

MINNESOTA STATE BAR ASSOCIATION
Elder Law Section Governing Council
Meeting Minutes

Date: October 9, 2009

Council Members Present: Vicki McIntyre, Janet Totter, Vicki Ahl, Mark Anderson, Stuart Bear, Joel Button, Margaret (Pook) Grathwol, Lori Guzman, Laurie Hanson, Richard Hawke, Peter Hendricks, Paulette Joyer, 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), Dan Steinheigen, Julian J. Zweber, and Laura Zydchnech (ex officio).

Present by phone: None.

Excused Absences: Kristin Ebbott (law student member), Jennifer Wright, Kristine Mullman, Kathy Eveslage, Bonita Kallestad, and Joel Smith.

Unexcused Absences: None.

Guests: Kris Maser, Mary Frances Price

MSBA Staff: Elyse Farnsworth

1. **Call to Order:** The Governing Council of the Elder Law Section of the Minnesota State Bar Association met on Friday, October 9, 2009, at the Minnesota CLE Conference Center, Minneapolis, Minnesota. The meeting was called to order at 12:55 p.m. by Chair, Vicki McIntyre.
2. **Approval of Agenda:** The agenda was approved as submitted.
3. **Approval of August 21, 2009 Council Meeting Minutes:** Upon motion duly made and seconded, the minutes from the August 21, 2009, meeting of the Governing Council were approved as submitted.
4. **Treasurer's Report:** The Treasurer's Report for the fiscal year ending June 30, 2009, was discussed. The section ended the year in the black and currently has over \$10,000 in the reserve account which is not used for monthly budget items.

5. Committee Reports

5.1 Elder Law Institute

Vicki McIntyre

The 2009 Elder Law Institute was attended by nearly 300 people, up from the last couple of years.

5.2 Awards

Julian Zweber

Awards were presented at the Elder Law Institute luncheon on October 8, 2009.

5.3 Strategic Planning

Tom O'Connell

No report.

5.4 Bylaws

Richard Hawke

No report.

5.5 Communications

Suzy Scheller/Laurie Hanson

The council was provided with material regarding the MSBA website redesign. All section sites are being upgraded to include consistent toolbar options, etc. The final changes won't be made until July 1st, but the section can incorporate information they want now. The new design is intended to be more user-friendly.

Jonathon Lips has resigned as assistant editor for the newsletter. A volunteer is needed to assure the newsletter goes out weekly when Suzy is unable to do so.

5.6 Greater Minnesota

Bonita Kallestad

Bonita has made numerous attempts to obtain input from outstate section members with no response. It is possible that the dissemination of information through the section newsletter has eliminated some of the concerns that lead to establishing this committee.

5.7 Law Student

John Kantke

John thanked Gary, Laura, Kristina, & Jenny for their work in putting together the ELI break-out session on pro bono opportunities. Five presenters from the community discussed pro bono opportunities relevant to section members.

5.8 Legislative

Lori Guzman/Julian Zweber

5.8.1 Real Property Council letter to CMS re: 2009 Estate Recovery Amendments

The Real Property section council distributed a letter for submission to CMS (objecting to changes in Minnesota's estate recovery laws) to its members. The council approved the letter on September 23rd, but before a section can take any position on legislation, the MSBA president must determine if it conflicts with the bar's position. The letter will now be submitted to various sections for review, and will be discussed by the bar's

legislative committee on October 23rd. Final section proposals are to be submitted by October 30th for consideration by the assembly in December.

****Motion to support the Real Property Section's proposed letter for submission to CMS regarding changes to estate recovery law was passed unanimously. (23 in favor, 0 opposed, 0 abstentions)****

5.8.2 Request for review of amendments to Minn. Stat. 524.5-315

A joint task force with Health, Probate & Trust, and Elder Law section members will review new guardian/conservatorship legislation and changes to the Vulnerable Adult statute for technical issues. Anyone interested in participating should contact Julian.

5.9 Medical Assistance

Cathryn Reher

5.9.1 Options for tracking amendments to State Plan

It is a disservice to section members that we do not know the technical procedure for tracking and comparing proposed amendments to the state plan. DHS is very clearly overreaching, and under-reporting to CMS. Plan requests are being submitted months before legislation is enacted. As a section, we need a systematic method to evaluate these proposed amendments. We should be able to post a complete copy of the state plan on the section website. We need to identify the appropriate contacts at the state level and CMS (who is responsible for review, oversight and approval). The state plan must conform with federal law in order for Minnesota to receive federal funding. SPA information submitted to CMS is much abbreviated from what appears in the statute.

****Motion that the section chair investigate the cost of obtaining a complete copy of the state plan was passed unanimously.****

****Motion that the strategic planning committee review options for tracking proposed state plan amendments was passed unanimously.****

The Medical Assistance committee continues to operate as a working forum with good discussions. Pook has taken on review of administrative decisions being issued. More participation is needed by other section members in order to build on what the committee could be doing, and getting information out to members. The next meeting of the Medical Assistance Committee is October 20th at 3:30 p.m. at MAO.

Anyone interested in participating in planning the Medical Assistance CLE next spring should contact Cathryn. This is not a section-sponsored seminar.

5.10 Member Education

Laura Zdychnec

Members are encouraged to submit materials for the elder law library on projusticemn.org.

5.11 Nominations

Dan Steinhagen

No report.

5.12 Pro Bono

Pook Grathwol/
Kristine Mullmann

The committee is gearing up for National Health Care Decisions Day in April. Pook will be submitting a request to the governor's office for a proclamation in January. (Last year's proclamation was issued 2 days before the event.) Section members are needed to serve on this committee.

5.13 Vulnerable Adult/Abuse

Ken LaBore/Joel Smith

Suzy and Ken are putting together a brochure for review at the next meeting. Anoka County has asked for more copies of a brochure originally prepared by the section approximately 10 years ago. Elyse is checking into MSBA participation.

6. Old Business/New Business:

6.1 Nine Days in June/CLE in a Box Update

Vicki McIntyre/Elyse

The governing council voted at the last meeting to prepare a "CLE in a Box" for MSBA's "Nine Days in June." The MSBA is currently putting together guidelines for these CLEs and we will wait for the guidelines before moving ahead. A topic for the CLE in a box must be determined by the end of the year.

6.2 Issue of companies apparently "practicing law"

Vicki McIntyre

There has been a flurry of activity by organizations "practicing law" without licensed attorneys. In one instance, the organization was advertising seminars where they hand out form wills, powers of attorney, etc. and then tell people how to complete and charge for the forms. The General Practice Solo/Small Section has unauthorized practice committee. Members can submit information to Elyse and she will pass it on to the committee for review/action. *

The meeting was adjourned at 2:03 p.m.

Respectfully submitted by Laura Zdychnec

** Note from Council Chair: Following the meeting, Elyse was informed that the General Practice, Solo & Small Firm Section is not currently pursuing action on unauthorized practice of law complaints, as previously planned. There is currently no formal mechanism for reporting or investigating such complaints within the MSBA, so complaints or concerns should continue to be directed to the offices of the County Attorney or the Minnesota Attorney General.*

The next meeting of the Governing Council will be held on Friday, December 18, 2009 at 3:30 p.m. at MAO Offices located at 2021 East Hennepin, Suite 200, Minneapolis, Minnesota.

2009-10 MEETING SCHEDULE

- Friday, October 9, 2009 - 12:30 pm - ELI
- Friday, December 18, 2009 - 3:30 pm - MAO
- Friday, February 19, 2010 - 3:30 pm - MAO
- Friday, April 23, 2010 - 3:30 pm - MAO
- Tuesday, June 8, 2010 - 1:00 p.m. - RiverCentre, St. Paul

Call-In Instructions: Call: 1-866-939-8416	Enter Participant Code: 9797594 #
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