

HEALTH CARE LAW SECTION

STATE BAR OF MICHIGAN

CHAIRPERSON

GREGORY DRUTCHAS (2002)
One Woodward Avenue, 10th Floor
Detroit 48226-3499
E-mail: hcsls@kitch.com

CHAIRPERSON-ELECT

GERALD M. GRIFFITH (2004)
2290 First National Building
Detroit 48226
E-mail: ggriffith@honigman.com

SECRETARY

JENNIFER A. KILDEA DEWANE
(2003)
313 South Washington Square
Lansing 48933-2193
E-mail:
jkildeadewane@fosterswift.com

TREASURER

CYNTHIA F. WISNER (2002)
8317 W. Ann Arbor Road
Plymouth 48170
E-mail: wisnerc@trinity-health.org

COUNCIL

JOY BERENT (2004)
Detroit
E. JOHN BLANCHARD (2003)
Lansing
DONNA J. CRAIG (2004)
Birmingham
ARTHUR F. DEVAUX (2003)
Detroit
KATHRIN E. KUDNER (2002)
Detroit
NANCY L. LUKEY (2003)
Bloomfield Hills
COLLEEN M. McCLOREY (2003)
East Lansing
MAURICE E. McMURRAY (2003)
Detroit
KEITH J. SOLTIS (2002)
Detroit
PHILLIP M. STOFFAN (2004)
Muskegon

COMMISSIONER LIAISON

SCOTT S. BRINKMEYER
Grand Rapids

PAST CHAIRPERSONS

NANCY L. LUKEY
(2000-2001)
GARY J. McCRAY
(1999-2000)
MARIA B. ABRAHAMSEN
(1998-1999)
LINDA S. ROSS
(1997-1998)

March 26, 2002

CHAIRPERSON'S REPORT--WINTER 2002

Dear Fellow Council Members:

At the midterm point of the Bar year, I wanted to update you, on behalf of the Council, concerning the many activities the Section has already undertaken and what the plans are for the future. We also wanted to provide you with some useful information to allow you to obtain more from your Section membership.

Reliance on the Listserve--Are You on It?

For a variety of reasons, including timeliness and cost, the Section is relying more and more frequently upon communications through the internet listserv. Many notices and almost every reminder, and even notices for smaller functions, are being communicated exclusively through the listserv. Although we have over 800 registered members of the Section, currently we have approximately 600 people who have signed up for the listserv. We would strongly recommend, if you have not already done so, that you join the listserv. Doing so is relatively easy. All you need to do is:

1. Go to the web site: healthcarelaw-dist@lists.michbar.org;
2. Click on Section & Committee Lists;
3. Click on healthcarelaw-dist and sign up to be on the list.

Please note that listserv access is not sold and you will not be inundated with messages which are of little interest to you. You will, however, get the notices you need in order to be fully informed as a Section member and receive the assistance of reminders for scheduled events.

Upcoming--The Michigan Health Law Report

Based upon informal polling of Section members and the practical experience of Council members, the Council has decided to discontinue the publication of the *Year in Review*. Instead, a new publication, which will be known as the *Michigan Health Law Report*, is slated to be published on a semi-annual basis. The first editor will be Gerald Griffith

and the target date for the first issue is May of 2002. The slant of this publication will be on *Michigan* health law as opposed to national health law which is available from so many other publications. All Section members are encouraged to contribute articles, news briefs and even commentary concerning Michigan health law issues. If you have a manuscript which you propose for publication, please send it to: Gerald Griffith, Honigman Miller Schwartz and Cohn, 2290 First National Building, Detroit, MI 48226 or by e-mail to gmg@honigman.com (be sure your subject line for e-mail or a note on the outside envelope of a letter mentions *Michigan Health Law Report* for proper and efficient handling).

Health Care Records Manual 2002 Edition

The Health Care Records Retention Manual previous produced in 1996 under Nancy Lukey's and Vence Bonham's oversight in conjunction with Dykema Gossett has been edited and updated by a team of contributors under the oversight of Gary McRay and the Foster, Swift, Collins & Smith, P.C. law firm. Publication and distribution to Section members is expected later this month. The cost of the first copy to all Section members is covered by dues. Additional copies will involve an additional charge which will be less for Section members than others.

Health Care Law Section Directory

For the first time, the Section will be publishing a directory of Health Care Law Section members. For those of you that provided information when requested in writing and by e-mail, your personal information will include practice areas. For any attorneys who did not respond before the deadline (which has since passed), information in the directory will be based upon the State Bar records at the time that the publication closed. Publication and distribution, which will be free of charge to Section members for the first copy, is expected by early April, 2002.

Health Care Fraud and Abuse Law Manual

A new fraud and abuse manual for health attorneys will be published and distributed late in the spring (target date of May, 2002). The manual, which has been put together under the direction of David Haron and Keith Soltis should prove to be a very useful reference for fraud, abuse, and kickback issues on all levels.

Web Site Upgrade

As anyone who has consulted the web site knows, the Section's web site has not, to date, matched up with the quality of its other activities. This was primarily the result of some technical glitches which appear to have been worked out in conjunction with the State Bar. Eric Wexler, Kathrin Kudner, Marge Marchak, and Rob Iwrey have been working intensely on this issue and you can expect a highly improved web site in the near future.

HIPAA Work Group Preemption Analysis

For many months now, a relatively large group of Section members and others, co-chaired by Joy Berent and Cynthia Wisner, have been putting together a preemption analysis for HIPAA privacy requirement compliance. The core of the work is a preemption analysis which was done by Linda Ross, Mike Friedman and others at the Honigman Miller Schwartz and Cohn law firm. However, aggressive teams of Work Group members have been dissecting various aspects of the working document to produce a true collaboration. The Work Group will not only produce a report but will also be involved in an upcoming presentation of that report (more about that below).

Annual Meeting

A committee of Council members, chaired by Donna Craig, is in the process of putting together the annual meeting which is now scheduled at the **Amway Grand Plaza Hotel in Grand Rapids at 10:00 a.m. on September 26, 2002.** Because of the financial crisis being faced by so many institutional health care providers in the state and nation, we will have a presentation on what it takes to effectively turn around an organization in financial trouble from both the people that do it and those who have lived through it.

Section Bylaws

It was the consensus of the Council that Section Bylaws needed updating. Nancy Lukey, Kathrin Kudner and Maurice McMurray are in the midst of developing proposals for Council review. You can expect that there will be amendments submitted to the membership for approval at the September Annual Meeting in Grand Rapids.

New Subcommittees and Work Group

Substantive Law Committee of the Section, co-chaired by Gerry Griffith and David Rogers, has been very active this year. For the past couple of years it has had two subcommittees, Providers and Payors. Last year, the Council authorized two new subcommittees, one a Consumers Law Subcommittee and another, a Technology Issues Subcommittee. In addition, the Council also authorized the formation of a Pro Bono Services Work Group to establish ways in which members of the Section can provide pro bono services in their areas of expertise.

Recent Programs

This State Bar year, the Section has already sponsored five more successful programs. These are:

- The Eighth Annual ICLE Health Law Institute was co-sponsored by the Section; the Section through Immediate Past Chairperson Nancy Lukey and I (who as Section Chairperson also moderated) provided considerable input into the program design (including the successful recommendation to add a Basic Track)

Health Care Law Section Members

March 26, 2002

Page 4

and agenda and many other Section members presented valuable information at and/or guidance for the program.

- With the Michigan Society of Healthcare Attorneys co-sponsoring, a program concerning HIPAA Privacy and Technology issues featuring nationally recognized expert, Alan Goldberg.
- Panel presentation for Section members on Michigan's Medicaid Hospital Access Agreement by Chris Rossman, Carol Isascs, and Bob Smedes, under the joint oversight and organization of the Payors Subcommittee and Providers Subcommittee, including Co-chairs Ann Hollenbeck and Amy Broman.
- Live Annual Legislative Update forum for all Section members featuring Representative Andy Neumann (Vice Chair, Health Policy Committee, Michigan House of Representatives), Dale Shugars (Chairman, Senate Health Committee), and various industry representatives organized by Lisa Panah of the Providers Subcommittee.
- Program on Biotechnology for Section members featuring an industry expert organized and hosted by Marge Marchak and Bob Schwartz of the Technology Committee.

Upcoming Programs

The Substantive Law Committee of the Section currently has several programs now scheduled. **MARK YOUR CALENDARS!** These are:

A double-header program on the HIPAA privacy and security regulations on **April 11, 2002 at the offices of Raymond & Prokop in Southfield, Michigan.** The first presentation will be from **1:00 p.m. to 3:00 p.m.** and will concern the HIPAA Task Force's **preemption analysis of the HIPAA privacy regulations and state law.** The presentation will be made by representatives of the HIPAA Task Force who have worked very hard and successfully to produce their preemption analysis in conjunction with the Honigman firm. The second presentation, which has been long-planned by the New Technology Subcommittee with Marge Marchak's and Robert Schwartz's guidance, will involve a presentation entitled, "**Healthcare Industry Responses to the HIPAA Security Regulations,**" featuring Joel French, the founder and President and Chief Executive Officer of ComTrust LLC of Superior Holdings Corporation. Mr. French will review the difficulties providers and payors will have in implementing security regulations, current preparedness of the industry, and a summary of solutions and approaches and the relative advantages of each.

On **April 23, 2002**, the Providers Subcommittee will be presenting a **telephone seminar** from **9:30 to 11:30 a.m.** entitled, "**Anatomy of an EMTALA Investigation.**"

The program will focus on the issues attorneys for providers are likely to face in the event of an investigation under the Emergency Medical Treatment and Labor Act. The program will include an impressive array of speakers including Robert P. Daily of the Center for Medicare and Medicaid Services, Walt Wheeler of the Michigan Department of Consumer and Industry Services, and two representatives from the Michigan Peer Review Organization. The arrangements for signing up to participate in the program will be forthcoming in the next week or two, but if you do not receive them before April 7, 2002, you can email Beth Derwin, the Sub-committee Co-Chair who is coordinating the program, at bderwin@smtpgw.beaumont.edu

For **May 2, 2002**, the Payors Subcommittee (Co-Chairs Amy Broman, Steve Heacock, and Deborah Withrow) is planning a program on health regulatory issues. Expected topics will include current developments in Lansing on OFIS regulatory issues, including recent proposed legislation, regulatory activities by OFIS, and input from lawyers who work in this area on what lawyers can anticipate next from Lansing. Look for Program time, specific location and content details soon through the Section Listserve.

On the morning of **May 23, 2002**, the Consumers Subcommittee will be putting on a presentation involving Section lawyers which is *not geared* for Section members, but as a community service. The Consumers Subcommittee will be making a presentation to legal aid attorneys and other attorneys who regularly represent senior citizens and low income people concerning healthcare billing and collection practices, treatment issues, and the Patient Right to Independent Review Act. The purpose of the presentation is to defuse the tension and misunderstandings between consumers and providers and offer some recommendations as to how representatives of consumers can communicate their needs and problems more efficiently with providers of all types. If you have questions about the program or would like to attend, please contact Consumers Sub-Committee Co-Chair Michael J. Fraleigh, who is coordinating this program. His telephone number is (517) 373-1160 and his fax number is (517) 335-6755.

Whew! Believe it or not there is even more in progress, but we will save that for another time.

On behalf of the Council, I would like to thank the people cited in this letter and the many more who have helped (some of whom I may have overlooked in the credits) for their past and current contributions to the success of the Section. The Council welcomes their continued participation and urges the many others of you in the Section who would like to be more active, but do not know where to start, to give me a call or catch up with one of the Council members at an upcoming program. While we are not vampires (honest), we are constantly looking for new blood! For that reason, there is a

Health Care Law Section Members
March 26, 2002
Page 6

regular place on the Council's agenda for new Section volunteers to be identified and assisted in finding roles that suit their individual interests and experience. Please put yourself on our agenda!

On behalf of the Council, I am

Very truly yours,

Gregory Drutchas
Chairperson

GD:gh

DET02\791427\6