

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES

President Heath called the meeting to order at 9:24 a.m. on Friday, April 28, 2023, in the Boardroom at the Michael Franck building in Lansing, Michigan.

Commissioners present:

David C. Anderson	Suzanne C. Larsen
Yolanda Bennett	James W. Low
Kristina A. Bilowus	Gerard Mantese
Erika L. Bryant, Treasurer	Gerrow D. "Gerry" Mason
Aaron V. Burrell	Joseph P. McGill, Vice President
Hon. B. Chris Christenson	Thomas P. Murray Jr.
Thomas P. Clement	Valerie R. Newman
Tanya Cripps-Serra	Takura N. Nyamfukudza
Sherrie Detzler	Nicholas M. Ohanesian
Robert A. Easterly	Daniel D. Quick, President-Elect
Hon. Kameshia D. Gant	Colemon L. Potts
Lisa J. Hamameh, Secretary	John W. Reiser
James W. Heath, President	Hon. Kristen D. Simmons
Thomas H. Howlett	Hon. Erane C. Washington

Commissioners absent:

Hon. David A. Perkins	Danielle Walton
Delphia T. Simpson	Mark Wisniewski
Matthew B. Van Dyk	

Guests Present:

David Watson, ICLE

State Bar staff present:

Peter Cunningham, Executive Director
April Alleman, Succession Planning Program Counsel
Drew Baker, General Counsel
Margaret Bossenbery, Executive Coordinator
Sarah Brown, Brand Designer
Gregory Conyers, Program Director, Diversity Development Program
Darin Day, Program Director, Outreach
Robinjit Eagleson, Ethics Counsel
Katherine Gardner, UPL Counsel
Tatiana Goodkin, Chief Financial Officer
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Molly Ranns, Director, Lawyers & Judges Assistance Program
Marjory Raymer, Director of Communications
Janna Sheppard, Administrative Assistant
Jeanette Socia, Director of Human Resources
Laurin Thomas, Public Services Counsel
Kari Thrush, Program Director, Lawyer Services
Nathan Triplett, Director of Governmental Relations
Anne Vrooman, Program Director, Research & Development
Meng Xiong, IT Director

Consent Agenda

The Board received the minutes from the January 20, 2023, Board meeting.
The Board received the minutes from the January 5, 2023, Executive Committee meeting.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the FY 2022 financial reports through February 2023.
The Board received the 2022 report of the State Bar of Michigan Retirement Plan.
The Board received the 2022 report of the State Bar of Michigan Retiree Healthcare Trust.
The Board received Client Protection Fund (CPF) claims.
The Board received Model Criminal Jury Instructions.
The Board received section bylaw amendments from the American Indian Law Section.
The Board received section bylaw amendments from the LBTGQ Section.

Mr. Heath asked if any items needed to be removed from the consent agenda. There was none. A motion was offered to approve the consent agenda. The motion was seconded and approved.

LEADERSHIP REPORTS

President and Executive Director's Report: James Heath, President and Peter Cunningham, Executive Director.

Justice For All (JFA) Commission

Mr. Cunningham provided an overview of the most recent work of the JFA commission. Including recently adopted recommendations from the triage and referral workgroup, which included an assessment of SBM's Lawyer Referral Service. The workgroup is cochaired by Anne Vrooman, SBM's Director of Research and Development, and SBM staff will evaluate the recommendations and discuss with other stakeholders, including the Board of Commissioners to determine how to best implement the recommendations.

Mr. Cunningham introduced Ms. Gardner and Ms. Eagleson, who provided an update on the work of the Regulatory and Practice Reform Committee. The committee's workgroup on Activities by Non-Lawyers is expected to issue recommendations in the coming months, and the co-chairs of the Regulatory Reform Committee will be presenting the recommendations on Mackinac Island in June as a part of the Great Lakes Legal Conference.

Commission on Diversity Equity and Inclusion (DEI)

Mr. Cunningham reported that the DEI Commission is currently working with a strategic planner to develop a plan and structure and expects to complete that work by the end of the 2023 calendar year.

Rule 21 Update

Mr. Cunningham introduced Ms. Alleman who is the Bar's succession planning program counsel, and she made a presentation on how the Bar is implementing the new SBR 21 which requires mandatory succession planning for all private practice attorneys. The new rule goes into effect in September 2023, but in late May or June of 2023, attorneys will be able to login to their SBM profile to identify an interim administrator or choose to have the SBM IAP program name one for them. They will also be able to register to be added to the list from which the IAP will be able to choose for individuals who opt to pay the \$60 fee and have SBM identify an interim administrator for them.

Officer Election Materials

Ms. Bossenbery shared that letters and materials for potential candidates must be submitted by June 6, 2023, to Peter Cunningham and James Heath. The submission deadline for petitions for open Board of Commissioner and Representative Assembly seats is Sunday, April 30, 2023.

Miscellaneous Updates

Mr. Cunningham shared that the sewer line project at the State Bar building is complete. The project came in well under budget at \$65,000.

The State Bar of Michigan building is now open to the public for meeting use.

Upcoming State Bar Events

State Bar staff shared details of several upcoming SBM-sponsored events including:

Brunch for Bars on Sunday, April 30, the morning following the Wolverine Bar Association's Barrister's Ball. The Brunch for Bars has over 200 people registered for the event to be held at Andiamo's in Detroit.

The Lawyers and Judges Assistance Program will host their second virtual wellness program on Friday, May 26, 2023, at 10:00 a.m. This event will feature nationally renowned Rhonda McGee, an expert on mindfulness.

The Pro Bono Workshop will be held on May 16, 2023, at the State Bar building. There are currently 45 people registered. Justice Megan Cavanagh will be attending the event to speak on lawyer wellness along with Molloy Ranns.

This year's Michigan Legal Milestone event will be held on August 25, 2023, in Idlewild, Michigan. This year's legal milestone highlights the accomplishments of Percy Langster, who was the first elected black prosecuting attorney in the United States.

President's Report

Mr. Heath informed the group that he has attended numerous events hosted by bar associations around the state. He encouraged others to attend events in their area in support of Mr. Heath and SBM.

Mr. Heath, Mr. Cunningham, and Mr. Triplett were joined by Justice Zahra and Jennifer Bentley from the Michigan State Bar Foundation to lobby Michigan's Congressional delegation for continued funding for the Legal Services Corporation as part of ABA Day in Washington, DC. Mr. Heath reported that this important work has resulted in bipartisan support for funding for civil legal aid among Michigan's delegation.

Strategic Planning Report

Mr. Howlett provided a report from the Strategic Planning Committee, which included the final report on the e-Journal review that the committee conducted last year. The data indicates that the e-Journal is actively used by more than 15,000 subscribers. There are approximately 5,000 subscribers who access the journal each day. The only webpage that is more actively used on the SBM website is the member directory.

The committee conducted a survey of e-Journal users to learn more about how the e-Journal is utilized. The survey indicated that the e-Journal is very popular even though there have been no updates to the layout in over ten years, and it has a very high net promoter score of 64, which ranges from -100 to 100. Through the survey, the committee has identified that operationally, the format could be improved, and it could be easier to subscribe to, as it is currently difficult to do. The committee also identified that the e-Journal is a potential untapped revenue source for the Bar.

The committee also received the report on strategic plan activities, which has been distributed to all Board members. The plan for the staff is to meet in August to discuss all the programs included in the report and have a final report for the Strategic Planning Committee to review early in the bar year. This will allow the committee to identify ways to improve programs which impact the strategic plan and help align any changes with the budgeting process.

The committee has proposed an extension of the current strategic plan with some minor changes as it is set to expire at the end of this year. A motion was made and seconded to extend the current strategic plan through 2027. There are minor revisions that would be adopted with the approval of the extension. The motion was approved.

Representative Assembly (RA) Report: Gerrow D. Mason, Chairperson

Mr. Mason shared that the next RA meeting is scheduled for tomorrow, April 29, 2023, and will be entirely virtual. Jennifer Bentley will be giving a presentation on the Access to Justice Fund and Greg Conyers will give a presentation on the Faces of Justice pipeline program. A call-to-action survey is to be sent to all RA members to encourage them to be more involved leaders. Mr. Ohanesian and Mark Jane will present on potential reforms to the RA, to be voted on in September. Mr. Mason shared that he will not be able to attend the meeting, and in his absence, Ms. Bennett will be running the meeting.

Young Lawyers Section (YLS) Report: Colemon L. Potts, Chairperson

Colemon Potts reported that the YLS section has held several virtual events, each with great attendance. There was a gathering of YLS members in Grand Rapids, and at an expungement fair which was held in Southfield. They have also hosted a webinar on mental health with Molly Ranns as a presenter.

On June 23, the YLS will host a welcome reception at Comerica Park in Detroit for the Tigers game. The welcome reception will be held in the Tigers Club. The section has been working hard to plan 'The Summit' for June 24, which will be held at Little Caesars Arena in Detroit. This event has been designed to target young lawyers and law students. There will be six substantive programs from sections of the State Bar in the morning, which will include the IT section, Federal Bar Association, Real Property section, Insurance section, ADR section, and Business Law section. There will be a keynote speaker, an introduction to the Bar, recognition of the vendors and sponsors with a roundtable and showcase session, and the presentation of the outstanding lawyer award. There will also be a reception following the summit in the Beer Garden at Little Caesars Arena. All are encouraged to attend.

COMMISSIONER COMMITTEES

Public Policy: Dan D. Quick, Chairperson

Mr. Quick provided the report for the Public Policy committee.

Legislation

HB 4173 (Aiyash) Criminal procedure: sentencing; criminal justice policy commission; create. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 34a & 34b to ch. IX.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to support HB 4173, specifically the (H-1) substitute, with the following amendments:

- The membership of the Commission should be altered to ensure that it is balanced, and representative of the interests and stakeholders involved in, and impacted by, sentencing policy. Similar to the Joint Task Force on Jail and Pretrial Incarceration. The (H-1) membership is too heavily weighted toward law enforcement and prosecutors, while leaving out or underrepresenting other valuable perspectives.
- The Chair of the Commission should not be the Commission's "chief of staff," nor should the Chair be a paid position.
- The Legislature should also give consideration to language charging the Commission with making recommendations as to the extent to which sentencing guidelines should or should not apply to habitual offenders and the extent to which sentencing guidelines should apply to probation violations or be modified if applied to probation violations.

The motion to support was seconded and approved.

SB 73 (Shink) Civil rights: public records; identity of parties proceeding anonymously in civil actions alleging sexual misconduct; exempt from disclosure under freedom of information act. Amends sec. 13 of 1976 PA 442 (MCL 15.243).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to support SB 73. The motion to support was seconded and approved.

Interlock Devices and Specialty Court Authorization

SB 134 (Johnson) Courts: drug court; specialty court authorization to issue a restricted license requiring an ignition interlock device; modify. Amends secs. 1084 & 1091 of 1961 PA 236 (MCL 600.1084 & 600.1091).

SB 135 (Hertel) Vehicles: registration; issuance of a restricted license requiring the installation of ignition interlock device and specialty court admission; modify. Amends secs. 83 & 304 of 1949 PA 300 (MCL 257.83 & 257.304).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved.

A motion was offered and supported to support SB 134 & SB 135. The motion to support was seconded and approved.

SB 150 (Chang) Property tax: tax tribunal; methods for tax tribunal to hold small claims hearings; expand to include telephonically or by videoconferencing. Amends sec. 62 of 1973 PA 186 (MCL 205.762).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to support SB 150. The motion to support was seconded and approved.

Bill Package Implementing the Task Force on Juvenile Justice Reform Recommendations

A motion was offered that #8 and #10 are not *Keller* permissible, and that #1, #2, #3, #4, #5, #6, #7, #9, #11, #12, and #13 are *Keller* permissible as each is reasonably related to the functioning of the courts, while some are also reasonably related to the availability of legal services. The motion to support was seconded and approved.

A motion was offered that if legislation is introduced as expected, the BOC should approve #1, #2, #3, #4, #6, #9 as written. Additionally, the BOC should approve #5, #7, and #12 with amendments. Lastly, the motion states that the BOC should oppose #11 & #13. Once legislation is introduced, the BOC will take an e-vote.

Revised Pretrial Reform Bill Package

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to support the Revised Pretrial Reform Bill Package. The BOC will take an e-vote once legislation is introduced.

Executive Budgets: Michigan Indigent Defense Commission for the 2023-2024 Fiscal Year Department of the Judiciary for the 2023-2024 Fiscal Year

A motion was offered that the MIDC budget is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to support the Executive Budget and oppose any reduction in MIDC funding below the Executive Budget, because such reduced funding will leave MIDC unable to implement its mandatory standards and to meet the state's constitutional obligation to provide counsel to indigent criminal defendants. The motion to support was seconded and approved.

A motion was offered that the Judiciary budget is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to approve the Judiciary budget. The motion to support was seconded and approved.

Court Rules

1. ADM File No. 2022-16: Proposed Amendment of MCR 7.211

The proposed amendment of MCR 7.211(C)(7) would modify the Court of Appeals process for handling confessions of error.

A motion was offered and supported to support ADM File No. 2022-16. The motion was approved.

2. ADM File No. 2022-13: Proposed Amendment of MCR 9.123

The proposed amendment of MCR 9.123(D)(3) would clarify that a disbarred attorney who was sentenced to incarceration following a felony conviction and who wants to be reinstated to the bar must wait until six months after completing the sentence.

A motion was offered and supported to support ADM File No. 2022-13. The motion was approved.

3. ADM File No. 2021-30: Proposed Amendments of MCR 9.220, 9.221, 9.223, 9.232, and 9.261

The proposed amendments of MCR 9.220, 9.221, 9.223, 9.232, and 9.261 would help protect the confidentiality of a grievant who submits a request for investigation to the Judicial Tenure Commission.

A motion was offered and supported to oppose the proposed amendments of Rules 9.220, 9.221, 9.223, 9.232, and 9.261. The motion was approved.

4. ADM File No. 2022-03: Proposed Amendment of MCR 1.109

The proposed amendment of MCR 1.109(D)(1)(b) would allow attorneys to provide personal pronouns in document captions and require courts to use those personal pronouns when addressing the party or attorney, either verbally or in writing, unless doing so would result in an unclear record. The Court is interested in receiving comments addressing the constitutional implications of this proposal.

A motion was offered and supported to support ADM File No. 2022-03, and authorize all Sections to advocate their respective positions, including inconsistent positions. The motion was approved.

Finance: Erika L. Bryant, Chairperson

Ms. Bryant provided a report of the committee's review of the 2023 financial reports. As of February 28, 2023, the SBM administrative fund had a net position of \$11.4 million, which is an increase of \$1.6 million since the beginning of the fiscal year. SBM net position (without the retiree healthcare trust) increased by \$1.2 million due to operating revenues exceeding expenses by \$1,000,000, as well as interest income of \$208,691. Operating result was favorable to budget by \$441,487. The positive variance was due to lower expenses for payroll and benefits, lower non-labor expenses, and higher interest income. Revenues were slightly lower. Retiree healthcare trust investments increased in value by \$400,000 to \$3.9 million due to improved stock market. Excluding income from retiree healthcare trust, which is not included in the budget or forecasted, an increase in net position of \$1.5 million is projected with a favorable year end budget variance of \$356,387. This variance is smaller than in prior years mostly due to higher interest income. The Client Protection Fund has a net position of \$2.3 million, which has increased by \$192,958 since the beginning of the fiscal year.

As of February 2023, the number of active, inactive, and emeritus members and who are in good standing is 46,441 attorneys, which is a net decrease of 332 attorneys since the beginning of the year. The number of paying attorneys has decreased by 866 but there have been 469 new members who have joined the bar since the beginning of the year. The decrease in paying members appears to be caused by the lower number of new attorneys joining the bar and a higher number of members retiring and choosing emeritus status.

The committee reviewed the credit card processing fee and has recommended to the fee remain at 2.5% for the FY 2024 Bar year. Ms. Bryant reviewed the timeline for the budget. The 2023-2024 budget

meeting with the Finance Committee is scheduled for June 28, 2023, as a hybrid meeting. All Board members are invited to attend the meeting either virtually or in person, especially anyone interested in running for Treasurer.

Audit Committee: Erika Bryant, Chairperson

Ms. Bryant shared that the committee doesn't usually meet after they complete the bulk of the work necessary to prepare for the annual audit. However, the committee wanted to share that in March the auditors completed their post-audit review of our FY 2022 financial reports, and the post-audit review was issued on March 29, 2023.

Professional Standards: Lisa J. Hamameh, Chairperson

Ms. Hamameh provided a report on the ABA House of Delegates appointments. The committee met and reviewed the materials of two applicants: Janet Welch and Thomas Lavigne. Ms. Welch was recommended for a two-year term, which would expire in 2025, and Mr. Lavigne was recommended for a one-year term.

A motion was made and seconded to appoint Janet Welch to a two-year term, expiring at the end of the ABA meeting in 2025, and Thomas Lavigne to a one-year term, expiring at the end of the ABA meeting in 2024. The motion was approved.

Communications and Member Services (CAMS): Joseph P. McGill, Chairperson

Mr. McGill provided the report from the CAMS Committee.

State Bar of Michigan Awards

Mr. McGill said that the SBM Awards Committee met on Tuesday, March 28, 2023, and recommends the following nominees to the Board to receive 2023 State Bar of Michigan Awards.

The committee recommends Nancy Diehl, Joseph Kimble, and John Sier to receive the Roberts P. Hudson Award; Hon. Timothy Kenny to receive the Frank J. Kelley Distinguished Public Service Award; Professor Vivak Sankaran to receive the John W. Reed Michigan Lawyer Legacy Award; and James Rinck to receive the John W. Cummiskey Pro Bono Award.

A motion was offered and supported to accept the recommendations of the Awards Committee. The motion was approved.

Partnership Opportunity

Mr. McGill shared with the Board a new program offered by SoFi, which would offer refinancing for both federal and private student loan debt. There are no application fees and debt can be prepaid, as well as variable and fixed rates depending on the applicant's credit score. SBM would receive \$100 per application.

A motion was made and seconded to authorize this new partner program. The motion was approved.

Upcoming Event

Mr. McGill reported that the 50-year celebration will be held on Thursday, May 25, 2023, at the Inn at St. Johns in Plymouth from 12:00 p.m. to 2:00 pm.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 12:27 p.m.