

**MINNESOTA STATE BAR ASSOCIATION**  
Elder Law Section Governing Council  
Meeting Minutes

**Date: April 23, 2010**

**Council Members Present:** Vicki McIntyre, Jennifer Wright, Kristine Mullmann, Janet Totter, Vicki Ahl, Mark Anderson, Stuart Bear, Joel Button, Kristin Ebbott (law student member), Kathleen M. Eveslage, Margaret (Pook) Grathwol, Lori Guzman, Laurie Hanson, Richard Hawke, Peter Hendricks, Paulette Joyer, Bonita Kallestad, John Kantke, Ken LaBore, Sally Mortenson, Tom O'Connell (ex officio), Jennifer Olin (law student member), Laura Orr (law student member), Cathryn Reher, Sarah Rowley, Robert Russell, Suzanne Sandahl, Suzanne Scheller, Jeffrey W. Schmidt, Lori Skibbie, Gary Smith (law student member), Joel Smith, Dan Steinheigen, Janet Totter, Julian J. Zweber, and Laura Zydchnech (ex officio).

**Present by phone:** Bonita Kallestad, Bob Russell, Cathryn Reher, Laurie Hanson

**Excused Absences:** Lori Skibbie, John Kantke, Sarah Rowley, Kathy Eveslage, Joel Button, Pook Grathwol, Peter Hendricks. Joel Smith

**Unexcused Absences:**

**Guests:** Jan Frankman

**MSBA Staff: Elyse Farnsworth**

- 1. Call to Order:** The Governing Council of the Elder Law Section of the Minnesota State Bar Association met on April 23, 2010, at MAO Offices located at 2021 East Hennepin, Suite 200, Minneapolis, Minnesota. The meeting was called to order at 3:33 p.m. by Chair, Vicki McIntyre.
- 2. Approval of Agenda:** The agenda was approved as submitted.
- 3. Approval of February 19, 2010, Council Meeting Minutes:** Upon motion duly made and seconded, the minutes from the February 19, 2010, meeting of the Governing Council were approved as submitted.
- 4. Treasurer's Report:** Upon motion duly made and seconded, the Treasurer's Report for the period ending February 28, 2010, was discussed and accepted.

**5. Committee Reports**

5.1 Pro Bono/NHDD

Kristine Mullmann

Kristine reported that National Healthcare Decisions day, held on April 16, 2010, was very successful. Vicki read a list of Governing Council members who volunteered for

the event and thanked everyone for their participation. Vicki is waiting for feedback from NHDD event sponsors and will provide a full report of results when available.

## 5.2 Nominations

Dan Steinhagen

Dan presented the slate of candidates for Officer and Governing Council member positions for 2010-12. He noted that Laurie Hanson has offered to remove her name from the slate so that a new member may be nominated to serve. Dan indicated that the slate would be changed to delete Laurie's name and to add the name of Jennifer Lammers as a Governing Council member nominee.

**\*\*Motion to approve the slate of nominations as amended passed unanimously.\*\***

Jennifer Wright noted that, as the new Chair, she will be appointing three committee chairs or co-chairs who will become ex-officio members of the Governing Council for 2010-11. Those members will be: Tom O'Connell, Laura Orr, Laurie Hanson.

Vicki noted that, as only two students have been nominated for student position on the Governing Council, two more students may be nominated from the floor at the Annual Meeting. Suzy Scheller volunteered to contact Hamline Law School to see if any Hamline students might be interested, and Elyse Farnsworth volunteered to contact the University of Minnesota's law school.

## 5.3 Law Student

Laura Orr

Laura reported that the May 1st Service Event is moving forward. Ten students, six attorneys, and a family member have signed up for volunteer duty with HandyWorks, a local nonprofit organization that helps older and permanently disabled adults continue living independently at home. The volunteers are scheduled to rake yards and do other spring clean-up at five homes, with lunch to follow at Dan Steinhagen's office. Laura noted that two more rakes are needed, and Laurie Hanson volunteered to bring two rakes!

## 5.4 Member Education

Laura Zdychnec

Laura reported that she has completed the written materials and the PowerPoint presentation for our section's CLE in a box program, "Medical Assistance Eligibility: Fundamentals of Minnesota Health Care Programs for Seniors," to be presented at the MSBA's "Nine Days in June" conference day on June 18th, 2010, in Willmar. The presentation is sixty minutes in length and will receive one CLE credit. Thanks to Mark Wermerskirchen, who will present the program in Willmar. Vicki also thanked Laura for her excellent work in putting the materials and the PowerPoint together.

## 5.5 Elder Law Institute

Jennifer Wright

5.5.1 Jennifer reported that the first ELI planning meeting was last week, where ideas were discussed about presentations. Because less money is available this year, Minnesota CLE will not provide the customary planners' luncheon during the ELI. The Awards Presentation at the Day One luncheon also needs to be tightened so that afternoon programming does not get backed-up.

5.5.2 The next planning meeting is May 19, 2010, at 11:30am at Minnesota CLE's St. Paul offices.

## 5.6 Communications

Laurie Hanson

5.6.1 Laurie reported that Marjorie Austin is now working as Editor-in-Chief of the e-newsletter. The newsletter is looking for more article submissions.

5.6.2 The MSBA is working on changes to the section's Website. The committee will ask for feedback when the changes are completed.

## 5.7 Vulnerable Adult

Ken LaBore/Suzy Scheller

5.7.1 Ken reported that the committee is looking for public speaking engagements on the following topics: Elder Abuse and Neglect & Facility Selection; Power of Attorney & Guardianships/Conservatorships; Vulnerable Adults Act & Financial Exploitation. The presentations are designed to be informational for community groups who wish to learn more about the issues impacting vulnerable adults, such as church groups, senior citizen groups, etc. The committee has a brochure available describing its goals, mission, and presentation topics. Anyone wishing to schedule a presentation may contact Ken.

5.7.2 The next committee meeting is Thursday, April 29, 2010, at noon.

5.7.3 There is no new legislation regarding vulnerable adult issues this year except some "clean-up."

## 5.8 Medical Assistance

Cathryn Reher

### 5.8.1 Medicaid State Plan Update

Cathryn thanked Nick Halbur and his staff at St. Thomas for the assistance they provided in acquiring a hard copy of the State Plan and scanning the document for us. The entire document is now in PDF format and Vicki is working with the Staff of practicelaw to get the entire 1600 pages posted by the end of June.

### 5.8.2 Plans for Monitoring Amendments to the State Plan

The next step is to determine who the players are in the State Plan Amendment (SPA) process and to develop a plan for monitoring SPAs and participating in the amendment process. Jennifer noted the Medical Assistance Committee would be a logical home for this function. Cathryn suggested that we think about hiring a student for the job. Jennifer noted that a student might not be a good fit, as it would be better to have someone who could stick with the job over a number of years, rather than having a new person every year. Cathryn suggested that we consider hiring a contract attorney who would not change every year. Bonita is on the Citizens Advisory Committee and volunteered to seek assistance from that committee.

As part of the SPA process, DHS comes up with state plan amendments, which then go to CMS. Julian noted that the Obama administration will require more information to be made public going forward. CMS is to be putting together groups of individuals to more directly assert involvement with CMS, which could require this committee to be more formal so that we can deal with CMS not DHS. States will have to show a greater involvement due to Obama administration directives.

QUESTION: Should the EL Section participate in the process of change with the State Plan or just react to the changes? Our Section must go through MSBA to take a position which could make an advocacy position difficult.

Cathryn volunteered to form a group to meet with Lisa Knazan at DHS and ask for involvement. Once we determine how to go about monitoring SPAs, then a law clerk might be a good person to check the website and do administrative work. Anyone who wants to be included in Cathryn's meeting with Lisa should let Cathryn know. She will set up a meeting as soon as possible.

### 5.8.3 Appointment of "SPA Czar"

Vicki McIntyre

Vicki reported that she had hoped to announce the appointment of a "SPA Czar" at this meeting, who would be in charge of putting in place a committee to research the SPA process and determine the most effective manner for our section to participate. Unfortunately, both of the members she approached regarding the appointment during the past month declined. Vicki will wait until Cathryn has met with DHS to determine how to proceed going forward.

### 5.9 Bylaws

Richard Hawke

No report

5.10 Awards

Julian Zweber

Julian reported that the Awards Committee will meet in May to begin consideration of awards to be presented at October's Elder Law Institute.

5.11 Greater Minnesota

Bonita Kallestad

Bonita reported that she received only three responses to her newsletter notices about involvement in the Greater Minnesota committee, and only one person was interested in meeting. Given the apparent low level of interest, the council may wish to reconsider the need for continuing this committee.

5.12 Strategic Planning

Tom O'Connell

No report

5.13 Legislative

Julian Zweber/Lori Guzman

Julian reported that MSBA priorities this session were no sales tax on attorney fees, support for courts, and support for legal aid. Other section bills have gone through. The biggest issue is how to get out of session by May 14<sup>th</sup>. How much of new money will require state to keep policies in place? What will the rules be as of January 1, 2011?

**6. Old /New Business**

6.1 Section Dues Declaration

Vicki McIntyre

Vicki reported that she received the 2010-11 Section Dues Declaration from the MSBA in mid-March, with a due date of April 15, 2010. Because the deadline occurred prior to the next Governing Council meeting, Vicki took a vote of the Executive Committee - which is empowered by the section bylaws to transact business between Governing Council meetings - and submitted the Dues Declaration by the required deadline.

The main issue this year continues to be the \$6.00 per person "Administrative Fee" which is assessed by the MSBA as part of each member's dues payment. Although this fee flows through the section's treasury, it is not for the benefit of the section but is paid out to the MSBA as a "reimbursement." Thus, the fee is not really a part of our section dues, but is a surcharge for the MSBA. The section's dues have historically been \$15.00 per member per year; with the addition of the Administrative Fee last year, each member's section dues rose to \$21.00.

During 2009 the section expressed to the MSBA its objection to this surcharge.

Because the surcharge once again appeared on the Dues Declaration for the section in 2010, Vicki contacted the MSBA for further discussion/explanation of the charge. Tim Groshens, MSBA Executive Director, indicated that the charge was approved as part of the MSBA's three-year budget, so will be in place at least through 2011-12. He also indicated that the surcharge would probably be permanent. The charge is not negotiable and is required to be added onto the annual dues for each member of every section.

Tim noted that some sections choose to pay this charge to the MSBA directly out of their section treasuries, rather than adding the charge onto member dues. Considering this option, Vicki reported that about 450 of our section members receive this surcharge, as student members are not charged for section membership. If we absorbed the \$6.00 surcharge for 450 members, the total charge would be about \$2,700 annually, which would quickly deplete our \$15,000 treasury. Vicki also researched dues levels for other sections and determined that, at \$21.00 per member, our section dues are still at the mid-to-low-end of the range.

After considering the options, the Executive Committee voted to make no change and to approve submitting our section's Dues Declaration at the same level as last year, or \$21.00 per member. Vicki asked that the issue be referred to the Strategic Planning Committee for further discussion.

**\*\*Motion to endorse the action of the Executive Committee to keep dues at the current rate was passed unanimously\*\***

6.2 MSBA Special Membership Promotion Vicki McIntyre/Elyse Farnsworth

Vicki reported that the section is participating in the MSBA's campaign to promote section membership. The campaign, which kicked off in mid-March, includes a special section membership offer: Anyone who joins an MSBA section before July 1, 2010, will receive section membership through June 30, 2011. Thus, if a member joined our section in mid-March, s/he would receive section membership for 15.5 months for the price of 12 months. The MSBA is also contacting past members to see if they would like to re-join.

6.3 Upper Midwest Pension Rights Project Vicki McIntyre

Vicki announced that the Upper Midwest Pension Rights Project, formerly part of the Senior Federation, is now active as a partnership between the Metropolitan Area Agency on Aging (Minnesota), Iowa Legal Aid, and the Coalition of Wisconsin Aging Groups. UMPRP is also sponsored by Legal Services of North Dakota and South Dakota and the Elder Law Forum of the University of South Dakota Law School. Thus, the Project now serves five states in the upper midwest: Minnesota, Iowa, Wisconsin, North Dakota, and South Dakota. UMPRP provides assistance and advocacy concerning issues with pensions, which provide another source of income for our clients, and may be useful for our clients to know about. Vicki will put an article in the newsletter.

#### 6.4 Annual Meeting

The Annual Meeting will be held at 1:00 pm on Tuesday, June 8, 2010, at RiverCentre in St. Paul.

#### 7. Adjournment

The meeting was adjourned at 5:00 p.m.

The next meeting of the Governing Council will be held on Tuesday, June 8, 2010 - 1:00 p.m. - RiverCentre, St. Paul.

<b>Call-In Instructions:</b> Call: 1-866-939-8416	Enter Participant Code: 9797594 #
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