

The meeting was called to order by President Turner at 9:30 a.m. on Friday, June 13, 2003, at the Grand Hotel, Mackinac Island. Commissioners present were:

John M. Barr	Ronald D. Keefe
Marjory G. Basile	Daniel M. Levy, Assembly Vice-Chair
Scott S. Brinkmeyer, President-Elect	W. Anthony Jenkins
Kimberly M. Cahill, Treasurer	Craig H. Lubben
Thomas W. Cranmer	Stephen J. Murphy, III
Kathryn M. Day	Lambro Niforos
Nancy J. Diehl, Vice President	Edward H. Pappas
Evanne L. Dietz	Randolph P. Piper
Kim Warren Eddie	Thomas G. Plunkett
James N. Erhart	Thomas C. Rombach, Assembly Chair
Elias J. Escobedo, Jr.	Kurt E. Schnelz
Hon. Joseph J. Farah	Charles R. Toy
Dennis P. Grenkowicz	Reginald M. Turner, President
Michael S. Hohausner	Gregory L. Ulrich
Elizabeth A. Jamieson	

Commissioners absent and excused for the meeting: Hon. William B. Murphy, D. Andrew Portinga and Hon. Cynthia D. Stephens.

**State Bar Staff Present:**

John T. Berry – Executive Director  
Lisa Allen-Kost – Director, Programs & Services  
Thomas K. Byerley – Director, Professional Standards  
Candace A. Crowley – Access to Justice Manager  
Kathleen G. Fox – Director, Human Resources  
James C. Horsch – Director, Administration and Finance  
Susan M. McMann – Legal Secretary  
Caryl Markzon – Event Coordinator  
Glenna D. Peters – Executive Coordinator  
Chad E. Sluss – Member Services Manager  
Janet K. Welch – General Counsel  
Karen Williams – Sections Coordinator

Present for such portions of the meeting as pertained to a specific agenda item were Lynn Chard, Executive Director of ICLE. Also, special guests included past presidents, Bruce W. Neckers and Thomas J. Ryan.

**CONSENT AGENDA**

A motion was made and seconded to approve the following items on the Consent Agenda:

**Minutes**

The Board accepted the minutes of the following Executive Committee meetings:

March 24, 2003	May 19, 2003
April 14, 2003	May 27, 2003
May 12, 2003	

**President's Report** – Reginald M. Turner, President  
The Board received the President's written report.

**Executive Director's Report** – John T. Berry, Executive Director  
The Board received the Executive Director's written report and the UPL status report.

**Professional Standards Committee** – Thomas W. Cranmer, Chairperson  
The Board approved payment of the following CPF claims:

1.	CPF 1849	\$25,000.00
2.	CPF 1861	\$ 2,400.00
3.	CPF 1881	\$ 3,990.00
4.	CPF 1989	\$ 500.00
5.	CPF 1990	<u>\$ 2,755.00</u>
		<u>\$34,645.00</u>

**Programs and Services Committee** – Nancy J. Diehl, Chairperson  
The Board received written reports on the State Bar committee evaluations and section survey results on State Bar services.

**2003 State Bar Awards** – Scott S. Brinkmeyer and James Steward, Co-Chairpersons  
The Board voted to approve the following awards:

*Roberts P. Hudson Award* – George T. Roumell, Jr.

*Champion of Justice Awards* – Stephen Drew, Robert Gilbert and William Saxton

*Frank J. Kelley Distinguished Public Servant Award* – Justice Robert P. Griffin

*Liberty Bell Award* – Wayne Bentley

*John W. Cummiskey Pro Bono Award* – Nino E. Green

#### **Administrative Law Section**

The Board approved the proposed bylaw amendment.

**Commissioner Liaison Reports** – Written reports by the following Commissioner Liaisons were received in the Board agenda packet:

- A. Michael Hohausser: Negligence Law Section
- B. Ronald Keefe: Law Practice Management Section; Workers' Compensation Section
- C. Gregory Ulrich: Computer Law Section; Arts Communication, Entertainment & Sports Section; Publications & Website Advisory Committee

### **LEADERSHIP REPORTS**

**President's Report** – Reginald M. Turner

Mr. Turner reported that the Michigan Supreme Court would hold an administrative hearing on June 19, 2003 that would include the Bar's proposal for a dues increase. It was noted that there has been ongoing communication and most recently a two-page Executive Summary was submitted to the Court. It is anticipated that we should know something prior to the next Board meeting on July 25, 2003.

Mr. Turner asked Commissioner Cahill, Chairperson of the Finance and Human Resources Committee, to explain the resolution for Roger Oetting. Ms. Cahill reported that Mr. Oetting, who has now retired, was one of the first non-commissioner CPA's to lend his expertise as a member the Finance Committee and his services were highly valued. Ms. Cahill moved to adopt the resolution in honor of Roger H. Oetting, CPA. The motion was adopted.

Mr. Turner reported that the Executive Committee will make recommendations regarding committee structure at the July 25, 2003 Board meeting. Included in that review will be the Open Justice Commission, as its five-year tenure ends this year. Mr. Turner noted that input regarding the process was welcome and one recommendation had been received to create a commissioner committee. He explained that the Executive Committee would evaluate all recommendations and seek to determine the best way to enhance justice initiatives, while focusing on the efficient and effective use of resources while remaining consistent with the Strategic Plan and Administrative Order 93-5.

Mr. Turner also reported on the lawsuit recently filed against the Bar, noting that there is a preliminary decision that the case is without merit. A formal opinion from the district court judge is anticipated soon. Questions should be directed to John Berry or Tom Byerley.

Mr. Turner further reported that he has completed travel to the local and special purpose bar associations and sections meetings. He noted that it has been a tremendous experience and positive feedback has been received about the Bar's strategic plan, improved emphasis on member services, good fiscal management and a public policy agenda that is consistent with the Court's administrative order.

**President-Elect's Report** – Scott S. Brinkmeyer

Mr. Brinkmeyer reported that we have mutually ended the relationship with Public Affairs Associates on a formal, annual contractual basis. Pursuant to the Strategic Plan, the majority of lobbying services will take place in house under the supervision of Janet Welch, the Bar's general counsel, with limited contract lobbyist services, as needed.

Mr. Brinkmeyer further reported that the Public Policy Committee has narrowed the scope of legislation, aligning the focus of bills more appropriately with the Strategic Plan and opening the field more for committees and sections.

Mr. Brinkmeyer announced that the Public Policy Resource Center is being unveiled this weekend, which is an interactive website that will be made available to all members. Positions taken by sections and committees will be published immediately and members will be able to communicate directly with legislators on a bill.

**Representative Assembly Chairperson's Report** – Thomas C. Rombach

Mr. Rombach reported on the issues that were discussed at the April 26, 2003 meeting of the Representative Assembly, to include the adoption of proposals regarding medical malpractice recommended by the Civil Procedure and Courts Committee and a blueprint for cost-effective pretrial detention, sentencing and corrections systems as recommended by the Prisons and Corrections Section. The Assembly did not support the proposed resolution to increase federal judicial compensation. Additionally, there was a presentation regarding ABA's New Model Rules of Professional Conduct.

**Executive Director's Report** – John T. Berry

Mr. Berry asked Commissioner Cranmer to report on Ethics School. Mr. Cranmer reported that the first school held on May 8, 2003 was very successful. There were fourteen attendees and the evaluations were outstanding. Another school is being planned in the fall.

Mr. Berry announced that Karen Williams would be retiring from the Bar and all are invited to attend a celebration in her honor on June 26, 2003. Mr. Berry thanked Mrs. Williams and expressed his appreciation for her years of outstanding service.

Mr. Berry deferred to general counsel, Janet Welch, for an explanation of the proposed changes to Bylaw Article III. Following discussion, a motion was adopted to include the following amendments to the bylaw:

- 1) Adopt the following Commissioner Standing Committees: Finance and Human Resources, Professional Standards, Programs and Services and Public Policy, Image and Identity
- 2) Add e-mail and fax as a meeting notification option and changing the language to be gender-neutral
- 3) Amend the provision concerning the continuation of the term of a commissioner elected vice-president or president-elect to correspond to the more comprehensive provision adopted by the Supreme Court in April, 2001, as an amendment to the Supreme Court Rules Concerning the State Bar of Michigan, at the State Bar's request. "A commissioner whose term expires at the next annual meeting is not eligible for election as an officer unless the commissioner has been re-elected or reappointed for another term as a commissioner. **If the remaining term of a commissioner elected vice-president or president elect will expire before the commissioner completes a term as president, the term shall be extended to allow the commissioner to complete the term as president.** If the term of an elected commissioner is so extended the authorized membership of the board is increased by one for that period; a vacancy in the district the vice-president or president-elect represents exists when the term as a commissioner would normally expire, and an election to choose a successor is to be held in the usual manner." Rule 7, Sec. 1.

Mr. Berry reported that we are becoming more detailed in the budget process and it is anticipated that a draft budget can be presented to the Board in July. Mr. Berry encouraged all to review the budget assumptions included in the agenda packet.

**Young Lawyers Section** – Kathryn M. Day, Chairperson

Ms. Day provided a brief report on the section's recent and upcoming activities, to include a financial planning seminar, mentoring program with the Senior Lawyers Section, and participation with the 50-year honorees at the State Bar annual meeting in September.

**COMMISSIONER COMMITTEES**

**Finance and Human Resources** – Kimberly M. Cahill, Chairperson

Ms. Cahill referenced the financial results through April 30, 2003 and the year-end forecast that was included in the agenda packet. Ms. Cahill reported that we are on budget and due to recent investment gains are currently ahead. The Tier 2 post retirement healthcare issue is still being monitored but there is nothing to report at this time.

On behalf of the committee, Ms. Cahill moved that the Bidding and Request for Proposal Policy be adopted, as amended, to include language that reserves the right to accept or reject any or all bids and waive all requirements. The motion was adopted and the revised policy will be included with July's board agenda materials.

Ms. Cahill moved that the Investment Consultant Recommendation be adopted. Following brief discussion, the motion was adopted.

**Professional Standards** – Thomas W. Cranmer, Chairperson

Mr. Cranmer moved that John E. S. Scott and Oliver C. Mitchell, Jr. be reappointed to the Appellate Defender Commission. The motion was adopted. Following discussion, it was agreed that in light of the qualified applicants who applied for the position, Bar staff should keep these and other applicants who have expressed interest in positions in mind for future committee appointments and encourage them to apply for future vacancies.

Mr. Cranmer reiterated the need for an increase in funding for the Client Protection Fund and mentioned that there has been a suggestion of bonding, though he noted that in reviewing this, it had been tried in three other states and was quickly abandoned. Two problems that were encountered in those states was that the initial insurance premium was relatively low but increased greatly in subsequent years, and the basic philosophy was not consistent with the goal to provide monetary recompense to individuals that have been defrauded by lawyers. The committee will continue to review.

Mr. Cranmer also reported that that the Health Care Section and Family Law Section are re-visiting the issue of certification.

**Programs and Services** – Nancy J. Diehl, Chairperson

Ms. Diehl reported that the Office Max program was rolled out to the membership and noted that there has been good interest.

Ms. Diehl reported that we have approximately 5,000 members participating in the Blue Cross/Blue Shield insurance program and as a result are able to provide exclusive, comprehensive coverage to our members.

Ms. Diehl also reported that a written policy regarding member privacy is being reviewed and it is anticipated that it will be presented to the Board in July. Additionally, a label policy is being developed that will also be presented at a future Board meeting.

Commissioner Plunkett provided an update on the Bar Leadership Forum program and encouraged all to attend.

**Public Policy, Image and Identity** – Scott S. Brinkmeyer, Chairperson

Mr. Brinkmeyer asked for comments from the public about the Bar's legislative program, but none were forthcoming.

Mr. Brinkmeyer reported that the Appellate Delay Reduction Intake Management Task Force is underway and working closely with Chief Judge Whitbeck. It is hoped that a counter-proposal will be developed in the near future.

A motion was made and seconded to approve the following Board actions:

**MCR 2.112(K) - Civil Procedure and Courts Committee**

Deferred

**Residency Proposal – Law School Deans**

Deferred

**Article VIII – Section and State Bar Entity Activity; Public Policy; Article IX – Eliminated; Subject matter incorporated into Article VIII**

Approved as recommended in material distributed at meeting and previously reviewed by the Board. See Proposed Bylaws attached as Addendum I.

**AGC Proposed Rule Changes to MCR 9.116**

No action taken

**Rule 2.106 – Notice by Posting or Publication**

Deferred

Michigan Court Rules

Proposed Amendments of **Rules 3.973, 3.974, 3.975 and 3.977** – Dispositional Hearing, Review, Procedures, Child at Home, Child in Foster Care; *Alternative A and Alternative B*  
Support Alternative A

Proposed Amendment of **Rule 3.203** – Service of Notice and Court Papers in Domestic Relations Cases  
Support

Proposed Amendment of **Rule 3.210** – Hearings and Trials, Interviewing Children for Custody, Sealed Record of Interviews

No action

Proposed Amendment of **Canon 7** of the Michigan Code of Judicial Conduct – A Judge or a Candidate for Judicial Office Should Refrain from Political Activity Inappropriate to Judicial Office.

No position

Proposed Amendment of **Rules 1.09 and 2.113** – Use Only Letter Size Standards for Pleadings  
Oppose

Proposed Amendment of **Rules 5.408** – Review and Modification of Guardianships of Legally Incapacitated Individuals

Deferred

Proposed **New Rule 3.221** – Hearings on Support and Parenting Time Enforcement Act Bench Warrants  
Support in Principle  
(consistent with 2 non substantive stylistic changes recommended by sections)

Proposed **Administrative Order** Regarding Caseflow Management  
Deferred

**HB 4172 – Health; Testing; Defendant to Pay Costs Associated with Court Order HIV Testing; Allow Court to Order**

No position

**HB 4447 – Vehicular Homicide; Extends Statute of Limitations**  
No position

**HB 4521 – Conservator Appointments**

Defer to July 25, 2003 Board Meeting

**SB 91 – Drug Nuisance Abatement Act**

No position

**SB 281 – Judiciary Budget**

Support as amended to include Byrne funding

Roll call vote:

Commissioners present voting in favor: Barr, Basile, Brinkmeyer, Cahill, Cranmer, Day, Diehl, Dietz, Eddie, Erhart, Escobedo, Farah, Grenkowitz, Hohausner, Jamieson, Jenkins, Keefe, Levy, Lubben, Niforos, Pappas, Piper, Plunkett, Rombach, Schnelz, Toy, Ulrich, Turner

Commissioner(s) present voting against: Stephen J. Murphy.

**SB 345 – Joinder Allowance**

Referred to Sections

**SB 359 – Filing Fees**

Defer to July 25, 2003 Board Meeting

**FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

**Comments or questions from Commissioners**

Mr. Turner asked for comments or questions from the Commissioners.

Commissioner Farah thanked President Turner for his attendance at the Genesee County Bar Association and expressed pride in his presidency of the State Bar of Michigan.

Commissioner Brinkmeyer referred to a proposed internal operating policy on committee public advocacy that was distributed to the Board members.

**Comments or questions from the public**

Mr. Turner asked for comments or questions from the public, but there were none.

**Old Business**

There was none.

**New Business**

There was none.

The meeting was adjourned at 11:55 a.m.