

The regular meeting of the Board of Commissioners was called to order by President Brinkmeyer at 9:30 a.m. on Friday, June 11, 2004, in the Grand Pavillion of the Grand Hotel, Mackinac Island, Michigan. Commissioners present were:

Scott S. Brinkmeyer, President	Daniel M. Levy, Assembly Chair
Lori A. Buiteweg	Craig H. Lubben
Kimberly M. Cahill, Secretary	Richard D. McLellan
Thomas W. Cranmer, Vice President	Angelique Strong Marks
Kathryn M. Day	Stephen J. Murphy III
Nancy J. Diehl, President-elect	Lambro Niforos
Kim Warren Eddie	Edward H. Pappas
James N. Erhart	Randolph P. Piper
Elias J. Escobedo, Jr.	D. Andrew Portinga
Julie I. Fershtman	Kurt E. Schnelz
Elizabeth A. Jamieson	Hon. Cynthia D. Stephens
W. Anthony Jenkins	Charles R. Toy
Allyn D. Kantor	Gregory L. Ulrich
Ronald D. Keefe, Treasurer	Rodger D. Young
	Debra A. Walling

Commissioners Michael S. Hohausser, Hon. William B. Murphy and were absent and excused.

State Bar Staff Present:

Lisa Allen-Kost – Director, Programs & Services
John T. Berry – Executive Director
Nancy Brown – Director, Communications
Candace A. Crowley – Access to Justice Manager
James C. Horsch – Director, Finance and Administration
Elizabeth K. Lyon – Legal Secretary
Glenna D. Peters – Executive Coordinator
Chad E. Sluss – Member Services Manager
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.

A moment of silence was observed in honor of Former President Reagan who passed away June 5, 2004.

LEADERSHIP REPORTS

President's Report – Scott S. Brinkmeyer

President Brinkmeyer announced that on June 1, 2004, the Supreme Court issued an order amending Rules 3 and 4 of the Rules Concerning the State Bar of Michigan. At our request, an emeritus membership status was created for active or inactive lawyers who have reached the age of 70 or over, or who have been a member of the Bar for at least thirty years. Note that this is different than the fifty-year senior lawyer status.

Importantly, all members who resigned or were suspended for nonpayment of dues are automatically reinstated as emeritus status members, unless they notify the Secretary of the Bar otherwise, provided they meet the qualifications. No dues will be charged to emeritus status members. Inactive lawyers may now select emeritus status (if they qualify) and not be subject to dues, however they cannot practice law. Mr. Brinkmeyer reported that we will continue to seek other ways to assist our senior lawyers and noted that there may be a question regarding eligibility for medical coverage with Blue Cross/Blue Shield, which we will discuss with the Goebel Group.

President Brinkmeyer reported that under the authority of the Executive Committee, he and Executive Director John Berry wrote letters to the Michigan Supreme Court. Mr. Berry submitted a summary of our current financial status and strategic plan update to all Justices. Mr. Brinkmeyer asked that the Court reconsider the proposal of the Representative Assembly for the full dues increase of \$40.00.

Representative Assembly Chairperson's Report – Daniel M. Levy

Mr. Levy updated the board on the election for Representative Assembly and reported that of the 16 circuits that did not have candidates running in the election, 11 of them had less than 100 lawyers practicing in the entire circuit; four of them had 40 or less.

Mr. Levy reported that the October 1 Assembly agenda may include the following; an integrated State Bar drug policy, which needs more work to become a Keller-permissible issue proposal; Canon 7 of the Judicial Code of Conduct which involves paying for endorsements; and the possibility of the Assembly recommending as bar policy that the Supreme Court amend the court rule that allows students to practice in legal aid clinics and public prosecutors offices, giving emeritus status attorneys the same rights as law students in that respect, allowing them to practice under the supervision of legal aid staff or prosecutor.

CONSENT AGENDA

A motion was made and seconded to remove Item IX. 2004 Awards. Motion carried. Commissioner Cahill expressed concern about Item E. to establish a new award, the Lifetime Achievement Award, noting that it is difficult to find appropriate nominees for awards that already exist, and that it closely mirrors an award given by the Assembly.

Commissioner Stephens led a discussion regarding the Frank J. Kelley Distinguished Public Servant Awards. She reported that Hon. Terrance K. Boyle, retired, was nominated for the award but based on the language of the criteria, the Awards Committee was under the impression that only elected or appointed officials (i.e., the Attorney General or the Prosecutor) could receive the award, as opposed to an assistant attorney general or an individual in the prosecutor's office.

Commissioner Diehl clarified that Judge Boyle was subsequently nominated to receive the Champion of Justice Award. Commissioner Stephens recommended amending the criteria of the Frank Kelley Award and allowing the Awards Committee to meet by telephone to then consider giving that award to Judge Boyle. It was further recommended that the Executive Committee be given the authority to approve giving the Frank Kelley Award to Judge Boyle if the recommendation was to change his award from the Champion of Justice to the Frank Kelly Award.

Commissioner Stephens made a motion to change the language included in the current criteria of the Frank Kelley Award from public office to public sector. Motion was seconded and carried. A friendly amendment by Commissioner Ulrich was accepted to include the words "past or present" before the word "service". The criteria should now include the following language:

Past or present service in the public ~~office~~ sector [elected or appointed official] in a way that strengthens the American system of justice under the law;

Commissioner Stephens then made a motion to give the Executive Committee the authority (upon the recommendation of the Awards Committee) to award Judge Boyle the Frank Kelley Award. Motion was seconded and carried.

Subject to any change made pursuant to the preceding motion, a motion was made and seconded to adopt the Award Committee's recommendations as follows regarding the nomination for the Champion of Justice Award and to further approve the committee's recommendations for the Champion of Justice, Liberty Bell and Cummiskey Awards. Motion carried. The Lifetime Achievement Award will not be established.

2004 State Bar Awards

Champion of Justice – Hon. Terrance K. Boyle, Sandra L. Bailiff Girard, Richard Kupferschmidt, Michael V. Morgan, Richard S. Victor

Liberty Bell – Joaquin and Cari Guerrero

John W. Cummiskey Pro Bono Award – Joseph W. Cunningham

Commissioner Eddie made a motion to remove the payment of Claims from the Client Protection Fund, Item VI. Professional Standards Committee. Motion seconded and carried.

Mr. Eddie noted that approximately \$96,000 was recommended for payment of claims resulting from the actions of one lawyer, attorney Mark Light. Commissioner Cahill, Professional Standards Committee Chair, reported that the committee has looked at a number of ways to approach collecting the money from Mr. Light. They are working with the Attorney Grievance Commission to assure that restitution to the bar is a condition of reinstatement to practice law, and also working with prosecuting attorney offices to make sure that restitution is part of the sentence if they are pursued criminally. It is believed that Mr. Light is now incarcerated.

A motion was made, seconded and carried to pay the following Client Protection Fund claims as recommended:

No.	CPF No.	Amt	Full Name	Respondent
1.	CPF 1815	\$2,989.24	Castle, Anna	Mark T. Light
	CPF 1816	\$2,989.24	Kowatch, Andrea Carol	
	CPF 1817	\$2,989.24	Hunt, Donald L.	
	CPF 1818	\$2,989.24	Kerr, David	
	CPF 1820	\$2,989.24	Perry, Richard	
	CPF 1821	\$2,989.24	Fockler, Chip	
	CPF 1822	\$1,992.83	Smith, Larry H.	
2.	CPF 1827	\$2,989.24	Nash, Patricia	Mark T. Light
3.	CPF 1828	\$846.95	Wrozek, Walter J.	Mark T. Light
4.	CPF 1829	\$2,989.24	Cole, George J.	Mark T. Light
5.	CPF 1830	\$2,989.24	Fether, Troy	Mark T. Light
6.	CPF 1831	\$3,985.65	Watson, Linda Marie	Mark T. Light
7.	CPF 1834	\$4,982.06	Kemppainen, Gregory	Mark T. Light
8.	CPF 1840	\$3,985.65	Shepard, Cheryl D.	Mark T. Light
9.	CPF 1850	\$1,494.62	Ploch, Frederick K.	Mark T. Light
10.	CPF 1865	\$3,985.65	Bryan, Jr., Don Erick	Mark T. Light
11.	CPF 1868	\$2,989.24	Hauk, Thomas W.	Mark T. Light
12.	CPF 1871	\$1,494.62	Crosley, Erica	Mark T. Light
13.	CPF 1874	\$2,690.31	Hayden, Jeffrey B.	Mark T. Light
14.	CPF 1876	\$3,985.65	Oman, William David	Mark T. Light

15.	CPF 1879	\$1,992.83	Meeker, Christopher & Ruberto, Joseph	Mark T. Light
16.	CPF 1880	\$1,992.83	Ruberto, Carol & Ruberto, Joseph	Mark T. Light
17.	CPF 1883	\$2,989.24	Lehman, Gary	Mark T. Light
18.	CPF 1886	\$2,491.03	Harder, Sirrae E.	Mark T. Light
19.	CPF 1897	\$398.57	Pierce, Teresa	Mark T. Light
20.	CPF 1900	\$3,985.65	Scheidler, Karen S.	Mark T. Light
21.	CPF 1926	\$4,284.58	MacDonald, Bruce M.	Mark T. Light
22.	CPF 1950	\$775.00	Young, Nancy; Wallace, Kimberly; Maxw	Keith Godfrey
23.	CPF 1967	\$1,000.00	Mitton, Martin J.	Bernard Feldman
24.	CPF 1969	\$3,148.66	Dudinsky, Donovan	Mark T. Light
25.	CPF 1970	\$1,995.00	Wheeler, Gary	Dennis Nurkiewicz, Jr.
26.	CPF 1998	\$1,100.00	Wilburn, Tyrone	Martin A. Scott
27.	CPF 2005	\$300.00	Tervo, Christine M.	Gary E. Abeska
28.	CPF 2018	\$12,704.26	Frasco, Gregg P.	Mark T. Light
29.	CPF 2031	\$2,989.24	Bolt, Stanford M.	Mark T. Light
30.	CPF 2039	\$3,188.52	Greer, Jr., James J.	Mark T. Light
31.	CPF 2043	\$3,333.32	Blair, Phillip L.	Gary E. Abeska
32.	CPF 2048	\$2,100.00	Mailloux, Marlene	Martin A. Scott
33.	CPF 2058	\$498.21	Barton, Jeffrey	Mark T. Light
	Total	\$110,603.3		

A motion was made, seconded and carried to approve the remaining items on the Consent Agenda as follows:

Minutes

The Board approved the minutes of the April 23, 2004 Board of Commissioners meeting.

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

- April 12, 2004
- April 22, 2004
- May 17, 2004

President's Report – Scott S. Brinkmeyer, President

The Board received the President's written report.

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

The Board received the Executive Director's written report.

Finance and Human Resources – Ronald D. Keefe, Chairperson

The Board received the written year to date financial results through April 30, 2004, and the FY 2003-04 financial forecast.

Bylaw Amendment – Janet Welch, General Counsel

The Board approved the following Bylaw Article amendments that were included as notification at the April 23, 2004 Board meeting:

- Bylaw Article III – Board of Commissioners Section 1- Election Districts (Appendix A)
- Bylaw Article III – Section 7 – Meetings (Appendix B)
- Bylaw Article XI – Amendments (Appendix C)

Section Bylaw Amendment

The Board received notification of the bylaw amendment proposed by the Alternative Dispute Resolution that will be included for approval at the July 23rd Board meeting.

NOTE: Mr. Brinkmeyer reported that he was just notified that Governor Granholm would be joining the Bar Leadership Forum tomorrow (Saturday) in the Brighton Pavillion at 9:15 a.m.

LEADERSHIP REPORTS (continued)

Executive Director's Report – John T. Berry

Mr. Berry provided a brief overview of the 2004-05 budget, including key assumptions and financial projections. He reported that we are currently in good financial shape with a healthy reserve, but that is due to the hard work of the board and staff, as well as being conservative and not hiring staff positions, some that were approved in last year's budget. He noted that only a portion of the strategic plan has been implemented and if there is no additional dues increase, a budget increase will be required just to maintain the status quo. Commissioner Keefe reported that the Finance/HR Committee has reviewed the budget information and voted to approve a balanced budget that they believe can be achieved with some adjustments. Mr. Berry and Mr. Keefe invited input prior to the presentation of the budget at the July board meeting.

Young Lawyers Section Report – D. Andrew Portinga

Mr. Portinga provided a brief report on the section's recent and upcoming activities, including the 50-year honoree celebration at the Dearborn Inn on May 21st, the Lawyers Transition Program in Novi, and the Habitat for Humanity project in Lansing. Commissioner Levy emphasized the success of the Golden Celebration, noting that it was an impressive event. Mr. Brinkmeyer thanked commissioners who were in attendance.

COMMISSIONER COMMITTEES

Finance and Human Resources – Ronald D. Keefe, Chairperson

Mr. Keefe reviewed the recommendation for pre-funding the unfunded actuarial liability for retiree health care for Tier 1 and Tier 2 converts (included in the Board agenda packet). The pre-funding amount in FY 2003-04 is \$225, 037. Mr. Horsch added that the recommendation would not result in a budgetary impact, only a redesignation of existing fund balance within the Administrative Fund. He also noted that accounting rules are changing regarding this and by 2008 another actuarial study will need to be completed.

A motion was made, seconded and carried to approve the recommendation as presented in the board agenda packet and attached hereto as Appendix D.

Mr. Keefe reported that a sub-committee chaired by Elizabeth Jamieson was created to review the expense reimbursement policies. Mr. Keefe and Ms. Jamieson provided an update and invited comments within the next ten days.

Justice Initiatives Committee – Kimberly M. Cahill, Thomas W. Cranmer, Co-Chairpersons

Ms. Cahill reported that the new structure implementation report should be removed from the agenda. Commissioner Stephens noted that they are moving forward on the implementation.

Ms. Cahill referenced the written materials included in the agenda packet regarding ABA Day in Washington D.C. Commissioner McLellan reported that they met with Senator Stabenow and a number of congressional staff. They focused primarily on LSC funding. He indicated that the meeting was

worthwhile but recommended building into the Bar's activities more throughout the year as part of an ongoing effort rather than visiting for only one day. Commissioner Diehl thanked Candace Crowley and Dykema Gossett for their efforts in coordinating the visit.

Professional Standards – Kimberly M. Cahill, Chairperson

Ms. Cahill said there was nothing additional to report other than what was included in the consent agenda.

Programs and Services – Thomas W. Cranmer, Chairperson

Mr. Cranmer reported thanked staff and Commissioner Keefe for their efforts in making the Bar Leadership Forum and UMLI a success. Attendees for UMLI were approximately 110 and the Bar Leadership Forum was approximately 120.

Mr. Cranmer reported on the success of the Golden Celebration on May 21st at the Dearborn Inn honoring 50-year members of the Bar. He noted the importance of having the event separate from the Annual Meeting to provide a greater focus on the honorees and also recognized the collaboration between the Senior Lawyers and Young Lawyers Section.

Mr. Cranmer referenced the section survey results that were included as written materials on the agenda packet. He noted that overall there were many positive comments, though we need to continue to work on the listserv system, improvements to the website, and mailing lists.

Mr. Cranmer was pleased to report that more than half of the sections would be participating in the annual meeting.

Program information regarding the annual meeting was distributed to the Board. Following discussion, Commissioner Stephens made a motion to reject the fee structure included on the reservation form. The motion was seconded and carried.

A motion was then made and seconded to create a subcommittee to explore alternatives, including a lunch-only option, and revise the pricing schedule as soon as possible. The committee would consist of the current Annual Meeting Committee and additional persons determined by President Brinkmeyer. The motion also provided authority to the Executive Committee to act upon the recommendations of the subcommittee within the next two weeks, including determining the best alternative to notify members. Motion carried.

Lynn Chard provided a Michigan Law Online status update. Over 3,000 members are using the service and many positive comments have been received.

Public Policy, Image and Identity – Nancy J. Diehl, Chairperson

Ms. Diehl asked for comments about the Bar's legislative program, but there were none.

Michigan Court Rules

There were no proposed court rule recommendations to report.

Legislation

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

HB 5338 (Howell) – Civil procedure; other; procedure for affidavit of merit for medical malpractice; revise.

HB 5905 (Howell) – Torts; malpractice; retroactive effect of amended affidavit of meritorious defense in medical malpractice action; allow only with showing of good cause. **TIE BAR WITH HB 5338**; SAME AS SB 691.

Support in principle with amendment providing for 63 days (in place of 91) to respond equally for both parties

HB 5393 (Waters) – Criminal procedure; expunction; conditional expunction of criminal record; **Actively support substitutes allowing expungement of two misdemeanors with the exclusion of domestic violence and crime against person under 18**

Roll Call Vote:

Commissioners present voting in favor: Buiteweg, Cahill, Cranmer, Day, Diehl, Escobedo, Jamieson, Jenkins, Kantor, Keefe, Levy, Lubben, McLellan, Niforos, Pappas, Piper, Schnelz, Stephens, Strong Marks, Toy, Ulrich, Young, Brinkmeyer.

Commissioners voting against: Eddie, Portinga

Commissioners abstaining: Erhart, Stephen Murphy

HB 5680 (Middaugh) – Civil procedure; garnishment and attachment; stay of garnishment of bank account or tax refund when installment payments are made on judgment; provide for.

Deferred

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Mr. Brinkmeyer asked for comments or questions, but there were none.

Comments or questions from the Public, Old or New business

Mr. Brinkmeyer asked for comments or questions, but there were none.

A motion was made and seconded to move into Executive Session. General Counsel Janet Welch remained for the discussion.

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