

**MINNESOTA STATE BAR ASSOCIATION
ELDER LAW SECTION GOVERNING COUNCIL
Meeting Minutes**

Date: February 18, 2011

Council Members Present: John Kantke, Dan Steinhagen, Kathy Eveslage, Suzy Scheller, Sarah Leonard (student member), Laura Zdychnec, Ken LaBore, Tom O'Connell (ex officio), Jennifer Lammers, Paulette Joyer, Stuart Duerring (ex officio), Adam Rohne (student member); Margaret Grathwol, Sally Mortenson, Julian Zweber, Stuart Bear, Joel Button, Laura Orr

Present by phone: Dick Hawke

Excused Absences: Adam Heuette (student member), Vicki McIntyre, Kristine Mullman, Janet Totter, Ruthanne Vos (student member), Sarah Rowley, Bob Russell, Lori Skibbie, Jennifer Wright, Peter Hendricks, Sue Sandahl, Cathryn Reher

Unexcused Absences: Vicki Ahl, Mark Anderson, Marjorie Austin, Laurie Hanson, Joel Smith.

Guests: Erbayne Jarvis

MSBA Staff: Elyse Farnsworth

1. Call to Order: The Governing Council of the Elder Law Section of the Minnesota State Bar Association met on February 18, 2011, at Monroe Village, 1900 Central Avenue, Minneapolis, Minnesota. The meeting was called to order at 3:30 p.m. by Vice-Chair, Suzy Scheller.

2. Approval of Agenda: The agenda was approved as submitted.

3. Approval of December 17, 2010 Council Meeting Minutes:

**** Motion to approve the 12/17/10 minutes as submitted passed unanimously. ****

4. Treasurer's Report: [Suzy Scheller]
[Written report attached.]

The Treasurer's Report for the period ending December 31, 2010, was discussed and accepted. Elyse reported that the section is charged 4 cents per e-mail address for e-mails sent to all section members.

5. Committee Reports

5.1. By-Laws [Tom O'Connell]
[Written report attached.]

Tom reported that the By-laws Committee reviewed other sections' by-laws regarding term limits. The consensus among committee members is that the section is well-served by both the institutional memory of long-term council members, and the influx of new members. Our current Bylaws permit up to 29 council members and one-half of council members are up for election each year. Naturally-occurring turnover should therefore permit sufficient change without the imposition of term limits. The issue was raised because there are more people wanting to serve on the governing council than there are spots available. The only current limitation is for officers who cannot serve in any one position for more than 2 consecutive terms. Accordingly, the Bylaws Committee recommends against imposing term limits.

**** Motion to adopt the Bylaws Committee's recommendation to make no changes to the section's by-laws regarding term limits passed unanimously. ****

5.2. Education [Sally Mortenson]
[Written report attached.]

Sally reported on the MSBA "9 Days in June" annual convention again this year. The planning committee is sponsoring a program between Health Law and Elder Law on legal issues at the end of life for 4 districts. Laurie Hanson has volunteered to go to Duluth. Laura Zdychnec volunteered to cover Prior Lake (1st Judicial District), Suzy Scheller volunteered to cover Blaine (10th Judicial District), and Pook Grathwol volunteered to cover Rochester (6th Judicial District). The panels will include one member of the Health Law section and one member of the Elder Law section. Sally reported that new DHS Commissioner Lucinda Jesson may moderate one or more panels.

5.3. Elder Law Institute Planning [Suzy Scheller]

The 2011 Elder Law Institute will take place October 6-7. Suzy will be chairing the planning committee as incoming President. She will send out a message in next few weeks regarding planning committee meeting dates.

5.4. Law Student Committee [Adam Rohne]

Adam reported that the committee is taking responsibility for providing a "link of the week" for the section's e-newsletter until June. In an effort to improve their research/writing skills, committee members also plan to make other contributions to the newsletter, and individual members are reaching out to council members who have committed to take responsibility for a particular month's submissions. The committee is also considering a spring service project, and would welcome suggestions/ideas.

5.5. Legislative [Julian Zweber]

Julian reported that the Legislative Committee is basically "lying in wait" to see what's going on at the legislature. Committee hearing schedules are reviewed by Julian twice each week

to determine whether items of interest to the section are being considered. Julian reported that basic Medical Assistance eligibility practices remain frozen by “maintenance of effort,” and that DHS appears to have accepted the fact that the MOE freeze will continue until 7/1/14. Accordingly, legislation (including the requirement that all transferred assets be returned within 12 months in order to eliminate a period of ineligibility) that was to have taken effect 7/1/09 appears to be delayed until 7/1/14. MOE also blocks the 2009 legislative changes in the determination of an “institutional level of care” (which impacts community services). Nonetheless, DHS is making it harder to access home and community based services by paying providers less for low-need individuals.

Kathy Eveslage reported that when appealing PCA benefits, clients can maintain their previous level of benefits while the appeal is pending. However, managed care providers such as Healthpartners are going to bill the provider if the client ultimately loses on appeal. This practice is likely to have a negative impact on the availability of providers available for PCA services.

Julian also reported that David Godfrey has been appointed the new Medicaid Director. Godfrey had previously been chief fiscal analyst for the Senate Health Care Finance Division.

5.6 Medical Assistance [Cathryn Reher]

Cathryn reported that the DHS Training Materials discussed at the previous meeting have been located online. Accordingly, no request for funding to obtain the materials is needed. The materials include case studies which will guide caseworker in evaluating applications. Elyse will put a link to the materials on the section’s website.

The next Medical Assistance committee meeting is April 19, 2011, at 3:30 p.m. The 2011 Medical Assistance CLE will take place on March 8, 2011.

5.7 Pro Bono [Suzy Scheller & Pook]

National Health Care Decisions Day is the committee’s biggest project. This year’s date is April 16, 2011, which is a Saturday. There are many events being planned around Minnesota, including several large events such as the one at William Mitchell. Anyone interested in volunteering for an event should contact Pook.

5.8 Medicaid State Plan [Stuart Duerring]

Stuart reported that he and Tom O’Connell have reached out to Lisa Knazan at DHS. They are trying to schedule a telephone conference or in person meeting to pursue liaison opportunities between the section and DHS.

6. New Business:

6.1. Date for Annual Meeting [Suzy Scheller]

Traditionally, the annual meeting of the Elder Law Section is held at the end of the Probate/Trust Institute which is June 6th and 7th. The Institute adjourns at 1 p.m. on the 7th, but will be followed by an ethics/elimination of bias session. Several council members missed the annual meeting last year in order to attend the ethics/elimination of bias session.

There was discussion regarding the best way to assure section members are able to attend the annual meeting. The primary purpose of the annual meeting is to elect new members and officers.

**** Motion to hold the combined annual meeting and regular governing council meeting on Friday, June 17, 2011 at 3:30 p.m. passed unanimously. ****

6.2. Nominations for Officers and Members for 2011-12 [Dan Steinhagen]

Dan will be contacting members before the April governing council meeting to determine their interest in new terms. Nominations will be discussed at the April meeting.

Dan also reported that according to section bylaws, the nominating committee must include one person who is a section member, but not a council member. Suggestions for a section member to serve on the committee should be submitted to Dan or Jennifer.

6.3. Estate and Elder Law Services [Paulette Joyer]

Paulette reported that Estate and Elder Law Services' funding comes in part from interest on trust accounts and from the civil legal aid budget. They are looking for some affirmation from the governing council in support of the services they provide to include in their upcoming grant proposal.

Elyse indicated that bar approval is required for the council to take a position in support of EELS, and suggested sending an e-mail to section membership indicating the position the council wishes to take, with a limited comment period.

**** Motion in favor of an e-mail to all section members to approve a statement that the Elder Law Section supports the services provided by Estate and Elder Law Services and VOA passed unanimously. ****

Paulette also indicated that EELS is always looking for volunteer attorneys as they are required to show they maximize pro bono efforts with volunteer attorneys.

7. Old Business:

7.1 List of Active Committee Members [Suzy Scheller]

Suzy circulated a list of active committee membership as reported by committee chairs, and reminded the council that every member is supposed to serve on at least one committee.

Adjourn. The meeting was adjourned at 4:45 p.m.

Respectfully submitted:

Laura Zdychnec, Secretary

The next meeting of the Governing Council will be held on April 22, 2011 at 3:30 p.m.

2011 MEETING SCHEDULE

Friday, April 22, 2011 – 3:30 – Monroe Village

June 17, 2011 – 3:30 – Monroe Village (meeting will be with the Section Annual Meeting)

August 19, 2011 – 3:30 – Monroe Village

Call-In Instructions: Call: 1-800-406-9170	Enter Participant Code: 2637797
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