

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

Wednesday, November 16, 2005

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, David Rogers, Mike Fraleigh, Rob Iwrey, Beth Derwin, Joanne Lax, Amy Barkholz, Carol Tarnowsky, Marge Marchak, Art DeVaux, Ann Hollenbeck and Jan Anderson.

1. Call to Order. The meeting was called to order by Jennifer Kildea Dewane at approximately 3:03 p.m.
2. Conflict Disclosures (if any - specific agenda items). There were no conflicts to report.
3. Minutes. The Minutes of the October 16, 2005 and September 20, 2005 meetings of the Health Care Law Section Council were approved on motions made and seconded.
4. Old and Recurrent Business.
 - 4.1 Budget. Donna Craig reported that the Health Care Law Section budget is in good shape with a sizeable balance. She solicited ideas for programs and services for the members to include in the draft budget.
5. Updates.
 - 5.1 Substantive Law Subcommittee Report. Marge Marchak reported that the Medicare Part D program sponsored by the Payors Substantive Law Subcommittee was well-attended. The Technology Substantive Law Subcommittee is sponsoring a program on Electronic Medical Records on November 17, 2005. The Legislative Update is scheduled for February 10, 2005. A program on Michigan certificate of need issues may be held in January.
 - 5.2 Law Student Reception Update. Discussion on this was deferred until the next Council meeting.
 - 5.3 Revisions to the Nonprofit Corporation Act Update. Art DeVaux reported that the proposed changes to the Nonprofit Corporation Act have been sent to an association that represents nonprofit entities for review and input. The association will lobby the changes when the changes are approved.

- 5.4 HIPAA Task Force. There was discussion on whether or not there is a continued need for the HIPAA Task Force. Council members discussed reconstituting or changing the scope of the HIPAA Task Force or creating a new task force to prepare comments on the proposed regulations to the federal anti-kickback statute and Stark Law regarding electronic prescribing and electronic health records. It was determined there is not enough time to constitute a task force to prepare comments on the proposed regulations by December. Cindy Wisner proposed assigning a record retention issue to the HIPAA Task Force.
- 5.5 JCAHO/COP Task Force. Jennifer Kildea Dewane reported that she contacted Rachel Nosowsky regarding the status of the JCAHO/COP Task Force. The task force's mission is to prepare a crosswalk of Medicare Conditions of Participation, JCAHO and applicable state law requirements for hospitals. Council members expressed their support for this project.
- 5.6 Updates to Website Regarding Council and Committees. Jennifer Kildea Dewane reported that she and Eric Wexler will make certain the website is updated to include the new Council members and new matters regarding the Section.
- 5.7 ICLE Health Law Update. Jennifer Kildea Dewane reported that program planning is underway. She reported on proposed topics. A sample schedule and draft list of speakers have been prepared. Cindy Wisner solicited speakers.
- 5.8 Michigan Healthcare Regulations. Lisa Panah reported on the status of the web-based index of Michigan healthcare regulations, selected Attorney General opinions and certificate need standards. The index was prepared by Lisa Panah, Maribeth Dickerson and former Kitch employee, Monica Kumar. The index is done and Sandy Barger from the State Bar of Michigan is currently formatting it for Internet use. There was discussion on ways to keep the web-based index up-to-date so that it remains a valuable tool for the members and others using the Internet. Lisa Panah volunteered to continue to work on the index and keep it up-to-date until a new volunteer is found.
- 5.9 2006 Annual Meeting.
- 5.9.1 Committee Members. Jennifer Kildea Dewane asked if anyone wants to participate in the 2006 Annual Meeting planning committee, which is currently comprised of Ms. Kildea Dewane, Amy Barkholz and Mike Fraleigh. Ann Hollenbeck, Carol Tarnowsky and Beth Derwin volunteered to help. Art DeVaux recommended that Ms. Kildea Dewane ask individuals who have

expressed an interest in participating in Section activities to participate in planning the annual meeting.

- 5.10 List of Individuals Interested in Participating in Section Activities. The following individuals have expressed an interest in participating in Section activities:

Steven Bender (benders@trinity@health.org)
Amanda Coulter (a.coulter@shrr.com)
Christian Schafer (schachri@mcare.med.umich.edu)
Lou-Ann Richards

6. New Initiatives Discussion.

- 6.1 Lunchbox Series. A Lunchbox Series Committee was formed, comprised of Joanne Lax, Amy Barkholz and Beth Derwin, to plan table topic meetings of the members.
- 6.2 Pro Bono Project Ideas. Council members discussed the difficulty past Council members had in generating enough interest from individuals or potential recipients in pro bono activities. Jennifer Kildea Dewane recommended that a new committee be formed to explore possible pro bono activities. Rob Iwrey, Mike Fraleigh and Jan Anderson volunteered to serve on the Pro Bono Committee and to report back to the Council on possible activities. Preparing educational materials on Medicare Part D for senior citizens was among the possible pro bono activities discussed.
- 6.3 Other Ideas. Ann Hollenbeck volunteered to follow up on the letter that the Stark Law Task Force sent to the Michigan Department of Community Health regarding adopting or not adopting the Phase II Stark Law Regulations.
7. Physician Lawsuit Legislation. Jennifer Kildea Dewane sent draft legislation on volunteer retired physician lawsuit exemptions (SB 4670) to the Council for review and comment. Beth Derwin indicated that SB 4670 needs to be read in conjunction with HB 5375. There was discussion on the need for the legislation and the fact there is similar legislation in Florida. Ms. Derwin volunteered to have her law clerk find out more about the draft legislation.
8. Next Meeting Date. The next Council meeting along with the annual holiday cookie exchange will be held on December 14, 2005, at Trinity Health in Novi.
9. Adjournment. There being no further business, the meeting adjourned at approximately 4:15 p.m.