

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

**Wednesday, May 18, 2005**

The Council meeting was held at the law offices of Foster, Swift, Collins & Smith, P.C. The following Council members participated: Cindy Wisner, Kathy Kudner, Marge Marchak, Lisa Panah, Jennifer Kildea Dewane, Phil Stoffan, Ann Hollenbeck and Donna Craig.

1. Call to Order. The meeting was called to order by Cindy Wisner 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 April 20, 2005 meeting of the Health Care Law Section Council of the State Bar of Michigan were approved on a motion made and seconded.
4. Old and Recurrent Business.
  - 4.1 Treasurer's Report. Donna Craig reported that the Health Care Law Section had minimal expenses this last month and the budget is in good shape. The Treasurer's report was approved on a motion made and seconded.
  - 4.2 Annual Meeting. Cindy Wisner reported that planning for the annual meeting is going well. The educational portion of the program will be held at the Ford Conference Center, and the evening entertainment program will be held at the Eagle Tavern at Greenfield Village. Save the Date notices will be sent out soon. The notice will state that the annual meeting is being held one week after the State Bar annual meeting.
  - 4.3 Special Projects.
    - 4.3.1 AHLA Affiliation. Eric Wexler established the AHLA affiliation, and the websites are now linked. Phil Stoffan volunteered to check if the ABA Health Care Law Section offers affiliation as well.
    - 4.3.2 List Serv. Cindy Wisner reported that Eric Wexler is working on the list serv transition. The goal is to begin operation of the list serv in June.

- 4.4 Follow up to Special Guest at January Meeting: Bill Whitbeck, Chief Judge, MI Court of Appeals. Cindy Wisner reported that Judge Whitbeck provided a letter with the format the Court of Appeals wants attorneys to use for submitting comments on ways to improved the Court's operations. The Council discussed responding to Judge Whitbeck's request. Because of diverse views of the Section, it was agreed the Council would not submit comments on behalf of the entire Section. Cindy Wisner volunteered to write a letter to Judge Whitbeck acknowledging that we received his letter, and we have informed Section members regarding the request for comments and directed them to respond directly to the Court.

5. Updates.

- 5.1 Substantive Law Subcommittee Report. Marge Marchak reported on three upcoming programs. A program on Michigan sales and use taxation of medical goods will be held on May 23, 2005. A program on the Terry Schiavo aftermath is scheduled for June. The annual joint program by the Consumers Subcommittee, Elder Law section and Legal Aid will be held on May 26, 3005. Plans are underway for programs for 2005-2006.
- 5.2 Marketing. Cindy Wisner reported on the status of the Section's marketing efforts. A proposal was submitted by a marketer identified by Margaret Marchak. The Substantive Law Subcommittee chairs reviewed the proposal. A decision was made to hire the marketer to develop standard template forms in Word for the substantive law subcommittees to use for educational program materials and registration, and create a new Section logo to help market and "brand" the Health Care Law Section.
- 5.3 Newsletter. Cindy Wisner reported that she and Jennifer Kildea Dewane will produce a newsletter, which includes an articles on physician consultant issues, the glossary of health care terms developed by Ms. Wisner and Ms. Kildea Dewane, and the federal and state law update materials from the ICLE Health Law program. The newsletter will be sent by mail to members and posted on the Section website.
- 5.4 New JCAHO Task Force. Cindy Wisner reported that Rachel Nosowsky will head a new task force collect and organize CMS Conditions of Participation, JCAHO requirements and applicable state law for hospitals. Ms. Wisner requested Council members to submit nominees for the task force to Ms. Nosowsky. It was also agreed that a notice of the task force and solicitation for members would be included in the newsletter.
- 5.5 PAST Force. Cindy Wisner reported that Janet Welch, the State Bar's General Counsel, is heading a new task force coined the PAST Force or Patient Advocate Simplification Task Force. Ms. Wisner's role is to assist with scheduling meetings. The following persons serve on the task force: State Bar Commissioner, Kim Cahill, Josh Ard, Doug Chalgian, John

Cook, John Bos, Judge Phil Harter and Roxanne Chang. Brad Gellar also participates informally. Ms. Wisner solicited nominees for a Section representative to participate and offer a hospital provider's perspective. Lisa Panah agreed to ask Marcia Malouin to participate, and Cindy Wisner agreed to check with Nancy Lukey.

- 5.6 Meeting with Representatives of State Bar. Cindy Wisner reported that the State Bar sent out a survey to Bar sections requesting feedback on the State Bar's performance. Ms. Wisner and Jennifer Kildea Dewane met with the liaisons to the State Bar to discuss ways to improve the State Bar's performance and services for the Section. The State Bar acknowledged they need to improve their communication with the Section and services. They indicated they were not unhappy with the Council for holding the Section's annual meeting separate from the State Bar annual meeting, but will make an effort to attract the Section back in the future. The State Bar apologized for not timely contacting and working with us to transition the list serv.
- 5.7 Health Care Intensive Study Update. Phil Stoffan plans to convene a task force meeting before the next Council meeting to identify subject matters for obtaining a certificate of proficiency.
- 5.8 Nominating Committee Appointments. Cindy Wisner reported that she and Kathy Kudner will serve on the Nominating Committee. Ms. Wisner will also seek 3 additional members to serve, 2 from the Council and 1 non-Council member. Ms. Wisner requested Council members to submit nominees for Council members and substantive law subcommittee chairs.
- 5.9 Other Business.
  - 5.9.1 Corporate Practice. Kathy Kudner reported on continued problems with the State's position of rejecting renewals for corporations based solely on their names, regardless of the purposes of the corporation. She has had several discussions with Ann Baker and the State has not backed down from this position. Ms. Kudner and Cindy Wisner agreed to monitor any developments on this. Because of diverse views of the Section, it was agreed the Council will not advocate a position on behalf of the entire Section.
  - 5.9.2 HIPAA Task Force. Cindy Wisner reported that the HIPAA Task Force is working on guidance regarding e-mail communications and drafting a sample e-mail policy. The Task Force is also deciding whether or not to prepare and submit comments to the proposed enforcement regulations.
- 5.10 Member Survey. Cindy Wisner suggested sending a member survey requesting feedback when the new logo is ready.

- 5.11 Writing Competition. Kathy Kudner reported that she will send writing competition packets to all the law schools in the Fall. The proposed topic is the HIPAA Privacy Rule and the lack of federal physician-patient privilege. Ms. Kudner plans to submit the proposed topic to the HIPAA Task Force for input and updating.
- 5.12 Council Member Participation. There was discussion on Council member participation or the lack thereof, and the need to address it.
- 6. Upcoming Dates. The next Council meeting will be held via telephone on June 15, 2005.
- 7. Adjournment. There being no further business, the meeting adjourned at approximately 4:20 p.m.