

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

**Wednesday, October 17, 2007**

The Health Care Law Section Council meeting was held at the offices of Kitch Drutchas in Detroit with call-in capability. The following HCLS Council members participated: Jan Anderson, Amy Barkholz, Richard Bouma, Beth Derwin, Marta Hoffman, Ann Hollenbeck, Robert Iwrey, Joanne Lax, Margaret Marchak, Donna O'Connor, Lisa Panah, Carol Tarnowsky, Tom Trenta, Eric Wexler and Monica Wilkinson.

1. Call to Order. Ms. Panah called the meeting to order at 3:05 p.m.
  - 1.1 Welcome to Returning and New Council Members. Ms. Panah welcomed the returning and new Council members, Marta Hoffman and Richard Bouma.
  - 1.2 Handouts. Ms. Panah went over the handouts emailed to the Council previously, including the following:
    - 1.2.1 HCLS Bylaws and Policies. Ms. Panah outlined the attendance requirements and reminded the Council that three consecutive, unexcused absences would be deemed a resignation from the Council. If a member cannot attend a meeting, they must call-in so that the absence can be recorded as excused.
    - 1.2.2 Council Distribution List. Ms. Panah reported that an updated version of the distribution list will be emailed and asked each member to review their contact information to ensure that this information is correct.
    - 1.2.3 Council Meeting Schedule. Ms. Panah reported that, with a few exceptions, the Council will meet the third Wednesday of each month from 3-5 p.m. and referred the Council to the meeting schedule emailed previously. The December meeting will be an in-person meeting at Ms. Panah's office in Detroit.
2. Conflict Disclosures. Ms. Panah called for any conflict disclosures. There were none.
3. Review and Approval of Minutes of September 11, 2007 and September 19, 2007 Council Meetings, and Review of September 19, 2007 Annual Meeting Minutes for Approval at 2008 Annual Meeting. Joanne Lax called for corrections to the September 11, 2007 and the September 19, 2007 minutes. Hearing none a motion was made to approve both minutes. The motion was passed and approved unanimously. Ms. Panah indicated that the minutes of the September 19, 2007 Annual Meeting will be approved at the 2008 Annual Meeting but asked Council members to review them now and suggest changes or additions. There were none.
4. Treasurer's Report. Marge Marchak reported that she has not received the year-end report from the State Bar of Michigan and that the fund balance is approximately \$95,000. Ms. Marchak also said that there would be a cash influx coming soon from new member dues.
  - 4.1 Section funds and use of same. Ms. Marchak will look into other Section' fund balances and ways in which the Section might consider expensing funds through program enhancements, waiving dues and/or purchase of services. She would like a more detailed discussion at the next meeting. Mr. Iwrey reported that once

the domestic violence brochure is ready for printing, the Section will incur significant expenses in production and distribution. Ms. Panah asked if the Elder Law Section will also contribute and Mr. Iwrey said that he would check with them. Ms. O'Connor said that she would like to see member service enhancement as opposed to fee rebate. Also see discussion under 5.12.

- 4.2 Reimbursement of expenses. Ms. Marchak reported that reimbursement requests from the Council have been inconsistent noting that Council members are not submitting requests for reimbursement, such as travel, and she encouraged members to do so.
5. Updates.
  - 5.1 Review of 2007 Annual Meeting Evaluations. Ms. Panah called for discussion about the annual meeting. She reported that the meeting was a huge success, and overall, the evaluations were very positive. There were comments about popular roundtables being too small to accommodate the number of people wishing to attend a roundtable discussion. Ms. Panah called for an informal poll on location for next year – Detroit or the suburbs. Mr. Wexler said we should consider membership demographics and consider having it outstate. Discussion followed on the ins and outs of location. Ms. Hollenbeck suggested securing a very dynamic speaker.
  - 5.2 Substantive Law Committee Report. Monica Wilkinson reported that one meeting has been held thus far to explore topics. The first teleconference may be dealing with Blue Cross Blue Shield issues. Ms. Wilkinson also reported that the SLC is exploring the possibility of recording the teleconferences and uploading the audio file to the State Bar of Michigan server and/or recording to a CD. Mark Kopson, a subcommittee member, is drafting a consent form for the speakers. Once drafted, the form will be distributed to the Council for its review.
  - 5.3 Law Student Reception. Mr. Iwrey will organize a Detroit reception, and Ms. Hollenbeck will organize an Ann Arbor reception, each in the spring. Ms. Barkholz will look for a Lansing location. Ms. Hoffman offered to assist and Ms. Panah said that she would add her name to the committee.
  - 5.4 Revisions to Michigan Nonprofit Corporation Act. Discussion was deferred until the next meeting.
  - 5.5 JCAHO/COP Project Update. Ms. Derwin reported that there has been no activity on this project and that she would check with Joy Berent on what she knows about the project. Ms. Panah asked if this is something the Council still wants to pursue, and they expressed interest in doing so. Ms. Marchak suggested asking the membership for volunteers and moving the project to a Task Force structure. Ms. Derwin said that she would still be interested in working on this project. Ms. Panah assigned her as chair and will promote it to the membership.
  - 5.6 Website. Mr. Wexler asked for an update on the Zoomerang results pertaining to the specific questions about the web site. Ms. Adams provided the information. There was a discussion about the need to develop talking points about the entire survey results. Ms. Barkholz and Mr. Trenta will follow up with David Rogers and report back to the Council. Mr. Wexler requested to be taken off the website committee, having served for many years.

The Council discussed expanding the focus of the website committee to technology issues and changing the name to the Website/Technology Access Committee. Ms. Panah called for a motion to accept the expanded committee and name change. The motion was made and approved unanimously. Mr. Bouma will serve as chair and Ms. Barkholz will serve as a member. Kim Adams will serve as support staff. Mr. Bouma will ask Charles McCallum for input. Ms. Marchak suggested asking Paul Shirilla to participate on the committee, and Mr. Bouma will follow-up on that.

Ms. Marchak suggested that the Wiki in item 7.1 be a part of the new technology committee. She volunteered to participate.

- 5.7 Attorney-Client Privilege Task Force. Mr. Wexler reported that the Task Force has completed its work and has been disbanded. The report has been sent to the State Bar to be placed on the HCLS website.
- 5.8 Health Law Index. Ms. Adams reported that the State Bar has not reported back on whether they are able to secure a Google search function for the Index. She will follow-up with them.
- 5.9 Pro Bono Work Group. Mr. Iwrey reported that he has not finished the review. He said that Lisa Gorcyca has reviewed the draft and provided feedback which has been incorporated into the draft. It now needs to be proofread and sent to Amy Richards and the Elder Law Section for review. It will then be submitted to the HCLS Council as a whole for final approval before it's produced and distributed statewide. A discussion followed on potential distribution partners. It was agreed that the Council would postpone actively pursuing new pro bono initiatives until the domestic violence brochure is more underway.
- 5.10 Michigan Stark Law--Request for MI Legislature to take notice of Stark regulations. Ms. Hollenbeck reported that David Rogers has tried to work with various people at the State level without much success. Ms. Hollenbeck suggested that the Council hire Walt Wheeler to complete the project. The Council discussed writing to the State again before considering hiring a consultant. Ms. Marchak volunteered to draft a letter to Teri Takai's and Janet Olszewski office.
- 5.11 Section Survey Report. See discussion under 5.6.
- 5.12 NAALJ Scholarship Committee. It was noted that the NAALJ meeting was cancelled so the NAALJ scholarship was never awarded. There was discussion about providing student scholarships in general and other ways to use Section funds. Several ideas were suggested, including door prizes at law student receptions to win entry to the HCLS annual meeting. Ms. O'Connor suggested that the money might be better spent getting people more involved in the Section than just providing a scholarship. Other Council members agreed. Mr. Bouma said he would like to look at programs to use technology to reach members in remote areas instead of spending resources on scholarships.
- 5.13 Legislative Liaison Committee. Ms. Panah provided a brief history of the committee. The HCLS has a very diverse section with different interests and the concern is that advocacy may not work for the HCLS in most cases. However, Ms. Panah indicated that the Council is called upon frequently to comment on legislation relevant to health law, and that we should explore creating a mechanism/process for responding to State Bar requests, even if it just involves declining to comment. She suggested that the committee check with Elizabeth

Lyon at the State Bar of Michigan on possible mechanisms for responding to policy issue requests.

- 5.14 Health Law Schmooze Committee. Ms. O'Connor reported that the committee has not met yet.
  - 5.14.1 Create overview of committee and member expectations? Ms. Panah asked if it would be worthwhile to create a brief overview of the committee and its expectations and planning tips to aid with the current and future Health Law Schmooze Committees. Ms. O'Connor indicated she would follow-up with David Rogers and work to develop a brief overview.
- 5.15 ICLE Health Law Institute. Ms. Panah reported that planning is well underway, and the program will be held in March in Plymouth.
  - 5.15.1 ICLE Appreciation Dinner. Ms. Panah provided a brief history of the appreciation dinner held in conjunction with the annual meeting and who has attended in the past. She proposed new attendees of the dinner after ICLE to include SLC past chairs and members, most recent outgoing Council members and to forego the Council meeting during the dinner, like was done in March 2007. Ms. Panah called for volunteers to work on the dinner planning. Ms. Marchak and Mr. Iwrey volunteered to locate a venue for the dinner. Ms. Panah and Ms. Wilkinson will assist in compiling a list of outgoing members, SLC, etc. to invite.
- 5.16 HCLS Listserv. Mr. Bouma reported that there has been about one message a month on the Listserv and described barriers to participation. There was discussion on appropriate uses of the listserv. More active discussion on ways to re-energize participation on the listserv was deferred to the next meeting.
- 5.17 Revised IRS 990 Form Task Force. Ms. Panah thanked Ms. Hollenbeck and Cindy Wisner for their work on the Task Force. Ms. Hollenbeck said that she would report back to the Council on any developments with the Task Force during the upcoming year.
- 5.18 MDCH Pandemic Preparedness Legal Consultation Meeting in the form of a Tabletop Exercise. Discussion on this item was deferred to the next meeting.
- 6. Community Legal Resources--see attached CLR materials. Ms. Hollenbeck provided background history on this project. CLR is initiating a project to address access issues for patients to doctors who are reluctant to work in clinics. CLR asked the Section to contribute \$2000 toward the Access to Justice fund. Ms. Barhkolz thought that this might fit into the discussion on the topic of using our resources. Ms. Panah will add this as an item for discussion on the next agenda.
- 7. New Projects/Initiatives--see attached list of past initiatives.
  - 7.1 2008 Annual Meeting Committee. Ms. Panah called for volunteers to work on the 2008 Annual Meeting. The committee will be comprised of Ms. Panah, Ann Hollenbeck, Joy Berent, Joanne Lax, Tom Trenta and Beth Derwin. The first meeting will be scheduled soon.
  - 7.2 Health Law Wiki. Ms. Marchak referred to an article she emailed previously about Wiki's. She described features, etc. and how a Wiki works. She

suggested that this item be rolled into the Website/Technology Access Committee and volunteered to participate.

- 7.3 Passport System-Nurse Training Initiative. Ms. Barkholz handed out documents which described a program called Michigan Health Council Ace Passport and Ace Placement and described what other states are doing to place nurses in clinical settings. She referred to the Ace Placement proposal on standardizing affiliation agreements. She asked if the HCLS Council would assist MHC in developing a model contract or help in convening interested parties to discuss the process of standardizing these agreements. There was discussion among the Council. Ms. Hollenbeck said that the challenge to the request is reaching consensus among differing organizations. It was agreed that the HCLS is not the appropriate group to assist MHC in this project.
- 7.4 Stark Law Series. Ms. Wilkinson reported that the Providers and Medical-Legal Substantive Law Subcommittees will work jointly to plan a two-part Stark law primer teleconference program. Ms. Panah reported that there is widespread demand among the HCLS for Stark law programs. She proposed to the SLC and Council that we produce a series of advanced Stark law programs, in-person with call-in capability, which would include a discussion leader to confer about hypothetical scenarios implicating various aspects of the Stark law. The Council agreed that the Stark law series should proceed for the upcoming year.
8. Individual Interested in Participating in Section Activities. Ms. Panah mentioned the individuals who have expressed an interest in participating in Section activities.
  - 8.1 William Westerbeke, JD, CPA - bwesterbeke@passarokahne.com (from St. Joseph, Michigan)
  - 8.2 Lindsey Hoffman, law student - lindseymhoffman@gmail.com
9. Other Business. Ms. Panah asked members to review the list of past HCLS sponsored projects and initiatives previously emailed to the Council and consider for discussion at the next Council meeting which projects/initiatives should be updated and restructured. Ms. Hollenbeck received her plaque regarding serving as Secretary to the HCLS in 2007.
10. Calendar of Meetings--see attached meeting schedule. Ms. Panah referred the Council to the meeting schedule emailed to the Council previously.
  - 10.1 Next Meeting Date. Ms. Panah reported that the next Council meeting will be Wednesday, November 28, 2007, 3-5 pm via call-in.
11. Adjourn. The meeting was adjourned at 5:10 PM