

MINUTES

HEALTH LAW SECTION EXECUTIVE COUNCIL MEETING
SEPTEMBER 19, 2013 3:30-5:30 P.M.

RENAISSANCE TAMPA INTERNATIONAL PLAZA HOTEL
4200 JIM WALTER BOULEVARD
TAMPA, FLORIDA

MEMBERS PRESENT: Monica Rodriguez, William Dillon, Steven Grigas, Charmaine Chiu, Bernabe Icaza, Erin Aebel, Caroline Kubovy for Ann Bittinger, Gregory Chaires, Lewis Fishman, Rodger Hochman, George Indest, Charles Koval, Bruce Lamb, Nicholas Romanello, Christine Whitney, Michael Smith, Joann Guerro, Chet Barclay,

OTHERS IN ATTENDANCE: Willie Mae Shepherd, Ryan Zika, Jerry Rumpf, Malinda Lugo, Shad Haston, Radha Bachman, Trish Calhoun, Thomas Ferrante, Ryan Wierenga.

EXCUSED ABSENCES: None

I. CALL TO ORDER – OPENING REMARKS

The meeting started promptly at 3:30 p.m. Chair, Monica Rodriguez, Noted to attendees that a reception and dinner for the Council and Section members would immediately follow this meeting at the nearby Capital Grill Restaurant and Lounge. Introduction of the meeting attendees followed, and the Chairperson called the meeting to order.

Ms. Rodriguez warmly welcomed the Council and Section attendees. Monica noted that it was her hope to develop a successful pro bono initiative by the HLEC during her tenure as Chair of the HLEC and that further discussion on this topic would be held during the course of the meeting.

II. APPROVAL OF MEETING MINUTES

A motion to amend the prior meeting minutes to reflect the attendance of Christine Whitney and Rodger Hochman was made, seconded and approved. Gregory Chaires moved that the prior meeting minutes, as amended, be approved. The motion was seconded by Bruce Lamb and approved unanimously by the Council.

III. FINANCIAL REPORT

Charmaine Chiu reviewed the section's Financial Report included as Exhibit B to the agenda. It was noted that income and expense activity was rather limited this early in the new year, but that both were likely to pick up over the course of the next 9 months. MS. Chiu reported that the Section currently has approximately \$194,000 on hand while being budgeted for approximately \$160,000. Bruce Lamb moved that the Council accept the section's Financial Report. The motion was seconded by Gregory Chaires and others. The motion carried by unanimous voice vote.

IV. NEW BUSINESS

A. Professor Wendy Adelson

Monica Rodriguez next discussed a recent communication with the FSU Clinical Professor Wendy Adelson who expressed a desire for increased involvement with the HLEC. A speaker series for her students, internships, etc... were suggested as possibilities. Concern was expressed by various Board members as to the details of what exactly this might entail. Greg Chaires also noted that we still have a vacant chair at the school and questioned what its status was. Radha Bachman noted that she has had prior discussions with Professor Adelson and had recommended that she follow up with Chet Barclay about future initiatives and potential involvement with her students.. George Indest requested that the discussion be tabled until there was an opportunity to discuss the issues in greater detail with her. Monica Rodriguez indicated that she would reach out and invite her to the next HLEC meeting.

B. Pro Bono

The conversation then shifted to Monica's proposed initiative for her term as Chair of the HLEC. Monica indicated that she would like the focus to be on a pro bono type activity by the section. She suggested that we might implement a type of "living will" assistance program in various cities and venues across the state. A suggestion was made by Charles Koral that shopping mall locations might be used and that only statutory forms be utilized in the process. Charles indicated that Shands Medical Center had implemented these types of programs in the past and that they were generally successful. Greg Chaires noted that in communicating with the public we would have to be careful that we did not cross over the line into giving "legal advice". It was also noted by Rodger Hochman that this particular project might set the health law section up against the probate section and/or the elder law section and that further consideration might be needed. Monica and others indicated that they believed it was properly addressed as a health law section issue. Radha Bachman indicated that we could always explore partnering with the elder law section if we thought this would be a problem.

Robert Conroy added that public service announcements (PSAs) might be an alternative, or a canned webinar that referenced the applicable form(s) and where they can be found on the web. Erin Aebel also suggested that YouTube could be utilized. Charles Koral

noted that local stations often help to produce PSAs for free. Bruce Lamb said area schools might also be a free source of assistance (UF, FSU, TCC). It was also suggested by Bill Dillon that NPR might be an avenue to explore if we wanted to go statewide and that reference should be made to the HLEC and local colleges and universities as applicable.

Christine Whitney expressed remaining concern over the initial proposal and whether it might put us in a position of having to render legal advice. She noted that she was much more comfortable with the PSA approach. Radha Bachman, in follow up asked whether Fla. Bar approval would be needed. Monica indicated that this would likely be needed.

C. Practice Before DOAH

The Board next discussed the recent notice by the administrative law section of the Florida Bar promoting Judge Cohen's seminar "Practice Before DOAH – Judge Cohen's Opus. The HLEC was asked for permission to circulate the seminar notice via eblast to its members. General discussion ensued as to the value of such information in a seminar setting, and whether better avenues of dissemination were available. A motion was made to grant permission for the eblast. The motion carried through without dissent.

V. COMMITTEE REPORTS

A. Nominating Committee

Bruce Lamb, and Monica Rodriguez raised an earlier issue regarding attendance at the HLEC meetings and how this should be handled by the nominating committee. A general discussion ensued of the process by which candidates were selected. The general consensus appeared to be that the nominating committee would likely take into account participation/attendance of candidates (or lack thereof) and that this would be a factor in the nomination process. George Indest noted, however, that this might well cause problems for those candidates with required military service, or that are out of state and limited in their ability to attend every meeting.

The discussion next shifted to the vacancies currently open on the HLEC. Recommended candidates to fill these position included Grant Dearborn, Shad Haston (State employee currently with AHCA), and Michael Smith. Prior to the vote on these candidates, Michael Smith's nomination was withdrawn (by George indest). A voice vote was then taken by the Council and both Grant Dearborn and Shad Haston were unanimously approved to fill the open positions.

General discussion regarding the nomination and election of officers and executive council members was also held – in light of the bylaw issues that surfaced at last meeting. LewFishman summarized the issue for the Board. The question was raised as to whether certain minimum requirements for office should be amended to the bylaws of the Council. Lew indicated that this issue had been raised before but that it was ultimately

decided not to include such in the bylaws. Greg Chaires noted that this could be an impediment to filling vacancies in years where the nomination number is low. He also noted that the nominating committee would likely screen out those candidates with qualification issues, and that there might not be a need to formalize it in the bylaws. A similar position was voiced by Christine Whitney.

A compromise position was offered by LewFishman to amend Section 1.(e) of the bylaws to allow for "past service to the section" as a new element for the nominating committee to consider in selecting candidates for nomination. Bruce Lamb and Greg Chairs noted that they were amenable to the compromise language being proposed. Monica Rodriguez said any such requirements should be minimal. Bruce Lamb noted that additional sacrifices of state and federal candidates should be considered as well. A Motion to approve the changes to the bylaws was made by Greg Chaires. It was seconded and approved unanimously by all. LewFishman agreed to take responsibility for the proposed changes to the bylaws.

The Nominating Committee also addressed the need for clarification as to how new members for the nominating committee were to be chosen. It was indicated that Monica Rodriguez, as Chairperson would pick 2. Bill Dillon as Chair-elect would also pick 2. Christine Whitney indicated her willingness to serve - should there be a need.

B. HLS – Young Lawyer Division

The Board's focus next turned to a letter from Melanie Griffin, president of the YLD. Monica Rodriguez asked if the Board was interested in exploring a partnership with the YLD and if we would like to invite Ms. Griffin to speak at our next meeting. The decision was made to do so, and Radha Bachman agreed to reach out to Ms. Griffin and report back to the Board at the next meeting.

The Board also heard from Radha Bachman who detailed the Conference call with the Health Law Section Young Lawyers Division and the general outline of their agenda. Radha indicated that a primary focus of their efforts would be on long term and short term outreach to law students, support of pro bono initiatives, and greater involvement with the HLEC members. She noted that many of the law students that she has talked with have expressed an interest to her in helping the HLEC proof-read and edit publication materials. She also noted that some of the schools that she has contacted have asked for a liaison from the HLEC to be assigned to them – so as to keep them informed of activates and issues of interest.

Radha also suggested that the Board consider annually sponsoring some type of mixer/meet and greet at the certification review classes that are offered. This would expose a large number of new lawyers to the HLEC . In the alternative, she suggested that a breakfast on the second day of the class might be sponsored by the HLEC. General discussion by the Board took place in which timing, and funding of the proposal was discussed. Bruce Lamb suggested that the regular sponsors for the HLEC activities

might contribute. A motion was made and seconded to roll out the proposed meet and greet at the March certification meeting with consideration given to doing the same for the annual meeting in June. The motion was approved unanimously.

Ryan Zika next discussed his discussions with Monica Rodriguez regarding the needs of the various committees of the HLEC. Ryan has sent out various eblasts to the YLD members requesting volunteers. He will coordinate with Monica on matching these up to the various committees. Monica Rodriguez next asked whether students could attend the section's CLE presentations for free? Currently, students can attend under a discounted rate - but it is not free. A motion was made by Greg Chaires – subject to approval by the Bar – that students would receive a fee waiver for attendance at any and all HLEC CLE programs. The motion was seconded by Erin Aebel and approved unanimously by the Board members.

The HLS – YLD report concluded with a brief discussion regarding the challenges of pro bono activities, the various types, and the issues often associated with them. Monica Rodriguez tabled the issue for further discussion.

C. Communications and Technology

Malinda Lugo reported that the push to revamp the HLS summaries was going well and that the addition of numerous volunteers was helpful. Michael Smith noted that he has received at least 20 volunteers resulting from an email that he sent earlier. The most interest was expressed in the areas of public health and healthcare transactions.

Carolyn Kubovy reported for Ann Bittinger on newsletter issues. She noted that articles on 1) Telemedicine; 2) Assisted Reproductive Technology; 3) Sunshine Act; and Limitations of Public Hospitals, had recently been submitted. She also pointed out that an October 15 deadline was rapidly approaching for all other articles. Carolyn requested a clarification on the policy for resubmission of articles, or help in drafting one if needed. Charmaine Chiu volunteered to assist.

Bill Dillon reported that the website was running well, although currently experiencing an abundance of SPAM. Monica Rodriguez noted that the website could still use some fine tuning to make it more user friendly and asked if the HLS – YLD might be able to assist. Ryan Zika offered to follow up with his contacts and put them in touch with us.

Robert Nicholson reported that the work on the Handbook was getting closer to completion and that almost 10 chapters are currently done.

D. Legislative

Steve Grigas reported that there was currently little action with respect to the filing of legislative bills, but that this activity was likely to increase as the next Legislative Session gets closer. He expressed that the upcoming session would likely see an overall decrease in Medicaid related matters, and an overall increase in hospital issues.

E. Public Health

There was a request from Rodney Johnson for assistance in putting together a program on public health topics for telephonic presentation in 2014. It was suggested by Monica that new HLEC member, Shad Haston might be able to assist. Rodney indicated that he would follow up with him as able.

F. Education

Myla Reizen noted the various programs sponsored by the section. Lew Fishman noted that the recent HIPAA joint venture with the FHA was largely attended by compliance officers and hospital staff, but not a lot of attorneys. Lew also asked about the notice for the Health Care Regulatory and Compliance Issues seminar taking place November 1, 2013 in Orlando. Lew pointed out a 50 minute break between speakers, and asked for an explanation. None was forthcoming, but it was offered that perhaps this was the result of losing a speaker at the last minute. Monica Rodriguez indicated that she would follow up and see if any additional information was available.

VI. OLD BUSINESS

Lew Fishman noted that he was surprised to see that the ad for the "Fundamentals of Medicaid" seminar published in the Bar News did not have speakers listed. Willie Mae Shepherd indicated that she would follow up on this.

VII. NEXT EXECUTIVE COUNCIL MEETING

January 16, 2014
3:30-5:30 p.m.
The Peabody, Orlando

VIII. UPCOMING CLE PROGRAMS

September 20	Fundamentals of Medicaid
October 8	Eat and Educate-Insurance Coverage beyond Professional Liability
November 1	What Health Care Lawyers & Compliance Officers Need to Know
November 12	Eat and Educate-Nondiscrimination Policies
December 10	Trends in Medical Malpractice Litigation
January 14	Florida Managed Care
January 17	Representing the Physician

X. ADJOURN

The Board adjourned the meeting at 5:10 p.m.