

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES**

President Barnes called the meeting to order at 9:34 a.m. on Friday, July 24, 2020 via videoconference.

Commissioners present:

Danielle Mason Anderson	James W. Low
David C. Anderson	E. Thomas McCarthy Jr.
Dennis M. Barnes, President	Joseph P. McGill
Joseph J. Baumann	Valerie R. Newman
Robert J. Buchanan, President-Elect	Nicholas M. Ohanesian
Aaron V. Burrell	Samantha J. Orvis
Erika L. Butler	Hon. David A. Perkins
Hon. Clinton Canady III	Barry R. Powers
B.D. "Chris" Christenson	Daniel D. Quick, Treasurer
Josephine A. DeLorenzo	Chelsea M. Rebeck
Hon. Shauna L. Dunning	Thomas G. Sinas
Thomas H. Howlett	Gregory L. Ulrich
Lisa J. Hamameh	Dana M. Warnez, Vice President
Kara R. Hart-Negrich	Erane C. Washington
James W. Heath, Secretary	Mark A. Wisniewski
Sarah E. Kuchon	Ryan Zemke
Suzanne C. Larsen	

Commissioners Absent:

State Bar staff present:

Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Michelle Erskine, Research Assistant & Event Specialist
Kathryn Hennessey, General Counsel
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant

State Bar staff in waiting room:

Elizabeth Couch, Director of Communications
Nicola Davis, Finance Specialist
Robin Eagleson, Ethics Counsel
Liz Goebel, Public Policy Counsel
Tatiana Goodkin, Chief Financial Officer
Rob Mathis, Pro Bono Service & Justice Initiatives Counsel
Molly Ranns, Program Director, LJAP
Kari Thrush, Lawyer Services Program Director
Becky Weaver, Financial Services Manager

Consent Agenda

The Board received the minutes from the June 12, 2020 Board meeting.

The Board received the minutes from the June 2, 2020 Executive Committee meeting.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the FY 2020 Financial Reports through May 2020.
The Board received some Model Criminal Jury Instructions.

Mr. Barnes asked the Board if any items needed to be removed from the consent agenda. There were none.

A motion was offered to approve the consent agenda. The motion was seconded and approved.

Board Officer Elections

Mr. Barnes informed the Board two candidates submitted their names for consideration for the position of treasurer: Mr. Howlett and Mr. McGill.

Mr. Barnes asked if there were any nominations from the floor; hearing none, a motion was made to close the nominations. The motion was seconded and approved.

Mr. Barnes asked for a motion that the vote for the position of treasurer be by secret ballot, and to only disclose the number of votes received to the candidates, upon the candidate's request. The motion was made, seconded, and approved.

Mr. Barnes stated that tellers would not be used this year because an electronic vote was taking place. He stated that Ms. Hennessey will view the election results once they are tabulated, confirm them, and let him know the results.

Per Board policy each candidate is given five minutes to address the Board followed by a minimum 15-minute question-and-answer session. Mr. Barnes stated that Mr. McGill would address the Board first followed by Mr. Howlett. Mr. Howlett would then be the first to respond to questions.

When the Q and A was finished, Mr. Barnes announced that a poll vote via Zoom would be taken. Mr. Barnes reported that Mr. McGill was elected treasurer of the 2020/21 Board of Commissioners.

Mr. Barnes announced that Mr. Buchanan would succeed him as president of the State Bar of Michigan for the 2020/21 Bar year.

Mr. Barnes announced that Ms. Warnez would succeed Mr. Buchanan as president-elect of the State Bar of Michigan for the 2020/21 Bar year.

A motion was offered to elect Mr. Heath as vice president of the State Bar of Michigan for the 2020/21 Bar year. The motion was seconded and approved.

A motion was offered to elect Mr. Quick as secretary of the State Bar of Michigan for the 2020/21 Bar year. The motion was seconded and approved.

LEADERSHIP REPORTS

President and Executive Director's Report: Dennis M. Barnes, President and Janet K. Welch, Executive Director

Mr. Barnes and Ms. Welch reported:

- The Strategic Planning Committee has four items ready for Board consideration:
 1. Giving notice that a bylaw amendment, changing the due dates for committee annual reports, will be brought before the Board at its August 21 meeting.
 2. A motion was offered to renew the Strategic Plan through FY 2023 with annual reviews. The motion was seconded and approved.
 3. A motion was offered to make technological competency one priority for the Strategic Plan. The motion was seconded and approved.
 4. A motion was offered to approve the 2020/21 Committee Resolution with the recommendations for the Justice Initiatives and Social Media and Website committees. The motion was seconded and approved.
- The Apportionment/Redistricting Work Group has completed its work and had three items for Board consideration:
 1. Giving notice that a bylaw amendment to amend Bylaw Article 111, to move one seat from District H and add one seat to District I, will be brought before the Board at its August 21 meeting for action.
 2. Giving notice that a bylaw amendment to amend Bylaw Article III, to remove Barry County from District E and move it to District F, will be brought before the Board at its August 21 meeting for action.
 3. A motion was offered to approve a change to Rule 7 of the Rules Governing the State Bar of Michigan to include the secretary and treasurer in the grandfathering provision and send the proposed rule change to the Michigan Supreme Court for its consideration. The motion was seconded and approved with one abstention.
- Due to the pandemic, the contracts in place for an in-person gathering in Grand Rapids for the 2020 Annual Meeting have been cancelled. If conditions allow, some smaller in-person meetings might take place, but planning is proceeding to allow all the required events to be accomplished virtually.
- The FY 2021 Preliminary Budget Assumptions reviewed by the Executive Committee and Finance Committee and provided to the Board will be used to develop the FY 2021 budget, which the Board will act upon at its August meeting.
- The practicing member Pandemic Impact Survey has been closed and had a high level of participation. Ms. Vrooman reviewed the topline results. An email will be sent to Board members with a link to the survey results and Ms. Vrooman's Power Point presentation.
- Three new staff members have joined the bar, replacing vacancies. Mr. Cunningham introduced Ms. Tatiana Goodkin, chief financial officer, and Ms. Nicola Davis, finance specialist. Ms. Hennessey introduced Ms. Robin Eagleson, ethics counsel. Ms. Welch recognized Ms. Tish Vincent on her retirement and welcomed SBM staff member Ms. Molly Ranns, as the new interim director of LJAP.

Representative Assembly (RA) Report: Aaron V. Burrell, Chairperson

Mr. Burrell reported:

- Based on the results of a survey sent to the RA membership for their input on how the September meeting should be held, the September RA meeting will be a virtual event. Mr. Burrell stated that the feedback regarding the April virtual meeting was very positive.
- He has empaneled a RA Diversity Committee.
- The Special Issues Committee will prepare a report for the September meeting on COVID-19.
- There will be a contested election for the RA clerk position.
- The deadline for submission of proposals for the September meeting is August 6.

Young Lawyers Section (YLS) Report: Ryan Zemke, Chairperson

Mr. Zemke reported:

- The YLS v Board Trivia Challenge took place on Wednesday, July 22 and that the YLS succeeded in winning this year.
- The council is planning for a virtual annual meeting.

COMMISSIONER COMMITTEES

Finance: Daniel M. Quick, Chairperson

Mr. Quick reviewed the FY 2020 financial results through May 2020.

Mr. Quick reported that the Finance Committee will meet early in August to review the proposed budget in detail; that the committee continues to look at various cost reduction ideas; and that with Mr. Burrell's permission he will speak to the RA members at their meeting in September in preparation for the RA's expected consideration of a fee increase proposal at its April meeting.

Audit: Daniel M. Quick, Chairperson

Mr. Quick stated that the Finance staff will meet with the auditing firm in August to establish testing dates.

Professional Standards: James W. Heath, Chairperson

Mr. Heath moved to approve the appointment of Mr. Terrence Quinn to the ICLE Executive Committee. The motion was seconded and approved. Mr. Heath recognized the distinguished service of the incumbent, Mr. Howard Spence, who has completed two terms as an SBM appointee to the ICLE Executive Committee.

Mr. Heath moved to appoint the Honorable Allie Greenleaf Maldonado and Sean Cahill to the Michigan Indian Legal Services Board of Trustees. The motion was seconded and approved. Mr. Heath recognized the distinguished service of Mr. John Runyan, who has served on the MILS board for over two decades.

Communications and Member Services (CAMS): Dana M. Warnez, Chairperson

Ms. Warnez explained the Support of Lawyers/Legal Personnel—All Concern Encouraged (SOLACE) Program to the Board and its potential for enhancing help for Michigan lawyers and strengthening collaboration with local and affinity bars.

Ms. Warnez offered a motion to approve the SOLACE Program as a new benefit to Michigan lawyers. The motion was approved and adopted.

Public Policy: Robert J. Buchanan, Chairperson

COURT RULES

ADM File No. 2002-37: Proposed Addition of MCR 2.226

The proposed addition of MCR 2.226 would clarify the process for change of venue and transfer orders.

A motion was made to support the proposed addition of Rule 2.226 of the Michigan Court Rules with the following amendments:

- In Section (3), rather than using the term “promptly,” set forth a specific number of days in which the receiving court must provide notice of refusal and return the case to the transferring court.
- Consistent with the Court’s efforts to modify time periods to be in seven-day increments, for Section (4), consider modifying the three-day time period to a seven-day time period.
- Provide chief judges authority to exercise their discretion to oversee and administer transfers to help ensure that the rules are being followed.
- Provide an electronic process for courts to submit transfer orders and refusals of those orders to help expedite the process.

The motion was seconded and approved.

ADM File No. 2019-47: Proposed Amendments of MCR 3.804, 5.140, and 5.404 and Proposed Addition of MCR 3.811

The proposed amendments of MCR 3.804, 5.140, and 5.404 and proposed new MCR 3.811 would allow greater use of videoconferencing equipment in cases involving Indian children.

A motion was made to support the ADM File No. 2019-47 and to adopt the comments provided by the Access to Justice Policy Committee. The Access to Justice Policy Committee, while supportive of the proposed court rule as drafted, emphasized that “[p]hysical appearance by the parties remains the best avenue for a judge to determine if a permanent release is both informed and voluntary and if the requirements, goals, and principals under ICWA and MIFPA have been met.”

The motion was supported and approved.

ADM File No. 2019-41: Proposed Amendment of MCR 4.201

The proposed amendment of MCR 4.201 would require disclosure of the right to object to venue in actions brought under the Summary Proceedings Act for landlord/tenant proceedings in district court, consistent with MCL 600.5706.

A motion was made to support ADM File No. 2019-41. The motion was seconded and approved.

ADM File No. 2020-04: Proposed Amendment of Rule 4 of the Rules for the Board of Law Examiners

The proposed amendment of BLE Rule 4 would explicitly state that a passing bar exam score is valid for three years, which is consistent with the character and fitness clearance expiration.

A motion was made to support ADM File No. 2020-04 because the proposed rule would create a three-year “shelf life” for bar exam score validity—a time frame consistent with character and fitness clearance expiration.

The motion was seconded and approved.

LEGISLATION

HB 5444 (Liberati) Children; services; kinship caregiver navigator program; create. Creates new act.

A motion was made that the legislation is *Keller*-permissible. The motion was seconded and approved.

A motion was made to support the legislation with recommendations from the Access to Justice Policy Committee that:

- First, Section 6(c) should be clarified to indicate that the legal services initiatives shall be integrated into the current system of legal service providers.
- Second, to ensure quality pro bono and low bono legal services, required training should include legal services to marginalized communities, when applicable, such as immigration laws for documented and undocumented children, and training to ensure compliance with the Indian Child Welfare Act and Michigan Indian Family Preservation Act for kinship caregivers of children enrolled or eligible for enrollment in a federally recognized Tribe.

The motion was seconded and approved.

HB 5488 (Lightner) Criminal procedure; sentencing; certain permissible costs; extend sunset. Amends sec. 1k, ch. IX of 1927 PA 175 (MCL 769.1k).

A motion was made that the legislation is *Keller*-permissible. The motion was seconded and approved with one abstention.

A motion was made to support the legislation with the two-year extension for ongoing funding of the state’s trial courts. The committee, while fully supportive of the bill, looks forward to a time when the TCFC’s recommendations are fully implemented and temporary fixes such as those set forth in this legislation are no longer necessary.

The motion was seconded and approved.

HB 5795 (Filler) Probate; wills and estates; electronic signature of wills; allow. Amends sec. 2502 of 1998 PA 386 (MCL 700.2502) & adds sec. 2504a.

A motion was made that the legislation is *Keller*-permissible. The motion was seconded and approved.

A motion was made and supported to oppose the legislation as drafted while supporting the work of the Probate & Estate Planning Section and Elder Law & Disability Rights Section in their work with the sponsors to modify the legislation to address procedural issues not currently contemplated in the bill.

A roll call vote was taken.

Commissioners voting for the position: Barnes, Baumann, Buchanan, Burrell, Butler, DeLorenzo, Hamameh, Heath, Kuchon, Larsen, Low, McCarthy; McGill, Newman, Ohanesian, Orvis, Perkins, Powers, Quick, Rebeck, Sinas, Warnez, Washington, Wisniewski, Zemke.

Commissioners voting in opposition of the position: Howlett, Ulrich.

The motion was approved.

HB 5805 (Berman) Courts; judges; hearings on emergency motions by defendant in criminal cases; provide for. Amends sec. 1, ch. I of 1927 PA 175 (MCL 761.1) & adds sec. 12 to ch. III.

A motion was made that the legislation is *Keller*-permissible. The motion was seconded and approved.

A motion was made and supported to oppose this legislation because matters of how and when courts hear emergency motions are more appropriately addressed through court rule amendment(s) than through legislative action.

A roll call vote was taken.

Commissioner voting for the position: Barnes, Baumann, Buchanan, Burrell, Butler, DeLorenzo, Hamameh, Heath, Howlett, Kuchon, Larsen, Low, McCarthy, McGill, Newman, Ohanesian, Orvis, Perkins, Powers, Quick, Rebeck, Sinas, Warnez, Washington, Wisniewski.

Commissioners opposing the position: Ulrich.

The motion was approved.

HB 5806 (Berman) Courts; records; online attorney access to court actions and filed documents without fees; provide for. Amends secs. 1985 & 1991 of 1961 PA 236 (MCL 600.1985 & 600.1991) & adds sec. 1991a.

A motion was made that the legislation is *Keller*-permissible. The motion was seconded and approved.

A motion was made and supported to table the legislation. The motion failed.

A motion was made and supported to oppose this legislation as an issue of the separation of powers.

The motion failed to reach a 2/3 majority.

The Board agreed to take no position on the legislation.

SB 0682 (Lucido) Juveniles; juvenile justice services; juvenile records; require to be confidential. Amends sec. 28, ch. XIA of 1939 PA 288 (MCL 712A.28).

A motion was made that the legislation is not *Keller*-permissible. The motion was seconded and approved.

SB 0865 (Lucido) Courts; other; procedures and regulations related to cellular telephones in courtrooms; provide restrictions and penalties.

A motion was made and supported that the legislation is *Keller*-permissible. The motion was seconded and approved.

A motion was made to oppose this legislation as procedures and regulations governing courtrooms are best addressed through court rule amendment.

The motion was seconded and approved.

SB 0895 (Runestad) Civil procedure; other; new trial; revise procedure for granting. Amends 1961 PA 236 (MCL 600.101 to 600.9947).

A motion was made that the legislation is *Keller*-permissible. The motion was seconded and approved.

A motion was made and supported to oppose the legislation because Michigan courts already have well established court rules and an effective appellate process by which parties may seek relief from judgment. The committee opposes an additional legislatively mandated layer of review.

The motion was seconded and approved.

Other

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 1:45 p.m.