

President Keefe called the meeting to order at 9:30 a.m. on Friday, January 18, 2008 at the Michael Franck Building in Lansing.

Commissioners present:

Lori A. Buiteweg
Laura A. Chappelle
B. D. "Chris" Christenson
John J. Conway
Margaret A. Costello
Bruce A. Courtade
Francine Cullari
Richard L. Cunningham
Brian D. Einhorn
James N. Erhart
Elias J. Escobedo, Jr.
Robert K. Fergan
Julie I. Fershtman, Treasurer
Robert C. Gardella

W. Anthony Jenkins, Secretary
Elizabeth M. Johnson
Katherine Kakish
Ronald D. Keefe, President
Donald E. McGinnis, Jr.
Lambro Niforos
Edward H. Pappas, President-Elect
Eric J. Pelton
Michael J. Riordan
Thomas C. Rombach
Julie A. Sullivan
Laurin C. Roberts Thomas
Charles R. Toy, Vice-President
Gregory L. Ulrich

Commissioners Beverly Hall Burns, Kiffi Y. Ford, Hon. William B. Murphy and Kurt E. Schnelz were absent and excused.

State Bar Staff Present:

Janet K. Welch, Executive Director
Marge Bossenbery, Executive Coordinator
Kari Brandel, Manager, Member Services and Events
Nancy Brown, Director, Member Services and Communications
Kathleen Conklin, Program Manager, Justice Initiatives
Gregory Conyers, Acting Director, Justice Initiatives
Candace Crowley, Manager, External Development
Dawn Evans, Director, Professional Standards
Cliff Flood, General Counsel
Mary Frook, Director, Human Resources
Linda Harms, Case Monitor, LJAP
James Horsch, Director, Finance and Administration
Will Kramer, Director, Information Technology Services
Victoria Kremski, Deputy Director, Professional Standards
Elizabeth Lyon, Director, Governmental Relations
Mark Mazurkiewicz, Network Administrator
Catherine O'Connell, Assistant Professional Standards Counsel
Carrie Pierce, Case Monitor, LJAP
Carrie Sharlow, Administrative Assistant
Naseem Stecker, Manager, Media and Public Relations
Anne Vrooman, Director, Research and Development

Guests

Larry J. Lacey, Chair, Consumer Law Section

Section Report

Mr. Lacey provided the Commissioners with an update from the Consumer Law Section.

Consent Agenda

Minutes

The Board received the minutes from the November 16, 2007 Board of Commissioners meeting.

President's Report, Ronald D. Keefe, President

The Board received a written report on the President's recent activities.

Executive Director's Report, Janet K. Welch, Executive Director

The Board received a written report on the Executive Director's recent activities.

Finance, Julie I. Fershtman, Chairperson

The Board received the preliminary financial reports through November 30, 2007

Professional Standards, W. Anthony Jenkins, Chairperson

The Board received the Client Protection Fund Claims.

Proposed State Bar of Michigan Bylaw Amendment

The Board received a proposed bylaw amendment, Article IV, Section 4, Representative Assembly Election Procedure.

A motion was offered, supported, and carried, to approve the consent agenda with the following amendments:

The November 16, 2007 minutes amended to correct the spelling of Ms. Fershtman's name on page 2.

The November 16, 2007 minutes amended to change Mr. Gardella's name to Mr. Fergan's name.

The President's activities were amended to correct the location of the Jerry Goetz presentation from Birmingham to Bloomfield Hills.

Beginning with the January 18 meeting, the Board will no longer approve the Executive Committee minutes.

COMMISSIONER COMMITTEES

Audit, Julie I. Fershtman, Chairperson

Report from Auditors, Plante Moran, FY 2007 Audit

Ms. Mary Schaefer and Ms. Christine Latchoff from Plante & Moran reviewed the FY2007 audit with the commissioners. They reported in an audit letter that the SBM received a clean opinion with no exceptions.

Committee Recommendation for Auditors

Ms. Fershtman reported that several firms submitted proposals to the SBM in response to the RFP that was sent out for an auditing firm for FY 2009 – 2012. It is the recommendation of the Audit Committee that the SBM retain Plante Moran Advisors for a three-year contract. A motion was offered, supported and adopted to retain Plante Moran Advisors as the SBM auditor for the next three years.

Finance, Julie I. Fershtman, Chairperson

Financial Update

Ms. Fershtman provided the Board members with an update on the FY2008 financial status.

Status of Liability for Retiree Health Care

Ms. Fershtman provided the Board with an update on the Retiree Health Care Liability issue.

Long Term Investments and Investment Policy

Ms. Fershtman provided the Board members with an update on the SBM long-term investments and future investment strategies.

Professional Standards, W. Anthony Jenkins, Chairperson

Mr. Jenkins reported that there was not a quorum at the Professional Standards committee meeting so the committee could not vote on the issues before them. Mr. Jenkins indicated that a committee meeting will be convened soon to approve payment of the client protection fund claims.

Lawyer Referral Service Rules

Mr. Jenkins provided the Board with a history of the Lawyer Referral Service rules, which refer to a committee that was discontinued in the committee reorganization of 2002. The discussion was prompted by the fact that an attorney who is a participant in the referral system is the subject to a grievance. Staff will provide an analysis to the Board on whether to reinstate the committee, and on possible rule revisions.

PMRC Update

The Board received an announcement describing current PMRC programs.

Pro Hac Vice proposed rule from the Court

The Michigan Supreme Court's proposed court rule on pro hac vice admissions, a variation on a proposal submitted by the RA, was discussed.

Programs and Services, Charles R. Toy, Chairperson

Mr. Toy reported that the Programs and Services committee recommends that the SBM adopt a membership benefit program for document destruction from the Shred-it company. A motion was offered, supported and adopted to endorse Shred-it as an endorsed vendor of the SBM.

Public Policy, Image and Identity, Edward H. Pappas, Chairperson

Mr. Pappas reported that the Public Policy, Image and Identity committee recommended changes to the "support", "support in principle", "oppose", and "oppose in principle" position categories. The committee recommended that only "support" and "oppose" be used. Staff assured committee that the Board's position priorities would continue to be reflected in how lobbying resources were used under the simplified position categories. After discussion, a motion was offered, supported and adopted to make that change.

Legislation

SB 786 Small Claims

No action needed as a position has already been taken.

HB 4723 and 4724 Expert Witness

Motion offered, supported and adopted to oppose this legislation.

HB 4753 Civil Procedure credit report

Motion offered, supported and adopted to support this legislation.

HB 4755, 4859, 4931, 4932, 4933, 4934, Jury Pool Expansion

A motion was offered, supported and adopted by a roll call vote, 26 – 2, with four members absent, to support the concept of juror pool expansion, but to oppose the bills as drafted. The Board voted to authorize SBM staff to participate in workgroups to improve legislation.

HB 4951 Appeals of Persons convicted of felony murder before November 25, 1980 if malice is not proved

A motion was offered, supported and adopted to oppose this legislation because a remedy -- pardon from the Governor -- is already available through the Parole Board process.

HB 4953 and 5037 DEQ Amendments

A motion was offered, supported and adopted to oppose this legislation.
Attorney fees go to the person who loses

HB 5050 Child support payers to disclose bank account

A motion was offered, supported and adopted to support this legislation and to endorse the amendments recommended by the Family Law Section.

HB 5060 Eliminates provision in Revised Judicature Act regarding person in other county

A motion was offered, supported and adopted to support this legislation.

HB 5186 – 88 Appointment of Conservator

A motion was offered, supported and adopted to support this legislation.

HB 5213 Record Expungement

A motion was offered, supported and adopted to support HB 5213 with an amendment regarding the length of time

HB 5419 Record Expungement

A motion was offered, supported and adopted to postpone action on this item.

HB 5324 Family Law

A motion was offered, supported and adopted to oppose this legislation

SB 645 Family Support act

A motion was offered, supported and adopted to oppose this legislation.

SB 817 Discovery Rule in RJA

No action needed.

SB 1782 Arbitration Fairness Act of 2007

No action needed

Court Rules

Rule 8002 to the Federal Rules of Bankruptcy Procedure

A motion was offered, supported and adopted to oppose changing the deadline from 10 days to 14 days, to endorse the Business Law Section position, and to authorize SBM sponsorship of a resolution before the ABA House of Delegates to that effect.

ADM 2005-36 2.119, 7.204 and 7.205

Motion offered, supported and adopted to support the proposal as published by the Michigan Supreme Court.

ADM 2007-09 Rule 2.306

Motion offered, supported and adopted to take no position but for Ms. Welch to communicate to the Court that comments will be forthcoming, and to authorize the Civil Procedure and Courts Committee to advocate its position.

ADM 2007-21 Rule 2.510

Motion offered, supported and adopted to support the proposed amendment.

ADM 2007-27 Rule 5.125

Motion offered, supported and adopted to support the proposed amendment.

Justice Initiatives Report

The Board received a written report from the Hon. Cynthia Diane Stephens, co-chair of the Justice Initiatives Committee.

LEADERSHIP REPORTS

President's Report, Ronald D. Keefe, President

President Keefe reported to the Board that former SBM President Kim Cahill has been in the hospital and asked that the Commissioners keep her in their thoughts.

President Keefe encouraged the Commissioners to review the SBM Awards brochure and to give some thought as to attorneys that they knew who deserve these awards.

President Keefe mentioned that the SBM Commissioner and staff directory is available and that copies were at their places.

Executive Director's Report, Janet K. Welch, Executive Director
Senior Lawyers Section Planning Group Report

Ms. Welch introduced the report of the Senior Lawyers Section Planning Committee. Commissioner Ulrich chaired the planning committee, and members included Commissioners Buiteweg, Einhorn, and Fergan, Judge Harold Hood, Mr. Richard McLellan, and Mr. Asher Tillman. Mr. Conyers, Ms. Crowley and Ms. Vrooman have provided staff support.

The committee recommends that the membership of the senior lawyers section consist of all SBM members of a certain age and or years of service, and that the section be funded from SBM dues.

The Board accepted a recommendation to expand the planning committee, in anticipation of a recommendation that will be reflected in the proposed budget for 2008-09.

Tarnow/Fieger Update

Ms. Welch reported that the Ethics committee had recommended against filing as an amicus in Feiger v Taylor, et al. at this time. A committee was formed to further research the SBM options and provide a report to the Board at a future date. Commissioners Einhorn, Pelton, and Riordan agreed to serve on the committee. President Keefe indicated that if anyone else would like to be part of the discussion to contact him.

AVVO

Ms. Welch reported that the SBM received a request from a commercial online lawyer rating company called AVVO, for bulk access to the bar admit dates for all of our members. The SBM does provide the bar admit date on an individual basis to anyone who requests it but we do not include the information in either our print or online directory. The Executive Committee has concurred with staff recommendation that we continue to deny bulk access to this information, but that we begin to include the information in the online directory. A motion was offered, supported and adopted to continue to deny bulk access to this information, and to include the bar admit date in the online directory but not in the print directory.

ATJ Campaign

Ms. Welch reported that although year-end figures are not yet final, total gifts and pledges for 2007 are estimated at almost \$1.75 million (nearly \$1 million more than the total of \$775,000 for 2006 and \$.5 million higher than the previous highest year in 2003). The cumulative total since the campaign began in 1997 has passed \$8 million, including about \$2.5 million for the statewide endowment. Many factors contributed to 2007 results, including ongoing leadership from the partners, local program coordination with the ATJ Fund, several major gifts including a substantial cy pres gift to statewide endowment, and the continuing generosity of lawyers and law firms committed to assisting access to justice. Ms. Welch recognized the efforts of the staff of the Justice

Initiatives who have been working with reduced staff and that of Linda Rexer and her staff at the Michigan State Bar Foundation.

Personnel Changes

Ms. Evans introduced Ms. Linda Harms and Ms. Carrie Pierce, case monitors in the Lawyers and Judges Assistance Program; Ms. O'Connell introduced Mr. Lonnie Johnson and Ms. Robin Niska from Lawyers Referral, Mr. Conyers introduced Ms. Kathleen Conklin, Program Manager in the Justice Initiatives Division; Ms. Lyon introduced Ms. Carrie Sherlow, Administrative Assistant in Governmental Relations; Mr. Kramer introduced Mark Mazurkiewicz, Network Administrator; and Mr. Horsch introduced the new receptionists, Ms. Doreen Dobias and Ms. Linda Miers.

Ms. Welch referred the Commissioners to a document that was at their places that describes the Member Services and Communications division and how what they are doing fits in with the Strategic Plan. At each future Board of Commissioners meeting a SBM division will prepare a similar report for the Board members.

Representative Assembly Report, Robert C. Gardella, Chairperson

Mr. Gardella reported that an online RA directory will soon be on the SBM website and include pictures, areas of practice, and contact information.

Mr. Gardella encouraged the commissioners to submit names for the RA Awards.

Mr. Gardella reported that the RA officers met with Chief Justice Clifford Taylor to discuss RA issues. The Chief Justice will address the Representative Assembly during the April 12 meeting and that MGTV will broadcast the speech.

Mr. Gardella provided the Board with an overview of the April 12, 2008 meeting.

American Bar Association (ABA) Report, W. Anthony Jenkins, State Delegate

Mr. Jenkins reported that the ABA Mid-year meeting is taking place in Los Angeles on February 6 – 10 and that the House of Delegates meets on February 11 & 12.

Mr. Jenkins reported that he has submitted his resignation as the ABA state delegate from Michigan and that Reginald Turner has placed his name on the ballot to become the next state delegate. Mr. Jenkins indicated that he is in the running for the ABA Board of Governors and that elections will be held during the mid year meeting.

Young Lawyers Section Report, Robert K. Fergan, Chairperson

Mr. Fergan provided the Board with a written report on the Young Lawyers section activities.

Comments or questions from Commissioners

Commissioner Ulrich indicated that he had heard that there was movement to assist members who are in the military with their dues and Ms. Welch indicated that staff was working on a report and will present it to the Board when completed.

Commissioner Cullari advocated for greater attention to promoting diversity in the composition of State Bar staff.

Comments or questions from the public

The Board entered into an Executive Session at 1:00 p.m.

Adjournment

The Board went into open session at 1:40 p.m. and the meeting was adjourned.