

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES

President-Elect Heath called the hybrid meeting to order at 9:44 a.m. on Friday, July 22, 2022, online and in the Boardroom at the Michael Franck building in Lansing.

Commissioners present:

Danielle Mason Anderson
David C. Anderson
Yolanda Bennett
Kristina A. Bilowus
Erika L. Bryant
Aaron V. Burrell
Hon. B. Chris Christenson
Thomas P. Clement
Robert A. Easterly
Hon. Kameshia D. Gant
Lisa J. Hamameh, Treasurer
James W. Heath, President-Elect
Thomas H. Howlett
Suzanne C. Larsen
James W. Low
Gerrow D. "Gerry" Mason

E. Thomas McCarthy Jr.
Joseph P. McGill, Secretary
Valerie R. Newman
Takura N. Nyamfukudza
Nicholas M. Ohanesian
Samantha J. Orvis
Hon. David A. Perkins
Colemon L. Potts
Hon. Kristen D. Simmons
Delphia T. Simpson
Thomas G. Sinas
Danielle Walton
Dana M. Warnez, President
Hon. Erane C. Washington
Mark Wisniewski

Commissioners absent:

Sherrie Detzler
Sarah E. Kuchon

Daniel D. Quick, Vice President

State Bar staff present:

Peter Cunningham, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Assistant Executive Director
Michelle Erskine, Research Assistant & Event Specialist
Clifford Flood, Interim General Counsel
Katherine Gardner, UPL Counsel
Tatiana Goodkin, Chief Financial Officer
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Molly Ranns, Director, Lawyers & Judges Assistance Program
Marjory Raymer, Director of Communications
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Jeanette Socia, Director of Human Resources
Nathan Triplett, Public Policy Counsel
Anne Vrooman, Program Director, Research & Development

Guests present:

Gerard Mantese, 2022-2023 Board member
David Watson, ED, ICLE

Consent Agenda:

The Board received the minutes from the May 31, 2022, 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 proposal for the 2023 Michigan Legal Milestone.

The Board received the FY 2021 draft financial reports through May 2022.

The Board received the SBM Retirement Plan Restatement.

Mr. Heath asked the Board if any items needed to be removed from the consent agenda. There were none. A motion was offered and supported to approve the consent agenda. The motion was approved.

The Board went into a closed session at 9:46 a.m. to discuss the report from the General Counsel Search Committee. The Board entered back into open session at 10:11 a.m.

A motion was offered and supported to allow Ms. Warnez, Mr. Heath, and Mr. Cunningham to negotiate a contract as was discussed in the closed session. The motion was approved.

LEADERSHIP REPORTS

President and Executive Director's Report: James Heath, President-Elect and Peter Cunningham, Executive Director.

Mr. Heath shared that he would be conducting the meeting as President Dana Warnez is dealing with challenges with her mother's health.

Mr. Heath asked the chairs of the following work groups to provide an update to the Board.

Work Group Reports

Section Bylaw Amendments

Ms. Bryant informed the Board that there were no comments received to the proposed section bylaw amendments within the 30-day review period. A motion was offered and supported to adopt the proposed bylaw amendments. The motion was approved.

Strategic Planning Committee

Mr. Howlett provided the Board with an overview of the work of the Strategic Planning Committee. He stated that more information will be provided at the September meeting. Recent efforts have been focused on programming, such as Practice Management Resources Center (PMRC) and e-Journal, which align with the goals of the Strategic Plan.

Task Force on Lawyer Wellness

Mr. Cunningham updated the Board on the work of the task force. Ms. Warnez, Mr. Cunningham, and Ms. Ranns will participate in the kickoff meeting on August 9, 2022 and will provide a report at the September Board meeting.

Justice for All (JFA) Commission

Mr. Cunningham provided the Board with an update of the activities of the Justice for All Commission. The full commission met in June. A report on return of investment of funding of civil legal aid is expected soon, which will be beneficial to SBM's advocacy efforts for funding for the Legal Services Corporation. The Debt Collection Workgroup is expected to issue a report in August or September 2022. The Regulatory and Practice Reform Committee is working to have recommendations by the end of the year.

Commission on Diversity Equity and Inclusion

Mr. Cunningham indicated that since the last Board meeting in June, the commissioners for the DEI Commission have all been identified, including Erika Bryant as the State Bar's representative. The commission hopes to meet for the first time in September 2022. An RFP is out to hire a strategic consultant to help the commission develop a strategic plan.

2022-2023 Officer Election

Mr. Heath informed the Board that there were three members who had submitted their names for the position of treasurer: Mr. David Anderson, Mr. Jamie Low, and Ms. Erika Bryant. They were no additional nominations from the floor. Mr. Anderson and Mr. Low withdrew their names from consideration for the Treasurer position. A motion was offered, supported, and approved to elect Ms. Bryant as Treasurer for the 2022-2023 Board year.

A motion was offered to elect Mr. Heath as President of the State Bar of Michigan for the 2022-2023 Board year. The motion was seconded and approved. Mr. Heath accepted the nomination.

A motion was offered to elect Mr. Quick as President-Elect of the State Bar of Michigan for the 2022-2023 Board year. The motion was seconded and approved. Mr. Quick was not present but did offer his acceptance of anticipated nomination.

A motion was offered to elect Mr. McGill as Vice President of the State Bar of Michigan for the 2022-2023 Board year. The motion was seconded and approved. Mr. McGill accepted the nomination.

A motion was offered to elect Ms. Hamameh as Secretary of the State Bar of Michigan for the 2022-2023 Board year. The motion was seconded and approved. Ms. Hamameh accepted the nomination.

Interim Administrator Program (IAP)

Mr. Cunningham provided the Board with an update of the IAP. Since the last Board meeting, the Supreme Court issued an order amending the Rules Concerning the State Bar of and the Court Rules to require attorneys in private practice to provide the name of an attorney or law firm who will act as an interim administrator if they are unable to continue to practice. These new rules will be effective starting with the 2023-24 bar year and were adopted at the request of the State Bar of Michigan. SBM staff worked with Justices Cavanagh, Clement, and Welch to address concerns that the Court had with SBM's original proposal. If a member does not provide the name of an interim administrator when they renew their license, they will be required to pay \$60 to the State Bar to provide them with an interim administrator.

The State Bar will be responsible for making this part of the license renewal process, verifying that the named successor agrees to being named, and to engage volunteers to serve as interim administrators to

those members who do not name a successor and pay for one to be provided. SBM will be hiring the positions which were previously budgeted to implement the IAP.

Representative Assembly (RA) Report: Nicholas M. Ohanesian, Chairperson
Mr. Ohanesian stated he has reviewed some reports from the RA committees regarding reform proposals to the RA. He said that more information will be provided in September.

Young Lawyers Section (YLS) Report: Kristina Bilowus, Chairperson
Ms. Bilowus provided the Board with an update of the YLS activities. YLS has already had 30 programs this year, including several “lunch and learn” sessions and an ABA webinar on student loans. The Pipeline process is doing very well. The YLS annual meeting will occur one week after the SBM Annual Meeting in September in Detroit. There will be a Mock Trial Workshop with a group of high school students in Detroit next week.

COMMISSIONER COMMITTEES

Public Policy: James W. Heath, Chairperson

Court Rules

1. ADM File No. 2002-37: Amendment of MCR 1.109

The amendment of MCR 1.109 provides an e-filing court with the authority to determine the most appropriate means of sending notices and other court-issued documents that are generated from its case management or local document management system.

A motion was offered and supported to support ADM File No. 2002-37 as drafted. The motion was approved.

2. ADM File No. 2002-37/2017-28: Amendments of MCR 1.109 and 8.119

The amendments of MCR 1.109 and MCR 8.119 aid in protecting personal identifying information included in Uniform Law Citations, proposed orders, and public documents filed with or submitted to the court.

A motion was offered and supported to support ADM File No. 2002-37/2017-28 as drafted. The motion was approved.

3. ADM File No. 2021-17: Proposed Rescission of Administrative Order No. 1998-1 and Proposed Amendment of MCR 2.227

The proposed rescission of Administrative Order No. 1998-1 and proposed amendment of MCR 2.227 would move the relevant portion of the administrative order into court rule format and make the rule consistent with the holding in *Krolczyk v Hyundai Motor America*, 507 Mich 966 (2021).

A motion was offered and supported to support ADM File No. 2021-17 and recommend that the Court give consideration to the potential conflict in the rules regarding jury demands in transferred cases. The motion was approved.

4. ADM File No. 2022-06: Proposed Amendment of MCR 3.101

The proposed amendment of MCR 3.101 would allow writs of garnishment to be served electronically on the Department of Treasury, subject to current e-filing requirements and guidelines established by the Department of Treasury.

A motion was offered and supported to support ADM File No. 2022-06 as drafted. The motion was approved.

5. ADM File No. 2021-21: Proposed Amendment of MCR 3.613

The proposed amendment of MCR 3.613 would clarify the process courts must use after receiving a request not to publish notice of a name change proceeding and to make the record confidential.

A motion was offered and supported to support the amendment to Rule 3.613 and recommend that the Court make the determination of good cause required by the proposed amendment presumptive for persons whose name change is sought for affirmation of gender identity, and for victims of human trafficking and domestic violence. The motion was approved.

A motion was offered and supported to recommend that language be added to the rule to provide for Court-approved alternative service for the notice of a hearing to noncustodial parents, rather than requiring publication of such notice in a newspaper, and to further recommend that such notice not include a minor child's name. The motion was approved.

6. ADM File No. 2020-33: Proposed Amendment of MCR 3.903

The proposed amendment of MCR 3.903 would clarify the definition of a party in child protective proceedings.

A motion was offered and supported to support ADM File No. 2020-33 as drafted. The motion was approved.

7. ADM File No. 2021-18: Proposed Amendment of MCR 3.943

The proposed amendment of MCR 3.943 would update the definition of "firearm" in juvenile proceedings to be consistent with MCL 8.3t, which contains the definition referenced in the court rule's companion statute, MCL 712A.18g.

A motion was offered and supported to support ADM File No. 2021-18 as drafted. The motion was approved.

8. ADM File No. 2021-16: Proposed Amendment of MCR 7.305

The proposed amendment of MCR 7.305 would clarify that the 28-day timeframe for filing an application for leave to appeal applies to cases where the respondent's parental rights have been terminated.

A motion was offered and supported to support the clarification of Rule 7.305 but recommend that the timeframe for filing an application for leave to appeal be made consistent for all civil appeals, including appeals from orders terminating parental rights, at 42 days. The motion was approved non-unanimously, with Danielle Walton voting in opposition.

9. ADM File No. 2021-13: Proposed Amendment of MCR 8.119

The proposed amendment of MCR 8.119 would clarify that a request for a fee waiver must be filed in accordance with MCR 2.002(B), which requires the request to be made on a form approved by the State Court Administrative Office.

A motion was offered and supported to support ADM File No. 2021-13 as drafted. The motion was approved.

Legislation

HB 4795 Substitute H-2 (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.

The Public Policy Committee recommended that the Bar's position opposing HB 4795, as introduced, should continue to apply to the (H-2) substitute.

HJR Q (Allor) Courts: judges; age limit for election of or appointment to a judicial office; amend. Amends sec.19, art. VI of the state constitution.

A motion was offered and supported to authorize the Family Law Section to advocate its position. The motion failed with nine commissioners in support and 21 in opposition.

A motion was offered and supported to request that the Representative Assembly consider this at its next meeting. The motion was approved.

Communications and Member Services (CAMS): Daniel D. Quick, Chairperson
The UMLI and BLI summary report was provided in the Board book.

Professional Standards: Joseph P. McGill, Chairperson
Mr. McGill reported recommendations from the Professional Standards Committee on nominations to several bodies.

There was one seat open in the ABA House of Delegates. A motion was offered to appoint Tom Rombach to this seat. The motion was seconded and approved.

There was one vacancy on the ICLE Board of Directors. There were eight very good candidates. A motion was offered to appoint Takura Nyamfukudza. The motion was seconded and approved.

The Michigan Indian Legal Services Board of Trustees had two positions available. A motion was offered to select Zach Fallstich and Stanette Amy as the two nominees for these positions. The motion was seconded and approved.

Finance: Lisa J. Hamameh, Chairperson
Credit Card Surcharge and Fee Analysis

Ms. Hamameh reported that the Finance Committee recommends the implementation of a 2.5% credit card processing fee on the mandatory license fees in FY 2022-23 to recoup the credit card processing fees that SBM is currently paying to members. In FY 2021-22, 78% of licensing fee payments were made by credit card or debit card, costing SBM over \$200,000 in credit card processing fees. The 2.5% surcharge will only apply to credit card payments on the mandatory portions of license fee renewal, and

there are several payment options to avoid the surcharge, including e-checks, debit cards, and mailing a paper check. A motion was offered and supported to charge a 2.5% surcharge on mandatory fees to recoup the cost from the members who use credit cards. The motion was seconded and approved.

FY 2022 Financial Update

Ms. Hamameh provided the Board with a FY 2022 financial update.

FY 2023 Budget

Mr. Cunningham provided an overview of the proposed FY 2022-23 budget. A motion was offered and supported to approve the budget. The motion was approved.

Audit: Lisa J. Hamameh, Chairperson

There was no report.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Mr. Howlett stated that he is proud of the diverse slate of officers for the 2022-2023 year. Judge Washington also added that the Board has aligned itself to have the second African American female president of the State Bar of Michigan with the election of Ms. Bryant.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 12:15 p.m.