

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES

President Warnez called the meeting to order at 8:40 a.m. on Friday, September 16, 2022, in the Crystal Room of the Book Cadillac Hotel in Detroit, MI.

Commissioners present:

Yolanda Bennett
Kristina A. Bilowus
Erika L. Bryant
Aaron V. Burrell
Hon. B. Chris Christenson
Thomas P. Clement
Sherrie Detzler
Robert A. Easterly
Hon. Kameshia D. Gant
Lisa J. Hamameh, Treasurer
James W. Heath, President-Elect
Thomas H. Howlett
Suzanne C. Larsen
James W. Low

Gerrow D. "Gerry" Mason
Joseph P. McGill, Secretary
Valerie R. Newman
Takura N. Nyamfukudza
Nicholas M. Ohanesian
Colemon L. Potts
Hon. Kristen D. Simmons
Delphia T. Simpson
Thomas G. Sinas
Danielle Walton
Dana M. Warnez, President
Hon. Erane C. Washington
Mark Wisniewski

Commissioners absent:

Danielle Mason Anderson
David C. Anderson
Sarah E. Kuchon
Daniel D. Quick, Vice President

E. Thomas McCarthy Jr.
Samantha J. Orvis
Hon. David A. Perkins

State Bar staff present:

Peter Cunningham, Executive Director
Drew Baker, General Counsel
Margaret Bossenberry, Executive Coordinator
Tatiana Goodkin, Chief Financial Officer
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Molly Ranns, Director, Lawyers & Judges Assistance Program
Marjory Raymer, Director of Communications
Jeanette Socia, Director of Human Resources
Nathan Triplett, Director of Governmental Relations

Guests present:

Gerard Mantese, 2022-2023 Board member
Thomas P. Murray Jr., 2022-2023 Board member
Matthew B. Van Dyk, 2022-2023 Board member

Consent Agenda:

The Board received the minutes from the July 22, 2022, Board 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 2021 draft financial reports through July 2022.
The Board received Client Protection Fund Claims.
The Board received a report from the Communications and Members Services Committee

Ms. Warnez asked the Board if any items needed to be removed from the consent agenda. There were none. A motion was offered and supported to approve the consent agenda. The motion was approved.

LEADERSHIP REPORTS

President and Executive Director's Report: Dana Warnez, President, and Peter Cunningham, Executive Director.

Mr. Cunningham provided updates on recent events in and around the State Bar.

Mr. Cunningham reported that the license renewal for 2022-2023 is underway. As of today, 2,000 people have already paid their renewal fees. So far, there has been only one complaint regarding the fee increase and one complaint about the credit card fee. Overall, numbers are on track with last year's pace. One big difference is that 20% more people are paying with e-check and debit cards.

Mr. Cunningham shared numerous staff updates. Ms. Drew Baker was introduced as SBM's new general counsel. Mr. Flood has been working closely with Ms. Baker to bring her up to speed on the many components of the position. Longtime Character & Fitness investigator Ms. Mary Sue Lester retired this summer. Ms. Melissa Thouvenin was promoted internally to fill the role as an investigator. SBM staff is working to fill the role of applicant licensing services specialist following Ms. Thouvenin's promotion. Ms. Kylie Thompson left the role of communications specialist over the summer. Ms. Ebony Stith has been hired to fill this role and will start later this month.

The SBM building is currently open for SBM staff to work although most staff are working either a hybrid or fully remote schedule at this time. The building has been closed to outside meetings since the beginning of the pandemic. There have recently been a few character & fitness hearings held in the building, as well as two Board meetings. The meeting rooms are being updated with improved sound and video features to allow for higher quality hybrid meetings. We will be charging a fee for use of the rooms once the building is fully open again.

The first Face of Justice program for law students took place earlier this week via Zoom. Historically, the Face of Justice program (FOJ) has been geared to high school students. This program is presented by the Diversity and Inclusion Advisory Committee. There were 56 mentors and 20 law students, which allowed for a great deal of interaction. SBM staff is hopeful that these mentorships will continue through programs available on a private LinkedIn page. This is a pipeline project for people who come from backgrounds who don't typically have a support network to help them succeed once they graduate from law school. The next step in this pipeline project is to reach-out to students in their undergraduate studies to establish a network of support earlier.

The 50-Year Honoree Celebration will occur for the first time in three years. This event will occur on September 29, 2022, at Suburban Collection Showplace in Novi. There are over 300 registrants. Commissioners are encouraged to attend.

The first Michigan Legal Milestone event in several years is scheduled for September 21, 2022, in Allegan County. This milestone event recognizes the passage of Public Act 109 of 1857, which was the first legislation in Michigan that provides for compensation for representation of indigent criminal defendants. The bill sponsor was former prosecuting attorney Senator Gilbert Moyers, who was from Allegan County. The event will also highlight how the State Bar has continued the work of improving the indigent defense system. Mr. Cunningham, Judge James Fisher and others will be speaking at this event.

Ms. Ranns reported that the Lawyers and Judges Assistance Program is hosting the first ever virtual wellness event on Friday, October 14. Ms. Laura Mahr with Conscious Legal Minds will be speaking on lawyer burnout, how to identify it and how to prevent it. This is a free event for all SBM members.

Ms. Warnez asked Mr. Howlett to provide the commissioners with a report from the Strategic Planning Committee.

Strategic Planning Committee

Mr. Howlett provided a summary of the committee's work over the past year. A Strategic Plan Activity Report is prepared annually by SBM staff. This report is available online and identifies all programs and events that occur over the course of the fiscal year.

During FY 2022, the committee conducted an extensive review of two specific programs to gauge their effectiveness in achieving goals set forth in the Strategic Plan. The two services of the "pilot" review were the Practice Management Resource Center and the e-Journal.

The pilot review identified areas of successes and areas which need improvements in the Practice Management Resource Center. Areas of strength include the accessibility of resources available to members, as well as the inclusion of tech competency. Areas which need improvements include communication efforts from PMRC to SBM membership, analyzing data, development of an advisory board for website material and programming, as well as additional ways to improve PMRC's visibility and content.

While the review of e-Journal operations has not yet concluded, the committee was able to identify areas in need of improvements which will be implemented in FY 2023. Improvements will include analyzing data and reviewing metrics to identify areas of the e-Journal which need to be improved.

Lastly, a review of SBM's efforts on practice readiness and diversity and inclusion in the profession and as an element of professionalism was conducted. It was determined that these areas will advance planning as both will require staff and leadership involvement spanning multiple years.

Task Force on Lawyer Wellness

In August, Ms. Warnez, Mr. Cunningham, Ms. Ranns, and Justice Cavanagh participated in the kickoff of the task force. Ms. Ranns provided a brief update on the work of the task force thus far. While the task force was launched in May 2022, the kickoff was on August 9 at the Hall of Justice in Lansing. This brought together a diverse group of stakeholders to talk about the well-being movement, the well-being

of the lawyers in Michigan, and what can be done going forward to enhance the well-being of the legal profession. Subgroups were created and will meet twice more by the end of the year with the goal of creating formal recommendations to be included in a report. They are hopeful that a commission or committee on lawyer well-being will be established to carry out the recommendations of the report. This is a nationwide effort, but Michigan is a leader in this initiative.

Justice for All (JFA) Commission

Ms. Warnez has been participating on the Regulatory Reform Subcommittee, which has been very engaging work. The JFA received a presentation from Debt Collection Committee last week. The other JFA committees are continuing to meet and will be making recommendations to the full commission in the coming months. There will also be stakeholder meetings, where the legal community will be able to comment on recommendations before they are adopted by the full commission.

Commission on Diversity Equity and Inclusion

Mr. Cunningham reported that the kickoff meeting is scheduled for October 24, 2022. The commission is in the process of hiring a consultant to help with strategic planning and to help get the commission up and running.

Interim Administrator Program (IAP)

Mr. Cunningham reported that the position of interim administrator program director has been posted. This program was approved by the Supreme Court earlier this year. Although the program won't take effect until September 1, 2023, there is much work to be done in advance. Mr. Cunningham is hopeful that this position will be filled by the November 18, 2022, Board of Commissioners meeting.

Representative Assembly (RA) Report: Nicholas M. Ohanesian, Chairperson

Mr. Ohanesian reported that the next meeting is tomorrow, Saturday, September 17, 2022 in Lansing. There is a full agenda, which includes a few bills up for consideration. Mr. Mason will take over as chair of the Representative Assembly chair at the end of tomorrow's meeting.

Young Lawyers Section (YLS) Report: Kristina Bilowus, Chairperson

Ms. Bilowus reported that Mr. Potts will take over as the section chair next week. The section had to reschedule the Detroit Workshop due to a student having COVID at the last minute. A few webinars have occurred since the last Board meeting. The section sent a few lawyers to the ABA annual meeting and has done some district outreach in the community. The YLS annual meeting will be Saturday, September 24, 2022, in Detroit. Thanks were extended to Samantha Orvis for her many years with the Young Lawyers Section.

COMMISSIONER COMMITTEES

Public Policy: James W. Heath, Chairperson

Mr. Heath offered his thanks to the members of the committee and to the SBM staff that assisted them.

Court Rules

1. ADM File No. 2022-09: Proposed Amendment of MCR 3.703

The proposed amendment of MCR 3.703 is necessary for design and implementation of the statewide electronic-filing system, which will provide the Court with necessary PPII in an appropriate format, and will reduce the workload preparing personal protection orders. This particular amendment aligns with the Court's recent amendment of MCR 1.109(D)(9)(b)(iii), allowing proposed orders submitted to the Court to contain protected personal identifying information (PPII), which the courts will continue to protect as if prepared or issued by the court under MCR 8.119(H)(5).

A motion was offered and supported to oppose ADM File No. 2022-09 as drafted. The motion was approved.

2. ADM File No. 2020-08: Proposed Amendment of Administrative Order No. 2020-17 and MCR 4.201

The proposed amendments would permanently incorporate certain provisions from Administrative Order No. 2020-17 into court rule format under MCR 4.201 and would make a number of minor changes due to a relettering of the rule. The proposed amendments would also incorporate public comment received at the public hearing on March 16, 2022 and via email, as well as additional recommendations and input received from other stakeholders including the JFAC and the MDJA.

A motion was offered and supported to take no position on ADM File No. 2020-08. However, the Board directed SBM staff to send a letter to the Court explaining the Board's rationale for declining to take a position. The motion was approved.

3. ADM File No. 2021-20: Proposed Amendment of MCR 6.001 and Proposed Addition of MCR 6.009

The proposed addition of MCR 6.009 would establish a procedure regarding the use of restraints on a criminal defendant in court proceedings that are or could be before a jury, and the proposed amendment of MCR 6.001 would make the new rule applicable to felony, misdemeanor, and automatic waiver cases.

A motion was offered and supported to support ADM File No. 2021-20 as drafted. The motion was approved.

4. ADM File No. 2021-29: Proposed Amendment of MCR 6.201

The proposed amendment of MCR 6.201 would require redaction of certain information contained in a police report or interrogation record before providing it to the defendant.

A motion was offered and supported to support ADM File No. 2021-29 with an amendment striking "the address, telephone or cell phone number, or" from the proposed language. Additionally, the proposed amendment should also be corrected to read "MCR 1.109(D)(9)(a)." The motion was approved.

5. ADM File No. 2021-48: Proposed Amendment of MCR 6.502

The proposed amendment of MCR 6.502 would allow a third exception to the “one and only one motion” rule based on a final court order vacating one or more of a defendant’s convictions either described in the judgment or upon which the judgment was based.

A motion was offered and supported to support ADM File No. 2021-48 as drafted. The motion was approved.

6. ADM File No. 2021-35: Proposed Amendment of MCR 7.202

The proposed amendment of MCR 7.202 would provide a definition of governmental immunity to include the state’s, a tribal government’s, or a political subdivision’s immunity from suit or liability.

A motion was offered and supported to oppose ADM File No. 2021-35 as drafted. The motion was approved.

7. ADM File No. 2021-39: Proposed Amendment of MCR 7.215

The proposed amendment of MCR 7.215 would codify the Court of Appeals’ practice for reissuing opinions and orders.

A motion was offered and supported to support ADM File No. 2021-39 as drafted, with a recommendation that the Court give consideration to the issue of reissuing opinions and orders in trial courts as expressed by Mr. Bassett in his September 8, 2022 letter to the Court on this matter. The motion was approved.

Legislation

HB 6344 (Lightner) Courts: other; duties of the appellate defender; include definition of youth. Amends title & secs. 2, 4, 6 & 7 of 1978 PA 620 (MCL 780.712 et seq.) & adds sec. 1a.

HB 6345 (Lightner) Criminal procedure: defenses; Michigan indigent defense commission act; expand definitions. Amends title & secs. 3, 5, 7, 9, 11, 13, 15, 17, 21 & 23 of 2013 PA 93 (MCL 780.983 et seq.).

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered to support HB 6344 and HB 6345 with adoption of the amendments recommended by the Access to Justice Policy Committee to: (1) provide a broader definition of the youth defense mandate; and (2) establish appellate attorney fee incentives consistent with the MIDC Act and a requirement for the state to reimburse local systems for these fees.

HB 6356 (Johnson) Criminal procedure: other; certain requirements for the use of informants in criminal proceedings; provide for. Amends 1927 PA 175 (MCL 760.1-777.69) by adding secs. 36a, 36b, 36c, 36d, 36e, 36f, 36g & 36h to ch. VIII.

The Public Policy Committee recommends deferring consideration of HB 6356 at this time. No motion was made.

Communications and Member Services (CAMS): Daniel D. Quick, Chairperson
The report was included in the consent agenda.

Professional Standards: Joseph P. McGill, Chairperson

Mr. McGill reported that subrogation matters were discussed at the most recent meeting, as well as client protection fund matters. He also indicated that all matters which were included on the consent agenda were approved. The Client Protection Fund is in a strong financial position due to low claims and the pandemic. The fund is expecting a spike in claims for FY 2023.

Finance: Lisa J. Hamameh, Chairperson

FY 2022 Financial Update

Ms. Hamameh reviewed the FY 2022 financial results through July 2022.

Audit: Lisa J. Hamameh, Chairperson

Ms. Hamameh reported that incentive compensation was approved at the most recent meeting.

COMMISSIONER RECOGNITION

Ms. Warnez informed members that Takura Nyamfukudza was reappointed to the Board by the Michigan Supreme Court.

Retiring member, Ms. Orvis, was not present but Ms. Warnez congratulated her on the imminent arrival of her child.

Ms. Larsen read a resolution to honor retiring Commissioner Sinas. Mr. Sinas thanked the Board members for their support and friendship over the past three years.

Ms. Warnez also thanked other retiring members of the Board who were not in attendance: Ms. Danielle Anderson, Ms. Kuchon, and Mr. McCarthy.

Mr. Heath thanked Ms. Warnez for her tremendous service to the Bar. Ms. Warnez led the State Bar of Michigan through a significant period of change, with her determination and hard work leading a nationwide search for a new executive director, which led to Peter Cunningham's appointment earlier this year. Ms. Warnez was also instrumental in the search for the new general counsel, Drew Baker.

Ms. Warnez acknowledged the Board and the officers throughout the past year through the many challenges the Bar faced. She also acknowledged Ms. Ranns, Mr. Mathis, and the LJAP staff at SBM for their incredible work on the SOLACE program. It is an incredible program that is available to support all in need. Ms. Warnez is extremely proud of the work with the Michigan Supreme Court and the work of the Justice for All Task Force. Ms. Warnez also thanked and acknowledged the SBM staff for their hard work, kindness, and support. Mr. Heath presented Ms. Warnez with a scrapbook of her year as SBM president.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

The Young Lawyers Section will be hosting the National Trial and Advocacy Competition in October. They are still looking for volunteers to judge various activities.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 10:42 a.m.