

STATE BAR OF MICHIGAN BOARD OF COMMISSIONERS MEETING MINUTES

President McGill called the meeting to order at 9:42 a.m. on Friday, November 22, 2024, in the Boardroom at the Michael Franck building in Lansing, Michigan.

Commissioners present:

David C. Anderson, Secretary
Erika L. Bryant, Vice President
Aaron V. Burrell
Hon. B. Chris Christenson
Alena Clark
Tanya N. Cripps-Serra
Patrick J. Crowley
Sherrie L. Detzler
Robert A. Easterly
Jacob G. Eccleston
Nicole A. Evans
Lisa. J. Hamameh, President-Elect
Claudnyse D. Holloman
Thomas H. Howlett, Treasurer
Elizabeth A. Kitchen-Troop
Suzanne C. Larsen

Joshua A. Lerner
James L. Liggins, Jr.
James W. Low
Ashley E. Lowe
Elizabeth L. Luckenbach
Silvia A. Mansoor
Gerard V. Mantese
Gerrow D. “Gerry” Mason
Joseph P. McGill, President
Thomas P. Murray Jr.
Nicholas M. Ohanesian
Hon. David A. Perkins
John W. Reiser III
Douglas B. Shapiro
Danielle Walton

Commissioners absent:

Ponce D. Clay
Takura N. Nyamfukudza

Hon. Kristen D. Simmons

Guest(s):

David Watson, ICLE

State Bar staff present:

Peter Cunningham, Executive Director
Sarah Brown, Brand Designer
Darin Day, Director of Outreach
Robinjit Eagleson, Director of Lawyer Services
Katherine Gardner, Asst. Executive Director
Tatiana Goodkin, Chief Financial Officer
Robert Mathis, Pro Bono & Justice Initiatives Counsel
Dephanie Quah, Designer
Molly Ranns, Director of Lawyers & Judges Assistance
Linda Rawls, Unauthorized Practice of Law Counsel
Marjory Raymer, Director of Communications
Kristin Sewell, Director of Research & Analytics
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Jeanette Socia, Director of Human Resources
Laurin' Thomas, Public Services Counsel
Kari Thrush, Assistant Executive Director
Nathan Triplett, Director of Governmental Relations
Mandi Tupper, Records Management Specialist

Consent Agenda

The Board received the minutes from the September 19, 2024, Board meetings.
The Board received the minutes from the September 5, 2024, 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 2024 draft financial reports through September 30, 2024.
The Board received Client Protection Fund claims.
The Board received Character and Fitness Committee appointments.
The Board received Proposed Bylaw Amendments for the Children's Law, Information Technology Law, and Young Lawyers sections.

Mr. McGill swore in the four Commissioners who were not present at the September meeting.

Mr. McGill asked 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.

President and Executive Director's Report: Joe McGill, President and Peter Cunningham, Executive Director.

President's Report

Ms. Hamameh shared that she, Mr. McGill, and Mr. Cunningham attended the Great Rivers Conference in San Antonio in October. The Great Rivers Conference is composed of the presidents, presidents-elect, and executive directors from the state bars of Michigan, Ohio, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, and Colorado where they discussed current "hot topics" facing state bars. Topics included attorney mental health, professionalism and civility, addressing lawyer shortages, and artificial intelligence.

Artificial Intelligence Workgroup Update

Mr. McGill provided an update on the workgroup created to examine the impact artificial intelligence has on the legal profession. The work group has held multiple webinars with topics ranging from the basics of artificial intelligence to ethical issues to practice management. The workgroup is expecting to have a completed report in the first quarter of 2025. The topics of the report are to include practice management, ethics, access to justice, and the unauthorized practice of law.

DEI Commission Update

Ms. Bryant provided a brief update of the September Commission meeting.

Commission on Well-Being in the Law (WBIL)

Ms. Ranns shared that the full Commission met earlier this week at the State Bar building and gave a brief summary of the meeting.

Licensing Fee Status

Mr. Cunningham provided a brief update on the status of license renewal for the 2024-2025 bar year. As of today, the number of members who have already renewed their licenses is slightly ahead of last year's numbers at this time last year. This year's license renewal process has been smooth, which has resulted in a decrease in call volume from members of the Bar and there have been no escalated calls from members.

Member enrollment in the Interim Administrator Program has met budget projections. As of the close of business yesterday, 2,000 members elected to enroll for FY 2025.

Staff Updates

Ms. Raymer introduced Dephanie Quah. Ms. Quah was hired as a Designer in September. This is a new position that was created to help increase the capacity for the Communications Team to support and promote SBM programs.

Ms. Thrush introduced Mandi Tupper. Ms. Tupper was hired in October to fill the position of Members Records Specialist in the IT department.

Mr. Cunningham recognized Ms. Carrie Sharlow, Administrative Assistant at SBM, who recently received the Avern Cohn Award for Excellence. This award is presented by the Court Historical Society for the Eastern District of Michigan. Ms. Sharlow has written 52 “Michigan Lawyers in History” articles over the past 13 years for the *Michigan Bar Journal*.

Mr. Cunningham also acknowledged the ongoing excellence of the Communications Department. They won the 2024 Luminary Award from NABE for their development of “brand to-go kits” for in-person kits. This is the second year in a row that the Communications Department has won the Luminary Award.

Open Discussions: Challenges & Opportunities for the Profession and Justice System

SBM Support for Sections

Mr. Day gave an overview of the Sections of the State Bar. There are 43 sections, which include just over 24,000 individual section members, many of whom are a part of more than one section. In FY 2024, sections held 132 educational seminars. Of the 43 sections, 41 raise their own funds and conduct their own governance. The remaining two sections are non-practice-related sections and are not subject to Keller.

The State Bar of Michigan supports the sections in many ways, including SBM Connect, event support, finance, communication, public policy, and providing advice and guidance. The section liaisons help foster communication and support between the Board of Commissioners, staff, and section members.

Representative Assembly (RA) Report: John W. Reiser, III, Chairperson

Mr. Reiser shared that the Executive Committee of the RA has appointed members to the RA committees that conduct the work of the Assembly.

Mr. Reiser shared multiple goals for the RA for this year, including increasing membership and participation in the RA; increasing outreach by engaging with affinity Bars around the state; adding artificial intelligence to Representative Assembly discussions; and continuing discussions on legal deserts.

Young Lawyers Section (YLS) Report: Silvia A. Mansoor, Chairperson

Ms. Mansoor reported that the section held their annual retreat in September where they said goodbye to the previous leadership as they ended their term.

The section held the National Trial Advocacy Competition in October in Detroit. There were 16 teams from around the country. The team from Harvard Law School won for the third year in a row. The event will be held again next October 24-26, 2025, at the Coleman A. Young Municipal Center in Detroit. Organizers of the event are always looking for volunteers.

Ms. Mansoor shared that the annual ZooLAWgical event is scheduled to be held at the Detroit Zoo on July 12, 2025.

COMMISSIONER COMMITTEES

Public Policy: Lisa J. Hamameh, Chairperson

Ms. Hamameh provided the report for the Public Policy committee.

Court Rules

1. ADM File No. 2020-08: Proposed Amendments of MCR 2.107 and 3.203

MCR 2.107(G) was adopted and simultaneously published for comment by the Court on July 26, 2021. The proposed amendment of MCR 2.107 in this order reflects an alternative proposal that would expand the use of electronic service by requiring its use unless a party opts out, as suggested by some commenters on the original proposal. The proposed amendment of MCR 3.203 clarifies the use of electronic service in domestic relations cases.

A motion was offered and seconded to support ADM File No. 2020-08 with an amendment to provide that, while parties represented by counsel should be required to *opt out* of electronic services, parties proceeding pro se should be required to *opt in* to electronic service as recommended by the Public Policy Committee. The motion was approved.

2. ADM File No. 2021-27: Proposed Amendments of MCR 3.207 and 3.210

The proposed amendment of MCR 3.207 would: (1) clarify the pleading requirements for requesting certain ex parte orders, (2) require that an evidentiary hearing be scheduled anytime the court enters an order that may change a child's established custodial environment, and (3) clarify the procedure following service of an ex parte order. The proposed amendment of MCR 3.210 would require courts to hold an evidentiary hearing prior to entering an order changing a child's established custodial environment in contested cases.

A motion was offered and seconded to support ADM File No. 2021-27 with the following amendments:

1. Strike "If a hearing date was set in the order, the court may cancel the hearing" from proposed MCR 3.207(B)(5)(a).
2. Reword MCR 3.207(B)(6) to read as follows: "3. The ex parte order will automatically become a temporary order if you do not file a written objection or motion to modify or rescind the ex parte order. The hearing scheduled in the order will take place regardless of whether an objection or motion is filed. Even if an objection or motion is filed, the ex parte order will remain in effect and must be obeyed unless changed by a later court order."

3. Reword MCR 3.207(B)(5)(b) as follows: “If a party files a motion to rescind or modify the ex parte order without filing an objection, the court must hold an evidentiary hearing and resolve the dispute within 21 days of the motion to rescind or modify being filed or on the hearing date specified in the ex parte order, if any.”

4. Reword MCR 3.207(B)(1)(a) as follows: “(a) A verified motion or pleading that requests an ex parte custody or parenting time order or that requests a change of custody or parenting time must include the following information: (i) facts establishing whether the child has an established custodial environment with either parent, or both parents, or neither parent; and”

The motion was approved.

3. ADM File No. 2022-59: Proposed Amendment of MCR 6.302

The proposed amendment of MCR 6.302 would require courts, after accepting a plea, to advise defendants of their ability to withdraw their plea and to specifically advise defendants of the consequences of misconduct in between plea acceptance and sentencing.

A motion was offered and seconded to support ADM File No. 2022-59 with an amendment striking “after” and inserting “before” in the proposed language of MCR 6.302(G). The motion was approved.

4. ADM File No. 2023-07: Proposed Amendment of MCR 6.433

The proposed amendment of MCR 6.433 would require an indigent defendant to provide certain information before a court can consider whether good cause exists to order transcription of additional proceedings.

A motion was offered and seconded to oppose ADM File No. 2023-07. The motion was approved.

5. ADM File No. 2022-51: Proposed Amendment of MCR 6.509

The proposed amendment of MCR 6.509 would clarify that defendants may file with the Court of Appeals an application for leave to appeal a trial court’s decision on: (1) a motion for relief from judgment; and (2) a timely-filed motion to reconsider an order deciding a motion for relief from judgment. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-57.

A motion was offered and seconded to support ADM File No. 2022-51. The motion was approved.

6. ADM File No. 2022-57: Proposed Amendments of MCR 6.508 and 6.509

The proposed amendments of MCR 6.508 and 6.509 would: (1) require trial courts that make a partial decision on a postjudgment motion for relief to reissue the order in its entirety after it decides the remaining issues, and (2) clarify that a reissued order constitutes a decision under subchapter 6.500 of the Michigan Court Rules for purposes of filing an application for leave to appeal with the Court of Appeals. Note that a separate proposal affecting MCR 6.509(A) is proposed under ADM File No. 2022-51.

A motion was offered and seconded to support ADM File No. 2022-57. The motion was approved.

7. ADM File No. 2023-04: Proposed Amendments of MCR 7.212, 7.305, and 7.312

The proposed amendments of MCR 7.212, 7.305, and 7.312 would address the filing and timing of amicus curiae briefs. For both appellate courts, the proposal would: allow amicus curiae briefs in response to an application for leave to appeal; eliminate the motion filing fee; and expand the groups that are able to file a brief without a motion or invitation. For the Supreme Court, the proposal would also allow parties to file a response to an adverse amicus curiae brief, subject to certain timing and content requirements.

A motion was offered and seconded to support ADM File No. 2023-04 with the following amendments:

- (1) eliminate the limit of 3,200 words proposed in MCR 7.305(F) and MCR 7.312(A)(2)(c);
- (2) replace “in support of or in opposition to” in MCR 7.305(F) with “in response to;”
- (3) add tribal governments, the Legal Services Association of Michigan, the Michigan State Planning Body, and legal services programs that are annual grantees of the federal Legal Services Corporation or the Michigan State Bar Foundation to the list of those who are not required to file a motion for leave or receive an invitation to file an amicus brief in MCR 7.212 and 7.312.

The motion was approved.

8. ADM File No. 2023-25: Proposed Amendment of MRPC 1.6 and Comment

The proposed amendment of MRPC 1.6 would provide an exception to the confidentiality rule by permitting a lawyer to reveal, to certain individuals, confidences or secrets to the extent reasonably necessary to protect a client from self-harm that may result in the client’s death.

A motion was offered to oppose ADM File No. 2023-25 as drafted, but to support the concept. The motion was approved.

Legislation

1. HCR 6 (Wilson) A concurrent resolution to approve the State Officers Compensation Commission determinations.

A motion was offered that this legislation is Keller permissible. The motion to support was seconded and approved.

A motion was offered and seconded to support HCR 6. The motion passed unanimously.

Finance and Audit: Thomas H. Howlett, Chairperson

Financial Report

Mr. Howlett shared that the Committee met earlier this week. A meeting is scheduled with the auditors on Tuesday, December 10, 2024. There is a deadline of December 31, 2024, to submit a report to the Supreme Court. Further updates will be available in January.

Mr. Cunningham provided a financial report for FY 2024 through September 30, 2024. The official audit report will be provided to BOC by the auditors in January. SBM's net position for FY 2024 is favorable to budget by \$1,676,023.

The amount budgeted for FY 2024 for operating revenue was \$12.6 million. The actual year to date operating revenue varied to \$388,440 favorable to budget. The amount budgeted for operating expenses was favorable to budget by \$1.0 million due to lower salary expenses, payroll taxes and benefits, and non-labor operating expenses. The amount of non-operating expenses was also favorable to budget by \$627,350 due to lower than budgeted expenses in many departments including IT, Facilities, and Communications.

Non-operating revenues net of expenses were \$1,034,012 higher than what was budgeted primarily due to higher interest rates and income of the SBM retiree healthcare trust. Retiree Healthcare Trust income, which was not budgeted was \$746,477. Overall, SBM net position increased from \$12,751,125 to \$16,066,844, of which \$3,902,838 is restricted for retiree healthcare. Excluding net assets restricted for retiree healthcare, the administrative fund net assets increased by \$2.5 million.

The Client Protection Fund balance continues to be healthy with a balance of \$3,125,627, an increase of \$603,634 from the beginning of the year. Much of this increase is due to lower claim payments offset by higher administration expenses to due to increased legal expenses.

The section balances are healthy with a combined overall balance of approximately 2.9 million.

As of September 30, 2024, the active, inactive, and emeritus membership in good standing totaled 46,934 attorneys, an increase of 110 attorneys since the beginning of the year with the number of paying attorneys decreased by 558. A total of 773 new attorneys have joined SBM since the beginning of the year.

Michigan Bar Journal for Emeritus Members

Mr. Howlett presented the *Michigan Bar Journal* subscriber cost assessment conducted by SBM staff.

On behalf of the Finance and Audit Committee, Mr. Howlett made the following motion, "For FY 2025 and thereafter, the SBM Finance and Audit Committee recommended implementing a fee for Emeritus members who wish to receive a mailed copy of the Bar Journal. The subscription fee for Emeritus members is to cover costs of production and mailing the Bar Journal and will provide Emeritus members with a discount of at least 50% from the subscription rate for non-members."

The motion was seconded and approved unanimously.

Professional Standards: David C. Anderson, Chairperson

Mr. Anderson stated there was a Professional Standards Committee meeting last week. He acknowledged and thanked the committee members for their hard work.

Strategic Planning and Engagement Committee (SPEC): Erika L. Bryant, Chairperson

Ms. Bryant reviewed the creation of the new committee, and acknowledged all the members, both SBM staff and Commissioners. Ms. Bryant identified the purpose of the SPEC: implementation of the strategic plan; to oversee new and existing programs and services of SBM; provide support for sections; review bylaw amendments; and to provide public outreach.

Ms. Bryant reported this year's inauguration event net promoter score increased by four points from last year's event.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Mr. McGill shared that he just received confirmation that the keynote speaker for the Great Lakes Legal Conference in June will be Sateesh Nori. Mr. Nori presented to the AI Workgroup recently and was phenomenal.

Comments or questions from the public

None.

Adjournment

The meeting was adjourned at 12:33 p.m.