving 50 copies to the Chair and the other 50 copies to the Chair-Elect for safe-keeping and distribution. Jennifer Kildea Dewane will follow up with Stacy Sage on how to order extra 100 copies and the pricing for such copies. Greg Drutchas further stated that we need to have a new issue on the agenda regarding the list of Section publications, the cost of selling extra copies of publications and developing a publication policy for the next meeting.
- 3.5 Subcommittees. Gerry Griffith reported that the Legislative Update had a great turnout of about 60 people. He commended Lisa Panah for doing a great job in organizing the Legislative Update. There was discussion on the fact that the expanded panel seemed to enhance the success of this year's Legislative Update. The Providers Subcommittee will conduct an EMTALA teleconference on April 23, 2002. The Payors Subcommittee will hold a regulatory program on May 2, 2002. The Technology Subcommittee will sponsor a program on HIPAA Preemption and Security on April 11, 2002. The Consumers Subcommittee is joining with the Elder Law Section to conduct a program entitled "Cutting Through Red Tape" on May 23, 2002.
- 3.6 ICLE Health Law Institute. Nancy Lukey and Greg Drutchas reported that 220 people had registered for the ICLE Health Law Institute.
- 3.7 Membership Directory Update. Gerry Griffith reported that the Membership Directory will soon be published. Gerry's office is re-reviewing the Directory to fine tune the document. The State Bar has promised a 5 business day turnaround for mailing out to the Section members once it receives the Directory from the Honigman firm.

- 3.8 Bylaws. Nancy Lukey reported that she, Maurice McMurray and Kathy Kudner had re-organized the Bylaws and e-mailed the proposed revisions to Council Members. Nancy further stated that the Bylaws have been through several rounds of reviews but there are still sections that will need further work regarding committees and standing committees. Nancy requested that any comments on the proposed revisions that were sent out prior to the March 7, 2002 meeting be sent to Nancy, Maurice and Kathy.
- 3.9 Website Report. Kathy Kudner reported that the subcommittee had drafted a website. Kathy will send an e-mail with the website domain, mihealthlaw.com. There was discussion on whether to post job opportunities on the website as the e-Journal does. There was also further discussion on developing a policy on advertising. There was also discussion on posting a calendar of events on the website and developing a "Members Only" section. The website subcommittee continues to meet once a month every Friday night and is a very committed group.
- 4.0 Michigan Health Law Report. There was discussion on the editorial budget, a letter to the editor, and disclaimer language for the Michigan Health Law Report. Gerry Griffith reported that there will be five articles for the first issue: (1) an article on the ProMed case; (2) the State's obligations under Medicaid managed care; (3) there will be an issue on the HIPAA Privacy Regulations; (4) there will be an article on Craig v Oakwood; (5) Eric Wexler will do an article on Medicaid provider tax legislation. There was discussion on publicizing the annual meeting in the first issue, any discussion on new legislation have a news and noteworthy section. The due date is April 30, 2002 and Gerry expects to have the first issue out sometime in May. The Council agreed to identify new legislation to put in the next issue.
- 4.1 Annual Meeting. Donna Craig reported that David Coates is to speak at the Annual Meeting. There was also discussion on bringing in a facility CEO to speak. There was also discussion on what gifts to get for the speaker. One idea proposed was to purchase Mont Blanc pens for the 2 speakers for the 2002 Annual Meeting along with one for Linda Ross for speaking at last year's Annual Meeting. Jennifer Kildea Dewane agreed to follow up on the cost of 3 Mont Blanc pens.
- 4.2 HIPAA Task Force. Cindy Wisner and Joy Berent reported that the HIPAA Task Force continues to make good progress. They passed around a Foreward. There was further discussion on whether the Council would re-review the HIPAA Privacy Task Force work product. There was discussion on making the HIPAA Preemption Analysis available electronically to Members. There was discussion on giving members one free time to access in PDF format. There was also discussion on the pricing of this publication and one suggestion was to charge \$1 per page with approximately \$200 for the entire analysis. There was also discussion on recouping the Council's expenses in holding teleconferences and its \$5,000 initial commitment. Jennifer Kildea Dewane stated that she would talk to Jeanne Dunk of Foster, Swift, Collins & Smith regarding licensing issues related

to the Council's publications and then would have Jeanne contact Cindy Wisner or Joy Berent. Joy and Cindy also presented the User's Guide to HIPAA Privacy Rule Preemption Matrix on Michigan law.

- 4.3 Social Function. Nancy Lukey reported that the Metroparks facilities would be a nice place to hold a social function and that she would report further on this issue at the next Council meeting.
 - 4.4 Nominating Committee. Kathy Kudner, Joy Berent, Colleen McClorey and Maurice McMurray all agreed to meet to discuss individuals who have contributed a great deal to the Council and should be considered by the Nominating Committee for Council positions.
5. New Business.
- 5.1 Seminar Regarding HIPAA Privacy and Security. There was discussion about establishing a group to speak on HIPAA Privacy and Security. It was suggested that the HIPAA Privacy Task Force could work with Colleen McClorey, as Colleen knows of a group interested in such a seminar.
6. Next Meeting Date. The next meeting of the Council is set for April 10, 2002 at 3:00 p.m. at the law offices of Foster, Swift, Collins & Smith, P.C.

There being no further business the meeting was adjourned at approximately 9:20 p.m.