Board of Commissioners

Agenda and Materials

September 16, 2020
STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
WEDNESDAY, SEPTEMBER 16, 2020
10:00 a.m.
VIRTUAL MEETING
AGENDA

State Bar of Michigan Statement of Purpose

“…The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

I. Call to Order.............................................................................................................................................. Dennis M. Barnes President

CONSENT AGENDA

II. Minutes
A. July 24, 2020 Board of Commissioners meeting*
B. August 21, 2020 Board of Commissioners meeting*
B. July 14, 2020 Executive Committee meeting*
C. August 11, 2020 Executive Committee meeting*

III. President’s Activities.......................................................................................................................... Dennis M. Barnes, President
A. Recent Activities*

IV. Executive Director’s Activities.......................................................................................................... Janet K. Welch, Executive Director
A. Recent Activities*

V. Finance......................................................................................................................................................Daniel D. Quick, Chairperson
A. FY 2020 Financial Reports through July 2020*

VI. Professional Standards ...................................................................................................................... James W. Heath, Chairperson
A. Client Protection Fund Claims*
B. Unauthorized Practice of Law Claims**

VII. Public Policy ....................................................................................................................................... Robert J. Buchanan, Chairperson
A. Model Criminal Jury Instructions*

LEADERSHIP REPORTS

VIII. President’s and Executive Director’s Report ....................................................................................... Dennis M. Barnes, President
Janet K. Welch, Executive Director

IX. Representative Assembly Report ........................................................................................................ Aaron V. Burrell, Chairperson

XX. Young Lawyers Section Report ........................................................................................................ Ryan Zemke, Chairperson
COMMISSIONER COMMITTEES

XI. **Finance** ...................................................................................................................... Daniel D. Quick, Chairperson
    A. FY 2020 Financial Update

XII. **Audit** .......................................................................................................................... Daniel D. Quick Chairperson
    A. FY 2020 Annual Audit Update

XIII. **Professional Standards** .............................................................................................. James W. Heath, Chairperson

XIV. **Communications and Member Services** ............................................................... Dana M. Warnez, Chairperson

XV. **Public Policy** .............................................................................................................. Robert J. Buchanan, Chairperson
    A. Court Rules**

SPECIAL PRESENTATIONS

XVI. **Recognition of Retiring Board Members** ............................................................... Dennis M. Barnes, President
    A. Joseph J. Baumann written and presented by David C. Anderson
    B. Aaron V. Burrell written and presented by Chelsea M. Rebeck
    C. Hon. Shauna L. Dunnings written and presented by Hon. Clinton Canady III
    D. Kara R. Hart-Negrich written and presented by Ryan Zemke
    E. Gregory L. Ulrich written and presented by James W. Low

XVII. **Recognition of President Dennis M. Barnes** ....................................................... Robert J. Buchanan, President-Elect

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

XVIII. **Comments or questions from Commissioners**

XIX. **Comments or questions from the public**

XX. **Executive Session**

XXI. **Adjournment**

*Materials included with agenda
**Materials delivered or to be delivered under separate cover or handed out
President Barnes called the meeting to order at 9:34 a.m. on Friday, July 24, 2020 via videoconference.

Commissioners present:
Danielle Mason Anderson
David C. Anderson
Dennis M. Barnes, President
Joseph J. Baumann
Robert J. Buchanan, President-Elect
Aaron V. Burrell
Erika L. Butler
Hon. Clinton Canady III
B.D. “Chris” Christenson
Josephine A. DeLorenzo
Hon. Shauna L. Dunnings
Thomas H. Howlett
Lisa J. Hamameh
Kara R. Hart-Negrich
James W. Heath, Secretary
Sarah E. Kuchon
Suzanne C. Larsen
James W. Low
E. Thomas McCarthy Jr.
Joseph P. McGill
Valerie R. Newman
Nicholas M. Ohanesian
Samantha J. Orvis
Hon. David A. Perkins
Barry R. Powers
Daniel D. Quick, Treasurer
Chelsea M. Rebeck
Thomas G. Sinas
Gregory L. Ulrich
Dana M. Warnez, Vice President
Erane C. Washington
Mark A. Wisniewski
Ryan Zemke

Commissioners Absent:

State Bar staff present:
Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Michelle Erskine, Research Assistant & Event Specialist
Kathryn Hennessey, General Counsel
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant

State Bar staff in waiting room:
Elizabeth Couch, Director of Communications
Nicola Davis, Finance Specialist
Robin Eagleson, Ethics Counsel
Liz Goebel, Public Policy Counsel
Tatiana Goodkin, Chief Financial Officer
Rob Mathis, Pro Bono Service & Justice Initiatives Counsel
Molly Ranns, Program Director, LJAP
Kari Thrush, Lawyer Services Program Director
Becky Weaver, Financial Services Manager

Consent Agenda
The Board received the minutes from the June 12, 2020 Board meeting.
The Board received the minutes from the June 2, 2020 Executive Committee meeting.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the FY 2020 Financial Reports through May 2020.
The Board received some Model Criminal Jury Instructions.

Mr. Barnes asked the Board if any items needed to be removed from the consent agenda. There were none.

A motion was offered to approve the consent agenda. The motion was seconded and approved.

**Board Officer Elections**
Mr. Barnes informed the Board two candidates submitted their names for consideration for the position of treasurer: Mr. Howlett and Mr. McGill.

Mr. Barnes asked if there were any nominations from the floor; hearing none, a motion was made to close the nominations. The motion was seconded and approved.

Mr. Barnes asked for a motion that the vote for the position of treasurer be by secret ballot, and to only disclose the number of votes received to the candidates, upon the candidate’s request. The motion was made, seconded, and approved.

Mr. Barnes stated that tellers would not be used this year because an electronic vote was taking place. He stated that Ms. Hennessey will view the election results once they are tabulated, confirm them, and let him know the results.

Per Board policy each candidate is given five minutes to address the Board followed by a minimum 15-minute question-and-answer session. Mr. Barnes stated that Mr. McGill would address the Board first followed by Mr. Howlett. Mr. Howlett would then be the first to respond to questions.

When the Q and A was finished, Mr. Barnes announced that a poll vote via Zoom would be taken. Mr. Barnes reported that Mr. McGill was elected treasurer of the 2020/21 Board of Commissioners.

Mr. Barnes announced that Mr. Buchanan would succeed him as president of the State Bar of Michigan for the 2020/21 Bar year.

Mr. Barnes announced that Ms. Warnez would succeed Mr. Buchanan as president-elect of the State Bar of Michigan for the 2020/21 Bar year.

A motion was offered to elect Mr. Heath as vice president of the State Bar of Michigan for the 2020/21 Bar year. The motion was seconded and approved.

A motion was offered to elect Mr. Quick as secretary of the State Bar of Michigan for the 2020/21 Bar year. The motion was seconded and approved.

**LEADERSHIP REPORTS**
President and Executive Director’s Report: Dennis M. Barnes, President and Janet K. Welch, Executive Director

Mr. Barnes and Ms. Welch reported:

- The Strategic Planning Committee has four items ready for Board consideration:
  1. Giving notice that a bylaw amendment, changing the due dates for committee annual reports, will be brought before the Board at its August 21 meeting.
  2. A motion was offered to renew the Strategic Plan through FY 2023 with annual reviews. The motion was seconded and approved.
  3. A motion was offered to make technological competency one priority for the Strategic Plan. The motion was seconded and approved.
  4. A motion was offered to approve the 2020/21 Committee Resolution with the recommendations for the Justice Initiatives and Social Media and Website committees. The motion was seconded and approved.

- The Apportionment/Redistricting Work Group has completed its work and had three items for Board consideration:
  1. Giving notice that a bylaw amendment to amend Bylaw Article 111, to move one seat from District H and add one seat to District I, will be brought before the Board at its August 21 meeting for action.
  2. Giving notice that a bylaw amendment to amend Bylaw Article III, to remove Barry County from District E and move it to District F, will be brought before the Board at its August 21 meeting for action.
  3. A motion was offered to approve a change to Rule 7 of the Rules Governing the State Bar of Michigan to include the secretary and treasurer in the grandfathering provision and send the proposed rule change to the Michigan Supreme Court for its consideration. The motion was seconded and approved with one abstention.

- Due to the pandemic, the contracts in place for an in-person gathering in Grand Rapids for the 2020 Annual Meeting have been cancelled. If conditions allow, some smaller in-person meetings might take place, but planning is proceeding to allow all the required events to be accomplished virtually.

- The FY 2021 Preliminary Budget Assumptions reviewed by the Executive Committee and Finance Committee and provided to the Board will be used to develop the FY 2021 budget, which the Board will act upon at its August meeting.

- The practicing member Pandemic Impact Survey has been closed and had a high level of participation. Ms. Vrooman reviewed the topline results. An email will be sent to Board members with a link to the survey results and Ms. Vrooman’s Power Point presentation.

- Three new staff members have joined the bar, replacing vacancies. Mr. Cunningham introduced Ms. Tatiana Goodkin, chief financial officer, and Ms. Nicola Davis, finance specialist. Ms. Hennessey introduced Ms. Robin Eagleson, ethics counsel. Ms. Welch recognized Ms. Tish Vincent on her retirement and welcomed SBM staff member Ms. Molly Ranns, as the new interim director of LJAP.

Representative Assembly (RA) Report: Aaron V. Burrell, Chairperson

Mr. Burrell reported:
• Based on the results of a survey sent to the RA membership for their input on how the September meeting should be held, the September RA meeting will be a virtual event. Mr. Burrell stated that the feedback regarding the April virtual meeting was very positive.

• He has empaneled a RA Diversity Committee.

• The Special Issues Committee will prepare a report for the September meeting on COVID-19.

• There will be a contested election for the RA clerk position.

• The deadline for submission of proposals for the September meeting is August 6.

**Young Lawyers Section (YLS) Report:** Ryan Zemke, Chairperson

Mr. Zemke reported:

• The YLS v Board Trivia Challenge took place on Wednesday, July 22 and that the YLS succeeded in winning this year.

• The council is planning for a virtual annual meeting.

**COMMISSIONER COMMITTEES**

**Finance:** Daniel M. Quick, Chairperson

Mr. Quick reviewed the FY 2020 financial results through May 2020.

Mr. Quick reported that the Finance Committee will meet early in August to review the proposed budget in detail; that the committee continues to look at various cost reduction ideas; and that with Mr. Burrell’s permission he will speak to the RA members at their meeting in September in preparation for the RA’s expected consideration of a fee increase proposal at its April meeting.

**Audit:** Daniel M. Quick, Chairperson

Mr. Quick stated that the Finance staff will meet with the auditing firm in August to establish testing dates.

**Professional Standards:** James W. Heath, Chairperson

Mr. Heath moved to approve the appointment of Mr. Terrence Quinn to the ICLE Executive Committee. The motion was seconded and approved. Mr. Heath recognized the distinguished service of the incumbent, Mr. Howard Spence, who has completed two terms as an SBM appointee to the ICLE Executive Committee.

Mr. Heath moved to appoint the Honorable Allie Greenleaf Maldonado and Sean Cahill to the Michigan Indian Legal Services Board of Trustees. The motion was seconded and approved. Mr. Heath recognized the distinguished service of Mr. John Runyan, who has served on the MILS board for over two decades.

**Communications and Member Services (CAMS):** Dana M. Warnez, Chairperson
Ms. Warnez explained the Support of Lawyers/Legal Personnel—All Concern Encouraged (SOLACE) Program to the Board and its potential for enhancing help for Michigan lawyers and strengthening collaboration with local and affinity bars.

Ms. Warnez offered a motion to approve the SOLACE Program as a new benefit to Michigan lawyers. The motion was approved and adopted.

**Public Policy:** Robert J. Buchanan, Chairperson

**COURT RULES**

ADM File No. 2002-37: Proposed Addition of MCR 2.226

The proposed addition of MCR 2.226 would clarify the process for change of venue and transfer orders.

A motion was made to support the proposed addition of Rule 2.226 of the Michigan Court Rules with the following amendments:

- In Section (3), rather than using the term “promptly,” set forth a specific number of days in which the receiving court must provide notice of refusal and return the case to the transferring court.
- Consistent with the Court’s efforts to modify time periods to be in seven-day increments, for Section (4), consider modifying the three-day time period to a seven-day time period.
- Provide chief judges authority to exercise their discretion to oversee and administer transfers to help ensure that the rules are being followed.
- Provide an electronic process for courts to submit transfer orders and refusals of those orders to help expedite the process.

The motion was seconded and approved.


The proposed amendments of MCR 3.804, 5.140, and 5.404 and proposed new MCR 3.811 would allow greater use of videoconferencing equipment in cases involving Indian children.

A motion was made to support the ADM File No. 2019-47 and to adopt the comments provided by the Access to Justice Policy Committee. The Access to Justice Policy Committee, while supportive of the proposed court rule as drafted, emphasized that “[p]hysical appearance by the parties remains the best avenue for a judge to determine if a permanent release is both informed and voluntary and if the requirements, goals, and principals under ICWA and MIFPA have been met.”

The motion was supported and approved.

ADM File No. 2019-41: Proposed Amendment of MCR 4.201

The proposed amendment of MCR 4.201 would require disclosure of the right to object to venue in actions brought under the Summary Proceedings Act for landlord/tenant proceedings in district court, consistent with MCL 600.5706.

A motion was made to support ADM File No. 2019-41. The motion was seconded and approved.
ADM File No. 2020-04: Proposed Amendment of Rule 4 of the Rules for the Board of Law Examiners

The proposed amendment of BLE Rule 4 would explicitly state that a passing bar exam score is valid for three years, which is consistent with the character and fitness clearance expiration.

A motion was made to support ADM File No. 2020-04 because the proposed rule would create a three-year “shelf life” for bar exam score validity—a time frame consistent with character and fitness clearance expiration.

The motion was seconded and approved.

LEGISLATION

HB 5444 (Liberati) Children; services; kinship caregiver navigator program; create. Creates new act.

A motion was made that the legislation is Keller-permissible. The motion was seconded and approved.

A motion was made to support the legislation with recommendations from the Access to Justice Policy Committee that:
- First, Section 6(c) should be clarified to indicate that the legal services initiatives shall be integrated into the current system of legal service providers.
- Second, to ensure quality pro bono and low bono legal services, required training should include legal services to marginalized communities, when applicable, such as immigration laws for documented and undocumented children, and training to ensure compliance with the Indian Child Welfare Act and Michigan Indian Family Preservation Act for kinship caregivers of children enrolled or eligible for enrollment in a federally recognized Tribe.

The motion was seconded and approved.

HB 5488 (Lightner) Criminal procedure; sentencing; certain permissible costs; extend sunset. Amends sec. 1k, ch. IX of 1927 PA 175 (MCL 769.1k).

A motion was made that the legislation is Keller-permissible. The motion was seconded and approved with one abstention.

A motion was made to support the legislation with the two-year extension for ongoing funding of the state’s trial courts. The committee, while fully supportive of the bill, looks forward to a time when the TCFC’s recommendations are fully implemented and temporary fixes such as those set forth in this legislation are no longer necessary.

The motion was seconded and approved.
HB 5795 (Filler) Probate; wills and estates; electronic signature of wills; allow. Amends sec. 2502 of 1998 PA 386 (MCL 700.2502) & adds sec. 2504a.

A motion was made that the legislation is Keller-permissible. The motion was seconded and approved.

A motion was made and supported to oppose the legislation as drafted while supporting the work of the Probate & Estate Planning Section and Elder Law & Disability Rights Section in their work with the sponsors to modify the legislation to address procedural issues not currently contemplated in the bill.

A roll call vote was taken.

Commissioners voting in opposition of the position: Howlett, Ulrich.

The motion was approved.

HB 5805 (Berman) Courts; judges; hearings on emergency motions by defendant in criminal cases; provide for. Amends sec. 1, ch. I of 1927 PA 175 (MCL 761.1) & adds sec. 12 to ch. III.

A motion was made that the legislation is Keller-permissible. The motion was seconded and approved.

A motion was made and supported to oppose this legislation because matters of how and when courts hear emergency motions are more appropriately addressed through court rule amendment(s) than through legislative action.

A roll call vote was taken.

Commissioners opposing the position: Ulrich.

The motion was approved.


A motion was made that the legislation is Keller-permissible. The motion was seconded and approved.

A motion was made and supported to table the legislation. The motion failed.

A motion was made and supported to oppose this legislation as an issue of the separation of powers.
The motion failed to reach a 2/3 majority.

The Board agreed to take no position on the legislation.
SB 0682 (Lucido) Juveniles; juvenile justice services; juvenile records; require to be confidential. Amends sec. 28, ch. XIIA of 1939 PA 288 (MCL 712A.28).

A motion was made that the legislation is not Keller-permissible. The motion was seconded and approved.

SB 0865 (Lucido) Courts; other; procedures and regulations related to cellular telephones in courtrooms; provide restrictions and penalties.

A motion was made and supported that the legislation is Keller-permissible. The motion was seconded and approved.

A motion was made to oppose this legislation as procedures and regulations governing courtrooms are best addressed through court rule amendment.

The motion was seconded and approved.

SB 0895 (Runestad) Civil procedure; other; new trial; revise procedure for granting. Amends 1961 PA 236 (MCL 600.101 to 600.9947).

A motion was made that the legislation is Keller-permissible. The motion was seconded and approved.

A motion was made and supported to oppose the legislation because Michigan courts already have well established court rules and an effective appellate process by which parties may seek relief from judgment. The committee opposes an additional legislatively mandated layer of review.

The motion was seconded and approved.

Other

Comments or questions from Commissioners
There were none.

Comments or questions from the public
There were none.

Adjournment
The meeting was adjourned at 1:45 p.m.
President Barnes called the meeting to order at 9:34 a.m. on Friday, August 21, 2020 via videoconference.

Commissioners present:
David C. Anderson
Dennis M. Barnes, President
Joseph J. Baumann
Robert J. Buchanan, President-Elect
Aaron V. Burrell
B.D. “Chris” Christenson
Josephine A. DeLorenzo
Thomas H. Howlett
Lisa J. Hamameh
Kara R. Hart-Negrich
James W. Heath, Secretary
Sarah E. Kuchon
Suzanne C. Larsen
James W. Low
E. Thomas McCarthy Jr.
Joseph P. McGill
Valerie R. Newman
Nicholas M. Ohanesian
Samantha J. Orvis
Hon. David A. Perkins
Barry R. Powers
Daniel D. Quick, Treasurer
Chelsea M. Rebeck
Thomas G. Sinas
Gregory L. Ulrich
Dana M. Warnez, Vice President
Erane C. Washington
Mark A. Wisniewski

Commissioners Absent:
Danielle Mason Anderson
Erika L. Butler
Hon. Clinton Canady III
Hon. Shauna L. Dunnings
Ryan Zemke

State Bar staff present:
Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Michelle Erskine, Research Assistant & Event Specialist
Tatiana Goodkin, Chief Financial Officer
Kathryn Hennessy, General Counsel
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Becky Weaver, Financial Services Manager
LEADERSHIP REPORTS

President and Executive Director's Report: Dennis M. Barnes, President and Janet K. Welch, Executive Director

Mr. Barnes and Ms. Welch reported that notice was given at the last meeting for the following proposed bylaw amendments:

1. A motion was offered that Bylaw Article VIII, Section 1 be amended so that the committee annual reports are due on November 1 following the end of the fiscal year as follows:

   Every Section and State Bar entity so directed by the Board of Commissioners or Representative Assembly shall annually make a written report containing a summary of its activities during the association fiscal year which shall be submitted to the Secretary on or before November 1 of the next fiscal year May 31. Annual reports may not exceed five 8 1/2" x 11" pages unless a waiver of this limitation is approved by the Executive Director.

   The motion was seconded and approved.

2. A motion was offered that Bylaw Article III, Section 1, be amended to remove one seat from District H and add one seat to District I as follows:

   Each district shall be entitled to elect one Commissioner with the exception of District C, which shall be entitled to elect two Commissioners; District E, which shall be entitled to elect two Commissioners; District H, which shall be entitled to elect four Commissioners; and District I, which shall be entitled to elect seven Commissioners.

   The motion was seconded and approved.

3. A motion was offered that Bylaw Article III, Section 1 be amended to move Barry Judicial Circuit from District E to District F as follows:

   There shall be nine Commissioner election districts composed of the judicial circuits indicated:

   [ . . . ]

   District E—5th, 8th, 29th, 30th, 35th, 44th, 56th

   District F—1st, 2nd, 5th, 9th, 15th, 36th, 37th, 43rd, 45th, 48th

   [ . . . ]

   The motion was seconded and approved.
COMMISSIONER COMMITTEES

Finance: Daniel M. Quick, Chairperson
Mr. Quick and Ms. Welch presented the FY 2021 budget and responded to questions and received comments from Board members.

A motion was offered to adopt the FY 2021 budget. The motion was seconded and approved.

Other
Comments or questions from Commissioners
There were none.

Comments or questions from the public
There were none.

Adjournment
The meeting was adjourned at 10:15 a.m.
Call to Order: President Barnes called the meeting to order at 4:05 p.m.

Members Present: President Dennis M. Barnes, Vice President Dana M. Warnez, Secretary James W. Heath, Treasurer Daniel D. Quick, Representative Assembly Chair Aaron V. Burrell, Representative Assembly Vice Chair Chelsea M. Rebeck, and Commissioners Thomas H. Howlett, Joseph P. McGill, and Erane C. Washington

Member Absent: President-Elect Robert J. Buchanan

State Bar Staff Present: Executive Director Janet Welch, Executive Coordinator Margaret Bossenbery, Assistant Executive Director Nancy Brown, Assistant Executive Director Peter Cunningham, General Counsel Kathryn Hennessey, Lawyer Service Program Director Kari Thrush, Chief Financial Officer Tatiana Goodkin, Communications Director Elizabeth Couch, and Financial Services Manager Becky Weaver.

Minutes
Mr. Barnes called or a motion to approve the minutes from the June 2, 2020 EC meeting. A motion was made to approve the minutes. The motion was seconded and approved.

President and Executive Director’s Report
Mr. Barnes reported that the Apportionment/Redistricting Work Group had competed its work and will bring two proposed bylaw changes and a proposed change to the Rules of the Supreme Court Governing the State Bar to the Board for consideration at its July 24 meeting.

Mr. Barnes stated that the Strategic Planning Committee had completed its work and will have several items, including a proposed bylaw amendment, to come before the Board for its consideration at its July 24 meeting.

Ms. Welch reported that after the discussion about racial equity issues at the April Board meeting, the Bar invited bar associations and law-related entities to Zoom meetings on this topic. There was impressive attendance and participation. SBM has now created an online resource, the Race and Justice Forum, for Michigan lawyers, affinity and local bars, and justice system stakeholders.

Ms. Welch said that the Detroit News published a story about the detention of a longtime activist that included a photo with a tag line referencing the “Michigan Bar Association”. The story and the photo had nothing to do with SBM, so the Communications Team contacted the newspaper for a correction. An alternate tag line was subsequently posted.

Ms. Welch described a potential member program that the staff is exploring, called the Support of Lawyers/Legal Personnel—All Concern Encouraged (SOLACE) Program.

Ms. Welch reminded the committee that at the beginning of the pandemic, the SBM was operating without a CFO, an ethics counsel, an assistant general counsel, a professional standards director, and facing the retirement of the director of LJAP and a finance specialist. She reported that as of this
week those positions have been filled, with restructuring for better fit and efficiency, and the new staff members will be introduced at the July Board meeting.

Ms. Welch informed the committee that a staff member was recently diagnosed with stage 4 lung cancer and has entered hospice. She will send his address to those who express interest.

Mr. Barnes and Ms. Welch commented on the communication that Wayne State University School of Law sent to its new graduates about being careful about what is said on social media because it might be held against them in the character and fitness process. To clarify that SBM does not act in contravention of applicants’ free speech rights, a concise statement was prepared and posted on the website about the role of the SBM is in the character and fitness process. A call is scheduled with Wayne State Law School and both Mr. Barnes, Ms. Welch, Ms. Couch, and Ms. Hennessey will participate.

Ms. Hennessy provided the committee with a litigation update.

**Representative Assembly (RA) Chair’s Report**

Mr. Burrell reported that he participated in a Zoom meeting with Ms. Welch, Mr. Cunningham, Ms. Hennessy, Ms. Sharlow, and Ms. Thrush about the logistical challenges of hosting an in-person RA meeting in September. A survey was sent to RA members soliciting their feedback about the April meeting and the September meeting; the result showed 75 percent of the members are not in favor of an in-person meeting in September. Mr. Burrell stated that the RA meeting would not be held in person.

Mr. Burrell stated there will be a contested race for the clerk’s position and the election will take place during the September meeting.

**2020 Annual Meeting**

Ms. Warnez reviewed the staff memo on options of holding the Annual Meeting in person or virtually. Contracts, liability and staffing issues, a hybrid option, and the Executive Orders were discussed. After discussion, Mr. Barnes stated that he reluctantly supported the recommendation that the Annual Meeting be held virtually, and would like to circle back with Mr. Buchanan.

**FY2021 Preliminary Budget—Key Budget Assumptions**

Consistent with past practice, Ms. Welch reviewed preliminary Key Budget Assumptions. Mr. Quick asked that the Finance committee also review the document. The document will be refined based on the input from the Executive Committee and Finance committee and then presented to the Board at its July meeting.

**Appointment to Michigan Advocacy Program**

A motion was offered to appoint Mr. Robert Mossel to the Michigan Advocacy Program Board of Directors. The motion was seconded and approved.

**Agenda for July 24, 2020 Board Meeting**

Ms. Bossenbery presented the July 24, 2020 Board agenda with proposed amendments. A motion was offered to approve the agenda as amended. The motion was seconded and approved.

The meeting was adjourned at 5:20 p.m.
Call to Order: President Barnes called the meeting to order at 4:05 p.m.

Members Present: President Dennis M. Barnes, President-Elect Robert J. Buchanan, Vice President Dana M. Warnez, Secretary James W. Heath, Treasurer Daniel D. Quick, Representative Assembly Chair Aaron V. Burrell, Representative Assembly Vice Chair Chelsea M. Rebeck, and Commissioners Thomas H. Howlett and Erane C. Washington

Member Absent: Commissioner Joseph P. McGill

State Bar Staff Present: Executive Director Janet Welch, Executive Coordinator Margaret Bossenbery, Assistant Executive Director Nancy Brown, Assistant Executive Director Peter Cunningham, General Counsel Kathryn Hennessey

Minutes
Mr. Barnes called for a motion to approve the minutes from the July 14, 2020 Executive Committee meeting. A motion was made to approve the minutes. The motion was seconded and approved with one abstention.

President and Executive Director’s Report
Mr. Barnes stated that preparations are underway for the Annual Meeting and that the hearing on the lawsuit has been postponed.

Representative Assembly (RA) Chair’s Report
Mr. Burrell stated that the RA calendar for the September meeting is in place and includes a financial update of the State Bar from Mr. Quick and Ms. Welch, two substantive proposals, and an election for the clerk position.

Appointment to Lakeshore Legal Aid Board of Directors
A motion was offered to appoint Thomas W. Linn and Thomas W. Stotz to the Lakeshore Legal Aid Board of Directors. The motion was seconded and approved.

Agenda for August 21, 2020 Board Meeting
Ms. Bossenbery presented the August 21, 2020 Board agenda. A motion was offered to approve the agenda. The motion was seconded and approved.

Other:
Mr. Howlett stated that he reviewed the Pandemic Impact Survey results and was impressed that 82 percent of attorneys support continuing remote video conference for certain court proceedings. He suggested that the SBM post on social media comments from attorneys about the benefits of video conferencing and institutionalizing the process. Ms. Welch stated that the SBM is working hand in glove with the Supreme Court and the State Court Administrative Office on this issue.

The meeting was adjourned at 4:21 p.m.
## President Dennis M. Barnes
### President’s Activities
**July 25 through September 17, 2020**

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<th>Event</th>
<th>Location</th>
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<tbody>
<tr>
<td>July 25 – September 17</td>
<td>Ongoing SBM internal leadership meetings, not separately noted</td>
<td>Virtual</td>
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<tr>
<td>August 3 – 4</td>
<td>ABA House of Delegates meeting</td>
<td>Virtual</td>
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<td>August 7</td>
<td>Michigan State Bar Foundation (MSBF) Access to Justice Thank You Event</td>
<td>Virtual</td>
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<td>August 7</td>
<td>MSBF Fellows Nominating Committee meeting</td>
<td>Virtual</td>
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<td>August 11</td>
<td>Call with Executive Director Janet Welch</td>
<td>Virtual</td>
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<td>August 11</td>
<td>Executive Committee meeting</td>
<td>Virtual</td>
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<tr>
<td>August 21</td>
<td>Board of Commissioners meeting</td>
<td>Virtual</td>
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<tr>
<td>August 26 - 27</td>
<td>National Conference of Bar Presidents</td>
<td>Virtual</td>
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<td>August 27 - 28</td>
<td>Officers Retreat</td>
<td>Saugatuck</td>
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<td>September 3</td>
<td>St. Joseph County Bar Association Golf Outing</td>
<td>St. Joseph</td>
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<tr>
<td>September 8</td>
<td>Executive Committee meeting</td>
<td>Virtual</td>
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<td>September 16</td>
<td>Board of Commissioners meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 17</td>
<td>Representative Assembly meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 17</td>
<td>2020-2021 Officer’s Swearing-In Ceremony</td>
<td>Virtual</td>
</tr>
</tbody>
</table>
## Executive Director Jan K. Welch
### Executive Director Activities
#### July 25 through September 17, 2020

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ongoing SBM internal leadership meetings, not separately noted</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 27</td>
<td>Budget review meetings with State Bar staff</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 28</td>
<td>YLS Council meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 28</td>
<td>Budget review meetings with YLS and Judicial Council</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 28</td>
<td>State Bar and Equal Justice Works meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 28</td>
<td>NCBP 21st Century Lawyer Virtual Program The Status of Regulated Bar</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 29</td>
<td>Justice for All (JFA) Planning Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 29 – August 2</td>
<td>ABA Annual Meeting Sessions</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 29</td>
<td>Attorney Discipline System weekly meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 29</td>
<td>Executive Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 29</td>
<td>ABA President’s Reception</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 30</td>
<td>Finance Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>July 31</td>
<td>JFA Representation by a Lawyer Workgroup meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 3 -4</td>
<td>ABA House of Delegates meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 3</td>
<td>Executive Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 3</td>
<td>JFA Workgroup meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 4</td>
<td>Meeting with State Senator James Runestad, President Barnes, Peter Cunningham</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 4</td>
<td>JFA Workgroup 2 meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 5</td>
<td>International Working Group - Transition after Pandemic Restrictions meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 5</td>
<td>Finance Committee meeting</td>
<td>Virtual</td>
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<tr>
<td>August 5</td>
<td>ABA Working Group on House Operations</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 6</td>
<td>Strategic Management Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Location</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>August 6</td>
<td>Great Rivers Bar Executives meeting</td>
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</tr>
<tr>
<td>August 7</td>
<td>Finance Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 10</td>
<td>Executive Team Meeting</td>
<td>Virtual</td>
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<tr>
<td>August 11</td>
<td>Meeting with Mary Hiniker, ICLE</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 11</td>
<td>Call with President Dennis Barnes</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 11</td>
<td>Executive Committee meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 12</td>
<td>Strategic Management Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 12</td>
<td>JFA Planning Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 14</td>
<td>FY 2021 Budget Presentation Rehearsal meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 17</td>
<td>Executive Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 18</td>
<td>CloudLaw meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 19</td>
<td>International Working Group - Transition after Pandemic Restrictions meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 19</td>
<td>Strategic Management Team meeting</td>
<td>Virtual</td>
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<tr>
<td>August 19</td>
<td>Integrated Tech meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 19</td>
<td>LRS Collaboration Marketing Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 20</td>
<td>Committee Appointment Day</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 21</td>
<td>Board of Commissioners meeting</td>
<td>Virtual</td>
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<tr>
<td>August 21</td>
<td>YLS Budget Discussion meeting</td>
<td>Virtual</td>
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<tr>
<td>August 21</td>
<td>JFA Workgroup meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 24 – 25</td>
<td>National Association of Bar Executives (NABE) Annual Meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 24</td>
<td>Executive Team Meeting</td>
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</tr>
<tr>
<td>August 25</td>
<td>JFA Consumer Needs, Community Integration workgroup meeting</td>
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</tr>
<tr>
<td>August 25</td>
<td>JFA Assistance Without a Lawyer workgroup meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 25 – 26</td>
<td>National Conference of Bar President’s Annual Meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 26</td>
<td>JFA Full Representation and Limited Scope Representation Workgroup meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Location</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>August 26</td>
<td>Strategic Management Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 26</td>
<td>RA Meeting Planning</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 26</td>
<td>JFA Planning Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 26</td>
<td>Attorney Discipline System meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 26</td>
<td>LRS Collaboration Marketing Team meeting</td>
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</tr>
<tr>
<td>August 27</td>
<td>JFA Assistance Without a Lawyer Workgroup meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 27</td>
<td>Request from MDOT meeting</td>
<td>Virtual</td>
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<tr>
<td>August 27-28</td>
<td>Officers’ Retreat</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 31</td>
<td>Executive Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>August 31</td>
<td>RA Special Issues Committee Report meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 1</td>
<td>Meeting with Jennifer Bentley, Executive Director</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 2</td>
<td>Michigan State Bar Foundation</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 2</td>
<td>International Working Group - Transition after Pandemic</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 2</td>
<td>Restrictions meeting</td>
<td></td>
</tr>
<tr>
<td>September 2</td>
<td>Strategic Management Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 2</td>
<td>RA Presentation meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 3</td>
<td>Client Disclosure meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 3</td>
<td>Strategic Planning Committee meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 3</td>
<td>Strategic Planning Committee meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 3</td>
<td>RA Special Issues &amp; Diversity Committees meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 4</td>
<td>RA meeting Planning</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 8</td>
<td>Executive Committee meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 9</td>
<td>Senior Management Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 9</td>
<td>RA Meeting Logistics meeting</td>
<td>Virtual</td>
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<tr>
<td>September 10</td>
<td>JFA Planning meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 10</td>
<td>Justice Initiatives meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 11</td>
<td>ABA Working Group on House Operations</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 14</td>
<td>Officer Swearing-In Ceremony Rehearsal</td>
<td>Virtual</td>
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<tr>
<td>September 14</td>
<td>Executive Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 15</td>
<td>Strategic Management Team meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Location</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>September 16</td>
<td>Professional Standards meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 16</td>
<td>Public Policy Committee meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 16</td>
<td>Board of Commissioners meetings</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 17</td>
<td>Representative Assembly meeting</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 17</td>
<td>Officer Swearing-In Ceremony</td>
<td>Virtual</td>
</tr>
<tr>
<td>September 17</td>
<td>Michigan Fellows and Awards Ceremony</td>
<td>Virtual</td>
</tr>
</tbody>
</table>
State Bar of Michigan Financial Results Summary
For the Ten Months Ended July 31, 2020
Fiscal Year 2020

Administrative Fund

Summary of YTD July 31, 2020 Actual Results

For the ten months ended July 31, 2020, the State Bar had an Operating Loss of $801,133 and Non-Operating Revenue of $413,283, for a decrease in Net Position of $387,846. Net Position as of July 31, 2020 totaled $11,829,374. Net Position excluding the impacts of the Retiree Health Care Trust net of the GASB 75 liability totaled $9,591,643.

YTD Variance from Budget Summary:

- YTD Operating Revenue - $117,097 unfavorable to YTD budget, or (1.5%)
- YTD Operating Expense - $861,107 favorable to YTD budget, or 9.2%
- YTD Non-Operating Income - $204,950 favorable to YTD budget, or 98.4%
- YTD Change in Net Position - $948,963 favorable to YTD budget

YTD Key Budget Variances:

- YTD Operating Revenue variance - $117,097 unfavorable to budget:
  - Operating revenue was unfavorable to budget primarily due to lower LRS, Bar Journal, Print Center, BLF, UMLI Member Services revenue, C&F and Ethics.

- YTD Operating Expense variance - $861,107 favorable to budget:
  - Salaries and Employee Benefits/ Payroll Taxes - $321,171, favorable 5.2%
    - Underage in salaries and benefits due to vacancies and health care.
  - Non-Labor Operating Expenses - $539,936, favorable 16.9%
    - Exec Offices - $173,569, favorable 27.8% - Primarily Executive Office, HR, R&D, RA, BOC and other.
    - Finance & Admin - $70,830, favorable 6.2% – Under in Administration and in Facilities Services due to timing.
    - Member & Communication Services - $241,047, favorable 18.4% - Primarily Member & Endorsed Services, Website, Bar Journal, Directory, BLF, UMLI, Print Center and Media Relations.
    - Professional Standards - $54,490, favorable 48.2% - Primarily C&F, Ethics, UPL and other.
YTD Non-Operating Revenue Budget Variance - $204,950 favorable to budget

- Operating investment income is unfavorable to budget by $32,412 or 15.6%.
- Retiree Health Care Trust investment income is favorable by $237,362 due to investment gain; however, no investment income or loss was budgeted.

Cash and Investment Balance – Admin Fund

As of July 30, 2020, the cash and investment balance in the State Bar Admin Fund (net of “due to Sections, Client Protection Fund, and Retiree Health Care Trust”) was $7,480,364, a decrease of $788,569 so far in FY 2020 due to expenses exceeding revenues.

SBM Retiree Health Care Trust

As of July 31, 2020, the SBM Retiree Health Care Trust had a fund balance of $3,752,321, which is an increase of $284,277 or 8% so far in FY 2020 due to investment gain.

Capital Budget – Admin Fund

Through July 31, 2020, YTD capital expenditures totaled $279,026 which is under the YTD capital budget by $63,399 due to delay in some capex expenditures to FY 2021 and rebalancing of the on-going IT projects.

Administrative Fund FY 2020 Year-End Financial Forecast

We are projecting to do better than the FY 2020 budget and continue to monitor the forecast. Our current projection shows us favorable to budget by $699k, not including the investment impacts of the retiree health care trust. This projection is based on lower operational expenses primarily in salary, benefits, travel, meetings and programs, and lower depreciation, net of lower revenue for canceled programs and lower investment income.

Client Protection Fund

The Net Position of the Client Protection Fund as of July 31, 2020 totaled $1,981,457, a decrease of $15,333 so far in FY 2020. Claims payments so far this year totaled $493,912. In addition, there is a total of $159,750.00 approved claims awaiting subrogation agreements.

SBM Membership

As of July 31, 2020, the total active, inactive and emeritus membership in good standing totaled 46,302 attorney members, a net increase of 210 members so far in FY 2020. A total of 761 new members have joined the SBM so far during FY 2020.
Note: License Fee revenue is recognized and budgeted as earned each month throughout the year.
## ASSETS AND DEFERRED OUTFLOW

<table>
<thead>
<tr>
<th>Description</th>
<th>June 30, 2020</th>
<th>July 31, 2020</th>
<th>Increase/Decrease</th>
<th>%</th>
<th>Beginning of FY 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash</strong></td>
<td>$4,240,254</td>
<td>$3,265,642</td>
<td>($974,613)</td>
<td>(23.0%)</td>
<td>$1,767,913</td>
</tr>
<tr>
<td><strong>Investments</strong></td>
<td>7,103,528</td>
<td>7,103,528</td>
<td>0</td>
<td>0.0%</td>
<td>8,753,528</td>
</tr>
<tr>
<td><strong>Accounts Receivable</strong></td>
<td>172,108</td>
<td>179,773</td>
<td>7,665</td>
<td>4.5%</td>
<td>299,326</td>
</tr>
<tr>
<td><strong>Due from (to) CPF</strong></td>
<td>(945)</td>
<td>(390)</td>
<td>555</td>
<td>(58.7%)</td>
<td>(7,740)</td>
</tr>
<tr>
<td><strong>Due to Sections</strong></td>
<td>(2,937,981)</td>
<td>(2,888,416)</td>
<td>49,566</td>
<td>(1.7%)</td>
<td>(2,250,516)</td>
</tr>
<tr>
<td><strong>Prepaid Expenses</strong></td>
<td>231,253</td>
<td>246,177</td>
<td>14,924</td>
<td>6.5%</td>
<td>434,486</td>
</tr>
<tr>
<td><strong>Capital Assets</strong></td>
<td>3,649,109</td>
<td>3,664,431</td>
<td>15,322</td>
<td>0.4%</td>
<td>3,800,583</td>
</tr>
<tr>
<td><strong>SBM Retiree Health Care Trust</strong></td>
<td>3,575,979</td>
<td>3,752,321</td>
<td>176,341</td>
<td>4.9%</td>
<td>3,468,044</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td>$16,040,128</td>
<td>$15,329,889</td>
<td>($710,239)</td>
<td>(4.4%)</td>
<td>$16,289,160</td>
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<tr>
<td><strong>Deferred outflows of resources related to pensions</strong></td>
<td>34,117</td>
<td>34,117</td>
<td>0</td>
<td>0.0%</td>
<td>34,117</td>
</tr>
<tr>
<td><strong>Deferred outflows of resources related to OPEB</strong></td>
<td>313,165</td>
<td>313,165</td>
<td>0</td>
<td>0.0%</td>
<td>313,165</td>
</tr>
<tr>
<td><strong>Total Deferred outflows of resources</strong></td>
<td>347,282</td>
<td>347,282</td>
<td>0</td>
<td>0.0%</td>
<td>347,282</td>
</tr>
<tr>
<td><strong>Total Assets and Deferred Outflows of Resources</strong></td>
<td>$16,387,411</td>
<td>$15,677,172</td>
<td>(710,239)</td>
<td>(4.3%)</td>
<td>$16,636,442</td>
</tr>
</tbody>
</table>

## LIABILITIES, DEFERRED INFLOWS AND NET POSITION

### Liabilities

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Increase/Decrease</th>
<th>%</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accounts Payable</strong></td>
<td>$8</td>
<td>$6</td>
<td>($2)</td>
<td>(27.7%)</td>
<td>$390,272</td>
</tr>
<tr>
<td><strong>Accrued Expenses</strong></td>
<td>486,548</td>
<td>415,875</td>
<td>(70,673)</td>
<td>(14.5%)</td>
<td>516,434</td>
</tr>
<tr>
<td><strong>Deferred Revenue</strong></td>
<td>1,856,957</td>
<td>1,245,102</td>
<td>(611,855)</td>
<td>(32.9%)</td>
<td>1,325,490</td>
</tr>
<tr>
<td><strong>Net Pension Liability</strong></td>
<td>330,798</td>
<td>330,798</td>
<td>0</td>
<td>0.0%</td>
<td>330,798</td>
</tr>
<tr>
<td><strong>Net OPEB Liability</strong></td>
<td>1,603,186</td>
<td>1,603,186</td>
<td>0</td>
<td>0.0%</td>
<td>1,603,186</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td>4,277,496</td>
<td>3,594,967</td>
<td>(682,530)</td>
<td>(16.0%)</td>
<td>4,166,389</td>
</tr>
<tr>
<td><strong>Deferred Inflows of resources related to pensions</strong></td>
<td>28,262</td>
<td>28,262</td>
<td>0</td>
<td>0.0%</td>
<td>28,262</td>
</tr>
<tr>
<td><strong>Deferred Inflows of resources related to OPEB</strong></td>
<td>224,569</td>
<td>224,569</td>
<td>0</td>
<td>0.0%</td>
<td>224,569</td>
</tr>
<tr>
<td><strong>Total Deferred inflows of resources</strong></td>
<td>252,831</td>
<td>252,831</td>
<td>0</td>
<td>0.0%</td>
<td>252,831</td>
</tr>
<tr>
<td><strong>Total Liabilities and Deferred Inflows</strong></td>
<td>4,530,327</td>
<td>3,847,798</td>
<td>(682,530)</td>
<td>(15.1%)</td>
<td>4,419,220</td>
</tr>
</tbody>
</table>

### Net Assets

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Increase/Decrease</th>
<th>%</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Invested in Capital Assets, Net of Related Debt</strong></td>
<td>3,649,109</td>
<td>3,664,431</td>
<td>15,322</td>
<td>0.4%</td>
<td>3,800,583</td>
</tr>
<tr>
<td><strong>Restricted for Retiree Health Care Trust</strong></td>
<td>2,061,389</td>
<td>2,237,731</td>
<td>176,341</td>
<td>8.6%</td>
<td>1,953,454</td>
</tr>
<tr>
<td><strong>Unrestricted</strong></td>
<td>6146585</td>
<td>5927212</td>
<td>(219373)</td>
<td>(3.6%)</td>
<td>6463184</td>
</tr>
<tr>
<td><strong>Total Net Position</strong></td>
<td>11,857,083</td>
<td>11,829,374</td>
<td>(27709)</td>
<td>(0.2%)</td>
<td>12,217,220</td>
</tr>
<tr>
<td><strong>Total Liabilities, Deferred Inflows and Net Position</strong></td>
<td>$16,387,411</td>
<td>$15,677,172</td>
<td>($710,239)</td>
<td>(4.3%)</td>
<td>$16,636,442</td>
</tr>
</tbody>
</table>

**Net Position excluding the impacts of retiree health care**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net Position excluding the impacts of retiree health care</strong></td>
<td>$9,795,694</td>
<td>$9,591,643</td>
</tr>
</tbody>
</table>

**Note**: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" and not including the "Retiree Health Care Trust" is $7,480,364 (see below)

### CASH AND INVESTMENT BALANCES

<table>
<thead>
<tr>
<th>Description</th>
<th>June 30, 2020</th>
<th>July 31, 2020</th>
<th>Increase/Decrease</th>
<th>%</th>
<th>Beginning of FY 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash (including CD's and Money Market)</strong></td>
<td>$4,240,254</td>
<td>$3,265,642</td>
<td>($974,613)</td>
<td>(23.0%)</td>
<td>$1,767,913</td>
</tr>
<tr>
<td><strong>Investments</strong></td>
<td>7,103,528</td>
<td>7,103,528</td>
<td>0</td>
<td>0.0%</td>
<td>8,753,528</td>
</tr>
<tr>
<td><strong>Total Available Cash and Investments</strong></td>
<td>11,343,782</td>
<td>10,369,170</td>
<td>(974,613)</td>
<td>(8.6%)</td>
<td>10,521,440</td>
</tr>
</tbody>
</table>

**Less:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
<th>Increase/Decrease</th>
<th>%</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Due to Sections</strong></td>
<td>2,937,981</td>
<td>2,888,416</td>
<td>(49,566)</td>
<td>(1.7%)</td>
<td>2,244,767</td>
</tr>
<tr>
<td><strong>Due to CPF</strong></td>
<td>945</td>
<td>390</td>
<td>(555)</td>
<td>(58.7%)</td>
<td>7,740</td>
</tr>
<tr>
<td><strong>Due to Sections and CPF</strong></td>
<td>2,938,926</td>
<td>2,888,806</td>
<td>(50,121)</td>
<td>(1.7%)</td>
<td>2,252,507</td>
</tr>
<tr>
<td><strong>Net Administrative Fund Cash and Investment Balance</strong></td>
<td>8,404,856</td>
<td>7,480,364</td>
<td>(924,492)</td>
<td>(11.0%)</td>
<td>8,268,933</td>
</tr>
</tbody>
</table>
# State Bar of Michigan

## Statement of Revenue, Expense, and Net Assets

### Administrative Fund

For the Ten Months Ending July 31, 2020

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Actual YTD</th>
<th>Budget YTD</th>
<th>Variance</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Finance &amp; Administration</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>License Fees</td>
<td>$6,498,245</td>
<td>$6,503,325</td>
<td>($5,080)</td>
<td>(0.08%)</td>
</tr>
<tr>
<td>Investment Income - SBM Operations</td>
<td>175,921</td>
<td>208,333</td>
<td>(32,412)</td>
<td>(15.56%)</td>
</tr>
<tr>
<td>Investment Income - Ret HC Trust</td>
<td>237,362</td>
<td>237,362</td>
<td></td>
<td>0.00%</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>356,877</td>
<td>347,333</td>
<td>9,544</td>
<td>2.75%</td>
</tr>
<tr>
<td><strong>Finance &amp; Administration Total</strong></td>
<td>7,268,405</td>
<td>7,058,991</td>
<td>209,414</td>
<td>2.97%</td>
</tr>
<tr>
<td><strong>Member Services &amp; Communications</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bar Journal Directory</td>
<td>39,310</td>
<td>35,850</td>
<td>3,460</td>
<td>9.65%</td>
</tr>
<tr>
<td>Bar Journal 11 issues</td>
<td>124,311</td>
<td>138,625</td>
<td>(14,314)</td>
<td>(10.33%)</td>
</tr>
<tr>
<td>Print on Demand Dept</td>
<td>42,958</td>
<td>54,083</td>
<td>(11,125)</td>
<td>(20.57%)</td>
</tr>
<tr>
<td>e-Journal and Website</td>
<td>64,523</td>
<td>65,433</td>
<td>(910)</td>
<td>(1.39%)</td>
</tr>
<tr>
<td>BCBS Insurance</td>
<td>75,000</td>
<td>75,000</td>
<td></td>
<td>0.00%</td>
</tr>
<tr>
<td>Annual Meeting</td>
<td>4,000</td>
<td>(4,000)</td>
<td>(100.00%)</td>
<td></td>
</tr>
<tr>
<td>Labels</td>
<td>1,491</td>
<td>3,333</td>
<td>(1,842)</td>
<td>(55.27%)</td>
</tr>
<tr>
<td>Practice Management Resource Center</td>
<td>530</td>
<td>833</td>
<td>(303)</td>
<td>(36.37%)</td>
</tr>
<tr>
<td>Upper Michigan Legal Institute</td>
<td>597</td>
<td>12,500</td>
<td>(11,903)</td>
<td>(95.22%)</td>
</tr>
<tr>
<td>Other Member &amp; Endorsed Revenue</td>
<td>64,236</td>
<td>81,898</td>
<td>(17,662)</td>
<td>(21.57%)</td>
</tr>
<tr>
<td>Lawyer Referral Service</td>
<td>116,816</td>
<td>137,819</td>
<td>(21,003)</td>
<td>(15.24%)</td>
</tr>
<tr>
<td>Bar Leadership Forum</td>
<td>946</td>
<td>11,725</td>
<td>(10,779)</td>
<td>(91.93%)</td>
</tr>
<tr>
<td><strong>Member Services &amp; Communications Total</strong></td>
<td>530,718</td>
<td>621,099</td>
<td>(90,381)</td>
<td>(14.55%)</td>
</tr>
<tr>
<td><strong>Professional Regulation</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ethics</td>
<td>5,890</td>
<td>8,500</td>
<td>(2,610)</td>
<td>(30.71%)</td>
</tr>
<tr>
<td>Character &amp; Fitness</td>
<td>313,715</td>
<td>341,625</td>
<td>(27,910)</td>
<td>(8.17%)</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>34,340</td>
<td>35,000</td>
<td>(660)</td>
<td>(1.89%)</td>
</tr>
<tr>
<td><strong>Professional Regulation Total</strong></td>
<td>353,945</td>
<td>385,125</td>
<td>(31,180)</td>
<td>(8.10%)</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>8,153,068</td>
<td>8,065,215</td>
<td>87,853</td>
<td>1.09%</td>
</tr>
</tbody>
</table>
## Actual Budget

### YTD YTD Variance Percentage

<table>
<thead>
<tr>
<th>Expense</th>
<th>Actual</th>
<th>Budget</th>
<th>Variance</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Offices</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive Office</td>
<td>$56,871</td>
<td>$77,225</td>
<td>($20,354)</td>
<td>(26.36%)</td>
</tr>
<tr>
<td>Representative Assembly</td>
<td>(225)</td>
<td>21,500</td>
<td>(21,725)</td>
<td>(101.05%)</td>
</tr>
<tr>
<td>Board of Commissioners</td>
<td>26,184</td>
<td>81,067</td>
<td>(54,883)</td>
<td>(67.70%)</td>
</tr>
<tr>
<td>General Counsel</td>
<td>31,552</td>
<td>31,217</td>
<td>335</td>
<td>1.07%</td>
</tr>
<tr>
<td>Governmental Relations</td>
<td>48,132</td>
<td>61,034</td>
<td>(12,902)</td>
<td>(21.14%)</td>
</tr>
<tr>
<td>Human Resources</td>
<td>1,586,608</td>
<td>1,709,597</td>
<td>(122,989)</td>
<td>(7.19%)</td>
</tr>
<tr>
<td>Outreach</td>
<td>104,953</td>
<td>111,208</td>
<td>(6,255)</td>
<td>(5.62%)</td>
</tr>
<tr>
<td>Research and Development</td>
<td>8,744</td>
<td>22,390</td>
<td>(13,646)</td>
<td>(60.95%)</td>
</tr>
<tr>
<td>Justice Initiatives Department</td>
<td>129,770</td>
<td>141,067</td>
<td>(11,297)</td>
<td>(8.01%)</td>
</tr>
<tr>
<td>Diversity</td>
<td>5,919</td>
<td>18,950</td>
<td>(13,031)</td>
<td>(68.77%)</td>
</tr>
<tr>
<td>Salaries</td>
<td>1,293,434</td>
<td>1,346,434</td>
<td>(53,000)</td>
<td>(3.94%)</td>
</tr>
<tr>
<td>Executive Offices Total</td>
<td>3,291,942</td>
<td>3,621,689</td>
<td>(329,747)</td>
<td>(9.10%)</td>
</tr>
<tr>
<td>Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administration</td>
<td>25,390</td>
<td>32,054</td>
<td>(6,664)</td>
<td>(20.79%)</td>
</tr>
<tr>
<td>Facilities Services</td>
<td>294,349</td>
<td>317,442</td>
<td>(23,093)</td>
<td>(7.27%)</td>
</tr>
<tr>
<td>Financial Services</td>
<td>749,727</td>
<td>790,800</td>
<td>(41,073)</td>
<td>(5.19%)</td>
</tr>
<tr>
<td>Salaries</td>
<td>371,814</td>
<td>408,220</td>
<td>(36,406)</td>
<td>(8.92%)</td>
</tr>
<tr>
<td>Administration Total</td>
<td>1,441,280</td>
<td>1,548,516</td>
<td>(107,236)</td>
<td>(6.93%)</td>
</tr>
<tr>
<td>Member Services &amp; Communications</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bar Journal Directory</td>
<td>51,864</td>
<td>57,000</td>
<td>(5,136)</td>
<td>(9.01%)</td>
</tr>
<tr>
<td>Bar Journal 11 Issues</td>
<td>331,903</td>
<td>389,508</td>
<td>(57,605)</td>
<td>(14.79%)</td>
</tr>
<tr>
<td>Print Center</td>
<td>36,144</td>
<td>52,283</td>
<td>(16,139)</td>
<td>(30.87%)</td>
</tr>
<tr>
<td>Website</td>
<td>83,661</td>
<td>122,108</td>
<td>(38,447)</td>
<td>(31.49%)</td>
</tr>
<tr>
<td>e-Journal</td>
<td>29,412</td>
<td>29,025</td>
<td>387</td>
<td>1.33%</td>
</tr>
<tr>
<td>Media Relations</td>
<td>22,671</td>
<td>34,975</td>
<td>(12,304)</td>
<td>(35.18%)</td>
</tr>
<tr>
<td>Member &amp; Endorsed Services</td>
<td>74,395</td>
<td>109,817</td>
<td>(35,422)</td>
<td>(32.26%)</td>
</tr>
<tr>
<td>50 Yr. Golden Celebration</td>
<td>1,643</td>
<td>23,075</td>
<td>(21,432)</td>
<td>(92.88%)</td>
</tr>
<tr>
<td>Annual Meeting</td>
<td>18,778</td>
<td>17,188</td>
<td>1,590</td>
<td>9.25%</td>
</tr>
<tr>
<td>Lawyer Referral Service</td>
<td>1,270</td>
<td>1,383</td>
<td>(113)</td>
<td>(8.17%)</td>
</tr>
<tr>
<td>Bar Leadership Forum</td>
<td>847</td>
<td>37,650</td>
<td>(36,803)</td>
<td>(97.75%)</td>
</tr>
<tr>
<td>Practice Management Resource Center</td>
<td>4,751</td>
<td>5,800</td>
<td>(1,049)</td>
<td>(18.09%)</td>
</tr>
<tr>
<td>UMLI</td>
<td>3,393</td>
<td>29,450</td>
<td>(26,057)</td>
<td>(88.48%)</td>
</tr>
<tr>
<td>IT</td>
<td>409,849</td>
<td>402,366</td>
<td>7,483</td>
<td>1.86%</td>
</tr>
<tr>
<td>Salaries</td>
<td>1,784,402</td>
<td>1,849,980</td>
<td>(65,578)</td>
<td>(3.54%)</td>
</tr>
<tr>
<td>Member Services &amp; Communications Total</td>
<td>2,854,983</td>
<td>3,161,608</td>
<td>(306,625)</td>
<td>(9.70%)</td>
</tr>
<tr>
<td>Professional Standards</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Character &amp; Fitness</td>
<td>23,573</td>
<td>39,381</td>
<td>(15,808)</td>
<td>(40.14%)</td>
</tr>
<tr>
<td>Client Protection Fund Dept</td>
<td>2,350</td>
<td>9,110</td>
<td>(6,760)</td>
<td>(74.20%)</td>
</tr>
<tr>
<td>LJAP</td>
<td>13,116</td>
<td>25,633</td>
<td>(12,517)</td>
<td>(48.83%)</td>
</tr>
<tr>
<td>Ethics</td>
<td>6,734</td>
<td>16,075</td>
<td>(9,341)</td>
<td>(58.11%)</td>
</tr>
<tr>
<td>Category</td>
<td>2022</td>
<td>2021</td>
<td>Difference</td>
<td>Percentage</td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>--------</td>
<td>--------</td>
<td>------------</td>
<td>------------</td>
</tr>
<tr>
<td>UPL</td>
<td>12,728</td>
<td>22,792</td>
<td>(10,064)</td>
<td>(44.16%)</td>
</tr>
<tr>
<td>Salaries</td>
<td>894,212</td>
<td>957,220</td>
<td>(63,008)</td>
<td>(6.58%)</td>
</tr>
<tr>
<td>Professional Standards Total</td>
<td>952,713</td>
<td>1,070,211</td>
<td>(117,498)</td>
<td>(10.98%)</td>
</tr>
<tr>
<td>Total Expense</td>
<td>8,540,918</td>
<td>9,402,024</td>
<td>(861,106)</td>
<td>(9.16%)</td>
</tr>
</tbody>
</table>

Human Resources Detail

<table>
<thead>
<tr>
<th>Category</th>
<th>2022</th>
<th>2021</th>
<th>Difference</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payroll Taxes</td>
<td>320,041</td>
<td>347,448</td>
<td>(27,407)</td>
<td>(7.89%)</td>
</tr>
<tr>
<td>Benefits</td>
<td>1,228,043</td>
<td>1,303,815</td>
<td>(75,772)</td>
<td>(5.81%)</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>38,523</td>
<td>58,334</td>
<td>(19,811)</td>
<td>(33.96%)</td>
</tr>
<tr>
<td>Total Human Resources</td>
<td>1,586,607</td>
<td>1,709,597</td>
<td>(122,990)</td>
<td>(7.19%)</td>
</tr>
</tbody>
</table>

Financial Services Detail

<table>
<thead>
<tr>
<th>Category</th>
<th>2022</th>
<th>2021</th>
<th>Difference</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Depreciation</td>
<td>415,178</td>
<td>465,000</td>
<td>(49,822)</td>
<td>(10.71%)</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>334,550</td>
<td>325,800</td>
<td>8,750</td>
<td>2.69%</td>
</tr>
<tr>
<td>Total Financial Services</td>
<td>749,728</td>
<td>790,800</td>
<td>(41,072)</td>
<td>(5.19%)</td>
</tr>
</tbody>
</table>

Salaries

<table>
<thead>
<tr>
<th>Category</th>
<th>2022</th>
<th>2021</th>
<th>Difference</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Offices</td>
<td>1,293,434</td>
<td>1,346,434</td>
<td>(53,000)</td>
<td>(3.94%)</td>
</tr>
<tr>
<td>Finance and Administration</td>
<td>371,814</td>
<td>408,220</td>
<td>(36,406)</td>
<td>(8.92%)</td>
</tr>
<tr>
<td>Member Services &amp; Communications</td>
<td>1,784,402</td>
<td>1,849,980</td>
<td>(65,578)</td>
<td>(3.54%)</td>
</tr>
<tr>
<td>Professional Standards</td>
<td>894,212</td>
<td>957,220</td>
<td>(63,008)</td>
<td>(6.58%)</td>
</tr>
<tr>
<td>Total Salaries Expense</td>
<td>4,343,862</td>
<td>4,561,854</td>
<td>(217,992)</td>
<td>(4.78%)</td>
</tr>
</tbody>
</table>

Non-Labor Expense Summary

<table>
<thead>
<tr>
<th>Category</th>
<th>2022</th>
<th>2021</th>
<th>Difference</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Offices</td>
<td>450,423</td>
<td>623,992</td>
<td>(173,569)</td>
<td>(27.82%)</td>
</tr>
<tr>
<td>Finance and Administration</td>
<td>1,069,466</td>
<td>1,140,296</td>
<td>(70,830)</td>
<td>(6.21%)</td>
</tr>
<tr>
<td>Member Services &amp; Communications</td>
<td>1,070,581</td>
<td>1,311,628</td>
<td>(241,047)</td>
<td>(18.38%)</td>
</tr>
<tr>
<td>Professional Standards</td>
<td>58,501</td>
<td>112,991</td>
<td>(54,490)</td>
<td>(48.23%)</td>
</tr>
<tr>
<td>Total Non-Labor Expense</td>
<td>2,648,971</td>
<td>3,188,907</td>
<td>(539,936)</td>
<td>(16.93%)</td>
</tr>
</tbody>
</table>
### YTD FY 2020 Increase (Decrease) in Net Position Summary

<table>
<thead>
<tr>
<th></th>
<th>Actual YTD</th>
<th>Actual YTD</th>
<th>Variance</th>
<th>Percentage</th>
<th>Last Year Actual YTD</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- License Fees, Dues &amp; Related</td>
<td>$6,498,245</td>
<td>$6,503,325</td>
<td>(5,080)</td>
<td>(0.1%)</td>
<td>5,227,241</td>
<td>1,271,004</td>
</tr>
<tr>
<td>- All Other Op Revenue</td>
<td>1,241,540</td>
<td>1,353,557</td>
<td>(112,017)</td>
<td>(8.3%)</td>
<td>1,145,302</td>
<td>96,238</td>
</tr>
<tr>
<td><strong>Total Operating Revenue</strong></td>
<td>7,739,785</td>
<td>7,856,882</td>
<td>(117,097)</td>
<td>(1.5%)</td>
<td>6,372,543</td>
<td>1,367,242</td>
</tr>
<tr>
<td><strong>Operating Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Labor-related Operating Expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>4,343,862</td>
<td>4,561,854</td>
<td>(217,992)</td>
<td>(4.8%)</td>
<td>3,277,834</td>
<td>1,066,028</td>
</tr>
<tr>
<td>Benefits and PR Taxes</td>
<td>1,548,084</td>
<td>1,651,263</td>
<td>(103,179)</td>
<td>(6.2%)</td>
<td>1,207,732</td>
<td>340,352</td>
</tr>
<tr>
<td><strong>Total Labor-related Operating Expenses</strong></td>
<td>5,891,946</td>
<td>6,213,117</td>
<td>(321,171)</td>
<td>(5.2%)</td>
<td>4,485,566</td>
<td>1,406,380</td>
</tr>
<tr>
<td>- Non-labor Operating Expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive Offices</td>
<td>450,423</td>
<td>623,992</td>
<td>(173,569)</td>
<td>(27.8%)</td>
<td>489,326</td>
<td>(38,903)</td>
</tr>
<tr>
<td>Finance &amp; Administration</td>
<td>1,069,466</td>
<td>1,140,296</td>
<td>(70,830)</td>
<td>(6.2%)</td>
<td>942,232</td>
<td>127,234</td>
</tr>
<tr>
<td>Member &amp; Communication Services</td>
<td>1,070,581</td>
<td>1,311,628</td>
<td>(241,047)</td>
<td>(18.4%)</td>
<td>977,167</td>
<td>93,414</td>
</tr>
<tr>
<td>Professional Standards</td>
<td>58,501</td>
<td>112,991</td>
<td>(54,490)</td>
<td>(48.2%)</td>
<td>67,537</td>
<td>(9,036)</td>
</tr>
<tr>
<td><strong>Total Non-labor Operating Expenses</strong></td>
<td>2,648,971</td>
<td>3,188,907</td>
<td>(539,936)</td>
<td>(16.9%)</td>
<td>2,476,262</td>
<td>172,709</td>
</tr>
<tr>
<td><strong>Total Operating Expenses</strong></td>
<td>8,540,917</td>
<td>9,402,024</td>
<td>(861,107)</td>
<td>(9.2%)</td>
<td>6,961,828</td>
<td>1,579,089</td>
</tr>
<tr>
<td><strong>Operating Income (Loss)</strong></td>
<td>(801,133)</td>
<td>(1,545,142)</td>
<td>744,010</td>
<td>N/A</td>
<td>(589,285)</td>
<td>(211,848)</td>
</tr>
<tr>
<td><strong>Non-operating Revenue (Expenses)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investment Income</td>
<td>175,921</td>
<td>208,333</td>
<td>(32,412)</td>
<td>(15.6%)</td>
<td>186,477</td>
<td>(10,556)</td>
</tr>
<tr>
<td>Investment Income - Ret HC Trust</td>
<td>237,362</td>
<td>0</td>
<td>237,362</td>
<td>N/A</td>
<td>171,108</td>
<td>66,254</td>
</tr>
<tr>
<td><strong>Net Non-operating revenue (expenses)</strong></td>
<td>413,283</td>
<td>208,333</td>
<td>204,950</td>
<td>98.4%</td>
<td>357,585</td>
<td>55,698</td>
</tr>
<tr>
<td><strong>Increase (Decrease) in Net Position</strong></td>
<td>(387,846)</td>
<td>(1,336,809)</td>
<td>948,963</td>
<td>N/A</td>
<td>(231,700)</td>
<td>(156,146)</td>
</tr>
<tr>
<td>Net Position - Beginning the Year</td>
<td>12,217,220</td>
<td>12,217,220</td>
<td>0</td>
<td>0.0%</td>
<td>12,800,771</td>
<td>(583,551)</td>
</tr>
<tr>
<td>Net Position - Year-to-Date</td>
<td>$11,829,374</td>
<td>$10,880,411</td>
<td>$948,963</td>
<td>8.7%</td>
<td>12,569,071</td>
<td>($739,697)</td>
</tr>
<tr>
<td><strong>Increase (Decrease) in Net Position Excluding Ret HC Trust Inv. Income</strong></td>
<td>$625,208</td>
<td>(1,336,809)</td>
<td>711,601</td>
<td>53.2%</td>
<td>(357,585)</td>
<td>(267,623)</td>
</tr>
</tbody>
</table>
FY 2020 Year-End Forecast
Updated August 25, 2020

<table>
<thead>
<tr>
<th>Year-End Forecast</th>
<th>FY 2020 Budget</th>
<th>Variance</th>
<th>Percentage</th>
<th>FY 2019 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- License Fees, Dues &amp; Related</td>
<td>7,741,300</td>
<td>7,757,000</td>
<td>(15,700)</td>
<td>(0.2%)</td>
</tr>
<tr>
<td>- All Other Op Revenue</td>
<td>1,348,642</td>
<td>1,581,450</td>
<td>(232,808)</td>
<td>(14.7%)</td>
</tr>
<tr>
<td>Total Operating Revenue</td>
<td>9,089,942</td>
<td>9,338,450</td>
<td>(248,508)</td>
<td>(2.7%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>- Labor-related Operating Expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>5,192,273</td>
<td>5,441,927</td>
<td>(249,654)</td>
<td>(4.6%)</td>
</tr>
<tr>
<td>Benefits, PR Taxes, and Ret HC Exp</td>
<td>1,786,215</td>
<td>1,910,512</td>
<td>(124,297)</td>
<td>(6.5%)</td>
</tr>
<tr>
<td>Total Labor-related Operating Expenses</td>
<td>6,978,488</td>
<td>7,352,439</td>
<td>(373,951)</td>
<td>(5.1%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Operating Expenses</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>- Non-labor Operating Expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive Offices</td>
<td>551,598</td>
<td>842,169</td>
<td>(290,571)</td>
<td>(21.4%)</td>
</tr>
<tr>
<td>Finance &amp; Administration</td>
<td>1,316,647</td>
<td>1,357,175</td>
<td>(40,528)</td>
<td>(4.8%)</td>
</tr>
<tr>
<td>Member &amp; Communication Services</td>
<td>1,423,998</td>
<td>1,666,913</td>
<td>(242,915)</td>
<td>(14.6%)</td>
</tr>
<tr>
<td>Professional Standards</td>
<td>98,600</td>
<td>163,435</td>
<td>(64,835)</td>
<td>(39.7%)</td>
</tr>
<tr>
<td>Total Non-labor Operating Expenses</td>
<td>3,390,843</td>
<td>4,029,692</td>
<td>(638,849)</td>
<td>(15.9%)</td>
</tr>
</tbody>
</table>

| Total Operating Expenses | 10,369,331 | 11,382,131 | (1,012,800) | (8.9%) | 10,565,387 |

| Operating Income (Loss) | (1,279,389) | (2,043,681) | 764,292 | N/A | (1,213,912) |

| Nonoperating Revenue (Expenses) |          |          |            |                |
| Investment Income | 185,000 | 250,000 | 65,000 | 26.0% | 249,731 |
| Investment Income - Ret HC Trust* | 0 | 0 | 0 | N/A | 384,630 |
| Loss on Disposal of Capital Assets | 0 | 0 | 0 | N/A | (4,000) |
| Net Nonoperating Revenue (Expenses) | 185,000 | 250,000 | (65,000) | (26.0%) | 630,361 |

| Increase (Decrease) in Net Position | (1,094,389) | (1,793,681) | 699,292 | N/A | (583,551) |

Operating Revenue forecast
- Expect to be under in license fee revenues by $16K, UMLI, BLF, 50 year, LRS, advertising and other revenue.

Labor forecast:
- Salaries - Expect to be under due to vacancies
- Benefits - Expect to be under due to vacancies

Nonlabor forecast:
- Executive Offices - Expect to be under primarily in meetings, travel and other expenses
- Finance & Administration - Expect to be under in Finance primarily due to lower depreciation, net of higher credit card fees
- Member Services & Communications - Expect to be under primarily in meetings, travel and other expenses.
- Professional Standards - Expect to be under primarily in meetings, travel and other expenses.

Non-Operating Income forecast:
- Investment Income - Expect to be under due to lower interest rates.
- Retiree Health Care Trust Investment income was not budgeted nor forecasted
<table>
<thead>
<tr>
<th>Building and Equipment</th>
<th>YTD Actual</th>
<th>YTD Budget</th>
<th>YTD Variance</th>
<th>Variance Explanations</th>
<th>Total Approved FY 2020</th>
<th>FY 2020 Year-End</th>
<th>Projected Year-end Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elevator Modernization</td>
<td>132,251</td>
<td>120,000</td>
<td>12,251</td>
<td>Will be over on cab interior offset by Facilities operating expense</td>
<td>120,000</td>
<td>132,251</td>
<td>12,251</td>
</tr>
<tr>
<td>Replacement of floor copiers</td>
<td>0</td>
<td>35,000</td>
<td>(35,000)</td>
<td></td>
<td>35,000</td>
<td>0</td>
<td>(35,000)</td>
</tr>
<tr>
<td>Information Technology</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Network Firewalls (2)</td>
<td>0</td>
<td>25,000</td>
<td>(25,000)</td>
<td></td>
<td>25,000</td>
<td>0</td>
<td>(25,000)</td>
</tr>
<tr>
<td>Receivership /Interim Administrator Program data portal (Phase I)</td>
<td>0</td>
<td>30,000</td>
<td>(30,000)</td>
<td></td>
<td>30,000</td>
<td>0</td>
<td>(30,000)</td>
</tr>
<tr>
<td>E-commerce store (Phase 1)</td>
<td>12,425</td>
<td>12,425</td>
<td>0</td>
<td></td>
<td>20,000</td>
<td>20,000</td>
<td>0</td>
</tr>
<tr>
<td>e-service application for court e-filing (e-mail addresses)</td>
<td>0</td>
<td>10,000</td>
<td>(10,000)</td>
<td></td>
<td>10,000</td>
<td>0</td>
<td>(10,000)</td>
</tr>
<tr>
<td>Firm billing/invoices for dues</td>
<td>0</td>
<td>10,000</td>
<td>(10,000)</td>
<td></td>
<td>10,000</td>
<td>0</td>
<td>(10,000)</td>
</tr>
<tr>
<td>Firm administration application</td>
<td>4,975</td>
<td>10,000</td>
<td>(5,025)</td>
<td>This was used for Front line responders panel builds and Rapid Response and portal enhancements</td>
<td>10,000</td>
<td>4,975</td>
<td>(5,025)</td>
</tr>
<tr>
<td>Lawyer referral consumer portal (Ph 3)</td>
<td>34,975</td>
<td>30,000</td>
<td>4,975</td>
<td></td>
<td>40,000</td>
<td>40,000</td>
<td>0</td>
</tr>
<tr>
<td>Unauthorized Practice of Law Portal (Phase 1)</td>
<td>0</td>
<td>20,000</td>
<td>(20,000)</td>
<td></td>
<td>20,000</td>
<td>0</td>
<td>(20,000)</td>
</tr>
<tr>
<td>Volunteer Application Portal</td>
<td>$19,500</td>
<td>0</td>
<td>19,500</td>
<td>Not budgeted, project continued from last year</td>
<td>0</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>CPF Fund Portal (Phase 1)</td>
<td>0</td>
<td>30,000</td>
<td>(30,000)</td>
<td></td>
<td>30,000</td>
<td>0</td>
<td>(30,000)</td>
</tr>
<tr>
<td>Website functionality enhancements</td>
<td>14,950</td>
<td>10,000</td>
<td>4,950</td>
<td>Ethics search engine added</td>
<td>10,000</td>
<td>14,950</td>
<td>4,950</td>
</tr>
<tr>
<td>Illinois State Bar LRS Portal Build</td>
<td>2,500</td>
<td>0</td>
<td>2,500</td>
<td>Not budgeted, project continued from last year</td>
<td>0</td>
<td>2,500</td>
<td>2,500</td>
</tr>
<tr>
<td>E-commerce license fee update</td>
<td>10,000</td>
<td>0</td>
<td>10,000</td>
<td></td>
<td>0</td>
<td>20,000</td>
<td>20,000</td>
</tr>
<tr>
<td>Character &amp; Fitness BLE Portal</td>
<td>47,450</td>
<td>0</td>
<td>47,450</td>
<td>Not budgeted, project continued from last year</td>
<td>0</td>
<td>47,450</td>
<td>47,450</td>
</tr>
<tr>
<td>Total</td>
<td>$279,026</td>
<td>$342,425</td>
<td>($63,399)</td>
<td></td>
<td>$360,000</td>
<td>$302,126</td>
<td>($57,874)</td>
</tr>
</tbody>
</table>

Note: Any overages on unbudgeted projects will be offset by other project underages.
Unaudited and For Internal Use Only

FINANCIAL REPORTS
July 31, 2020

FY 2020

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.
### Comparative Statement of Net Assets

For the Ten Months Ending July 31, 2020

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2020</th>
<th>July 31, 2020</th>
<th>Increase (Decrease)</th>
<th>%</th>
<th>10/1/19</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash-Checking</td>
<td>$12,149</td>
<td>$25,608</td>
<td>$13,459</td>
<td>110.8%</td>
<td>$102,758</td>
</tr>
<tr>
<td>Savings</td>
<td>1,111,274</td>
<td>846,321</td>
<td>(264,953)</td>
<td>(23.8%)</td>
<td>752,362</td>
</tr>
<tr>
<td>Investment</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>0.0%</td>
<td></td>
<td>1,053,412</td>
</tr>
<tr>
<td>Account Receivable</td>
<td>212,163</td>
<td>210,329</td>
<td>(1,834)</td>
<td>(0.9%)</td>
<td>159,875</td>
</tr>
<tr>
<td>Due From SBM</td>
<td>945</td>
<td>390</td>
<td>(555)</td>
<td>(58.7%)</td>
<td>7,740</td>
</tr>
<tr>
<td>Accrued Interest Receivable</td>
<td>1,422</td>
<td>1,846</td>
<td>424</td>
<td>29.8%</td>
<td>7,314</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td>$2,337,953</td>
<td>$2,084,495</td>
<td>($253,459)</td>
<td>(10.8%)</td>
<td>$2,083,460</td>
</tr>
<tr>
<td><strong>Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deferred Revenue</td>
<td>156,822</td>
<td>103,038</td>
<td>(53,785)</td>
<td>(34.3%)</td>
<td>86,670</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td>156,822</td>
<td>103,038</td>
<td>(53,785)</td>
<td>(34.3%)</td>
<td>86,670</td>
</tr>
<tr>
<td><strong>Fund Balance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund Balance at Beginning of Year</td>
<td>1,996,790</td>
<td>1,996,790</td>
<td>0.0%</td>
<td></td>
<td>2,009,754</td>
</tr>
<tr>
<td>Net Income (Expense) Year to Date</td>
<td>184,341</td>
<td>(15,333)</td>
<td>(199,674)</td>
<td>(108.3%)</td>
<td>(12,964)</td>
</tr>
<tr>
<td><strong>Total Fund Balance</strong></td>
<td>2,181,131</td>
<td>1,831,457</td>
<td>(359,674)</td>
<td>(16.6%)</td>
<td>1,996,790</td>
</tr>
<tr>
<td>Total Liabilities and Fund Balance</td>
<td>$2,337,953</td>
<td>$2,084,495</td>
<td>($253,459)</td>
<td>(10.8%)</td>
<td>$2,083,460</td>
</tr>
</tbody>
</table>

In addition there are $159,750.00 authorized but unpaid claims awaiting signatures of subrogation.
Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets
For the Ten Months Ending July 31, 2020

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>YTD</td>
<td>YTD</td>
</tr>
<tr>
<td>Income:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-7-00-000-0005 Contributions Received</td>
<td>3,061</td>
<td>30,630</td>
</tr>
<tr>
<td>3-7-00-000-0050 Membership Fees Assessment</td>
<td>541,820</td>
<td>536,350</td>
</tr>
<tr>
<td>3-7-00-000-0051 Pro Hac Vice Fees</td>
<td>11,055</td>
<td>11,190</td>
</tr>
<tr>
<td>3-7-00-000-0890 Claims Recovery</td>
<td>89,090</td>
<td>15,120</td>
</tr>
<tr>
<td>Total Income</td>
<td>660,936</td>
<td>614,234</td>
</tr>
<tr>
<td>Expenses:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-9-00-000-0200 Claims Payment</td>
<td>493,912</td>
<td>516,965</td>
</tr>
<tr>
<td>3-9-00-000-0910 Administrative Fee</td>
<td>181,667</td>
<td>176,667</td>
</tr>
<tr>
<td>3-9-00-000-0994 Bank Service Charges</td>
<td>690</td>
<td></td>
</tr>
<tr>
<td>Total Expenses</td>
<td>676,268</td>
<td>693,632</td>
</tr>
<tr>
<td>Investment Income</td>
<td>15,910</td>
<td>20,943</td>
</tr>
<tr>
<td>Increase/Decrease in Net Position</td>
<td>578</td>
<td>(58,455)</td>
</tr>
<tr>
<td>Net Position, Beginning of Year</td>
<td>1,996,790</td>
<td></td>
</tr>
<tr>
<td>Net Position, End of Period</td>
<td>1,997,368</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Amount</td>
<td></td>
</tr>
<tr>
<td>---------------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>July 31, 2017</td>
<td>9.8</td>
<td></td>
</tr>
<tr>
<td>July 31, 2018</td>
<td>9.3</td>
<td></td>
</tr>
<tr>
<td>July 31, 2019</td>
<td>8.4</td>
<td></td>
</tr>
<tr>
<td>July 31, 2020</td>
<td>7.5</td>
<td></td>
</tr>
</tbody>
</table>

Note: The State Bar of Michigan has no bank debt outstanding
<table>
<thead>
<tr>
<th>Assets</th>
<th>Fund Rating</th>
<th>Financial Institution Summary</th>
<th>Interest Rate</th>
<th>Fund Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>SBM Chase Checking</td>
<td>122,850.00</td>
<td></td>
<td>0.00%</td>
<td></td>
</tr>
<tr>
<td>SBM Chase Credit Card</td>
<td>2,992.50</td>
<td></td>
<td>0.00%</td>
<td></td>
</tr>
<tr>
<td>SBM Chase Firestone Services</td>
<td>122,850.00</td>
<td></td>
<td>0.00%</td>
<td></td>
</tr>
<tr>
<td>State Bar Admin Fund</td>
<td>1,871,928.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney Discipline System</td>
<td>3,564,341.18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBM Chase Checking</td>
<td>122,850.00</td>
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<tr>
<td>SBM Chase Savings</td>
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<td>ADS Chase Checking</td>
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<td>Comp Checking</td>
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<td>Comp Savings</td>
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<td>** Chase Totals</td>
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<tr>
<td>**2.38 Trillion</td>
<td>5 stars</td>
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<tr>
<td>**2.73 Trillion</td>
<td>5 stars</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>**1.36 Billion</td>
<td>3.5 stars</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>SBM - CD First National Bank of America</td>
<td>240,000.00</td>
<td></td>
<td>0.00%</td>
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<tr>
<td>State Bar Admin Fund</td>
<td>10,369,169.57</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney Discipline System</td>
<td>3,664,341.18</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>**1.36 Billion</td>
<td>3.5 stars</td>
<td></td>
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<tr>
<td>SBM - Grand River Bank</td>
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<td>0.00%</td>
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<tr>
<td>State Bar Admin Fund</td>
<td>1,050,567.23</td>
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<td></td>
<td></td>
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<tr>
<td>**1.36 Billion</td>
<td>3.5 stars</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>SBM - Charles Schwab (Ret HC Trust)</td>
<td>3,752,320.61</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AGB - Charles Schwab (Ret HC Trust)</td>
<td>1,061,561.23</td>
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<td></td>
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<tr>
<td>AGC - Charles Schwab (Ret HC Trust)</td>
<td>3,752,320.64</td>
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<td></td>
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<tr>
<td>**1.36 Billion</td>
<td>3.5 stars</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Grand Total (including Schwab)</td>
<td>9,904,572.00</td>
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</table>

**Assets Summary**

| Total Cash Investments (excluding Schwab) | 15,995,439.55 | | | | Total Cash Investments (excluding Schwab) | 15,995,439.55 |
| SBM - Charles Schwab (Ret HC Trust) | 3,752,320.61 | | | | SBM - Charles Schwab (Ret HC Trust) | 3,752,320.61 |
| AGB - Charles Schwab (Ret HC Trust) | 1,061,561.23 | | | | AGB - Charles Schwab (Ret HC Trust) | 1,061,561.23 |
| AGC - Charles Schwab (Ret HC Trust) | 3,752,320.64 | | | | AGC - Charles Schwab (Ret HC Trust) | 3,752,320.64 |

**Cash & Investment Totals**

| Total Cash & Investments (excluding Schwab) | 10,369,169.57 | | | | Total Cash & Investments (excluding Schwab) | 10,369,169.57 |
| State Bar Admin Fund | 1,050,567.23 | | | | State Bar Admin Fund | 1,050,567.23 |
| Attorney Discipline System | 3,664,341.18 | | | | Attorney Discipline System | 3,664,341.18 |
| **1.36 Billion | 3.5 stars | | | | **1.36 Billion | 3.5 stars |
| Grand Total (including Schwab) | 9,904,572.00 | | | | Grand Total (including Schwab) | 9,904,572.00 |

**Total Cash Payments**

| Total amount of cash and investments (excluding Schwab) not FDIC insured | 5,771,292.07 | | | | Total amount of cash and investments (excluding Schwab) not FDIC insured | 5,771,292.07 |
# Monthly SBM Attorney and Affiliate Report - July 31, 2020

## FY 2020

### Attorneys and Affiliates in Good Standing

<table>
<thead>
<tr>
<th></th>
<th>September 30</th>
<th>September 30</th>
<th>September 30</th>
<th>September 30</th>
<th>September 30</th>
<th>July 30</th>
<th>FY Increase</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
<td>2015</td>
<td>2016</td>
<td>2017</td>
<td>2018</td>
<td>2019</td>
<td>(Decrease)</td>
</tr>
<tr>
<td>Active</td>
<td>41,093</td>
<td>41,608</td>
<td>41,921</td>
<td>42,100</td>
<td>42,342</td>
<td>42,506</td>
<td>42,389</td>
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<td>less than 50 yrs serv</td>
<td>40,036</td>
<td>40,490</td>
<td>40,726</td>
<td>40,833</td>
<td>40,973</td>
<td>41,036</td>
<td>40,792</td>
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<td>50 yrs or greater</td>
<td>1,057</td>
<td>1,118</td>
<td>1,196</td>
<td>1,267</td>
<td>1,369</td>
<td>1,470</td>
<td>1,597</td>
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<tr>
<td>Voluntary Inactive</td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>less than 50 yrs serv</td>
<td>1,184</td>
<td>1,195</td>
<td>1,230</td>
<td>1,217</td>
<td>1,142</td>
<td>1,105</td>
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<td>50 yrs or greater</td>
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<td>23</td>
<td>20</td>
<td>26</td>
<td>27</td>
<td>34</td>
<td>36</td>
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<tr>
<td>Emeritus</td>
<td>1,552</td>
<td>1,678</td>
<td>1,841</td>
<td>1,973</td>
<td>2,204</td>
<td>2,447</td>
<td>2,703</td>
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<tr>
<td>Total Attorneys in Good Standing</td>
<td>43,856</td>
<td>44,504</td>
<td>45,012</td>
<td>45,316</td>
<td>45,715</td>
<td>46,092</td>
<td>46,302</td>
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<td>Fees paying Attorneys (Active &amp; Inactive less than 50 yrs of Serv)</td>
<td>41,220</td>
<td>41,685</td>
<td>41,955</td>
<td>42,050</td>
<td>42,115</td>
<td>42,141</td>
<td>41,966</td>
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<tr>
<td>Affiliates</td>
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<td>Legal Administrators</td>
<td>14</td>
<td>13</td>
<td>13</td>
<td>10</td>
<td>10</td>
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<td>Legal Assistants</td>
<td>413</td>
<td>425</td>
<td>405</td>
<td>400</td>
<td>401</td>
<td>393</td>
<td>415</td>
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<tr>
<td>Total Affiliates in Good Standing</td>
<td>427</td>
<td>438</td>
<td>418</td>
<td>413</td>
<td>411</td>
<td>403</td>
<td>425</td>
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</table>

### Total Attorneys and Former Attorneys in the Database

<table>
<thead>
<tr>
<th></th>
<th>September 30</th>
<th>September 30</th>
<th>September 30</th>
<th>September 30</th>
<th>September 30</th>
<th>June 30</th>
<th>FY Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
<td>2015</td>
<td>2016</td>
<td>2017</td>
<td>2018</td>
<td>2020</td>
<td>(Decrease)</td>
</tr>
<tr>
<td>ATA (Active)</td>
<td>41,093</td>
<td>41,608</td>
<td>41,921</td>
<td>42,100</td>
<td>42,342</td>
<td>42,506</td>
<td>42,389</td>
</tr>
<tr>
<td>ATVI (Voluntary Inactive)</td>
<td>1,211</td>
<td>1,218</td>
<td>1,250</td>
<td>1,243</td>
<td>1,169</td>
<td>1,139</td>
<td>1,210</td>
</tr>
<tr>
<td>ATE (Emeritus)</td>
<td>1,552</td>
<td>1,678</td>
<td>1,841</td>
<td>1,973</td>
<td>2,204</td>
<td>2,447</td>
<td>2,703</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Attorneys in Good Standing</td>
<td>43,856</td>
<td>44,504</td>
<td>45,012</td>
<td>45,316</td>
<td>45,715</td>
<td>46,092</td>
<td>46,302</td>
</tr>
<tr>
<td>Attorneys Not in Good Standing</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>ATN (Suspended for Non-Payment of Dues)</td>
<td>5,427</td>
<td>5,578</td>
<td>5,743</td>
<td>5,888</td>
<td>6,072</td>
<td>6,246</td>
<td>6,439</td>
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<tr>
<td>ATDS (Discipline Suspension - Active)</td>
<td>407</td>
<td>415</td>
<td>418</td>
<td>430</td>
<td>439</td>
<td>440</td>
<td>444</td>
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<td>ATDI (Discipline Suspension - Inactive)</td>
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<td>18</td>
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<td>ATDC (Discipline Suspension - Non-Payment of Court Costs)</td>
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<td>3</td>
<td>3</td>
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<td>15</td>
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<tr>
<td>ATNS (Discipline Suspension - Non-Payment of Other Costs)</td>
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<td>82</td>
<td>99</td>
<td>94</td>
<td>95</td>
<td>98</td>
<td>100</td>
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<td>ATS (Attorney Suspension - Other)*</td>
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<td>1</td>
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<td>1</td>
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<tr>
<td>ATR (Revoked)</td>
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<td>517</td>
<td>534</td>
<td>562</td>
<td>583</td>
<td>596</td>
<td>611</td>
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<tr>
<td>ATU (Status Unknown - Last known status was inactive)**</td>
<td>2,089</td>
<td>2,076</td>
<td>2,074</td>
<td>2,070</td>
<td>2,070</td>
<td>2,070</td>
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</tr>
<tr>
<td>Total Attorneys Not in Good Standing</td>
<td>9,540</td>
<td>9,693</td>
<td>9,890</td>
<td>9,979</td>
<td>9,234</td>
<td>9,491</td>
<td>9,707</td>
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<tr>
<td>Other</td>
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<td></td>
<td></td>
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<tr>
<td>ATSC (Former special certificate)</td>
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<td>140</td>
<td>145</td>
<td>152</td>
<td>155</td>
<td>157</td>
<td>158</td>
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<td>ATW (Resolved)</td>
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<td>1,483</td>
<td>1,539</td>
<td>1,612</td>
<td>1,689</td>
<td>1,798</td>
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<td>ATX (Deceased)</td>
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<td>8,445</td>
<td>8,720</td>
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<td>9,287</td>
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<tr>
<td>Total Other</td>
<td>9,692</td>
<td>10,068</td>
<td>10,404</td>
<td>10,806</td>
<td>11,131</td>
<td>11,479</td>
<td>11,808</td>
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</tr>
<tr>
<td>Total Attorneys in Database</td>
<td>62,088</td>
<td>63,265</td>
<td>64,306</td>
<td>65,201</td>
<td>66,140</td>
<td>67,062</td>
<td>67,817</td>
</tr>
</tbody>
</table>

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the iMIS database

The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through July 31, 2020 a total of 761 new attorneys joined the SBM in FY 2020
TO: Board of Commissioners
FROM: Professional Standards Committee
DATE: September 16, 2020, BOC Meeting
RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that “claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant.” To protect CPF claim information as required in the Rule, and to avoid negative publicity about a lawyer subject to a claim, which has been denied and appealed, the CPF Report to the Board of Commissioners is designated “confidential.”

CONSENT AGENDA
CLIENT PROTECTION FUND

Claims recommended for payment:

Consent Agenda

<table>
<thead>
<tr>
<th>Claim No.</th>
<th>Amt. Recommended</th>
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</thead>
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<td>CPF 3412</td>
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</tr>
<tr>
<td>CPF 3454</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>CPF 3455</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>CPF 3530</td>
<td>$2,175.00</td>
</tr>
<tr>
<td>CPF 3598</td>
<td>$1,582.50</td>
</tr>
<tr>
<td>CPF 3633</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>CPF 3644</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>CPF 3645</td>
<td>$64,664.61</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$101,422.11</td>
</tr>
</tbody>
</table>

The Professional Standards Committee recommends payment of these claims by the State Bar of Michigan Client Protection Fund:

1. CPF 3412 $2,000.00
   Claimant retained Respondent regarding an immigration matter and paid a fee of $2,000. Respondent did not complete any services before he was disbarred. Respondent's failure to return the unearned fee constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).
2. CPF 3454  $4,000.00
Claimant retained Respondent regarding an immigration matter and paid $4,000 toward an agreed
upon fee of $6,000. Respondent did not complete any services before he was disbarred.
Respondent’s failure to return the unearned fee constitutes dishonest conduct and is a reimbursable
loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

3. CPF 3455  $9,000.00
Claimant retained Respondent regarding three separate immigration matters and paid $9,000 toward
the fee. Respondent completed some research but could not complete the services before he was
disbarred. Respondent’s failure to refund the unearned $9,000 received for the three matters
constitutes dishonest conduct and is a reimbursable loss.

4. CPF 3530  $2,175.00
Claimant retained Respondent for representation in three post-divorce matters and paid $3,100.
Respondent drafted and filed pleadings and paid the $175 filing fee, billing Claimant $925 for
services rendered. Thereafter, Respondent abandoned the matters. Respondent’s failure to return
the unearned portion of the legal fee advanced to him constitutes dishonest conduct and is a
reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

5. CPF 3598  $1,582.50
Claimant retained Respondent regarding real estate matter and paid $1,582.50 for the representation.
Respondent did not complete any legal services. Respondent’s failure to return the unearned fee
constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1), 9(C)(6)
and 11(B).

6. CPF 3633  $5,000.00
Claimant retained Respondent regarding two criminal matters and paid $5,000 toward the agreed
upon fee. The first agreement stated that it was “non-refundable,” but did not meet the
requirements for a non-refundable fee agreement required by Cooper.1 Claimant and Respondent met
before Respondent’s license to practice law was suspended, preventing completion of the legal
services. Attorneys experienced in this practice area opined that the $2,500 charged for just the
evaluation was clearly excessive and that the costs for an evaluation would never amount to $500.
Thus, the nonrefundable $2,500 fee and the $500 for costs charged by Respondent were deemed
unreasonable or excessive under MRPC 1.5(a) and no services were provided under the second
agreement. Respondent’s failure to return the unearned fee advanced to him constitutes dishonest
conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 9(C)(6).

---

1 In *Grievance Adm'r v Cooper*, 757 NW2d 867 (Mich 2008), the Michigan Supreme Court ruled as follows regarding a
nonrefundable retainer:

As written, the agreement clearly and unambiguously provided that the respondent was retained to represent
the client and that the minimum fee was incurred upon execution of the agreement, regardless of whether the
representation was terminated by the client before the billings at the stated hourly rate exceeded the minimum.
So understood, neither the agreement nor the respondent’s retention of the minimum fee after the client
terminated the representation violated existing MRPC 1.5(a), MPRC 1.15(b) or MRPC 1.16(d).
7. CPF 3644  $13,000.00

Claimant retained Respondent for representation in a worker’s compensation matter. Per Respondent’s instructions, Claimant remitted $13,000 to Respondent’s attorney trust account to be held in safekeeping in the event of a settlement. Respondent misappropriated the funds and was later suspended from the practice of law and ordered to pay $13,000 in restitution to Claimant. Respondent’s failure to return the settlement funds constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 11(B).

8. CPF 3645  $64,664.61

Claimant contacted Respondent regarding a Trust. Respondent became Trustee and was convicted of embezzling $64,664.61 from the Trust along with additional convictions for filing a false tax return and wire fraud. Respondent was ordered to pay $366,861.46 in restitution, including $64,664.61 to the Trust. Respondent’s misappropriation of trust funds constitutes dishonest conduct and is a reimbursable loss as provided by CPF Rules 9(C)(1) and 11(B).

For all Claims, CPF staff is granted permission to adjust the amount payable on any claim listed above to reflect any payments made on behalf of the Respondent and received by the Claimant or payee before the Fund receives an executed subrogation agreement and issues a check, without further review.

Total payments recommended: $101,422.11
The Committee on Model Criminal Jury Instructions solicits comment on the
following proposal by October 1, 2020. Comments may be sent in writing to Samuel
R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall
of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to
MCrimJI@courts.mi.gov.

The Committee proposes amending instruction M Crim JI 13.19 and adding a new
instruction, M Crim JI 13.19a, to address offenses charged under MCL 750.411a, as
amended, for making a false report of a crime (M Crim JI 13.19) or a false report of
a medical or other emergency (M Crim JI 13.19a). With respect to amendments to
M Crim JI 13.19, deleted language from the current instruction is in strikeout and
added language is underlined; M Crim JI 13.19a is entirely new.


(1) The defendant is charged with making a false report in connection
with a felony of a crime to the police. To prove this charge the prosecutor
must prove each of the following elements beyond a reasonable doubt:

(2) First, the defendant [reported / caused (another person / identify
person who made report) to make a report] that a the crime of (identify crime
reported) had been committed.

(3) Second, that the report was made to [a police officer or a police
agency / a 9-1-1 operator / (identify government employee or contractor) if
(he / she) was authorized to receive emergency reports].

(4) Third, that the report was false as to either the fact that the
crime was committed or the detail[s] of the crime.
(5) Fourth, that when the defendant [made the report / caused the report to be made], the defendant knew it was false.

(6) Fifth, that the defendant intended to [make a made the false report / caused the false report to be made] intentionally concerning a crime.

(6) Fifth, that the crime reported was a felony, i.e., an offense [punishable by more than one year incarceration / declared by statute to be a felony].

[Use the following where an aggravating factor has been charged.]

(7) Sixth, that the report resulted in a response to address the reported crime and [name injured person] suffered physical injury as a consequence of [his / her] lawful conduct arising out of the response.

(8) Sixth, that the report resulted in a response to address the reported crime and [name injured person] suffered serious impairment of a body function as a consequence of [his / her] lawful conduct arising out of the response.

(9) Sixth, that the report resulted in a response to address the reported crime and [name deceased person] died as a consequence of [his / her] lawful conduct arising out of the response.

Use Note

This instruction does not cover false report of bomb threats, which is addressed separately in the statute MCL 750.411a(2).
(1) The defendant is charged with making a false report of a medical emergency or other emergency to police or fire personnel.

(2) First, the defendant [reported / caused (another person / identify person who made report) to make a report] that there was a medical emergency or other emergency.

(3) Second, that the report was made to [a police officer or a police agency / a firefighter or fire department / a 9-1-1 operator / a medical first responder / (identify government employee or contractor) if (he / she) was authorized to receive emergency reports].

(4) Third, that the report was false.

(5) Fourth, that when the defendant [made the report / caused the report to be made], [he / she] knew it was false.

(6) Fifth, that the defendant [made the false report / caused the false report to be made] intentionally.

[Use the following where an aggravating factor has been charged.]

(7) Sixth, that the report resulted in a response to address the reported emergency and [name injured person] suffered physical injury as a consequence of [his / her] lawful conduct arising out of the response.

(8) Sixth, that the report resulted in a response to address the reported emergency and [name injured person] suffered serious impairment of a body function as a consequence of [his / her] lawful conduct arising out of the response.

(9) Sixth, that the report resulted in a response to address the reported emergency and [name deceased person] died as a consequence of [his / her] lawful conduct arising out of the response.
Public Policy Position
M Crim JI 13.19 and 13.19a

Support as Drafted

**Explanation**
The committee unanimously supported the proposed Model Criminal Jury Instructions 13.19 and 13.19a as drafted.

**Position Vote:**
Voted For position: 17
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 4

**Contact Persons:**
Mark A. Holsomback  mahols@kalcounty.com
Sofia V. Nelson  snelson@sado.org
The Committee on Model Criminal Jury Instructions proposes a revision of Chapter 15 (Traffic Offenses) of the Model Criminal Jury Instructions. Repeated statutory amendments over the past four decades have left the jury instructions for this chapter a hodgepodge and inconsistent in format with other chapters, especially the driving-while-intoxicated portion of Chapter 15. The Committee offers a rewrite that organizes the instructions according to the current statutory structure for driving offenses in a more consistent and comprehensive format.

The instructions are divided into four sets in hopes of making them more convenient to compare and review. The first set of instructions are the current instructions, M Crim JI 15.1 through 15.13, involving intoxicated driving. They are followed by the proposed amended instructions for intoxicated driving, M Crim JI 15.1 through 15.12, including three new instructions: M Crim JI 15.10 (Owner or Person in Control of Vehicle Permitting Operation By Another Person While Intoxicated or Impaired), 15.11 (Person Under 21 Operating With Any Alcohol in System) and 15.12 (Violation With a Person Under the Age of 16 in the Motor Vehicle). The next set of instructions are the current instructions for other driving offenses, M Crim JI 15.14 through 15.25. Those are followed by the proposed revised jury instructions for those offenses, M Crim JI 15.13 through 15.17a.

Again, comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrJII@courts.mi.gov.
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Current intoxicated-driving jury instructions MCrImJI 15.1 through 15.13 are on following pages (pp 3-26)
M Crim JI 15.1 Operating While Intoxicated [OWI]

[The defendant is charged with / You may also consider the less serious charge of] operating a motor vehicle [Choose from the following:]

1. with an unlawful bodily alcohol level; [and/or]
2. while under the influence of alcohol; [or]
3. while under the influence of a controlled substance; [or]
4. while under the influence of an intoxicating substance; [or]
5. while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance].

Use Note

1 Select the appropriate combination of alcohol/substances based on the evidence presented.
M Crim JI 15.1a Operating With High Bodily Alcohol Content [OWHBAC]

(1) The defendant is charged with operating a motor vehicle with a high bodily alcohol content. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt.

(2) First, that the defendant was operating a motor vehicle on or about [state date]. Operating means driving or having actual physical control of the vehicle.

(3) Second, that the defendant was operating a vehicle on a highway or other place open to the public or generally accessible to motor vehicles [, including an area designated for parking vehicles].

(4) Third, that the defendant operated the vehicle with a bodily alcohol content of 0.17 grams or more per [100 milliliters of blood / 210 liters of breath / 67 milliliters of urine].

Use Note

Lesser offense instructions for the offenses of operating while intoxicated and operating while visibly impaired involving the consumption of alcohol must be given. See appropriate provisions of M Crim JI 15.1, 15.2, 15.3 and 15.4.
M Crim JI 15.2 Elements Common to Operating While Intoxicated [OWI] and Operating While Visibly Impaired [OWVI]

To prove that the defendant operated while intoxicated [or while visibly impaired], the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, that the defendant was operating a motor vehicle [on or about (state date)]. Operating means driving or having actual physical control of the vehicle.

(2) Second, that the defendant was operating a vehicle on a highway or other place open to the public or generally accessible to motor vehicles.

(3) Third, that the defendant was operating the vehicle in the [county / city] of ________________________________.
(1) To prove that the defendant operated a motor vehicle while intoxicated, the prosecutor must also prove beyond a reasonable doubt that the defendant [choose from the following]:

(a) operated the vehicle with a bodily alcohol level of 0.08 grams or more [per 100 milliliters of blood / 210 liters of breath / 67 milliliters of urine];

(b) was under the influence of alcohol while operating the vehicle;

(c) was under the influence of a controlled substance while operating the vehicle;

(d) was under the influence of an intoxicating substance while operating the vehicle;

(e) was under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance] while operating the vehicle.

[Choose (i), (ii), or (iii) as appropriate:]

(i) [Name substance] is a controlled substance.

(ii) [Name substance] is an intoxicating substance.

(iii) An intoxicating substance is a substance in any form, including but not limited to vapors and fumes, other than food, that was taken into the defendant’s body in any manner, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.

(2) [“Under the influence of alcohol” / “Under the influence of a controlled substance” / “Under the influence of an intoxicating substance”] means that because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s ability to operate a motor vehicle in a normal manner was substantially lessened. To be under the influence, a person does not have to be falling down or hardly able to stand up. On the other hand, just because a person has [drunk alcohol or smells of alcohol / consumed or used a controlled substance / consumed or used an intoxicating substance] does not prove, by
itself, that the person is under the influence of [alcohol / a controlled substance / an intoxicating substance]. The test is whether, because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s mental or physical condition was significantly affected and the defendant was no longer able to operate a vehicle in a normal manner.

**Use Note**

1 If the defendant is charged with OWI by virtue of bodily alcohol content only, use the appropriate bracketed material in this paragraph (1)(a) and do not use any of the following paragraphs (1)(b) through (e). If the defendant is charged with OWI by virtue of operating under the influence of alcohol, a controlled substance or an intoxicating substance only, do not use this paragraph (1)(a), but use the appropriate alternative paragraphs (1)(b)-(e) with the associated alternatives in paragraph (2). If the defendant is charged with OWI alternatively as having an unlawful bodily alcohol content or operating under the influence of alcohol or a substance, use the appropriate paragraphs based on the evidence presented.

2 Select the appropriate combination of alcohol or substances based on the evidence presented.

3 Certain substances are intoxicating substances as a matter of law. The sources for determining those substances are found in MCL 257.625(25)(a)(i).
M Crim JI 15.3a Operating with Any Amount of Schedule 1 or 2 Controlled Substance

(1) The defendant is charged with the crime of operating a motor vehicle with a controlled substance in [his / her] body. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle. “Operating” means driving or having actual physical control of the vehicle.

(3) Second, that the defendant was operating the vehicle on a highway or other place that was open to the public [or generally accessible to motor vehicles, including any designated parking area].

(4) Third, that while operating the vehicle, the defendant had any amount of [state specific schedule 1 or 2 controlled substance alleged] in [his / her] body.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed or used a controlled substance.
[The defendant is charged with / You may also consider the less serious charge of] operating a motor vehicle while visibly impaired. To prove that the defendant operated while visibly impaired, the prosecutor must prove beyond a reasonable doubt that, due to the [drinking of alcohol / use or consumption of a controlled substance / use or consumption of an intoxicating substance / use or consumption of a combination of (alcohol / a controlled substance / an intoxicating substance)\(^1\)], the defendant drove with less ability than would an ordinary careful driver. The defendant’s driving ability must have been lessened to the point that it would have been noticed by another person.

Use Note

\(^1\) Select the appropriate combination of alcohol/substances based on the evidence presented.
As you consider the possible verdicts, you should think about the following:

[Choose appropriate paragraphs:]

(1) What was the mental and physical condition of the defendant at the time that [he / she] was operating the motor vehicle? Were the defendant’s reflexes, ability to see, way of walking and talking, manner of driving, and judgment normal? If there was evidence that any of these things seemed abnormal, was this caused by [drinking alcohol / using or consuming a controlled substance / using or consuming an intoxicating substance / using or consuming a combination of (alcohol / a controlled substance / an intoxicating substance)]?

(2) You may also consider bodily alcohol content in reaching your verdict. In that regard, [was / were] the test(s) technically accurate? Was the equipment properly assembled and maintained and in good working order when the test(s) [was / were] given?

(3) Were the test results reliable? Was the test given correctly? Was the person who gave it properly trained? Did the circumstances under which the test was given affect the accuracy of the results?

(4) One way to determine whether a person is intoxicated is to measure how much alcohol is in [his / her] [blood / breath / urine]. There was evidence in this trial that a test was given to the defendant. The purpose of this test is to measure the amount of alcohol in a person’s [blood / breath / urine].

[Choose (5)(a) or (5)(b):]

(5) If you find

(a) that there were 0.17 grams or more of alcohol [per 100 milliliters of blood / per 210 liters of breath / per 67 milliliters of urine] when [he / she] operated the vehicle, you may find that the defendant was operating a motor vehicle with a high bodily alcohol content, whether or not it affected the defendant’s ability to operate a motor vehicle.
(b) that there were 0.08 grams or more of alcohol [per 100 milliliters of blood / per 210 liters of breath / per 67 milliliters of urine] when [he / she] operated the vehicle, you may find the defendant guilty of operating a motor vehicle with an unlawful bodily alcohol content, whether or not this alcohol content affected the defendant’s ability to operate a motor vehicle.

(6) You may infer that the defendant’s bodily alcohol content at the time of the test was the same as [his / her] bodily alcohol content at the time [he / she] operated the motor vehicle.²

(7) In considering the evidence and arriving at your verdict, you may give the test whatever weight you believe that it deserves. The results of a test are just one factor you may consider, along with all other evidence about the condition of the defendant at the time [he / she] was operating the motor vehicle.

Use Note

Read both (5)(a) and (5)(b) if operating with a high bodily alcohol content is charged. Otherwise, read only (5)(b).¹

¹ Where a combination of alcohol and other controlled or intoxicating substances is shown, select the appropriate combination of alcohol/substances based on the evidence presented.

² If the evidence warrants, the following can be added to this paragraph (6): “However, you have heard evidence that the defendant consumed alcohol after driving but before the [blood / breath / urine] test was administered. You may consider this evidence in determining whether to infer that the defendant’s bodily alcohol content at the time of the test was the same as [his / her] bodily alcohol content at the time that [he / she] operated the motor vehicle.”
M Crim JI 15.6 Possible Verdicts Where OWHBAC Is Not Charged

There are three possible verdicts:

(1) Not guilty, or

(2) Guilty of

[Choose appropriate paragraphs:]

(a) operating a motor vehicle with an unlawful bodily alcohol level; [or]

(b) operating a motor vehicle while under the influence of alcohol; [or]

(c) operating a motor vehicle while under the influence of a controlled substance; [or]

(d) operating a motor vehicle while under the influence of an intoxicating substance; [or]

(e) operating a motor vehicle while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance].

[(f) If you all agree that the defendant operated a motor vehicle either with an unlawful bodily alcohol level or while under the influence of [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)]1, it is not necessary that you agree on which of these violations occurred. However, in order to return a verdict of guilty, you must all agree that one of those violations did occur.]2

[or]

(3) Guilty of operating a motor vehicle while visibly impaired.

Use Note

1 Select the appropriate combination of alcohol/substances based on the evidence presented.
Use bracketed paragraph (2)(f) only if the defendant is charged with both unlawful bodily alcohol level (UBAL) and operating while intoxicated (OWI). This paragraph specifically states that the jury need not be unanimous on which theory applies as long as all jurors agree that the defendant violated MCL 257.625 in at least one fashion. See *People v Nicolaides*, 148 Mich App 100; 383 NW2d 620 (1985).
M Crim JI 15.6a Possible Verdicts Where OWHBAC Is Charged

There are four possible verdicts:

(1) Not guilty, or

(2) Guilty of operating a vehicle with a high bodily alcohol content, or

(3) Guilty of

[Choose appropriate paragraphs:]

(a) operating a motor vehicle with an unlawful bodily alcohol level; [or]

(b) operating a motor vehicle while under the influence of alcohol; [or]

(c) operating a motor vehicle while under the influence of a controlled substance; [or]

(d) operating a motor vehicle while under the influence of an intoxicating substance; [or]

(e) operating a motor vehicle while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance].1

[(f) If you all agree that the defendant operated a motor vehicle either with an unlawful bodily alcohol level or while under the influence of [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)], it is not necessary that you agree on which of these violations occurred. However, in order to return a verdict of guilty, you must all agree that one of those violations did occur.]2

[or]

(4) Guilty of operating a motor vehicle while visibly impaired.

Use Note

1 Select the appropriate combination of alcohol/substances based on the evidence presented.
Use bracketed paragraph (3)(f) only if the defendant is charged with both unlawful bodily alcohol level (UBAL) and operating while intoxicated (OWI). This paragraph specifically states that the jury need not be unanimous on which theory applies as long as all jurors agree that the defendant violated MCL 257.625 in at least one fashion. See People v Nicolaides, 148 Mich App 100; 383 NW2d 620 (1985).
M Crim JI 15.7 Verdict Form Where OWHBAC Is Not Charged

Defendant: ________________________________

POSSIBLE VERDICTS:

You may return only one verdict on this charge. Mark only (1), (2) or (3).

(1) ☐ Not guilty

(2) ☐ Guilty of Operating While Intoxicated

(3) ☐ Guilty of the less serious offense of Operating While Visibly Impaired

M Crim JI 15.7a Verdict Form Where OWHBAC Is Charged

Defendant: ________________________________

POSSIBLE VERDICTS:

You may return only one verdict on this charge. Mark only (1), (2), (3) or (4).

(1) ☐ Not guilty

(2) ☐ Guilty of Operating with a High Bodily Alcohol Content

(3) ☐ Guilty of the less serious offense of Operating While Intoxicated

(4) ☐ Guilty of the less serious offense of Operating While Visibly Impaired
M Crim JI 15.8 Verdict Form [modified and renumbered 15.7 in 1993]

[This instruction was modified and renumbered M Crim JI 15.7 as part of the 1993 revision of chapter 15.]

M Crim JI 15.9 Defendant’s Decision to Forgo Chemical Testing

Evidence has been admitted in this case that the defendant refused to take a chemical test. If you find that the defendant did refuse, that evidence was admitted solely for the purpose of showing that a test was offered to the defendant. That evidence is not evidence of guilt.

Use Note

MCL 257.625a(9) provides: A person’s refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 625c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant’s innocence or guilt. The jury shall be instructed accordingly.

M Crim JI 15.10 Felonious Driving [Use for Acts Occurring Before October 31, 2010] [deleted]

Note. This instruction was deleted May, 2010, due to the repeal of the felonious driving statute, MCL 257.626c, by 2008 PA 463, effective October 31, 2010. The offense previously covered by this instruction is dealt with in M Crim JI 15.17.
(1) The defendant is charged with the crime of operating\(^1\) a motor vehicle while intoxicated or while visibly impaired causing the death of another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle on or about [state date] in the [county / city] of [state jurisdiction]. Operating means driving or having actual physical control of the vehicle.

(3) Second, that the defendant was operating the vehicle on a highway or other place that was open to the public [or generally accessible to motor vehicles, including any designated parking area].

(4) Third, that while operating the vehicle, the defendant was intoxicated or visibly impaired.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)\(^2\)] and might be intoxicated or visibly impaired.

(6) Fifth, that the defendant’s operation of the vehicle caused the victim’s death. To “cause” the victim’s death, the defendant’s operation of the vehicle must have been a factual cause of the death, that is, but for the defendant’s operation of the vehicle the death would not have occurred. In addition, operation of the vehicle must have been a proximate cause of death, that is, death or serious injury must have been a direct and natural result of operating the vehicle.

\(^{1}\) The term “operating” has been defined by the Michigan Supreme Court in *People v Wood*, 450 Mich 399, 538 NW2d 351 (1995). The court held that “[o]nce a person using a motor vehicle as a motor vehicle has put the vehicle in motion, or in a position posing a significant risk of causing a collision, such a person continues to operate it until the vehicle is returned to a position posing no such risk.”\(^{2}\) *Id.* at 404-405. The holding in *Wood* was applied in *People v Lechleitner*, 291 Mich App
56, 804 NW2d 345 (2010), which held that the defendant was properly convicted under the operating-while-intoxicated-causing-death statute where he was intoxicated, operated his vehicle, and crashed it, with the result that it sat in the middle of the freeway at night creating a risk of injury or death to others, and a following car swerved to miss his stopped truck and killed another motorist on the side of the road.

If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of death because of an intervening, superseding cause, review *People v Schaefer*, 473 Mich 418, 438-439, 703 NW2d 774 (2005). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316, 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184, 783 NW2d 67 (2010).

2 Select the appropriate combination of alcohol/substances based on the evidence presented.
(1) The defendant is charged with the crime of operating a motor vehicle with a controlled substance in [his / her] body causing the death of another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle on or about [state date] in the [county / city] of [state jurisdiction]. Operating means driving or having actual physical control of the vehicle.

(3) Second, that the defendant was operating the vehicle on a highway or other place that was open to the public [or generally accessible to motor vehicles, including any designated parking area].

(4) Third, that while operating the vehicle, the defendant had any amount of [state specific schedule 1 controlled substance or controlled substance in MCL 333.7214(a)(iv) alleged by the prosecutor] in [his / her] body.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed or used a controlled substance.

(6) Fifth, that the defendant’s operation of the vehicle caused the victim’s death. To “cause” the victim’s death, the defendant’s operation of the vehicle must have been a factual cause of the death, that is, but for the defendant’s operation of the vehicle the death would not have occurred. In addition, operation of the vehicle must have been a proximate cause of death, that is, death or serious injury must have been a direct and natural result of operating the vehicle.

Use Note

This instruction is intended to state the elements of the offense found at MCL 257.625(4) and (8).

1. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of death because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d 774 (2005). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316, 715 NW2d
822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184, 783 NW2d 67 (2010).
(1) The defendant is charged with the crime of operating a motor vehicle while intoxicated or while visibly impaired causing serious impairment of a body function to another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle on or about [state date] in the [county / city] of [state jurisdiction]. Operating means driving or having actual physical control of the vehicle.

(3) Second, that the defendant was operating the vehicle on a highway or other place that was open to the public [or generally accessible to motor vehicles, including any designated parking area].

(4) Third, that while operating the vehicle, the defendant was intoxicated or visibly impaired.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)]\(^1\) and might be intoxicated or visibly impaired.

(6) Fifth, that the defendant’s operation of the vehicle caused\(^2\) a serious impairment of a body function\(^3\) to [name victim]. To “cause” such injury, the defendant’s operation of the vehicle must have been a factual cause of the injury, that is, but for the defendant’s operation of the vehicle the injury would not have occurred. In addition, operation of the vehicle must have been a proximate cause of the injury, that is, the injury must have been a direct and natural result of operating the vehicle.

Use Note

\(^1\) Select the appropriate combination of alcohol/substances based on the evidence presented.

\(^2\) If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d
(a) Loss of a limb or loss of use of a limb.

(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.

(c) Loss of an eye or ear or loss of use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of an organ.
(1) The defendant is charged with the crime of operating a motor vehicle with any amount of a controlled substance causing serious impairment of a body function to another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle on or about [state date] in the [county / city] of [state jurisdiction]. Operating means driving or having actual physical control of the vehicle.

(3) Second, that the defendant was operating the vehicle on a highway or other place that was open to the public [or generally accessible to motor vehicles, including any designated parking area].

(4) Third, that while operating the vehicle, the defendant had any amount of [state specific schedule 1 controlled substance or controlled substance in MCL 333.7214(a)(iv) alleged by the prosecutor] in [his / her] body.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed or used a controlled substance.

(6) Fifth, that the defendant’s operation of the vehicle caused1 a serious impairment of a body function2 to [name victim]. To “cause” such injury, the defendant’s operation of the vehicle must have been a factual cause of the injury, that is, but for the defendant’s operation of the vehicle the injury would not have occurred. In addition, operation of the vehicle must have been a proximate cause of the injury, that is, the injury must have been a direct and natural result of operating the vehicle.

Use Note

This instruction is intended to state the elements of the offense found at MCL 257.625(5) and (8).

1. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). Schaefer was modified
2. The statute, MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

   (a) Loss of a limb or loss of use of a limb.

   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.

   (c) Loss of an eye or ear or loss of use of an eye or ear.

   (d) Loss or substantial impairment of a bodily function.

   (e) Serious visible disfigurement.

   (f) A comatose state that lasts for more than 3 days.

   (g) Measurable brain or mental impairment.

   (h) A skull fracture or other serious bone fracture.

   (i) Subdural hemorrhage or subdural hematoma.

   (j) Loss of an organ
M Crim JI 15.13 Operating a Commercial Vehicle with an Unlawful Bodily Alcohol Content [UBAL]

(1) The defendant is charged with the crime of operating a commercial motor vehicle with an unlawful bodily alcohol level. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a commercial motor vehicle* on or about [state date] in the [county / city] of [state jurisdiction]. Operating means driving or having actual physical control of the vehicle.

(3) Second, that the defendant had a bodily alcohol content of 0.04 grams or more but less than 0.08 grams per 100 milliliters of blood [per 210 liters of breath or 67 milliliters of urine] when operating the commercial motor vehicle.

Use Note

*For the definition of commercial motor vehicle, see MCL 257.7a.
Proposed intoxicated-driving jury instructions, MCrimJI 15.1 through 15.12, begin on following page (pp 28-63)
M Crim JI 15.1  Operating While Intoxicated; High Bodily Alcohol Content [OWIHBAC]

(1) The defendant is charged with the crime of operating a motor vehicle with a high bodily alcohol content. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(4) Third, that the defendant operated the vehicle with a bodily alcohol level of 0.17 grams or more per [per 100 milliliters of blood / 210 liters of breath / 67 milliliters of urine].

Use Note

Lesser offenses of other forms of OWI and/or OWVI may be given. Use only the provisions for alcohol intoxication when instructing on the lesser offense(s) for this charge.

1. The term “motor vehicle” is defined in MCL 257.33.

M Crim JI 15.1a Operating While Intoxicated; High Bodily Alcohol Content Causing Death or Serious Impairment of a Body Function [OWIHBAC: Death or Serious Impairment]

(1) The defendant is charged with the crime of operating a motor vehicle while intoxicated with a high bodily alcohol content causing [death / serious impairment of a body function to another person].\(^1\) To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.\(^2\) To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].\(^3\)

(4) Third, that the defendant operated the vehicle with a bodily alcohol level of 0.17 grams or more per [per 100 milliliters of blood / 210 liters of breath / 67 milliliters of urine].

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed alcohol.

(6) Fifth, that the defendant’s operation of the vehicle caused\(^4\) [the death of (name decedent) / a serious impairment of a body function\(^5\) to (name injured person)]. To cause [the death / such injury], the defendant’s operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant’s operation of the vehicle, the [death / injury] would not have occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.

Use Notes

1. Lesser offenses of OWI and/or OWVI may be given. Use only the provisions for alcohol intoxication when instructing on the lesser offense(s).

2. The term motor vehicle is defined in MCL 257.33.

4 If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review *People v Schaefer*, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184; 783 NW2d 67 (2010).

5. MCL 257.58c provides that serious impairment of a body function includes but is not limited to one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.
[Choose from the following:]
(a) with an unlawful bodily alcohol level; [and/or]
(b) while under the influence of alcohol; [or]
(c) while under the influence of a controlled substance; [or]
(d) while under the influence of an intoxicating substance; [or]
(e) while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance].

To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.¹ To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].²

(4) Third, that the defendant was intoxicated. That is, the defendant [choose from the following]:

(a) operated the vehicle with a bodily alcohol level of 0.08 grams or more per [100 milliliters of blood / 210 liters of breath / 67 milliliters of urine];
(b) operated the vehicle while under the influence of alcohol;
(c) operated the vehicle while under the influence of a controlled substance;
(d) operated the vehicle while under the influence of an intoxicating substance;
(e) operated the vehicle while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance].

[Choose from the following alternatives where the charge is “under the influence”:]
(5) Under the influence of [alcohol / a controlled substance / an intoxicating substance] means that because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s ability to operate a motor vehicle in a normal manner was substantially lessened. To be under the influence, a person does not have to be falling down or hardly able to stand up. On the other hand, just because a person has [drunk alcohol or smells of alcohol / consumed or used a controlled substance / consuming or taking into (his / her) body an intoxicating substance] does not prove, by itself, that the person is under the influence of [alcohol / a controlled substance / an intoxicating substance]. The test is whether, because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s mental or physical condition was significantly affected and the defendant was no longer able to operate a vehicle in a normal manner.

(6) Where the charge is “under the influence” of a substance other than alcohol choose (a), (b), or (c) as appropriate:

(a) [Name substance] is a controlled substance.

(b) [Name substance] is an intoxicating substance.

(c) An intoxicating substance is a substance in any form, including but not limited to vapors and fumes, other than food, that was taken into the defendant’s body in any manner, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.

Use Note

The lesser offense of OWVI may be given.

1. The term motor vehicle is defined in MCL 257.33.

2. A private driveway is “generally accessible to motor vehicles” and within the purview of the statute. People v Rea, 500 Mich 422; 902 NW2d 362 (2017).
The defendant is charged with the crime of operating a motor vehicle while intoxicated causing [death / serious impairment of a body function to another person]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(4) Third, that the defendant was intoxicated. That is, the defendant [choose from the following]:

(a) operated the vehicle with a bodily alcohol level of 0.08 grams or more per [100 milliliters of blood / 210 liters of breath / 67 milliliters of urine];
(b) operated the vehicle while under the influence of alcohol;
(c) operated the vehicle while under the influence of a controlled substance;
(d) operated the vehicle while under the influence of an intoxicating substance;
(e) operated the vehicle while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance].

[Choose from the following alternatives where the charge is “under the influence”:

(5) Under the influence of [alcohol / a controlled substance / an intoxicating substance] means that because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s ability to operate a motor vehicle in a normal manner was substantially lessened. To be under the influence, a person does
not have to be falling down or hardly able to stand up. On the other hand, just because a person has [drunk alcohol or smells of alcohol / consumed or used a controlled substance / consumed or used an intoxicating substance] does not prove, by itself, that the person is under the influence of [alcohol / a controlled substance / an intoxicating substance]. The test is whether, because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s mental or physical condition was significantly affected and the defendant was no longer able to operate a vehicle in a normal manner.

(6) [Where the charge is “under the influence” of a substance other than alcohol choose (a), (b), or (c) as appropriate:]

(a) [Name substance] is a controlled substance.

(b) [Name substance] is an intoxicating substance.

(c) An intoxicating substance is a substance in any form, including but not limited to vapors and fumes, other than food, that was taken into the defendant’s body in any manner, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.

(7) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)] and might be intoxicated.

(8) Fifth, that the defendant’s operation of the vehicle caused [the death of (name decedent) / a serious impairment of a body function to (name injured person)]. To cause [the death / such injury], the defendant’s operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant’s operation of the vehicle, the [death / injury] would not have occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.

Use Notes

1. Lesser offense(s) of OWI and OWVI may be given.
2. The term *motor vehicle* is defined in MCL 257.33.


4. Select the appropriate combination of alcohol/substances based on the evidence presented.

5. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review *People v Schaefer*, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184; 783 NW2d 67 (2010).

6. MCL 257.58c provides that serious impairment of a body function includes but is not limited to one or more of the following:
   
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.
M Crim JI 15.3 Operating While Visibly Impaired [OWVI]

(1) [The defendant is charged with the crime of / You may also consider the less serious charge of] operating a motor vehicle while visibly impaired. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.\(^1\) To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].\(^2\)

(4) Third, that, due to the [drinking of alcohol / use or consumption of a controlled substance / use or consumption of an intoxicating substance / use or consumption of a combination of (alcohol / a controlled substance / an intoxicating substance)]\(^3\), the defendant drove with less ability than would an ordinary careful driver. The defendant’s ability to drive must have been lessened to the point that it would have been noticed by another person. It is the defendant’s ability to drive that must have been visibly lessened, not the defendant’s manner of driving, though evidence of the defendant’s manner of driving may be considered as evidence of the defendant’s ability to drive.

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. A private driveway is “generally accessible to motor vehicles” and within the purview of the statute. People v Rea, 500 Mich 422; 902 NW2d 362 (2017).

3. Select the appropriate combination of alcohol/substances based on the evidence presented.
M Crim JI 15.3a  Operating While Visibly Impaired Causing Death or Serious Impairment of a Body Function [OWVI: Death or Serious Impairment]

(1) The defendant is charged with the crime of operating a motor vehicle while visibly impaired causing [death / serious impairment of a body function to another person]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(4) Third, that, due to the [drinking of alcohol / use or consumption of a controlled substance / use or consumption of an intoxicating substance / use or consumption of a combination of (alcohol / a controlled substance / an intoxicating substance)], the defendant drove with less ability than would an ordinary careful driver. The defendant’s ability to drive must have been lessened to the point that it would have been noticed by another person. It is the defendant’s ability to drive that must have been visibly lessened, not the defendant’s manner of driving, though evidence of the defendant’s manner of driving may be considered as evidence of the defendant’s ability to drive.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)] and might be visibly impaired.

(6) Fifth, that the defendant’s operation of the vehicle caused [the death of (name decedent) / a serious impairment of a body function to (name injured person)]. To cause [the death / such injury], the defendant’s operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant’s operation of the vehicle, the [death / injury] would not have occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.
Use Notes
1. The term *motor vehicle* is defined in MCL 257.33.


3. Select the appropriate combination of alcohol/substances based on the evidence presented.

4. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review *People v Schaefer*, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184; 783 NW2d 67 (2010).

5. MCL 257.58c provides that serious impairment of a body function includes but is not limited to one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.
The defendant is charged with the crime of operating a motor vehicle with any amount of a controlled substance in [his / her] body. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(4) Third, that while operating the vehicle, the defendant had any amount of [state specific schedule 1 controlled substance or controlled substance in MCL 333.7214(a)(iv) alleged by the prosecutor] in [his / her] body.

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. A private driveway is “generally accessible to motor vehicles” and within the purview of the statute. People v Rea, 500 Mich 422; 902 NW2d 362 (2017).
M Crim JI 15.4a   Operating with Any Amount of Schedule 1 Controlled Substance or Cocaine Causing Death or Serious Impairment of a Body Function [OWACS: Death or Serious Impairment]

(1) The defendant is charged with the crime of operating a motor vehicle with a controlled substance in [his / her] body causing [death / serious impairment of a body function to another person]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.¹ To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].²

(4) Third, that while operating the vehicle, the defendant had any amount of [state specific schedule 1 controlled substance or controlled substance in MCL 333.7214(a)(iv) alleged by the prosecutor] in [his / her] body.

(5) Fourth, that the defendant voluntarily decided to drive knowing that [he / she] had consumed or used a controlled substance.

(6) Fifth, that the defendant’s operation of the vehicle caused³ [the death of (name decedent) / a serious impairment of a body function⁴ to (name injured person)]. To cause [the death / such injury], the defendant’s operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant’s operation of the vehicle, the [death / injury] would not have occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.

Use Notes

1. The term motor vehicle is defined in MCL 257.33.
2. A private driveway is “generally accessible to motor vehicles” and within the purview of the statute. People v Rea, 500 Mich 422; 902 NW2d 362 (2017).

3. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184; 783 NW2d 67 (2010).

4. The statute, MCL 257.58c, provides that serious impairment of a body function includes but is not limited to one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.
Factors in Considering Operating While Intoxicated [OWI] and Operating While Visibly Impaired [OWVI]

As you consider the possible verdicts, you should think about the following:

[Choose appropriate paragraphs:]

(1) What was the mental and physical condition of the defendant at the time that [he / she] operated the motor vehicle? Were the defendant’s reflexes, ability to see, way of walking and talking, manner of driving, and judgment normal? If there was evidence that any of these things seemed abnormal, was this caused by [drinking alcohol / using or consuming a controlled substance / using or consuming an intoxicating substance / using or consuming a combination of (alcohol / a controlled substance / an intoxicating substance)]\(^1\)?

(2) You may also consider body alcohol content in reaching your verdict. In that regard, [was / were] the test(s) technically accurate? Was the equipment properly assembled and maintained and in good working order when the test(s) [was / were] given?

(3) Were the test results reliable? Was the test given correctly? Was the person who gave it properly trained? Did the circumstances under which the test was given affect the accuracy of the results?

(4) One way to determine whether a person is intoxicated is to measure how much alcohol is in [his / her] [blood / breath / urine]. There was evidence in this trial that a test was given to the defendant. The purpose of this test is to measure the amount of alcohol in a person’s [blood / breath / urine].

[Choose (5)(a) and/or (5)(b):]\(^2\)

(5) If you find

(a) that there were 0.17 grams or more of alcohol [per 100 milliliters of blood / per 210 liters of breath / per 67 milliliters of urine] when [he / she] operated the vehicle, you may find the defendant operated a motor vehicle while intoxicated with a high bodily alcohol content, whether or not it affected [his / her] ability to operate a motor vehicle.
(b) that there were 0.08 grams or more of alcohol [per 100 milliliters of the defendant’s blood / per 210 liters of the defendant’s breath / per 67 milliliters of the defendant’s urine] when [he / she] operated the vehicle, you may find the defendant operated a motor vehicle with an unlawful bodily alcohol content, whether or not this alcohol content affected [his / her] ability to operate a motor vehicle.

(6) You may infer that the defendant’s bodily alcohol content at the time of the test was the same as [his / her] bodily alcohol content at the time [he / she] operated the motor vehicle.³

(7) In considering the evidence and arriving at your verdict, you may give the test whatever weight you believe that it deserves. The results of a test are just one factor you may consider, along with all other evidence about the condition of the defendant at the time [he / she] operated the motor vehicle.

Use Notes

1. Where a combination of alcohol and other controlled or intoxicating substances is shown, select the appropriate combination of alcohol/substances based on the evidence presented.

2. Read both (5)(a) and (5)(b) if operating with a high body alcohol content is charged, and operating while intoxicated is being considered by the truer of fact as a lesser offense. Otherwise, read (5)(a) or (5)(b) according to the charge and the evidence.

3. If the evidence warrants, the following can be added to this paragraph (6): [However, you have heard evidence that the defendant consumed alcohol after driving but before the [blood / breath / urine] test was administered. You may consider this evidence in determining whether to infer that the defendant’s body alcohol content at the time of the test was the same as [his / her] body alcohol content at the time that [he / she] operated the motor vehicle.]
M Crim JI 15.6 Possible Verdicts [OWIHBAÇ]

There are four possible verdicts:

(1) not guilty, or

(2) guilty of operating a motor vehicle with a high bodily alcohol content, or

(3) guilty of operating a motor vehicle while

[Select appropriate possibilities:]

(a) under the influence of alcohol;
(b) under the influence of a controlled substance;
(c) under the influence of an intoxicating substance;
(d) under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance];
(e) with an unlawful bodily alcohol level.

If you all agree that the defendant either operated a motor vehicle with an unlawful bodily alcohol level or while under the influence of [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)], it is not necessary that you agree on which of these violations occurred. However, in order to return a verdict of guilty, you must all agree that one of those violations did occur.

(4) guilty of operating a motor vehicle while visibly impaired.
M Crim JI 15.6a Possible Verdicts [for OWI]

There are three possible verdicts:

(1) not guilty, or

(2) guilty of operating a motor vehicle while [Select appropriate possibilities:]

(a) under the influence of alcohol;
(b) under the influence of a controlled substance;
(c) under the influence of an intoxicating substance;
(d) under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance];
(e) with an unlawful bodily alcohol level.

If you all agree that the defendant either operated a motor vehicle with an unlawful bodily alcohol level or while under the influence of [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)], it is not necessary that you agree on which of these violations occurred. However, in order to return a verdict of guilty, you must all agree that one of those violations did occur.

or

(3) guilty of operating a motor vehicle while visibly impaired.
There are two possible verdicts:

(1) not guilty, or

(2) guilty of operating a motor vehicle while visibly impaired.
M Crim JI 15.6c  Possible Verdicts [for OWACS]

There are two possible verdicts:

(1) not guilty, or

(2) guilty of operating a motor vehicle with any amount of [state specific schedule 1 or 2 controlled substance alleged].
M Crim JI 15.6d  Possible Verdicts [OWIHBAC/OWI/OWVI/ Causing Death or Serious Impairment]

There are five possible verdicts:

(1) not guilty, or

(2) guilty of causing [death / serious impairment of a body function] while operating a motor vehicle with a high bodily alcohol content, while

[Select any appropriate possibilities:]

(a) under the influence of alcohol;
(b) under the influence of a controlled substance;
(c) under the influence of an intoxicating substance;
(d) under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance];
(e) with an unlawful bodily alcohol content.

or while impaired.

(3) guilty of operating a motor vehicle with a high bodily alcohol content not causing [death / serious impairment of a body function], or

(4) guilty of operating a motor vehicle while

[Select appropriate possibilities:]

(a) under the influence of alcohol;
(b) under the influence of a controlled substance;
(c) under the influence of an intoxicating substance;
(d) under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance];
(e) with an unlawful bodily alcohol level; but not causing [death / serious impairment of a body function]
If you all agree that the defendant either operated a motor vehicle with an unlawful bodily alcohol level or while under the influence of [alcohol / a controlled substance / an intoxicating substance / a combination of (alcohol / a controlled substance / an intoxicating substance)], it is not necessary that you agree on which of these violations occurred. However, in order to return a verdict of guilty, you must all agree that one of those violations did occur. Or,

(5) guilty of operating a motor vehicle while visibly impaired, but not causing [death / serious impairment of a body function].
There are three possible verdicts:

(1) not guilty, or

(2) guilty of causing [death / serious impairment of a body function] while operating a motor vehicle with any amount of [state specific schedule 1 or 2 controlled substance alleged].

(3) guilty of operating a motor vehicle with any amount of [state specific schedule 1 or 2 controlled substance alleged] not causing [death / serious impairment of a body function].
Check only one of the following verdicts:
(1) □ Not Guilty
(2) □ Guilty of Operating with a High Bodily Alcohol Content
(3) □ Guilty of the less serious offense of Operating While Intoxicated
(4) □ Guilty of the less serious offense of Operating While Visibly Impaired
Choose only one of the following verdicts:

(1) □ Not Guilty
(2) □ Guilty of Operating While Intoxicated
(3) □ Guilty of the less serious offense of Operating While Visibly Impaired
Choose only one of the following verdicts:

(1) □ Not Guilty
(2) □ Guilty of Operating While Visibly Impaired
Check only one of the following verdicts:
(1)  □ Not Guilty
(2)  □ Guilty of Operating with Any Amount of a Controlled Substance
Check only one of the following verdicts:

(1) □ Not Guilty

(2) □ Guilty of Operating with a High Bodily Alcohol Content, Operating While Intoxicated, or Operating While Visibly Impaired causing [death / serious impairment of a body function]

(2) □ Guilty of the less serious offense of Operating with a High Bodily Alcohol Content, but not causing [death / serious impairment of a body function]

(3) □ Guilty of the less serious offense of Operating While Intoxicated, but not causing [death / serious impairment of a body function]

(4) □ Guilty of the less serious offense of Operating While Visibly Impaired, but not causing [death / serious impairment of a body function]
M Crim JI 15.7e    Verdict Form [OWACS causing death/serious impairment]

Check only one of the following verdicts:

(1)  □ Not Guilty
(2)  □ Guilty of Operating with Any Amount of a Controlled Substance causing [death / serious impairment of a body function]
(3)  □ Guilty of the less serious offense of Operating with Any Amount of a Controlled Substance, but not causing [death / serious impairment of a body function]
M Crim JI 15.8    Defendant’s Decision to Forgo Chemical Testing

Evidence has been admitted in this case that the defendant refused to take a chemical test. If you find that the defendant did refuse, that evidence was admitted solely for the purpose of showing that a test was offered to the defendant. That evidence is not evidence of guilt.

Use Note

MCL 257.625a(9) provides: A person’s refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 625c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant’s innocence or guilt. The jury must be instructed accordingly.
M Crim JI 15.9  Operating a Commercial Vehicle with an Unlawful Bodily Alcohol Content [UBAL]

(1) The defendant is charged with the crime of operating a commercial motor vehicle with an unlawful bodily alcohol level. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a commercial motor vehicle.\(^1\) To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant had a bodily alcohol content of 0.04 grams or more but less than 0.08 grams per 100 milliliters of blood [per 210 liters of breath or 67 milliliters of urine] when [he / she] operated the commercial motor vehicle.

Use Note

1. Commercial motor vehicle is defined in MCL 257.7a.
(1) The defendant is charged with the crime of knowingly authorizing or permitting a motor vehicle to be operated by another while that person was intoxicated or impaired. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was the owner of a motor vehicle, or was in charge of or in control of the vehicle.

(2) Second, that the defendant knowingly authorized or permitted the motor vehicle to be operated by [identify driver]. To operate means to drive or have actual physical control of the vehicle.

(3) Third, that [identify driver] operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(4) Fourth, that [identify driver]:

[Choose from the following alternatives:]

(a) operated the vehicle with a bodily alcohol level of 0.08 grams or more [per 100 milliliters of blood / 210 liters of breath / 67 milliliters of urine];

(b) operated the vehicle while under the influence of alcohol;

(c) operated the vehicle while under the influence of a controlled substance;

(d) operated the vehicle while under the influence of an intoxicating substance;

(e) operated the vehicle while under the influence of a combination of [alcohol / a controlled substance / an intoxicating substance]
[Choose from the following alternatives where the charge is “under the influence”:

(5) Under the influence of [alcohol / a controlled substance / an intoxicating substance] means that because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s ability to operate a motor vehicle in a normal manner was substantially lessened. To be under the influence, a person does not have to be falling down or hardly able to stand up. On the other hand, just because a person has [drunk alcohol or smells of alcohol / consumed or used a controlled substance / consumed or used an intoxicating substance] does not prove, by itself, that the person is under the influence of [alcohol / a controlled substance / an intoxicating substance]. The test is whether, because of [drinking alcohol / using or consuming a controlled substance / consuming or taking into (his / her) body an intoxicating substance], the defendant’s mental or physical condition was significantly affected and the defendant was no longer able to operate a vehicle in a normal manner.

(6) Where the charge is “under the influence” of a substance other than alcohol choose (a), (b), or (c) as appropriate:

(a) [Name substance] is a controlled substance.

(b) [Name substance] is an intoxicating substance.

(c) An intoxicating substance is a substance in any form, including but not limited to vapors and fumes, other than food, that was taken into the defendant’s body in any manner, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. A private driveway is “generally accessible to motor vehicles” and within the purview of the statute. People v Rea, 500 Mich 422; 902 NW2d 362 (2017).
(1) The defendant is charged with the crime of operating a motor vehicle while less than 21 years of age with any bodily alcohol content. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.\(^1\) To *operate* means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].\(^2\)

(3) Third, that at the time the defendant operated the motor vehicle [he / she] was under the age of 21.

(4) Fourth, that at the time the defendant operated the motor vehicle, [he / she]

*Choose from the following:*

(a) had a bodily alcohol content of 0.02 grams or more [ per 100 milliliters of blood / per 210 liters of breath / per 67 milliliters of urine].

(b) had any presence of alcohol within their body resulting from the consumption of alcoholic liquor.

*Where the alternative chosen is (b), where appropriate under the evidence:*

[(5) Fifth, that the presence of alcohol in the defendant’s body was not the result of the consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.]
Use Note

1. The term *motor vehicle* is defined in MCL 257.33.

[NEW] M CRIM JI 15.12 Violation with a Person Under the Age of 16 in the Motor Vehicle

[MCL 257.625(7)(a) and (b) prohibit operating a motor vehicle in violation of paragraphs (1), (3), (4), (5), (6), or (8) when the vehicle is occupied by someone who is under the age of 16, with different penalties than the underlying violation. In this circumstance, instruct on the underlying violation, and add at the end:

[Number of element], that at the time that the defendant operated the motor vehicle, a child under the age of 16 was present in the vehicle.
Current jury instructions for non-intoxication driving offenses, MCrimJI 15.14 through 15.25, begin on the following page (pp 65-79).
The defendant is charged with failing to stop after an accident involving [serious impairment of a body function or death / personal injury / property damage]. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, the defendant was the driver of a motor vehicle.

(2) Second, the motor vehicle driven by the defendant was involved in an accident.

(3) Third, the defendant knew or had reason to know that [he / she] had been involved in an accident on a public road or any property open to travel by the public.

(4) Fourth, that the accident resulted in

[Select (a), (b), or (c) as appropriate.]

(a) serious impairment of a body function or death.

(b) personal injury to any individual.

(c) damage to a vehicle driven or attended by another.

(5) Fifth, that the defendant failed to immediately stop [his / her] motor vehicle at the scene of the accident in order to render assistance and give information required by law, or to immediately report the accident to the nearest or most convenient police agency or officer if there was a reasonable and honest belief that remaining at the scene would result in further harm. The requirement that the driver “immediately stop” means that the driver must stop and park the car as soon as practicable and reasonable under the circumstances and without obstructing traffic more than is necessary.

Use Note

1 Select the appropriate phrase to describe the violation alleged: serious impairment of a body function or death, MCL 257.617, a five-year felony; personal injury, MCL 257.617a, a one-year misdemeanor; or damage to an attended vehicle, MCL 257.618, a misdemeanor.
The definition of “serious impairment of a body function” is at MCL 257.58c. See Use Note to M Crim JI 15.12.

MCL 257.619 describes the information that must be provided and the assistance that must be rendered.

M Crim JI 15.14a Leaving the Scene of an Accident Causing Death

The defendant is charged with failing to stop after causing an accident resulting in death. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, the defendant was the driver of a motor vehicle.

(2) Second, the motor vehicle driven by the defendant was involved in an accident.

(3) Third, the defendant knew or had reason to know that [ he / she ] was involved in an accident on a public road or any property open to travel by the public.

(4) Fourth, that the accident resulted in death.

(5) Fifth, that the defendant caused the accident.

(6) Sixth, that the defendant failed to immediately stop [ his / her ] motor vehicle at the scene of the accident in order to render assistance and give information required by law.¹ The requirement that the driver “immediately stop” means that the driver must stop and park the car as soon as practicable and reasonable under the circumstances and without obstructing traffic more than is necessary.

Use Notes

¹ MCL 257.619 describes the information that must be provided and the assistance that must be rendered.
M Crim JI 15.15 Reckless Driving

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of 1] reckless driving. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle on a highway\(^2\) or other place open to the public [or generally accessible to motor vehicles, including a designated parking area].

(3) Second, that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. “Willful or wanton disregard” means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

Use Notes

1 Use when instructing on this crime as a lesser included offense.

2 A “highway” is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729, 540 NW2d 491 (1995).
Use Notes

1 Use when instructing on this crime as a lesser included offense.

2 A “highway” is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729, 540 NW2d 491 (1995).

M Crim JI 15.17 Reckless Driving Causing Serious Impairment of a Body Function [Use for Acts Committed on or After October 31, 2010]

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of1] reckless driving causing serious impairment of a body function to another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle on a highway2 or other place open to the public [or generally accessible to motor vehicles, including a designated parking area].

(3) Second, that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. “Willful or wanton disregard” means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

(4) Third, that the defendant’s operation of the vehicle caused3 a serious impairment of a body function4 to [name victim]. To “cause” such injury, the defendant’s operation of the vehicle must have been a factual cause of the injury, that is, but for the defendant’s operation of the vehicle the injury would not have occurred. In addition, operation of the vehicle must have been a proximate cause of the injury, that is, the injury must have been a direct and natural result of operating the vehicle.

Use Note

1 Use when instructing on this crime as a lesser included offense.
2 A “highway” is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. People v Bartel, 213 Mich App 726, 728-729, 540 NW2d 491 (1995).

3 If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316, 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184, 783 NW2d 67 (2010)).

4 The statute, MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

(a) Loss of a limb or loss of use of a limb.
(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
(c) Loss of an eye or ear or loss of use of an eye or ear.
(d) Loss or substantial impairment of a bodily function.
(e) Serious visible disfigurement.
(f) A comatose state that lasts for more than 3 days.
(g) Measurable brain or mental impairment.
(h) A skull fracture or other serious bone fracture.
(i) Subdural hemorrhage or subdural hematoma.
(j) Loss of an organ.

M Crim JI 15.18  Moving Violation Causing Death or Serious Impairment of a Body Function

(1) [The defendant is charged with the crime / You may consider the lesser charge] of committing a moving traffic violation that caused [death / serious impairment of a body function]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.
(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(4) Third, that, while operating the motor vehicle, the defendant committed a moving violation by: [describe the moving violation].

(5) Fourth, that by committing the moving violation, the defendant caused [the death of (name deceased) / (name injured person) to suffer a serious impairment of a body function\(^2\)]. To cause [the death of (name deceased) / such injury to (name injured person)], the defendant’s moving violation must have been a factual cause of the [death / injury], that is, but for committing the moving violation the [death / injury] would not have occurred. In addition, the [death / injury] must have been a direct and natural result of committing the moving violation.

Use Note

1. Use when instructing on this crime as a lesser offense.

2. MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:
   
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.
M Crim JI 15.19 Moving Violation Causing Serious Impairment of a Body Function [Use for Acts Committed on or After October 31, 2010] [deleted]

Note. This instruction was deleted by the committee in September, 2019, because it was combined with M Crim JI 15.18.

M Crim JI 15.20 Driving While License Suspended or Revoked

The defendant is charged with driving while [his / her] operator’s license is suspended or revoked. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, that the defendant was operating a motor vehicle. “Operating” means driving or having actual physical control of the vehicle.

(2) Second, that the defendant was operating that vehicle on a highway or other place open to the general public [or generally accessible to motor vehicles, including any area designated for the parking of motor vehicles].

(3) Third, that at the time the defendant’s operator’s license was suspended or revoked.

(4) Fourth, that the Secretary of State gave notice of the suspension or revocation by first-class, United States Postal Service mail addressed to the defendant at the address shown by the record of the Secretary of State at least five days before the date of the alleged offense.

M Crim JI 15.21 Driving While License Suspended / Revoked Causing Death

(1) The defendant is charged with driving while [his / her] operator’s license is suspended or revoked causing death. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle. “Operating” means driving or having actual physical control of the vehicle.\footnote{1}
Second, that the defendant was operating that vehicle on a highway or other place open to the general public [or generally accessible to motor vehicles, including any area designated for the parking of motor vehicles].

Third, that, at the time, the defendant’s operator’s license was suspended or revoked.²

Fourth, that the defendant’s operation of the vehicle caused the victim’s death. To “cause” the victim’s death, the defendant’s operation of the vehicle must have been a factual cause of the death, that is, but for the defendant’s operation of the vehicle, the death would not have occurred. In addition, operation of the vehicle must have been a proximate cause of death, that is, death must have been a direct and natural result of operating the vehicle.³

Use Note

¹ The term “operating” has been defined by the Michigan Supreme Court in People v Wood, 450 Mich 399, 538 NW2d 351 (1995). The court held that “[o]nce a person using a motor vehicle as a motor vehicle has put the vehicle in motion, or in a position posing a significant risk of causing a collision, such a person continues to operate it until the vehicle is returned to a position posing no such risk.” Id. at 404-405. The holding in Wood was applied in People v Lechleitner, 291 Mich App 56, 804 NW2d 345 (2010), which held that the defendant was properly convicted under the operating-while-intoxicated-causing-death statute where he was intoxicated, operated his vehicle, and crashed it, with the result that it sat in the middle of the freeway at night creating a risk of injury or death to others, and a following car swerved to miss his stopped truck and killed another motorist on the side of the road.

² The court should alter this element where one of the alternatives found in MCL 257.904(1) applies: where the defendant had a suspended or revoked “chauffer’s license,” where the defendant’s application for a license was denied, or where the defendant never applied for a license.

³ If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of death because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d 774 (2005). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316, 715 NW2d
822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184, 783 NW2d 67 (2010).

M Crim JI 15.22 Driving While License Suspended / Revoked Causing Serious Impairment of Body Function

(1) The defendant is charged with driving while [his / her] operator’s license is suspended or revoked causing serious impairment of body function. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was operating a motor vehicle. “Operating” means driving or having actual physical control of the vehicle.¹

(3) Second, that the defendant was operating that vehicle on a highway or other place open to the general public [or generally accessible to motor vehicles, including any area designated for the parking of motor vehicles].

(4) Third, that, at the time, the defendant’s operator’s license was suspended or revoked.

(5) Fourth, that the defendant’s operation of the vehicle caused a serious impairment of a body function to [name victim].³ To “cause” such injury, the defendant’s operation of the vehicle must have been a factual cause of the injury, that is, but for the defendant’s operation of the vehicle the injury would not have occurred. In addition, operation of the vehicle must have been a proximate cause of the injury, that is, the injury must have been a direct and natural result of operating the vehicle.⁴

Use Note

¹ The term “operating” has been defined by the Michigan Supreme Court in People v Wood, 450 Mich 399, 538 NW2d 351 (1995). The court held that “[o]nce a person using a motor vehicle as a motor vehicle has put the vehicle in motion, or in a position posing a significant risk of causing a collision, such a person continues to operate it until the vehicle is returned to a position posing no such risk.” Id. at 404-405. The holding in Wood was applied in People v Lechleitner,
291 Mich App 56, 804 NW2d 345 (2010), which held that the defendant was properly convicted under the operating-while-intoxicated-causing-death statute where he was intoxicated, operated his vehicle, and crashed it, with the result that it sat in the middle of the freeway at night creating a risk of injury or death to others, and a following car swerved to miss his stopped truck and killed another motorist on the side of the road.

2 The court should alter this element where one of the alternatives found in MCL 257.904(1) applies: where the defendant had a suspended or revoked “chauffer’s license,” where the defendant’s application for a license was denied, or where the defendant never applied for a license.

3 The statute, MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.

4 If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316, 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184, 783 NW2d 67 (2010).
M Crim JI 15.24 Permitting Another Person to Drive Motor Vehicle While License Suspended / Revoked Causing Serious Impairment of a Body Function

(1) The defendant is charged with permitting another person to drive [his / her] motor vehicle knowing the other person had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license] causing serious impairment of a body function. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [name of other person] was operating a motor vehicle. “Operating” means driving or having actual physical control of the vehicle.¹

(3) Second, defendant owned the motor vehicle that [name of other person] was operating.²

(4) Third, [name of other person] was operating that vehicle [on a highway / in another place open to the general public / in a place generally accessible to motor vehicles, including any area designated for the parking of motor vehicles].

(5) Fourth, that, at the time, [name of other person] had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license].

(6) Fifth, that the defendant permitted [name of other person] to operate the vehicle.

(7) Sixth, that, at the time, defendant knew that [name of other person] had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license].

(8) Seventh, that [name of other person]’s operation of the vehicle caused a serious impairment of a body function to [name victim].³ To “cause” such injury, [name of other person]’s operation of the vehicle must have been a factual cause of the injury, that is, but for [name of other person]’s operation of the vehicle the injury would not have occurred. In addition, operation of the vehicle must have been a proximate cause of the injury, that is, the injury must have been a direct and natural result of operating the vehicle.⁴
Use Note

1. The term “operating” has been defined by the Michigan Supreme Court in *People v Wood*, 450 Mich 399, 538 NW2d 351 (1995). The court held that “[o]nce a person using a motor vehicle as a motor vehicle has put the vehicle in motion, or in a position posing a significant risk of causing a collision, such a person continues to operate it until the vehicle is returned to a position posing no such risk.” *Id.* at 404-405. The holding in *Wood* was applied in *People v Lechleitner*, 291 Mich App 56, 804 NW2d 345 (2010), which held that the defendant was properly convicted under the operating-while-intoxicated-causing-death statute where he was intoxicated, operated his vehicle, and crashed it, with the result that it sat in the middle of the freeway at night creating a risk of injury or death to others, and a following car swerved to miss his stopped truck and killed another motorist on the side of the road.

2. “Owner” is defined in MCL 257.37. This element may be worded differently to accommodate the defendant’s possessory interest under appropriate circumstances.

3. The statute, MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.

4. If it is claimed that the other person’s operation of the vehicle was not a proximate cause of serious impairment of a bodily function because of an intervening, superseding cause, review *People v Schaefer*, 473 Mich 418, 438-439,
703 NW2d 774 (2005), a “causes death” case under MCL 257.625(4). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316, 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184, 783 NW2d 67 (2010).
M Crim JI 15.25 Permitting Another Person to Drive Motor Vehicle While License Suspended / Revoked Causing Death

(1) The defendant is charged with permitting another person to drive [his / her] motor vehicle knowing the other person had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license] causing death. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [name of other person] was operating a motor vehicle. “Operating” means driving or having actual physical control of the vehicle.\(^1\)

(3) Second, defendant owned the motor vehicle that [name of other person] was operating.\(^2\)

(4) Third, [name of other person] was operating that vehicle [on a highway / in another place open to the general public / in a place generally accessible to motor vehicles, including any area designated for the parking of motor vehicles].

(5) Fourth, that, at the time, [name of other person] had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license].

(6) Fifth, that the defendant permitted [name of other person] to operate the vehicle.

(7) Sixth, that, at the time, defendant knew that [name of other person] had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license].

(8) Seventh, that [name of other person]’s operation of the vehicle caused the victim’s death. To “cause” the victim’s death, the [name of other person]’s operation of the vehicle must have been a factual cause of the death, that is, but for the [name of other person]’s operation of the vehicle, the death would not have occurred. In addition, operation of the vehicle must have been a proximate cause of death, that is, death must have been a direct and natural result of operating the vehicle.\(^3\)
Use Note

1. The term “operating” has been defined by the Michigan Supreme Court in People v Wood, 450 Mich 399, 538 NW2d 351 (1995). The court held that “[o]nce a person using a motor vehicle as a motor vehicle has put the vehicle in motion, or in a position posing a significant risk of causing a collision, such a person continues to operate it until the vehicle is returned to a position posing no such risk.” Id. at 404-405. The holding in Wood was applied in People v Lechleitner, 291 Mich App 56, 804 NW2d 345 (2010), which held that the defendant was properly convicted under the operating-while-intoxicated-causing-death statute where he was intoxicated, operated his vehicle, and crashed it, with the result that it sat in the middle of the freeway at night creating a risk of injury or death to others, and a following car swerved to miss his stopped truck and killed another motorist on the side of the road.

2. “Owner” is defined in MCL 257.37. This element may be worded differently to accommodate the defendant’s possessory interest under appropriate circumstances.

3. If it is claimed that the other person’s operation of the vehicle was not a proximate cause of death because of an intervening, superseding cause, review People v Schaefer, 473 Mich 418, 438-439, 703 NW2d 774 (2005). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316, 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184, 783 NW2d 67 (2010).
Proposed jury instructions for non-intoxication driving offenses, M Crim JI 15.13 through 15.17a begin on the following page (pp 81-97).
The defendant is charged with the crime of failing to stop after an accident. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt:

(1) First, the defendant was the driver of a motor vehicle.¹

(2) Second, the motor vehicle driven by the defendant was involved in an accident with another vehicle operated or attended by another person.

(3) Third, the defendant knew or had reason to know that [he / she] had been involved in an accident.

(4) Fourth, that the defendant failed to immediately stop [his / her] motor vehicle at the scene of the accident in order to render assistance and give information required by law, or to immediately report the accident to the nearest or most convenient police agency or officer if there was a reasonable and honest belief that remaining at the scene would result in further harm.² The requirement that the driver immediately stop means that the driver must stop and park the car as soon as practicable and reasonable under the circumstances and without obstructing traffic more than is necessary.

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. MCL 257.619 describes the information that must be provided and the assistance that must be rendered.
M Crim JI 15.13a  Leaving the Scene of an Accident Resulting in Vehicle Damage, Injury, Serious Impairment of a Body Function, or Death

(1) The defendant is charged with the crime of failing to stop after an accident that resulted in [vehicle damage / injury / serious impairment of a body function / death]. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was the driver of a motor vehicle.¹

(3) Second, that the motor vehicle driven by the defendant was involved in an accident on public or private property that is open to travel by the public.

(4) Third, that the defendant knew or had reason to know that [he / she] had been involved in an accident.

(5) Fourth, that the accident resulted in [damage to a vehicle driven or attended by another / personal injury to any individual / serious impairment of a body function² / death].

(6) Fifth, that the defendant failed to immediately stop [ his / her ] motor vehicle at the scene of the accident in order to render assistance and give information required by law, or to immediately report the accident to the nearest or most convenient police agency or officer if there was a reasonable and honest belief that remaining at the scene would result in further harm.³ The requirement that the driver immediately stop means that the driver must stop and park the car as soon as practicable and reasonable under the circumstances and without obstructing traffic more than is necessary.

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. The statute, MCL 257.58c, provides that serious impairment of a body function includes but is not limited to one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
(c) Loss of an eye or ear or loss of use of an eye or ear.
(d) Loss or substantial impairment of a bodily function.
(e) Serious visible disfigurement.
(f) A comatose state that lasts for more than 3 days.
(g) Measurable brain or mental impairment.
(h) A skull fracture or other serious bone fracture.
(i) Subdural hemorrhage or subdural hematoma.
(j) Loss of an organ.

3. MCL 257.619 describes the information that must be provided and the assistance that must be rendered.
(1) The defendant is charged with the crime of failing to stop after causing an accident that resulted in death. To prove this charge the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was the driver of a motor vehicle.¹

(3) Second, that the motor vehicle driven by the defendant was involved in an accident on public or private property that is open to travel by the public.

(4) Third, that the defendant knew or had reason to know that [he / she] had been involved in an accident.

(5) Fourth, that the defendant caused the accident.

(6) Fifth, that the accident resulted in the death of [identify decedent].

(7) Sixth, that the defendant failed to immediately stop [his / her] motor vehicle at the scene of the accident in order to render assistance and give information required by law, or to immediately report the accident to the nearest or most convenient police agency or officer if there was a reasonable and honest belief that remaining at the scene would result in further harm.² The requirement that the driver immediately stop means that the driver must stop and park the car as soon as practicable and reasonable under the circumstances and without obstructing traffic more than is necessary.

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. MCL 257.619 describes the information that must be provided and the assistance that must be rendered.
M Crim JI 15.14 Reckless Driving

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of] reckless driving. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle\(^2\) on a highway\(^3\) or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(3) Second, that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. Willful or wanton disregard means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

Use Notes

1. Use when instructing on this crime as a lesser included offense.

2. The term *motor vehicle* is defined in MCL 257.33.

3. A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995).
M Crim JI 15.14a  Reckless Driving Causing Death or Serious Impairment of a Body Function

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of] reckless driving causing [death / serious impairment of body function to another person]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(3) Second, that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. Willful or wanton disregard means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

(4) Third, that the defendant’s operation of the vehicle caused [the death of / a serious impairment of a body function to] [identify decedent or injured person]. To [cause the death / such injury], the defendant’s operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant’s operation of the vehicle the [death / injury] would not have occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.5

Use Note

1. Use when instructing on this crime as a lesser included offense.

2. The term motor vehicle is defined in MCL 257.33.

3. A highway is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. People v Bartel, 213 Mich App 726, 728-729; 540 NW2d 491 (1995).
4. The statute, MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.

5. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, the court may wish to review People v Schaefer, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184; 783 NW2d 67 (2010).
[The defendant is charged with the crime / You may consider the lesser charge\(^1\)] of committing a moving traffic violation that caused [death / serious impairment of a body function]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.\(^2\) To *operate* means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].\(^3\)

(4) Third, that, while operating the motor vehicle, the defendant committed a moving violation by: [describe the moving violation].

(5) Fourth, that by committing the moving violation, the defendant caused [the death of (name deceased) / (name injured person) to suffer a serious impairment of a body function\(^4\)]. To cause [the death of (name deceased) / such injury to (name injured person)], the defendant’s moving violation must have been a factual cause of the [death / injury], that is, but for committing the moving violation, the [death / injury] would not have occurred. In addition, the [death / injury] must have been a direct and natural result of committing the moving violation.\(^5\)

*Use Note*

1. Use when instructing on this crime as a lesser offense.

2. The term *motor vehicle* is defined in MCL 257.33.

3. A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995).

4. MCL 257.58c, provides that serious impairment of a body function includes but is not limited to one or more of the following:

   (a) Loss of a limb or loss of use of a limb.
(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
(c) Loss of an eye or ear or loss of use of an eye or ear.
(d) Loss or substantial impairment of a bodily function.
(e) Serious visible disfigurement.
(f) A comatose state that lasts for more than 3 days.
(g) Measurable brain or mental impairment.
(h) A skull fracture or other serious bone fracture.
(i) Subdural hemorrhage or subdural hematoma.
(j) Loss of an organ.

5. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, the court may wish to review People v Schaefer, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184; 783 NW2d 67 (2010).
(1) The defendant is charged with the crime of driving while [his / her] operator’s license is suspended or revoked. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle. To *operate* means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated that vehicle on a highway or other place open to the general public or generally accessible to motor vehicles [including any designated parking area].

(4) Third, that at the time the defendant’s operator’s license was suspended or revoked.

[Use the following element only where the charge involves a commercial carrier with a vehicle group designation:]

(5) Fourth, that the Secretary of State gave notice of the [suspension / revocation] to the defendant at least five days before the alleged offense.

*Use Note*

1. The term “motor vehicle” is defined in MCL 257.33.

2. See MCL 257.904(16) and 257.212.
M Crim JI 15.16a  Driving While License Suspended or Revoked
Causing Death or Serious Impairment of a Body Function

(1) The defendant is charged with the crime of driving while [his / her]
operator’s license is suspended or revoked causing [the death of another
person / serious impairment of body function to another person]. To
prove this charge, the prosecutor must prove each of the following
elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.¹ To operate
means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated that vehicle on a highway or
other place open to the general public or generally accessible to motor
vehicles [including any designated parking area].²

(4) Third, that at the time the defendant’s operator’s license was
suspended or revoked.³

(5) Fourth, that the defendant’s operation⁴ of the vehicle caused [the
death of / a serious impairment of a body function⁵ to] [identify decedent
or injured person]. To cause [the death / such injury], the defendant’s
operation of the vehicle must have been a factual cause of the [death /
injury], that is, but for the defendant’s operation of the vehicle, the [death
/injury] would not have occurred. In addition, [death or serious injury /
the injury] must have been a direct and natural result of operating the
vehicle.⁶

[Use the following element only where the charge involves a commercial
carrier with a vehicle group designation:

(6) Fifth, that the Secretary of State gave notice of the [suspension /
revocation] to the defendant at least five days before the alleged offense.⁷

Use Notes

1. The term motor vehicle is defined in MCL 257.33.
2. A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995).

3. The court should alter this element where one of the alternatives found in MCL 257.904(1) applies: where the defendant had a suspended or revoked “chauffeur’s license,” where the defendant’s application for a license was denied, or where the defendant never applied for a license.

4. *Operating* is defined by statute as being in actual physical control of a vehicle. MCL 257.35a. *See also People v Wood*, 450 Mich 399; 538 NW2d 351 (1995); *People v Lechleitner*, 291 Mich App 56; 804 NW2d 345 (2010).

5. The statute, MCL 257.58c, provides that serious impairment of a body function includes, but is not limited to, one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.

6. If it is claimed that the defendant’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause the court may wish to review *People v Schaefer*, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes death” case under MCL 257.625(4)). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184; 783 NW2d 67 (2010).

7. *See* MCL 257.904(16) and 257.212.
M Crim JI 15.17 Permitting Another Person to Drive Motor Vehicle While License Suspended / Revoked

(1) The defendant is charged with the crime of permitting another person to drive [his / her] motor vehicle knowing the other person had [a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [name of other person] operated a motor vehicle.¹ To operate means to drive or have actual physical control of the vehicle.²

(3) Second, that the defendant was the owner of the motor vehicle that [name of other person] operated.³

(4) Third, that [name of other person] operated that vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].⁴

(5) Fourth, that, at the time, [name of other person] [had a (suspended / revoked) operator’s license / (his / her) application for an operator’s license had been denied / never applied for an operator’s license].

(6) Fifth, that the defendant permitted [name of other person] to operate the vehicle.

(7) Sixth, that, at the time, defendant knew that [name of other person] [had a (suspended / revoked) operator’s license / (his / her) application for operator’s license had been denied / never applied for an operator’s license].

Use Notes

1. The term motor vehicle is defined in MCL 257.33.

2. Operating is defined by statute as being in actual physical control of a vehicle. MCL 257.35a. See also People v Wood, 450 Mich 399, 538 NW2d 351 (1995); People v Lechleitner, 291 Mich App 56, 804 NW2d 345 (2010).
3. *Owner* is defined in MCL 257.37. This element may be worded differently to accommodate the defendant’s possessory interest under appropriate circumstances.

4. A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995).
(1) The defendant is charged with the crime of permitting another person to drive [his / her] motor vehicle knowing the other person [had a (suspended / revoked) operator’s license / (his / her) application for an operator’s license denied / never applied for an operator’s license] causing [the death of another person / serious impairment of a body function to another person]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [name of other person] operated a motor vehicle. To operate means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant owned the motor vehicle that [name of other person] operated.

(4) Third, that [name of other person] operated that vehicle on a highway or other place open to the public or generally accessible to motor vehicles [including any designated parking area].

(5) Fourth, that, at the time, [name of other person] [had a (suspended / revoked) operator’s license / (his / her) application for an operator’s license had been denied / never applied for an operator’s license].

(6) Fifth, that the defendant permitted [name of other person] to operate the vehicle.

(7) Sixth, that, at the time, the defendant knew that [name of other person] [had a (suspended / revoked) operator’s license / (his / her) application for operator’s license had been denied / never applied for an operator’s license].

(8) Seventh, that [name of other person]’s operation of the vehicle caused [the death of / a serious impairment of a body function] [identify decedent or injured person]. To cause [the death / such injury], [name of other person]’s operation of the vehicle must have been a factual cause of the [death / injury], that is, but for [name of other person]’s operation of the vehicle the [death / injury] would not have
occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.6

Use Note

1. The term motor vehicle is defined in MCL 257.33.

2. Operating is defined by statute as being in actual physical control of a vehicle. MCL 257.35a. See also People v Wood, 450 Mich 399; 538 NW2d 351 (1995); People v Lechleitner, 291 Mich App 56; 804 NW2d 345 (2010). This subdivision applies regardless of whether or not the person is licensed under this act as an operator or chauffeur.

3. Owner is defined in MCL 257.37. This element may be worded differently to accommodate the defendant’s possessory interest under appropriate circumstances.

4. A highway is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. People v Bartel, 213 Mich App 726, 728-729; 540 NW2d 491 (1995).

5. The statute, MCL 257.58c, provides that serious impairment of a body function includes but is not limited to one or more of the following:
   (a) Loss of a limb or loss of use of a limb.
   (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
   (c) Loss of an eye or ear or loss of use of an eye or ear.
   (d) Loss or substantial impairment of a bodily function.
   (e) Serious visible disfigurement.
   (f) A comatose state that lasts for more than 3 days.
   (g) Measurable brain or mental impairment.
   (h) A skull fracture or other serious bone fracture.
   (i) Subdural hemorrhage or subdural hematoma.
   (j) Loss of an organ.

6. If it is claimed that the driver’s operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause the court may wish to review People v Schaefer, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a “causes
death” case under MCL 257.625(4). Schaefer was modified in part on other grounds by People v Derror, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by People v Feezel, 486 Mich 184; 783 NW2d 67 (2010).
Public Policy Position
M Crim JI Chapter 15

Support as Drafted

Explanation
The committee voted unanimously to support the revised Criminal Jury Instructions Chapter 15 as drafted.

Position Vote:
Voted For position: 17
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 4

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