

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

**October 15, 2003**

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

1. Call to Order. The meeting was called to order by Kathy Kudner at approximately 3:10 p.m.
2. Conflicts. Upon request by Kathy Kudner, there were no conflicts of interest to disclose by any Council members.
3. Minutes. The Minutes of the Annual Meeting of the Health Care Law Section of the State Bar of Michigan for September 11, 2003 and the Minutes of the Council meeting of the Health Care Law Section of the State Bar of Michigan for September 11, 2003 were approved upon a motion duly made and seconded.
4. Housekeeping Issues. Kathy Kudner welcomed new members of the Council. She indicated that new letterhead would be coming from the State Bar. Finally, Kathy announced that the Section's new liaison is Lambro Niforos.
5. Old and Recurrent Business.
  - 5.1 Treasurer's Report. Donna Craig reported that any expenses that still need to be turned in by Council members should be turned in to her by October 16, 2003. Donna further requested that any input on the costs of upcoming web casts, conference calls, etc. would be appreciated so that she could put together the draft budget.
  - 5.2 Updates on Special Projects and Work Groups.
    - 5.2.1 HIPAA Work Group. Cindy Wisner reported that the HIPAA Work Group continues to meet on a monthly basis and has good participation. Cindy Wisner expressed her desire to resign as the HIPAA Work Group Co-Chair in light of her new responsibilities to the Council. Therefore, the Council will need to appoint a new Co-Chair to the HIPAA Work Group, and Joy Berent will remain the other Co-Chair.
    - 5.2.2 Pro-bono Work Group. Kathy Kudner mentioned that this Committee currently has no Chairs or Members. There was discussion regarding the interest in continuing this Pro-bono Work Group.

- 5.2.3 Website Task Force. Eric Wexler indicated that he would serve as the liaison to the Council for the Website Task Force. He indicated that Robert Iwrey indicated that he was willing to continue to serve on the Website Task Force.
- 5.2.4 Specialty Certification Task Force. Phil Stoffan reported that he is working on a draft invitation to all heads of the State Bar of Michigan Sections regarding Specialty Certification. Upon a motion duly made and seconded, the Council appointed Phil Stoffan to draft and send out the invitation letter. Gerry Griffith indicated that he will continue to serve on the Specialty Certification Task Force.
- 5.2.5 Law Student Receptions. Jennifer Kildea Dewane and David Rogers are continuing to look into the feasibility of holding law student receptions. They have made contacts at various law schools and still need to pinpoint dates for these events. Marge Marchak indicated that she can be a contact for the University of Detroit. She will look into whether the school is interested in hosting a law student reception.
- 5.2.6 Law Student Writing Competition. Kathy Kudner indicated that Wayne State University and Ave Maria are interested in being involved in the Law Student Writing Competition. At the next meeting, the Council will discuss the timing and more issues related to finalizing the Law Student Writing Competition.
- 5.2.7 MSMS Co-Sponsored Program. Phil Stoffan encouraged everyone on the Council to get their firms to participate in this year's upcoming MSMS Co-Sponsored event.
- 5.2.8 Updating Section Directory. It was decided to move this issue to the Website Task Force's responsibility. Eric Wexler will work with the Website Task Force to develop recommendations of the Council on how to proceed with updating the Section Directory.
- 5.2.9 Updating Index to Michigan Health Law Regulations. Lisa Panah indicated that she and Jennifer Kildea Dewane will meet to review Lisa's draft index. Lisa will let the Council know if further help is needed to finalize the work product.
- 5.2.10 National Health Care Decision Week. It was announced that National Health Care Decision Week is next week. The American Bar Association has an information packet regarding end of life planning. The Council may order such materials. This is something to consider for next year to plan our own event at a time convenient for Section Members. It was discussed that the Consumers Sub-Committee should receive these materials.

- 5.3 Sub-Committee Reports and Calendar of Events. David Rogers reported that the Sub-Committee Co-Chairs have met and there should be two projects/programs per Sub-Committee. On November 18, 2003 there will be a telephone conference on various regulatory issues, the reorganization of Consumer and Industry Services, and peer review issues. In early December, there will be a program on telemedicine/prescription drug issues. The legislative update will again be held in 2004. In April of 2004, the Medical Legal Sub-Committee will do a program on liability insurance issues. Other possible programs include those involving insurance reform, a round table with the new Insurance Commissioner, and taking health care law directly to consumers, i.e. doing a health fair.
- 5.4 Health Law Report. Kathy Kudner gave a brief update regarding the Health Law Report's status.
- 5.5 Website Policy. Eric Wexler and the Website Task Force will work on whether a Website Policy is needed. It was indicated that new Members need a copy of all new policies.
- 5.6 Other Special Projects (2003-2004 Bar Year).
- 5.6.1 Publication of Michigan Public Health Code. Cindy Wisner reported that a group met and brainstormed on this idea. People seemed enthusiastic, and she will give a further report at the next meeting.
- 5.6.2 First Section Luncheon. Ann Hollenbeck will take the lead on investigating whether the Section should hold a Section luncheon.
- 5.6.3 Guardianship and Priority of Rights. Eric Wexler, Ann Hollenbeck, Joanne Lach, and Donna Craig will review the issue of state law regarding guardians, patient record access, etc. There was discussion also about creating a State Bar Consent Manual.
- 5.6.4 Corporate Practice of Medicine Doctrine. Cindy Wisner, David Rogers, Kathy Kudner, and Mike Fraleigh will work on whether the Section should do a program on this issue.
- 5.6.5 ADR Program. Donna Craig indicated that the ADR Section met on October 3 and she should have more information later. It was also mentioned that a AAA educational programs memo was forwarded to Gerry Griffith as to whether the Council is interested in distributing its educational program materials. It was decided that the Council could give mailing labels to AAA and have them pay for the cost of the labels.
- 5.6.6 Glossary of Health Definitions. Cindy Wisner and Jennifer Kildea Dewane will meet to continue work on this project.

5.6.7 Other Ideas for 2003 - 2004. Kathy Kudner encouraged people to bring new ideas at the next meeting.

5.7 Report on Proposed Amendments to Non-Profit Corporation Act. Arthur de Vaux reported to Kathy Kudner that there were no new developments on this issue.

5.8 National Conference of Commissioners on Uniform State Laws. Gerry Griffith reported that the Section, if it so decides, can propose ideas for uniform laws. There is a detailed list of criteria governing this process, and Gerry will send that to Phil Stoffan and Cindy Wisner to review.

5.9 Requests to Take a More Active Role. Laura Napiewocki has requested to take a more active role in Section activities.

## 6. New Business.

6.1 Identification of Counseling Committee Expenses for 2003 - 2004. Donna Craig requested that all expenses be submitted to the State Bar as soon as possible.

6.2 Feasibility of Membership Survey via Zoomerang or State Bar to determine interest in Sub-Committee programs and special projects. It was discussed that the Website Task Force would look into doing a survey via Zoomerang.

6.3 State of the Law 2003. It was decided that since we have received no requests to do the State of the Law 2003 outline that this item should be taken off the Agenda.

6.4 MSHA Annual Meeting. There was discussion about doing an EMTALA program with MSHA.

6.5 Planning for ICLE 2004. Gerry Griffith and Kathy Kudner reported that planning for the ICLE 2004 Seminar is in process. Shel Stark is sending an Agenda and contacting potential speakers. There will be three tracks: Basic, Intermediate, and Advanced. For lunch, it is expected that Bill Horton, former General Counsel of Health South, will speak regarding corporate responsibility. A Save the Date card for the ICLE 2004 event will go out some time in November.

6.6 Proposed Amendments to Michigan Rules of Professional Conduct. The rules were supposed to be voted on at the last meeting but were put off for discussion and comment. There was discussion on whether the Section would like to send in any comments on the Amendments. The next meeting of the State Representative Assembly is on November 14, 2003. There was discussion on whether the Council would take any position on the rules.

7. Next Meeting. The next meeting of the Council will take place at the law offices of Foster, Swift, Collins & Smith, P.C. on November 19, 2003 from 3:00 p.m. to 5:00 p.m.
8. Adjournment. There being no further business, the meeting was adjourned at approximately 4:40 p.m.