

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

**Date: April 17, 2009**

**Council Members Present:** Jeffrey W. Schmidt, Vicki Ahl, Jennifer Wright, Stuart Bear, Kathleen M. Eveslage, Margaret Grathwol, Lori Guzman, Richard Hawke, John Kantke, Ken LaBore, Monica Lewis, Vicki McIntyre, Kristine Mullman, Sally Mortenson, Cathryn Reher, Robert Russell, Lori Skibbie, Dan Steinhagen, Janet Totter, and Julian J. Zweber,

**Present by phone:** Bob Russell, Ken LaBore

**Excused Absences:** Mark Anderson, Joel Button, Allison Crandall, Laurie Hanson, Bonita Kallestad, Sarah Rowley, Joel Smith

**Unexcused Absences:** (Note: Council members should contact the chair in advance when they are unable to attend a council meeting.) Jacob J. Baker, Nanzanin Barouti (student member), Suzanne Sandahl, David Stahlman,

**Guests:** Sara Sommarstrom and Jane Evans, MJF; Laura Orr, UST Law student; Letty Van Ert, Tuft & Arnold; Suzy Scheller, section committee member.

**MSBA Staff: Kim Basting**

- 1. Call to Order:** The Governing Council of the Elder Law Section of the Minnesota State Bar Association met on April 17, 2009, at MAO Offices located at 2021 East Hennepin, Suite 200, Minneapolis, Minnesota. The meeting was called to order at 3:30 p.m. by Chair, Jeff Schmidt.
- 2. Approval of Agenda:** The agenda was approved as submitted.
- 3. Approval of February 13, 2009 Council Meeting Minutes** Upon motion duly made and seconded, the minutes from the February 13 meeting of the Governing Council were approved.
- 4. Treasurer's Report:** Upon motion duly made and seconded, the Treasurer's Report for the period ending February 28, 2009, was discussed and accepted.

**5. Committee Reports**

5.1. Awards

[Julian Zweber]

No report. The Awards Committee roster was distributed.

5.2. By-Laws [Richard Hawke]

No report.

5.3. Elder Law Institute Planning [Vicki McIntyre]

First committee meeting Tuesday, April 21 at 11:30 a.m. at Minnesota CLE offices in St. Paul.

5.4. Greater Minnesota Support [Bonita Kallestad]

No report.

5.5. Law Clerk [John Kantke]

No report.

5.6. Legislative [Lori Guzman & Julian Zweber]

5.6.1. Proposed Changes to Guardianship/Conservatorship Statute (*See, House File 804*)

The bill is still alive but is in two different versions in the House and the Senate. The House bill is the one that is likely to move forward. There is still a fiscal note attached to the bill in the Senate, but it may be removed. The bill requires balancing the rights and needs of guardians/conservators and of respondents/wards. Our section membership represents professional guardians/conservators, family guardians/conservators, and respondents/wards. The committee chairs don't believe that the Elder Law Section's endorsement or lack of endorsement will affect the chances of the bill's passage. There are active and capable advocates on all sides, ensuring that the different points of view are being heard. Governing Council members expressed some differing points of view on the specific issues of controversy in the bill. **\*Motion to endorse the bill subject to the concerns of MAGiC and the Probate and Trust Law Section. The vote was: 11 in favor, 5 opposed, 3 abstentions. The motion carried.\*** The Chair will report on the motion to the MSBA.

5.6.2. Other Legislative Issues

The legislature adjourns May 18. We are moving into the end game. Several bills sponsored by other entities that are of interest to elder law practitioners are moving forward. The vulnerable adults bill is moving forward without snags. After sine die, there will be a summary report for the Governing Council of everything important that passes. Maintenance of need requirements of the federal stimulus package are blocking some of the Governor's proposals for cutting Medical Assistance. MA eligibility and coverage requirements must be rolled back to those in effect on July 1, 2008. The Governor wants to pass the cuts and make them effective as of January 1, 2012. No bill to that effect has been introduced.

5.7. Medical Assistance [Cathryn Reher]

Next meeting April 21 at MAO. Submit topics for discussion to the chair.

5.8. Member Education [Laura Zdychnec]

Laura went home sick with the flu. She wished to highlight responses to the member survey. 95% said that the section is meeting their CLE needs. The newsletter is very popular and serves important needs. We are doing a good job with providing education and services to our section.

5.9. Newsletter [Laurie Hanson]

5.9.1. Survey Results

The committee will be meeting to review results and see if there are any recommendations for changes or new programs. The overall response of the membership was very positive.

5.9.2. Editorial Standards

We print anything that we think is of interest or value to our membership. In case of serious controversy, the editor will consult with the committee and the Chair of the Governing Council, but will retain editorial discretion.

5.10. Nomination [Dan Steinhagen by Vicki McIntyre]

5.10.1. Presentation of 2009-2010 Slate

The committee presented the proposed slate. See slate as published in the newsletter and in the annual meeting notice. There were more strong candidates than there were openings – a great problem to have. We can have up to four student members, and all four student candidates are strong. Vicki, as the nominated Chair, expressed her intent to appoint the would-be candidates that are not on the slate as committee chairs, who will then become ex officio members of the Governing Council, per our by-laws. **\*Motion to approve the proposed slate was passed unanimously.\***

5.11. Pro Bono [Vicki McIntyre & Pook Grathwol]

National Healthcare Decisions Day was the day before the Council meeting. Preliminary indications are that the Day was extremely successful, with approximately three times the number of events as last year. The website was an excellent addition. We have even more interested sponsors who have expressed the intent to sponsor an event next year. We got a lot of interest from the Health Law Section. The greatest difficulty was in getting media interested in covering the Day. We would like to look into better marketing opportunities for next year. There will be a more comprehensive report with numbers of people served and numbers of

advanced directives completed coming soon. **\*Motion that the Elder Law section be liaison and coordinator for National Healthcare Decisions Day for 2010 passed unanimously.\*** The Governing Council extended thanks and appreciation to Vicki and Pook and everyone who worked on this year's Day.

5.12. Strategic Planning (*See, Minutes*) [Monica Lewis]

5.12.1. Funding for Elder Care Guide

The desired disclaimer has been included in the current draft of the Guide. There will be a list for attorney referral. None of the recommendations of the strategic planning committee (see committee report) pose any problems for the publishers. The committee believes that the Guide will be a very useful resource and benefit to our membership. Members will have free access to the Guide through the newsletter and website, as well as in hard copy. The Council will publicize the availability of the Guide. **\*Motion to provide funding for the Elder Care Guide up to \$1,500, depending on the need for funds, was approved unanimously.\***

5.12.2. Newsletter/Webpage Issues (*See, RKMC Letter*)

We published a link to a Strib article on a guardianship matter which was felt by several members to be one-sided and biased. Monica prepared a response, which was published in a subsequent newsletter. A letter from one of the attorneys involved in the case was posted on the section web page, with a link in the newsletter, providing information from the perspective of the professional fiduciary in the case. There was no explanation or context for the letter provided on the website. The MSBA got a letter from the attorney representing the ward, demanding that the earlier letter be removed from the website because it contained client confidential information. The Chair was then informed by the MSBA tech guy that the item had been removed from the website, and Tim Groshens later called the Chair to say that the item had been removed pending the Governing Council's decision on the issue.

The strategic planning committee had already addressed this issue at their last meeting. Their recommendation is that the Council appoint a website editor who has the responsibility for monitoring content and keeping it up to date. The website editor needs to review the newsletter to see if any additional context needs to be provided when the information is posted on the website.

Kim Dayton has been acting as the webmaster. She informed Jeff that the website is being updated and revamped in form. She suggested that decisions about content be referred to the website committee – but there is no website committee, aside from Kim.

The website “what’s new” section content operates as a sideline of the newsletter, where items too long for the newsletter are posted, with links in the newsletter. The website is a more broadly public forum than the newsletter, which is only emailed to the section membership (although old newsletters are posted on the website).

When we publish opinion pieces in the newsletter or website, we need to post disclaimers that the opinions are those of the author(s), not of the section. The communications committee will address the issue of disclaimers at their next meeting.

**\*Motion to recruit a website editor and to rename the newsletter committee as the communications committee passed unanimously.\***

**\*Motion to respond to the MSBA that we object to the process by which content was removed from the website without prior discussion with the Chair passed unanimously.\***

**\*Motion to refer the issue of whether to repost the letter to the communications committee for consideration passed unanimously.\***

#### 5.12.3. Committee Chairs as Voting Members

Tabled til next meeting.

#### 5.13. Vulnerable Adult/Abuse [Ken LaBore & Joel Smith]

The committee is having its first meeting soon. No further report.

### **6. New Business:**

#### 6.1. MJF: Volunteer Law Students [Sara Sommarstrom and Jane Evans]

MJR has been talking to sections about ways to use law students to increase effectiveness of our work. They distributed a brochure describing their programs. They can match law students with practicing attorneys who have projects they would like law students to work on. They handed out a description of current activities of law students who have been working in elder law. Law student clerks can be hired and a percentage of their wage can be paid by work study (75% for non-profits, 50% for private attorneys and firms). Each school has an Elder Law school organization that can be a useful resource. Students are seeking legal experience to increase their marketability in a tough job market. Call Jane or Sara if you are interested in tapping into these resources. We will put a blurb in the newsletter and perhaps an item on the website.

### **7. Old Business:**

#### 7.1. Section Dues & MSBA Surcharge (*See, [Tim Giving Letter](#)*) [Jeffrey W. Schmidt]

The MSBA surcharge is going forward despite our protest. **We** are not raising the dues on our section members, but the MSBA is.

**Adjourn**

**The next meeting of the Governing Council will be the Annual Meeting, held on Tuesday, June 9, 2009, at 1 p.m., at the River Centre in St. Paul, following the Probate and Trust Law Institute.**

**Other Governing Council meetings for 2009-2010:**

Proposed dates, some of which are likely to be changed:

Friday, August 21, 2009 @ 3:30 p.m.

Friday, October 16, 2009 @ 3:30 p.m. (likely to be changed)

Friday, December 18, 2010 @ 3:30 p.m.

Friday, February 19, 2010 @ 3:30 p.m.

Friday, April 16, 2010 @ 3:30 p.m.