

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
WEDNESDAY, SEPTEMBER 26, 2018
AMWAY GRAND PLAZA HOTEL
GERALD R. AND BETTY FORD
PRESIDENTIAL BALLROOM
1:30 P.M
AGENDA

State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

A BUFFET LUNCH IS AVAILABLE BEGINNING AT 11:30 A.M.
IN THE HALLWAY OUTSIDE OF THE HALDANE ROOM
CONFERENCE LEVEL OF HOTEL
Committee meetings begin at 12:00 p.m.

Finance Committee Meeting	Nelson Room
Professional Standards Committee Meeting	Haldane Room
Communications and Membership Services Committee meeting.....	Winchester Room
Public Policy Committee Meeting	Kendall Room

I. Call to Order Donald G. Rockwell, President

CONSENT AGENDA

II. **Minutes**

- A. July 27, 2018 Board of Commissioners meeting*
- B. July 10, 2018 Executive Committee meeting*

III. **President’s Activities** Donald G. Rockwell, President

- A. Recent Activities*

IV. **Executive Director’s Activities**Janet K. Welch, Executive Director

- A. Recent Activities*

V. **Finance** Dana M. Warnez, Chairperson

- A. FY 2018 Financial Reports through July 2018*

VI. **Professional Standards**.....Robert J. Buchanan, Chairperson

- A. Client Protection Fund Claims*

VII. **Public Policy** Jennifer M. Grieco, Chairperson

- A. Model Criminal Jury Instructions*

COMMISSIONER COMMITTEES

- VIII. **Finance** Dana M. Warnez, Chairperson
A. FY 2018 Financial and Investment Update
- IX. **Audit** Dana M. Warnez, Chairperson
A. FY 2018 Audit Update
- X. **Communications and Member Services**..... Dennis M. Barnes, Chairperson
- XI. **Professional Standards**.....Robert J. Buchanan, Chairperson
A. Regulatory Objectives Workgroup Report*
- XII. **Public Policy**Jennifer M. Grieco, Chairperson
A. Court Rules*

LEADERSHIP REPORTS

- XIII. **President’s Report** Donald G. Rockwell, President
A. Proposed Task Force on State Bar Operation, Structure, and Governance*
B. Recognition of Guests
- XIV. **Executive Director’s Report**Janet K. Welch, Executive Director
A. 2018 SBM Accomplishments
B. Janus/Fleck Update
C. LRS Update
D. Professionalism Summit Panel
- XV. **Representative Assembly Report** Joseph P. McGill, Chairperson
A. September 27, 2018 meeting
B. Nominations for 2018-2019 Clerk
- XVI. **Young Lawyers Section Report**..... Syeda F. Davidson, Chairperson

SPECIAL PRESENTATIONS

- XVII. **Recognition of Retiring Board Members**..... Donald G. Rockwell, President
A. Robert C. Gardella written and presented by Victoria A. Radke
B. Krista L. Haroutunian written and presented by Edward L. Haroutunian
C. Joseph P. McGill written and presented by Richard L. Cunningham
D. Hon. Maureen M. McGinnis written and presented by Jennifer M. Grieco
E. Shenique A. Moss written and presented by Syeda F. Davidson
F. Jules B. Olsman written and presented by Daniel D. Quick
G. Hon. Michael J. Riordan written and presented by Dana M. Warnez
H. Brian D. Shekell written and presented by Joseph J. Baumann

XVIII. Recognition of President Donald G. RockwellJennifer M. Grieco, President-Elect

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

XIX. Comments or questions from Commissioners

XX. Comments or questions from the public

XXI. Adjournment

*Materials included with agenda

**Materials delivered or to be delivered under separate cover or handed out

President Rockwell called the meeting to order at 9:45 a.m. on July 27, 2018 in the Board Room of the Michael Franck Building in Lansing, MI.

Commissioners present:

Danielle Mason Anderson

David C. Anderson

Dennis M. Barnes, Vice-President

Aaron V. Burrell

Robert J. Buchanan, Secretary

Hon. Clinton Canady III

B.D. "Chris" Christenson

Richard L. Cunningham

Syeda F. Davidson

Shauna L. Dunnings

Andrew F. Fink III

Robert C. Gardella

Jennifer M. Grieco, President Elect

Edward L. Haroutunian

Krista L. Haroutunian

Kara R. Hart-Negrich

James W. Heath

Michael S. Hohaus

F. Thomas McCarthy Jr.

Joseph P. McGill

Hon. Maureen M. McGinnis

Shenique A. Moss

Hon. David A. Perkins

Daniel D. Quick

Victoria A. Radke

Hon. Michael J. Riordan

Donald G. Rockwell, President

Brian D. Shekell

Gregory L. Ulrich

Dana M. Warnez, Treasurer

Erane C. Washington

Commissioners absent and excused:

Joseph J. Baumann

Jules B. Olsman

State Bar Staff present:

Janet Welch, Executive Director

Marge Bossenbery, Executive Coordinator

Monique Brown, Lawyer Referral Coordinator

Gregory Conyers, Director, Diversity

Candace Crowley, Senior Consultant

Peter Cunningham, Assistant Executive Director and Director, Governmental Relations

Darin Day, Director, Outreach and Constituent Development

Danon Goodrum-Garland, Director, Professional Services Division

Kathryn Hennessey, Public Policy Counsel

James Horsch, Director, Finance and Administration Division

Robert Mathis, Pro Bono Service Counsel

Samantha Meinke, Communications Manager

Laurin Roberts Thomas, Public Services Counsel

Alecia Ruswinckel, Assistant Director, Professional Standards Division

Jeanette Socia, Human Resources Manager

Melissa Thouvenin, Licensing Services Specialist

Kari Thrush, Assistant Division Director, Member Services

Tish Vincent, Program Administrator, Lawyers and Judges Assistance Program

Anne Vrooman, Director, Research and Development

Guests

David Watson, Executive Director, ICLE
Timothy Denny, member
Tracey Lee, member
Chelsea Rebeck, SBM Finance Committee member

Consent Agenda

Mr. Rockwell asked the Board if there were any items that needed to be removed from the consent agenda. Mr. Quick asked that agenda item 7 C, Religious Liberty Law section, be removed from the agenda. Mr. Ulrich asked that item 2 A, the minutes from the June 8, 2018 Board of Commissioners meeting, be removed from the agenda.

The Board received the minutes from May 22, 2018 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 Client Protection Fund Claims.
The Board received Unauthorized Practice of Law Claims.
The Board received the FY 2018 Financial Reports through May 2018.
The Board received the SBM Section Annual Reports.
The Board received Section Bylaw amendments from the Environmental Law, Insurance and Indemnity Law and the Solo and Small Firm Sections

A motion was offered and supported to approve the consent agenda as amended. The motion was approved.

June 8, 2018 Board of Commissioners Minutes

Mr. Ulrich requested that the minutes be amended concerning a comment he made at the July Board meeting. A motion was made to amend the language concerning the comment to say: "Mr. Ulrich expressed concern that only "Nay" votes are called for when acting on motions before the Board, with no call for "Aye" votes." The motion was approved.

New SBM Section – Religious Liberty Law

Mr. Rockwell introduced Mr. Timothy Denny and Ms. Tracie Lee, representing the proposed Religious Liberty Law section. They addressed the Board in support of the proposed section, and offered to respond to any questions.

Mr. Quick questioned the Bar's process for establishing sections. He inquired about the extent to which the Board, aside from ensuring that the group is meeting all of the requirements for a petition, has discretion to consider whether or not a section should be formed. He noted that there are administrative expenses not covered by section dues that the Bar incurs, and asked if there were any rules or guidelines, published or unpublished, that the Board should consider when a petition is brought to them.

Ms. Welch responded by saying that the rules for the creation of a section is in the SBM bylaws and that, within those rules, as a governmental agency and a mandatory bar, we cannot discriminate on who we offer our platform to. She stated that consistent with its mission as defined by the Supreme Court, the Bar could create rules or changes to the bylaws about what the requirements are to create a section, but the application of those rules would need to be applied evenhandedly and that each member must

be allowed to join any section. She stated that the Bar needs to live with the rules we have in place and cannot after the fact restrict or deny the formation of a section. To do so would expose the Bar to litigation.

Judge McGinnis made a suggestions that from an administrative perspective the Bar should review the current process in the future and determine what is the breaking point of the SBM as far as how many sections we can support.

A motion was offered and supported to approve the Religious Liberty Law section. The motion was approved. Mr. Quick abstained.

Janus and Fleck Decisions

Ms. Welch provided the Board with an overview of the *Janus* and *Fleck* decisions along with a history of mandatory bar associations in the United States. A detailed memo and timeline were distributed to the Board members and Ms. Welch responded to questions from the Board.

She told the Board that the US Supreme Court will consider whether to grant cert in the *Fleck* case in September and that she will keep them informed as new developments arise.

Ms. Welch explained that if the SBM decides to submit an amicus brief that it should begin to consider the content now. She stated that an amicus brief was submitted by the State Bar in the *Keller* case and that some of the arguments that were made at that time were still applicable. She stated that it was too late to weigh in on the cert petition before the Court in September.

The Board members expressed their thoughts on the amicus brief including that if the SBM submitted an amicus brief, it should be on their own and not sign on to with other states, it would be irresponsible not to respond, that this might be an opportunity to inform the Court about the nature of a mandatory bar, and that caution should be used in drafting the content.

A suggestion was made to appoint a task force to monitor the issue and develop ideas about what an amicus would look like. The Board had differing opinions on the makeup of the task force and its focus, given the uncertainty of the time frame. Mr. Rockwell stated that he would begin to review the appointment process for a task force and welcomed any input from board members.

BOARD OFFICER ELECTIONS

Mr. Rockwell announced that President-Elect Grieco succeeds him as president for 2018-2019.

Mr. Rockwell announced that Vice President Barnes succeeds Ms. Grieco as president-elect for 2018-2019.

A motion was offered and supported to elect Mr. Buchanan as vice president for 2018-2019. The motion to elect Mr. Buchanan as vice president was approved.

A motion was offered and supported to elect Ms. Warnez as secretary for 2018-2019. The motion to elect Ms. Warnez as secretary was approved.

Mr. Rockwell announced that Mr. Heath and Mr. Quick submitted letters of interest and résumés for the position of 2018-2019 Treasurer of the SBM in accordance with board procedure.

Mr. Quick reported to the Board that after consideration and acknowledging the credentials of Mr. Heath he is withdrawing his name from the race.

A motion was offered and supported to elect Mr. Heath as Treasurer for 2018-2019. The motion to elect Mr. Heath as Treasurer was approved.

COMMISSIONER COMMITTEES REPORTS

Audit, Dana M. Warnez, Chairperson

Ms. Warnez stated that there was no report, but reported that the staff will begin to meet with the auditors next week.

Finance, Dana M. Warnez, Chairperson

Ms. Warnez provided the Board with the FY 2018 financial report.

Professional Standards, Robert J. Buchanan, Chairperson

Nominations for Michigan Indian Legal Services Board of Trustees

A motion was offered and supported to reappoint Kendra K. Robbins and appoint Briana Green to the Michigan Indian Legal Services Board of Trustees. The motion was approved.

Nominations for Institute for Continuing Legal Education Executive Committee

A motion was offered and supported to re-appoint Miriam Blanks-Smart to the Institute for Continuing Education Executive Committee. The motion was approved.

Regulatory Objectives Workgroup Report

A motion was offered and supported to approve the recommendations received in the report from the regulatory objectives workgroup.

Mr. Quick expressed an interest in receiving more information about the background of the recommendations before the Board takes action on the report.

A motion was offered and supported to table this item. The motion was approved.

Proposed Formal Ethics Opinion R-25

A motion was offered and supported to adopt Proposed Formal Ethics Opinion R-25.

During discussion on the motion, Mr. Buchanan reminded the Board that this item was not adopted at a previous board meeting and that at the suggestion of the Board this opinion was posted for comment by all members. Those comments are included in today's board meeting materials. Mr. Buchanan referenced a letter from Mr. Ken Mogill and stated that because he had similar concerns to those expressed by Mr. Mogill expressed, he recommended that the opinion be sent back to the ethics committee for further review. Discussion followed.

A motion was offered and supported to table this item. A roll call vote was taken and the motion failed.

AYES: Anderson David, Barnes, Buchanan, Christenson, Davidson, Dunning, Grieco, Hart-Negrich, Hohaus, Ulrich, Warnez, Washington

NAYS: Anderson Danielle, Burrell, Canady, Cunningham, Fink, Gardella, Haroutunian Edward, Haroutunian Krista, Heath, McCarthy, McGill, McGinnis, Moss, Perkins, Quick, Radke, Riordan, Shekell, Rockwell

The Board took a vote on the original motion and the motion to adopt Proposed Formal Ethics Opinion R-25 was approved. Mr. McGill abstained.

Withdrawal of Outdated Ethics Opinion C-211

A motion was offered and supported to support the withdrawal of outdated ethics opinion C-211. The motion was approved.

Proposed Amendments of MRPC 1.1 and 1.6 to add a Comment on Technical Competence

A motion was offered and supported to adopt the proposed amendments of MRPC 1.1 and 1.6 and to add a comment on technical competence. The motion was approved.

Communications and Member Services, Dennis M. Barnes, Chairperson

Event Summary

The Board received summaries from the BLF and UMLI events.

SBM Endorsement Letter for MCCE Bid for National Mock Trial Finals

A motion was offered and supported for the SBM to send a letter of support for the MCCE bid for the National Mock Trial Finals. The motion was approved.

Public Policy, Jennifer Grieco, Chairperson

Court Rules

ADM File No. 2018-03: Proposed Amendments of Rules 3.201, 3.210, and 3.211 and Proposed Addition of Rule 3.222 and 3.223 of the Michigan Court Rules

The proposed amendments of MCR 3.201, 3.210, and 3.211 and proposed addition of MCR 3.222 and 3.223 would integrate the collaborate law process designed under the Uniform Collaborate Law Act (159 PA 2014; MCL 691.1331-691.1354) into the state's trial court system for practical use, and would add a similar process for parties not represented by counsel who seek to submit a consent judgment.

A motion was offered and supported to support the proposed amendments of Rule 3.223 with additional language proposed by the Family Law Section to 3.223(D) that both parties be present to provide the court with verification that the agreement is by consent. The motion was approved.

ADM File No. 2002-37/2018-20: Proposed Amendment of Rule 2.002 of the Michigan Court Rules

The Court is considering two different proposals regarding fee waivers for indigent individuals. Alternative A is a version prepared internally in anticipation of implementation of a statewide e-Filing system. Alternative B is a proposal submitted by the State Bar of Michigan. The two versions are similar in some respects, but have significant differences. For example, the Bar's version would establish a standard for indigency as living in a household whose gross household income is under 200% of the

federal poverty level, would create a status of “financial hardship,” would allow the court to conduct further inquiries if necessary to determine whether a party is indigent, and would create a right to request a hearing if a petition for indigency is denied. The alternative version does not include such provisions.

A motion was offered and supported to support Alternative C proposed by the Consistent Fee Waiver Workgroup with the amendments presented. The motion was approved.

ADM File No. 2017-16: Proposed Amendment of Rule 6.302 of the Michigan Court Rules

The proposed amendment of MCR 6.302 would require a trial court judge to advise a defendant that if a plea is accepted, the defendant will give up the right to appeal issues that might have been available after the conclusion of a trial.

A motion was offered and supported to support the proposed amendment to Rule 6.302. The motion was approved.

ADM File No. 2013-05/2014-46: Proposed Amendment of Rule 6.502 of the Michigan Court Rules

The proposed amendments would make several substantive changes in MCR 6.502 regarding post judgment relief from judgment motions. First, the proposed new language in MCR 6.502(G)(2) would insert an “actual innocence” waiver provision similar to that in MCR 6.508(D)(3). Further, MCR 6.502(G)(3) would be added to clarify that shifts in science are included in the definition of “new evidence” for purposes of the exemption from the successive motion limitation.

A motion was offered and supported to support the amendments MCR 6.502 as amended below:
(3)(a) in a field of scientific knowledge, including shifts in scientific consensus or the emergence of differing or contradictory scientific theories that were not previously available to the defendant. The motion was approved.

Rule 3.8 of the Michigan Rules of Professional Conduct

new language would be added to MRPC 3.8 to require certain actions by a prosecutor who knows of new, credible, and material evidence creating a reasonable likelihood that defendant did not commit the offense of which defendant was convicted, or who knows of clear and convincing evidence that shows defendant did not commit the offense. The proposed additional language of MRPC 3.8 is taken from the ABA Model Rules of Professional Conduct 3.8.

A motion was offered and supported to support the amendments MPRC 3.8 as drafted. The motion was approved.

ADM File No. 2017-20: Proposed Amendment of Rule 7.202 of the Michigan Court Rules

The proposed amendment of MCR 7.202 clarifies what constitutes a final post judgment order in a domestic relations case for purposes of appeal by right. This issue was raised in *Marik v Marik*, docket 154549, during oral arguments held earlier this term.

A motion was offered and supported to support the amendments MCR 7.202 as drafted. The motion was approved. The motion was approved.

ADM File No. 2017-29: Proposed Amendment of Rule 4.4 of the Michigan Rules of Professional Conduct

The proposed amendment of MRPC 4.4 would define the responsibilities of a lawyer who receives a document that was inadvertently sent. This proposal was submitted by the State Bar of Michigan. Note that the Court adopted MCR 2.302(B)(7) in 2008 to address the issue of discovery material inadvertently transmitted, and that rule requires the inadvertent recipient to return or destroy the alleged protected material, and may promptly submit the material to the trial court for a determination of the claim. To the extent that the final paragraph of the proposed new comment language apparently leaves such a decision to the discretion of the lawyer, this proposed new language may conflict (or at least exist in tension) with the existing language in MCR 2.302(B)(7).

Support what position already taken and pass along comments.

A motion was offered and supported to support the amendments MCR 4.4 as drafted and support the Professional Ethics Committee response to the Court's staff comment. The motion was approved.

ADM File No. 2017-25: Proposed Amendment of Rule 7.1 of the Michigan Rules of Professional Conduct

The proposed amendment of MRPC 7.1 would restrict and regulate the use of the terms "retired" or "former" for a justice, judge, referee, or magistrate who returns to the practice of law. This proposal is a narrower version than the one submitted by the State bar of Michigan Representative Assembly.

A motion was offered and supported to support the proposed amendment to MCR 7.1. The motion was approved.

Legislation

HB 5386 (LaSata) Human services; other; eligibility requirements for Medicaid and supplemental nutrition assistance (SNAP) programs; enhance. Creates new act.

A motion was offered and supported to table this item. The motion was approved.

Jurisdiction for Prosecution

SB 0951 (Gregory) Criminal procedure; jurisdiction; jurisdiction for prosecution for delivery of a controlled substance causing death; modify. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 5a to ch. II.

SB 0952 (Zorn) Criminal procedure; jurisdiction; venue for prosecution of delivery of a controlled substance causing death; modify. Amends sec. 317a of 1931 PA 328 (MCL 750.317a).

A motion was offered and supported that the two pieces of legislation are Keller permissible in that it affects the functioning of the court. The motion was approved.

A motion was offered and supported to support this legislation. The motion approved. Mr. Quick abstained.

HB 5396 (Lucido) Civil procedure; evictions; proceedings to recover possession of premises because of assault, battery, or unlawful drugs; modify to require a conviction. Amends sec. 5714 of 1961 PA 236 (MCL 600.5714).

A motion was offered and supported that this legislation is not Keller permissible. The motion was approved

HB 6096 (Lucido) Property; other; entry by owner to evict; modify process. Amends sec. 2918 of 1961 PA 236 (MCL 600.2918).

A motion was offered and supported that this legislation is not Keller permissible. The motion was approved

Young Lawyers Section

“A Way Forward: Transparency in 2018” by Law School Transparency (Iowa State Bar Association Young Lawyers Division)

The report recommends that the American Bar Association and law schools take steps to improve legal education: (a) young lawyer representation in accreditation; (b) increased data transparency; (c) user-friendly data presentation; (d) disclosures at time of admission; and (e) voluntary disclosures by law school.

A motion was offered and supported to table this item to allow time to solicit input from Michigan law schools. The motion was approved.

SBM STRATEGIC PLAN – STEERING COMMITTEES

Communications and Member Services Steering Committee, Dennis M. Barnes, Chairperson
Mr. Barnes reported that there was nothing new to report.

Implementation and Innovation Steering Committee, Dana M. Warnez, Chairperson
Ms. Warnez reported that there was nothing new to report.

Professional Standards Steering Committee, Robert J. Buchanan, Chairperson
Mr. Buchanan reported that there was nothing new to report.

Public Policy Steering Committee, Jennifer M. Grieco, Chairperson
Ms. Grieco noted that some of the changes to the Public Policy web site that were recommended by the steering committee have been implemented. She stated that the changes make it easier for SBM members to weigh in on public policy issues.

LEADERSHIP REPORTS

President’s Report, Donald G. Rockwell, President
In Memoriam* policy for *Michigan Bar Journal

Mr. Rockwell reported that each month in the *Michigan Bar Journal* there is an *In Memoriam* section, which lists members who have passed away. In a recent edition, a former member, who happened to be a judge who was removed from the bench and disbarred, was listed. The State Bar received a few comments about the appropriateness of this listing. Current practice is to include in the *In Memoriam* notice any person who is in our membership database and who we learn has passed away, even if the

person has been removed from membership by disbarment. Staff is looking for guidance on future practice.

A motion was offered and supported to continue the current practice. The motion was approved.

Michigan Indigent Defense Commission (MIDC) Re-Appointment

A motion was offered and supported to recommend the reappointment of Ms. Nancy Diehl to the Governor's office as a representative of the State Bar on the MIDC. The motion was approved.

Executive Director's Report, Janet K. Welch, Executive Director FY 2019 Proposed Budget

Ms. Welch asked Mr. Horsch to provide the Board with an overview of the FY 2019 Proposed Budget. Mr. Horsch stated that the budget was reviewed by the Finance Committee on July 11 and was approved to move forward for Executive Committee and the Board for review. A motion was offered and supported to adopt the FY 2019 Proposed Budget as presented, with a reduction of \$35,000 for IT telephone expense proposed by staff. The motion was approved.

SBM Standing and Special Committees 2018-2019 Resolution and Matrix

Ms. Welch asked Ms. Crowley to explain the process that was used to prepare and develop the standing and special committee resolution and matrix for 2018-2019. Ms. Crowley described the changes and stated that the proposed changes represent a determination about the best way to proceed in accomplishing the strategic plan.

Proposed changes include eliminating the strategic plan steering committees and forming a new Strategic Planning Commissioner Committee, eliminating the Delivery of Legal Services for All special committee currently in place, transforming the Access to Justice and Affordable Legal Services Initiatives into standing committees, and the Lawyer Referral Service Initiative has been converted into the Online Legal Resource and Referral special committee.

A motion was offered a motion and supported to approve the SBM Standing and Special Committee 2018– 2019 Resolution and Matrix. The motion was approved.

Commissioner Committee and Liaison Appointment Process

Ms. Ruswinckel described the commissioner committee and liaison appointment process. She informed the Board that they would receive an email next week describing the method they should use to indicate their preferences to serve as a section liaison and on a commissioner committee.

LRS Update

An update will be provided at the September Board meeting.

Receivership Workgroup Update

An update will be provided at the September Board meeting.

ABA Appointment

Ms. Welch reported that she has been appointed as a member of the American Bar Association's Standing Committee on Bar Activities and Services.

Detroit Satellite office

Ms. Welch stated that the lease agreement with University of Detroit Mercy Law School for a SBM Satellite office has been signed.

Introduction of new SBM staff

Ms. Goodrum Garland introduced Ms. Melissa Thouvenin, Licensing Services Specialist to the Board and Ms. Roberts Thomas introduced Ms. Monique Brown, Lawyer Referral Services Coordinator.

Representative Assembly (RA) Report, Joseph P. McGill, Chairperson

Mr. McGill reported that the RA officers and chairs continue to move forward with the introspective analysis of the RA and are in the process of reviewing the Permanent Rules of Procedure in an effort to reinvigorate the RA and make it more nimble and responsive. He stated that they are focusing on outreach to the general membership, sections, geographic bar associations, and specialty bar associations asking how the RA can be more responsive to each of them.

Mr. McGill stated that plans are underway for the September meeting, where agenda items may include discussion and action on the use of cell phones in the courtroom, attorney receiverships, proposed revisions to the Permanent Rules of Procedure, and the retention of an outside consultant. He reported that awards will be given to Judge Victoria Roberts and Ms. Michelle Fuller, and that staff will give a presentation on governance issues.

Mr. McGill informed the Board that there will be a contested election for the 2018-19 RA Clerk.

Other Reports

American Bar Association (ABA) Report

Mr. Ulrich mentioned that the ABA is struggling with a decrease in memberships and is looking at ways to address that issue.

Young Lawyers Section (YLS) Report, Syeda F. Davidson, Chairperson

Ms. Davidson provided the Board with an update on recent activities of the YLS.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or Questions from Commissioners

Ms. Grieco suggested that if they have not already done so, Board members should listen to the SBM "On Balance" podcasts as they provide useful information.

Comments or Questions from the Public

There were none.

Adjournment

The meeting was adjourned at 2:45 p.m.

State Bar of Michigan
Executive Committee Conference Call
Tuesday, July 10, 2018
3:30 p.m.

Call to Order: President Rockwell called the meeting to order at 3:34 p.m.

Members Present: President Donald G. Rockwell, President-Elect Jennifer M. Grieco, Vice President Dennis M. Barnes, Secretary Robert J. Buchanan, Treasurer Dana M. Warnez, Representative Assembly Chair Joseph P. McGill, and Commissioners Shauna L. Dunnings, James W. Heath, and E. Thomas McCarthy Jr.

Members Absent: Representative Assembly Vice-Chair Richard L. Cunningham.

State Bar Staff Present: Janet Welch, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Director of Member & Communication Services; Gregory Conyers, Director of Diversity; Candace Crowley, Senior Consultant; Peter Cunningham, Assistant Executive Director and Director of Governmental Relations; Cliff Flood, General Counsel; Danon Goodrum-Garland, Director of Professional Standards; James Horsch, Director of Finance & Administration; and Anne Vrooman, Director of Research & Development.

Approval of May 22, 2018 meeting minutes

A motion was made and seconded to approve the May 22, 2018 Executive Committee meeting minutes. Commissioners Dunnings and McCarthy abstained. The motion passed.

President's Report

President Rockwell reported on his meeting schedule.

Executive Director's Report

Ms. Welch reported on the Janus U.S Supreme Court decision and the status of *Fleck v. Wetch*. She will be providing a short memo in advance of the July BOC meeting. Mr. Rockwell also commented on the cases, and Ms. Welch raised the issue of a possible SBM amicus brief in *Fleck v. Wetch* if cert is granted, and perhaps jointly with other state bars as a possibility. She encouraged the EC members to read the brief. The EC discussed the timing of an amicus brief. The General Counsel's budget will be increased to fund possible assistance by outside appellate counsel.

Ms. Welch reviewed the additional information provided to the MSC concerning the C&F increase request, and the Court's questions about applicant forms. The BLE has provided a response with our assistance, and Ms. Goodrum-Garland will be at the hearing tomorrow on this matter to help answer questions.

Ms. Welch reviewed the recently signed lease for the satellite office at UD Mercy Law School, and we are thinking through how the announcement will be made.

Ms. Welch reviewed a situation where a disbarred attorney who passed away was included in the "In Memoriam" section of the *Michigan Bar Journal*. The question to the EC was whether or not we should publish in memoriam notices for all attorneys who have ever been members in good standing

with the SBM or only those in good standing at the time of their passing. The preference was to have the BOC make that decision. Ms. Welch will prepare a memo for a decision on the matter for the BOC's July meeting.

The SBM received an inquiry from the Governor's office on an impending reappointment of Nancy Diehl, who was one of SBM's three nominees in the inaugural round of appointments to the Michigan Indigent Defense Commission. A motion was made and seconded to recommend the reappointment to the Board of Commissioners. The motion passed. This item will be under Mr. Rockwell's report on the BOC agenda.

Strategic Plan Update

Ms. Crowley reviewed the proposed changes to the SBM committee structure based on feedback received. The proposal will be presented for review at the July BOC meeting.

Budget Update

Mr. Horsch reviewed the preliminary FY 2019 Budget that the Finance Committee will review tomorrow, highlighted the key changes since the June meeting, and answered questions. The budget will be presented for review at the July BOC meeting.

Representative Assembly Chair's Report

Representative Assembly Chair McGill reported that the workflow document was finished and distributed to the RA chairs for review. The RA leadership is making some amendments to the survey questions for review by staff and SBM leadership. There have been no policy issues submitted at this time for the September RA meeting.

July 27, 2018 Board of Commissioners Agenda

Ms. Bossenbery reviewed the additions to the July BOC meeting agenda. A motion was made and seconded to approve the agenda. The motion passed.

Other

The next Executive Committee meeting is scheduled for August 14, 2018.

Adjournment

There being no further business for the Executive Committee, President Rockwell adjourned the meeting at 4:28 p.m.

Submitted by James C. Horsch
August 31, 2018

**President Donald G. Rockwell
Calendar of Events
July 28 through September 28, 2018**

Date	Event	Location
August 2 – 7	National Conference of Bar Presidents meeting American Lawyers Alliance Awards Ceremony American Bar Association meeting House of Delegates meeting	Chicago, IL
August 11	New Lawyer Orientation	Novi
August 21	Berrien County Bar Association meeting	St. Joseph
August 23	Michigan State University School of Law Professionalism in Action	East Lansing
August 25 -26	Prosecuting Attorney’s Association of Michigan Annual meeting	Mackinac Island
August 27	Emmet-Charlevoix Bar Association meeting	Charlevoix
September 7	SBM Implicit Bias Training	Detroit
September 26	State Bar of Michigan Board of Commissioners meeting	Grand Rapids
September 27	Inaugural Luncheon Celebrating Diversity Reception	Grand Rapids
September 28	50 Year Golden Celebration Event	Grand Rapids

**Executive Director Janet K. Welch
Calendar of Events
July 28 through September 28, 2018**

Date	Event	Location
July 30	Meeting with Joseph Kimball, Professor, Western Michigan University -Cooley Law School	Lansing
July 31 – August 7	National Association of Bar Executives meeting National Conference of Bar Presidents meeting American Bar Association Annual meeting American Bar Association House of Delegates meeting	Chicago, IL
August 8	Meeting with City of Lansing Officials, Cliff Flood, and Jim Horsch about SBM PILOT	Lansing
August 8	Cloud Law Conference Call	Lansing
August 13 – 14	Michigan District Judges Association Annual Meeting	Thompsonville
August 15	Meeting with SBM member, Terrence Quinn	Brighton
August 15	Meeting with past SBM President, Nancy Diehl	Brighton
August 15	Call with Representative Assembly Officers, Peter Cunningham, and Katie Hennessey	Lansing
August 19 – 21	Michigan Judges Association Annual Meeting	Mackinac Island
August 23 – 25	Prosecuting Attorneys Association of Michigan Annual Meeting	Mackinac Island
August 29 – September 1	International Institute of Law Association Chief Executives (IILACE) Annual Conference	Ottawa, Ontario
September 6	Civility Summit Planning meeting	Lansing
September 12	Investiture of Judge Anica Letica	Livonia
September 13	Meeting with Jennifer Bentley, Executive Director, Michigan State Bar Foundation	Lansing
September 26	State Bar of Michigan Board of Commissioners meetings Michigan State Bar Foundation Reception State Bar of Michigan Awards Banquet	Grand Rapids

Date	Event	Location
September 27	Michigan Supreme Court Historical Society Breakfast with the Supreme Court State Bar of Michigan Representative Assembly Meeting Legal Talk Network Podcast Celebrating Diversity Reception	Grand Rapids
September 28	50 Year Golden Celebration Luncheon	Grand Rapids

FY 2018 Financial Dashboard

Results as of the ten months ended July 31, 2018

	FY 2018 Year-to-Date	FY 2018 YTD Budget	FY 2018 Budget YTD Variance	Last Year YTD Actual	Actual vs last yr Variance	Comments
<u>Administrative Fund</u>						
Operating Revenue	\$7,825,175	\$7,939,149	(\$113,974)	\$7,814,118	\$11,057	Worse than budget; better than last year
Operating Expense	\$8,268,914	\$8,648,926	(\$380,012)	\$7,912,245	\$356,669	Better than budget; higher than last year
Investment Income	\$154,099	\$108,333	\$45,766	\$95,101	\$58,998	Better than budget; higher than last year
Change in Net Position	(\$289,640)	(\$601,444)	\$311,804	(\$3,026)	(\$286,614)	Better than budget; lower than last year
Net Position	\$11,988,235	\$11,676,431	\$311,804	\$12,593,748	(\$605,513)	Better than budget; lower than last year
Cash & Investments (Excluding Sections and CPF)	\$9,330,141	N/A	N/A	\$9,836,535	(\$506,394)	Decrease from last year
Investment Rate of Return	1.53%	N/A	N/A	0.92%	0.61%	Better than last year - higher rates and fund mgt
<u>Client Protection Fund</u>						
Change in Net Position	(\$157,711)	N/A	N/A	\$136,364	(\$294,075)	Lower than last year - higher claims
Net Position	\$2,081,871	N/A	N/A	\$2,561,065	(\$479,194)	Decrease from last year - higher claims
<u>SBM Retiree Health Care Trust</u>						
Change in Net Position	\$216,110	N/A	N/A	\$278,509	(\$62,399)	Decrease from last year
Net Position	\$2,987,288	N/A	N/A	\$2,723,004	\$264,284	Increase over last year - Investment performance
<u>Membership</u>						
Members in Good Standing						
- Active	42,305	N/A	N/A	42,092	213	0.5% Active Member growth
- Inactive	1,174	N/A	N/A	1,252	(78)	(6.2%) Inactive Member growth
- Emeritus	2,210	N/A	N/A	1,980	230	11.6% Emeritus Member growth
- Total	45,689	N/A	N/A	45,324	365	0.8% Total Member growth
Dues Paying Members	42,083	N/A	N/A	42,046	37	Increase over last year
Active members as a % of total	92.59%	N/A	N/A	92.87%	-0.28%	Decrease from last year
Dues Paying Member as a % of total	92.11%	N/A	N/A	92.77%	-0.66%	Decrease from last year
New Members	896	N/A	N/A	873	23	Increase over last year

State Bar of Michigan Financial Results Summary

10 Months Ended July 31, 2018

Fiscal Year 2018

Administrative Fund

Summary of YTD July 31, 2018 Actual Results

For the ten months ended July 31, 2018, the State Bar had an Operating Loss of \$443,739 and Non-Operating Income of \$154,099, for a decrease in Net Position of \$289,640 so far in FY 2018. Net Position as of July 31, 2018 totaled \$11,998,235.

YTD Variance from Budget Summary:

YTD Operating Revenue - \$113,974 unfavorable to YTD budget, or 1.4%

YTD Operating Expense - \$380,012 favorable to YTD budget, or 4.4%

YTD Non-Operating Income - \$45,766 favorable to YTD budget, or 42.2%

YTD Change in Net Position - \$311,804 favorable to YTD budget

YTD Key Budget Variances:

YTD Operating Revenue variance - \$113,974 unfavorable to budget:

- Operating revenue was unfavorable to budget in Member & Communication Services by \$29,464, or 4.5%, due primarily to the Directory sales, and to a lesser extent, Bar Journal revenue; in Professional Standards by \$41,639, or 10.1%, due primarily to C&F fees (no C&F fee increase) and to a lesser extent, LRS fees and LJAP fees; and in Dues & Related and Other Revenue totaling \$42,871 or 0.7%, due to lower late fees.

YTD Operating Expense variance - \$380,012 favorable to budget:

- Salaries and Employee Benefits/ Payroll Taxes - \$83,463 favorable - (1.5%)
 - Underage in salaries and benefits due to vacancies and positions changing from full-time to part-time. Additionally, health care expenses are under due to timing.
- Non-Labor Operating Expenses - \$296,549 favorable - (9.4%)
 - Exec Offices - \$63,867 favorable - (10.3%) - Primarily Executive Office, Outreach, R&D, JI programs, and General Counsel – some timing.
 - Finance & Admin - \$1,456 favorable - (0.1%) – Under in Facilities Services and Administration; partially offset in Financial Services due to higher credit card fees with higher online dues payments – some timing.
 - Member & Communication Services - \$193,115 favorable - (14.1%) - Primarily IT, Bar Journal, and Member and Endorsed Services; and to a lesser extent, Internet, Bar Leadership Forum, e-Journal, and other departments – some timing.

- Professional Standards - \$38,111 favorable - (27.6%) - Primarily C&F; and to a lesser extent, other departments – some timing.

YTD Non-Operating Revenue Budget Variance - \$45,766 favorable to budget

- Investment income is 42.2% higher due to higher interest rates and more favorable cash management opportunities than planned.

Cash and Investment Balance – Admin Fund

As of July 31, 2018, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections and Client Protection Fund*”) was \$9,330,141.

Capital Budget – Admin Fund

Through July 31, 2018, YTD capital expenditures totaled \$221,028 which is 3% over the YTD capital budget due to higher capital spending on projects and a change in how one project was capitalized. We are forecasting at fiscal year-end to be approximately \$28,000 over the Capital budget at this time due to IT project costs higher than planned.

Administrative Fund FY 2018 Year-End Financial Forecast

Based on our latest year-end financial forecast, we are projecting to be favorable to the FY 2018 budget by at least \$79,000, primarily due to labor and non-labor expense savings, as well as higher investment income, offsetting lower dues and non-dues revenue than planned.

Client Protection Fund

The Net Position of the Client Protection Fund as of July 31, 2018 totaled \$2,081,871, a decrease of \$157,711 since the beginning of the fiscal year. There are authorized but unpaid claims totaling \$347,010 awaiting signatures for subrogation agreements. If these claims were reflected, Net Position would be reduced to \$1,734,861.

Through July 31, 2018, claims payments of \$596,673 and administration expenses of \$166,950 were disbursed from the Client Protection Fund; offset by member dues assessments of \$537,810 (earned equally throughout the year) and other revenue of \$68,302.

SBM Retiree Health Care Trust

As of July 31, 2018, the SBM Retiree Health Care Trust had a fund balance of \$2,987,288, which is an increase of \$216,110 so far in FY 2018, due primarily to investment earnings.

SBM Membership

As of July 31, 2018, the total active, inactive and emeritus membership in good standing totaled 45,689 attorney members, for a net increase of 373 members so far in FY 2018. Active members totaled 42,305 and dues paying members (active and inactive less than 50 years of service) totaled 42,083. A total of 856 new members have joined the SBM so far during FY 2018.

**STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
July 31, 2018**

FY 2018

Note: Dues revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Administrative Fund
Statement of Net Position
For the Months Ending June 30, 2018 and July 31, 2018

	June 30, 2018	July 31, 2018	Increase (Decrease)	%	Beginning of Fiscal Year October 1, 2017
ASSETS AND DEFERRED OUTFLOWS					
Assets					
Cash	2,471,839	1,715,412	(756,427)	(30.6%)	3,001,328
Investments (CDARS and CD's)	10,213,528	10,213,528	0	0.0%	8,821,684
Accounts Receivable	162,079	186,724	24,644	15.2%	241,174
Due from (to) CPF	(119)	14,956	15,075	12674.5%	(216,426)
Due from (to) Sections	(2,713,965)	(2,613,755)	100,210	3.7%	(2,205,771)
Inventory	24,383	40,019	15,636	64.1%	27,238
Prepaid Expenses	212,906	220,387	7,481	3.5%	361,666
Retiree Health Care Trust Asset	170,221	170,221	0	0.0%	170,221
Capital Assets, net	4,078,434	4,054,056	(24,378)	(0.6%)	4,229,194
Total Assets	\$14,619,305	\$14,001,547	(\$617,758)	(4.2%)	14,430,308
Deferred Outflows of Resources	43,353	43,353	0	0.0%	43,353
TOTAL ASSETS AND DEFERRED OUTFLOWS	\$14,662,658	\$14,044,900	(\$617,758)	(4.2%)	14,473,661
LIABILITIES, DEFERRED INFLOWS AND NET POSITION					
Liabilities					
Accounts Payable	(407)	112	519	(127.5%)	372,435
Accrued Expenses	442,432	449,392	6,960	1.6%	473,998
Unearned Revenue	1,889,637	1,337,853	(551,783)	(29.2%)	1,080,045
Net Pension Liability	269,288	269,288	0	0.0%	269,288
Total Liabilities	\$2,600,950	\$2,056,645	(\$544,305)	(20.9%)	2,195,766
Deferred Inflows of Resources	20	20	0	N/A	20
Total Liabilities and Deferred Inflows	\$2,600,970	\$2,056,665	(\$544,305)	(20.9%)	2,195,786
Net Position					
Invested in capital assets, net of related debt	4,078,434	4,054,056	(24,378)	(0.6%)	4,229,194
Unrestricted	7,983,255	7,934,179	(49,076)	(0.6%)	8,048,681
Total Net Position	\$12,061,689	\$11,988,235	(73,454)	(0.6%)	12,277,875
TOTAL LIABILITIES, DEFERRED INFLOWS AND NET POSITION	\$14,662,658	\$14,044,900	(\$617,758)	(4.2%)	14,473,661

NOTE: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" is \$9,330,141 (See below):

	June 30, 2018	July 31, 2018	Increase (Decrease)	%	Beginning of Fiscal Year October 1, 2017
CASH AND INVESTMENT BALANCES					
Cash	2,471,839	1,715,412	(756,427)	(30.6%)	3,001,328
Investments	10,213,528	10,213,528	0	0.0%	8,821,684
Total Available Cash and Investments	\$12,685,367	\$11,928,939	(756,427)	(6.0%)	11,823,012
Less:					
Due to Sections	2,713,965	2,613,755	(100,210)	(3.7%)	2,205,771
Due to CPF	119	(14,956)	(15,075)	(12674.5%)	216,426
Due to Sections and CPF	\$2,714,084	\$2,598,799	(115,285)	(4.3%)	2,422,197
Net Administrative Fund Cash and Investment Balance	\$9,971,283	\$9,330,141	(\$641,142)	(6.4%)	9,400,815

State Bar of Michigan
Statement of Revenue, Expense, and Net Assets
For the ten months ending July 31, 2018
YTD FY 2018 Revenue

	YTD Actual	YTD Budget	Variance	Percentage
Revenue				
Finance & Administration				
Dues & Related	6,497,939	6,540,675	(42,736)	(0.7%)
Investment Income	154,099	108,333	45,766	42.2%
Other Revenue	323,918	324,053	(135)	(0.0%)
Finance & Administration Total	<u>6,975,956</u>	<u>6,973,061</u>	<u>2,895</u>	<u>0.0%</u>
Member & Communication Services				
Bar Journal Directory	72,118	96,800	(24,682)	(25.5%)
Bar Journal 11 issues	143,112	150,208	(7,096)	(4.7%)
Print Center	56,475	58,667	(2,192)	(3.7%)
e-Journal and Internet	60,500	59,333	1,167	2.0%
BCBSM Insurance Program	83,333	83,333	0	0.0%
Credit Card Program	19,057	21,000	(1,943)	(9.3%)
Annual Meeting	46,156	42,100	4,056	9.6%
Labels	5,207	3,333	1,874	56.2%
Upper Michigan Legal Institute	12,193	9,900	2,293	23.2%
Bar Leadership Forum	11,377	10,700	677	6.3%
Practice Management Resource Center	115	2,583	(2,468)	(95.5%)
Other Member & Endorsed Revenue	122,105	123,255	(1,150)	(0.9%)
Member & Communication Services Total	<u>631,748</u>	<u>661,212</u>	<u>(29,464)</u>	<u>(4.5%)</u>
Professional Standards				
Ethics	8,620	7,500	1,120	14.9%
Character & Fitness	213,960	243,875	(29,915)	(12.3%)
Lawyer Referral Service (LRS)*	114,820	120,167	(5,347)	(4.4%)
Lawyers and Judges Assistance Program	34,170	41,667	(7,497)	(18.0%)
Professional Standards Total	<u>371,570</u>	<u>413,209</u>	<u>(41,639)</u>	<u>(10.1%)</u>
*Note - LRS has been transferred to Member & Communications Services Division				
Total Revenue	7,979,274	8,047,482	(68,208)	(0.8%)
Less: Investment Income	<u>154,099</u>	<u>108,333</u>	<u>45,766</u>	<u>42.2%</u>
Total Operating Revenue	7,825,175	7,939,149	(113,974)	(1.4%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the ten months ending July 31, 2018
YTD FY 2018 Expenses

Expenses	YTD Actual	YTD Budget	Variance	Percentage
Executive Offices				
Executive Office	51,605	63,625	(12,020)	(18.9%)
Representative Assembly	20,466	21,783	(1,317)	(6.0%)
Board of Commissioners	97,680	92,083	5,597	6.1%
General Counsel	5,679	14,967	(9,288)	(62.1%)
Governmental Relations	56,763	56,243	520	0.9%
Human Resources (incl. empl benefits)	1,580,132	1,594,024	(13,892)	(0.9%)
Outreach, Local Bar & Section Support	107,810	121,625	(13,815)	(11.4%)
Research and Development	12,922	29,505	(16,583)	(56.2%)
Standing Committee on Justice Initiatives	51,502	58,083	(6,581)	(11.3%)
Resource Development Initiative	76,356	76,250	106	0.1%
Pro Bono Initiative	10,157	15,200	(5,043)	(33.2%)
Justice Policy Initiative	154	240	(86)	(35.8%)
Equal Access Initiative	16,606	18,033	(1,427)	(7.9%)
Criminal Issues Initiative	227	3,057	(2,830)	(92.6%)
Salaries	1,194,807	1,255,276	(60,469)	(4.8%)
Executive Offices Total	3,282,866	3,419,994	(137,128)	(4.0%)
Finance & Administration				
Administration	27,072	33,454	(6,382)	(19.1%)
Facilities Services	313,533	328,063	(14,530)	(4.4%)
Financial Services	695,743	676,287	19,456	2.9%
Salaries	360,586	369,049	(8,463)	(2.3%)
Finance & Administration Total	1,396,934	1,406,853	(9,919)	(0.7%)
Member & Communication Services				
Bar Journal Directory	82,065	85,500	(3,435)	(4.0%)
Bar Journal 11 Issues	407,864	442,078	(34,214)	(7.7%)
Print Center	50,001	55,203	(5,202)	(9.4%)
Internet Department	107,798	124,250	(16,452)	(13.2%)
e-Journal	26,879	36,358	(9,479)	(26.1%)
Media Relations	49,775	54,800	(5,025)	(9.2%)
Member & Endorsed Services	74,465	125,633	(51,168)	(40.7%)
Annual Meeting	8,761	8,200	561	6.8%
Bar Leadership Forum	28,732	45,775	(17,043)	(37.2%)
Practice Mgt Resource Center (PMRC)	6,296	6,208	88	1.4%
UMLI	23,643	29,075	(5,432)	(18.7%)
Information Technology Services	313,650	359,964	(46,314)	(12.9%)
Salaries	1,393,598	1,403,818	(10,220)	(0.7%)
Member & Communication Services Total	2,573,527	2,776,862	(203,335)	(7.3%)
Professional Standards				
Character & Fitness (C&F)	25,537	52,225	(26,688)	(51.1%)
Client Protection Fund Dept	12,883	11,489	1,394	12.1%
Ethics	9,362	13,725	(4,363)	(31.8%)
Unauthorized Practice of Law (UPL)	12,859	19,783	(6,924)	(35.0%)
Lawyer Referral Service (LRS)*	15,103	12,725	2,378	18.7%
Lawyer & Judges Assistance Program	24,109	28,017	(3,908)	(13.9%)
Salaries	915,733	907,253	8,480	0.9%
Professional Standards Total	1,015,586	1,045,217	(29,631)	(2.8%)
Total Expense	8,268,913	8,648,926	(380,013)	(4.4%)
*Note - LRS has been transferred to Member & Communications Services Division				
Human Resources Detail				
Payroll Taxes	283,754	299,418	(15,664)	(5.2%)
Benefits	1,251,061	1,248,188	2,873	0.2%
Other Expenses	45,318	46,418	(1,100)	(2.4%)
Total Human Resources	1,580,133	1,594,024	(13,891)	(0.9%)
Financial Services Detail				
Depreciation	396,167	396,167	0	0.0%
Other Expenses	299,577	280,121	19,456	6.9%
Total Financial Services	695,744	676,288	19,456	2.9%
Salaries				
Executive Offices	1,194,807	1,255,276	(60,469)	(4.8%)
Finance & Administration	360,586	369,049	(8,463)	(2.3%)
Member Services & Communications	1,393,598	1,403,818	(10,220)	(0.7%)
Professional Standards	915,733	907,253	8,480	0.9%
Total Salaries Expense	3,864,724	3,935,396	(70,672)	(1.8%)
NonLabor Summary				
Executive Offices	553,245	617,112	(63,867)	(10.3%)
Finance & Administration	1,036,348	1,037,804	(1,456)	(0.1%)
Member Services & Communications	1,179,929	1,373,044	(193,115)	(14.1%)
Professional Standards	99,853	137,964	(38,111)	(27.6%)
Total NonLabor Expense	2,869,375	3,165,924	(296,549)	(9.4%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the ten months ending July 31, 2018
YTD FY 2018 Increase (Decrease) in Net Position Summary

	Actual YTD	Budget YTD	Variance	Percentage	Last Year Actual YTD
Operating Revenue					
- Dues and Related	6,497,939	6,540,675	(42,736)	(0.7%)	6,513,715
- All Other Op Revenue	1,327,236	1,398,474	(71,238)	(5.1%)	1,300,403
Total Operating Revenue	<u>7,825,175</u>	<u>7,939,149</u>	<u>(113,974)</u>	<u>(1.4%)</u>	<u>7,814,118</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	3,864,724	3,935,396	(70,672)	(1.8%)	3,712,985
Benefits and PR Taxes	1,534,815	1,547,606	(12,791)	(0.8%)	1,423,859
Total Labor-related Operating Expenses	<u>5,399,539</u>	<u>5,483,002</u>	<u>(83,463)</u>	<u>(1.5%)</u>	<u>5,136,844</u>
- Non-labor Operating Expenses					
Executive Offices	553,245	617,112	(63,867)	(10.3%)	463,664
Finance & Administration	1,036,348	1,037,804	(1,456)	(0.1%)	957,628
Member & Communication Services	1,179,929	1,373,044	(193,115)	(14.1%)	1,256,838
Professional Standards	99,853	137,964	(38,111)	(27.6%)	97,271
Total Non-labor Operating Expenses	<u>2,869,375</u>	<u>3,165,924</u>	<u>(296,549)</u>	<u>(9.4%)</u>	<u>2,775,401</u>
Total Operating Expenses	<u>8,268,914</u>	<u>8,648,926</u>	<u>(380,012)</u>	<u>(4.4%)</u>	<u>7,912,245</u>
Operating Income (Loss)	<u>(443,739)</u>	<u>(709,777)</u>	266,038	N/A	<u>(98,127)</u>
Nonoperating Revenue (Expenses)					
Investment Income	154,099	108,333	45,766	42.2%	95,101
Net Nonoperating revenue (expenses)	<u>154,099</u>	<u>108,333</u>	45,766	42.2%	<u>95,101</u>
Increase (Decrease) in Net Position	<u>(289,640)</u>	<u>(601,444)</u>	<u>311,804</u>	N/A	<u>(3,026)</u>
Net Position - Beginning the Year	<u>12,277,875</u>	<u>12,277,875</u>	0	0.0%	<u>12,596,774</u>
Net Position - Year-to-Date	<u>\$11,988,235</u>	<u>\$11,676,431</u>	<u>\$311,804</u>	<u>2.7%</u>	<u>\$12,593,748</u>

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2018 - Year-End Forecast
Updated July 26, 2018

	FY 2018 Year-End Forecast	FY 2018 Budget	Variance	Percentage	FY 2017 Actual
Operating Revenue					
- Dues and Related	7,734,000	7,795,460	(61,460)	(0.8%)	7,754,415
- All Other Op Revenue	1,612,150	1,691,291	(79,141)	(4.7%)	1,635,365
Total Operating Revenue	<u>9,346,150</u>	<u>9,486,751</u>	<u>(140,601)</u>	<u>(1.5%)</u>	<u>9,389,780</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	4,840,300	4,922,153	(81,853)	(1.7%)	4,625,399
Benefits, PR Taxes, and Ret HC Exp	1,825,880	1,808,038	17,842	1.0%	1,670,745
Total Labor-related Operating Expenses	<u>6,666,180</u>	<u>6,730,191</u>	<u>(64,011)</u>	<u>(1.0%)</u>	<u>6,296,144</u>
- Non-labor Operating Expenses					
Executive Offices	728,902	765,840	(36,938)	(3.0%)	629,999
Finance & Administration	1,259,475	1,237,775	21,700	2.8%	1,075,682
Member & Communication Services *	1,796,589	1,885,915	(89,326)	(4.7%)	1,676,544
Professional Standards *	127,319	153,386	(26,067)	(17.0%)	152,009
Total Non-labor Operating Expenses	<u>3,912,285</u>	<u>4,042,916</u>	<u>(130,631)</u>	<u>(3.2%)</u>	<u>3,534,234</u>
Total Operating Expenses	<u>10,578,465</u>	<u>10,773,107</u>	<u>(194,642)</u>	<u>(1.8%)</u>	<u>9,830,378</u>
Operating Income (Loss)	<u>(1,232,315)</u>	<u>(1,286,356)</u>	54,041	N/A	<u>(440,598)</u>
Nonoperating Revenue (Expenses)					
Capital Contributions	0	0	0	N/A	112,863
Investment Income	155,000	130,000	25,000	19.2%	8,836
Net Nonoperating revenue (expenses)	<u>155,000</u>	<u>130,000</u>	<u>25,000</u>	<u>19.2%</u>	<u>121,699</u>
Increase (Decrease) in Net Position	<u>(1,077,315)</u>	<u>(1,156,356)</u>	<u>79,041</u>	<u>N/A</u>	<u>(318,899)</u>
Net Position - Beginning the Year	<u>12,277,875</u>	<u>12,277,875</u>	<u>0</u>	<u>0.0%</u>	<u>12,596,774</u>
Net Position - End of the Year	<u>\$11,200,560</u>	<u>\$11,121,519</u>	<u>\$79,041</u>	<u>0.7%</u>	<u>\$12,277,875</u>

* Note - LRS budget moved from Prof Stds Division to Member & Comm Serv Division in FY18 Budget and Forecast

Operating Revenue forecast

- Under in member dues and late fees
- Under in primarily in C&F fees, Bar Journal Directory sales, Bar Journal Advertising, and endorsed services revenue

Labor forecast:

- Salaries - vacancies - LRS FT - part year, IT part time; Gen Counsel and Outreach (less vac payout) reduced salaries
- Higher net retiree health care net of lower payroll taxes and unemployment

Nonlabor forecast:

- Executive Offices - under primarily in Justice Initiatives areas (EAI, CII, PBI, and JI), and HR and General Counsel
- Finance & Administration - Over in Financial Services due to higher credit card fees and higher depreciation due to early retirement of phone system, net of lower costs in Facilities and other expenses
- Member Services & Communications - Under primarily in Bar Journal, IT, Bar Leadership Forum, Internet, Media Relations, and e-Journal
- Professional Standards - Under primarily in C&F; and also UPL, LJAP and Ethics

Non-Operating Income forecast:

- Investment Income - will be better than budget due to higher interest rates than planned

Other forecast issues not reflected in the forecast:

- Potential additional savings in other operating expenses not reflected
- Potential legal expenses exceeding budgeted amount

State Bar of Michigan
Administrative Fund
Capital Expenditures vs Budget
For the ten months ending July 31, 2018

	YTD Actual	YTD Budget	YTD Variance	Variance Explanations	Total Approved FY 2018 Budget	FY 2018 Year-End Forecast	Projected Year-end Variance
Building security enhancements	0	10,000	(10,000)	Accomplished in FY 2017	10,000	0	(10,000)
Security audit appliance (PCI)	0	20,000	(20,000)	Was expensed and not capitalized	20,000	0	(20,000)
Update /redesign of pro hac vice site	20,400	20,000	400		20,000	20,400	400
E-commerce upgrades	20,377	20,000	377	Forecast - Scope more than planned	20,000	26,000	6,000
Web services tool for courts	4,000	10,000	(6,000)	Project work will continue next FY	10,000	4,000	(6,000)
Investigations/C&F software	9,322	0	9,322	Forecast - Scope more than planned	0	20,000	20,000
Bar applicant online form to replace NCBE server transition	35,287	25,000	10,287	Forecast - Scope more than planned	25,000	35,287	10,287
e-service application for court e-filing (e-mail addresses)	0	10,000	(10,000)	Project work will continue next FY	20,000	10,000	(10,000)
Dues billing enhancements for firms	3,818	10,000	(6,182)	Project work will continue next FY	10,000	4,000	(6,000)
Lawyer referral portal	43,027	20,000	23,027	Forecast - Higher expense than planned	20,000	48,000	28,000
Database application for soliciting volunteers for committees and work groups	10,042	10,000	42		10,000	10,042	42
SBM website functionality enhancements	36,446	36,000	446		40,000	40,000	0
Meeting Room Technology Upgrades	38,309	23,000	15,309	Forecast - Higher due to reevaluation of items to be capitalized; will result in lower operating expense	23,000	38,309	15,309
Total	<u>\$221,028</u>	<u>\$214,000</u>	<u>7,028</u>		<u>\$228,000</u>	<u>\$256,038</u>	<u>\$28,038</u>

**STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
July 31, 2018**

FY 2018

Note: Dues revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Client Protection Fund
Comparative Statement of Net Assets
For the Months Ending June 30, 2018 and July 31, 2018
FY 2018

	June 30, 2018	July 31, 2018	Increase (Decrease)	%	Beginning of Fiscal Year October 1, 2017
Assets					
Cash	639,588	643,112	3,524	0.6%	895,592
Investments (CD's & CDARS)	1,556,307	1,556,307	0	0.0%	1,191,633
Accounts Receivable	0	(2,917)	(2,917)	N/A	0
Due from (to) Administrative Fund	119	(14,956)	(15,075)	N/A	216,426
Accrued Interest Receivable	4,626	6,304	1,678	36.3%	3,761
Total Assets	\$ 2,200,640	\$ 2,187,850	\$ (12,790)	(0.6%)	\$ 2,307,412
Liabilities					
Accounts Payable	0	0	0	N/A	0
Unearned Revenue	159,026	105,979	(53,047)	(33.4%)	67,830
Total Liabilities	\$ 159,026	\$ 105,979	(\$53,047)	(33.4%)	\$ 67,830
Net Position					
Net Position at Beginning of Year	2,239,582	2,239,582	0	0.0%	2,424,701
Increase (Decrease) in Net Position	(197,968)	(157,711)	40,257	(20.3%)	(185,119)
Total Net Position	2,041,614	2,081,871	40,257	2.0%	2,239,582
Total Liabilities and Net Position	\$ 2,200,640	\$ 2,187,850	\$ (12,790)	(0.6%)	\$ 2,307,412

* Note: In addition, there are authorized but unpaid claims totaling 347,010 awaiting signatures of subrogation agreements.

State Bar of Michigan
Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets
For the ten months ending July 31, 2018
FY 2018

	YTD
Revenue	
Contributions Received	18,280
Membership Dues Assessment	537,810
Pro Hac Vice Fees	9,570
Claims Recovery	25,597
Miscellaneous Income	0
Total Revenue	591,257
Expense	
Claims Payments	596,873 * See Note Below
Administrative Fee	166,950
Litigation and Miscellaneous Expense	0
Total Expense	763,823
Operating Income (Loss)	(172,566)
Investment Income	14,855
Increase (Decrease) in Net Position	(157,711)
Net Position - Beginning of the Year	2,239,582
Net Position - End of the Period	2,081,871

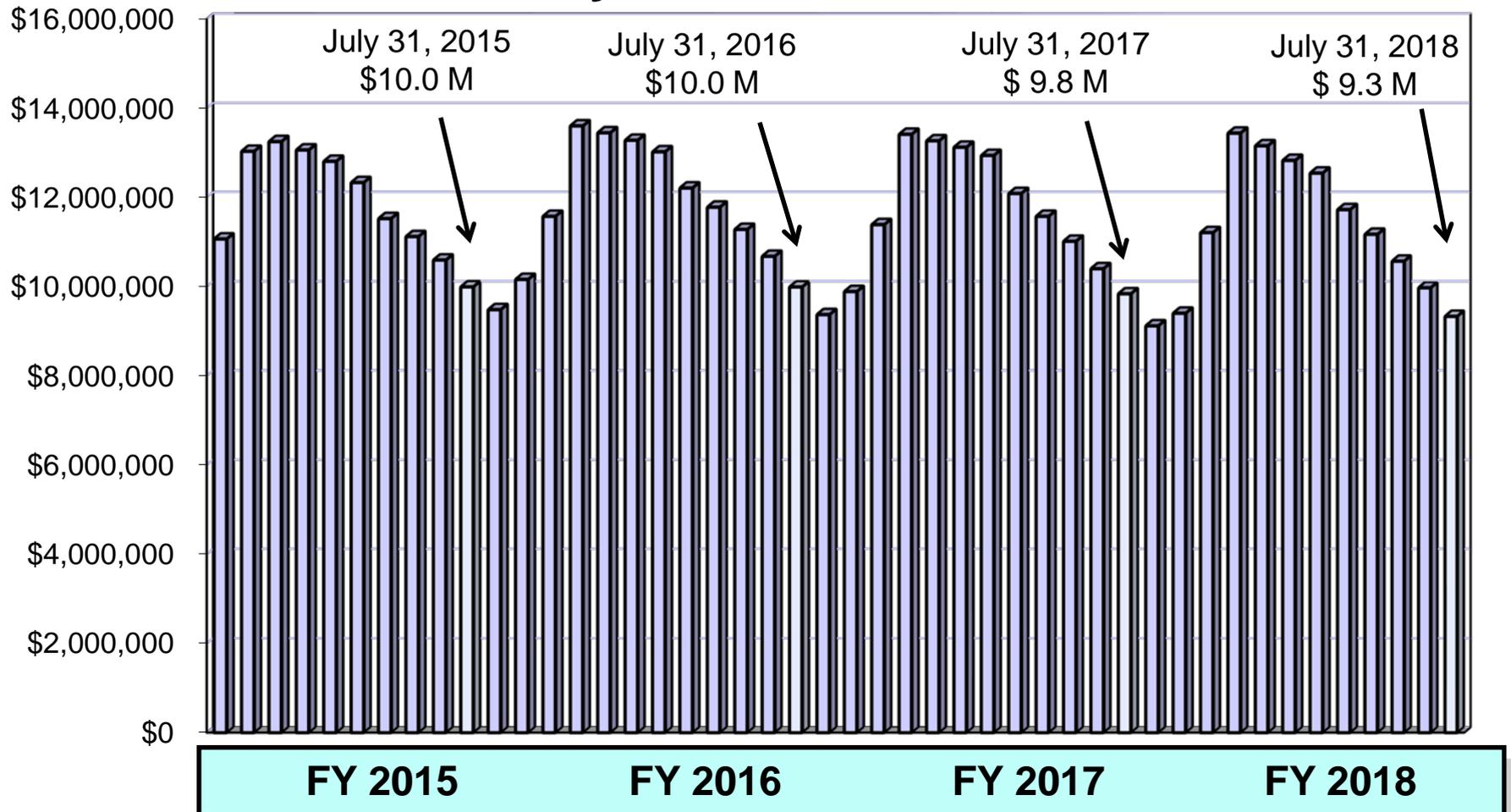
* Note: In addition, there are authorized but unpaid claims totaling \$347,010 awaiting signatures of subrogation agreements.

SBM Cash & Investment Balances

SBM Cash & Investment Balances

Excluding Sections, Client Protection Fund & Fiduciary Funds

July 31, 2018 - \$9.3 M



Note: The State Bar has no bank debt outstanding

Summary of Cash and Investment Balances by Financial Institution
7/31/2018

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary		
\$2.14 Trillion	4 stars	SBM Chase Checking \$ 135,783.31		Client Protection Fund \$ 2,199,418.54		
		SBM Chase Credit Card \$ 10,445.50		State Bar Admin Fund (including Sections) \$ 11,928,939.32		
		SBM Chase E Checking \$ -		Attorney Discipline System \$ 3,472,548.14		
		SBM Chase Payroll \$ -		SBM Retiree Health Care Trust \$ 2,987,287.74		
		SBM Chase Savings \$ 666,501.30	0.18%	ADB Retiree Health Care Trust \$ 861,103.01		
		ADS Chase Checking \$ 9,853.38		AGC Retiree Health Care Trust \$ 3,039,401.93		
		CPF Chase Checking \$ 14,174.21		Total \$ 24,488,698.68		
		CPF Chase Savings \$ 54,131.12	0.18%			
		Chase Totals \$ 890,888.82				
			4 stars	ADS Bank of America Petty Cash \$ 3,281.14	0.00%	
Bank of America Totals \$ 3,281.14						
\$140 Billion	5 stars	SBM Fifth Third Commercial Now \$ 12,531.74	0.00% ***			
		Fifth Third Totals \$ 12,531.74				
\$223 Million	4 stars	Grand River Bank Money Market \$ 4,269.84	0.50%			
		Grand River Bank Totals \$ 4,269.84				
		Grand River Bank Total w/CD \$ 257,797.53		State Bar Admin Fund Summary		
				Cash and Investments \$ 11,928,939.32		
\$288 Million	5 stars	First Community Bank \$ 2,722.55	0.60%	Less:		
		First Community Bank Total \$ 2,722.55		Due (to)/from Sections (2,613,754.75)		
\$2.96 Billion	5 stars	First Community Bank Total w/CD \$ 247,722.55		Due (to)/from CPF 14,956.06		
				Due to Sections and CPF \$ (2,598,798.69)		
		Sterling Bank \$ 2,314.09	0.40%	Net Administrative Fund \$ 9,330,140.63		
		Sterling Bank Total \$ 2,314.09				
		Sterling Bank Total w/CD \$ 977,314.09				
\$122 Billion	4 stars	Citizens Bank Checking \$ 100.00		Maturity		
		Citizens Bank Money Market \$ 5,335.54	0.02%	SBM Average Weighted Yield: 1.53%		
		CPF Citizens Bank CD \$ 500,000.00	2.50%	ADS Average Weighted Yield: 0.72%		
		Citizens Bank Totals \$ 505,435.54		CPF Average Weighted Yield: 1.08%		
\$3.27 Billion	5 stars	Mercantile Bank \$ 983,416.25	1.25%			
		Mercantile Bank Total \$ 983,416.25		Note: average weighted yields exclude retiree health care trusts		
\$227.5 Million	4 stars	Main Street Bank \$ 19,308.66	1.25%			
		Main Street Bank \$ 19,308.66				
\$3.85 Billion	5 stars	MSU Credit Union \$ 6.29	0.10%	Notes:		
		MSU Credit Union Total w/CD \$ 940,006.29		- All amounts are based on reconciled book balance and interest rates as of 07/31/2018		
\$16.8 Billion	4 stars	SBM Flagstar Savings Account \$ 1,246.32	0.78%	- CDARS are invested in multiple banks up to the FDIC limit for each bank		
		SBM Flagstar CDAR - 12 month \$ 1,000,000.00	0.70%	- Funds held in bank accounts are FDIC insured up to \$250,000 per bank		
		ADS Flagstar Checking Account \$ 843.86	0.25%	- The SBM funds held with Charles Schwab in the Retiree Health Care Trusts are invested in 70% equity and 30% fixed income mutual funds		
		ADS Flagstar CDARS -12 Month \$ 1,520,000.00	0.80%	- As of 07/31/2018, the funds held by SBM attributable to ADS was \$128,569.76		
		ADS Flagstar CDARS -12 Month \$ 810,000.00	0.70%	* Flagstar Bank reserves the right to mature these CDARS at 12 months.		
		ADS Flagstar CDARS -12 Month \$ 1,000,000.00	0.70%	** Formerly Talmer West Bank		
		CPF Flagstar Savings \$ 574,806.58	1.12%	***Balance offsets lockbox fees by 0.35%.		
		CPF Flagstar CDARS - 36 Month \$ 256,269.78	0.55%	****Actual unreconciled Chase balance per statements was \$923,286.01		
		CPF Flagstar CDARS - 24 Month \$ 450,036.85	0.75%			
		CPF Flagstar CDARS - 12 month \$ 350,000.00	0.70%			
		Flagstar Bank Totals \$ 5,963,203.39				
		\$19.2 Billion	4 stars	SBM - CD Chemical Bank ** \$ 235,000.00	1.75%	Maturity
				SBM - CD Chemical Bank \$ 240,000.00	1.75%	10/28/19
				SBM - CD Chemical Bank \$ 240,000.00	1.75%	04/17/19
				SBM - CD Chemical Bank \$ 240,000.00	1.75%	04/17/19
SBM - CD Chemical Bank \$ 240,000.00	1.75%			04/17/19		
SBM - CD Chemical Bank \$ 250,000.00	2.40%			02/25/20		
SBM - CD Chemical Bank \$ 250,000.00	2.40%			02/25/20		
SBM - CD Chemical Bank \$ 250,000.00	2.40%			02/25/20		
SBM - CD Chemical Bank \$ 250,000.00	2.40%			02/25/20		
SBM - CD Chemical Bank \$ 250,000.00	2.40%			02/25/20		
SBM - CD First Community Bank \$ 245,000.00	1.00%			12/12/18		
SBM - Grand River Bank \$ 253,527.69	2.50%			05/11/21		
SBM-CD Horizon Bank \$ 240,000.00	1.00%			10/12/19		
SBM-CD Horizon Bank \$ 245,000.00	1.30%			03/14/19		
SBM-CD Horizon Bank \$ 245,000.00	1.30%			03/14/19		
SBM-CD Horizon Bank \$ 250,000.00	2.66%	04/25/21				
SBM-CD Horizon Bank \$ 250,000.00	2.66%	04/25/21				
SBM-CD Horizon Bank \$ 250,000.00	2.48%	04/25/20				
SBM-CD Horizon Bank \$ 250,000.00	2.48%	04/25/20				
\$1.36 Billion	4 stars	SBM-CD First National Bank of America \$ 240,000.00	1.60%	10/12/19		
		SBM-CD First National Bank of America \$ 240,000.00	1.60%	10/16/18		
		SBM-CD First National Bank of America \$ 240,000.00	1.85%	10/16/20		
\$184.1 Million	2 stars	SBM-CD First National Bank of America \$ 240,000.00	1.85%	10/16/20		
		SBM-CD Community Shores Bank \$ 240,000.00	1.25%	10/15/19		
		SBM-CD Clarkston State Bank \$ 240,000.00	1.10%	10/12/19		
\$192.4 Million	4 stars	SBM-CD Clarkston State Bank \$ 240,000.00	1.75%	04/25/19		
		SBM-CD Clarkston State Bank \$ 240,000.00	1.75%	04/25/19		
		SBM-CD Clarkston State Bank \$ 240,000.00	1.75%	04/25/19		
\$267 Million	2 stars	SBM-CD First National Bank of St. Ignace \$ 245,000.00	1.25%	10/12/18		
		SBM-CD Sterling Bank \$ 245,000.00	1.55%	03/30/19		
		SBM-CD Sterling Bank \$ 245,000.00	1.55%	03/30/19		
	5 stars	SBM-CD Sterling Bank \$ 245,000.00	1.55%	03/30/19		
		SBM-CD Sterling Bank \$ 240,000.00	1.55%	03/30/19		
		SBM-CD Sterling Bank \$ 240,000.00	1.55%	03/30/19		
\$397 Million	4 stars	SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/05/18		
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/05/18		
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/05/18		
	5 stars	SBM-CD The Dart Bank \$ 240,000.00	1.25%	12/05/18		
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20		
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20		
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20		
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	10/25/20		
		Bank CD Totals \$ 9,213,527.69				
Total Cash & Investments (excluding Schwab) \$ 17,600,906.00						
		SBM - Charles Schwab (Ret HC Trust) \$ 2,987,287.74	Mutual Funds			
		ADB - Charles Schwab (Ret HC Trust) \$ 861,103.01	Mutual Funds			
		AGC - Charles Schwab (Ret HC Trust) \$ 3,039,401.93	Mutual Funds			
		Charles Schwab Totals \$ 6,887,792.68				
Grand Total (including Schwab) \$ 24,488,698.68						
Total amount of cash and investments (excluding Schwab) not FDIC insured \$ 8,446,755.28			47.99%			



STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND
306 TOWNSEND ST
LANSING, MI 48933

Subject: CDARS® Customer Statement

Legal Account Title: STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND

Below is a summary of your certificate(s) of deposit, which we are holding for you as your custodian. These certificate(s) of deposit have been issued through CDARS by one or more FDIC-insured depository institutions. Should you have any questions, please contact us at **888 248-6423**.

Summary of Accounts Reflecting Placements Through CDARS

Account ID	Effective Date	Maturity Date	Interest Rate	Opening Balance	Ending Balance
1020781374	11/16/17	11/15/18	0.69757%	\$1,000,000.00	\$1,000,000.00
TOTAL				\$1,000,000.00	\$1,000,000.00

ACCOUNT OVERVIEW

Account ID: 1020781374
Product Name: 52-WEEK PUBLIC FUND CD
Interest Rate: 0.69757%
Account Balance: \$1,000,000.00

Effective Date: 11/16/17
Maturity Date: 11/15/18
YTD Interest Paid: \$0.00
Interest Accrued: \$4,942.99
Int Earned Since Last Stmt: \$595.23

The Annual Percentage Yield Earned is 0.70%.

CD Issued by CASS COMMERCIAL BANK

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$243,500.00
Interest Accrued:	\$1,203.62	07/31/18	ENDING BALANCE	\$243,500.00
Int Earned Since Last Stmt:	\$144.94			

CD Issued by Howard Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$243,500.00
Interest Accrued:	\$1,203.62	07/31/18	ENDING BALANCE	\$243,500.00
Int Earned Since Last Stmt:	\$144.94			

CD Issued by Rockland Trust Company

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$243,500.00
Interest Accrued:	\$1,203.62	07/31/18	ENDING BALANCE	\$243,500.00
Int Earned Since Last Stmt:	\$144.94			

CD Issued by Signature Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$243,500.00
Interest Accrued:	\$1,203.62	07/31/18	ENDING BALANCE	\$243,500.00
Int Earned Since Last Stmt:	\$144.94			

CD Issued by The Bank of Kremlin

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$26,000.00
Interest Accrued:	\$128.51	07/31/18	ENDING BALANCE	\$26,000.00
Int Earned Since Last Stmt:	\$15.47			

Thank you for your business.



STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND
306 TOWNSEND ST
LANSING, MI 48933

Subject: CDARS® Customer Statement

Legal Account Title: STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND

Below is a summary of your certificate(s) of deposit, which we are holding for you as your custodian. These certificate(s) of deposit have been issued through CDARS by one or more FDIC-insured depository institutions. Should you have any questions, please contact us at **888 248-6423**.

Summary of Accounts Reflecting Placements Through CDARS

Account ID	Effective Date	Maturity Date	Interest Rate	Opening Balance	Ending Balance
1020945814	01/04/18	01/03/19	0.69757%	\$350,000.00	\$350,000.00
1020919066	12/28/17	12/26/19	0.74721%	\$450,036.85	\$450,036.85
1019078872	05/19/16	05/16/19	0.54851%	\$256,269.78	\$256,269.78
TOTAL				\$1,056,306.63	\$1,056,306.63

ACCOUNT OVERVIEW

Account ID: 1020945814
Product Name: 52-WEEK PUBLIC FUND CD
Interest Rate: 0.69757%
Account Balance: \$350,000.00

Effective Date: 01/04/18
Maturity Date: 01/03/19
YTD Interest Paid: \$0.00
Interest Accrued: \$1,400.82
Int Earned Since Last Stmt: \$208.14

The Annual Percentage Yield Earned is 0.70%.

CD Issued by Bank 2

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$106,500.00
Interest Accrued:	\$426.25	07/31/18	ENDING BALANCE	\$106,500.00
Int Earned Since Last Stmt:	\$63.34			

CD Issued by Signature Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$243,500.00
Interest Accrued:	\$974.57	07/31/18	ENDING BALANCE	\$243,500.00
Int Earned Since Last Stmt:	\$144.80			

ACCOUNT OVERVIEW

Account ID: 1020919066
Product Name: 2-YEAR PUBLIC FUND CD
Interest Rate: 0.74721%
Account Balance: \$450,036.85

Effective Date: 12/28/17
Maturity Date: 12/26/19
YTD Interest Paid: \$0.00
Interest Accrued: \$1,957.39
Int Earned Since Last Stmt: \$286.75

The Annual Percentage Yield Earned is 0.75%.

CD Issued by Glacier Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$111,506.87
Interest Accrued:	\$484.99	07/31/18	ENDING BALANCE	\$111,506.87
Int Earned Since Last Stmt:	\$71.05			

CD Issued by Mutual of Omaha Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$101,010.53
Interest Accrued:	\$439.33	07/31/18	ENDING BALANCE	\$101,010.53
Int Earned Since Last Stmt:	\$64.36			

CD Issued by National Cooperative Bank, NA

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$237,519.45
Interest Accrued:	\$1,033.07	07/31/18	ENDING BALANCE	\$237,519.45
Int Earned Since Last Stmt:	\$151.34			

ACCOUNT OVERVIEW

Account ID: 1019078872
Product Name: 3-YEAR PUBLIC FUND CD
Interest Rate: 0.54851%
Account Balance: \$256,269.78

Effective Date: 05/19/16
Maturity Date: 05/16/19
YTD Interest Paid: \$0.00
Interest Accrued: \$817.74
Int Earned Since Last Stmt: \$119.73

The Annual Percentage Yield Earned is 0.55%.

CD Issued by Glacier Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$104,929.36
Interest Accrued:	\$334.82	07/31/18	ENDING BALANCE	\$104,929.36
Int Earned Since Last Stmt:	\$49.02			

CD Issued by VIST Bank

YTD Interest Paid:	\$0.00	06/30/18	OPENING BALANCE	\$151,340.42
Interest Accrued:	\$482.92	07/31/18	ENDING BALANCE	\$151,340.42
Int Earned Since Last Stmt:	\$70.71			

Thank you for your business.

Monthly SBM Member Report - July 31, 2018

FY 2018

	Current Fiscal Year						FY Increase (Decrease)
	September 30 2013	September 30 2014	September 30 2015	September 30 2016	September 30 2017	July 31 2018	
Attorney Members and Affiliates In Good Standing							
Active	40,475	41,093	41,608	41,921	42,100	42,305	205
Less than 50 yrs serv	39,335	40,036	40,490	40,725	40,833	40,936	103
50 yrs or greater	1,140	1,057	1,118	1,196	1,267	1,369	102
Voluntary Inactive	1,263	1,211	1,218	1,250	1,243	1,174	(69)
Less than 50 yrs serv	1,231	1,184	1,195	1,230	1,217	1,147	(70)
50 yrs or greater	32	27	23	20	26	27	1
Emeritus	1,391	1,552	1,678	1,841	1,973	2,210	237
Total Attorneys in Good Standing	43,129	43,856	44,504	45,012	45,316	45,689	373
Dues Paying Members (Active & Inactive less than 50 yrs of Serv)	40,566	41,220	41,685	41,955	42,050	42,083	33
Affiliates							
Legal Administrators	19	14	13	13	13	10	(3)
Legal Assistants	433	413	425	405	400	396	(4)
Total Affiliates in Good Standing	452	427	438	418	413	406	(7)
Total Attorney Members and Former Members in the Database							
	September 30 2013	September 30 2014	September 30 2015	September 30 2016	September 30 2017	July 31 2018	FY Increase (Decrease)
State Bar of Michigan Member Type							
Attorney Members in Good Standing:							
ATA (Active)	40,475	41,093	41,608	41,921	42,100	42,305	205
ATVI (Voluntary Inactive)	1,263	1,211	1,218	1,250	1,243	1,174	(69)
ATE (Emeritus)	1,391	1,552	1,678	1,841	1,973	2,210	237
Total Members in Good Standing	43,129	43,856	44,504	45,012	45,316	45,689	373
Attorney Members Not in Good Standing:							
ATN (Suspended for Non-Payment of Dues)	5,248	5,427	5,578	5,743	5,888	6,087	199
ATDS (Discipline Suspension - Active)	400	407	415	418	430	442	12
ATDI (Discipline Suspension - Inactive)	10	12	11	18	19	19	0
ATDC (Discipline Suspension - Non-Payment of Court Costs)	1	1	3	3	16	15	(1)
ATNS (Discipline Suspension - Non-Payment of Other Costs)	76	83	92	99	94	93	(1)
ATS (Attorney Suspension - Other)*	1	1	1	1	0	0	0
ATR (Revoked)	519	521	517	534	562	579	17
ATU (Status Unknown - Last known status was inactive)**	2,174	2,088	2,076	2,074	2,070	2,070	0
Total Members Not in Good Standing	8,429	8,540	8,693	8,890	9,079	9,305	226
Other:							
ATSC (Former special certificate)	134	136	140	145	152	155	3
ATW (Resigned)	1,354	1,429	1,483	1,539	1,612	1,689	77
ATX (Deceased)	7,797	8,127	8,445	8,720	9,042	9,259	217
Total Other	9,285	9,692	10,068	10,404	10,806	11,103	297
Total Attorney Members in Database	60,843	62,088	63,265	64,306	65,201	66,097	896

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 members who were found not to be accounted for in the iMIS database
The last known status was inactive and many are likely deceased. We are researching these members to determine a final disposition.

N/R - not reported

Notes: Through July 31, 2018, a total of 896 new members joined the SBM so far in FY 2018

State Bar of Michigan Retiree Health Care Trust
Balance Sheet
For the Ten Months Ending Tuesday, July 31, 2018

Assets	
Investment	<u>\$2,987,288</u>
Total Assets	<u><u>\$2,987,288</u></u>
Fund Balance	
Fund Balance at Beginning of Year	2,771,178
Net Income (Expense) Year to Date	<u>216,110</u>
Total Fund Balance	<u>2,987,288</u>
Total Liabilities and Fund Balance	<u><u>\$2,987,288</u></u>

State Bar of Michigan Retiree Health Care Trust
Income Statement
For the Ten Months Ending Tuesday, July 31, 2018

	July 2018	CURRENT YTD
Income:		
5-7-00-000-0921 Change In Market Value	43,371	(34,400)
5-7-00-000-1005 Investment Contributions	4,778	47,776
5-7-00-000-1920 Interest and Dividends	3,091	202,734
 Total Income	<u>51,240</u>	<u>216,110</u>
 Net Fund Income (Expense)	<u><u>51,240</u></u>	<u><u>216,110</u></u>

TO: Board of Commissioners
FROM: Professional Standards Committee
DATE: July 27, 2018, BOC Meeting
RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that “claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant.” To protect CPF claim information and avoid negative publicity about a respondent regarding a claim that has been denied and appealed, the CPF Report to the Board of Commissioners is designated “confidential.”

**CONSENT AGENDA
CLIENT PROTECTION FUND**

Claims recommended for payment:

a. Consent Agenda

	Claim No.	Professional Standards Committee Amt.
1.	CPF 3243	\$150,000.00
2.	CPF 3317	\$150,000.00
3.	CPF 3399	\$700.00
4.	CPF 3427	\$7,500.00
5.	CPF 3429	\$4,000.00
6.	CPF 3432	\$225.00
7.	CPF 3441	\$3,500.00
	Table Total	\$315,925.00

b. Supporting documentation follows.

The Professional Standards Committee recommends payment of the following claims by the State Bar of Michigan's Client Protection Fund:

1. CPF 3243 **Amount recommended: \$150,000.00**

Claimant retained Respondent to defend against foreclosure. The loan was foreclosed and a judgment was entered against Claimant. Claimant entrusted Respondent with \$284,860.60 to acquire the mortgage and judgment, which respondent misappropriated. The Attorney Discipline Board (ADB) disbarred Respondent and ordered him to pay \$284,860.60 in restitution to Claimant. Respondent's failure to safeguard Claimant's funds constitutes dishonest conduct and is a reimbursable loss under CPF Rules 9(C)(1) and 11(B). Claimant's total loss is determined to be \$284,860.60; however, under the maximum reimbursable amount under CPF Rule 12(B), this claim is recommended for reimbursement for \$150,000 payable to Claimant.

2. CPF 3317 **Amount recommended: \$150,000.00**

Seller retained Respondent to handle a real estate transaction. Buyers remitted the earnest money of \$200,000 to Respondent. The real estate transaction was unsuccessful and both the Seller and Buyers asserted a claim to the earnest money. The Court found that Respondent removed or converted \$150,000 of the earnest money entrusted to him. Respondent's failure to safeguard the earnest money constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 11(B), and 12(B). This claim is recommended for reimbursement for \$150,000 to the Seller or Buyers based on the Court's determination or the parties written agreement of who is entitled to the earnest money misappropriated by Respondent. If reimbursement is approved, payment is to be withheld pending a determination by the Court or written confirmation by the parties of who is entitled to the \$150,000 to be reimbursed by the Fund. Alternatively, the amount to be reimbursed may be tendered to the Court for safekeeping pending resolution of the dispute between Seller and Buyers regarding entitlement to the earnest deposit money.

3. CPF 3399 **Amount recommended: \$700.00**

Claimant retained Respondent to represent him in an expungement matter paying a flat fee of \$700. Respondent provided no legal services. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6). This claim is recommended for reimbursement for \$700 payable to Claimant.

4. CPF 3427 **Amount recommended: \$7,500.00**

Claimant's mother retained Respondent to represent Claimant in a criminal appeal, paying \$9,500 for the representation. Respondent filed a three page motion and learned that no further appeals were available to Claimant. The ADB suspended Respondent's license to practice law and ordered her to pay \$7,500 in restitution to Claimant, determining that the \$9,500 fee was clearly excessive. Respondent's failure to refund the unearned portion of the fee advanced to her constitutes dishonest conduct and is a reimbursable loss as defined by CPF Rules 9(C)(1), 9(D)(6), and 11(B). This claim is recommended for reimbursement for \$7,500 payable to the payor.

5. CPF 3429 **Amount recommended: \$4,000.00**

Claimant retained Respondent to file a divorce and paid a flat fee of \$4,000. Respondent filed the complaint for divorce, but failed to serve the defendant or provide any further legal services. The ADB ordered \$4,000 in restitution. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(D)(6), and 11(B). This claim is recommended for reimbursement for \$4,000 payable to Claimant.

6. CPF 3432

Amount recommended: \$225.00

Claimant retained Respondent to prepare a writ of garnishment and paid the flat fee of \$225. Respondent wrote a letter to the garnishee and then abandoned the matter. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(D)(6). This claim is recommended for reimbursement for \$225 payable to Claimant.

7. CPF 3441

Amount recommended: \$3,500.00

Claimant and his wife retained Respondent to file a civil appeal. Claimant paid Respondent \$6,000 towards the agreed upon flat fee of \$7,500. The Engagement Agreement stated that \$5,000 of the fee was nonrefundable. Nonrefundable retainers are ethically permissible if the fee agreement is unambiguous and satisfies the requirement of MRPC 1.5(a), *Grievance Adm'r v Cooper*, 757 NW2d 867 (Mich 2008). The Engagement Agreement does not address the premature termination of the representation prior to completion of the legal representation. Since Respondent failed to complete the agreed upon services, the nonrefundable flat fee may be deemed unreasonable or excessive contrary to MRPC 1.5(a).

Respondent filed a Claim of Appeal and an appellate brief before Claimant retained new counsel. Based on the work completed and negotiations related to the consent order of discipline, the ADB determined that Respondent earned \$2,500. Respondent's failure to refund the remaining unearned portion of the fee constitutes dishonest conduct and is a reimbursable loss under CPF Rules 9(C)(1), 9(D)(6), and 11(B). This claim is recommended for reimbursement for \$3,500 payable to Claimant, which follows the ADB's order of restitution.

Total payments recommended: \$315,925.00



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

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The Committee solicits comment on the following proposal by November 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov .

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PROPOSED

The Committee proposes new instructions, M Crim JI 37.1, 37.1a, 37.2 and 37.2a for the bribery statutes found at MCL 750.117 through 750.120.

[NEW] M Crim JI 37.1 Offering Bribes – Public Officer, Agent, Servant, or Employee

(1) The defendant is charged with offering a bribe to a public [officer / agent / servant / employee]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [gave / offered / promised] any gift or anything of value to [*name of public officer, agent, servant, or employee*].

(3) Second, that at the time the defendant [gave / offered / promised] the gift or thing of value to [*name of public officer, agent, servant, or employee*], [he / she] had been [elected / chosen or appointed] to [his / her] public position as [*identify public position held*].¹ It does not matter whether [*name of public officer, agent, servant, or employee*] had actually taken [his/her] position or had been qualified to take [his/her] position as long as the public [officer / agent / servant / employee] had already been [elected / chosen or appointed].

(4) Third, that the defendant corruptly [gave / offered / promised] the gift or thing of value with the intent to influence [*name of public officer, agent, servant, or employee*]'s act, vote, opinion, decision, or judgment / action on any matter, question, cause, or proceeding that was pending or that may be brought / any act or

omission] relating to any of [*name of public officer, agent, servant, or employee*]'s public capacity or duties.

The defendant corruptly [gave / offered / promised] the gift or thing of value to [*name of public officer, agent, servant, or employee*] if [he / she] intended it to influence the [(vote / opinion / judgment) of (*name of public officer, agent, servant, or employee*) / (nomination / appointment) made by (*name of public officer, agent, servant, or employee*)], in a way that was dishonest, inconsistent with the public interests, or inconsistent with the duties of [his / her] public position as [*identify public position held*].²

Use Note

1. *People v Coutu*, 459 Mich 348, 353; 589 NW2d 458 (1999), holds that the determination whether any particular office or position is a “public office” is a question of law to be decided by the court. Whether the person being bribed held (or was about to hold) public office when the bribe was allegedly offered is a question of fact.

2. “[C]orrupt intent can be shown where there is intentional or purposeful misbehavior or wrongful conduct pertaining to the requirements and duties of office by an officer.” *People v Coutu*, 235 Mich App 695, 706; 599 NW2d 556 (1999). It does not encompass erroneous acts done by officials in good faith or honest mistakes committed by the official in the discharge of his duties. *Id.* See also *People v Waterstone*, 296 Mich App 121, 137; 818 NW2d 432 (2012).

[NEW] M Crim JI 37.1a Offering Bribes – Juror, Appraiser, Receiver, Trustee, Administrator, Executor, Commissioner, Auditor, Arbitrator, or Referee

(1) The defendant is charged with offering a bribe to [a juror / an appraiser / a receiver / a trustee / an administrator / an executor / a commissioner / an auditor / an arbitrator / a referee]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [gave / offered / promised] any gift or anything of value to [*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*].

(3) Second, that [*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*] was [a juror / an appraiser / a receiver / a trustee / an administrator / an executor / a commissioner / an auditor / an arbitrator / a referee].¹

(4) Third, that at the time the defendant [gave / offered / promised] the gift or thing of value to [*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*], the defendant corruptly intended to [influence the decision that (*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*) was appointed or chosen to make / influence (*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*)’s decision on any matter pending (in a court / before an inquest)].

The defendant corruptly [gave / offered / promised] the gift or thing of value if [he/she] intended it to [influence the decision that (*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*) was appointed or chosen to make / influence (*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*)’s decision on any matter pending (in a court / before an inquest)], in a way that was dishonest, inconsistent with the public interests, or inconsistent with the duties that (*name of juror, appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee*) was appointed or chosen to perform.²

(5) Fourth, that the decision in court that the defendant was trying to influence was being made in a criminal case [carrying a punishment of (more than 10 years / life or any term of years)].³

Use Note

1. The court may provide a definition of these roles. The following may be helpful:

- (a) A juror is a person summoned to decide a civil or criminal case in court.
- (b) An appraiser is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to make an impartial estimate of the value of any sort of property.
- (c) A receiver is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to protect or collect property where different persons or groups have claims for the ownership of the property.
- (d) A trustee is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to hold property for the benefit of others.
- (e) An administrator is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to lead a business, public office or agency.
- (f) An executor is a person chosen or appointed to perform some act, often in relation to administering the estate of a deceased person.
- (g) A commissioner is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to direct an organization authorized to perform public services.
- (h) An auditor is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to examine the financial records of a person, corporation, or public body.
- (i) An arbitrator is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to act as a neutral person to decide disputes between persons or organizations.
- (j) A referee is a person chosen or appointed by an executive, legislative, or judicial officer or body or by a corporation to control the conduct of others in the performance of their duties.

2. “Corrupt intent can be shown where there is intentional or purposeful misbehavior of wrongful conduct pertaining to the requirements and duties of office by the officer.” *People v Coutu*, 235 Mich App 695, 706; 599 NW2d 556, 562 (1999). It does not encompass erroneous act done by officials in good faith or honest mistakes committed by the official in the discharge of his duties. *Id.* See also, *People v Waterstone*, 296 Mich App 121, 137; 818 NW2d 432, 440 (2012).

3. Use (5) only when the decision was being made in a criminal case, and bracketed portion where appropriate to reflect the charged offense.

**[NEW] M Crim JI 37.2 Accepting Bribes – Executive, Legislative, or
Judicial Officer**

(1) The defendant is charged with accepting a bribe as [an executive / a legislative / a judicial] officer. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that another person [gave a gift / promised to give a gift / promised to do any act that was beneficial] to the defendant.

(3) Second, that defendant was [an executive / a legislative / a judicial] officer when [he / she] [accepted the gift / received the promise].

(4) Third, that defendant corruptly [accepted the gift / received the promise] under an agreement or with an understanding that [he/she]

[*Select (a) or (b):*]

(a) would [vote / render an opinion / exercise judgment] on a particular side of any question, cause, or proceeding that is or may be brought before [him/her] in [his/her] official capacity.

(b) would make a particular [nomination / appointment] in [his/her] official capacity.

The defendant corruptly [accepted the gift / received the promise] if [he / she] intended that it would influence [defendant's (vote / opinion / judgment) / a (nomination / appointment) made by defendant], in a way that was dishonest, inconsistent with the public interests, or inconsistent with the duties of [his/her] public position as [*identify public position held*].¹

Use Note

1. “[C]orrupt intent can be shown where there is intentional or purposeful misbehavior or wrongful conduct pertaining to the requirements and duties of office by an officer.” *People v Coutu*, 235 Mich App 695, 706; 599 NW2d 556 (1999). It does not encompass erroneous acts done by officials in good faith or honest mistakes committed by the official in the discharge of his duties. *Id.* See also, *People v Waterstone*, 296 Mich App 121, 137; 818 NW2d 432 (2012).

[NEW] M Crim JI 37.2a Accepting Bribes – Juror, Appraiser, Receiver, Trustee, Administrator, Executor, Commissioner, Auditor, Arbitrator, or Referee

(1) The defendant is charged with accepting a bribe as [a juror / an appraiser / a receiver / a trustee / an administrator / an executor / a commissioner / an auditor / an arbitrator / a referee]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was [summoned as a juror / chosen or appointed as (an appraiser / a receiver / a trustee / an administrator / an executor / a commissioner / an auditor / an arbitrator / a referee)].

(3) Second, that that defendant corruptly accepted a gift or anything of value from a person who was a party to any suit, cause, or proceeding.

(4) Third, that when the defendant accepted the gift or anything of value, the defendant knew that the person was trying to influence

[*Select (a) or (b):*]

(a) the trial for which the juror was summoned or the decision that the juror would make.

(b) the hearing or determination for which the [appraiser / receiver / trustee / administrator / executor / commissioner / auditor / arbitrator] was chosen or appointed.

The defendant corruptly accepted the gift or thing of value if [he/she] intended it to [influence the decision that the defendant was appointed or chosen to make / influence the defendant's decision on any matter pending (in a court / before an inquest)], such as in a way that was dishonest, inconsistent with the public interests, or inconsistent with the duties that the defendant performed as [a juror / an appraiser / a receiver / a trustee / an administrator / an executor / a commissioner / an auditor / an arbitrator / a referee].²

Use Note

1. The court may provide a definition of these roles. The following may be helpful:

- (a) A juror is a person summoned to decide a civil or criminal case in court.
- (b) An appraiser is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to make an impartial estimate of the value of any sort of property.
- (c) A receiver is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to protect or collect property where different persons or groups have claims for the ownership of the property.
- (d) A trustee is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to hold property for the benefit of others.
- (e) An administrator is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to lead a business, public office or agency.
- (f) An executor is a person chosen or appointed to perform some act, often in relation to administering the estate of a deceased person.
- (g) A commissioner is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to direct an organization authorized to perform public services.
- (h) An auditor is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to examine the financial records of a person, corporation, or public body.
- (i) An arbitrator is a person chosen or appointed by an executive, legislative or judicial officer or body, or by a corporation to act as a neutral person to decide disputes between persons or organizations.
- (i) A referee is a person chosen or appointed by an executive, legislative, or judicial officer or body or by a corporation to control the conduct of others in the performance of their duties.

2. “Corrupt intent can be shown where there is intentional or purposeful misbehavior of wrongful conduct pertaining to the requirements and duties of office by the officer.” *People v Coutu*, 235 Mich App 695, 706; 599 NW2d 556, 562 (1999). It does not encompass erroneous acts done by officials in good faith or honest mistakes committed by the official in the discharge of his duties. *Id.* See also, *People v Waterstone*, 296 Mich App 121, 137; 818 NW2d 432, 440 (2012).



**Public Policy Position
Model Criminal Jury Instructions
37.1, 37.1a, 37.2, and 37.2a**

SUPPORT AS DRAFTED

Position Vote:

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 3

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by November 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov .

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PROPOSED

The Committee proposes amending M Crim JI 11.1, and adding a new instruction, M Crim JI 11.1a, to separate the distinct offenses found in MCL 750.227: carrying a concealed pistol, and carrying a pistol in a vehicle. The proposal aims to eliminate juror confusion created when the “concealed” language in M Crim JI 11.1 is read where the offense involves carrying a pistol in an automobile. Deletions are in strike-through, and new language is underlined.

[AMENDED] M Crim JI 11.1 Carrying a Concealed Weapon – Pistol

(1) The defendant is charged with the crime of carrying a concealed pistol.¹ To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

~~*[Use the following if defendant is charged with carrying a pistol concealed on person:]*~~

(2) First, that the defendant knowingly carried a pistol. It does not matter why the defendant was carrying the pistol, but to be guilty of this crime the defendant must have known that [he / she] was carrying a pistol.*²

(3) Second, that this pistol was concealed on or about the person of the defendant. Complete invisibility is not required. A pistol is concealed if it cannot easily be seen by those who come into ordinary contact with the defendant.

~~*[Use the following if defendant is charged with carrying a pistol carried in vehicle:]*~~

~~(4) First, that a pistol was in a vehicle that the defendant was in.*~~

~~(5) Second, that the defendant knew the pistol was there.~~

~~(6) Third, that the defendant took part in carrying or keeping the pistol in the vehicle.~~

Use Note

1. Use this instruction only when the defendant has been charged under MCL 750.227(2) with carrying a pistol concealed on his or her person. Where the charge is that defendant carried a pistol in a vehicle, use M Crim JI 11.1a.

2. The definition of pistol, M Crim JI 11.3, should be included in the instructions only where there is some question of whether or not the article being is a pistol.

See M Crim JI 11.10 – 11.15 for exemptions.

[NEW] M Crim JI 11.1a Carrying a Pistol in a Vehicle

(1) The defendant is charged with the crime of carrying a pistol in a vehicle.¹ To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that a pistol was in a vehicle that the defendant was in.²

(3) Second, that the defendant knew the pistol was there.

(4) Third, that the defendant took part in carrying or keeping the pistol in the vehicle.

Use Note

1. Use this instruction only when the defendant has been charged under MCL 750.227(2) with carrying a pistol in a vehicle. Where the charge is that defendant carried a concealed pistol on his or her person, use M Crim JI 11.1.

2. The definition of pistol, M Crim JI 11.3, should be included in the instructions only where there is some question whether or not the article is a pistol.

See M Crim JI 11.10 – 11.15 for exemptions.



**Public Policy Position
Model Criminal Jury Instructions
11.1 and 11.1a**

SUPPORT AS DRAFTED

Position Vote:

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 3

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

The Committee solicits comment on the following proposal by November 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The Committee proposes amending M Crim JI 12.2a, the instruction for delivery of a controlled substance causing death. The proposal adds causation language to the instruction and eliminates a Use Note to the effect that M Crim JI 16.15 applies to causation under MCL 750.317a, because the statute provides that the controlled substance must cause the death at issue, not the act of the defendant. Deletions are in strike-through, and new language is underlined.

**[AMENDED] M Crim JI 12.2a Delivery of a Controlled Substance
Causing Death**

- (1) The defendant is charged with the crime of delivery of a controlled substance¹ causing death. To prove this charge, the prosecution must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant delivered a controlled substance to another person. “Delivery” means that the defendant transferred the substance to another person knowing that it was a controlled substance and intending to transfer it to that person.
- (3) Second, that the substance delivered was a controlled substance.
- (4) Third, that the defendant knew [he / she] was delivering a controlled substance.
- (5) Fourth, that the controlled substance was consumed by [*state name of person who consumed*].²

(6) Fifth, that consuming the controlled substance caused the death of [*state victim's name*].

There may be more than one cause of death. The controlled substance delivered by the defendant does not need to be the sole cause of [*state victim's name*]'s death. The prosecutor is only required to prove that the controlled substance was a contributing cause that was a substantial factor in the death of [*state victim's name*]. It does not matter if there was another contributing cause to the death.

Use Note

1. The controlled substance must be a schedule 1 or 2 controlled substance other than marijuana, MCL 750.317a.

~~2. Concerning causation, see M-Crim JI 16.15, Act of Defendant Must Be Cause of Death.~~

Public Policy Position
Model Criminal Jury Instructions
12.2a

SUPPORT AS DRAFTED

Position Vote:

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 3

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

=====

The Committee solicits comment on the following proposal by November 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov .

=====

PROPOSED

The Committee proposes amending M Crim JI 17.9, assault with a dangerous weapon, and M Crim JI 17.10, definition of dangerous weapon. The proposal aims to correct the language in paragraph (4) of M Crim JI 17.9 that removed from jury consideration the element whether the object charged as being a dangerous weapon was, in fact, a dangerous weapon as determined by the jury. Language was added to that instruction to define a dangerous weapon for the jury's consideration. M Crim JI 17.10 was amended to conform to the added definition provided in M Crim JI 17.9. Deletions are in strike-through, and new language is underlined.

[AMENDED] M Crim JI 17.9 Assault with a Dangerous Weapon

- (1) [The defendant is charged with the crime of / You may also consider the lesser charge of¹] ~~felonious~~ assault with a dangerous weapon. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant either attempted to commit a battery on [*name complainant*] or did an act that would cause a reasonable person to fear or apprehend an immediate battery. A battery is a forceful or violent touching of the person or something closely connected with the person.²
- (3) Second, that the defendant intended either to injure [*name complainant*] or to make [*name complainant*] reasonably fear an immediate battery.
- (4) Third, that at the time, the defendant had the ability to commit a battery, appeared to have the ability, or thought [he / she] had the ability.

- (5) Fourth, that the defendant committed the assault with a ~~{state dangerous weapon alleged}~~.³ dangerous weapon.

A dangerous weapon is any object that is used in a way that is likely to cause serious physical injury or death.

Some objects, such as guns or bombs, are dangerous because they are specifically designed to be dangerous. Other objects are designed for peaceful purposes but may be used as dangerous weapons. The way an object is used or intended to be used in an assault determines whether or not it is a dangerous weapon. If the defendant threatens to use an object or uses an object in a way that is likely to cause serious physical injury or death, it is a dangerous weapon.

You must decide from all of the facts and circumstances whether the prosecutor has proved that the [state object alleged to be a dangerous weapon] in question here was a dangerous weapon.

Use Note

1. Use when instructing on this crime as a lesser included offense.
2. If the victim's consent or nature of the touching is at issue, use of M Crim JI 17.14, Definition of Force and Violence; or M Crim JI 17.15, Definition of Touching, is recommended.

~~3. Where necessary, define term used:~~

~~M Crim JI 17.10 _____ Definition of Dangerous Weapon;~~

~~M Crim JI 17.11 _____ Definition of Firearm — Gun, Revolver, Pistol;~~

~~M Crim JI 17.12 _____ Definition of Brass Knuckles.~~

M Crim JI 17.10 Definition of Dangerous Weapon

- (1) A dangerous weapon is any object that is used in a way that is likely to cause serious physical injury or death.
- (2) Some objects, such as guns or bombs, are dangerous because they are specifically designed to be dangerous. Other objects are designed for peaceful purposes but may be used as dangerous weapons. The way an object is used or intended to be used in an assault determines whether or

not it is a dangerous weapon. If the defendant threatens to use an object or uses an object ~~If an object is used~~ in a way that is likely to cause serious physical injury or death, it is a dangerous weapon.

(3) You must decide from all of the facts and circumstances whether the evidence shows that the _____ [*state object alleged to be a dangerous weapon*] in question here was a dangerous weapon.



**Public Policy Position
Model Criminal Jury Instructions
17.9 and 17.10**

SUPPORT AS DRAFTED

Position Vote:

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 3

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

=====
The Committee solicits comment on the following proposal by November 1, 2018. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov .
=====

PROPOSED

The Committee proposes amending M Crim JI 3.28, the jury verdict form used for multiple counts against a defendant, because the current form fails to provide a general “not guilty” option for each charged count. See *People v Wade*, 283 Mich App 462 (2009). Deletions are in strike-through, and new language is underlined.

[AMENDED] M Crim JI 3.28 Verdict Form (Multiple Counts)

Defendant:

POSSIBLE VERDICTS:

You may return only one verdict on ~~this charge~~ each count. Mark only one verdict ~~on this sheet~~ for each count.

~~___ Not Guilty~~

Count 1

___ Not Guilty of _____

___ Guilty of _____

Count 2

___ Not Guilty of _____

___ Guilty of _____

Public Policy Position
Model Criminal Jury Instructions
3.28

SUPPORT WITH CORRECTION

Explanation:

The committee voted unanimously to support M Crim JI 3.28 with the correction removing the “of _____” after each “not guilty” listed.

Position Vote:

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 3

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org

Regulatory Objectives for the Provision of Legal Services in Michigan

Report of the Regulatory Objectives Special Committee

If you don't know where you're going, any road will get you there.
--George Harrison

The 21st Century Task Force of the State Bar of Michigan recognized that we are poised at the brink of tremendous change in the legal profession, and that new models for the provision of legal services will emerge, some within our control and some outside our control. In such a climate, it is suggested that a more robust statement of regulatory objectives will set forth the purposes of regulation and thus serve as a guide to the regulators and those regulated; permit the regulator to align any regulation with its function and aims; serve to inform public debate about the regulation; and assist the legal profession when it is called upon to negotiate with governmental and nongovernmental entities about regulations affecting the provision of legal services.¹

Regulatory objectives will assist in guiding future regulation of legal service providers and will help ensure that regulation is for the purpose of serving the legal needs of the public consistently with identified core values for delivery of legal services.

At this point in time, the American Bar Association and a number of domestic and international jurisdictions have articulated regulatory objectives, including England and Wales, Scotland, New Zealand, and New South Wales, several provinces of Canada, and the States of Illinois, Colorado and Washington. The Committee has had the benefit of these efforts as well as those of published scholars in the regulatory objective arena and proposes regulatory objectives unique to Michigan informed by these materials.

The process engaged by the Committee followed the model set forth by the ABA and required the Committee to identify the Core Values for Providers of Legal Services (Exhibit A). Core values differ from regulatory objectives. Regulatory objectives are designed to align the creation of new regulation, including regulation of new categories of legal service providers, and to a degree seek to ensure that these core values are observed by service providers who are not lawyers.

Respectfully submitted,

s/Regulatory Objectives Special Committee

Christopher G. Hastings, Co-Chair
Mark A. Armitage
William B. Dunn
Stephanie J. LaRose
Valerie R. Newman

Angela S. Tripp, Co-Chair
Teresa Lee Duddles
Alan M. Gershel
Milton L. Mack, Jr.
Mwanaisha Atieno Sims

¹ This list is adapted from Laurel Terry, Steve Mark and Tahlia Gordon, Adopting Regulatory Objectives for the Legal Profession, 80 *FORDHAM LAW REVIEW* 2685, 2686 (2012).

Staff Liaisons

Danon D. Goodrum-Garland

Nkrumah Johnson-Wynn

Robert G. Mathis, Jr.

Alecia M. Ruswinckel

CORE VALUES FOR PROVIDERS OF LEGAL SERVICES AND THEIR COMPASS

Promote justice, fairness, and diversity: responsibility to the legal system and rule of law

- Strive to obtain access to justice for all; promote accessibility of legal services and the efficient administration of justice
- Respect legal rights and the dignity of all persons
- Serve the means and the ends of justice, including equal opportunity
- Increase public understanding of the rule of law and of citizens' legal rights and duties
- Advocate for and influence development of law for the public good

Provide competent and diligent representation: a fiduciary duty to those served

- Exercise judgment independent of the provider's own interests for the benefit of the client
- Promote physical and mental health (wellness) of all providers to ensure capacity for competent delivery of legal services
- Provide honest and clear communication about services and obligations of the provider to persons served
- Respect the client's rights and interests in the matter of the representation
- Pursue self-development through continuing education in legal subject matter, means and methods of delivery of service

Observe and provide representation in accordance with professional qualities expected in the delivery of legal services

- Observe confidentiality of information in accordance with rules of professional conduct
- Ensure that professional qualities are applicable to and observed by all providers of legal and law related services

Improve and add value to the professional delivery of legal services

- Examine how, when in the best interest of the public, legal services may be provided by qualified non-lawyers
- Promote diversity and inclusion among legal service providers and freedom from discrimination for those receiving legal services and in the justice system

Regulatory Objectives for the Provision of Legal Services in Michigan

Preamble

In the exercise of its constitutional responsibility to supervise the practice of law in this state, the Supreme Court acts to protect the public, the courts, and the legal profession. MCR 9.105(A). A primary focus of the system of regulation designed to meet these ends involves the promulgation of standards for, and discipline of, members of the Michigan bar. See, e.g., the Michigan Rules of Professional Conduct, and subchapter 9.100 of the Michigan Court Rules. Another critical component of lawyer regulation in Michigan involves preventative, proactive, and remedial programs administered by the State Bar of Michigan. Rule 1, Rules Concerning the State Bar of Michigan. The practice of law has evolved to such an extent that a clearer and more detailed articulation of the Court's objectives in regulating the provision of legal services in the public interest is warranted. The regulation of the provision of legal services must extend to activities by nonlawyers, and the following Regulatory Objectives apply to all providers of legal services.

Regulatory Objectives

The objectives in regulating the provision of legal services in Michigan are:

1. Protecting and promoting the public interest;
2. Promoting the rule of law and independence in the administration of justice;
3. Promoting access to justice and the public's understanding of legal rights, duties, and the justice system;
4. Promoting the availability and affordability of competent legal services;
5. Promoting informed choice regarding the nature, scope, and cost of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections;
6. Establishing and ensuring compliance with essential eligibility requirements, rules of professional conduct, and other rules governing the provision of legal services;
7. Assisting providers of legal services to maintain competence and professionalism and promoting their ability to serve clients efficiently and in accordance with applicable professional standards;
8. Promoting equal rights and freedom from discrimination in the licensing and regulation of legal services providers, the delivery of legal services, the delivery of legal education, and the administration of justice;
9. Maintaining and promoting the role of the Michigan Supreme Court and the State

Bar of Michigan in the independent and coordinated regulation of legal services providers; and

10. Promoting diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

Comments

The marketplace for legal services is changing. At the time these Objectives were drafted, subject to specific statutory exceptions, only licensed attorneys are able to “practice law,” and the Michigan Supreme Court states that one “engages in the practice of law when he [she] counsels or assists another in matters that require the use of legal discretion and profound legal knowledge.” *Dressel v Ameribank*, 468 Mich 557, 566; 664 NW2d 151, 157 (2003). Non-lawyers are permitted under the law to prepare routine legal documents that do not require the exercise of legal discretion, and to provide general legal information. *Id.* The non-lawyers providing such services range from nonprofit legal assistance and information centers, to the Michigan Legal Help website, to for-profit enterprises such as document preparation services, title companies, realtors, and accountants. Ordinarily, the activities of unregulated services providers, including nonlawyers, have been scrutinized only by the State Bar of Michigan Standing Committee on the Unauthorized Practice of Law. On the horizon, new categories of providers performing a wide array of legal services are foreseen. Such legal services providers should be licensed and regulated in some fashion.

Order

Michigan Supreme Court
Lansing, Michigan

June 13, 2018

Stephen J. Markman,
Chief Justice

ADM File No. 2017-15

Proposed Amendment of
Canon 7 of the Michigan
Code of Judicial Conduct

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Canon 7 of the Michigan Code of Judicial Conduct. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining
and deleted text is shown by strikeover.]

Canon 7.

A Judge or a Candidate for Judicial Office Should Refrain From Political Activity
Inappropriate to Judicial Office

A. [Unchanged.]

B. Campaign Conduct:

(1) [Unchanged.]

(2) These provisions govern a candidate, including an incumbent judge, for a
judicial office:

(a) [Unchanged.]

(b) A candidate may establish committees of responsible persons to
secure and manage the expenditure of funds for the campaign and to
obtain public statements of support (including support from lawyers)
for the candidacy.

- (c) Such committees ~~may solicit and acceptare prohibited from solieiting~~ campaign contributions from ~~the public, including lawyers,~~ as ~~permitted by law~~, in excess of \$100 per lawyer, but may solicit public support from lawyers. It is not a violation of this provision for a committee, in undertaking solicitations that are not directed exclusively to lawyers but may in fact go to lawyers who are members of a group or found on a mailing list, to solicit more than \$100 per person, provided that the following disclaimer appears on the letter or on a response card, in print that is at least the same size as the remainder of the print in the letter or the response card:

~~“Canon 7 of the Michigan Code of Judicial Conduct prohibits a judicial campaign committee from solieiting more than \$100 per lawyer. If you are a lawyer, please regard this as informative and not a solieitation for more than \$100.”~~

- (d) [Unchanged.]

Staff comment: The proposed amendment of Canon 7 of the Code of Judicial Conduct would explicitly allow judicial campaign solicitation as permitted by law, eliminate the \$100 per lawyer limitation, and remove the disclaimer requirement. This change would bring Michigan’s canons into conformity with the majority of states that have moved away from solicitation restrictions and instead opted to refer to statutory campaign provisions.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by October 1, 2018, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2017-15. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 13, 2018

Clerk

From: cpa@wmnc.biz
To: [ADMcomment](#)
Subject: Canon 7 of the Judicial Code of Conduct comments on change
Date: Saturday, June 23, 2018 6:48:52 PM
Attachments: [Complete Petition.pdf](#)

ADM comment: If judges and justices are allowed to solicit contributions from lawyers and the public, how do you end up with an impartial person who has a tax free account bank account that is never audited, and kept from public view by MCL 15.243(1)(r) as an "exempt" account in the Freedom of Information Act. I filed a Petition for a Writ of Certiorari before the U.S. Supreme Court asking that very question. Cert was denied with no explanation. A motion and an appeal by leave before the Michigan Supreme Court were both denied with no explanation. Motions to compel a circuit court judge and three appellate court justices were all denied with no explanation. Subpoena's were denied with no explanation.

The doctrine that silence affirms says that everybody is using MCL 15.243(1)(r) to enrich themselves. If this is going to be the case, then why not make it at least fair for anybody appearing before the court, and change the name of the court house to the auction house. That way the judge can start out asking the plaintiff or defendant to open the bidding on their decisions. If one side knows this is how it works and other does not, then this becomes a fair system to both party's.

It would be far better for our state and the nation, if the Michigan Supreme Court just asked the legislature to repeal MCL 15.243(1)(r), and judges and justices remained impartial to both sides.

Pat Foster, CPA

TASK FORCE ON STATE BAR OPERATION, STRUCTURE, AND GOVERNANCE

Issue

Should the Representative Assembly support the State Bar of Michigan creating a Task Force to examine whether, in light of changes in the delivery of legal services and jurisprudence concerning the mandatory bar, changes in the structure, governance, and scope of operation of the State Bar of Michigan are advisable, and to make recommendations concerning specific changes?

RESOLVED, the Representative Assembly supports the creation of a Task Force to examine whether changes in the structure, governance, and scope of operation of the State Bar of Michigan are advisable, and to make recommendations concerning specific changes.

Proponents

Joseph P. McGill, RA Chair
Richard L. Cunningham, RA Vice Chair
Aaron V. Burrell, RA Clerk

Donald G. Rockwell, SBM President
Jennifer M. Grieco, SBM President-Elect
Dennis M. Barnes, SBM Vice President

Background

- The accelerating pace of change in the delivery of legal services and its regulation require that the State Bar of Michigan develop faster and more effective ways to carry out its mandate to aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state. See [State Bar of Michigan 21st Century Practice Task Force Report](#) and [Task Force documents](#).
- The ways in which the State Bar of Michigan carries out and funds its mandate must be reexamined in light of recent developments in First Amendment jurisprudence. See [Janus v. American Federation of State, County, and Municipal Employees Council 31](#), No. 16-1466, 585 U.S. ___ (2018) (holding that requiring public sector employees to pay union dues violates the First Amendment, overturning [Abood v. Detroit Federation of Teachers](#), 431 U.S. 209 (1977)); [Keller v. State Bar of California](#), 496 US 1 (1990) (relying on [Abood](#) and holding that it is permissible under the first amendment for state bar associations to use mandatory member dues to engage in limited areas of public policy).
- Technology and greater access to relevant data together offer new and potentially beneficial ways to carry out the mandate of the State Bar of Michigan.

Opposition

None known.

Prior Action by Representative Assembly

None in the recorded records.

Fiscal and Staffing Impact on the State Bar of Michigan

The work of the Task Force will be supported by existing staff resources and budgeted expenditures for consulting fees.

**STATE BAR OF MICHIGAN POSITION
By vote of the Representative Assembly on September 27, 2018**

Should the Representative Assembly support creating a Task Force to examine whether, in light of changes in the delivery of legal services and jurisprudence concerning the mandatory bar, changes in the structure, governance, and scope of operation of the State Bar of Michigan are advisable, and to make recommendations concerning specific changes?

(a) Yes

or

(b) No