

MINUTES
HEALTHLAW EXECUTIVE COUNCIL MEETING
JANUARY 16, 2014

HYATT REGENCY ORLANDO
9801 INTERNATIONAL DRIVE
ORLANDO, FLORIDA

MEMBERS PRESENT: Monica Rodriguez, William Dillon, Steven Grigas, Charmaine Chiu, Bernabe Icaza, Erin Aebel, Gregory Chaires, Robert Conroy, Grant Dearborn, Lewis Fishman, Shadrick Haston, Rodger Hochman, George Indest, Harold Kaplan, Chares Koval, Bruce Lamb, Robert Nicholson, Lester Perling, Myla Reizen, Nicholas Romanello, Christine Whitney, Cynthia Mikos

OTHERS IN ATTENDANCE: JoAnn Guerro, Malinda Lugo, Radha Bachman, Ryan Zika, Brent Johnson, Brian Zargham, Michael Smith, Willie Mae Shepherd

EXCUSED ABSENCES: None

I. CALL TO ORDER – OPENING REMARKS

The meeting commenced at approximately 3:35. Council Chair, Monica Rodriguez, thanked all for coming and asked for the role to be called. Attendees introduced themselves, and the meeting was called to order. Monica next asked for a moment of silence in honor of attorney Wendy Hansen, who many of the Council knew, and who had recently passed away. A motion was made, and approved unanimously by the Council to send a sympathy card and donation of \$100 to the charity indicated by Ms. Hansen's family.

II. APPROVAL OF MEETING MINUTES

Council Secretary, Steven Grigas, presented the Previous Meeting Minutes for approval and was informed of the need for the following corrections: 1) designation of Harold Kaplan as an excused absence; 2) corrected spelling of Charles Kovel; and 3) addition of Robert Conroy as

an attendee. A motion to accept these corrections was made, seconded and approved. Without further discussion, the prior meeting minutes were moved and approved by the Council.

III. FINANCIAL REPORT

Council Treasurer, Charmaine Chiu, presented the Financial Report included as Exhibit B to the agenda. Total Revenue and Operating Expenses were discussed and the overall positive financial status of the Section was noted. Current Fund Balance is at \$202,541 with a budget of \$161,989.

IV. NEW BUSINESS

A. Leadership Academy

Monica Rodriguez next discussed a request from the Florida Bar Leadership Academy for a representative from the HLEC to speak at the Guardians of the Legal Profession and Servant Leadership event on Saturday, March 15, 2014. Bruce Lamb has committed to speak at the event and was formally thanked by the Academy's Leadership (Exhibit C to the Agenda).

Monica also indicated that the Academy would soon be selecting its second class of members and that the Florida Bar appears to have taken note of the dissatisfaction raised by the HLEC with the selection process for the first class. Monica noted that she was not aware of any applications having been submitted by any HLEC member for consideration in this second Academy class.

B. Endowed Professorship

The discussion next centered on the Professorship at the FSU College of Law. The question was raised as to the status of the \$100,000 gift that was made by the Health Law Section as an endowment of this Professorship (Contract attached as Exhibit D3 to the Agenda). Monica explained that Dean Weidner of the FSU College of Law had been in communication with her and that the indication from his letter of November 22, 2013 (Exhibit D to the Agenda) was that the minimum for an endowed Professorship had changed, and that the \$100,000 gift from the Section – while appreciated – is no longer sufficient to maintain such

a Professorship. The new minimum contribution is \$200,000. It was noted that the annual distribution from the Section's gift is currently being used to support the interactions of Professors Marshall Kapp and Wendi Adelson's with the Health Law Section.

A question was raised by Ms. Chiu as to who Marshall Kapp was and what was his function. Bruce Lamb responded that Kapp was essentially the "liaison" between the Law School and the Medical School.

Bernabe Icaza noted that \$100,000 is a substantial amount of money and that it might be better used in funding an adjunct professor in this area.

Lewis Fishman asked that a letter be sent regarding the status of this gift, its funding, and the options available to the HLEC in light of it not being used for its original purpose. The request was not opposed and no further discussion was had on the topic.

C. Vision 2016

Monica Rodriguez and Chair Elect, Bill Dillon next discussed Vision 2016 – a new Florida Bar proposal addressing various concerns with the legal profession. Bill Dillon noted his attendance at the Bar's recent presentation on this and indicated that the concerns the Bar would like to address fell into the following categories:

- Legal Education (preparedness (or lack thereof) for new grads)
- Technology (keeping up with changes)
- Bar Admissions (declining numbers)

Bill Dillon noted that the Bar was especially concerned with social networking, outsourcing of legal business to other countries, declining numbers of law school applicants, and the unavailability of affordable legal services to the middle class.

Monica indicated that this might be an area the Section could have further involvement in.

Bernabe Icaza raised the issue of the recent "Linked-In" informal advisory letter from the Florida Bar. Bruce Lamb noted that the advisory letter had been withdrawn, but that a formal policy would likely be forthcoming.

D. AHLA Event Sponsorship

General discussion was next held regarding the HLEC's involvement and possible sponsorship activities in coordination with the AHLA. Radha Bachman and others presented this as an opportunity for the HLEC to get involved and to make their presence known to new and future attorneys. The budget for these events was noted by Radha to be about \$3,500 and that other sponsors (Gunster, Carlton Fields, etc...) were donating about \$500 each. After much debate in which the pros and cons of participation were deliberated, it was moved by George Indest, and unanimously approved by the Council that the HLEC fund (\$500) the next AHLA event. Erin Aebel indicated a willingness to represent the Section at this event and to follow up as necessary.

V. COMMITTEE REPORTS

A. Nominating Committee

Bruce Lamb indicated that at this time, he had nothing to report. Monica Rodriguez noted that certain members terms would be expiring in the near future and advised that her selections for the nominating committee were as follows: Bruce Lamb, Cynthia Mikos, Christine Whitney, Lou Fishman, and JoAnn Guerro

B. HLS – Young Lawyer Division

Radha Bachman and representatives from the HLS -YLD gave an overview of communications regarding presentation and CLE options that were underway. Monica Rodriguez noted the need for more beginning level CLEs to be done and that webinars were an easy, low cost vehicle for such. Cynthia Mikos added that the prior seminar on Health Law basics for the YLD did not include any participation from the Council and that this needed to be corrected.

Monica Rodriguez asked the Council for suggestions regarding which topics might be of best use to the YLD. Suggestions followed, including:

- Reviewing a managed care or physician contract (Mikos)
- Writing analysis and style (Aebel)

- Legal research for the health care attorney (Kaplan)

Christine Whitney suggested that “overviews” might be given relating to health law. Brief discussion was held as to whether such overviews would be credited by the Bar. Rob Conroy also opined that topics relating to what a lawyer does in his practice would fit in well with a professionalism series and that CLEs for the YLD should ideally focus on those areas that new lawyers are likely to have first contact with.

C. Communications and Technology

a. HLS Summaries

Malinda Lugo indicated that the HLS summaries were going very well and that many volunteer law students were helping and participating.

b. Newsletter

Ann Bittinger was not present for this report, but had communicated to Monica Rodriguez that the next newsletter was with Bar liaison Willie Mae Shepherd and would be released from graphics shortly. There will be a call for authors going out February 1st.

c. Website

Bill Dillon noted that work remained in progress on changes to the website. He expressed his desire to step down from chairing the website committee and suggested that Bryan Zargham be his replacement. Bryan indicated that he would be willing to accept the responsibilities as indicated.

Bryan Zargham next sent around the proposal for website development from Lyons Digital Media. He noted that they were having problems synching with the facebook link and suggested that Erin Aebel and he communicate further on the specifics needed. He also noted that changes needed would include an overhaul of the platform and expanded resolution capabilities.

General discussion was held on the security of the website, availability of the website's information to outside parties, and overall problems experienced with the current website. It was noted the site looked dated, was not easily searchable, not user friendly or intuitive and that tabs and shortcuts were frequently found to be not working.

Bryan indicated the need for feedback as to what the priorities should be for this website. What are the most important features of it? What should its overall focus be? Is it a membership tool? A research bank? A newsletter?

Bruce Lamb indicated that he thought that limiting access to the website only to members might be a good tool to increase enrollment. If not a member of the HLS, then the website would be unavailable to you. Bruce also indicated that he thought a general “attorney finder” feature would be helpful. This would allow a third party to search for a health law attorney with specific qualifications and experience.

d. Handbook

Robert Nicholson noted that progress on the handbook was still being made, but at a very slow pace, and that several articles remained outstanding including Florida APA, Florida Medicaid, and Patient Rights. Charles Koval and others suggested that they would be available to assist in the completion of these articles. Lester Perling suggested that to avoid the delays and complications that have historically been associated with putting the handbook together, the Council may wish to consider making the handbook web based, and allowing for updates as needed. Monica said that this should be considered for further discussion.

D. LEGISLATIVE COMMITTEE

Steve Grigas reported on healthcare bills that had been filed for the forthcoming March, 2014 Legislative Session. A powerpoint summary of the relevant bills was passed out to the Council members and the bills were briefly discussed. It was noted that a large number of dental bills had been filed. Other areas of particular note included telemedicine, Assisted Living Facilities and changes to supervision requirements for pharmacy technicians and physician assistants.

E. PUBLIC HEALTH COMMITTEE

Rodney Johnson was not in attendance and no report was forthcoming.

F. EDUCATION COMMITTEE

MylaReizen reported on the recent fundamentals programs that the Section offered. It was noted that attendance was generally good with upwards of 20 people attending in person and an addition 40 -50 attending by webcast. The evaluations were generally good and the presentations without problem. It was noted that the topics for the upcoming year were still open for selection.

Lester Perling offered that the next day's program "Representing the Physician 2014" was scheduled to be heard by 25 people in person, and about 65 persons by webcast.

Grant Dearborn noted that plans for upcoming webinars include AHCA Licensure; Employment Law; Appellate Law; EMTLA and Legislative Update. Grant also indicated a need for more help and additional speakers to do these webinars but asked that participant volunteers be "passionate" about their work.

Grant also opened a discussion about a new initiative that he and MylaReizen were proposing – a live simulcast type seminar/panel discussion focusing on "How to Survive Healthcare Regulation in the State of Florida". The presentation would be done at various live sites across the State and would be linked by videoconferencing. The State's Agency for Health Care Administration ("AHCA") would be central to the discussions and the AHCA Secretary was said to have indicated that she would be willing to participate and help in the coordination of activities. Grant indicated that there might be an opportunity to use some of the Area Offices (with video conferencing capabilities) of AHCA as external sites for the presentation. Another possibility stated by Grant would be to use state and local universities as sites.

It was proposed that this initiative be done at zero cost for government attorneys and section members (and perhaps Administrative Law Section members as well), but that a small charge for other non-members attending might be assessed. Bill Dillon noted that logistic might well be a problem and that the cost could be prohibitive.

It was also noted that a prior proposal of this sort had indicated that it all be done in Tallahassee rather than across the state. Grant Dearborn

responded that problems with the original proposal included difficulties in travel and lodging associated with Tallahassee – as well as potential conflicts with legislative and sports events.

As restructured, the proposal would allow for presentations to be done at both the main site, and the satellites, and that the presentations would all be tied together through video conferencing. It would be a one day event with 3-4 hours scheduled for the morning session and another 3-4 hours for the afternoon session.

Discussion next turned to budgeting for the proposed project. An initial motion funding the proposed project up to \$1,000 was later amended to increase funding to \$2,500. It was also proposed by Lester Perling that a preliminary budget be done prior to formal vote. After subsequent discussion, however, the amended motion for \$2,500 was seconded and approved without opposition with an understanding that if additional funds were needed it would be addressed at the next meeting. Radha Bachman further indicated that the HLS-YLD would be willing to commit to assisting the effort.

VI. OLD BUSINESS

A. Bylaws

Proposed changes to the bylaws were discussed by Monica Rodriguez and Lou Fishman. While the changes submitted have not yet been approved, it was noted that the Bar's objections were largely ministerial in nature, and not substantive. As such, the modifications to the proposed by law changes will be made and resubmitted to the Bar for approval. There may also be a need for a fiscal analysis on the proposed changes to be done.

B. ProBono

Monica Rodriguez concluded Old Business discussion with an update on the Pro Bono proposal discussed at the last meeting. Monica indicated that a few hurdles still remained, but that work on the proposal was still ongoing. In talking to Bar representatives, a major area of concern appeared to be that the advice being given could be construed as being unlicensed practice of law. Monica noted that the Bar's position seemed to be that if the advice on Advance Directives and the forms used was

consistent and standardized, then the consultation should be ok. If, however, other unrelated questions were raised and discussed , then the consultation might become problematic.

Monica also indicated that she had reached out to hospitals and senior centers in her area and that the feedback was generally positive. She indicated that she would further explore the issue in her geographic area and inform the Council of her progress.

Grant Dearborn asked Shad Hastons whether AHCA still had the health surrogate forms available for use. Shad indicated that they did. Grant noted that these might be of use in the pro bono project.

VII. NEXT HLEC MEETING

June 26, 2014

Annual Meeting of the Florida Bar

VIII. ADJOURN

The Council adjourned the meeting at 6:30 p.m.