

**STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS MEETING MINUTES**

President Barnes called the meeting to order at 9:30 a.m. on Friday, April 24, 2020 via videoconference.

Commissioners present:

Danielle Mason Anderson	James W. Low
David C. Anderson	E. Thomas McCarthy Jr.
Dennis M. Barnes, President	Joseph P. McGill
Joseph J. Baumann	Valerie R. Newman
Robert J. Buchanan, President-Elect	Nicholas M. Ohanesian
Aaron V. Burrell	Samantha J. Orvis
Erika L. Butler	Hon. David A. Perkins
Hon. Clinton Canady III	Barry R. Powers
B.D. "Chris" Christenson	Daniel D. Quick, Treasurer
Josephine A. DeLorenzo	Chelsea M. Rebeck
Hon. Shauna L. Dunning	Thomas G. Sinas
Thomas H. Howlett	Gregory L. Ulrich
Lisa J. Hamameh	Dana M. Warnez, Vice President
Kara R. Hart-Negrich	Erane C. Washington
James W. Heath, Secretary	Mark A. Wisniewski
Sarah E. Kuchon	Ryan Zemke
Suzanne C. Larsen	

State Bar staff present:

Janet Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Nancy Brown, Assistant Executive Director  
Alecia Chandler, Client Protection Fund Program Director  
Gregory Conyers, Diversity Development Program Director  
Elizabeth Couch, Director of Communications  
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations  
Darin Day, Outreach Program Director  
Michelle Erskine, Research Assistant & Event Specialist  
Elizabeth Goebel, Public Policy Counsel  
Kathryn Hennessey, General Counsel  
Robert Mathis, Pro Bono Services and Justice Initiatives Counsel  
Molly Ranns, Clinical Case Manager  
Carrie Sharlow, Administrative Assistant  
Janna Sheppard, Administrative Assistant  
Kari Thrush, Lawyer Services Program Director  
Tish Vincent, Program Director, LJAP  
Anne Vrooman, Research and Development Program Director  
Becky Weaver, Financial Services Manager

### Consent Agenda

The Board received the minutes from the January 24 and March 24, 2020 Board meetings.

The Board received the minutes from the January 14, February 25, March 13, 23, and 31, 2020 Executive Committee meetings.

The Board received the recent activities of the president.

The Board received the recent activities of the executive director.

The Board received the FY 2020 Financial Reports through February 2020, and the 2019 Report of the State Bar of Michigan Retirement Plan.

The Board received the Client Protection Fund Claims.

The Board received the proposed positions regarding Model Criminal Jury Instructions.

The Board received bylaw amendments from the Antitrust, Family Law, Government Law, Labor Law, and Litigation Services sections.

Mr. Barnes asked the Board if any items needed to be removed from the consent agenda.

A motion was offered and supported to approve the consent agenda. The motion was approved.

## **LEADERSHIP REPORTS**

**President's and Executive Director's Report:** Dennis M. Barnes, President and Janet K. Welch, Executive Director

Mr. Barnes and Ms. Welch reported:

- on the State Bar's response to the Covid-19 pandemic, including remote operations, responding to emerging needs of the members and the public, low bono and first responder's rapid response initiatives, section input on remote notarization and witnessing resulting in an executive order, Sprint Task Force on transitioning back from COVID-19, plans for a mass swearing-in ceremony where Chief Justice McCormack will administer the oath to new lawyers, and interactions with sections and intergovernmental relations.
- that Ms. Couch is the State Bar's new communications director. Ms. Couch provided the Board with a slideshow showing the State Bar's social media response to the Covid-19 pandemic.
- on cancellations and postponements, specifically the 50-year Golden Celebration, the Bar Leadership Forum, and the Upper Michigan Legal Institute.
- on the recent activities of the Strategic Planning Committee.
- on the podcasts that Mr. Barnes and Chief Justice McCormack each taped.
- on the FY 2021 Financial Strategies and Timetables. Ms. Welch stated that the FY 2021 budget will be discussed at a special Board meeting in August, rather than in July, and will be more have greater uncertainty than in recent years.
- that the work of the Governance Committee has been temporarily postponed and that plans will be made for the committee to meet in the summer.
- on the Board and officer election process.

**Representative Assembly (RA) Report:** Aaron V. Burrell, Chairperson

Mr. Burrell reported:

- that the RA officers are prepared for the first virtual RA meeting tomorrow, and explained the presentation and practice sessions. He recognized SBM staff for their efforts in the planning of the virtual meeting.
- that the RA members were solicited for their feedback regarding information about Michigan's trial court operations during the pandemic.
- on the details of the calendar for the April 25, 2020 Representative Assembly meeting and responded to questions from the Board members.

**Young Lawyers Section (YLS) Report:** Ryan Zemke, Chairperson

Mr. Zemke reported that:

- the BOC and YLS challenge that usually took place after the April BOC meeting is postponed and that the YLS Executive Council is looking into virtual options because of the value they place on meeting with Board members.
- many programs that the YLS planned with new lawyers or law students are taking place via Zoom.
- the YLS Executive Council is monitoring the Governor's Executive Orders to determine if the Annual Summit, scheduled for September, will take place.
- YLS is promoting health and wellness programs.
- the YLS is looking to the SBM for information about job prospects for law school graduates or summer interns given the current climate. Mr. Quick and Mr. Barnes both expressed concern about graduates who were laid off or did not get a job.

### **COMMISSIONER COMMITTEES**

**Finance:** Daniel M. Quick, Chairperson

Mr. Quick stated that while the budget process is being pushed back a little bit, committee deliberations are still ongoing.

Mr. Quick stated that consideration of a fee increase has been postponed until at least the April 2021 RA meeting.

Mr. Quick reported that the Finance Committee is looking at non-fee revenue sources and along with staff has developed a cross-committee working group to talk through some ideas. He stated that the Finance Committee is also working on identifying cost saving measures within the SBM.

Mr. Quick reviewed the FY 2020 financial results through February 2020.

Mr. Quick summarized the attached revisions to the Investment Policy. A motion was offered to adopt the revisions. The motion was seconded and approved.

**Audit:** Daniel M. Quick, Chairperson

Mr. Quick reported that the subsequent events audit is completed, and no future action is required.

**Professional Standards:** James W. Heath, Chairperson

Mr. Heath reported that the Professional Standards Committee met this morning and reviewed several Client Protection Fund (CPF) claims and considered recommendations for appointments by the SBM for vacancies on the ABA House of Delegates and the Michigan Indigent Defense Commission (MIDC).

Mr. Heath offered a motion that the names of Mr. David W. Jones, Mr. Sean Tate, and Ms. Kimberly A. Thomas be sent to the Governor's Office as the State Bar's selections for her appointment to the MIDC. The motion was seconded and approved.

Mr. Heath offered a motion that Mr. Thomas Rombach be reappointed and Mr. Carlos Escurel appointed to the American Bar Association House of Delegates representing the SBM. The motion was seconded and approved. Mr. Low abstained.

**Communications and Member Services (CAMS):** Dana M. Warnez, Chairperson

**2020 SBM Awards Committee Recommendations**

As recommended by the SBM Awards Committee and the CAMS Committee, Ms. Warnez offered a motion to award the Roberts P. Hudson Award to Barry L. Howard; the Frank J. Kelley Distinguished Public Service Award to Ronald J. Frantz and Anita Hitchcock; the Champion of Justice Award to the Thomas P. Boyd, Hon. Susan L. Dobrich, and James H. Fisher; the Kim Cahill Bar Leadership Award to the ATJ Mid-Northern Michigan Expungement Project; and the John W. Reed Michigan Lawyer Legacy Award to Professor Paul D. Reingold. The motion was seconded and approved.

**2020 John W. Cummiskey Award**

As recommended by the Justice Initiatives Committee and the CAMS Committee, Ms. Warnez offered a motion to award the John W. Cummiskey Pro Bono Award to Heidi Naasko. The motion was seconded and approved.

**SBM Section Guidelines**

Ms. Warnez reported that the CAMS Committee considered the memo in the Board materials regarding section guidelines. The proposed guidelines (attached) include guidance and clarification for the creation, modification, or discontinuance of sections. Ms. Warnez offered a motion to approve the proposed section guidelines as presented by the committee. The motion was seconded and approved.

**The Mentor Newsletter**

Ms. Warnez reminded the board that it committed to continue publishing *The Mentor* newsletter in the same January 2019 vote that dissolved the Master Lawyers Section as an opt-out section funded and staffed by the SBM. She also noted that, later in 2019, the board approved a request to form the new Senior Lawyers Section as more traditional section, voluntary and self-funded. Because Senior Lawyers now exists, and newsletters like *The Mentor* are typically published by sections, CAMS recommends that the SBM discontinue publishing *The Mentor* with an invitation to the Senior Lawyers Section to take over publication or create its own newsletter. Ms. Warnez offered this recommendation as a motion. The motion was seconded and approved.

### Bar Journal Opt-In Change

Ms. Warnez referenced a report that the Board received from Mr. John Runyon, chair of the SBM Standing Committee of the *Michigan Bar Journal*. Regarding the proposed change to the method of distribution of the *Michigan Bar Journal*, Mr. Runyon states that the committee is reluctant to recommend changes to the means of distribution of the *Bar Journal*, but if change is necessary, it should be done incrementally and slowly. Mr. Runyon recommends that an “opt-in” procedure be developed for the print version of the *Journal* and suggests that if the change is made, members be instructed how to “opt in” to receive a print copy.

Based on the report and the recommendations of the Standing Committee of the *Michigan Bar Journal*, as approved by the CAMS Committee, Ms. Warnez offered a motion that the SBM adopt the recommendation to transition to an electronic delivery of the *Bar Journal* and create a process for an “opt-in” option for members to receive a print version of the *Journal*.

The motion was amended to add that implementing this process and “opt-in” option be added to the fee statement in the fall.

The motion was seconded and approved.

Based on recommendation of the Standing Committee of the *Michigan Bar Journal* and approved by the CAMS Committee, Ms. Warnez offered a motion that the April Resource Directory become an online resource for members and no longer be printed and distributed as a cost savings. She stated that the implementation date coincides with the other change.

The motion was seconded and approved.

**Public Policy:** Robert J. Buchanan, Chairperson

### **Legislation**

**HB 5296** (Hornberger) Family law; marriage and divorce; public disclosure of divorce filings; modify. Amends 1846 RS 84 (MCL 552.1 - 552.45) by adding sec. 6a.

A motion was offered and seconded that the legislation is *Keller* permissible. The motion was approved.

A motion was offered and seconded to support the bill with the amendment that the word “public” be clarified to mean “non-party.” A roll call vote was taken.

Commissioners voting for the position: Anderson, Danielle; Anderson, David; Barnes; Baumann; Buchanan; Burrell; Butler; Christenson; DeLorenzo; Hamameh; Hart-Negrich; Heath; Howlett; Kuchon; Larsen; Low; McGill; Newman; Ohanesian; Orvis; Perkins; Powers; Rebeck; Sinas; Warnez; Washington; Wisniewski; Zemke. Commissioners voting against the position: Canady, Dunning, McCarthy, Quick, Ulrich.

The motion was approved.

**HB 5304** (Filler) Courts; judges; procedure for certain circuit court judges to sit as judges of the court of claims; establish. Amends secs. 6404, 6410 & 6413 of 1961 PA 236 (MCL 600.6404 et seq.).

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved. A motion was offered and seconded to support the legislation as drafted. A roll call vote was taken.

Commissioners voting for the position: Anderson, Danielle; Anderson, David; Buchanan; Butler; Christenson; DeLorenzo; Dunning; Hamameh; Hart-Negrich; Heath; Howlett; Kuchon; Larsen; Low; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Powers; Quick; Rebeck; Sinas; Ulrich; Warnez; Washington; Wisniewski; Zemke. Commissioners voting against the position: Barnes, Baumann. Commissioners abstaining from the vote: Canady.

The motion was approved.

**HB 5442** (Elder) Courts; district court; compensation for district court judges; increase. Amends sec. 8202 of 1961 PA 236 (MCL 600.8202).

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was offered and seconded to support the bill as drafted. A roll call vote was taken.

Commissioners voting for the position: Anderson, Danielle; Anderson, David; Barnes; Baumann; Buchanan; Butler; Christenson; DeLorenzo; Hamameh; Hart-Negrich; Heath; Howlett; Kuchon; Larsen; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Quick; Rebeck; Sinas; Ulrich; Warnez; Washington; Wisniewski; Zemke. Commissioners voting against the position: Powers. Commissioners abstaining from the vote: Canady, Dunning, Low.

The motion was approved.

**HB 5464** (Lightner) Criminal procedure; bail; requirements for the use of a pretrial risk assessment tool by a court making bail decision; create. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 6e to ch. V.

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was offered to adopt the Access to Justice Policy Committee position to support the bill with amendments to:

(1) add language specifying that pretrial detention determinations should never be based on a pretrial risk assessment tool score alone, and (2) require PSA tools to be periodically peer reviewed and tested for bias.

The motion was seconded and approved.

**SB 0724** (Lucido) Criminal procedure; indigent defense; appointment and compensation of defense attorneys for indigent defendants during certain stages of criminal cases; require. Amends sec. 11 of 2013 PA 93 (MCL 780.991).

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was offered to oppose the bill as drafted as it is overly broad and interferes with the existing Michigan assigned appellate counsel system that appoints counsel to indigent defendants.

The motion was seconded and approved.

**SB 0790** (Runestad) Civil procedure; other; video recordings of court proceedings; provide for availability and review. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 1429.

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was offered and seconded to oppose the bill. Reasons include:

1. Transcripts of hearings are already accessible, and video recordings under this bill would not be official recordings;
2. The bill was introduced prior to AO 2020-6, which provides procedures for remote court proceedings that are accessible online; and
3. This matter is more appropriately addressed by the Court.

A roll call vote was taken.

Commissioners voting for the position: Anderson, Danielle; Anderson, David; Barnes; Buchanan; Butler; Canady; Christenson; DeLorenzo; Dunning; Hamameh; Hart-Negrich; Heath; Howlett; Kuchon; Larsen; Low; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Powers; Quick; Rebeck; Sinas; Warnez; Wisniewski; Zemke. Commissioners voting against the position: Baumann, Ulrich, Washington.

The motion was approved.

**SB 0792** (Barrett) Retirement; judges; contributions to tax-deferred accounts instead of retiree health benefits for certain employees; provide for, and establish auto enrollment feature for defined contribution plan. Amends secs. 301 & 604 of 1992 PA 234 (MCL 38.2301 & 38.2604) & adds secs. 509a & 714a.

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was offered and seconded to support the bill to provide judges parity with other state employees for the level of matching contributions to their defined contribution plans.

A roll call vote was taken.

Commissioners voting for the position: Anderson, Danielle; Anderson, David; Barnes; Baumann; Buchanan; Butler; Christenson; DeLorenzo; Hamameh; Hart-Negrich; Heath; Howlett; Kuchon; Larsen; Low; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Powers; Quick; Rebeck; Sinas;

Ulrich; Warnez; Washington; Wisniewski; Zemke. Commissioners abstaining from voting: Canady, Dunnings.

The motion was approved.

**FY 2020-2021 Budget** for the Judiciary as contained in **HB 5554** and **SB 0802**, and the Executive Budget Recommendation, pages B-45 through B-47.

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was offered and seconded to support the FY 2020-2021 Budget for the Judiciary as contained in HB 5554 and SB 0802, and the Executive Budget Recommendation, pages B-45 through B-47.

A roll call vote was taken.

Commissioners voting for the position: Anderson, Danielle; Anderson, David; Barnes; Baumann; Buchanan; Butler; Christenson; DeLorenzo; Hamameh; Hart-Negrich; Heath; Howlett; Kuchon; Larsen; Low; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Powers; Quick; Rebeck; Sinas; Ulrich; Warnez; Washington; Wisniewski; Zemke. Commissioners abstaining from voting: Canady, Dunnings.

The motion was approved.

**FY 2020-2021 Budget** for the Michigan Indigent Defense Commission as contained in **HB 5554** and **SB 0802**, and the Executive Budget Recommendation, pages B-55 through B-57.

A motion was offered that the legislation is *Keller* permissible. The motion was seconded and approved.

A motion was made to support the FY 2020-2021 Budget for the Michigan Indigent Defense Commission as contained in HB 5554 and SB 0802, and the Executive Budget Recommendation, pages B-55 through B-57.

The motion was seconded and approved.

#### **Comments or questions from Commissioners**

There were none.

#### **Comments or questions from the public**

There were none.

The meeting was adjourned at 12:35 p.m.