

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES

President Heath called the meeting to order at 9:36 a.m. on Friday September 21, 2023, in the Dennison Room of the Detroit Marriott Troy.

Commissioners present:

Yolanda M. Bennett

Kristina A. Bilowus

Erika L. Bryant, Treasurer

Aaron V. Burrell

Hon. B. Chris Christenson

Thomas P. Clement

Tanya N. Cripps-Serra

Sherrie L. Detzler

Robert A. Easterly

Hon. Kameshia D. Gant

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.

Valerie R. Newman

Takura N. Nyamfukudza

Nicholas M. Ohanesian

Hon. David A. Perkins

Daniel D. Quick, President-Elect

Colemon L. Potts

Delphia T. Simpson

John W. Reiser III

Matthew B. VanDyk

Danielle Walton

Hon. Erane C. Washington

Commissioners absent:

David C. Anderson

Lisa J. Hamameh, Secretary

Hon. Kristen D. Simmons

Mark A. Wisniewski

Guests

Nicole A. Evans, Representative Assembly member

Ronald Keefe, Past President of the State Bar of Michigan

Joshua Lerner, 2023-2024 Board Member

Silvia A. Mansoor, 2023-2024 Board Member

David Watson, Executive Director, ICLE

State Bar staff present:

Peter Cunningham, Executive Director

Scott Atkinson, Communications Specialist

Drew Baker, General Counsel

Margaret Bossenbery, Executive Coordinator

Sarah Brown, Brand Designer

Gregory Conyers, Program Director, Diversity Development Program

Darin Day, Program Director, Outreach

Katherine Gardner, Unauthorized Practice of Law Counsel

Tatiana Goodkin, Chief Financial Officer

Lynn Ingram, Legal Editor & Publications Development Manager

Robert Mathis, Pro Bono Services & Justice Initiatives Counsel

Molly Ranns, Director, Lawyers & Judges Assistance Program

Kristin Sewell, Program Director, Research & Development

Janna Sheppard, Administrative Assistant

Jeanette Socia, Director of Human Resources

Marjory Raymer, Director of Communications

Kari Thrush, Program Director, Lawyer Services

Nathan Triplett, Director, Governmental Relations

Anne Vrooman, Program Director, Research & Development

Meng Xiong, IT Director

Consent Agenda

The Board received the minutes from the July 21, 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 July 2023.

The Board received Client Protection Fund Claims.

The Board received Unauthorized Practice of Law Claims.

Mr. Heath asked if any items needed to be removed from the consent agenda. There were 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.

Mr. Heath acknowledged the great turn out at the Michigan Milestone event, stating that it was the most well-attended milestone event ever. He also expressed his appreciation to all SBM staff who made the event such a great event.

Mr. Heath shared that while they were in Grand Rapids celebrating the Michigan Bar Foundation, Mr. Heath, Mr. Cunningham, and Ms. Bossenbery visited 86th SBM President, Rob Buchanan. While visiting, they presented Mr. Buchanan with a scrapbook with pictures and other memorabilia of his time as President as he could not enjoy those events due to the pandemic during his presidential year.

Licensing Renewal update and Rule 21

Mr. Cunningham informed the Board that license renewal began last week. This year's launch went very smoothly even with the addition of the new requirement of SBR 21. At this point, renewals are about 2% ahead of where they have been historically on this date.

Mr. Cunningham reported that as of today, approximately 9% of all active attorneys that have renewed their licenses (436 individuals) have chosen to enroll in the Interim Administrator Program, and if this trend continues, it will exceed the budget projections.

Well-Being in the Law Task Force

Ms. Ranns shared that the Task Force on Well-Being in the Law held their final vote to adopt the report on August 1, 2023. The task force presented the report to the Michigan Supreme Court on August 18, 2023, and the report was released to the public on August 21, 2023.

All 21 detailed recommendations included in the comprehensive report were adopted. These recommendations will help to provide a framework that will improve service to clients and support for lawyers, judges, and law students. The Commission on Well-Being in the Law will be discussed by the Michigan Supreme Court this coming week.

During the meeting, Mr. Cunningham announced that the MSC just issued an order creating a permanent commission, naming Ms. Ranns as a vice-chair and Mr. Cunningham as a member of the executive committee of the commission.

Justice For All (JFA) Commission Update

Mr. Cunningham shared that the full JFA Commission met last week to approve the recommendations of the Practice and Regulatory Reform Committee. The recommendations include two pilot programs. The first pilot program would allow qualified paralegals to provide limited legal services in specific areas of the law where there is currently the greatest unmet need. Some of these identified areas include landlord/tenant, uncontested divorces with no children, and creditor/debtor law. The second pilot program would define specific services that governmental and non-profit agencies could provide to the populations they serve. The recommendation also includes the formation of a steering committee to help oversee the implementation of the pilot programs. The recommendations are being sent to the Michigan Supreme Court for their consideration. When these recommendations are publicly available, they will be shared with the Board of Commissioners.

DEI Commission Update

Mr. Cunningham reported on the Michigan Supreme Court's Diversity, Equity, and Inclusion Committee. The subcommittees will be submitting their recommendations for the Commission's strategic plan later this month, and the Commission will spend the fall compiling and finalizing the strategic plan. The Commission will hold a public meeting on December 8, 2023, to allow for public comments on the strategic plan before final adoption in January 2024.

Staff Update and Introductions

Mr. Cunningham shared that the role of Nancy Brown is changing. She will be stepping down as the assistant executive director but will remain an employee of the State Bar in a consulting role. He reported that Kari Thrush and Katherine Gardner will assume the roles as Assistant Executive Directors once replacements for their current positions are hired.

Mr. Cunningham introduced Kristin Sewell, who recently was hired as the Director of Research & Analytics, filling Anne Vrooman's position as she retires next month.

Marjory Raymer introduced Scott Atkinson recently hired as a Communications Specialist.

Mr. Cunningham also shared the news of another retirement which will occur before the November Board meeting. Ms. Robin Lawnichak is retiring from her position as a paralegal assistant with the Client Protection Fund in late October. Ms. Lawnichak has been with the State Bar since 2002, and the process of hiring her replacement is already underway.

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

Mr. Mason stated this was his last meeting as RA Chair but will remain on the board as he was appointed by the Michigan Supreme Court for a three-year term. He mentioned that he would like to continue the work started with the RA with Access to Justice and the relationship with Chief Judge Melissa Pope.

Mr. Mason shared that the proposals from the Ad hoc Reform Committee, chaired by Nick Ohanesian, will be brought before the RA for action at its meeting today.

Mr. Mason also shared that he hoped that Nicole Evans, who has submitted her name for RA Clerk, will be elected at the RA meeting later today.

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

Mr. Potts provided the Board with a summary of the activities of the YLS. He recognized the incoming chair of the YLS, Ms. Tanya Cripps-Serra. She informed the Board about the National moot court event in late October and asked the Board members to consider volunteering at the event.

Strategic Planning Committee: Thomas H. Howlett, Chairperson

Mr. Howlett reviewed the activities of the Strategic Planning committee for the past year. As a result of the goals set and met over the past year, Mr. Howlett reported there were two recommendations that the committee is bringing before the board today for their consideration.

A motion was made to adopt the recommendation that:

The State Bar of Michigan should continue and expand its use of the Net Promoter Score or other metrics whenever appropriate in order to measure in a systematic and consistent manner member satisfaction with programs and services as a part of our effort to deliver effectively on the strategic plan.

The motion was seconded and approved unanimously.

A motion was made to adopt the recommendation that:

The State Bar of Michigan should consider ways to increase capacity in communications to advance the Strategic Plan, improve the visibility of the programs and services such as those recently reviewed by the Strategic Planning Committee, and increase member and public engagement with programs and services.

The motion was seconded and approved unanimously.

COMMISSIONER COMMITTEES

Public Policy: Dan D. Quick, Chairperson

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

Court Rules

1. ADM File No. 2017-28: Proposed Amendments of MCR 1.109, 5.302, and 8.108

The proposed amendments of MCR 1.109, 5.302, and 8.108 would provide clear direction on the process for protecting personal identifying information in transcriptions, wills, and death certificates.

A motion was offered and supported to support ADM File No. 2017-28 as drafted. The motion was approved.

2. ADM File No. 2022-34: Proposed Amendments of MCR 3.993 and 6.428

The proposed amendment of MCR 3.993 would provide for the restoration of appellate rights in juvenile cases, similarly to that of criminal cases under MCR 6.428, and the proposed amendments would further ask parties to provide the Court of Appeals with a copy of the order when filing the appeal.

A motion was offered and supported to support ADM File No. 2022-34. The motion was approved.

Audit: Erika Bryant, Chairperson

Ms. Bryant shared that the interim testing procedures for the FY 2023 audit were completed in August. The audit committee approved the SBM staff 2023 incentive compensation amount of \$50,000.

Finance: Erika L. Bryant, Chairperson

Financial Report

Ms. Bryant provided the Board with the FY 2023 financial reports. As of July 31, 2023, the SBM administrative fund had a net position of \$12.7 million, which is an increase of \$2.8 million since the beginning of the fiscal year. SBM net position (without the retiree healthcare trust) increased by \$2.1 million due to operating revenues exceeding expenses by \$1.6 million and interest income of \$500,000. Operating result was favorable to budget by \$1,000,337. Retiree healthcare trust investments increased in value by \$700,000 due to improved stock market. The Board approved the merger of the State Bar and Attorney Discipline Board Retiree Healthcare Trust earlier this year. That merger is complete and CAPTRUST now serves as the trust investment advisor. The Client Protection Fund has a net position of \$2.4 million, which has increased by \$255,760 since the beginning of the fiscal year.

As of July 2023, the total number of active, inactive, and emeritus members in good standing is 46,812 attorneys, which is a net increase of 39 attorneys since the beginning of the year. The number of paying attorneys has decreased by 483. There are 698 new attorneys who have joined the bar since the beginning of the year, which is 122 less than FY 2022. 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.

Contract Approval

The contract of k2dnn.net is up for renewal with an increased contract amount. The contract exceeds the minimum threshold of \$100,000, which requires Board approval. This vendor provides specific IT support by way of building and maintenance of many portals which have been designed and created for the State Bar of Michigan. As such, this vendor is in a unique position where no other company can provide what they do based on the relationship created over the past several years. The Finance Committee is requesting that the Board approve the renewal of this contract without soliciting bids from other vendors.

A motion was offered and supported to approve the k2dnn.net contract. The motion was approved unanimously.

Negligence Law Section Fund Balance

Ms. Bryant reported that the Negligence Law Section has a negative fund balance. This is the first time a section has had a negative fund balance in 17 years. The section has taken steps to adjust policies and procedures, including a significant increase in section dues, to ensure this does not occur going forward, including an increase in section dues.

The existing SBM policy requires the Board's express authorization for the negative fund balance to be covered. As of August 31, 2023, the Negligence Law Section had a negative fund balance of \$1,061.80. Estimated revenues for September 2023 are \$1,000, less \$695 in refunds to registrants for cancelled events. September's estimated expenses for the Section are \$8,368.37. As a result, the Negligence Law Section is projected to have an estimated negative fund balance of \$8,000.59 on September 30.

The Finance Committee unanimously recommended that the Board authorize payments to cover the Negligence Law Sections negative fund balance as well as payment of section expenses incurred through September 30, 2023, with a requirement that the Negligence Law section reimburses the State Bar of Michigan for all amounts paid on its behalf with reasonable interest.

On October 1, 2023, the section will receive the first installment of section dues collected in September from the license renewal period. The amount already collected in Negligence Law Section dues already exceeds the anticipated negative fund balance.

A motion was offered and supported to authorize payments to cover the Negligence Law Sections negative fund balance as well as payment of section expenses incurred through September 30, 2023, with a requirement that the Negligence Law section reimburses the State Bar of Michigan for all amounts paid on its behalf with reasonable interest. The motion was approved.

Professional Standards: Lisa J. Hamameh, Chairperson

Mr. Howlett shared the committee report in Ms. Hamameh's absence. At the July meeting, the Committee considered amendments to the rules of the Client Protection Fund, which were recommended by the Standing Committee on the Client Protection Fund. The proposed amendments, which were recommended by the Professional Standards Committee, represent a comprehensive review with goals of streamlining processes, eliminating inconsistencies, and clarifying procedures. Two added sections, which are not in the current rules, are in Proposed Rule (7)(A) to clarify handling matters involving a deceased respondent and the additional of Rule 10(E) to provide for expedited proceedings for claims under \$3,000.

A motion was offered and supported to approve the proposed amendments to the Client Protection Rules. The motion was approved unanimously.

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

Mr. McGill reported that the Communications and Member Services voted to table consideration of the 2024 Michigan Legal Milestone. Consideration of this item will take place at a later date.

Outgoing Commissioners

Mr. Howlett read a resolution honoring Mr. Clement on his retirement from the Board of Commissioners and presented him with a clock in appreciation for his service.

Mr. Potts read a resolution honoring Ms. Bilowus on her retirement from the Board of Commissioners and presented her with a clock in appreciation for her service.

Recognition of President James Heath

Mr. Quick recognized the work of President Heath during his presidential year and presented him with a scrapbook and plaque.

Mr. Heath addressed the board and extended his thanks and appreciation for the work of the Board and for his ability to serve as President.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

None.

Comments or questions from the public

None.

Adjournment

The meeting was adjourned at 11:10 a.m.