

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

October 23, 2002

The Council meeting was held at the law offices of Foster, Swift, Collins & Smith, P.C. The following Council members participated: Lisa Panah, Donna Craig, Carol Isaacs, Greg Drutchas, David Rogers, Phil Stoffan, Gerry Griffith, Maurice McMurray, Art deVaux, Kathy Kudner, Keith Soltis, Cindy Wisner, Nancy Lukey, Joy Berent, and Jennifer Kildea Dewane.

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 July 31, 2002 Council meeting, the minutes of the September 26, 2002 Annual Meeting of the Section, and the minutes of the September 26, 2002 Council meeting were all approved, as revised, upon a motion duly made and seconded.
3. Old and Recurrent Business.
 - 3.1 Treasurer's Report. Donna Craig reported that the treasurer's report will be deferred until the next meeting, as the State Bar is closing out books and thus the Section is waiting for its report. Donna Craig also reported that all the bills to be paid by the Section have been forwarded for payment.

At this time, Greg Drutchas announced that the Section was applauded for its successful efforts in education, communication (including the web page), and member participation by State Bar leaders he met at the leadership luncheon that Greg attended during the State Bar's Annual Meeting.

- 3.2 Quick Update Reports on Special Projects and Work Groups.
 - 3.2.1 HIPAA Work Group. Joy Berent and Cindy Wisner reported that the HIPAA Work Group is currently revising the Preemption Matrix in light of the modifications to the Privacy Rules which were effective in August of 2002. Eighteen attorneys have been reviewing the modifications to determine whether such modifications require that the Matrix be revised. The HIPAA Work Group has received most of the revisions and once all are completed, the Work Group will produce a Supplement to the Matrix. Honigman Miller Schwartz and Cohn is working with the State Bar on creating a PDF format as well as other logistical issues for publishing the Supplement and making it available on the website. November 5, 2002 will be the HIPAA Work Group's next meeting. The HIPAA Work Group has also developed forms that will soon be ready for final approval and then will be posted on the Section's website. Cindy and Joy reported that

the minimum legal requirements are contained within the text of the forms. The forms also contain notes and suggestions on what else could be added to the form's language. It was noted that the Payors, Providers and Consumers Subcommittees all want to do HIPAA seminars and the issue was raised on whether the HIPAA Work Group should be involved. Joy and Cindy reported that they continue to have 15-20 participants per HIPAA Work Group meeting.

3.2.2 Pro Bono Work Group. Kathy Kudner reported that Monica Wilkinson continues to work with Madonna University regarding sponsoring a session on Advance Directives for seniors. There are some issues to work out with respect to the location of the educational session, transportation of participants, and volunteers. It was reported that if the Work Group is able to do this session at Madonna University, then the Pro Bono Work Group will look at putting together a seminar on advance directives at various Grand Rapids locations.

3.2.3 Website Task Force Report. Kathy Kudner reported that the Website Task Force will post an updated list of Council members on the website. Nancy Lukey reported that she sent the updated Bylaws to the State Bar and a clean copy was also sent to the website coordinator to post on the website. The Website Task Force members have volunteered to continue to serve the Section by assisting in organizing the website.

3.2.4 Bylaws. Nancy Lukey reported that the revised Bylaws were approved by both the Section and the State Bar of Michigan.

3.3 Subcommittee Reports and Calendar of Events. David Rogers began his report by presenting a schedule of programs that the subcommittees hope to sponsor within the next year.

3.3.1 Payors Subcommittee. David Rogers reported that the Payors Subcommittee is discussing doing a HIPAA seminar on December 10. The seminar will be at an intermediate level with a payor and provider focus with input from both subcommittees. The seminar will also focus on preemption issues. In addition, a tentative program is scheduled for sometime in January on the Patient's Right to Independent Review Act.

3.3.2 Providers Subcommittee. The Providers Subcommittee will also be participating in the December 10 session on HIPAA. The Providers Subcommittee will also conduct an emergency services program sometime in May and this could be a joint effort with the Medical/Legal Subcommittee. David Rogers posed the question as to whether there is an interest in looking beyond the traditional providers the Section has focused on in its seminars. For example, David asked whether the Section should sponsor a seminar focusing on long-term care providers (i.e., a session on

the Vulnerable Adult Abuse Statute or criminal background checks). Jennifer Kildea Dewane reported that she would ask Brian Kaser of Foster, Swift, Collins & Smith, P.C. on whether he would be willing to speak at such a seminar. The Providers Subcommittee will also sponsor the annual legislative update sometime in mid-February of 2003 in the Lansing area.

- 3.3.3 Medical Legal Subcommittee. The Medical Legal Subcommittee is considering sponsoring the emergency services seminar along with the Providers Subcommittee.
- 3.3.4 Technology Subcommittee. The Technology Subcommittee is looking at doing a program on online education for compliance programs. There was some discussion on whether to expand the session to other areas of online-education.
- 3.3.5 Consumers Subcommittee. The Consumers Subcommittee is doing a HIPAA Basics program on December 3. There may also be a legal aid program sometime in May, and there is the possibility of doing a consumer law column.
- 3.4 Update on Michigan Health Law Report. Kathy Kudner raised the issue of how frequently the Michigan Health Law Report should be published. It was decided that the Health Law Report would be published at a minimum of 2 issues per Council term. Kathy Kudner has tentative authors for the next issue and there was further discussion on the frequency of the Michigan Health Law Report publication.
- 3.5 ICLE Health Law Institute. Gerry Griffith reported that he had met with Shel Stark, Marge Marchak and Alan Gilchrist regarding the upcoming ICLE Health Law Institute seminar on March 6 and March 7, 2003. The program will begin with an afternoon session on Thursday, March 6, 2003 and an all day session on March 7, 2003. The surveys taken from last year's program indicated that the Section members thought the Thursday and Friday format was a much better format for the ICLE seminar. He also indicated that the surveys taken were positive regarding the basic track portion of the seminar. Gerry Griffith distributed a copy of the current draft agenda. He reported that brochures for the seminar are being prepared and save the date cards have been sent out to Section members. There was discussion on doing a Council dinner meeting on March 6, 2003, in place of the March Council meeting, based upon last year's format.
- 3.6 MSMS/HCLS Seminar. Nancy Lukey reported that as of the date of this meeting, there had been very low registration for this program. Approximately only 20 people have RSVPd. There was discussion on the low turnout and the need to urge others to attend.

- 3.7 Report on MSHA Annual Meeting Notice or Co-Sponsorship. Gerry Griffith reported that the Section had received a request for the Section's mailing list. It was decided that if we co-sponsor a program then the Council will send the Section's mailing list to the other co-sponsoring organization. Because the section is not co-sponsoring the MSHA Annual Meeting, the Council decided to simply use our e-mail distribution list to send a notice about the MSHA Annual Meeting to Section members.
4. Request to Take More Active Role. It was noted that Robert Alpiner, Steve Bender, Samuel McCargo, David Patton and Carol Tarnowsky have expressed interest in taking a more active role in Section activities. The Council will keep these people in mind when developing new projects.
5. New Business.
- 5.1 2002-03 Budget. This item was deferred until the next Council meeting.
- 5.2 Scope of Subcommittees. The Council discussed the mission of the subcommittees, how to focus efforts to members and other agencies. There was a discussion on the pros and cons of expanding the subcommittees' focus beyond Section members.
- 5.3 Section Policies.
- 5.3.1. Publication Policy and Pricing Structure for Publication. Jennifer Kildea Dewane distributed the Publications Policy and Pricing Structure for Publications. Greg Drutchas volunteered to assist Jennifer Kildea Dewane in fine-tuning the Publication Policy. Greg Drutchas was also to put together a privacy policy regarding the membership mailing list and the listserve distribution list.
- 5.3.2 Overview of Existing Section Policies Based on Prior Minutes. Jennifer Kildea Dewane that she will continue to review the policies enunciated in the Council's prior minutes and report back to the Section at the next meeting.
- 5.3.3 Conflict of Interest Policy. Gerry Griffith distributed a sample conflict of interest policy and raised the issue of whether there is a need for the Section to adopt a conflict of interest policy. There was discussion indicating that a short policy might be a good idea. It was also decided that the Secretary of the Council would be responsible for maintaining the most up-to-date versions of the Bylaws and policies in a binder to maintain consistency.
- 5.4 Ideas for Special Projects.

- 5.4.1 Section Directory. The Council discussed the current Section directories and how to make changes in the future.
 - 5.4.2 Specialty Certification. Gerry Griffith raised the issue of specialty certification. The Council decided to defer this item until the next meeting. Nancy Lukey indicated that she thought there was some prior discussion in previous Council meetings regarding specialty certification. Jennifer Kildea Dewane will review minutes to see if the Council has previously commented on this issue.
 - 5.4.3 Law Student Receptions. Jennifer Kildea Dewane and David Rogers agreed to investigate on whether law schools in the State of Michigan would be interested in having the Section host a reception in which law students have an opportunity to mingle with health law attorneys.
 - 5.4.4 Miscellaneous. There was further discussion on holding a mid-year program, a social outing, and what the Council would do if the Annual Meeting were to be cancelled by the State Bar of Michigan.
- 6. Next Meeting Date. The next meeting will be at the law offices of Foster, Swift, Collins & Smith, P.C. on November 20, 2002 from 3 pm to 5 pm.
 - 7. Adjournment. There being no further business, the Council meeting adjourned at 5 pm.