

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

November 20, 2002

The Council meeting was held at the law offices of Foster, Swift, Collins & Smith, P.C. The following Council members participated: Nancy Lukey, Colleen McClorey, David Rogers, Keith Soltis, Gerry Griffith, Jennifer Kildea Dewane, Donna Craig, Lisa Panah, Kathy Kudner, Greg Drutchas, Joy Berent, Cindy Wisner, Phil Stoffan, Art deVaux, and Carol Isaacs. Daniel Levy as Section Liaison and John Berry as Executive Director of the State Bar of Michigan also attended as the Council's special guests.

1. Call to Order. The meeting was called to order by Gerry Griffith at approximately 3:15 p.m.
2. Minutes. The minutes of the October 23, 2002 Council meeting were approved, as revised, upon a motion duly made and seconded.
3. Special Guest Report. John Berry, Executive Director of the State Bar of Michigan, gave a report to the Section on the State Bar activities. He indicated that Section Liaisons will participate much more in Section activities. Gerry Griffith raised the issue of whether the State Bar would support the Section in trying to implement a health law specialty certification process. Mr. Berry reported that the State Bar of Michigan will work with the Council on putting together a detailed proposal regarding the health law specialty certification and encouraged the Council to work on this issue. Mr. Berry also reported on the Section Summit previously held by the State Bar of Michigan. He indicated that the purpose was to figure out how to improve relationships between the various sections and the State Bar of Michigan and also relationships between sections. Gerry Griffith reported to Mr. Berry that the Health Law Section's Council desires to continue to have its annual meeting at the State Bar Annual Meeting.
4. Old and Recurrent Business.
 - 4.1 Treasurer's Report. Donna Craig gave the treasurer's report. There was discussion on the fact that expenses are twice as much as the income that the Council has brought in. There was discussion on the various expenses incurred by the Council and the fact that the Council needs to increase revenues and decrease expenses.
 - 4.2 Quick Update Reports on Special Projects and Work Groups
 - 4.2.1 HIPAA Work Group. Cindy Wisner and Joy Berent reported that the HIPAA Work Group continues to make tremendous progress. They reported that rather than issuing a supplement to the Preemption Matrix, the Work Group will completely revise and reissue a full copy of the

Preemption Matrix which incorporates the latest revisions. The Task Force made the following recommendations: (1) Members will be allowed to download the revised Preemption Matrix without charge from the Section's website; (2) Members who would like a hard copy of the revised Preemption Matrix will be charged postage and copy costs; and (3) for those non-members who have previously bought the Preemption Matrix and want the update, the proposal was for the non-members to be charged postage and copy charges. For non-members who have not yet bought the Preemption Matrix, the price for the revised Preemption Matrix would be \$250.00. Upon a motion duly made and seconded, these recommendations were approved by the Council. Cindy and Joy further reported that the Work Group has completed 10 HIPAA forms to post on the website. There was discussion on whether there should be a charge for the HIPAA forms. Upon a motion duly made and seconded, the Council approved a pricing structure for the HIPAA forms as determined by Cindy Wisner and Joy Berent.

4.2.2 Pro Bono Work Group. Kathy Kudner and Nancy Lukey stated that there was nothing to report on this matter.

4.2.3 Website Task Force. Kathy Kudner reported that the Website Task Force group continues to meet. Some issues the Group has discussed include doing an interactive survey and creating a new task force report with a new list of projects. Kathy Kudner reported that Sara Nussbaumer from the State Bar has been extremely helpful on updating the website.

4.3 Subcommittee Reports and Calendar of Events. David Rogers began his report by presenting a schedule of programs that the subcommittees intend to sponsor within the next year. Specifically, the Consumers Subcommittee will present Part 1 of the HIPAA trilogy on December 3; the Payors and Providers Subcommittees will present Part 2 of the HIPAA Trilogy on HIPAA preemption on December 10; and the Technology Subcommittee will wrap up the HIPAA Trilogy with Part 3 regarding online education on December 17. There was also talk of doing a Patient Right to Independent Review Act seminar sometime in January. In February of 2003, there will be a legislative update in Lansing. In May of 2003 the Consumers Subcommittee will do a legal aid seminar in connection with the Elder Law section. In May there will be a joint program sponsored by the Providers and Medical Legal Subcommittees on emergency medical services. David Rogers reported that the subcommittees will continue to solicit input from Section members regarding educational programs for non-traditional facility providers such as skilled nursing facilities. There was also discussion on registration fees. The popularity of telephone conferencing has increased participation of Section seminars. However, David Rogers and Donna Craig reported that the expenses incurred by the Council in connection with telephone conferencing have been significant. Teleconferencing costs average approximately \$17.00 per participant for a 1 1/2 hour session. There was

discussion on whether the Section should charge members for the cost of such telephone conferencing or to continue to subsidize the teleconferencing costs. There was discussion on broadcast only teleconferences with the option of e-mailing questions in. David Rogers will follow up on the broadcasting question. There was also discussion on using cassette tapes to record. Upon a motion duly made and seconded, the Council determined that the Section will incur expenses for teleconferences if such costs are \$200.00 or less. If the costs incurred in telephone conferencing are over \$200.00, then the Section will charge seminar participants. Non-Section members will be charged more than Section Members. There was also discussion on a web casting contract being considered by the Council, and that at this time there was no contract yet and that Jeanne Dunk was arranging for the service. Upon a motion duly made and seconded, the Council appointed Gerry Griffith to sign the contract upon his review of such contract.

- 4.4 Update on Michigan Health Law Report. Kathy Kudner reported that she has six authors for the next issue of the Michigan Health Law Report. Upon a motion duly made and seconded, it was approved that the Michigan Health Law Report be sent electronically to members along with a notice on the listserv that the Michigan Health Law Report has been sent electronically and directions on how to obtain a paper copy if desired.
- 4.5 ICLE Health Law Institute. Gerry Griffith reported that Shel Stark is filling out the faculty agenda and that there was nothing else to report.
- 4.6 The MSMS/HCLS Seminar. Nancy Lukey reported that the October 29, 2002 seminar went well, and the organizers actually received a request for a more detailed forum on Blue Cross and Blue Shield of Michigan reform legislation. Nancy Lukey reported that the program's panelists appeared to be pleased with the discussion that occurred during the seminar and MSMS also seemed to be pleased with the program.
- 4.7 Section Policies.
 - 4.7.1 Publication Policy and Pricing Structure for Publication. Jennifer Kildea Dewane presented the draft of the Publication Policy. There was discussion on posting a price list on the website that is consistent with the policy's price list. There was discussion on posting policies on the website. The Council decided to differentiate between Section and Council policies and only post Section policies on the website. There was discussion on author/section copyright ownership of published works. Jennifer Kildea Dewane and Greg Drutchas will continue to work on the policy, revise as needed and bring it back to the Council for its approval.
 - 4.7.2 Conflict of Interest Policy. Gerry Griffith raised the issue of whether joint board membership should be addressed in the Conflict of Interest Policy.

4.7.3 Member Privacy Proposed Policy. The Member Privacy Proposed Policy was distributed by Greg Drutchas. Council members were asked to review this policy.

4.7.4 Draft Policy on Registration Fees. David Rogers distributed this policy and asked for Council members to review it.

4.8 Special Projects.

4.8.1 Update on Section Directors/Web-based. This report was deferred until the next meeting.

4.8.2 Specialty Certification. Gerry Griffith asked for volunteers to help on this project. Phil Stoffan, Nancy Lukey, Joy Berent and Gerry Griffith all volunteered to work on the specialty certification. Phil Stoffan volunteered to set up the first conference call.

4.8.3 Representative Assembly Liaison. Colleen McClorey indicated that she would be interested in serving as the Representative Assembly Liaison for the Section.

4.8.4 Law Student Reception. Jennifer Kildea Dewane and David Rogers reported that there appeared to be interest at the law schools they spoke with about the Section hosting a law student reception. A proposed budget will need to be developed. Jennifer Kildea Dewane and David Rogers will also need to find volunteer attorneys to involve in the law student receptions. Kathy Kudner and Gerry Griffith expressed interest in helping out.

4.8.5 Section Social Outing. It was reported that there did not appear to be enough interest in having a Section social outing based upon last year's efforts.

4.8.6 Update on Michigan Health Law Manual. Kathy Kudner indicated that Dykema Gossett is interested in working on the updates to this manual.

4.8.7 Sponsor Writing Competition for Law Students. There was discussion on sponsoring a writing competition for law students. The award could perhaps be free tuition to the ICLE seminar. Kathy Kudner and Cindy Wisner agreed to work on this project and pick a Michigan topic for the writing competition.

5. New Business.

5.1 Budget. Donna Craig presented the 2002-03 budget. She indicated she may revise the teleconference fees and newsletter expenses due to the Council's

discussion at this meeting. There was discussion on the budget and approval was deferred until the next meeting.

- 5.2 Access to Justice Report - Justice for All and Potential Donation. Gerry Griffith distributed a 10/30/02 letter on this matter.
- 5.3 Request for Comment on Cyber Court Legislation. Gerry Griffith announced the request for the comment on Cyber Court legislation.
- 5.4 Draft of Chairs Letter. Gerry Griffith presented to the Council the draft of his chairs letter to be sent out in the near future.
- 5.5 Dissolution of SBM Medicolegal Problems Committee. Gerry Griffith distributed the 10/15/02 letter regarding the dissolution of SBM medicolegal problems committee.
- 5.6 Updates to Listserves' Administrators. Gerry Griffith reported on updating the listserve administrators to reflect the current officers as administrators to the distribution listserve and to appoint the Chair, past Chair and Richard Bouma as the interactive listserve administrators. It was also decided that subcommittee co-chairs should also be able to send to the distribution listserve, and therefore, they will also be listed as distribution listserve administrators.
6. Next Meeting Date. The next meeting of the Council will be held on December 18, 2002 at Trinity Health in Novi from 3 p.m. to 5 p.m. It is a cookie exchange and Council members should bring 2 dozen cookies to exchange with one another at the meeting.
7. Adjournment. There being no further business, the Council meeting adjourned at approximately 5:30 p.m.