

President Fershtman called the meeting to order at 9:40 a.m. on Friday, April 20, 2012 at the State Bar of Michigan building.

Commissioners present:

Kathleen M. Allen	Donald E. McGinnis, Jr.
Dennis M. Barnes	Maureen M. McGinnis
David R. Brake	Lawrence P. Nolan
Lori A. Buiteweg, Treasurer	Jules B. Olsman
Margaret A. Costello	David A. Perkins
Bruce A. Courtade, President-Elect	Colleen A. Pero
Richard L. Cunningham	Michael J. Riordan
Brian D. Einhorn, Vice President	Brandy Y. Robinson
James N. Erhart	Donald G. Rockwell
Julie I. Fershtman, President	Thomas C. Rombach, Secretary
Stephen J. Gobbo	Richard J. Siriani
Jennifer M. Grieco	Laurin' C Roberts Thomas
Edward L. Haroutunian	Gregory L. Ulrich
Felicia O. Johnson	Dana M. Warnez

Commissioners absent and excused:

Commissioners Robert J. Buchanan, Angelique Strong Marks and Julie A. Sullivan were absent and excused.

State Bar Staff present:

Janet Welch, Executive Director
Marge Bossenbery, Executive Coordinator
Nancy Brown, Director, Member Services and Communications Division
Gregory Conyers, Director, Diversity
Candace Crowley, Director, External Development
Dawn Evans, Director, Professional Standards Division
Cliff Flood, General Counsel
James Horsch, Director, Finance and Administration Division
William Kramer, Director, Information Technology Division
Rob Mathis, Pro Bono Attorney
Janiece Morrow, Administrative Assistant
Anne Smith, Administrative Assistant
Naseem Stecker, Media and Public Relations Manager
Kari Thrush, Membership Services and Events Manager
Anne Vrooman, Director, Research and Development

Guests

Lynn Chard, Executive Director, ICLE
Paul Manion, Chair, Negligence Law Section

Consent Agenda

The Board received the minutes from the January 20, 2012 Board of Commissioners meeting and the Executive Committee meetings that were held on January 31, February 28 and March 27, 2012.

The Board received a list of the SBM President's recent activities.

The Board received a list of the SBM Executive Director's recent activities.

The Board received the FY 2011 Financial Reports through February 2012 and the Financial Forecast.

The Board received the 2011 Retirement Plan Report.

Motion offered and supported to approve the consent agenda. Motion approved.

State Bar of Michigan Section Report

The Board heard a report by Paul Manion, Chair, Negligence Law Section.

COMMISSIONER COMMITTEES

Finance, Lori A. Buiteweg, Chairperson

Ms. Buiteweg presented the Board with a FY 2012 Financial and Investment update.

Ms. Buiteweg presented the Board with a recommendation concerning the e-mailing of member dues notices. Motion offered and supported to adopt the recommendation to email the annual dues notices beginning in 2013. Motion approved.

Professional Standards, Thomas C. Rombach, Chairperson

Mr. Rombach presented the Board with the recommendations from the Professional Standards Committee for the ABA House of Delegates appointments. Motion offered and supported to appoint W. Anthony Jenkins and re-appoint E. Christopher Johnson to two-year terms to the House of Delegates commencing at the end of the ABA Annual meeting in August. Motion approved.

Programs and Services, Brian D. Einhorn, Chairperson

Mr. Einhorn presented the board with a copy of the 50 year honoree resolution that will be presented at the annual meeting to attorneys who have been members of the State Bar for 50 years. Motion offered and supported to adopt the resolution. Motion approved.

Bar Leadership Forum Registration

Board members were asked to complete the registration form for the June Bar Leadership Forum as soon as possible and return it to Ms. Bossenbery.

New Programs

The following new programs were presented for action to the Board members:

ABA Retirement Fund Program

Motion offered and supported to adopt this new program. Motion approved.

Privacy Data Systems Program

Motion offered and supported to adopt this new program. Motion approved.

Volunteer Energy Program

Mr. Einhorn indicated that the committee voted to table this item to a future meeting.

Dell Discount Program

Motion offered and supported to adopt this new program. Motion approved.

Apple Discount Program

Motion offered and supported to adopt this new program. Motion approved.

Mr. Rombach mentioned that Mr. Einhorn was voted the Michigan Defense Trial Counsel's Defense Counsel of the Year.

Public Policy, Image and Identity, Bruce A Courtade, Chairperson

The Board received written reports from Justice Initiatives and Governmental Consulting Services, Inc.

Court Rules

ADM File No. 2010-31 Proposed Amendment of Rule 5 of the Rules for the Board of Law Examiners

This proposed amendment would eliminate the requirement that an applicant for admission by motion be required to express an intention to maintain an office in the state. Michigan is among a minority of states that requires that assertion, and maintaining this provision has resulted in at least one state rejecting the petition for admission of a Michigan lawyer because Michigan retains this type of requirement.

A motion was offered and supported to reiterate the Executive Committee's support adopting the proposed amendment to Rule 5 of the Board of Law Examiners and support legislation to conform to the statute. Motion carried.

ADM File No. 2011-30 Proposed Amendment of Rules 5.801, 7.102, 7.103, 7.108, and Rule 7.109 of the Michigan Court Rules

The proposed amendments were submitted to this Court by the State Bar of Michigan Probate and Estate Planning Section in conjunction with the Michigan Judges Association, Michigan Probate Judges Association, and the Michigan Court of Appeals. The proposed changes would direct that all appeals from probate court be considered by the Court of Appeals instead of some orders being appealed to the Court of Appeals and other orders being appealed to the circuit court.

The committee recommends that no position be taken on this legislation.

ADM File No. 2012-05 Adoption of Rule 3.616 of the Michigan Court Rules

New MCR 3.616 implements the judicial action requirements of 2011 PA 225, the Young Adult Voluntary Foster Care Act, MCL 400.641 et seq.

A motion was offered and supported to support this legislation. Motion carried.

Legislation

SB 0743 (Jones) Children; abduction; uniform child abduction prevention act; create. Creates new act. The committee deferred to the June meeting.

HB 5128 (Walsh) Courts; other; business court; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding ch. 10B.

The committee deferred to the June meeting.

Veterans Treatment Courts

HB 5159 (Schmidt) Courts; circuit court; veterans treatment court; provide for the state drug treatment court advisory committee to monitor. Amends sec. 1082 of 1961 PA 236 (MCL 600.1082).

HB 5162 (Damrow) Courts; circuit court; veterans treatment court; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding ch. 10B.

A motion was offered and supported to support these bills. Motion carried.

Youthful Trainee Program

HB 5214 (Santana) Criminal procedure; youthful trainees; eligibility criteria for youthful trainee program; modify. Amends sec. 11, ch. II of 1927 PA 175 (MCL 762.11).

SB 0880 (Johnson) Criminal procedure; youthful trainees; eligibility criteria for youthful trainee program; modify. Amends sec. 11, ch. II of 1927 PA 175 (MCL 762.11).

The committee recommends that no position be taken on this legislation.

SB 0774 (Bieda) Civil procedure; small claims; representation by attorney in small claims court; allow. Amends secs. 8408 & 8412 of 1961 PA 236 (MCL 600.8408 & 600.8412).

Motion offered and supported to oppose this legislation. Motion approved.

Mr. Courtade informed the Board that there is a report from the Indigent Defense Council is available from www.mijustice.org.

LEADERSHIP REPORTS

President's Report, Julie I. Fershtman, President

Ms. Fershtman informed the Board that the State Bar of Michigan received the ABA Grassroots Advocacy Report for its work on the Judicial Crossroads Task Force.

Board Officer Election Procedure, Matrix and 2012 Timeline

Ms. Fershtman reported to the Board that those interested in submitting a letter of interest and matrix for an officer position in July 2012 that submission information and a timeline are included in the board book.

Upcoming Executive Director's Evaluation

Ms. Fershtman informed the Board that an evaluation for the Executive Director will take place in the near future. An email will be forthcoming containing an evaluation document. Ms. Fershtman indicated that all SBM staff will have the opportunity to complete a separate evaluation document.

Ms. Fershtman informed the Board that the work of the PMRC Advisory Committee has completed a preliminary report and that the final report should be available at the June meeting.

Ms. Fershtman informed the Board that on March 28 she testified in a personal capacity before a Michigan House of Representatives committee regarding proposed legislation dealing with equine activity liability. She did not identify herself as associated with the State Bar on the testimony card or in her own self-introduction, but in introductory remarks to the committee a lobbyist for the bill made reference to Ms. Fershtman's current status as President of the State Bar. Although she subsequently clarified in the course of her testimony that she was not testifying on behalf of the State Bar and was testifying only on her own behalf, the situation has raised questions about the State Bar's policy concerning personal public statements that might be mistakenly attributed to the State Bar. After discussion, the Board voted to create an ad hoc work group to propose a policy for the Board's consideration to guide such situations. Commissioners Barnes, Buiteweg, Courtade, Cunningham, Nolan, Olsman, Rombach, Siriani, and Warnez volunteered to serve on the workgroup.

Executive Director's Report, Janet K. Welch, Executive Director
FY 2013 Budget Process, Roles, and Calendar

Mr. Horsch provided the Board with information on the process that will assist in the development of the FY 2013 SBM budget. Mr. Horsch indicated that approval of the FY 2013 budget is scheduled to take place at the July Board meeting.

Solutions on Self-Help Task Force Update

Ms. Welch provided the Board with an update on the Solutions on Self-Help (SOS) Task Force. She explained that the Task Force is frequently characterized as a State Bar project but that in fact the Task Force was created by then-Chief Justice Marilyn Kelly and has received funding from the Michigan State Bar Foundation. Ms. Welch informed the Board that online resources and the Bar's involvement with self-help had been the topic of a discussion on the Probate and Estate Planning Section listserv and that she had attended their Council meeting to discuss their concerns. As a result, there have been ongoing discussions with the Probate and Estate Planning Section and the Elder Law Section leadership about Section-approved online resources hosted by the State Bar website, and about the State Bar's past collaboration with the Michigan State Medical Society, the Michigan Osteopathic Association, and the Michigan Hospital Association on a durable power of attorney for health care form.

Michigan Judicial Selection Task Force Update

Ms. Welch reported that the Michigan Judicial Selection Task Force has completed its work. A press conference releasing the report is scheduled for Thursday, April 26 at 10 a.m.

Supreme Court Update

Ms. Welch provided the Board with an update on the Supreme Court orders recently adopted.

Personnel Update

Pro Bono Service Counsel Robert Mathis introduced Ms. Janeice Morrow, Administrative Assistant.

Litigation Status Report

Board members were provided with a written report.

Representative Assembly Report (RA), Stephen J. Gobbo, Chairperson

Mr. Gobbo provided the Board with an overview of the agenda for the April 21, 2012, which includes consideration of the recommendations of the Defining the Practice of Law committee.

American Bar Association (ABA) Report, Reginald Turner, State Delegate

It was determined to remove this report as a standing item, and to include reports as requested by the ABA's State Delegate, Reginald Turner.

Young Lawyers Section Report (YLS), Brandy Y. Robinson, Chairperson

Ms. Robinson provided the Board with a report of the activities of the YLS.

Comment

Mr. Haroutunian recognized that Commissioner Michael Riordan had been appointed to the Court of Appeals bench by Governor Snyder.

Mr. Nolan mentioned that the Ingham County Bar Association will hold its annual golf outing in June 12.

Ms. Buiteweg thanked Ms. Welch for attending the Washtenaw Bar Association Annual Meeting.

Mr. Courtade recognized the work of Ms. Lyon on scheduling and organizing the 2012 ABA Day program.

Ms. Lyon reported that the Indigent Defense Advisory Commission has scheduled additional meetings in May and June. The findings of the Commission will be provided to the Board.

Adjournment

The meeting was adjourned at 1:00 p.m.