

State Bar of Michigan | 2016-2017 COMMITTEE ANNUAL REPORT

Article VI § 6, Bylaws of the State Bar of Michigan

No later than May 1 of each year, the chair of each committee and sub entity of the Bar, with the assistance of the staff liaison, shall report to the Executive Director on a form provided by the State Bar on the activities and accomplishments of the committee or sub entity.

Professional Ethics

Jurisdiction: · Prepare written opinions on professional ethical conduct at the request of the State Bar President, Board of Commissioners, Representative Assembly, Attorney Discipline Board, Attorney Grievance Commission, Executive Director, or individual members of the State bar inquiring about their own contemplated conduct.
· Recommend amendments to the Michigan Rules of Professional Conduct and other standards of professional conduct, and review proposed amendments.

Chair

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Member

Term Ending: 2017

P46908 Lori Grigg Bluhm, Troy
P60431 Kevin L. Francart, Lansing
P53658 Kristen L. Getting, Battle Creek
P61042 Tina S. Gray, Williamston
P42953 Edward J. Hood, Detroit
P38904 Martha D. Moore, Auburn Hills
P62064 Nicholas M. Ohanesian, Grand Rapids

Term Ending: 2018

P13130 Brian D. Einhorn, Southfield
P57346 Thomas H. Howlett, Bloomfield Hills
P74652 Ebony Renee Hughes, Berkley
P57138 Richard T. Karcher, Ypsilanti
P76029 Saima Rehman Khalil, Clinton Township
P70510 Sarah Suzanne Prescott, Northville
P72190 Linda Jeanetta Rawls, Flint

Term Ending: 2019

P25499 Patrick M. Barrett, Birmingham
P24756 Charles W. Borgsdorf, Ann Arbor
P31680 Keefe A. Brooks, Birmingham
P71410 Andrew Carl Goetz, Detroit
P39624 John A. Hubbard, Detroit
P53827 Stephanie J. LaRose, East Lansing
P29485 James J. Vlasic, Troy

State Bar Liaison

P53603 Danon D. Goodrum-Garland, Lansing
P38916 Nkrumah Johnson-Wynn, Lansing
P62825 Alecia M. Ruswinckel, Lansing
Karen Spohn, Lansing

Committee Meeting Schedule:

Please attach any additional information needed regarding Committee meetings as an addendum.

**Please keep meeting descriptions brief.*

Meeting Type	Date	Location
Meeting Type Regularly scheduled quarterly meeting.	June 24, 2016	State Bar of Michigan
Description	Meeting was canceled as no business required an in-person meeting. Chair Mogil directed the workgroups to continue working on outstanding projects and be prepared to provide an update during the next regularly scheduled Committee meeting.	
Meeting Type Regularly scheduled quarterly meeting.	Oct 26, 2016	Teleconference
Description	See "other information" below for a brief summary.	
Meeting Type Regularly scheduled quarterly meeting.	Dec. 1, 2016	State Bar of Michigan
Description	See "other information" below for a brief summary.	
Meeting Type Regularly scheduled quarterly meeting.	Jan. 27, 2017	State Bar of Michigan
Description	See "other information" below for a brief summary.	
Meeting Type Regularly scheduled quarterly meeting.	Mar. 31, 2017	State Bar of Michigan
Description	See "other information" below for a brief summary.	
Meeting Type		
Description		

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Resources provided by the State Bar of Michigan in support of committee work:

The State Bar provides staff support for the work of the Committee through three staff counsel and the administrative assistance of a legal secretary. The State Bar also provides meeting facilities, food and beverage for meetings, SBM Connect, teleconferencing services, meeting materials, document production services, and other ethics resources as needed to support the work of the Committee.

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Committee Activities:

A workgroup of the Committee has been reviewing and researching ABA Model Rule 8.4(g), adopted in August of 2016, which makes it an ethical violation for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of a protected status related to the practice of law. Previously, these concerns were generally addressed only in the comments, so they were not necessarily a rule violation. The Committee has authorized the workgroup to continue efforts to gather information on this issue by active involvement in planning a law school symposium(s) that will include this topic. The law school symposium project will be coordinated by the Standing Committee on Law School Deans and funded by the Michael Franck Fund created by the Michigan State Bar Foundation.

Future Goals and Activities:

The Committee continues to identify issues of interest to Michigan lawyers based on questions presented by letter or through the ethics helpline that might be the appropriate subject of an opinion either because the topic has not previously been addressed, changes in the area requires updates to existing opinions, and innovative use of technology to enhance the delivery of legal services. To the extent that the Committee's input is sought by the Board of Commissioners, the Representative Assembly, or the Supreme Court on discrete issues or projects, the Committee stands ready to respond with appropriate research and commentary.

The Committee's last quarterly meeting for this bar year is scheduled for June 23, 2017. The Committee has also reserved August 11, 2017, if a special meeting is needed to complete any ongoing projects or address new matters requiring attention before its fall meeting.

Other Information:

The Committee workgroups assigned to work on assignments continue to regularly meet via teleconference facilitated by staff counsel in between regularly scheduled quarterly meetings.

Oct. 26, 2016 Committee Meeting: After a brief new member welcome, Chair Mogill updated the Committee on the Representative Assembly's treatment of proposals to amend the MRPC pertaining to 1.18, 4.4(b), 7.2, Comment to 1.2; amended ABA Model Rule 8.4(g); the JTC Rules workgroup, and the BOC's approval of Formal Ethics Opinions R-23 and R-24. Committee workgroups gave reports on ongoing projects as follows: draft ethics opinion on use of domain names; draft ethics opinion on use of judicial imagery by former judges; draft FAQs on ethical use of Facebook; and research on including liens in judgments of divorce. Staff reported on the amended lien chart, which was approved by the Committee for posting to the ethics webpage. Staff counsel provided an overview of six new opinion requests (for-profit client-lawyer matching services, self-help center operated by a legal aid provider, potential limitation on the right to practice via protective orders, indigent defense at criminal arraignments, lawyers paying to give legal information presentations, lawyer asking who is the client, lawyer charging client an administrative fee, lawyers presenting information on prepaid legal services plan, and disposition of old files) and received direction from the Committee for handling them.

Dec. 1, 2016 Committee Meeting: Chair Mogill reported on the BOC's approval of the report proposed by the JTC Rules Workgroup. The Committee approved informal opinions on use of domain names, succession planning, use of judicial imagery by former judges, and FAQs on Facebook. Via Committee consensus, the social media workgroup's next social media project on FAQs will be on use of LinkedIn, followed by Twitter, and Snapchat. The Committee gave direction to the workgroups on for profit lawyer/client matching services and protective orders restricting the right to practice after receiving updates. The Committee formed a workgroup to prepare FAQs on UPL for suspended and disbarred lawyer and to review several old ethics opinions on UPL for possible updates, a workgroup to research and study ABA Model Rule 8.4(g) for possible amendment of MRPC 8.4 to include a similar provision, and reviewed favorably ADM File No. 2016-24 regarding proposed revisions to MCR 9.115(F)(5) pertaining to consent discipline orders, deciding no action was needed. Staff counsel summarized their handling of uncommon calls to the ethics helpline on workers' compensation lawyer hiring investigator to gather information to defend a claim, client agreeing to not post disparaging statements on Facebook to receive reduction in attorney's bill for fee, and defense counsel contacting class action plaintiffs. The Committee agreed with Staff counsel's approach and that no further action was needed.

Jan. 27, 2017 Committee Meeting: The Committee received updates and discussed workgroup projects on liens in judgment of divorce, possible adoption of ABA Model Rule 8.4(g), FAQs on ethical use of LinkedIn, and for profit lawyer/client matching services. Based on the workgroup update and after discussion, the Committee voted to issue a letter response rather than an ethics opinion on the issue of protective orders restricting the right to practice. The Committee reviewed and discussed the working draft of the FAQs on UPL for suspended and disbarred lawyers directing the workgroup to prepare a final draft for review during the next Committee meeting. The Committee voted to recommend support of ADM File No. 2015-18 regarding the proposed amendment to MCR 9.108 to clarify the Michigan Supreme Court's authority to enjoin a lawyer from practicing law even if a disciplinary proceeding concerning that conduct is not pending before the ADB.

Mar. 31, 2017 Meeting: Chair Mogill facilitated a discussion of the APRL proposal to simplify and consolidate the attorney advertising rules as comments under an amended Rule 7.1 being considered by the ABA, proposed modification of the ABA Standards for Approval of Law Schools to reduce the credits hours requiring a full-time professor to teach, and the Representative Assembly proposed amendment of Rule 8.2 for use of titles by former judges. The Committee received an update and gave directions to two workgroups preparing draft opinions on liens in judgment of divorce and for-profit lawyer/client matching services, respectively. The Committee also reviewed and discussed FAQs on UPL for disqualified lawyers that will be approved via an electronic vote after final revisions and started review on FAQs on ethical use of LinkedIn. The Committee approved the workgroup's proposal to support a law school symposium that will include the topic of ABA Rule 8.4(g). The Committee agreed staff counsel's handling of a new opinion request regarding a withdrawing counsel's motion for a money judgment via guidance through the ethics helpline.

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Approved by	Approved	Name
Chair		
Co-chair		
Staff Liaison	s/	Danon D. Goodrum-Garland
Other		

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