

President Nolan called the meeting to order at 9:30 a.m. on November 18, 2016 in the Boardroom of the Michael Franck State Bar of Michigan building.

Commissioners present:

Danielle Mason Anderson  
Dennis M. Barnes, Secretary  
Robert J. Buchanan, Treasurer  
Hon. Clinton Canady III  
Richard L. Cunningham  
Shauna L. Dunnings  
Andrew F. Fink III  
Robert C. Gardella  
Jennifer M. Grieco, Vice President  
Edward L. Haroutunian  
Krista L. Haroutunian  
James W. Heath  
Michael S. Hohausner

Mark W. Jane  
Joseph P. McGill  
Thomas E. McCarthy Jr.  
Hon. Maureen M. McGinnis  
Lawrence P. Nolan, President  
Jules B. Olsman  
Hon. David A. Perkins  
Victoria A. Radke  
Hon. Michael J. Riordan  
Donald G. Rockwell, President-Elect  
Gregory L. Ulrich  
Dana M. Warnez  
Erane C. Washington

Commissioners absent and excused:

Syeda F. Davidson  
Fred K. Herrmann  
Shenique A. Moss

Colleen A. Pero  
Brian D. Shekell  
Richard J. Siriani

State Bar Staff present:

Janet Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Nancy Brown, Director, Member Services and Communications Division  
Gregory Conyers, Director, Diversity  
Candace Crowley, Assistant Executive Director and Director, External Development  
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations  
Darin Day, Director, Outreach and Constituent Development  
Cliff Flood, General Counsel  
Danon Goodrum-Garland, Director, Professional Standards Division  
Kathryn Hennessey, Public Policy Counsel  
James Horsch, Director, Finance and Administration Division  
Nkrumah Johnson-Wynn, Assistant General Counsel  
Robert Mathis, Pro Bono Service Counsel  
Kari Thrush, Assistant Division Director, Member Services and Communications Division  
Anne Vrooman, Director, Research and Development

Guests

Chelsea Rebeck, Finance and Audit Committee Member

Consent Agenda

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

The Board received the minutes from the September 21, 2016 Board of Commissioners meetings.  
The Board received the minutes from the September 27, 2016 e-Vote taken by the Board of Commissioners.

The Board received the minutes from the September 6 and October 10, 2016 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 2016 Financial Reports through September 30, 2016.

The Board received a Financial Safety Margin Calculation.

The Board received the District Character & Fitness Committee Appointments.

The Board received the Client Protection Fund Claims.

The Board received bylaw amendments from the Arts, Communications, Entertainment and Sports, Children's Law, Insurance and Indemnity Law, Marijuana Law, and Prisons and Corrections Law Sections.

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

## COMMISSIONER COMMITTEES

Finance, Robert J. Buchanan, Chairperson

Mr. Buchanan introduced the FY 2016 financial reports. Mr. Horsch provided the Board with a brief PowerPoint overview of the FY 2016 year-end financial results.

Mr. Buchanan reported that 64% of SBM members have renewed their membership and that 45% of those were done online. SBM membership is over 45,000 and there are 343 new members to date this year.

Mr. Buchanan reported that the print membership directory will be available in a new online format, in addition to the current online member directory. The file will be updated on a quarterly basis and the software will cost \$1,500.

Mr. Buchanan reported that the committee reviewed a proposal to purchase new event management system software that will assist the Bar with meeting registrations. Ms. Welch approved an exception request for the SBM bid process request due to the cost of the software and the committee supported that request.

Audit, Robert J. Buchanan, Chairperson

Mr. Buchanan informed the Board that the committee met by phone to discuss their role on the Audit Committee. The auditors are currently in the process of conducting the audit.

Mr. Buchanan reported that the Audit Committee will meet with the auditors in December and review the final audit documents, which will be presented to the Board at its January meeting.

**Professional Standards**, Dennis M. Barnes, Chairperson

Mr. Barnes reported to the Board that at its meeting this morning, the committee reviewed and discussed the two Professional Standards items that were reported out on the consent agenda.

**Programs and Services**, Jennifer M. Grieco, Chairperson

Ms. Grieco reported that an overview of the 2016 SBM annual meeting, including the attendance numbers for the past five years, could be found behind Tab 11 of the board book. She stated that the committee would be coming to them, perhaps in January, with dates and locations for future SBM annual meetings for approval. She noted that the attendance numbers for the SBM annual meeting and the Solo and Small Firm Institute continue to decrease each year and reported that efforts are being made to increase those numbers.

Ms. Grieco reported that the event management system that was approved by the Finance Committee today is going to make the registration process for the annual meeting and other Bar related events more user-friendly for both members and non-members.

**Public Policy, Image and Identity**, Donald G. Rockwell, Chairperson

The Board members received a written Justice Initiatives Report.

**Court Rules**

**ADM File No. 2015-02 - Proposed Amendment of Rule 7.213 of the Michigan Court Rules**

This proposal, submitted by the Michigan Court of Appeals, would make permanent the mediation pilot project that has been operating under authority of Administrative Order No. 2015-8 since October 2015. The proposed amendments have been adopted with immediate effect to enable the mediation program to continue during the comment period.

The committee voted to take no action at this time and to seek further comments from sections.

**ADM File No. 2016-24 - Proposed Amendment of Rule 9.115 of the Michigan Court Rules**

The proposed amendment of MCR 9.115(F)(5) would clarify that a hearing panel shall be authorized to allow parties to submit an amended stipulation. If a hearing panel rejects an amended stipulation, the matter would be referred to a different hearing panel to conduct a hearing. This proposed language was submitted jointly by the Attorney Grievance Commission and Attorney Discipline Board.

A motion was offered and supported to support the proposed amendments to Rule 9.115. The motion was approved.

**ADM File No. 2015-14 - Proposed Amendments of Rule 9.200 *et seq.* of the Michigan Court Rules**

Mr. Rockwell reminded the Board that in 2016, then State Bar President, Lori Buiteweg along with Mr. Nolan, appointed a workgroup to review these proposed amendments and report back to the Board. Mr. Rockwell asked Mr. Heath, a member of the State Bar's JTC workgroup, to give the Board an overview of the workgroup recommendations, contained in the workgroup report in the Board materials. Mr. Heath said the workgroup focused on 10-11 of the proposed revisions). The committee voted to adopt the workgroup's recommendations, as described beginning on page 3 of their report.

A motion was offered and supported to adopt the committee's recommendation to approve the recommendation of the committee to adopt the JTC work group recommendations as the position of the State Bar.

A motion was offered to set aside the recommendations to MCR 9.244 and 9.261 and discuss them separately. The motion was approved.

A vote was taken on the original motion to support the proposals and the recommendations of the State Bar's JTC work group excluding MCR 9.244 and MCR 9.261. The motion was approved.

Discussion began with Commissioner's concerns about MCR 9.244(B)(1), MCR 9.245(B), and MCR 9.245(C).

A motion was offered and supported to support the workgroup's recommendation to MCR 9.244(B)(1), MCR 9.245(B), and MCR 9.245(C). The motion failed.

A motion was offered and supported to oppose the workgroup's recommendation to MCR 9.244(B)(1), MCR 9.245(B), and MCR 9.245(C). The motion was approved.

Discussion began with Commissioner's concerns about MCR 9.261(D).

A motion was offered and supported to support the workgroup's recommendation to MCR 9.261(D). The motion was approved.

### **Legislation**

**SB 1083** (Zorn) Law enforcement; records; procedure for destruction or expunction of a DNA sample or DNA identification profile; modify under certain circumstances. Amends sec. 6 of 1990 PA 250 (MCL 28.176).

A motion was offered and supported that this legislation is Keller permissible because it concerns the functioning of the courts. The motion was approved.

A motion was offered and supported to oppose this legislation. The motion was approved.

### **Model Jury Instructions**

#### **M Crim JI 12.1b**

The Committee proposes an amendment to M Crim JI 12.1b, the manufacturing controlled substances violations of MCL 333.7401c. The amendment is intended to clear up possible confusion that methamphetamine must have been produced using the chemical or laboratory equipment.

A motion was offered and supported to support the criminal jury instructions as amended. The motion was approved. Mr. Haroutunian abstained.

### **M Crim JI 27.3**

The Committee proposes an amendment to M Crim JI 23.7, the instruction for violations of MCL 750.175, embezzlement by a public official. The amendment is intended to conform the instruction to the statute and eliminate language directing a jury finding on the fourth element.

A motion was offered and supported to support the criminal jury instructions as amended. The motion was approved.

### **M Crim JI 37.3, 37.3a-b, 37.4, 37.4a-b, 37.5, 37.5a-b, 37.6, and 37.7**

The Committee proposes new instructions for violations of MCL 750.122, witness bribery or intimidation: M Crim JI 37.3, 37.3a, 37.3b, 37.4, 37.4a, 37.4b, 37.5, 37.5a, 37.5b, 37.6 and 37.7.

A motion was offered and supported to support the new criminal jury instructions with one amendment redefining “tried to intimate” instead as to “engage in behavior directly or through another person which a reasonable person would conclude to find threatening or intimidating.” The motion was approved.

### **President’s Report**, Lawrence P. Nolan, President

Mr. Nolan introduced the newest Board members, Richard Cunningham, Andrew Fink, and Michael Hohausser.

### **Upper Peninsula (U.P.) Tour**

Mr. Nolan informed the Board that the UP Tour was successful and that he, Ms. Radke, Ms. Crowley, Mr. Day, and Ms. Welch, enjoyed meeting members in the Upper Peninsula.

Mr. Nolan asked Ms. Crowley to inform the Board about the new structure of the U.P. Tour. Ms. Crowley reported that instead of traveling to seven different locations in the U.P., the group remained for the most part in Marquette. A Bench Bar conference took place on the first day and on the second day a Futures presentation was offered, including a webinar, for the attorneys in the Upper Peninsula. The delegation also traveled to Iron Mountain to join a joint dinner meeting of the Dickinson County and Iron County Bar associations.

### **Great Rivers Bar Leadership Conference**

Mr. Nolan informed the Board that he, Mr. Rockwell, and Ms. Welch attended the Great Rivers Bar Leaders Conference in New Orleans and learned many helpful ideas from the other bar associations in attendance.

### **Executive Director’s Report**, Janet K. Welch, Executive Director

#### **Futures Update**

Ms. Welch provided a document to the Board that described what progress is being made in the implementation of the recommendations of the 21<sup>st</sup> Century Task Practice.

### **International Institute of Law Association Chief Executives (IILACE) Conference**

Ms. Welch was invited to participate on a panel at the IILACE conference in Wellington, New Zealand. She reported that each of the panel members gave a TED talk on “Navigating the Global Future.” The other panel members were the CEOs from the Law Society of Hong Kong, the Law Institute of Victoria, the German Bar, the Canadian Bar, the Law Society of Zambia, and the Law Society of Namibia.

Lawyer Referral Services (LRS) Modernization

Ms. Welch reported that we have continued to be engaged in conversation with the executive directors of local bar associations who run LRS programs. Although the associations have indicated that they are not interested in joining the State Bar's efforts to modernize the delivery of LRS at this time, there are some that want to continue to have discussions with us. A meeting with the executive directors of the Macomb and Oakland County Bar Association is scheduled to take place in December.

Ms. Welch shared a PowerPoint presentation with the Board to provide them with an idea on how the SBM is proceeding with the modernization of the SBM lawyer referral system. She reported that Mr. Nolan has appointed an LRS steering committee to assist in the moving things forward and that the committee will report back to the Board.

Mr. Buchanan asked if there was data available about the unemployment rate of YLS. Ms. Welch responded that there is data through the National Association for Law Placement (NALP) and is what the 21<sup>st</sup> Century Task Force reviewed. There are no data to suggest that Michigan's new lawyer experience differs from other states.

Strategic Planning Workgroup Update

Ms. Welch asked Ms. Vrooman to provide the Board with an update on the work of the Strategic Planning Committee. Ms. Vrooman reported that the next meeting of the workgroup is in December and Jennifer Lewin from the ABA will facilitate the meeting. At the September board meeting a document was distributed that showed the framework of key priorities and at its December meeting the workgroup will take those priorities and begin to develop key strategies.

Representative Assembly (RA) Report, Fred Herrmann, Chairperson

In Mr. Herrmann's absence, Mr. McGill provided the Board with an overview on the Representative Assembly meeting that took place during the SBM annual meeting. At that meeting, the Assembly filled multiple vacancies, awarded the Michael Franck awards, and multiple proposals were approved. A new clerk was elected, Richard Cunningham, and Mr. Herrmann was sworn in as the new Assembly Chair.

Mr. McGill reported that the officers were currently working with the newly appointed committee chairs and will begin to develop proposals for the April meeting.

American Bar Association (ABA) Report

The Board received a written report.

Young Lawyers Section Report (YLS), Shenique A. Moss, Chairperson

In both Ms. Moss's and Ms. Davidson's absences, Mr. Jane provided the Board with an update on the activities of the YLS.

Mr. Jane recognized the success of the ABA Young Lawyers Division fall conference that was held in Detroit. He applauded the efforts of Ms. Moss who spearheaded the conference.

Mr. Jane reported that there are 63 YLS members in the UP and that there is currently an YLS Council member who is from the UP. The YLS Council is working on creating a committee whose goal would be to assist with planning educational and service programs for the YLS members in the UP. Five members have volunteered to serve on the committee and a conference call is scheduled in December.

**Comments from Commissioners**

There were none.

**Adjournment**

The meeting was adjourned at 12.15 p.m.