

STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS MEETING MINUTES

President Elect Quick called the meeting to order at 9:45 a.m. on Friday, July 21, 2023, in the Board Room of the Michael Franck building in Lansing, Michigan.

Commissioners present:

David C. Anderson

Yolanda M. Bennett

Aaron V. Burrell

Thomas P. Clement

Tanya N. Cripps-Serra

Robert A. Easterly

Hon. Kameshia D. Gant

Lisa J. Hamameh, Secretary

James W. Heath, President

Thomas H. Howlett

Suzanne C. Larsen

James W. Low

Gerard V. Mantese

Gerrow D. "Gerry" Mason

Joseph P. McGill, Vice President

Thomas P. Murray Jr.

Takura N. Nyamfukudza

Nicholas M. Ohanesian

Daniel D. Quick, President-Elect

Colemon L. Potts

Delphia T. Simpson

John W. Reiser III

Hon. Kristen D. Simmons

Matthew B. VanDyk

Danielle Walton

Commissioners absent:

Kristina A. Bilowus

Erika L. Bryant, Treasurer

Hon. B. Chris Christenson

Sherrice L. Detzler

Valerie R. Newman

Hon. David A. Perkins

Hon. Erane C. Washington

Mark A. Wisniewski

Guests

Ponce Clay, 2023-2024 Board Member

Samantha Hallman, Public Member

Joshua Lerner, 2023-2024 Board Member

David Watson, Executive Director, ICLE

State Bar staff present:

Peter Cunningham, Executive Director

Drew Baker, General Counsel

Margaret Bossenbery, Executive Coordinator

Sarah Brown, Brand Designer

Gregory Conyers, Program Director, Diversity Development Program

Darin Day, Program Director, Outreach

Tatiana Goodkin, Chief Financial Officer

Robert Mathis, Pro Bono Services & Justice Initiatives Counsel

Molly Ranns, Director, Lawyers & Judges Assistance Program

Marjory Raymer, Director of Communications

Jeanette Socia, Director of Human Resources

Kari Thrush, Program Director, Lawyer Services

Nathan Triplett, Director, Governmental Relations

Laurin Thomas, Public Services Counsel

Brittany Griffin, Lawyer Referral Representative

Alicia Walker, Human Resources Assistant

Anne Vrooman, Program Director, Research & Development

Mr. Quick recognized Mr. Ponce Clay and Mr. Joshua Lerner who attended as incoming 2023-2024 Board members.

#### Consent Agenda

The Board received the minutes from the June 9, 2023, Board of Commissioners meeting.

The Board received the recent activities of the president.

The Board received the recent activities of the executive director.

The Board received the FY 2023 financial reports through May 2023.

The Board received Client Protection Fund Claims.

Mr. Quick asked if any items needed to be removed from the consent agenda. There was none. A motion was offered to approve the consent agenda. The motion was seconded and approved.

### **LEADERSHIP REPORTS**

**President and Executive Director's Report:** James Heath, President and Peter Cunningham, Executive Director.

#### 2023-2024 Election

Mr. Heath informed the Board that four candidates submitted their names for consideration for the position of treasurer: Mr. Anderson, Mr. Howlett, Mr. Low, and Mr. Mantese.

Mr. Heath asked if there were any nominations from the floor; hearing none, a motion was made to close the nominations. The motion was seconded and approved.

Per Board policy each candidate is given five minutes to address the Board followed by a 15-minute question-and-answer session. Mr. Heath stated that nominees will be invited to speak in alphabetical order. Both Mr. Anderson and Mr. Low both informed the Board they were withdrawing their names from consideration for the treasurer position. Mr. Howlett and Mr. Mantese addressed the Board per the policy.

Mr. Heath asked for a motion that the vote for the position of treasurer be by secret written ballot. The motion was made, seconded, and approved. Mr. Heath appointed Mr. Clement, Mr. Murray, and Judge Simmons to serve as tellers.

Mr. Heath announced that Dan Quick will serve as President of the State Bar of Michigan and Joe McGill will serve as President-Elect of the State Bar of Michigan for the 2023-2024 Bar year.

A motion was offered to elect Lisa Hamameh as Vice President of the State Bar of Michigan for the 2023-2024 Bar year. The motion was seconded and approved.

A motion was offered to elect Erika Bryant as Secretary of the State Bar of Michigan for the 2023-2024 Bar year. The motion was seconded and approved. Ms. Bryant was not present but did offer her acceptance of the anticipated nomination.

Mr. Heath announced that Mr. Howlett was elected as Treasurer for the 2023-2024 Bar year.

A motion was offered, supported, and approved to destroy the ballots of the election.

### Rule 21 Update

Mr. Cunningham informed the Board that the portal for SBR 21, which requires mandatory succession planning for all private practice attorneys, is now live within the member portal. Attorneys can login to their SBM profile to identify an interim administrator or have the SBM IAP program name one for them. Approximately 200 members have indicated their succession planning preferences in the member portal, with approximately ten percent having the SBM IAP name one for them.

### Well-Being in the Law Task Force

Ms. Ranns provided a brief update on the task force. The task force, which was launched in 2022, will hold the final vote to adopt the report on August 1, 2023, with the plan to present the report to the Michigan Supreme Court on August 18 before being released to the public.

The most significant recommendation of the task force is for an ongoing committee or commission to be created to continue the work of improving well-being in the law. Ms. Ranns shared a few of the 21 recommendations included in the task force's report.

### Lawyers and Judges Assistance Program

Ms. Ranns shared that LJAP has been reviewed by the Strategic Planning Committee over the past few months. Ms. Ranns summarized the work that LJAP does which includes providing free consultations for legal professionals to law students, conduct clinical assessments on-site, short term counseling for law students, professional monitoring, provide referrals to trained providers, provide educational presentations, hold regular wellness events. The requests and contacts have more than doubled since 2020.

### Staff Update and Introductions

Ms. Socia introduced Alicia Walker who was recently hired as a Human Resources Assistant. Ms. Thomas introduced Brittany Griffin who has been with the Bar since June as a Lawyer Referral Service Representative.

### **Representative Assembly (RA) Report:** Gerrow D. Mason, Chairperson

Mr. Mason stated that he spoke with Chief Judge Melissa Pope of the Potawatomi Nation in July, and he is eager strengthen the relationship between tribal courts and the State Bar by hopefully scheduling a visit to a tribal courthouse with Bar leadership, and possibly holding a future RA meeting at a tribal facility.

Mr. Mason has encouraged Board members to donate and to get involved with Access to Justice. Mr. Mason stated that the RA has been working with the Michigan State Bar Foundation, the offices of Congresswoman Debbie Dingell and Lisa McClain, and Coach Jim Harbaugh, to set up a visit to a Legal Aid clinic to spread awareness and raise funds for the Access to Justice Fund.

Mr. Mason shared that the Board received RA "Reform Committee" materials. The proposals included will be voted on at the September RA meeting.

Mr. Mason also shared that at this time there is one candidate, Nicole Evans, who has submitted their name for RA Clerk.

**Young Lawyers Section (YLS) Report:** Colemon L. Potts, Chairperson

Mr. Potts provided the Board with a summary of the Summit program, which hosted 110 people and took place in June at Little Caesars Arena. There were many small breakout sessions, a vendor showcase, awards presentation, and keynote speaker, Justice Kyra Bolden.

There is an event on student loan forgiveness on July 25. There will also be delegates attending the Annual ABA meeting in Denver.

**Strategic Planning Committee:** Thomas H. Howlett, Chairperson

Mr. Howlett shared that the committee has been holding monthly meetings. Their July meeting was led by Ms. Bilowus and focused on the potential of developing a leadership academy. At the August meeting, the committee will conduct a program review of the SBM Lawyer Referral Service.

The committee expects that the September meeting will include a report and recommendations on how to use the net promoter score and other metrics utilized by the State Bar of Michigan.

## COMMISSIONER COMMITTEES

**Public Policy:** Dan D. Quick, Chairperson

Mr. Quick provided the report for the Public Policy committee.

### Court Rules

**1. ADM File No. 2022-14: Proposed Amendment of MCR 2.311**

The proposed amendment of MCR 2.311 would allow a mental examination to be recorded by video or audio under certain circumstances.

A motion was offered and supported to support ADM File No. 2022-14 as drafted. The motion was approved.

**2. ADM File No. 2022-11: Proposed Amendments of MCR 2.511 and 6.412**

The proposed amendments of MCR 2.511(C) and 6.412(C) align with Fed Crim P 24 and Fed Civ R 47 and would require the court to allow the attorneys or parties to conduct voir dire in civil and criminal proceedings if the court examines the prospective jurors. The proposed requirement is subject to the court's determination that the parties' or attorneys' questions are proper.

A motion was offered and supported to support ADM File No. 2022-11. The motion was approved.

**3. ADM File No. 2023-05: Proposed Amendment of MCR 3.613**

To avoid confusion, the proposed amendment of MCR 3.613 incorporates the amendment of MCR 3.613 (ADM File No. 2021-21), which takes effect July 1, 2023. The proposed amendment of MCR 3.613 in this ADM file would add a new subrule (H) that is similar to MCR 2.002(I) and would require a court to pay the costs of publication in a name change proceeding if fees are waived under MCR 2.002, publication is required by law, and publication has not been waived under MCR 3.613.

A motion was offered and supported to support ADM File No. 2023-05. The motion was approved.

**4. ADM File No. 2022-26: Proposed Amendment of MCR 6.425**

The proposed amendment of MCR 6.425(D)(1)(c) would require a trial court, on the record before sentencing, to personally address the defendant regarding his or her allocution rights and to address any victim who is present and allow the victim to be reasonably heard, similar to FR Crim P 32(i)(4).

A motion was offered and supported to support ADM File No. 2022-26. The motion was approved.

**5. ADM File No. 2023-08: Amendment of MCR 7.202**

The amendment of MCR 7.202 includes in the definition of “final judgment” or “final order” post judgment orders deciding a claim for remaining proceeds under MCL 211.78t.

A motion was offered and supported to support ADM File No. 2023-08. The motion was approved.

Legislation

**Tax Tribunal**

**HB 4563** (Hoadley) Property tax: tax tribunal; electronic hearings of the tax tribunal; provide for. Amends sec. 3a of 1976 PA 267 (MCL 15.263a).

**HB 4564** (Outman) Property tax: tax tribunal; methods for tax tribunal to hold hearings; expand to include electronically. Amends secs. 26 & 34 of 1973 PA 186 (MCL 205.726 & 205.734).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. The BOC directed that the vote on the Public Policy Committee’s proposed motion be conducted by e-vote.

**HB 4657** (Pohutsky) Courts: state court administration; state pretrial services division; create. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 11 & 11a to ch. V.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. The BOC directed that the vote on the Public Policy Committee’s proposed motion be conducted by e-vote.

**HB 4738** (Breen) Criminal procedure: witnesses; confidentiality of certain information of a witness; require prosecuting attorney to maintain and provide for disclosure in certain circumstances. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 40b to ch. VII.

**HB 4739** (Mentzer) Crime victims: rights; practice of redacting victim’s contact information; codify. Amends 1985 PA 87 (MCL 780.751 - 780.834) by adding sec. 8a.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. The BOC directed that the vote on the Public Policy Committee’s proposed motion be conducted by e-vote.

**HB 4746** (Steele) Criminal procedure: mental capacity; outpatient treatment for misdemeanor offenders with mental health issues; provide for. Amends sec. 461 of 1974 PA 258 (MCL 330.1461) & adds sec. 1021 & ch. 10A.

The Public Policy Committee recommended that this bill be considered at a later date to be determined. The BOC concurred.

**HB 4850** (Glanville) Courts: juries; exemption from jury service for certain military personnel; allow. Amends sec. 1307a of 1961 PA 236 (MCL 600.1307a).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. The BOC directed that the vote on the Public Policy Committee's proposed motion be conducted by e-vote.

**Audit:** Erika Bryant, Chairperson

Ms. Bryant shared that the Audit Committee has not met since the last Board meeting. However, interim testing procedures for the FY 2023 audit will be completed in August.

**Finance:** Erika L. Bryant, Chairperson

**Financial Reports**

Ms. Bryant provided the Board with the FY 2023 financial reports. As of May 30, 2023, the SBM administrative fund had a net position of \$13.1 million, which is an increase of \$2.4 million since the beginning of the fiscal year. SBM net position (without the retiree healthcare trust) increased by \$1.9 million due to operating revenues exceeding expenses by \$1,600,000, and interest income of \$380,714. Operating result was favorable to budget by \$800,641. The positive variance was due to lower expenses for payroll and benefits, lower non-labor expenses, and higher interest income. Revenues were slightly lower at \$8,546. Retiree healthcare trust investments increased in value by \$400,000 due to improved stock market. Excluding income from retiree healthcare trust, which is not included in the budget or forecasted, an increase in net position of \$1.7 million is projected with a favorable year end budget variance of \$574,316. The Client Protection Fund has a net position of \$2.3 million, which has increased by \$210,420 since the beginning of the fiscal year.

As of May 2023, the total number of active, inactive, and emeritus members in good standing is 46,704 attorneys, which is a net decrease of 69 attorneys since the beginning of the year. The number of paying attorneys has decreased by 597. There are 586 new attorneys who have joined the bar since the beginning of the year. These changes are not unexpected due to the fewer number of attorneys joining the bar and the increased number of attorneys retiring and choosing emeritus status.

**FY 2024 Budget and Budget Assumptions**

Ms. Bryant introduced the Budget process and Mr. Cunningham reviewed the proposed FY 2024 budget. A motion was made to approve the budget. The motion was seconded and approved.

**Professional Standards:** Lisa J. Hamameh, Chairperson

Ms. Hamameh welcomed David Watson, the Executive Director of ICLE. The committee met on July 19, 2023. They reviewed applications for both the ICLE Executive Committee and the MILS Board of Trustees.

The committee recommended Chad Engelhardt to the ICLE Executive Committee to serve a three-year term commencing October 1, 2023. A motion was made to accept this recommendation. The motion seconded and approved.

There were two vacancies and two applicants for the Michigan Indian Legal Services Board of Trustees. A motion was made to reappoint Sean E. Cahill and Amy Wesaw to MILS. The motion was seconded and approved.

**Communications and Member Services (CAMS):** Joseph P. McGill, Chairperson

Mr. McGill reported that the committee did not meet in July. Mr. McGill shared that the 50-year Golden Celebration held in May was a great event. The attendance was up 15% from 2022. And attendance at the Great Lakes Legal Conference was up from 2019 by 16%. There were many positive comments shared with SBM staff regarding both events.

**FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

**Comments or questions from Commissioners**

Judge Gant shared that the Association of Black Judges of Michigan is hosting a summer soiree on Tuesday, July 25, 2023, at 5:30 p.m. at the Delmar in Detroit. Many judges will be honored, including Judge Gant honored as the outgoing president. All commissioners are invited to attend.

Ms. Bryant shared that Associate Supreme Court Justice Kentanji Brown Jackson is now an honorary member of Delta Sigma Theta.

**Comments or questions from the public**

Ms. Samantha Hallman addressed the Board. Ms. Hallman expressed her concerns about accessing video hearings around the state. She is also interested in how the bar operates, how it solicits comments from members of the public, and expressed her displeasure in position on SB 257.

Dave Watson thanked the Board for the relationship between the State Bar of Michigan, the Board of Commissioners, and the continued support of the work provided by ICLE.

**Adjournment**

The meeting was adjourned at 12:10 p.m.