

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

President Buchanan called the meeting to order at 9:30 a.m. on Friday, September 17, 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
Hon. B. Chris Christenson
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
Ryan Zemke

Commissioners absent:

Josephine A. DeLorenzo
Mark A. Wisniewski

State Bar staff present:

Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Assistant Executive Director
Gregory Conyers, Program Director, Diversity Development Program
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Darin Day, Program Director, Outreach
Michelle Erskine, Research Assistant & Event Specialist
Katherine Gardner, UPL Counsel
Tatiana Goodkin, Chief Financial Officer
Kathryn Hennessey, General Counsel and Assistant Executive Director
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Molly Ranns, Director, Lawyers & Judges Assistance Program
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Kari Thrush, Program Director, Lawyer Services
Anne Vrooman, Program Director, Research & Development

Guests

Yolanda M. Bennett
Aaron V. Burrell
Sherrice L. Detzler
Hon. Kameshia D. Gant
Hon. Kristen D. Simmons
Danielle Walton

Consent Agenda:

The Board received the minutes from the July 23, 2021, Board meeting.
The Board received the minutes from the July 13 and August 17, 2021, 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 2021 financial reports through July 2021.
The Board received the Client Protection Fund Claims.
The Board received the Unauthorized Practice of Law Claims.
The Board received Model Criminal Jury Instructions.

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.

LEADERSHIP REPORTS

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

Mr. Buchanan welcomed the 2021-2022 commissioners attending the meeting as guests.

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

Work Group Reports

Executive Director Search

Ms. Warnez reported that the work group has met several times since the July meeting and stated that the posting for the executive director vacancy has been posted in a variety of publications. She was informed by the consultant that over 40 applications have been received so far and that when the pool is narrowed down, initial interviews will begin. She stated that the work group anticipated finalizing the process before the end of the year.

Operations, Structure, and Governance

Mr. Quick reported that the work group has reviewed past findings, has had conversations with several past presidents and RA leadership, and has developed recommendations about the structure of the governance bodies of the State Bar. The work group is vetting those recommendations to a larger subset of the two bodies and anticipates that within the next few months the recommendations will be brought before the Board of Commissioners for its consideration.

Strategic Planning

Mr. Howlett stated that throughout FY2021, the Strategic Planning Committee has met and discussed Strategic Plan priorities and ways in which the committee can evaluate how effectively the State Bar of Michigan is working towards its Strategic Plan goals. He said that based on these discussions and feedback from the Board of Commissioners' in-person and virtual retreat sessions focused on Strategic Plan priorities the committee makes these recommendations to the Board:

- The committee recommends that SBM emphasize practice readiness and diversity and inclusion in the profession and as an element of professionalism for FY 2022 (Goal 1, Strategy 1; Goal 2, Strategy 4; Goal 3, Strategy 6). While the committee identified these strategies as priorities for the upcoming year, all the strategies in the Strategic Plan remain important to SBM in achieving its goals.
- The committee recommends that the Board communicate these Strategic Plan priorities to bar leadership, including the Representative Assembly, committee chairs, and section leaders. In addition, the committee recommends that the Board develop pathways for member engagement on these topics beyond passive communications of the priorities and encourage sections, committees, and other relevant groups to report back on their work in these areas.

A motion was offered to approve the recommendations provided by the Strategic Planning Committee. The motion was seconded and approved.

Mr. Howlett stated that the committee has plans to review one or two programs and report back to the Board. In addition, SBM staff will include the current matrices it has available when it updates the Strategic Plan Activity Report at the end of the fiscal year.

Sections

Ms. Butler reported that she was waiting until after both of today's meetings to schedule a work group meeting in the event there were any new commissioners who wanted to participate. She stated that a Doodle poll will be sent this afternoon and a meeting scheduled shortly.

Mr. Buchanan asked Ms. Hennessey to report on the next agenda item.

Michigan State Bar Foundation Lease

Ms. Hennessey provided the Board with a summary of the proposed lease agreement negotiated with the Michigan State Bar Foundation and stated that because of the amount of the total lease, it requires Board approval.

A motion was offered to approve the lease as presented. The motion was seconded and approved.

Ms. Welch reported on these items.

Michigan Bar Journal

Ms. Welch asked Ms. Raymer to provide the Board with a preview of the changes to both the print and online *Michigan Bar Journal* that will be launched in November. Ms. Welch stated these changes coincide

with the 100th anniversary of the *Michigan Bar Journal*, that the Michigan Bar Journal Committee has seen a preview earlier in the week and provided feedback.

Cert Petitions

Ms. Welch provided the Board with an update on the cert petitions filed in Oregon cases and the *Taylor v Barnes* case referenced in Ms. Hennessey's memo. She stated there was no need to go into an executive session but said that if anyone had any thoughts or questions to contact her or Ms. Hennessey.

Ms. Welch expressed her appreciation for Mr. Buchanan's leadership and good humor during his presidential year.

Representative Assembly (RA) Report: Chelsea Rebeck, Chairperson

Ms. Rebeck reported that tomorrow's meeting will take place in a hybrid format, that the members will review and vote on several proposals, welcome a new clerk, and that Nick Ohanesian will be elected as the 2021-22 RA chair.

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

Ms. Orvis report that the YLS Annual Summit took place, Oliver Howell received the outstanding YLS award, and the YLS Executive Council will meet on October 25 in Troy where the new members will be welcomed, and new officers elected and installed. Ms. Orvis stated that Ms. Bilowus will be the new chair of the of YLS, and she is in the process of planning the YLS retreat taking place in October.

COMMISSIONER COMMITTEES

Finance: Joseph P. McGill, Chairperson

Mr. McGill reviewed the FY 2020 financial results through July 2021.

FY 2022 Budget Amendment

Mr. McGill reported that while the Board approved the budget at its July meeting, staff informed him that an item for travel in the Governmental Relations budget was missed.

A motion was offered to approve a budget amendment for \$4,700 to the FY 2022 budget. The motion was seconded and approved.

IT Contract Exemption Letter

Mr. McGill asked Ms. Brown to provide the Board with a review of the IT Contract Exception Letter included in the Board materials. Ms. Brown stated that Chris Kleszynski and his company, K2dnn, have worked with the IT Division for many years. They provide excellent service, respond to our needs, worked with our team in developing many of our IT applications that assist our members, and in many ways their development team is an extension of the SBM team. Ms. Brown stated that the contractor exception is necessary because the dollar amount of the contract requires Board approval.

A motion was offered to approve the IT Contract Exception request because K2dnn has a proven track record with the Bar, they are offering their services at a very competitive rate, and they are very familiar with the Bar and its projects. The motion was seconded and approved.

Audit: Joseph P. McGill, Chairperson

Mr. McGill reported that the interim audit testing was performed in August and the year-end testing will begin in October.

Mr. McGill offered his thanks to the members of the Finance and Audit committees, and staff who assisted them. He thanked Mr. Buchanan on his leadership during a difficult 12 months.

Professional Standards: Daniel D. Quick, Chairperson

Mr. Quick reported that the committee met this morning to review Client Protection Fund (CPF) and Unauthorized Practice of Law (UPL) Claims, and the work of the Ethics Committee, stating that all action items were included in the consent agenda. He stated that the committee is working on an amendment and updates to the pro hac vice rules that will come before the board at a future meeting, and that the Interim Administrator Program (IAP) is coming up for a public hearing before the MI Supreme Court on September 22, and that representatives from the SBM will attend.

Mr. Quick offered his thanks to the members of the committee and the staff who assisted them.

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

Mr. Heath offered his thanks to the members of the committee, the staff who assisted them, and recognized the outgoing members.

Mr. Heath stated that the 2021-2022 members of the committee, under the leadership of Mr. Quick, will continue to work on the Professionalism and Rule of Law initiatives, and recognized the work on the Michigan Bar Journal Refresh presentation shown earlier today.

Mr. Heath mentioned that the National Mock Trial Championships will be held in Kalamazoo in 2022.

Mr. Quick stated there are materials posted on the SBM website regarding the Rule of Law initiative and those can be found in the “For the Public” section, Civic Education. He reported that the information has received very good responses from the judiciary, and that he is working with the CAMS committee to build additional pieces of information to post.

Public Policy: Dana M. Warnez, Chairperson

Ms. Warnez offered her thanks to the members of the committee and to the staff that assisted them.

Court Rules

ADM File No. 2020-29: Proposed Amendment of Rule 410 of the Michigan Rules of Evidence

The proposed amendments in this file would add vacated pleas to the list of guilty pleas that may not be used against defendant. Also, the proposed addition of a reference to MCR 6.310 in subsection (3) would add a prohibition on using a statement made during defendant’s *withdrawal* of plea to the prohibition on using statements made under MCR 6.302 in *entering* a plea, which would make the rule more consistent with FRE 410.

A motion was offered to support the proposed amendment to MCR 410. The motion was seconded and approved.

ADM File No. 2020-13: Proposed Amendment of MCR 6.005

The proposed amendment of MCR 6.005 would clarify the duties of attorneys in preconviction appeals.

A motion was offered to support the proposed amendment of MCR 6.005. The motion was seconded and approved.

Legislation

HB 4620 (Lightner) Criminal procedure: indigent defense; indigent defense department; create. Creates new act

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

A motion was offered to follow the recommendations from both the Access to Justice Policy Committee and the Criminal Jurisprudence & Practice Committee to support the bill in principle but oppose it as drafted. The motion was seconded and approved.

HB 5098 (Reilly) Criminal procedure: indigent defense; Michigan indigent defense commission; require to post online revenue data paid to attorneys and law firms for indigent defense services annually. Amends 2013 PA 93 (MCL 780.981–780.1003) by adding sec. 19a.

This legislation was found not to be *Keller*-permissible.

Ms. Warnez recognized the work of Mr. Buchanan and thanked him for his leadership throughout his Bar year.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Ms. Butler thanked Mr. Buchanan for his service to the Bar and for his good humor and competent leadership as president of the State Bar.

Mr. Buchanan offered his thanks to all the SBM staff for their hard work, congratulated Ms. Welch on her pending retirement, and thanked her for her leadership and contributions to the State Bar. Mr. Buchanan thanked the officers, executive team, and all the commissioners, stating it was a very interesting year which he enjoyed.

Comments or questions from the public

There were none.

Adjournment

The meeting was adjourned at 11:05 a.m.