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Representative Assembly action since 1990 is governed by *Keller v State Bar of California*, 496 US 1; 110 L Ed 2d 1; 110 S Ct 2228 (1990), and by Michigan Supreme Court Administrative Order 1993-5, which states in pertinent part:

"I. The State Bar of Michigan shall not, except as provided in this order, use the dues of its members to fund activities of an ideological nature that are not reasonably related to:

"(a) The regulation and discipline of attorneys;

"(b) Matters relating to the improvement of the functioning of the courts, judicial efficacy and efficiency;

"(c) Increasing the availability of legal services to society;

"(d) Regulation of attorney trust accounts; and

"(e) The education, ethics, competence, integrity and regulation of the legal profession. . .

"II(C) No other activities intended to influence legislation may be funded with members' mandatory dues, unless the legislation in question is limited to matters within the scope of ideological activities requirements in Section I.

Thus mandatory State Bar dues may not be used to fund ideological activities, including legislative advocacy, that do not fall within one of the categories of the Administrative Order, Section I. Since all expenses of the Representative Assembly are paid by mandatory dues, the Assembly may not engage in ideological activity outside the scope of the Administrative Order.

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ASSEMBLY GOVERNANCE

Action

Adopted a substitute motion to amend Rule 1.4 of the Assembly's Permanent Rules of Procedure to add a subsection (C) directing the Chairperson in consultation with the Clerk to circulate following each meeting of the Assembly with the notice of submission of calendar items for the next meeting a summary of the major policy actions taken by the Board of Commissioners between meetings of the Assembly. 5/81

Approved a resolution proposing an amendment to Rule 4.8 of the Permanent Rules of Procedure to annually update the Chronological Summary of the Representative Assembly Action and accompanying Index, and to provide both to each member at the Assembly's first meeting of the year. 1/02

Elections

Recommended to the Board of Commissioners that the State Bar bylaws be amended to permit members of the State Bar in each circuit to vote for fewer members of the Representative Assembly than the number of seats to be filled (but not fewer than half). 3/75

Defeated a proposed amendment to Supreme Court Rule 6, Section 2 to allow one seat in the Assembly for each section of the State Bar. 9/99

General

Approved the report of the Special Assembly Review Committee recommending that the Michigan Supreme Court be petitioned to adopt amendments in the Supreme Court Rules Concerning the State Bar of Michigan and that the Board of Commissioners be requested to adopt related amendments in the State Bar Bylaws. 1/85

Referred a proposal to create an Assembly Committee on the Profession to the Assembly Review Committee. 4/96

Supported the proposed amendments to Rule 7.7 of its Permanent Rules of Procedures as to the role of the existing "Special Issues Committee." 4/00

Approved the following proposed resolutions as recommended by the Assembly Review Committee:

1. That each State Bar Section Council be asked to accept an Assembly member as liaison, to be appointed by the Assembly Chairperson.
2. That members of the Assembly who receive Committee appointments pursuant to Article VI, Section 2 of the Bylaws of the State Bar of Michigan and Rule 11 of the Supreme Court Rules Concerning the State Bar of Michigan shall act as Assembly Liaisons to the Committees and shall report back to the Assembly as needed.
3. That Assembly meetings shall have space on the calendar for timely and pertinent informational reports from Sections and Committees of the State Bar of Michigan, and Sections and Committees shall be encouraged to present such reports to the Assembly.
4. That members of the Representative Assembly should receive, on a regular and timely basis, information on all "policy" decisions made between Assembly meetings by the State Bar of Michigan Board of Commissioners. 9/02

Meetings

Adopted a proposal to recommend to the Michigan Supreme Court that the Supreme Court Rules Concerning the State Bar of Michigan be amended to reduce the number of mandatory meetings of the Assembly from three to two a year. 9/84

Members

Approved the recommendation of the Committee on Rules and Calendar that the chairperson of the Law Student Section be seated as a member of the Assembly. 9/76

Adopted a proposal to recommend to the Michigan Supreme Court a procedure for the nomination and appointment of at-large members of the Board of Commissioners and Representative Assembly. 9/85

Officers

Adopted a recommendation of the Assembly Review Committee that the Permanent Rules of Procedure of the Representative Assembly be amended to provide that future officers of the Assembly be limited to a Chairperson and a Clerk. 4/78

Adopted a proposal to petition the Michigan Supreme Court to amend Rules 5 and 6 of the Supreme Court Rules Concerning the State Bar of Michigan to authorize the creation of an additional Representative Assembly officer position and to provide that the person filling that office be added to the membership of the Board of Commissioners. 9/90

Adopted the proposed amendments to the Assembly Rules of Procedure to incorporate the newly established position of vice-chairperson and to make all language gender neutral. 9/91

Adopted a proposal to amend the Assembly Rules of Procedure to provide additional standing committees and to establish a process for nominating candidates for the position of Clerk of the Representative Assembly. 4/93

Review Committee

Approved the nine recommendations of the Assembly Review Committee contained in its report and the Committee directed to take such action as necessary, including the preparation and submission of amendments to the Supreme Court Rules Concerning the State Bar of Michigan and the State Bar Bylaws, to implement the recommendations as soon as practicable and in no event later than the close of the 1979 Annual Meeting of the State Bar of Michigan. 12/78

Adopted the recommendation of the Special Assembly Review Committee to create a committee charged with the responsibility of bringing to the Assembly for consideration important policy issues not otherwise submitted, to establish the Special Assembly Review Committee as a Standing Committee charged with the responsibility of periodically reviewing the operation of the Assembly and urging the Assembly to give more meaningful consideration to legislative matters. 9/85

Referred the pilot project reports to the Assembly Review Committee. 9/99

Rules and Calendar

Rejected a proposal to amend the Permanent Rules of Procedure of the Representative Assembly to (1) authorize the Committee on Rules and Calendar to withhold from the proposed Calendar, upon notice to the proponent and to the Assembly, matters which in its judgment do not raise issues pertaining to the policy of the State Bar of Michigan; and (2) provide a method by which members of the Assembly desiring to speak on a matter calendared for consideration can advise the Committee on Rules and Calendar in advance so that the Committee can structure debate in order that proposed amendments are first considered, speakers in favor and in opposition are alternated, the Assembly is periodically and automatically asked to decide whether debate should be terminated, etc. 9/79

Adopted a proposal to amend Rules 2.2 and 2.3 of the Assembly Rules of Procedure to provide a uniform deadline for placing matters on its calendar. 9/88

Approved an amendment to Rule 2.3 of the Permanent Rules of Procedure of the Representative Assembly to clarify time for submission of items from the floor as follows:

2.3 Method of Presentation. No item shall be placed on the calendar under sub-sections (3), (4), (5), (6), or (7) ~~or (8)~~ of Section 2.2 unless . . . 4/02

Smoking

Amended Rule 1.1 of the Assembly's Permanent Rules of Procedure to prohibit smoking at all Assembly meetings. 4/88

Submissions

Approved a recommendation granting the Rules and Calendar Committee authority to require that all proposals to be submitted to the Assembly be placed in resolution form stated in the affirmative, to limit supporting documentation to five typewritten pages, to attempt disposition of any problem not appearing to require submission to the Assembly, to refer jurisdiction now exercised by circuit and probate courts. 9/75

Amended Rule 4.6 of the Assembly's Permanent Rules of Procedure to require that all resolutions be in writing and that any proposed amendment to a resolution on the Assembly's calendar which is more than six words in length be in writing and submitted to the Clerk at or before the time it is seconded. 4/88

Approved the recommendation to amend Rule 2.3(A), Method of Presentation, in the Assembly's Permanent Rules of Procedure, stating that no item of business shall be placed on the calendar under sub-sections (3), (4), (5), (6), (7) or (8) of Section 2.2 unless (A) it is filed at least 42 days in advance of the Assembly's scheduled meeting for which its proponent seeks it calendared. Filing shall be made at the State Bar headquarters or by

letter postmarked on or before 42 days in advance of the Assembly's scheduled meeting addressed to the Clerk of the Assembly. 9/01

Vacancies

Recommended to the Supreme Court that it amend the Supreme Court Rules Concerning the State Bar of Michigan to provide for interim appointments to fill vacancies in the Assembly until the next election; and to provide that two consecutive unexcused absences by an Assembly member constitutes vacation of the seat, with a successor to be elected or appointed. 9/75

Defeated a proposed amendment to the Supreme Court Rules, which would have allowed an elected officer of the Representative Assembly to continue to run for election as a member of the Assembly as long as he or she held an elected position. 9/77

Adopted a proposal to petition the Michigan Supreme Court to amend the Supreme Court Rules Concerning the State Bar of Michigan to provide that the failure of any member of the Assembly to attend three consecutive meetings for any reason shall create a vacancy requiring the member be replaced. 9/80

Adopted a proposal to request the Board of Commissioners to amend the State Bar Bylaws to establish a procedure for nominating candidates to fill vacancies in the Representative Assembly in multi-member circuits. 4/92

Voting

Approved a petition requesting amendment of the Supreme Court Rules Concerning the State Bar of Michigan to provide that every member of the Assembly shall cast a full vote, in place of the weighted vote system then in effect. 3/74

Adopted a motion amending Rule 5 of the Assembly Rules of Procedure allowing roll call votes to be taken any time a request for one is made and supported by at least 20 members of the Representative Assembly. 9/77

BAR ADMISSION

Approved a recommendation to the Supreme Court requiring registration of law students within 90 days after commencement of law school studies, to facilitate an earlier and more thorough character and fitness investigation. 9/73

Approved a report of the State Bar Committee on Character and Fitness proposing standards for its investigations. 9/74

Approved, as amended, a proposal to amend Rule 15, Section 3 (1) of the Supreme Court Rules Concerning the State Bar of Michigan, which would add the Plain English Lawyer's Oath as an optional version for admission ceremonies for new lawyers. 9/98

BAR GOVERNANCE

Advocacy

Upheld a bylaw provision limiting public statements by committees and section councils to those not inconsistent with policy adopted by the Board of Commissioners or the Representative Assembly. 9/75

Tabled a proposal to petition the Michigan Supreme Court to enter an Administrative Order limiting ideological advocacy by the State Bar of Michigan to issues involving (1) questions concerning the regulation and discipline of attorneys; (2) matters relating to the improvement of the function of the courts, judicial ethics and efficiency; (3) increasing the availability of legal services to society; (4) regulation of attorney's client trust account; and (5) the education, ethics, competence, integrity and regulation as a body of the legal profession. 4/93

Adopted a proposal to petition the Michigan Supreme Court to enter an Administrative Order limiting ideological advocacy by the State Bar of Michigan to issues involving (1) questions concerning the regulation and discipline of attorneys; (2) matters relating to the improvement of the function of the courts, judicial ethics

and efficiency; (3) increasing the availability of legal services to society; (4) regulation of attorney's client trust account; and (5) the education, ethics, competence, integrity and regulation as a body of the legal profession.

6/93

Affiliates

Adopted a proposal to petition the Michigan Supreme Court to amend the Supreme Court Rules Concerning the State Bar of Michigan to create a category of affiliate membership in the State Bar of Michigan for law office administrators and legal assistants, and to recommend that the Board of Commissioners adopt conforming amendments to the State Bar Bylaws. 4/89

Board of Commissioners

Defeated a proposal to recommend an amendment to the Supreme Court Rules Concerning the State Bar of Michigan limiting the terms of members of the Board of Commissioners to two successive three-year terms. 5/81

Adopted a proposal to petition the Michigan Supreme Court for an amendment of the Supreme Court Rules Concerning the State Bar of Michigan to increase the number of elected members of the Board of Commissioners from 19 to 20. 9/85

Adopted a recommendation that the Michigan Supreme Court be requested to amend the Supreme Court Rules concerning the State Bar of Michigan to increase the number of its at-large appointees to the Board of Commissioners from three to five to permit additional representation of women and minorities who are unlikely to be elected to the Board. 4/91

Approved the recommendation to ask the Michigan Supreme Court to consider extending the comment period for proposed Court Rule amendments published in the Bar Journal to a 90-day period instead of the current 60-days. 9/99

Referred the proposed amendment to Supreme Court Rule 7, Section 1 to provide for the automatic succession of the office of Vice-President to President-Elect to the Assembly Drafting Committee. 9/99

Unanimously adopted the proposed amendments to Supreme Court Rule 7, Section 1 to provide for the automatic succession of the office of the Vice-President to President-Elect. 1/00

Discrimination

Adopted a proposal to affirm that it is the policy of the State Bar of Michigan not to sponsor activities in any club, association, business or other organization (except established religious corporations and associations) which discriminate in their membership policies on the basis of race, color, sex, national origin or religion. 1/81

Amended the proposal of a State Bar policy with respect to facilities at which State Bar meetings may not be held to also prohibit meetings in facilities which do not provide barrier free access to the handicapped. 9/88

Adopted a proposal to adopt a Model Law Firm Employment Policy Prohibiting Sexual Harassment. 4/94

Dues

Adopted a proposal to petition the Michigan Supreme Court to amend the Supreme Court Rules Concerning the State Bar of Michigan to increase State Bar dues from \$150 to \$200 for members admitted three years or more and from \$90 to \$120 for members admitted less than three years. 4/89

Adopted the recommendation of the Keller Task Force that the deduction/diversion dues collection option offered to members in 1990-91 be continued for at least one additional year with the understanding that a major effort will be undertaken for the 1991 dues season to persuade members to support the entire range of State Bar activities by paying full dues. 4/91

Approved a proposal to petition the Michigan Supreme Court to increase the State Bar portion of dues, assuming the proposal to bifurcate is approved, to \$175 effective October 1, 1993. 4/93

Adopted a proposal to petition the Supreme Court to bifurcate the State Bar dues into one portion to fund the lawyer discipline system, the amount of which to be set by the Michigan Supreme Court annually, and the other portion to fund all other State Bar activities, the amount of which to be set periodically by the Michigan Supreme Court upon petition by the Representative Assembly. 4/93

Approved the following proposed resolutions as recommended by the Assembly Review Committee:

1. To endorse the implementation of the Strategic Plan.
2. To increase fees for the administration of licensing process.
3. To increase the age from 70 to 75 at which active members are exempt from paying dues.
4. To establish a \$15.00 annual assessment for the Client Protection Fund.
5. To increase membership dues as amended by \$40.00 from (\$160 to \$200) effective in the 2003-2004 fiscal year and automatically increasing or decreasing dues based on the Consumer Price Index, beginning with the 2004-2005 fiscal year unless otherwise ordered by the Supreme Court.

Fees

Supported the proposed amendment of the Character and Fitness fee increase. 4/00

Policy

Defeated a proposal that the membership of the Bar be polled in every instance before a public position is taken on issues "of vital interest to the Bar and the public." 9/75

Adopted a proposal that the Representative Assembly adopt basic goals for the State Bar of Michigan. 9/78

Approved the recommendations of the State Bar Committee on Scope and Correlation for the adoption of basic goals for the State Bar of Michigan. 5/83

Adopted the proposed ten Basic Goals for the State Bar of Michigan as presented by the Long Range Planning Committee the following: 4/96

1. The efficiency of the justice system
2. Laws, rules and jurisprudence
3. The independence of the bench and bar
4. The professionalism and competence of the bench and bar
5. Access to justice for all
6. The public service of the bench and bar
7. Public understanding
8. The openness of the profession
9. Member interests and a high-quality professional practice and life
10. The position of the State Bar of Michigan as the representative of the profession

Approved the recommendation of the Assembly Review Committee to refer to the State Bar Long-Range Planning Committee and to State Bar committees and sections having subject matter jurisdiction the following:

1. Appointment of a Special Hearing Committee based on referrals from the Assembly;
2. Appoint of a Committee on the Profession to consist of ten Representatives to study
3. And present issues which the assembly might want to consider in the future;
4. Appointment of a special committee to review disciplinary rules;
5. Appointment of outreach liaisons to the sections of the State Bar;
6. Development of local meetings for circuits and combinations of circuits of the
7. Representative Assembly
8. Expansion of responsibility of the Drafting Committee to include preparation of a
9. Summary for each proposal presented to the Assembly and preparation of a brief for each
10. Proposal recommended to the Supreme Court by the Assembly. Also, expansion of the membership of the
11. Drafting Committee to seven, each from a different circuit. 9/96

Sections

Adopted a proposal to petition the Michigan Supreme Court to amend Rule 5, Section 2 (3), of the Supreme Court Rules Concerning the State Bar of Michigan to provide that the Young Lawyers Section representatives on the Board of Commissioners are the Chairperson-Elect and the Chairperson rather than the Chairperson and immediate past Chairperson. 9/90

Smoking

Defeated a proposal to mandate non-smoking sections large enough to accommodate all non-smokers at all State Bar sponsored meetings. 5/81

Special Bar Recognition

Approved the report of the Special Commissioner Committee on Local Bar Associations recommending standards for recognition of local bar associations, with an amendment permitting an election of local association officers by mail ballot. 9/74

Approved a recommendation of the Special Assembly Committee on Recognition of Local Bar Associations that State Bar recognition of such associations be governed by revised standards. 3/79

CERTIFICATION

Adopted in principle the concept of specialization and asked the Committee on Specialization in Legal Practice to report back with a proposal revised to provide for a stronger specialization structure. Also referred to the Specialization Committee for incorporation into its plan was a proposal from the Special Committee on Trial Advocacy Certification to create a formal specialty in that field. 9/75

Referred to the Bar Journal Advisory Committee, for consideration of the costs involved, a proposal to permit the listing of specified biographical, educational and professional information in a lawyer's listing in the annual State Bar Directory, which would be available to the public. The Assembly also approved a companion recommendation to the Supreme Court that bold face listings be permitted in the telephone book white pages, as convenience to the public. 9/75

Approved the report and recommendations of the Committee on Certification and Specialization proposing that the Code of Professional Responsibility be amended to provide for a system of self-designation in fields of practice for Michigan lawyers. 4/77

Defeated the proposed plan for certification in the field of (Family Law) drafted by the State Bar Standing Committee on Advertising, Certification and Specialization. 1/82

Adopted a proposal to instruct the State Bar Committee on Advertising, Certification and Specialization to continue to develop a certification plan for consideration by the Representative Assembly, such plan to include provisions addressing the effect, if any, of certification on the right of those who are and are not certified to advertise and to practice in that field. 5/81

Defeated a proposed plan for Certification in the Field of Family Law. 9/86

Referred a proposal for the adoption of a certification program or state accreditation program for specialties in the law for the State of Michigan to the Assembly Hearing Committee to be reconsidered by the Representative Assembly at its September 22, 1994 meeting. 4/94

Withdrew a proposal to authorize a state sponsored certification program of specialists in family law for the State of Michigan. 4/94

Adopted a proposal for the President of the State Bar to appoint a committee to address issues of lawyer advertising and lawyer specialty certification, including any existing or alternative enforcement mechanisms,

as well as the relationship, if any, between concerns about lawyer competency and mandatory continuing legal education. 9/94

CIVIL PROCEDURE

ADR

Approved to recommend that the Michigan Supreme Court adopt the proposed amendments to the mediation and ADR court rules, with four additional amendments offered by the Assembly. 4/00

Compulsory Joinder

Approved the proposal to amend MCR 2.203(A)(2) regarding compulsory joinder of claims. 4/98

Defeated the proposal to amend MCR 2.203 to make certain counterclaims compulsory, submitted by the Committee on Civil Procedure. 9/98

Discovery Subpoenas

Approved the amendments to MCR 2.305, 2.310 and 2.506 on Non-party Record Subpoenas; and MCR 2.302(F) on Stipulations Regarding Discovery Procedure. 4/97

Approved the recommendation of the Standing Committee on Civil Procedure to ask the Michigan Supreme Court to amend Rule 2.317 regarding Discovery Masters. 9/97

Approved the proposed amendment to MCR 2.310 concerning response time to document requests. 4/99

Facsimile Service

Defeated the proposal to amend MCR 2.107(C) concerning facsimile service. 4/98

Approved with modification, the proposed amendment to MCR 2.107 concerning facsimile service. 4/99

Fees

Approved proposed MCR 1.110, allowing legal assistant's fees to be awarded by the Court. 9/99

Garnishments

Approved the recommendation of the Committee on Civil Procedure to ask the Michigan Supreme Court to amend Rule 3.101 regarding Garnishment after Judgment. 9/97

Medical Malpractice Notice

Tabled proposed amendments to the Michigan Court Rules regarding challenges to medical malpractice notices of intent to sue, affidavits and expert witness qualifications; time for filing dispositive motions. The proposal was tabled for future consideration by the Assembly and referred back to the Civil Procedure and Courts Committee.

Adopted the proposed amendments to Michigan Court Rules 2.112, 2.116 and 2.401, as amended, regarding challenges to medical malpractice notices of intent to sue, affidavits and expert witness qualifications; time for filing dispositive motions.

Pre-trials

Approved the recommendation of the Standing Committee on Civil Procedure to ask the Michigan Supreme Court to amend Rule 2.317 regarding Discovery Masters. 9/97

Approved the recommendation of the Standing Committee on Civil Procedure to ask the Michigan Supreme Court to amend Rule 2.402(B) regarding attendance at pretrial. 9/97

Taxation of Courts

Approved the recommendation of the Standing Committee on Civil Procedure to ask the Michigan Supreme Court to amend Rule 2.625(G) regarding taxation of costs. 9/97

Tribal Courts

Approved the proposal, with modification, to amend MCR 7.305(B)(1) regarding state and tribal courts. 4/98

COURTS

Case management

Adopted a proposal to recommend to the Michigan Supreme Court the adoption of case flow management standards was amended to urge the adoption of case flow management goals. 1/86

Court hours

Approved a recommendation that each circuit court conduct trials five days a week from 8:30 a.m. to 12:30 p.m. except in multicounty circuits, where the court must sit regularly in more than one location. 9/73

Recommended that the Michigan Supreme Court enter an Administrative Order recessing the courts of Michigan during the State Bar Annual Meeting. 9/76

Court of Appeals

Adopted a proposal to recommend to the Supreme Court an amendment to GCR 821 which would require that all Court of Appeals decisions be published. Amended to recommend that the Rule be amended to permit any person to request that the panel of judges that filed the opinion order it to be published and that if such a request is made by any counsel of record the opinion be automatically published. 5/80

Adopted a recommendation that the Court of Appeals be urged to continue to formulate new procedures designed to give counsel at oral argument as much information as possible pertaining to the concerns of the panel with respect to issues on appeal. 9/85

Adopted a proposed rule to be submitted to the Michigan Supreme Court providing that whenever a court acting in an appellate capacity decides to consider any question of law or fact not raised by a participant in the proceeding, the court shall so notify the parties and provide them with an opportunity to file supplemental pleadings addressed to that issue. 9/85

Deferred to the May meeting a proposal to recommend to the Michigan Supreme Court the adoption of an amendment to Michigan Court Rule 7.215(f) concerning the precedential effect of Court of Appeal decisions while an application for leave to appeal to the Michigan Supreme Court is pending. 1/86

Adopted a proposal to recommend to the Michigan Supreme Court the adoption of an amendment to Michigan Court Rules 7.215(C) concerning the precedential effect of Court of Appeals decisions while review by the Michigan Supreme Court is pending. 9/86

Approved the recommendations of the Task Force on Appellate Courts. 9/93

Increase the number of Court of Appeals judges. 4/93

Electronics

Approved a proposal to recommend to the Michigan Supreme Court adoption of an Administrative Order permitting certain proceedings to be conducted by communication equipment. 1/82

Approved a proposal to recommend to the Michigan Supreme Court that amendments to the Code of Judicial Conduct be adopted which would permit television cameras in the appellate courts and would authorize a one-year experiment in broadcasting, televising, recording and taking photographs of trial court proceedings upon "leave granted by the Michigan Supreme Court to the trial judge with protective guidelines." 5/83

Family Court

Defeated a proposal from the Family Law Section for establishment of a Family Court for Michigan, incorporating family-related aspects of the proposals to the appropriate sections or committees of the State Bar for consideration and report, and to coordinate exchange of information among the involved groups. 9/75

Adopted a proposal that the State Bar of Michigan reaffirm support for State funding of the judicial system; that the office of the Friend of the Court be specifically included in that affirmation; that the State Bar of Michigan support the Creation of an administrative office of the Friend of the Court within the State Court Administrator's office; and that the State Bar of Michigan support other changes consistent with State funding of the office of Friend of the Court fully outlined in the text of the proposal. 1/81

Opposed HB 4788 through HB 4814 which would establish a family court. 4/88

Form

Rejected a proposal that the State Bar of Michigan endorse a rule mandating the use of letter size paper in all Michigan Courts. 1/80

Adopted a proposal that the State Bar of Michigan recommend to the Michigan Supreme Court that the court rules be amended to require standardized pleadings on paper not to exceed 8-1/2" x 11" and that the change be phased-in over a period not to exceed three years. 1/81

Adopted a proposal that the use of the phrase "Now Comes" be discouraged. 4/90

Adopted a proposal to mandate the use of recycled paper in all court filings. 9/94

Funding

Rejected a proposal that the Representative Assembly endorse the concept of state funding of all judicial salaries. 9/79

Provide for statewide funding of the administration of justice. 4/89

Implement statewide funding of the administration of justice. 4/93

Rejected the proposed resolution in support of increasing federal judicial compensation as recommended by the National Commission on the Public Service ("Volcker Commission").

Judicial Assignment

Adopted a proposal to recommend to the Michigan Supreme Court an amendment to GCR 912 which would provide that when the Court Administrator assigns a judge to decide a motion to disqualify a judge any party may request that the judge so appointed be from a district or circuit other than the district or circuit in which the challenged judge sits. 5/80

Rejected a proposal to endorse the concept that parties in cases in multijudge trial courts be permitted to exercise a peremptory challenge against the judge initially assigned. 5/80

Judicial Selection

Approved a resolution that the Representative Assembly urges the Michigan Legislature, the Supreme Court, the State Bar, its Board of Commissioners and Staff to prioritize programs that educate voters as to the workings of our justice system and the background, experience and qualifications of candidates in judicial elections; and that the State Bar endorses a system for the election of judges in all Michigan state courts which reduces, to the greatest degree possible, the politicization of judicial selection.

Juries

Adopted a proposal to recommend to the Michigan Supreme Court that Standard Civil Jury Instructions 53.03 be made discretionary. 9/82

Considered a request for State Bar support for legislation which prohibits the exercise of peremptory challenges of jurors on the basis of group bias and establishes procedures for determining whether such challenges have been improperly exercised was tabled until a revised proposal is submitted and reviewed by appropriate State Bar Committees and Sections. 1/85

Deferred to the April meeting consideration of a proposal to recommend to the Michigan Supreme Court the adoption of a Michigan Court Rule authorizing summary jury trials. 9/86

Approved a proposal to recommend to the Michigan Supreme Court the adoption of a Michigan Court Rule authorizing summary jury trials. 4/87

Jurisdictional limits

Adopted a proposal that the State Bar oppose any legislation which would increase the District Court's maximum civil jurisdiction beyond its existing \$10,000 level until such time as the State of Michigan is ready to provide funds and other resources necessary for implementation of a higher jurisdictional limit. 5/81

Opposed legislation to raise the jurisdiction of the small claims court from \$600 to \$1,200 and to provide penalties for a defendant who removes a case from small claims court to district court if the plaintiff nevertheless recovers a judgment. 9/81

Endorsed Senate Bill 816 which raises the jurisdictional limit of the Small Claims court to \$1,000 effective January 1, 1985 and to \$1,500 effective September 1, 1986, raises certain fees in district court and eliminates others, authorizes small claims hearings before attorney magistrates, and makes other changes in the law pertaining to the small claims courts. 9/84

Endorsed HB 5174 which would increase the jurisdiction of the small claims court to \$2,500; eliminate the existing prohibition against actions for fraud being instituted in the small claims court; require the district judge or magistrate to orally inform the parties of their right to remove the action to the general civil division of the court and of the rights waived if they choose not to do so; and make provision for examining a defendant against whom a money judgment has been awarded, amended to wherever appropriate substitute the term "judgment debtor" for the term "defendant" and make provision to authorize the examination of the judgment debtor by the filing under oath of a form provided for that purpose as well as by the judge. 4/88

Defeated Senate Bill 460 which would increase the jurisdiction of the District Court in civil actions from \$10,000 to \$25,000 referred to the Assembly for its consideration by the Board of Commissioners. 4/92

Masters

Defeated a recommendation to the Michigan Supreme Court the adoption of a new General Court Rule providing for the appointment of Masters. 9/82

Mediation

Amended and approved a proposal that proposed Rule 2.403 - Mediation - under consideration by the Michigan Supreme Court be endorsed with the amendments set forth in the report of the State Bar Committee on Arbitration and Alternate Methods of Dispute Resolution. 9/79

Approved a proposal to recommend to the Michigan Supreme Court an amendment to the General Court Rules (GCR 316.9) providing for expedited mediation of cases. 5/82

Approved the amendment to a proposed Michigan Court Rule governing the administration of the mediation process in civil cases. 4/92

Adopted a proposal to amend MCR 2.405 which would expand the definition of "verdict" to include a disposition by motion and eliminate the difference in application of the mediation and offer of judgment rules post-mediation. 4/94

Reform

Defeated a motion to enforce the concepts of the 21st Century Courts committee Report as State Bar Policy regarding comprehensive reform of Michigan's justice system. 1/95

Authorized that the State Bar of Michigan in consultation with the judges associations and the Michigan Supreme Court, through its designees, to appear before the Legislature and represent the interests of the Bar in the improvement of the judicial system. 1/95

COURTS STUDIES

Approved the recommendation of the Senior Justice Section to ask the Michigan Supreme Court to create a statewide task force to study the current operations of the state's guardianship and conservatorship systems and make necessary recommendations for improvements. 9/96

CRIMINAL LAW

SEE ALSO, LEGAL SERVICES, LEGISLATION

Counsel

Endorsed for recommendation to the Michigan Supreme Court proposed Standards for Assigned Counsel. 9/87

Referred a proposal to establish standards for the administrative appointment of indigent defense counsel from lists of qualified attorneys based upon objective criteria to the Committee on Hearings.

Crimes

Enact legislation permitting decriminalization of municipal ordinance violations, permitting them to be treated as civil infractions. 4/93

Criminal Code

Rejected a proposal that the endorsement on behalf of the State Bar of Michigan by the Board of Commissioners of the proposed revised criminal code be withdrawn and that the draft be considered chapter by chapter. 9/79

Discovery

Approved a proposal to the Supreme Court that it adopt a comprehensive rule of mutual discovery in criminal cases. 9/74

Expungement

Endorsed the recommendation of the Committee on Criminal Jurisprudence that legislation be enacted permitting the filing of a motion to expunge a criminal record without limitation as to the offender's age. 3/75

Jury trial

Opposed proposed legislation which would require that the prosecutor consent to and the trial judge approve a defendant's waiver of a trial by jury in criminal cases (HB 4534 and SB 273). 9/87

Pleas

Deferred consideration of a proposed Constitutional Amendment which would eliminate appeals as of right for those convicted of crimes upon pleas of guilty or nolo contendere and would permit such appeals by leave only. 9/81

Opposed a proposed Constitutional Amendment which would eliminate appeals as of right for those convicted of crimes upon pleas of guilty or nolo contendere and permit such appeals by leave only. 1/82

Prisoner appeals

Opposed HB 5285 which provides that prisoner appeals from disciplinary hearings may be made only when leave is granted by the Circuit Court. 5/82

Denied adoption of the proposed Standards for Assigned Counsel. 4/97

Defeated a proposal by the Assigned Counsel Standards Committee to establish guidelines for training assigned criminal counsel. 9/97

Sentencing

Opposed a proposed amendment to the Michigan Constitution eliminating the prohibition against the death penalty. 9/82

Defeated a motion to endorse HJR D and SJR B which would place on the November 1986 general election ballot a proposed amendment to the Michigan Constitution eliminating the prohibition against the death penalty. 5/85

Adopted a motion to oppose HJR D and SJR B which would place on the November 1986 general election ballot a proposed amendment to the Michigan Constitution eliminating the prohibition against the death penalty. 5/85

Support community-based alternatives to incarceration. 4/93

Victims

Adopted the recommendations of the State Bar Special Committee on Victims of Crimes. 9/84

CRIMINAL PROCEDURE

Adopted as amended to unanimously recommend to the Michigan Supreme Court that this amendment to MCR 6.435 be adopted. 9/00

DISCIPLINE

SEE ALSO, ETHICS, LAWYER REGULATION

Confidentiality

Approved a recommendation to the Supreme Court that the identity of an attorney with no prior disciplinary record should not be disclosed in the State Bar Journal or to the general news media if he or she is subjected to discipline less than suspension or disbarment. 9/73

Referred a proposal to amend MCR 9.109(B)(5) providing for confidentiality of disciplinary investigative information to the Assembly Hearings Committee. 4/96

Misconduct

Approved a recommendation to the Supreme Court that it amend the Code of Professional Responsibility to provide that isolated instances of negligence, unaccompanied by moral delinquency or misrepresentation or willful withholding of information, should not be a basis for discipline. 3/73

Defeated a proposal to amend the Michigan Court Rules to provide for automatic suspension of a lawyer who does not timely respond to a Request for an Investigation. 9/91

Immunity

Approved a report recommending endorsement in principle of legislation which would authorize the Supreme Court to grant immunity to witnesses in grievance proceedings, upon application by the State Bar Grievance Board, with notice to any affected law enforcement agency. 3/74

Approved an effort to obtain passage of legislation permitting a grant of immunity from prosecution, under court control, for witnesses called before the State Bar Grievance Board hearings. 9/75

Defeated a proposal to amend MCR 9.125 to limit immunity of participants in the discipline process (4/96)

Procedure

Defeated a proposal that the State Bar of Michigan endorse a proposed change in GCR 960.1 which would provide that all disciplinary hearing panels consist of two attorneys and one public member. 1/81

Adopted a proposal to recommend to the Michigan Supreme Court amendments to Michigan Court Rules pertaining to disciplinary enforcement. 1/86

Defeated a proposal to endorse the bifurcation of the investigative and prosecutorial functions in judicial discipline currently vested in the Judicial Tenure Commission. 9/90

Approved the recommendation of the Standing Committee on Grievance to ask the Michigan Supreme Court to amend MCR 9.115(F)(4) regarding reciprocal disclosure of witness statements in lawyer discipline proceedings. 9/96

Approved the proposed modification to MCR 9.112(B)(3) regarding requests for investigation. 1/00

Unanimously opposed the adoption of proposed amendments of subchapters 7.300 and 9.100 of the Michigan Court Rules regarding permanent disbarment Court Rules. 9/00

Receiverships

Defeated a proposal to recommend to the Michigan Supreme Court amendments to MCR 9.119(G) providing for compensation by the State Bar of Michigan to persons appointed to inventory the files. 9/89

Defeated a proposal to authorize the appointment of a joint committee of Commissioners and Assembly persons to study the proposal that MCR 9.119(G) be amended to provide for compensation by the State Bar of Michigan to persons appointed to inventory files. 9/89

Approved the proposed Court Rule establishing and governing law practice receiverships when a lawyer disappears, dies, is disabled, or has been suspended or disbarred, and there is no one readily available to handle client matters. 4/94

ETHICS

SEE ALSO, DISCIPLINE, LAWYER REGULATION

Advertising

Approved a recommendation to the Michigan Supreme Court that the Code of Professional Responsibility be amended to permit public disclosure of specified biographical, educational and professional information by attorneys ("lawyer advertising") in telephone directory Yellow Pages. 9/75

Adopted and recommended to the Michigan Supreme Court proposed amendments to the Code of Professional Responsibility establishing advertising guidelines to be used by Michigan lawyers. 9/77

Approved a recommendation of the Committee on Advertising, Certification and Specialization that the Assembly recommend to the Supreme Court that it terminate the trial period for the false, fraudulent, misleading and deceptive standard for advertising by lawyers, substitute therefore a rule substantially similar to the recommendation on advertising adopted by the Assembly in September 1977 for a one-year trial period, at the end of which the experiences under the two advertising approaches be reviewed and a permanent advertising rule. 3/79

Adopted the report of the Committee on Communications of the State Bar of Michigan recommending that the Committee be authorized to continue to monitor developments concerning institutional advertising but that no such advertising campaign be embarked upon at this time. 9/80

A recommendation of the Standing Committee on Professionalism to amend MRPC 7.1, 7.2 and 7.3 was withdrawn by the proponents prior to the session. 9/96

Ancillary Services

Approved a resolution proposing amendments to the Michigan Rules of Professional Conduct regarding the provision of ancillary and joint services by lawyers. 1/02

Codes

Adopted the recommendations of the State Bar Committee on Professional and Judicial Ethics to recommend to the Michigan Supreme Court the adoption of Model Rules of Professional Conduct to replace the Code of Professional Responsibility. 1/84

Adopted a proposal that the Michigan Supreme Court be requested to adopt the Proposed Michigan Code of Judicial Conduct (1991) to replace the Michigan Code of Judicial Conduct (1974). 4/91

Campaign conduct

Opposed proposals to amend Canon 7(B)(2)(C) of the Michigan Code of Judicial Conduct to change the amount and limit the sources of judicial campaign contributions. 4/94

Confidentiality

Adopted an amended proposal to recommend to the Michigan Supreme Court the amendment of Rule 8.3 of the Michigan Rules of Professional Conduct to provide that the requirement that a lawyer having knowledge that another lawyer has committed a significant violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall inform the Attorney Grievance Commission does not require disclosure of information gained by a lawyer or judge while serving as a member of the State Bar lawyers and judges counseling program to the extent the information would be protected as a confidence if it were to constitute a communication between lawyer and client under Rule 1.6. 4/91

Conflicts

Adopted an amended proposal to request the Supreme Court of Michigan to amend the Michigan Rules of Professional Conduct 1.9 and 1.10 and related comment. 9/89

Adopted an amendment to delete the phrase ". . . or will be engaged frequently in adversary proceeding in any court." from Canon 4C(a) of the Model Code. 4/90

Approved the recommendation of the Attorney Grievance Commission to ask the Michigan Supreme Court to amend to amend Rule 1.8 regarding prohibiting sex with clients. 9/97

Costs

Adopted a proposal to recommend to the Michigan Supreme Court the adoption of an amendment to Rule 1.8(e)(1) of the Michigan Rules of Professional Conduct to permit a lawyer to advance court costs and expenses of litigation repayment of which is contingent solely upon the outcome of the matter. 9/88

Discrimination

Adopted the amended proposal to petition the Michigan Supreme Court to amend the Michigan Code of Judicial Conduct, Michigan Court Rule 9.205 and the Michigan Rules of Professional Conduct to incorporate provisions prohibiting invidious discrimination by judges and lawyers by deleting references to attending functions sponsored by or at premises owned or operated by organizations which invidiously discriminate. 9/90

Education

Supported the proposed resolution for the State Bar to develop and promote programs on ethics education for lawyers. 4/00

Lawyer Referral

Adopted a proposal to recommend to the Michigan Supreme Court that Rule 7.2(c) of the Michigan Rules of Professional Conduct be amended to require that not-for-profit lawyer referral services and other legal service organizations in which lawyers participate file with the Court a written plan of operation, up date their filings within thirty days of any change and in January of each year thereafter file a statement representing that they continue to do business under the terms and conditions reflected in their prior filings. 4/88

Referred a proposal to amend Rule 6.3 of the Michigan Rules of Professional Conduct on Lawyer Referral Services to the Ethics Committee. 9/95

Adopted a proposal to amend MRPC 6.3(b) to regulate lawyer referral services. 4/96

Approved changes to proposed amendments to MRPC 6.3. 4/97

Approved the recommendation of the Standing Committee on Professional Ethics and the Committee on Delivery of Legal Services to ask the Michigan Supreme Court to amend Rule 6.3 regarding legal services organizations and lawyer referral services. 9/97

MDP

Tabled the report and recommendations on Multidisciplinary Practices. 2/01
Model Codes

Approved the report of the Committee on Professional and Judicial Ethics recommending the submission of comments with respect to the discussion draft of Model Rules of Professional Conduct circulated by the Commission on the Evaluation of Professional Standards of the American Bar Association. 9/80

Approved the amended report of the Committee on Professional and Judicial Ethics recommending the submission of comments with respect to the final draft of the Model Rules of Professional Conduct circulated by the American Bar Association Commission on the Evaluation of Professional Standards. 9/81

Adopted a proposal that the State Bar of Michigan recommend that the American Bar Association adopt the ABA Model Rules of Judicial Conduct, with certain amendments proposed by the State Bar of Michigan Standing Committee on Professional and Judicial Ethics. 4/90

Referred back to the Standing Committee on Professional and Judicial Ethics a proposal to amend MRPC 4.2. 9/96

Denied adoption of the proposal to amend MRPC 4.2 and related comment regarding communication with a person represented by counsel. 4/97

Public Comment

Approved recommendation that a subjective test be used to determine “actual malice” under Michigan Rule of Professional Conduct 8.2(a). 1/00

Pro bono

Proposal defeated to amend Rule 6.1 of the ABA Model Rules of Professional Conduct to provide that a lawyer should render at least 50 hours of *pro bono publico* legal services each year, at least 40 hours of which should consist of the provision of legal services without fee or expectation of fee to persons of limited means or charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means. 9/92

Tabled a recommendation to adopt amendments to the Michigan Rule of Professional Conduct 6.1, pending review by the State Bar Standing Committee on Professional and Judicial Ethics. This proposal addresses pro bono service by lawyers. 9/02

Professionalism

Rejected the proposed resolution to acknowledge the widespread perception of a decline of civility among lawyers and to ask the State Bar to pursue appropriate measures to address this issue. 4/00

Supported the proposed resolution to encourage the State Bar to study the implementation of civility guidelines for all lawyers in Michigan. 4/00

Supported the proposed resolution for the State Bar to develop and promote mentoring programs for lawyers. 4/00

Prosecutor duties

Approved a proposal to petition the Michigan Supreme Court to amend Rule 3.8 of the Michigan Rules of Professional Conduct concerning the special responsibilities of a prosecutor to require that specific procedures be followed and court approval be obtained before a prosecutor can subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client. 9/90

Sale of practice

Adopted a proposal to petition the Supreme Court to amend the Michigan Rules of Professional Conduct to add a rule permitting and governing the sale of a law practice. 9/90

Solicitation

Adopted a proposal to petition the Michigan Supreme Court to amend Rules 7.2 and 7.3 of the Michigan Rules of Professional Conduct to remove the blanket prohibition against targeted mail solicitation in order to conform to a decision of the United States Supreme Court declaring such prohibition unconstitutional, and to authorize participation in prepaid legal services plans which directly solicit membership so long as those marketing efforts are not directed at persons known to need legal services in a particular matter covered by the plan. 4/89

Trust accounts

Approved a recommendation to petition the Michigan Supreme Court for an amendment to the Code of Professional Responsibility requiring lawyers to create and maintain one or more interest bearing trust accounts for client funds other than advances for costs and expenses which are nominal in amount or, at the time of receipt and deposit are expected to be held for a short period of time, the income from which is to be used to finance legal services to the indigent. 1/83

Defeated a proposal to amend the Michigan Rules of Professional Conduct to require lawyers to maintain trust accounts in financial institutions which agree to notify the Attorney Grievance Commission whenever a check drawn against insufficient funds is presented. 9/91

EVIDENCE

Endorsed a proposed amendment to the General Court Rules permitting execution of instruments by declaration under penalties of perjury, as an alternative to execution under oath. 3/75

Adopted a proposal to petition the Michigan Supreme Court to extend Administrative Order 1989-2 permitting the creation of the record of court proceedings by videotape and authorizing any trial court in the state to apply to the State Court Administrative Office for permission to do so. 9/90

Defeated Senate Bill 688 and 689 which would permit the taking of a laboratory technician's testimony in a preliminary examination by voice communication equipment rather than in person. 9/92

Tabled the proposal to amend MRE 803A and MCR 5.972 regarding child protection proceedings. 4/99

FEES

Awards

Approved a recommendation that the prevailing party in civil cases should under certain limited circumstances be entitled to reasonable fees at the discretion of the trial court, under guidelines and limitations provided by Rule. 9/76

Adopted a proposal that the Supreme Court of Michigan be requested to adopt a rule providing that in every civil action except domestic relations cases, the prevailing party shall be awarded, in addition to other costs, a reasonable attorney fee if the trial court finds that the action was brought or was defended without foundation, vexatiously, frivolously or in bad faith. 9/78

Defeated a proposal to recommend to the Michigan Supreme Court that MCR 2.625 be amended to provide that in any civil action in which a final disposition is rendered the prevailing party shall be entitled to reimbursement for its actual attorney fees reasonably incurred, in addition to the relief awarded and the costs otherwise provided by the Rule 5/85

Contingent fee

Adopted for transmittal to the Michigan Supreme Court a statement of principles and proposed rules setting maximum limits on contingency fees in all future personal injury cases. 3/75

Adopted a proposal to recommend to the Michigan Supreme Court an amendment to GCR 928 providing that the maximum allowable attorney fee for any claim or action for personal injury or wrongful death based upon the alleged conduct of another be 33-1/3% of the recovery. 5/80

Disputes

Adopted a proposal that there be implemented a system for arbitrating fee disputes between attorneys and clients in the State Bar of Michigan resulting in binding awards if both parties consent, authorizing investigation of the claim and the furnishing of appropriate assistance to the client if the complaint about the fee is determined to be meritorious when only the client consents to arbitration and authorizing one public member to serve on three-member arbitration panels. 9/78

Financing

Adopted a proposal to direct the Standing Committee on Economics of Law Practice and/or General Practice Section to review and analyze existing legal fee financing plans, to make such inquiries as are deemed necessary to report to the Assembly on the structure and operations of such plans and to make a recommendation on the advisability of the adoption of such plans by the State Bar of Michigan. 9/81

Approved the recommendation of the General Practice Section to refer the establishment of a Legal Fee Financing Plan in Michigan to a committee designated by the Board of Commissioners. 5/83

Model form

Tabled the consideration of a proposal to endorse a Standard Retainer Agreement Form. 4/93

Referred a proposal to endorse a Standard Retainer Agreement Form to all State Bar Committees for comment. 9/94

Defeated a motion to endorse a Standard Retainer Agreement form. 9/95

JUDICIAL REGULATION

Campaigning

Defeated a proposal which would have prohibited attorneys from making financial contributions to the campaign funds of candidates for judicial office. 3/73

Recommended that the Court's proposal to amend MCJC 7(A)(2)(a) be rejected. This proposal would allow a judge or judicial candidate to attend political fund-raising events that honor the judiciary generally, not the individual judge by name, provided that the judge does not personally solicit funds for, or attendance at, such events. 11/99

Unanimously recommended that the Court's proposal to add MCJC 7(A)(4) be rejected. This proposal would make it unethical for an organization consisting exclusively of judges to make a false, fraudulent, misleading, or deceptive statement about judicial candidates. It would also require these associations to identify the members of their organization in any public communication. 11/99

Recommended that the Court's proposal to add MCJC 7(B)(2)(a) be rejected. This proposal would specifically allow a judge to send a thank- you note or other acknowledgment to a contributor. 11/99

Recommended that the Court's proposal to amend MCJC 7(B)(2)(c) be rejected. The Assembly unanimously recommended that the maximum solicitation of a lawyer by a judicial candidate remain at \$100. This proposal would raise the maximum solicitation of a lawyer by a judicial candidate from \$100 to \$300. It would also allow a general solicitation in excess of \$300, with an appropriate disclaimer. 11/99

Recommended that the Court's proposal to amend MCJC 7(B)(2)(c) be amended to begin the solicitation period on February 1 instead of January 1 and then be adopted. As originally presented, this proposal would change the starting date for fund solicitation from 180 days before a primary election or nominating convention to January 1 of the year of the election. 11/99

Unanimously recommended that the Court's proposal to amend MCJC 7(B)(2)(c) be rejected. This proposal would allow the solicitation of funds for 45 days after the date of the general election. 11/99

Unanimously recommended that the Court's proposal MCJC (7)(2) be adopted. This proposal would eliminate a paragraph that applied only to the 1974 campaign year. 11/99

Unanimously recommended that the Court's proposal to add Canon 8 be rejected. This proposal would also apply to judges' associations or any other organization consisting exclusively of judges. 11/99

Discipline

Deferred the Michigan Supreme Court Administrative Order No. 99-31 to the Assembly's Special Issues Committee. This proposal amends MCR 9.200, *et seq.*, regarding the judicial discipline system. 9/02

Ethics

Approved a recommendation urging the Supreme Court of Michigan to adopt the then proposed Code of Judicial Conduct, with amendments endorsed by the Board of Commissioners. 9/74

Considered proposals to amend General Court Rule 932 and to adopt a new General Court Rule 931 dealing with the Judicial Tenure Commission were referred to the Assembly Committee on Hearings for evaluation and report to be circulated in writing to the Assembly no later than six weeks before the January 7, 1984 meeting. 9/83

Approved the recommendations of the Assembly Committee on Hearings concerning proposed amendments to the rules governing the judicial tenure process. 1/84

Approved the proposal, as amended, to amend MCJC 7 (Canon 7: A judge or a Candidate for

Judicial Office Should Refrain from Political Activity Inappropriate to Judicial Office). 4/98

Tabled the proposed amendment of Canon 7 and adoption of New Canon 8 of the Michigan Code of Judicial Conduct concerning Judicial Campaigns. 9/99

Recommended that the Court's proposal to amend MCJC 7(A)(2)(a) be rejected. This proposal would allow a judge or judicial candidate to attend political fund-raising events that honor the judiciary generally, not the individual judge by name, provided that the judge does not personally solicit funds for, or attendance at, such events. 11/99

Unanimously recommended that the Court's proposal to add MCJC 7(A)(4) be rejected. This proposal would make it unethical for an organization consisting exclusively of judges to make a false, fraudulent, misleading, or deceptive statement about judicial candidates. It would also require these associations to identify the members of their organization in any public communication. 11/99

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Unanimously recommended that the Court's proposal MCJC (7)(2) be adopted. This proposal would eliminate a paragraph that applied only to the 1974 campaign year. 11/99

Unanimously recommended that the Court's proposal to add Canon 8 be rejected. This proposal would also apply to judges' associations or any other organization consisting exclusively of judges. 11/99

Unanimously rejected the proposed amendment of Canon 7 of the Michigan Code of Judicial Conduct concerning Judicial Campaigns. 4/00

Refer the issue of the use of part-time Judicial or Quasi-Judicial Officers to committees and sections for further study. 9/00

Pensions

Approved a recommendation of the Special Committee on Court Fees that the State Bar of Michigan endorse state funding of judicial pension systems at an actuarial adequate level to finance presently authorized benefits and oppose the funding of judicial retirement systems through court fees. 3/79

Salaries

Endorsed legislation converting part-time, part-paid probate judges in Michigan to full-time judges funded by the State of Michigan. 5/85

Selection

Supported in principle a system of merit selection of all Michigan judges and recommended the formation of a Citizens Committee on Michigan's Judiciary. 3/73

Approved in principle a proposal to amend the Constitution to provide for (1) appointment of all Michigan judges by the Governor from a list of nominees submitted to him by a nominating commission, and (2) requiring all judges so appointed to run against their record within a specified period following appointment. 9/73

Defeated a proposal to endorse legislation requiring certain minimum qualifications before an attorney is eligible to become a judicial candidate, including being of the age of majority and having practiced law for a minimum number of years. 9/74

Adopted a substitute motion endorsing a Constitutional amendment providing for appointment of Supreme Court Justices and Judges of the Court of Appeals advocated by a coalition known as the Michigan Citizens to Take the Courts Out of Partisan Politics. 4/78

Adopted a proposal to recommend to the Michigan Supreme Court that temporary appointment of judges be limited to those who do not leave office after a defeat in a general or special election. 5/81

Adopted a proposal that the State Bar endorse a Constitutional Amendment providing for the appointment of Supreme Court Justices, Court of Appeals Judges, and the members of the State Board of Education and the governing boards of Michigan State University, the University of Michigan and Wayne State University; and that members of the State Bar of Michigan be urged to assist efforts to place this proposal on the ballot for the 1982 general election; and (2) to permit Lt. Governor James H. Brickley to speak in support thereof. 5/81

Endorsed an amendment to the Michigan Constitution which would replace the present partisan party convention process for nominating candidates for Supreme Court justice by a non-partisan primary election. 5/84

Require that candidates for judicial office must have been licensed to practice law for at least five years, and candidates for the position of hearing officer within the executive branch must have been licensed to practice law at least three years, before they are eligible for appointment or election to office. 4/89

Approved the recommendation of the Standing Committee on Judicial Selection to ask the Legislature to appoint, by joint resolution, a bipartisan citizens' commission that represents a cross section of individuals to ensure race, ethnic and gender diversity, to examine Michigan's system of judicial selection, and to report its recommendations and conclusions within twelve months of appointment. 9/96

Tabled a motion that had been made and seconded, without vote of the Assembly, in support of full public financing of judicial campaigns in Michigan. 11/99

Adopted a resolution that (1) the Governor should call upon the State Bar of Michigan to assist in screening candidates for judicial appointments when vacancies occur and that no judicial appointment should be made by the Governor unless the State Bar of Michigan has received adequate time and opportunity to screen each candidate; and (2) the State Bar of Michigan should dedicate sufficient resources to continue its process of screening candidates for judicial appointments in a manner that is as fair and timely as possible. 4/02

LAWYER REGULATION

SEE ALSO, ETHICS, DISCIPLINE

Approved a recommendation to the Supreme Court that all attorneys actively engaged in private practice be required to maintain a minimum malpractice insurance policy. 3/73

Approved the proposal to amend Rules 3 and 15 of the Rules Concerning the State Bar of Michigan regarding the licensing of lawyers. 4/98

Approved a proposed resolution on unauthorized practice of law. 9/99

LEGAL EDUCATION

Course availability

Adopted the recommendation of the Special Assembly Committee on Institute of Continuing Legal Education Liaison and Review that the Committee be dissolved, was upon motion made and seconded, amended 1) to request ICLE to submit a progress report to the Assembly at its September meeting with respect to its efforts to implement videotape courses through community colleges in order to broaden the availability of continuing legal education in more remote areas of the state; 2) to urge as a goal that continuing legal education courses be made available to every Michigan lawyer within one hour traveling time; and 3) to ask ICLE to study the feasibility of using State Bar headquarters in Lansing as a facility for the presentation of some of its courses. 5/80

ICLE

Referred a proposal to a special committee to be appointed by the Chairperson, that the State Bar of Michigan review its relations with the Institute of Continuing Legal Education. 1/80

Mandatory

Approved the recommendation of the State Bar Committee on Continuing Legal Education that continuing legal education not be made mandatory for Michigan lawyers at this time; that the State Bar of Michigan renew its commitment to active and wide-ranging voluntary programs of continuing legal education; that the State Bar of Michigan continue to review specialization, certification and advertising and their effect upon the need for mandatory legal education. 9/76

Approved a proposal to recommend to the Michigan Supreme Court the adoption of a proposal for mandatory continuing legal education. 4/87

School

Defeated a report endorsing a new law school at Michigan State University, but supported a plan for an additional publicly supported law school to be established in the western part of the state at a later date "if the needs for new law graduates in Western Michigan" were not met.

Approved a statement that the Assembly gives its continued support to the provision of sufficient facilities, either in private or public institutions, to make quality legal education available to all qualified applicants. 3/74

Adopted a motion that the State Bar of Michigan urge all Michigan law schools to increase the number of minorities serving as full time faculty. 9/92

LEGAL SERVICES

Dispute resolution

Approved a proposal to endorse the establishment of a Dispute Resolution Center in Washtenaw County and to recommend to the Board of Commissioners that State Bar funds be appropriated to partly fund its first year of operation. 9/83

Domestic violence

Adopted a proposal to adopt Voluntary Standards for Lawyers Concerning Domestic Violence. 9/93

Indigent defense

Consideration of a proposal that the State Bar of Michigan endorse a new GCR 785.14 providing that no judge or person under the direct supervision of a judge shall appoint an attorney who is to represent an indigent defendant. 1/81

Defeated a proposal that the State Bar of Michigan endorse a new GCR 785.14 providing that no judge or person under the direct supervision of a judge shall appoint an attorney who is to represent an indigent defendant. 1/81

Adopted a substitute motion directing that a system for adequate compensation for attorneys appointed to represent indigent defendants be drafted, giving consideration to-the three factors for determining

compensation incorporated in Assembly person Walsh's proposal which brought the issue before the Assembly, to be submitted to the Assembly for its consideration at its September meeting. 5/82

Adopted a recommendation to the Supreme Court that it establish the minimally adequate level of compensation for attorneys appointed to represent indigent defendants. 9/82

Provide state funding of all indigent trial and appellate counsel costs and continued state funding of the prosecuting attorneys appellate service. 4/93

Adopted the eleven criminal defense assigned counsel guidelines for improving public defense services, as proposed by the Michigan Public Defense Task Force. 4/02

Insurance

Defeated a proposal that insureds be given the right to choose their own counsel. 9/75

Nonlawyer practice

Adopted a motion calling for vigorous prosecution of unauthorized practice cases. 9/75

Denied a request from the University of Michigan Law School that the State Bar support an amendment to CCR 921 which would extend authorization for student practice to qualified students involved in law school clinical practice programs on behalf of nonprofit organizations. 5/83

Pro Bono

Approved a recommendation of the Special Committee on Public Interest Law that the State Bar involve itself in the delivery of public interest legal services and engage in related activities and emphasize to all members of the State Bar their obligation under Canon 2 of the Code of Professional Responsibility to "assist the legal professional in fulfilling its duty to make legal counsel available." 3/79

Adopted the amended proposal to adopt a voluntary standard for *pro bono* participation by all State Bar of Michigan members to broaden the options available for compliance with the standards as well as the class of recipients needing *pro bono* services. The amendment added the following language as new item 3: "Providing a minimum of 30 hours of professional services at no fee or a reduced fee to persons of limited means, or to public service or charitable groups or organizations," and renumbered former item 3 as item 4. 4/90

Public information

Deferred a proposal that the State Bar of Michigan design information programs for the mass media to inform the general public of the need for legal services and the availability of same in general during calendar year 1981 and that the Board of Commissioners be urged to appropriate the sums of \$50,000 for that purpose in 1981, and, commencing with the year 1982, an amount equal to \$15 per member per year for such programs. 1/80

LEGISLATION

Business law

Enact substantive revisions to update and clarify the Michigan Business Corporation Act. The proposed changes: 4/89

- Revise the corporate finance provisions based on the Revised Model Business Corporation Act.
- Clarify interested director transaction standards.
- Introduce the concept of the "independent director" with special authority as an attempt to improve corporate governance.
- Revise appraisal rights, clarify relief for oppression of minority shareholders and specify derivative litigation procedures.
- Revise dissolution provisions to deal with post dissolution claims.
- Standardize treatment of various forms of corporate acquisitions.
- Generally resolve interpretative issues that have been raised by courts and commentators, and make numerous technical improvements.

Adopted in principle a proposal to endorse legislation amending the Michigan Professional Services Corporation Act to eliminate the requirement that shareholders of professional corporations be licensed to practice in Michigan, thereby permitting Michigan professional corporations to have shareholders who are licensed in other states. 9/89

Drugs

Adopted a proposal that the State Bar of Michigan support a state or federal experimental program designed to determine if a heroin distribution program would reduce crime and/or reduce the use of heroin. 4/77

Elder law

Approved proposed legislation which would permit a person to designate another to make medical treatment decisions on that person's behalf or to execute a declaration directing that life-sustaining procedures be withdrawn or withheld in the event the person is suffering a terminal condition from which death is eminent (HB 4176 and HB 4647) subject to reservations expressed in the report of the Committee on Medicolegal Problems in its report of September 11, 1987. Other proposed legislation concerning related subject matter (SB 2324) was not supported by a vote exceeding two-thirds of those present. 9/87

Support income and asset ceilings at \$1,500 per month of joint income and \$60,000 of joint assets (the maximum amounts permitted under federal law) for Medicaid eligibility to avoid "spousal impoverishment" when one partner requires continuing nursing home care. 4/89

Defeated a proposal to authorize a statutory durable power of attorney.

Adopt express statutory provisions that durable powers of attorney may vest decision-making authority concerning medical treatment decisions, and establish a statutory hierarchy of persons authorized to make medical decisions when an adult is incapacitated and has not designated anyone to do so. 4/89

Defeated House Bill 5492 which authorizes a statutory durable power of attorney. Thereafter, a motion to reconsider was adopted and upon reconsideration a motion to request the Probate and estate Planning Section of the State Bar of Michigan to draft legislation establishing a statutory durable power of attorney for future consideration by the Representative Assembly was adopted. 9/92

Adopted to support House Bill 5453 which authorizes the execution of a do-not-resuscitate declaration and related procedures. 9/92

Employee benefits

Approved proposed legislation which would exempt qualified annuity, pension, profit-sharing or other retirement plans from garnishment, attachment, execution and bankruptcy (HB 4666), with recommended amendments to extend the exemption to Individual Retirement Accounts which are non-deductible and deny the exemption to amounts contributed within 120 days before a debtor files for bankruptcy. 9/87

Family law

Approved a recommendation that the Assembly support the adoption by the Legislature of an amendment to the Paternity Act drafted by the Family Law Section which would allow married women in certain instances to obtain child support from the natural father. 3/79

Opposed Senate Bills 187 and 188 providing for the termination of marriages by summary dissolution were opposed in their present form. 1/82

Opposed the concept of summary dissolution of marriage. 5/82

Adopted a proposal that the State Bar of Michigan oppose the Uniform Marital Property Act. 5/85

Enact the proposed "Michigan Domestic Relations Code" drafted by the Family Law Section codifying present Michigan law with changes: 4/89

- Permitting marriage by proxy in some circumstances.
- Providing that "antenuptial" agreements may be effective upon divorce.

- Rewriting jurisdiction and venue provisions.
- Allowing independent and post-judgment actions for custody, visitation and parenting time, child support, domestic violence orders, and conservation of marital property.
- Eliminating the presumption that joint custody is always appropriate.
- Restricting the freedom of a person with custody from moving more than 100 miles without consent from noncustodial parties or the court.
- Specifying circumstances under which a court can order child support beyond the 18th birthday.
- Establishing a "main rule" that each party receive his/her own individual property plus one-half of the marital property.
- Allowing the parties to agree to nonmodifiable alimony.
- Defining and providing for orders concerning "expenses of litigation."

Amend arbitration statute to authorize arbitration of domestic relations disputes. 4/93 Firearms

Adopted a recommendation for federal legislation to make it unlawful for any person except police, licensed security guards, and target shooting clubs to import, manufacture, sell, buy, transfer, receive, or transport any handgun (except antiques) or handgun ammunition. 4/77

Insurance

Adopted a proposal that the Representative Assembly recommend to the Legislature that MCLA 500.3009 (1) be amended by changing the minimum limits of motor vehicle liability insurance from \$20,000 per person and \$40,000 per accident to \$50,000 per person and \$100,000 per accident. 9/81

Adopted a recommendation that the principles and objectives of HB 4838 regulating credit insurance be endorsed. 9/82

Juvenile law

Opposed House Bill 4704 and supported House Bill 6034, two differing comprehensive revisions of the state's juvenile code. 7/96

Deferred a recommendation that the State Bar of Michigan endorse the proposed new juvenile code (HB 4774), provided that the Legislature appropriate adequate funding for the services and facilities mandated thereunder. 1/80

Adopted a proposal that the State Bar endorse juvenile code revisions and that any such revisions be adequately funded in order to strengthen the juvenile justice system. 9/80

Priorities

Adopted the legislative priorities for the current legislative session. 4/87

Adopted the Legislative priorities for the current legislative session. 4/89

Approved the legislative priorities for the current legislative session recommended by the Ad Hoc Legislative Review Committee. 4/91

Adopted the following State Bar legislative priorities for the 1993-94 session of the Legislature: 4/93

Tax

Adopted a proposal that the State Bar endorse the concept of deductibility of legal expenses for federal and state income tax purposes. 9/80

Approved a proposal that the State Bar of Michigan actively pursue and encourage legislation amending the Michigan Tax Tribunal Act to require that all persons conducting hearings be attorneys admitted to practice in this State. 5/83

Reform Michigan's inheritance tax law by substituting a "pickup tax". 4/93

Tort law

Opposed proposed legislation which would provide that the determination whether an injured person has sustained a serious impairment of body function for purposes of recovering damages for non-economic loss under the automobile no-fault law is a question of law for the court and further providing that a person shall not have suffered a serious impairment of body function unless the person has suffered an objectively manifested impairment of an important body function which affects his or her general ability to lead a normal life (SB 352). 9/87

Defeated House Bills 5436 and 5644 which declare void settlement agreements by state and local units of government that prohibit disclosure of their terms and prohibit the concealing of a public hazard in certain judgments, contracts and agreements. 9/92

Veterans

Approved a recommendation that the State Bar of Michigan endorse improved appellate rights for veterans and recommend to Michigan members of Congress that legislation be introduced to 1) provide access to the courts for appeals from adverse decisions of the Veterans Administration; and 2) provide for payment of legal fees sufficient to insure adequate representation of veterans by counsel. 5/84

Workers compensation

Adopted a proposal that the State Bar endorse the Administrative Adjudication Act proposed by the Hearing Officers and Administrative Law Judges Committee of the Administrative Law Section for submission and adoption by the Michigan Legislature, to exclude the Workers Compensation Bureau and the Employment Relations Commission from the act. 9/80

Adopted a proposal that the State Bar of Michigan communicate to the Chief Executive of the State of Michigan its opposition to the present application of Rule 10f.(a) of the administrative rules of the Bureau of Workers' Compensation, Department of Labor, under which all medical depositions in contested workers disability compensation proceedings are now required to be taken prior to the taking of lay testimony. 1/81

MISCELLANEOUS

Approved a proposal to furnish every member of the State Bar of Michigan with a copy of the Constitutional Oath of Office. 3/75

Authorized furnishing to each new member of the Bar a copy of the constitutional oath of office, suitable for framing. Present members could receive one upon request. 9/75

Adopted the Assembly Rules of procedure were suspended by the necessary 2/3 vote to permit consideration of a motion to spread upon the records of the Assembly a letter written by President Archer to the Detroit Free Press which was printed as a column in the August 22 issue of that newspaper, to commend President Archer for that letter and to request that the letter be published in the Michigan Bar Journal. 9/85

Adopted the Model Family Medical Leave Policy recommended by the Labor and Employment Section. 9/97

Approved a resolution that (1) opposed the U.S. Department of Justice's proposed action to monitor communications between attorneys and their clients without prior judicial approval, which abrogates the attorney-client privilege; and (2) required that a copy of the resolution (as passed by the Assembly) be sent to the U.S. Attorney General and the Rules Unit of the Office of General Counsel, Bureau of Prisons. 1/02

Approved a resolution (1) endorsing the January 4, 2002, Recommendations on Military Commissions issued by the American Bar Association Task Force on Terrorism and the Law and (2) requiring that copies of the resolution and Task Force Recommendations be sent to the President of the United States, the Secretary of Defense and the American Bar Association. (1/02)

Adopted the following as amended:

RESOLVED, that the State Bar of Michigan commends the House of Delegates of the American Bar Association for creating and adopting the Blueprint for Cost-effective Pretrial Detention

Sentencing and Corrections Systems, and recommends consideration of the Blueprint provision to the State of Michigan, federal and local governments, and all other seeking to take steps to eliminate unnecessary expenditures, enhance cost-effectiveness and promote justice.

STUDIES

Adopted a proposal to authorize a study of appellate representation of indigent defendants. 3/74

Adopted a proposal that the State Bar Committee on Economics of Law Practice be asked to investigate the utilization of computers and word processing equipment and word processing applications by the small law office and to process the books, record keeping, accounting, file storage and other administrative areas of the small law office. 4/78

Rejected a proposal that there be undertaken a confidential survey of judges and other informed sources as to the general competency of lawyers to determine if Chief Justice Warren Burgers assessment of lawyer competency has validity and that the Board of Commissioners be requested to finance such survey. 9/78