

MINNESOTA STATE BAR ASSOCIATION
Elder Law Section Governing Council
Meeting Minutes

Date: December 18, 2009

Council Members Present: Vicki McIntyre, Jennifer Wright, Kristine Mullmann, Mark Anderson, Stuart Bear, Joel Button, Kathleen M. Eveslage, Margaret (Pook) Grathwol, Richard Hawke, Peter Hendricks, Paulette Joyer, John Kantke, Sally Mortenson, Tom O'Connell (ex officio), Laura Orr (law student member), Cathryn Reher, Sarah Rowley, Suzanne Sandahl, Suzanne Scheller, Joel Smith, Gary Smith (law student member), Dan Steinheigen, Julian J. Zweber, and Laura Zydchec (ex officio).

Present by phone: Jennifer Olin (law student member), Janet Totter, Bonita Kallestad, Lori Skibbie, Laurie Hanson, Robert Russell,

Excused Absences: Lori Guzman, Kristina Ebbott (law student member)

Unexcused Absences: Vicki Ahl, Ken LaBore, Jeffrey W. Schmidt

Guests: Mathea Bulander (New Lawyers Section Liaison), Jan Frankman (new Elder Law Section member)

MSBA Staff: Ashley Hacker

- 1. Call to Order:** The Governing Council of the Elder Law Section of the Minnesota State Bar Association met on December 18, 2009, at MAO Offices located at 2021 East Hennepin, Suite 200, Minneapolis, Minnesota. The meeting was called to order at 3:36 p.m. by Chair, Vicki McIntyre.
- 2. Guest Introductions:** Vicki introduced guests in attendance, listed above.
- 3. Approval of Agenda:** The agenda was approved as amended.
- 4. Approval of October 9, 2009 Council Meeting Minutes:** Upon motion duly made and seconded, the minutes from the October 9, 2009, meeting of the Governing Council were approved as corrected. Correction: Under section 5.6, Bonita indicated that she had at that time received two responses from outstate section members to her notices in the newsletter.
- 5. Treasurer's Report:** Upon motion duly made and seconded, the Treasurer's Report for the period ending October 31, 2009, was accepted.
- 6. MSBA Representative Report** Jennifer Wright

Jennifer has attended two MSBA Assembly meetings, on September 11, 2009, and December 11, 2009. She reported that the MSBA is setting 2010 legislative priorities and has hired a

full-time in-house lobbyist to work with Lloyd Grooms. The legislative counsel's time for the 2010 session will be allocated 75% to judicial election reform, court funding, and sales tax on legal issues, with only 25% allocated to all other issues. Financial reports look better than expected for the 2009-10 year, with a projected deficit of \$61,000. Membership has not declined as feared.

7. New Lawyers Section Liaison Update

Mathea Bulander

Mathea introduced herself and noted that, as the liaison for the New Lawyers Section, she will observe our meetings and report back to NLS on activities of the EL Section, with the objective of looking for ways for the two sections to work together.

8. Committee Reports

8.1 Strategic Planning

Tom O'Connell

The Strategic Planning Committee met on December 9, 2009, to discuss issues concerning the section's interest in obtaining a copy of the Medicaid State Plan, as well as other issues of concern to the section. The Committee approved the following recommendations, which were discussed and voted on by the Governing Council:

8.1.1 MSBA Funding Request

****Motion that the Elder Law Section decline the MSBA request for a \$200 donation for the MSBA public education programs, as those programs do not directly benefit the Elder Law Section, was passed unanimously.****

8.1.2 Law Student Advisor Request

**** Motion that the Governing Council endorse the request of the Law Student Committee to pair up volunteers from the Governing Council to serve as advisors on council matters for interested law student members of the Governing Council, with the program to be administered by the chair of the Law Student Committee, was passed unanimously.****

8.1.3 Bylaws Compliance Issue

****Motion that the issue of missing Annual Reports be referred to the Bylaws Committee to determine compliance requirements was withdrawn as moot, as the necessary research has already been completed, with the determination that the MSBA does require the Annual Reports in its bylaws.****

****Motion that the current section chair, in consultation with past chairs, prepare a manual/checklist for incoming Elder Law Section chairs, to assist them in starting the new year, was passed unanimously.****

The suggestion was also made that a job description be drafted for each Executive Committee position, as part of the checklist.

8.1.4 Medicaid State Plan Update

Vicki reported that, at the direction of the Governing Council, she researched the cost of obtaining a copy of the State Plan. She received an estimate from the state of approximately \$207 for the 1600-page Plan. Because the cost is surprisingly modest, the Executive Committee exercised its power to act on behalf of the Governing Council between meetings and authorized spending up to \$250 to obtain a copy of the State Plan. Vicki placed an official request for a copy of the Plan on November 19, 2009, but has not received any further communication. She will follow up on the status of the request.

Vicki was notified by Nick Halbur of St. Thomas that he and clinic students are also working on State Plan issues and may be interested in teaming up with the Elder Law Section to pursue getting a copy of the Plan and determining the best method (if any) of receiving notice when changes to the Plan are proposed. Jennifer Wright and Janet Totter are following up with Nick to determine how our section may work with St. Thomas on this initiative.

8.1.5 Medicaid State Plan Recommendations

****Motion That the entire State Plan be posted on the Elder Law website, if possible, or on Practicelaw.org with a link to the Elder Law website, to make the plan accessible to section members and the public, was passed unanimously.****

STEP 1. Publish the State Plan Table of Contents on the Section website immediately, listing DHS contact(s) who may provide copies of requested sections of the State Plan

STEP 2: Continue to investigate posting the entire State Plan, if possible, with cost to be approved by the Governing Council

STEP 3: Investigate working with the St. Thomas clinic to track changes/amendments to the State Plan

**** Motion that the section begin publishing proposed, pending, and approved amendments to the State Plan on the Elder Law Section website, as we learn of them, was passed unanimously.****

8.2 Elder Law Institute

Jennifer Wright

8.2.1 ELI Dates: October 7-8, 2010

Jennifer reported that the dates are set for the 2010 Elder Law Institute, which will be held on October 7-8, 2010. ELI Planning Committee meetings are also set, from 11:30 a.m. to 1:00 p.m. on the following dates: April 20, 2010; May 19, 2010; June 17, 2010.

8.3 Awards Julian Zweber

8.3.1 Award presentation at February meeting

Julian suggested that, because Bob Gunderson's immediate family members were out of town during the ELI awards presentation, we invite the family and members of Bob's firm to attend our February Governing Council meeting for the purpose of receiving Bob's posthumous award. Julian will work out the logistics.

8.4 Bylaws Richard Hawke

No report.

8.5 Communications Laurie Hanson

Laurie reported that two new committee members will be assuming new duties as of March 1, 2010: Andrea Palumbo will be doing the case reporting, replacing Peter Hendricks, and Marjorie Austin will become the new Editor-in-Chief. Marjorie is currently serving as Assistant Editor-in-Chief, working with Suzy Scheller to learn the ropes before assuming the new duties.

8.6 Greater Minnesota Bonita Kallestad

Bonita has been placing notices in the eNewsletter soliciting input from outstate membership and has had several responses. She will try to arrange a meeting in January, 2010, to determine the level of interest in working on outstate issues, if any are specifically identified.

8.7 Law Student John Kantke

To facilitate setting up the advisor program for the law students, John asked that members interested in serving as advisors indicate their interest on the meeting attendance sheet or contact him directly.

8.8 Legislative Lori Guzman/Julian Zweber

- 8.8.1 Letter to CMS re: Estate Recovery Amendments and
- 8.8.2 State Plan Amendment (Pending)

Julian reported that the Real Property Section letter that was endorsed by the Elder Law Section at our previous meeting was not sent, in deference to a “private” letter sent by a group of local attorneys (the “Magnificent Thirty”) addressing the estate recovery issues. He will keep us posted on any developments. Counties are now being told to file estate recovery claims and wait for instructions. Attorneys may need to get Clearance Certificates for all real estate transactions. Jennifer Wright will get out the approved changes about using current income for past medical bills.

8.9 Medical Assistance

Cathryn Reher

The next Medical Assistance Committee meeting will be at 3:30 p.m. on February 16, 2010.

8.10 Member Education

Laura Zdychnec

8.10.1 Nine Days in June/CLE in a Box Update

The topic for our proposed CLE in a Box is “Medical Assistance Eligibility: Fundamentals of Minnesota Health Care Programs for Seniors.” The MSBA has sent proposed topics out to the districts where the Nine Days in June conferences will be held, and the districts will vote on the topics they’d like to have included in their respective conferences. Top vote-getters will be notified in January. If our section’s topic is selected, we will put together a program that easily can be presented by section members in the selected districts. No further action is necessary until we hear back from the MSBA in January.

8.11 Nominations

Dan Steinhagen

No Report.

8.12 Pro Bono

Kristine Mullmann

8.12.1 Request for Budget Increase

The Pro Bono Committee would like to hire someone to upgrade the current Minnesota state website for National Healthcare Decisions Day (NHDD.) The current state site was put together by Vicki McIntyre on a Wiki platform, and although it is serviceable as a starter site, a more professional-looking site is desirable. Pook thinks that the person who designed her firm’s website might be available to redo the NHDD site for a fee of \$500.

****Motion that the Pro Bono Section’s 2009-10 budget be increased by \$500 for the purpose of creation of an NHDD website, passed with four nays and two abstentions.****

8.13 Vulnerable Adult

Ken LaBore/Joel Smith

8.13.1 Update on two brochures

Suzy Scheller reported that a brochure designed to provide information about the programs offered by the Vulnerable Adult Committee is ready to be printed. A second brochure, which is an updated version of a public informational brochure about abuse, neglect, and financial exploitation of the elderly, is currently being edited. We are awaiting a reply from the MSBA regarding their interest in once again providing assistance with the publication and distribution of the second brochure. Vicki will follow up with Elyse Farnsworth for an MSBA update.

8.13.2 Request for Budget Increase

Suzy requested an increase in the budget of the Vulnerable Adult Committee to cover the cost of printing the committee's promotional brochure.

****Motion that the budget of the Vulnerable Adult Committee be increased to \$250 to cover costs of printing and distribution, was passed unanimously.****

9. Old/New Business

9.1 Proposed Changes to Rules of Professional Conduct Vicki McIntyre

Vicki requested that members provide any feedback about the proposed changes to the Rules of Professional Conduct by January 8, 2010.

9.2 Bifocal

Vicki inquired whether other members were receiving Bifocal, The Journal of the ABA Commission on Law and Aging. As only two other council members were familiar with the publication, Vicki will forward the latest edition of the journal to all members of the Elder Law Section, noting that they may subscribe to the Journal if they find it useful.

10. ADJOURNMENT

The meeting was adjourned at 5:06 p.m.

The next meeting of the Governing Council will be held on Friday, February 19, 2010 - 3:30 pm – MAO.

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 #