

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES

President Warnez called the meeting to order at 9:40 a.m. on Friday, April 8, 2022, via videoconference.

Commissioners present:

Danielle Mason Anderson	Suzanne C. Larsen
David C. Anderson	James W. Low
Yolanda Bennett	E. Thomas McCarthy Jr.
Kristina A. Bilowus	Joseph P. McGill, Secretary
Erika L. Bryant	Nicholas M. Ohanesian
Hon. B. Chris Christenson	Samantha J. Orvis
Thomas P. Clement	Hon. David A. Perkins
Sherrie Detzler	Hon. Kristen D. Simmons
Robert A. Easterly	Delphia T. Simpson
Hon. Kameshia D. Gant	Danielle Walton
James W. Heath, President-Elect	Dana M. Warnez, President
Thomas H. Howlett	Hon. Erane C. Washington

Commissioners absent:

Aaron V. Burrell	Takura N. Nyamfukudza
Lisa J. Hamameh, Treasurer	Daniel D. Quick, Vice President
Sarah E. Kuchon	Colemon L. Potts
Gerrow D. “Gerry” Mason	Thomas G. Sinas
Valerie R. Newman	Mark Wisniewski

State Bar staff present:

Peter Cunningham, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Assistant Executive Director
Alecia Chandler, Professional Responsibility Programs Director
Gregory Conyers, Program Director, Diversity Development Program
Darin Day, Program Director, Outreach
Michelle Erskine, Research Assistant & Event Specialist
Clifford Flood, Interim General Counsel
Katherine Gardner, UPL Counsel
Tatiana Goodkin, Chief Financial Officer
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Marjory Raymer, Director of Communications
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Jeanette Socia, Human Resources Director
Kari Thrush, Program Director, Lawyer Services
Nathan Triplett, Public Policy Counsel
Anne Vrooman, Program Director, Research & Development
Meng Xiong, IT Director

Consent Agenda:

The Board received the minutes from the January 21 and March 16, 2022, Board meetings.
The Board received the minutes from the January 11 and February 15, 2022, 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 2021 draft financial reports through February 2022.

The Board received the 2021 Report of the State Bar of Michigan Retirement Plan.

The Board received the 2021 Report of the State Bar of Michigan Retiree Healthcare Trust.

The Board received the Client Protection Fund Claims.

The Board received the Unauthorized Practice of Law Claims.

The Board received Model Criminal Jury Instructions.

Ms. Warnez asked the Board if any items needed to be removed from the consent agenda. There were none.

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

LEADERSHIP REPORTS

President and Executive Director's Report: Dana M. Warnez, President and Peter Cunningham, Executive Director.

Mr. Cunningham introduced Cliff Flood, who has returned to the State Bar of Michigan as interim general counsel.

Ms. Warnez asked the chairs of the following work groups to provide an update to the Board.

Work Group Reports

Sections

Ms. Bryant stated that the work group has worked with SBM staff to develop proposed revised guidelines for content submissions to the Michigan Bar Journal. These will address the immediate issue that was brought to the Board's attention last year. The work group has invited the Bar Journal Committee to review and provide feedback no later than May 1, 2022, which will allow the work group to provide an update at the June 2022 Board meeting. The work group is also working on proposed amendments to the bylaws as they relate to sections and their governance. These will also be on the agenda for the June 2022 meeting.

Governance

Ms. Warnez stated that due to the absence of Dan Quick, this report will be tabled until the next Board meeting.

Taylor v Warnez Case Update

Mr. Cunningham reported that the US Supreme Court denied cert in our case, as well as in Texas and Oklahoma. This means that the Court has denied cert in seven cases challenging the mandatory bar over

the past two years. However, there are still cases in the district courts. There is an appeal in the Wisconsin case that is still undecided. The federal district court in Utah recently issued a preliminary mixed decision.

Michigan Supreme Court — Proposed Licensing Fee Increase

Mr. Cunningham provided a recap of the process to this point. In April 2021, the Representative Assembly voted for a license fee increase of \$80. In December 2021, the Court issued for comment an ADM file which included a \$50 increase for the State Bar and \$20 increase for ADS. The comment period expired on Friday, April 1, 2022. There were 37 comments submitted, 18 in favor of the increase and 19 opposing the increase. The next step is a public administrative hearing, which is scheduled to happen no later than May 18, 2022. SBM staff are exploring ways to encourage the Court to move above the \$50 increase and explaining how imperative this increase is to being able to provide essential services to members of the Bar. The timing of the decision could impact the budget process for the 2022-2023 Bar year.

Diversity, Equity, and Inclusion (DEI) Commission

Ms. Warnez announced the appointment of Erika Bryant to the DEI Commission. Mr. Cunningham reported that he has replaced Ms. Welch on the commission, and he is also now sitting on the Executive Committee of the commission. Appointments should occur within the next few weeks for the remaining 12 seats on the commission, with work beginning in May 2022. Mr. Heath added that applications are still being accepted for anyone interested in serving as a committee member.

Justice for All (JFA) Commission

Mr. Cunningham reported that Ms. Warnez has replaced Mr. Buchanan on the commission, and Mr. Cunningham has replaced Ms. Welch on the commission in their respective roles. The work that has the greatest impact on the Bar's mission and strategic goals is the work of the Regulatory and Practice Reform Committee. SBM staff member Robin Eagleson has recently been appointed to this committee.

Officer Election Materials

Ms. Bossenbery reviewed the timeline for officer election materials with the Board. The deadline to submit applications is June 7, 2022, with elections to take place during the July 22, 2022, meeting.

Representative Assembly (RA) Report: Nicholas M. Ohanesian, Chairperson

Mr. Ohanesian indicated that the RA will meet tomorrow in a hybrid format. They will be voting on a few RA awards, and there will be two substantive issues that will be discussed. One proposal includes a change to how the rules regarding the circumstances in which attorneys are able to provide assistance to their clients. The other proposal involves how trust account disbursements are made.

Young Lawyers Section (YLS) Report: Kristina Bilowus, Chairperson

Ms. Bilowus stated the section has been meeting regularly, focusing on the three Ps: programming, pipeline, and partnership. Programming is going strong with a big emphasis on education and outreach, including health and wellness. Pipeline process includes being involved with law students and new attorneys. Partnership is with other sections of the State Bar through educational programming and outreach, as well as other affinity bars.

COMMISSIONER COMMITTEES

Public Policy: James W. Heath, Chairperson

Legislation

HB 5512 (Calley) Medical marihuana: other; inconsistencies between the Michigan Medical Marihuana Act and certain parts of the revised judicature act of 1961 related to drug treatment courts; resolve in favor of the revised judicature act of 1961. Amends sec. 7 of 2008 IL 1 (MCL 333.26427).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support this legislation. The motion to support was seconded and approved.

HB 5868 (Howell) Courts: drug court; eligibility criteria to drug treatment courts; modify. Amends sec. 1064 of 1961 PA 236 (MCL 600.1064).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support this legislation. The motion to support was seconded and approved.

HB 5676 (LaFave) Occupations: attorneys; small claims judgment collection on behalf of an awardee; allow for certain attorneys. Amends sec. 8409 of 1961 PA 236 (MCL 600.8409).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to oppose this legislation. The motion to oppose was seconded and approved.

HB 5680 (Borton) Civil procedure: other; certain public video recordings of court proceedings; allow the victims' faces to be blurred. Amends secs. 8, 38 & 68 of 1985 PA 87 (MCL 780.758 et seq.).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. The Board agreed to table further consideration of this legislation.

HB 5681 (VanWoerkom) Crime victims: statements; victim impact statements; allow to be made remotely. Amends secs. 15, 43 & 75 of 1985 PA 87 (MCL 780.765 et seq.).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support this legislation. The motion to support was seconded and approved.

HB 5758 (Lightner) Probate: other; allowing electronic signing and witnessing of certain documents under certain conditions; eliminate sunset.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support this legislation. The motion to support was seconded and approved.

HB 5759 (Lightner) Occupations: notaries public; use of communication technology to perform electronic notarizations and remote electronic notarizations; modify and expand.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support this legislation. The motion to support was seconded and approved.

HB 5889 (Glenn) Civil procedure: evidence; consultations with human trafficking victims; provide confidentiality. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 2157c.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to oppose this legislation. The motion to oppose was seconded and approved.

HJR L (Rabhi) Criminal procedure: bail; cash bail payments; prohibit. Amends secs. 15 & 16, art. I of the state Constitution.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support HJR L. **The motion to support failed by roll call vote, 13 to 11, with 10 commissioners not voting.**

Commissioners voting in support: Anderson, Danielle; Anderson, David; Bennett; Bilowus; Easterly; Heath; Howlett; Larsen; Low; McCarthy; Orvis; Simpson; Warnez.

Commissioners voting in opposition: Bryant, Christenson, Clement, Detzler, Gant, McGill, Ohanesian, Perkins, Simmons, Walton, Washington.

Commissioners absent: Burrell, Hamameh, Kuchon, Mason, Newman, Nyamfukudza, Potts, Quick, Sinas, Wisniewski.

Finance: Lisa J. Hamameh, Chairperson

In Ms. Hamameh's absence, Mr. Clement reviewed the FY 2021 financial results through February 2022 with the Board.

Audit: Lisa J. Hamameh, Chairperson

In Ms. Hamameh's absence, Ms. Bryant reported that an RFP was conducted, and Andrews Hooper Pavlik (AHP) provided the lowest bid. The committee proposed that AHP continue to serve as the auditor for the next three years, beginning with the current Bar year (2021-2022). The motion to support was supported and seconded.

Professional Standards: Joseph P. McGill, Chairperson

Mr. McGill reported that the committee met on Tuesday. There was a brief discussion on Scrivener's Error Law and the position of the State Bar. Update from State Bar staff regarding the Amicus Brief concerning the conversion statute. Discussed Client Protection Fund and approved several claims, received a financial update on the fund. Also discussed Unauthorized Practice of Law, specifically releasing RI-383 and proposed Formal Opinion R-25. The motion to support was supported and seconded.

Communications and Member Services (CAMS): Daniel D. Quick, Chairperson

In Mr. Quick's absence, Mr. Howlett provided the report from the CAMS Committee.

Awards

State Bar of Michigan Awards (SBM)

Mr. Howlett said that the SBM Awards Committee met on Wednesday, March 16, 2022, and recommends the following nominees to the Board to receive 2022 State Bar of Michigan Awards.

The committee recommends Janet K. Welch to receive the Roberts P. Hudson Award; Hon. Cynthia D. Stephens to receive the Frank J. Kelley Distinguished Public Service Award; Margaret "Peggy" Costello and Robin L. McCoy to receive the Champion of Justice Award; the D. Augustus Straker Bar

Association to receive the Kimberly M. Cahill Bar Leadership Award; and Professor Peter J. Henning (deceased) to receive the John W. Reed Michigan Lawyer Legacy Award.

A motion was offered and supported to accept the recommendations of the Awards Committee. The motion was approved.

Justice Initiatives Award

A motion was offered and supported to award John R. Runyan the John W. Cumiskey Award.

Mr. Howlett addressed ongoing questions related to the Annual Meeting. Just a reminder, as decided in 2019, until further notice, the Annual Meeting will consist of the Board and RA meetings, along with a contemporaneous and swearing-in event to occur each September at a location to be determined.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 11:03 a.m.