

**STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS MEETING MINUTES**

President Buchanan called the meeting to order at 9:30 a.m. on Friday, January 22, 2021, via videoconference.

Commissioners present:

Danielle Mason Anderson  
David C. Anderson  
Kristina A. Bilowus  
Robert J. Buchanan, President  
Erika L. Butler  
Hon. Clinton Canady III  
Thomas P. Clement  
Josephine A. DeLorenzo  
Robert A. Easterly  
Lisa J. Hamameh  
James W. Heath, Vice President  
Thomas H. Howlett  
Sarah E. Kuchon  
Suzanne C. Larsen  
James W. Low  
Gerrow D. "Gerry" Mason

E. Thomas McCarthy Jr.  
Joseph P. McGill, Treasurer  
Valerie R. Newman  
Takura N. Nyamfukudza  
Nicholas M. Ohanesian  
Samantha J. Orvis  
Hon. David A. Perkins  
Barry R. Powers  
Daniel D. Quick, Secretary  
Chelsea M. Rebeck  
Thomas G. Sinas  
Dana M. Warnez, President-Elect  
Hon. Erane C. Washington  
Mark A. Wisniewski  
Ryan Zemke

Commissioner absent:

Hon. B. Chris Christenson

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  
Liz Goebel, Public Policy Counsel  
Tatiana Goodkin, Chief Financial Officer  
Kathryn Hennessey, General Counsel  
Carrie Sharlow, Administrative Assistant  
Janna Sheppard, Administrative Assistant  
Kari Thrush, Program Director, Lawyer Services

Guests:

Eric D. Bischer, Andrews Hooper Pavlik PLC  
Jamie L. Rabe, Andrews Hooper Pavlik PLC  
Patricia Refo, President, American Bar Association

Consent Agenda:

The Board received the minutes from both of the November 20, 2020 Board meetings.

The Board received the minutes from the November 10 and December 8, 2020 Executive Committee meetings.

The Board received the recent activities of the president.

The Board received the recent activities of the executive director.

The Board received the draft FY 2020 financial reports through November 2020.

Mr. Buchanan 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.

Mr. Buchanan introduced Patricia Refo, president of the American Bar Association, to the Board. Ms. Refo described current ABA initiatives, focused on leading the profession in ways that help attorneys better serve their clients. Ms. Refo responded to questions and remained in the meeting to hear about the issues that the State Bar is considering and addressing.

Mr. Buchanan asked Mr. McGill to introduce the auditors from the firm of Andrews Hooper Pavlik PLC, Ms. Jamie Rabe and Mr. Eric Bischer. The auditors provided the Board with an overview of the auditing process, reviewed the management letter, and responded to questions.

## LEADERSHIP REPORTS

**President and Executive Director's Report:** Robert J. Buchanan, President and Janet K. Welch, Executive Director

Mr. Buchanan reported on:

- **Proposed Fees Increase.** The request for a fee increase will be considered by the RA at its April meeting and if approved, the request will be sent to the Supreme Court for its consideration.
- **Executive Director Search Committee.** Ms. Welch informed the officers she is actively planning to retire. In preparation, a search committee will be convened to determine the steps needed to search for a new executive director. Mr. Buchanan stated that while there is time before Ms. Welch retires, a process needs to get underway soon so the SBM is prepared when the transition takes place. He stated that Ms. Warnez will chair this committee and Ms. Bossenbery will work with her.
- **Governance Committee.** As a continuation of the committee that worked on this issue in the past few years, a smaller group will focus on a proposed restructuring of the governance for the State Bar. Mr. Buchanan stated that Mr. Quick will chair this committee and Ms. Hennessey will work with him.
- **Rule of Law.** Chaired by Dan Quick, this group will work on advancing and promoting informational resources and assistance to the public.
- **Pipeline for Diversity.** This initiative will help minorities and diversity candidates find judicial clerkships in the state court system.

- **Strategic Planning Committee.** The Strategic Planning Committee will be reappointed soon and be chaired by Mr. Howlett.
- **Continuing Legal Education (CLE).** Mr. Buchanan and Ms. Welch will look into reimagining CLE in Michigan, to raise the profile of continuing legal education as an ongoing professional responsibility while avoiding the deficiencies of the traditional MCLE bureaucracy as it has developed in 46 other states.
- **Rapid Response:** Mr. Heath will work with the members of the Communication and Members Services (CAMS) Committee to develop a rapid response plan to help SBM become more proactive and prompt in its response to issues that arise that impact the profession.

Ms. Welch informed the Board of these noteworthy events since the November meeting:

- The Supreme Court (SC) adopted and endorsed the SBM Professionalism Principles, and adopted the State Bar's recommended court rule changes affected the unauthorized practice of law and the client protection fund.
- The Justice for All Task Force has recommended to the Supreme Court that a permanent Justice for All Commission to be formed and it is expected that within the next week the Court will adopt that recommendation.
- The Unconscious Decision Making workshops in December were so successful there will be additional workshops scheduled for our members and the legal community.
- The list of members who have not paid their licensing fees is larger this year than normal. Ms. Welch asked Ms. Vrooman for statistics regarding the increase. She reported there are 2,494 unpaid members compared to 1,021 at this same time in 2020. The unpaid members do not belong to any particular group. A survey sent in January to unpaid members suggests that health and financial issues not related to COVID are primary causes. She noted that many members stated that their electronic notices landed in spam folders, despite the State Bar's frequent advisories about this problem.
- The FY 2020 audit was completed, and the Financial Report was distributed to the Board and the Supreme Court.

Ms. Welch provided the Board with a Power Point presentation of the accomplishments of the SBM during the previous year.

**Representative Assembly (RA) Report:** Chelsea Rebeck, Chairperson

Ms. Rebeck reported that the RA:

- Has been working through its Diversity Committee on the three specific topics identified last year, one of which is creating an outreach video targeting diverse members in hopes they will join the RA
- Is working on filling the vacancies on the RA
- Is looking forward to the April 24 meeting where the members of the RA will be asked to vote on the proposed fee increase.

**Young Lawyers Section (YLS) Report:** Samantha Orvis, Chairperson

In Ms. Orvis's absence, Ms. Bilowus provided the Board with an update on past and upcoming programs and activities of the YLS.

### **COMMISSIONER COMMITTEES**

**Finance:** Joseph P. McGill, Chairperson

Mr. McGill reviewed the FY 2020 financial results through November 2020.

**Audit:** Joseph P. McGill, Chairperson

#### **2021-2022 Auditing Services**

Mr. McGill stated that the committee met to consider the 2021-2022 contract for an auditing firm. It determined that now was not the most opportune time to go through the RFP process and that while current policy limits the number of years an auditing firm can contract with the State Bar, the committee is asking for an exception. Mr. McGill stated that the committee will review the policy governing the number of years that an auditing firm can be used and report to the Board at a future meeting.

A motion was offered to continue the contract for auditing services with Andrews Hooper, Pavlik PLC for an additional year. The motion was supported and approved.

**Professional Standards:** Daniel D. Quick, Chairperson

Mr. Quick reported that the committee met and reviewed CPF and UPL matters. He noted the Supreme Court modifications to Rule 16 and Rule 20 and a new rule for the Board of Law Examiners clarifying that bar results are good for five years. The Professional Standards committee is continuing to work on a pro hac vice rule. The Ethics Committee is working on FAQ's to assist lawyers. There has been an increase in dollar amount in CPF claims and the committee will continue to monitor this issue.

**Communications and Member Services (CAMS):** James W. Heath, Chairperson

Mr. Heath reported:

#### **2021 State Bar Events Recommendations**

The committee has proposed recommendations regarding 2021 State Bar events. Those recommendations include:

- 50-Year golden Celebration: remain as a virtual event.
- Bar Leadership Forum (BLF) and Upper Michigan Legal Institute (UMLI): combine these two events and rebrand it as "Northern Michigan Legal Institute." Staff to move forward with tentative plans for an in-person event while being aware that the possibility of this event taking place in person will be governed by the prevailing guidance from the health and safety experts at the time of the event.
- Inaugural Luncheon and Awards Recognition Event: plan an in-person event later in the year combining these two events. The 2020 award recipients will be recognized at the Inaugural/Awards Luncheon. The Awards Committee will be instructed to not actively recruit nominations this year but allow for some advancement of particularly deserving candidates.
- Michigan Legal Milestone honoring Frank Kelley: change this to a virtual event.
- Michigan Legal Milestone honoring Senate Bill 31 of 1857: postpone this event to 2022.

A motion was offered to approve all of the recommendations of the CAMS committee. The motion was seconded and approved.

Mr. Buchanan asked Ms. Thrush to investigate dates for the BLF/UMLI later in the year.

Ms. Newman suggested that a poll be sent to Board members to gather some informal input about who is willing to participate at a June meeting on Mackinac Island.

New Member Benefit Program:

A motion was offered to accept Tracers investigation research software platform as a new SBM member benefit. The motion was supported and adopted.

Member List Policy:

A motion was offered to approve the changes in the memo prepared for the Board regarding the Member List Policy. The motion was seconded and approved.

**Public Policy:** Dana M. Warnez, Chairperson

Court Rules

**ADM File No. 2020-25: Proposed Addition of Administrative Order No. 2020-X**

The proposed administrative order would replace the current administrative order regarding distribution of funds from the lawyer trust accounts, modifying some conditions regarding the current basic distribution: 70 percent to support delivery of civil legal services to the poor, 15 percent to promote improvements in the administration of justice, 10 percent to support increased access to justice (including racial, gender, and ethnic equality), and 5 percent for support of the activities of the Michigan Supreme Court Historical Society. Under the proposal, funds would be used to support increased access to justice generally with specific reference to racial, gender, and ethnic equality, instead of reference to the long-defunct task forces on Gender Issues in the Courts and Racial/Ethnic Issues in the Court. Those issues would continue to be a focus of the money to be spent, but would be able to include additional recommendations. Further, the money could be spent as directed by the state court administrator, instead of being spent “within the judiciary.” The proposed AO would establish a cap on funding for the Michigan State Historical Society, with the remainder split among the remaining recipients.

A motion was offered that the Board take no position on this proposed amendment, but to authorize the Access to Justice Policy Committee, Justice Initiatives Committee, and the Diversity & Advisory Inclusion Committee to advocate for their positions. The motion was seconded and approved.

**ADM File No. 2020-26: Proposed Amendments of MCR 1.109 and 8.119**

The proposed amendments of MCR 1.109 and 8.119 would allow SCAO flexibility in protecting an individual’s personal identifying information and clarify when a court is required to redact protected personal identifying information.

A motion was offered to support the proposed amendment in concept and take no position on the specific language. The motion was supported and approved.

**ADM File No. 2020-20: Proposed Amendment of MCR 2.105**

The proposed amendment of MCR 2.105 would establish the manner of service on limited liability companies.

This proposed amendment was tabled until the February 23 Executive Committee meeting.

**ADM File No. 2020-19: Proposed Amendment of MCR 2.302**

The proposed amendment of MCR 2.302 would require transcripts of audio and video recordings intended to be introduced as an exhibit at trial to be transcribed.

A motion was offered to oppose this proposed amendment in its current form. The motion was supported and approved.

**ADM File No. 2020-17: Proposed Addition of MCR 3.906**

The proposed addition of MCR 3.906 would establish a procedure regarding the use of restraints on a juvenile in court proceedings.

A motion was offered to support this proposed amendment in its current form. The motion was supported, but failed.

A motion was offered to support having an additional rule, but table action on the proposed addition until the February 23 Executive Committee meeting so the Access to Justice Policy Committee can coordinate with the Criminal Jurisprudence and Practice Committee for a unified position to present to the EC. The Board authorizes the committees to advocate for their positions if the Executive Committee fails to pass the proposed amendment. The motion was supported and approved. Judge Washington abstained.

**ADM File No. 2020-07: Alternative Proposed Amendments of MCR 6.502**

The proposed alternative amendments of MCR 6.502 would address the issue of a court's recharacterization of a defendant's motion for relief from judgment that is styled as something other than a motion for relief from judgment. Under Alternative A, the court would be required to notify the defendant of its intent to recharacterize the motion and allow the defendant an opportunity to withdraw or amend the motion. Under Alternative B, the court would be required to return the motion to the defendant with a statement of the reason for return.

A motion was offered to support the public policy position presented by the Access to Justice Policy Committee. The motion was supported and approved.

**FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

**Comments or questions from Commissioners**

Mr. Nyamfukdza asked for input regarding if criminal defense attorneys should be included in a higher priority group to receive the COVID vaccine. Given the decentralized nature of the state's vaccination system, it was noted that it does not appear to be inappropriate for a lawyer whose work necessitates in person presence in high-risk environments – jails, juvenile facilities, nursing homes, courts -- to self-designate as an at-risk category when signing up for the vaccine. An honor system appears to be the operative principle.

**Comments or questions from the public**

There were none.

**Adjournment**

The meeting was adjourned at 12:36 p.m.