

## **Proposed Amendments to Articles VII and VIII of the Bylaws of the State Bar of Michigan**

[Additions to the text are indicated in bold underlining and deleted text is shown by strikeover.]

### **Article VII—Sections**

#### **Section 1—Establishment, Purpose, and Discontinuance.**

**(1)** At the discretion of the Board of Commissioners, a Section may be established or discontinued, and existing Sections may be combined and their names changed, upon motion by a Commissioner or upon written petition from an existing Section or a group of **active members** ~~SBM licensees~~ in good standing requesting to form a new Section.

#### **(2) The purpose of a Section is to:**

**(a) Develop and facilitate education and training on topics within the Section’s jurisdiction as a means of protecting the public by promoting subject matter expertise and the highest standards of professional competence, ethics, and civility.**

**(b) Provide opportunities for skills-building, professional development, and leadership.**

**(c) Communicate and collaborate with other State Bar Sections and Committees, and with affinity bar associations, law schools, and other related entities, where appropriate, to advance the objectives of the State Bar and the Section.**

**(d) Welcome active participation among a diverse array of members and foster an inclusive atmosphere that encourages the expression of a wide range of points of view. Unless the Board of Commissioners expressly restricts membership in a particular Section, membership in all Sections must be open to all active members in good standing.**

**(e) To the extent that doing so advances the goals of the Section, consistent with the purposes of the State Bar of Michigan, review and take positions concerning proposed legislation, regulations, court rules, and other matters of public policy within the section’s jurisdiction. Section activities in public policy advocacy should be thoughtful, deliberate, and restrained, and comply with all SBM policies and procedures.**

**(3) Formation of a New Section** ~~To be valid, a request to form a new Section must show substantial compliance with the following requirements:~~

(a) The proponents of the proposed new Section must **submit the following to the Executive Director of the State Bar:** ~~file with the the Board of Commissioners a petition setting forth:~~

(i) A statement of need **that describes a substantial and continuing need not being addressed by any Section, Standing Committee or Special Committee** ~~for the proposed new Section;~~

(ii) **A proposed jurisdiction;**

~~(ii) A statement confirming that the contemplated jurisdiction of the proposed Section will address a substantial need not currently being addressed by any Section, Standing Committee or Special Committee of the Bar that will continue after the proposed Section is established;~~

~~(iii) The Proposed B bylaws of the Section, which shall contain a definition of its jurisdiction;~~

~~(iv) The Names of any the proposed committees of the Section;~~

~~(v) The An estimated proposed budget for the Section for the first two years of operation, **including the initial dues amount, with** projected annual expenses not to exceed **projected** ~~anticipated~~ annual revenues;~~

~~(vi) A **petition signed by at least 150 active members in good standing, requesting creation of the Section and expressing intent to join the proposed Section and pay the proposed Section dues** list of active licensees of the State Bar of Michigan, totaling at least 150 in number, who have demonstrated a commitment to apply for membership in the Section and pay the proposed dues.~~

~~(b) **If a proposed new Section would be formed from a combination of existing Sections,** in the case of a combination of Sections, in addition to the foregoing a statement of any jurisdiction **of the existing Sections** that will not **be included in the jurisdiction of the new Section** be carried into the combination.~~

## **Article VIII—Section and State Bar Entity Activity; Public Policy**

### **Section 1—Annual Reports.**

For purposes of this Article:

(1) "State Bar entity" means a body created by action of the Board of Commissioners or Representative Assembly, and any suborganization of such a body, but does not include a Section or suborganization of a Section. **As used in this Article, "Section" includes a suborganization of a Section.**

(2) – (4) [Unchanged]

### **Section 2—Reports Containing Recommendations.**

(1) Every Section or State Bar entity requesting State Bar endorsement of a recommended position shall submit a report to the Board of Commissioners and/or Representative Assembly using a template format provided by the State Bar. The report may be submitted electronically. Any report containing a recommendation shall:

(a) – (d) [Unchanged]

(e) Include the text of any legislation, court rule, or administrative regulation, **amicus brief, or other written declaration of policy** that is the subject of the request or is otherwise referenced in the report. If the report is submitted electronically, the text and references may be included by hyperlink.

(f) Not exceed the equivalent of five 8 1/2" x 11" typewritten pages, **excluding the text required by Section 2(e)**, unless a waiver of this limitation is obtained from the Executive Director.

(2) [Unchanged]

### **Section 7—Public Advocacy by Sections**

(1) The only State Bar bodies permitted to take positions on policy issues other than Keller-permissible policy issues are Sections funded by the voluntary dues of their members.

**Before a Section may publicly advocate any public policy position in a new bar year, the officers of the Section shall submit to the Executive Director a signed acknowledgement that they have reviewed, understand, and agree to abide by the provisions of this Article. This acknowledgement shall be made on a form provided by the State Bar no later than October 1 of each year.**

A Section shall notify the Executive Director of the adoption of a public policy position, **whether Keller-permissible or not**, within 10 days of taking the position **and may not publicly advocate a public policy position until the Executive Director reviews the public policy position for compliance with the provisions of this Article within 2 days of notification.** A Section may not publicly advocate a public policy position unless **the subject matter is within the jurisdiction of the Section and the policy position is adopted in accordance with the Section's bylaws and the requirements of this Article.**

the following requirements are met:

(a) The subject matter is within the jurisdiction of the Section.

(b) The policy position is adopted in accordance with the Section's bylaws and the requirements of this Article;

(c)

The Executive Director of the State Bar **must** receive ~~has received~~ the following by mail or e-mail:

(i) a copy of the report, recommendation, amicus brief, or other written declaration of the policy;

(ii) a statement that the requirements of this Article have been satisfied.

(2) – (5) [Unchanged]

### **Section 8—Public Policy Activity by Entities other than Sections Funded by Voluntary Member Dues**

A State Bar entity created by the Board of Commissioners or Representative Assembly may make recommendations to the Board of Commissioners or Representative Assembly on a Keller-permissible

policy as directed by the Board of Commissioners or Representative Assembly, respectively. The State Bar entity shall not publicly advocate a public policy position that has not been adopted by the Board of Commissioners or Representative Assembly unless authorized to do so **by a majority vote of the Board of Commissioners or Representative Assembly.**

### **Section 9—Conditions for Public Advocacy**

(1) A Section **funded by voluntary dues** or entity of the State Bar that publicly advocates a public policy position on a matter must include ~~the following information~~ in **any** its written communication to any external entity concerning the public policy position **the following statements:**

**(a) The Section or State Bar entity is not the State Bar of Michigan but rather a State Bar entity or a Section whose membership is voluntary.**

~~(ab) If the State Bar has no position on the matter, a statement that the position expressed is that of the State Bar entity only, and that the State Bar has no position on the matter.~~

~~(b) If the State Bar has a position on the matter, a statement of the State Bar entity's position and a statement of the position of the State Bar. **The position expressed is that of the Section or State Bar entity only, and that the State Bar has no position on the matter, or, if the State Bar has a position on the matter, what that position is.**~~

(2) In any oral public advocacy, Sections and entities of the State Bar are responsible for ensuring that the information above has been effectively communicated to the audience to which the advocacy is addressed **receiving the communication.**

(3) For written communications other than amicus briefs, a Section **or State Bar entity** publicly advocating a public policy position shall also include the following information:

(a) ~~The number of members~~ **total membership** of the Section **or State Bar entity.**

(b) ~~The process~~ **used by the Section or State Bar entity to take a public policy position.** ~~by which the position of the State Bar entity was taken.~~

**(c) The number of members in the body that adopted the position on behalf of the Section.**

~~(ed) **The number who voted in favor and opposed to the position.** vote by which the position was adopted.~~

**(4) The information required above must be effectively communicated in any amicus briefs, but may be provided in a footnote, attachment, or statement of interest.**

(4) [Unchanged]