

Last Meeting of the 2002-03 Board

The meeting was called to order by President Turner at 1:15 p.m. on Thursday, September 11, 2003, at the State Bar of Michigan, Lansing, Michigan. Commissioners present were:

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| John M. Barr | Daniel M. Levy, Assembly Vice-Chair |
| Marjory G. Basile | Craig H. Lubben |
| Scott S. Brinkmeyer, President-Elect | Stephen J. Murphy, III |
| Kimberly M. Cahill, Treasurer | Hon. William B. Murphy |
| Kathryn M. Day | Lambro Niforos |
| Nancy J. Diehl, Vice President | Edward H. Pappas |
| Evanne L. Dietz | Randolph P. Piper |
| Kim Warren Eddie | Thomas G. Plunkett |
| James N. Erhart | D. Andrew Portinga |
| Elias J. Escobedo, Jr. | Thomas C. Rombach, Assembly Chair |
| Hon. Joseph J. Farah | Kurt E. Schnelz |
| Dennis P. Grenkowicz | Hon. Cynthia D. Stephens |
| Michael S. Hohaus | Charles R. Toy |
| Elizabeth A. Jamieson | Reginald M. Turner, President |
| W. Anthony Jenkins | Gregory L. Ulrich |
| Ronald D. Keefe | |

Commissioner Thomas W. Cranmer was absent and excused.

State Bar Staff Present:

John T. Berry – Executive Director
Nancy Brown – Director, Communications
Thomas K. Byerley – Director, Professional Standards
Candace A. Crowley – Manager of Access to Justice
Kathleen G. Fox – Director, Human Resources
Jim C. Horsch – Director, Finance and Administration
Lisa Allen-Kost – Director, Programs & Services
Elizabeth Lyon – Legal Secretary
Glenna D. Peters – Executive Coordinator
Chad Sluss – Member Services Manager
Lesa Smith – Program Coordinator
Mike Smith – Graphic Artist
Janet K. Welch – General Counsel

Present for such portions of the meeting as pertained to a specific agenda item was Lynn Chard, Executive Director, ICLE. Also, special guests included past presidents, Bruce W. Neckers and Thomas J. Ryan.

A moment of silence was observed in honor of the terrorist attacks on September 11, 2001.

CONSENT AGENDA

A motion was made and seconded to approve the Consent Agenda. Motion carried.

Minutes

The Board accepted the minutes of the following Executive Committee meetings:

- July 21, 2003
- August 18, 2003
- September 2, 2003

Executive Director's Report – John T. Berry, Executive Director

The Board received the Executive Director's litigation report.

Finance and Human Resources Committee

The Board received the following: 1) Financial Reports for 10 months ending July 31, 2003 and 2) Year-End Financial Forecast.

Proposed Section Bylaw Amendments

The Board approved the following Section Bylaw amendments:

- A. Alternative Dispute Resolution Section
- B. Family Law Section
- C. General Practice Section
- D. Law Student Section
- E. Negligence Law Section
- F. Probate & Estate Planning Section
- G. Real Property Law Section
- H. Senior Lawyers Section
- I. Taxation Section

LEADERSHIP REPORTS

A motion was made and seconded to move the Executive Director's Report first to allow him to attend other annual meeting events. Motion carried.

Executive Director's Report – John T. Berry

Upon a motion made and seconded, the Board approved the 2003-04 committee recommendations that were included in the agenda packet.

Mr. Berry discussed the technically speaking column in the Bar Journal that will now be a regular feature, focusing on technology and law practice management questions. He also talked about the reactions that have been received regarding the dues increase.

Mr. Berry provided a powerpoint presentation that summarized the proposed 2003-04 budget. Ms. Cahill, Chair of the Finance and Human Resources Committee, reported that the committee looked at whether they would recommend any additional spending this year based on the fact that the dues increase was half of what was requested, and whether the baseline budget could be reduced. Following their review, they felt that it was appropriate to spend approximately 50% of the projected increase in areas that would help us follow our strategic plan, offer members additional services at their desk and strengthen areas that reflect the core mission of the Bar. Mr. Turner noted that the Executive Committee had also reviewed the budget and joined the Finance and Human Resources Committee in its recommendation of the budget.

Following a brief discussion, a motion was made and seconded to approve the budget as presented.

Mr. Berry recognized and thanked staff members for their hard work during the annual meeting.

President's Report – Reginald M. Turner

Mr. Turner reported that the Court ordered the Bar to include regulation disclosure questions on the dues statement (for statistical collection) and a solicitation for funding for the Hall of Justice Learning Center.

Mr. Turner recognized Jim Erhart for his contribution in making the President's Upper Peninsula Tour successful and presented him with a gift.

Representative Assembly Report – Thomas C. Rombach

Mr. Rombach reported that the Representative Assembly agenda would include: 1) Assembly Review Committee recommendations 2) A proposed bylaw amendment that would address mandatory minimum voting requirements 3) Appellate delay reduction considerations, and 4) Michigan Rules of Professional Conduct and Proposed Standards for Imposing Lawyer Sanctions. A special meeting will be held on Friday, November 14th at Cooley Law School to further discuss the proposal being forwarded to the Supreme Court. Additionally, the Michael Franck award nominations will be voted upon and the election of a new Clerk will take place.

Young Lawyers Section Report – Kathryn M. Day

Ms. Day reported that the Young Lawyers Section received a 2nd place award from the ABA Young Lawyers Division during its annual awards and achievements ceremony, that they are pleased to participate in the 50-year Golden Celebration, and the Race for Justice will be held Saturday at 9:00 a.m. at Potter Park Zoo. Ms. Day further reported that they are co-sponsoring a program with the Law Student Section entitled "How to Make Money and Stay out of Trouble" on September 20th at Cooley Law School, they awarded the Outstanding Young Lawyer Award to Erika Butler-Akinyemi, and Andy Portinga will become the next section chair.

COMMISSIONER COMMITTEES

Finance and Human Resources – Kimberly M. Cahill, Chairperson

Following discussion, a motion was made and seconded to approve the increase in non-member Bar Journal subscription rates from \$45 to \$60 per year for domestic subscriptions and from \$55 to \$70 per year for foreign subscriptions.

Professional Standards – Thomas W. Cranmer, Chairperson

In Mr. Cranmer's absence, Kurt Schnelz reported that as a result of a ruling in the 6th Circuit in Cincinnati, the State Bar of Michigan is now considered a state agency for purposes of treatment of the 11th amendment, which provides immunity. Further proceedings in a lower court in Michigan are anticipated.

As indicated in the budget, the Unauthorized Practice of Law is getting another attorney and projects for next year include a heavy focus on Multi-Jurisdictional Practice. Mr. Schnelz thanked Tom Byerley and Victoria Kremski for their hard work.

Nominating Committee – Charles R. Toy, Chairperson

Institute of Continuing Legal Education—Following discussion, the Board approved the recommendation of Michael R. Shpiece to be appointed to the ICLE Executive Committee for a four-year term commencing on October 1, 2003 and expiring on September 30, 2007.

Michigan Indian Legal Services—The Board approved the reappointment of incumbents Beverly Clark and Kandra Robbins to the Michigan Indian Legal Services Board of Trustees. The appointments are three-year terms commencing on October 1, 2003 and expiring on September 30, 2006.

Public Policy, Image and Identity – Scott S. Brinkmeyer, Chairperson

Mr. Brinkmeyer asked for comments from the public about the Bar's legislative program, but there were none.

A motion was made and seconded to approve the following Board action:

Legislation

HB 4521 – Probate; guardians and conservators; appointment of a conservator; allow court to pass over person having priority under certain circumstances.

Oppose

Michigan Court Rules

Proposed Administrative Order Regarding Caseflow Management; for Probate, District and Circuit Courts. Specific time frames for completing cases.

Decline to support with authorization to draft appropriate communications to the Court covering concerns

Proposed Amendment to Court Rule 2.112(K) – Pleading Special Matters; Fault of Nonparties; Notice (Civil Procedure and Courts Committee Proposal)

A motion was made and seconded to support. Following discussion, the motion was withdrawn. A motion was then made and seconded to refer the matter to the Representative Assembly. Motion carried.

Proposed Amendment of Rules 5.408 – Review and Modification of Guardianships of Legally Incapacitated Individuals (Request from the Elder Law and Advocacy Section for authorization to advocate a position contrary to the State Bar of Michigan)

No position taken

Mr. Brinkmeyer provided an update regarding appellate delay reduction.

Janet Welch presented information regarding the need to amend Bylaw Article VIII due to a drafting error prior to its adoption by the Board on June 13, 2003. Upon a motion made and seconded, the Board approved publication of the amendment that will be considered at the November 21st Board meeting.

Ms. Welch reported that the Supreme Court has not set an administrative public hearing in regard to the Proposed Amendment and Redesignation of Administrative Order No. 1993-5, though it has been published for comment. A report will be provided at a future meeting.

Nancy Brown provided an update on the Public Policy Resource Center, noting that there are currently 438 subscribers and that many positive comments have been received.

Mike Smith provided a powerpoint presentation regarding new design standards for the Bar.

Programs and Services – Nancy J. Diehl, Chairperson

Ms. Diehl moved for the adoption of the amended Privacy and Member Record policies. She explained that the amendment was to substitute the introductory paragraph with improved language that was not substantive in nature. The motion was seconded.

Discussion followed regarding whether it was appropriate to adopt the policy due to the collection of information on our dues statement as ordered by the Michigan Supreme Court. There were also concerns about liability and ethnicity issues that were substantive. Ms. Diehl explained that the policy had already been adopted previously by the Board, prior to the order by the Court, had already been printed on the dues statement, and she recommended adopting the proposed amendment with further review by Janet Welch to determine if substantive changes are necessary.

President Turner made a friendly amendment that the Board authorize the publication of the dues statement with the existing language and that further substantive review of the policy follow, addressing the issues raised. Motion carried as amended.

Lynn Chard presented information on Michigan Law Online, a proposed joint research service provided by the State Bar of Michigan and the Institute of Continuing Legal Education. ICLE is developing the service and will then offer an exclusive license to provide the service free to members. The anticipated cost to the bar would be \$150,000 for the first year and \$50,000 for the second and third years. The contract would then be reassessed at the end of the third year. A motion was made and seconded to approve continued pursuit of negotiations. The proposal will be brought back to the Board for final adoption.

Candace Crowley provided a Justice Initiatives Campaign Report and announced that eleven biweekly reports would be sent electronically to the campaign committee, legal aid programs and commissioners. Ms. Crowley noted that there are forty non-profit legal aid programs that can be supported through the Access to Justice Fund and that 100% of gift would be passed to the program. She also reported that a new donor acknowledgement book would be formally released and that details are firming up regarding the ATJ Dinner honoring President Reginald M. Turner on October 16th.

Candace Crowley and Evanne Dietz reported on the Pro Bono Domestic Violence Award that nationally recognized Michigan. The award was given by the National Association of Bar Executives and Lexis Nexis and was presented to Evanne Dietz on behalf of the Bar at the ABA Annual Meeting in San Francisco. A round of applause followed.

Ms. Diehl reported that the 2003 Economics of Law Practice Survey would be available in late Fall and should cost in the range of \$20.00-\$30.00. Highlights were included in the Board agenda packet.

Mr. Turner recognized immediate past president Bruce Neckers and acknowledged him for his efforts with the Strategic Plan implementation and for making a tremendous difference in the Bar.

SPECIAL PRESENTATION

Resolution Honoring Retiring Board Members

John M. Barr – A resolution was prepared, read, and presented by Thomas G. Plunkett. A copy is attached to these minutes as Addendum I.

Marjory G. Basile – A resolution was prepared, read, and presented by Nancy J. Diehl. A copy is attached to these minutes as Addendum II.

Evanne L. Dietz – A resolution was prepared, read, and presented by D. Andrew Portinga on behalf of Kathryn M. Day. A copy is attached to these minutes as Addendum III.

Hon. Joseph J. Farah – A resolution was prepared, read and presented by Randolph P. Piper. A copy is attached to these minutes as Addendum IV.

Dennis P. Grenkowicz – A resolution was prepared, read and presented by Kim Warren Eddie. A copy is attached to these minutes as Addendum V.

Thomas G. Plunkett – A resolution was prepared, read and presented by John M. Barr. A copy is attached to these minutes as Addendum VI.

Thomas C. Rombach – A resolution was prepared, read and presented by Daniel M. Levy. A copy is attached to these minutes as Addendum VII.

Reginald M. Turner – A resolution was prepared, read and presented by Hon. Cynthia D. Stephens. A copy is attached to these minutes as Addendum VIII.

A motion was made and seconded to adopt the resolutions as presented.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Mr. Turner asked for comments or questions from Commissioners. Mr. Barr reported that as commissioner liaison for the Senior Lawyers Section, they asked him to express their concerns to the Board regarding the dues situation and the loss of senior lawyers. They have asked that the Board review the situation in a year. Mr. Barr then shared his feelings about retiring from the Board, noting that it has been a great experience and thanked everyone for the opportunity to serve.

Comments or questions from the public

Mr. Turner asked for comments or questions from the public but there were none.

Old Business

There was none.

New Business

There was none.

The meeting was adjourned at 4:50 p.m.