

President Nolan called the meeting to order at 9:45 a.m. on April 21, 2017 in the Boardroom of the Michael Franck State Bar of Michigan building.

Commissioners present:

Danielle Mason Anderson

Dennis M. Barnes, Secretary

Robert J. Buchanan, Treasurer

Hon. Clinton Canady III

Richard L. Cunningham

Syeda F. Davidson

Shauna L. Dunning

Andrew F. Fink III

Robert C. Gardella

Jennifer M. Grieco, Vice President

Edward L. Haroutunian

Krista Haroutunian

James W. Heath

Fred K. Herrmann

Michael S. Hohaus

Mark W. Jane

Thomas E. McCarthy Jr

Joseph P. McGill

Hon. Maureen M. McGinnis

Shenique A. Moss

Lawrence P. Nolan, President

Jules B. Olsman

Hon. David A. Perkins

Colleen A. Pero

Victoria A. Radke

Donald G. Rockwell, President-Elect

Brian D. Shekell

Richard J. Siriani

Gregory L. Ulrich

Dana M. Warnez

Erane C. Washington

Commissioners absent and excused:

Hon. Michael J. Riordan

State Bar Staff present:

Janet Welch, Executive Director

Marge Bossenbery, Executive Coordinator

Nancy Brown, Director, Communications and Member Services Division

Gregory Conyers, Director, Diversity

Candace Crowley, Assistant Executive Director and Director, External Development

Peter Cunningham, Assistant Executive Director and Director, Governmental Relations

Darin Day, Director, Outreach and Constituent Development

Cliff Flood, General Counsel

Danon Goodrum-Garland, Director, Professional Services Division

Kathryn Hennessey, Public Policy Counsel

James Horsch, Director, Finance and Administration Division

Nkrumah Johnson-Wynn, Assistant General Counsel

Robert Mathis, Pro Bono Service Counsel

Samantha Meinke, Communications Manager

Jeanette Socia, Human Resources Manager

Kari Thrush, Assistant Division Director, Communications and Member Services Division

Anne Vrooman, Director, Research and Development

Guests

David R. Watson, Executive Director, Institute of Continuing Legal Education

### Consent Agenda

Mr. Nolan asked the Board if there were any items that needed to be removed from the consent agenda. There were none.

The Board received the minutes from the January 20, 2017 Board of Commissioners meeting.  
The Board received the minutes from the January 10, February 14, and 21, 2017 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 2017 Financial Reports through February 2017.

The Board received Client Protection Fund Claims.

The Board was notified that the Annual Reports of the SBM Committee and Work Groups could be found on the SBM Board of Commissioners portal page.

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

## COMMISSIONER COMMITTEES REPORTS

### Finance, Robert J. Buchanan, Chairperson

Mr. Buchanan reviewed the FY 2017 financial reports through February 28, 2017

Mr. Buchanan reported that the Finance Committee formed a sub-committee to review the adequacy of SBM insurance coverage. As a result of this effort, the SBM has replaced the current policy that provides general liability, property and umbrella coverage with a Chubb insurance policy to address deficiencies in the current policy and provide better coverage.

Mr. Buchanan reported that the Finance Committee will meet with SBM senior staff in June to review the FY 2018 proposed budget.

### Audit, Robert J. Buchanan, Chairperson

Mr. Buchanan indicated that there was not a report.

### Professional Standards, Dennis M. Barnes, Chairperson

#### ABA House of Delegates Appointment

A motion was offered and supported to re-appoint Commissioner Gregory L. Ulrich to the ABA House of Delegates. The motion was approved.

### Communications and Member Services, Jennifer M. Grieco, Chairperson

#### Board of Commissioners Committee Restructuring

Ms. Grieco described and explained the Committee Restructuring Workgroup's efforts to restructure the SBM commissioner committees, which is still a work in progress. She explained the need for committee restructuring to be consistent with and support the 21<sup>st</sup> Century Practice Task Force recommendations and updated SBM Strategic Plan. Mr. Grieco stated that it is anticipated that the proposal framework will encourage more SBM members to volunteer their time to work on a specific issues if they do not need to commit to a long time period. Ms. Grieco indicated that she and Mr. Rockwell participated on two conference calls held with representatives of the SBM committees and that they were receptive to the proposed changes.

The committee is asking for approval from the Board for only the framework and will present the SBM Standing and Special Committee Jurisdiction Resolution and Matrix at the July Board meeting for consideration.

A motion was offered and supported to adopt the framework. The motion was approved.

#### **50 Year Honoree Resolution**

A motion was offered and supported to approve the 50-Year Golden Celebration Resolution. The motion was approved.

#### **2017 John Cummiskey Award**

A motion was offered and supported to award the 2017 John W. Cummiskey Award to Robert Treat. The motion was approved.

#### **2017 SBM Awards Committee Recommendations**

A motion was offered and supported to award the Roberts P. Hudson Award to Gerard Mantese; the Frank J. Kelley Distinguished Public Service Award to Hon. Robert Holmes Bell, Hon. Bernard Freidman, and Barbara L. McQuade; the Champion of Justice Award to Michael C. McDaniel and Kelly Ann Ramsey; the Kim Cahill Bar Leadership Award to Patrick J. Wilson; and the John W. Reed Michigan Lawyer Legacy Award to Professor Alan Schenk. The motion was approved.

Ms. Grieco reported that the nomination for the Liberty Bell Award will be presented to the Board at its June 2017 meeting.

#### **Public Policy**, Donald G. Rockwell, Chairperson

The Board members receive a written public policy report

The Board members received a written Justice Initiatives Report.

#### **ABA Day 2017**

Mr. Rockwell indicated that there are two Federal issues for consideration and invited Mr. Cunningham to inform the Board on both of these issues.

Mr. Cunningham described both of the issues to the Board and indicated that these issues are ones that the delegation from the State Bar will advocate for during ABA Days in Washington, D.C.

**Funding of the Legal Services Corporation (LSC):** LSC grantees provide civil legal aid to constituents at 125% of the poverty level and below. Congress should return LSC funding to \$450 million—roughly the FY2010 appropriation (inflation adjusted) before the dip in the economy.

A motion was offered and supported that this issue is Keller permissible. The motion was approved.

A motion was offered and supported to support returning Legal Services Corporation funding to \$450 million. The motion was approved.

**(H.R. 1993) To Amend Title 38, United States Code, to authorize the Secretary of Veterans Affairs to Enter Into Partnerships with Public and Private Entities to Provide Legal Services to Homeless Veterans and Veterans at risk of Homelessness**

A motion was offered and seconded that this item is Keller permissible. The motion was approved. A motion was offered and supported to support H.R.1993. The motion was approved.

A recommendation was made to have Mr. Cunningham draft a letter that the Commissioners could use to contact their Congressional representatives about the importance of these issues and suggested that the SBM use social media outlets to get the word out to members to contact their Representatives. It was noted that using email and especially postal mail are not the most effective way to contact the Representative; calling, especially district offices, is a better alternative.

**Court Rules**

**ADM File No. 2016-35 – Proposed Addition of Rule 6.008 to the Michigan Court Rules**

The proposed addition of Rule 6.008 would establish procedures for a circuit court to follow if a defendant bound over to circuit court on a felony either pleads guilty to, or is convicted of, a misdemeanor in circuit court, and would eliminate the practice of circuit courts remanding cases to district court except where otherwise provided by law. Remand to district court would remain a possibility in certain limited circumstances, including where the evidence is insufficient to support the bindover, *People v Miklovich*, 375 Mich 536, 539; 134 NW2d 720 (1965); *People v Salazar*, 124 Mich App 249, 251-252; 333 NW2d 567 (1983), or where there was a defect in the waiver of the right to a preliminary examination, *People v Reedy*, 151 Mich App 143, 147; 390 NW2d 215 (1986); *People v Skowronek*, 57 Mich App 110, 113; 226 NW2d 74 (1975), or where the prosecutor adds a new charge on which the defendant did not have a preliminary examination, *People v Berchbeny*, 387 Mich 431, 434; 196 NW2d 767 (1972), adopting the opinion in *People v Davis*, 29 Mich App 443, 463; 185 NW2d 609 (1971), *aff'd People v Berchbeny*, 387 Mich 431 (1972). See also MCR 6.110(H). The proposal is intended to promote greater uniformity and address a practice that varies among courts.

The Board voted to take no position on the proposed court rule, but authorized committees and sections to advocate. The motion was approved.

**Legislation**

**Juror Compensation**

**HB 4209** (Lucido) Courts; juries; juror compensation; increase. Amends sec. 1344 of 1961 PA 236 (MCL 600.1344).

**HB 4210** (Lucido) Courts; juries; increase in juror compensation; provide for. Amends sec. 151e of 1961 PA 236 (MCL 600.151e).

A motion was offered and supported that this legislation is Keller permissible. The motion was approved.

A motion was offered and supported to support this legislation. The motion was approved.

### **Eligibility Requirements for Attorney Licensing**

**HB 4312** (LeFave) Occupations; attorneys; eligibility requirements for attorney licensed in another state to practice law in Michigan; modify. Amends secs. 937, 940 & 946 of 1961 PA 236 (MCL 600.937 et seq.) & adds sec. 945.

**SB 0195** (Casperson) Occupations; attorneys; eligibility requirements for attorney licensed in another state to practice law in Michigan; modify. Amends secs. 937, 940 & 946 of 1961 PA 936 (MCL 600.937 et seq.) & adds sec. 945.

A motion was offered and supported that this legislation is Keller permissible. The motion was approved.

A motion was offered and supported to support this legislation. A roll call vote was taken. The motion failed.

### **Roll Call Vote**

Yes: Cunningham, Davidson, Dunning, Gardella, Haroutunian Edward, Haroutunian Krista, Heath, McGinnis, Moss, Olsman, Perkins, Pero, Radke, Rockwell, Shekell, Nolan

No: Anderson, Barnes, Buchanan, Canady, Fink, Grieco, Herrmann, Hohaus, Jane, McCarthy, McGill, Siriani, Ulrich, Warnez, Washington

Absent: Riordan

**HB 4463** (VanSingel) Civil procedure; evictions; limited liability companies; allow members and others with personal knowledge to represent in certain situations. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 5707.

A motion was offered and supported that this legislation is Keller permissible. The motion was approved.

A motion was offered and supported to oppose this legislation. The motion was approved.

### **Model Criminal Jury Instructions**

#### **M Crim JI 4.5**

The Committee proposes amending M Crim JI 4.5, the instruction for using prior inconsistent statements to impeach witnesses. The Committee determined that the current instruction was confusing and in need of clarification. The amendment is drawn from a federal court instruction.

A motion was offered and supported to support the proposed criminal jury instruction. The motion was approved.

#### **M Crim JI 15.3**

The Committee proposes amendments to the "operating while intoxicated" instruction, M Crim JI 15.3, for violations of MCL 257.625. The amendments consolidate the instruction, rather than having separate paragraphs for alcohol, controlled substances, or intoxicating substances.

A motion was offered and supported to support the proposed criminal jury instruction. The motion was approved.

#### **M Crim JI 17.25**

The Committee proposes amendments to the "stalking" instruction, M Crim JI 17.25, for violations of MCL 750.411h and 750.411i. One amendment adds the presumption found in MCL 750.411h(4) and 750.411i(5) that the victim felt terrorized, frightened, intimidated, threatened, harassed or molested when the defendant has persisted in a course of unconsented contact.

A motion was offered and supported to support the proposed criminal jury instruction. The motion was approved.

**President's Report**, Lawrence P. Nolan, President

**Board Officer Election Procedure, Matrix, and 2017 Timeline**

Mr. Nolan informed the Board that the deadline to submit a letter of interest and matrix for the position of Treasurer of the State Bar for 2017-2018 is June 6, 2017. Materials should be sent to the President and the Executive Director.

Mr. Nolan informed the Board that Ms. Paulette Brown, Immediate Past President of the ABA, will be the keynote speaker at the Davis Dunning's Bar Association's Otis Smith Scholarship dinner on Friday, April 28 at the Crowne Plaza.

Ms. Dunning's mentioned to the Board that Mr. Nolan will receive the Davis Dunning's Bar Association's Trailblazer Award at its dinner on April 28.

Mr. Nolan reminded the Board to register for the Bar Leadership Forum as soon as possible.

**Executive Director's Report**, Janet K. Welch, Executive Director

**FY 2018 Budget Process, Roles, and Calendar**

Ms. Welch asked Mr. Horsch to describe the FY 2018 budget process to the Board. He reported that the budget process is the same as in recent years. Current plans are for the FY 2018 key budget assumptions to be reviewed with the Board at its June meeting and for the proposed FY 2018 budget to be brought to the Board for action at its July meeting.

**Suspension for Non-Payment of Dues**

Ms. Welch described the steps that are taken each year by State Bar staff to contact members who do not pay their dues on time. Mr. Horsch presented a power point presentation describing the process of member dues notification, fees for late payment, and suspension for non-payment of dues; as well as statistics and demographic data related to the number of members incurring late payments and suspension for non-payment of dues. After discussion, Mr. Nolan appointed a work group to review the dues process and make recommendations that could include making a change to the timing of dues process and changes in penalties for late payment. Commissioner Buchanan will chair the work group and Commissioners Canady, Fink, McGill, and Moss will serve on the work group.

**Strategic Planning – LRS Modernization**

Ms. Welch informed the Board that the SBM is moving from the design phase of the strategic plan to the building and operating phase. The Board has already talked about strategic planning in the context of committee restructuring; another big step involves building the online legal resource center. The public resource center will include a lawyer referral service (LRS) component that will connect the public with the legal resources they need. To that end, the LRS steering committee is meeting after the Board meeting to review what the pilot project has done so far, what we are learning from it, and to get feedback. She will provide a report to the Board at its June meeting.

**Representative Assembly (RA) Report**, Fred Herrmann, Chairperson

Mr. Herrmann reported that at its April 22 meeting, the Assembly will hear an educational and motivational presentation on legal aid funding shortfalls and what the Assembly membership can do to help with the access to justice. He informed the Board that Chief Justice Stephen Markman will address the Assembly; Past President, Lori Buiteweg, will present the SBM's strategic plan for action; proposals to change court rules and the rules of professional conduct will be considered; and the Assembly award recipients will be selected.

**American Bar Association (ABA) Report**

No report.

**Young Lawyers Section Report (YLS)**, Shenique A. Moss, Chairperson

Ms. Moss reported that the YLS Summit is taking place at Crystal Mountain Resort in Thompsonville on April 28 – 28, 2017. She informed the Board that at that meeting the YLS will present Katherine Marcuz with the Regeana Myrick Outstanding YLS Award.

Ms. Moss reminded the Board that the “Fowling Challenge” event between the Board of Commissioners and the Young Lawyers Section Executive Council will take place after today’s Board meeting, beginning at 3:00 p.m.

Ms. Moss informed the Board that they are planning a first time U.P. event in Marquette on June 23 and that the engagement committee is working to develop an agenda and the educational programs.

**Comments from Commissioners**

Mr. Haroutunian called the Board’s attention to Holocaust remembrance week, and encouraged the Board to attend showings of “The Promise,” the backdrop for which is the Armenian genocide.

Mr. Nolan reminded the Board that May 1 is Law Day and encouraged Commissioners to go out in their local communities and talk about the rule of law.

Ms. Grieco reported that the Negligence Law Section Summer Reception is taking place on Thursday, August 24 at Blackstone’s Pub and Grill in Flint. At that meeting the 2017 Outstanding Achievement Award will be given to Mr. Rockwell and the Trial Judge of the Year Award will be given to Hon. Joseph Farah.

**Adjournment**

The meeting was adjourned at 12:25 p.m.