

January 28, 2022

Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: Proposed Increase in Attorney Dues for State Bar of Michigan Operations and the Attorney Discipline System

Dear Justices:

Thank you for publishing for comment the proposed licensing fee increase for attorneys to practice law in this state. Michigan has had one of the lowest licensing fees in the country and has maintained that same fee for an 18-year dues cycle¹ — the longest in both Michigan and national modern history. This dues cycle has reached its end, and the State Bar of Michigan (SBM) needs a licensing fee increase to support its essential work regulating the legal profession, improving the quality of legal services, and protecting the public. While SBM would greatly appreciate the proposed \$50 licensing fee increase, SBM continues to request an \$80 increase — which is less than the impact of inflation over the last 18 years — to adequately support SBM’s work for a projected 7-10 years without needing to return to the Court for additional funding.

Regulating of the Legal Profession. SBM provides vital support to the Court in regulating the legal profession. In partnership with the Board of Law Examiners, SBM reviews and investigates character and fitness for bar applicants — including, when needed, interviewing applicants and holding formal hearings — to help ensure that the attorneys admitted to practice continue to uphold the high standards of the Michigan legal profession.

For attorneys, SBM provides multiple levels of support to the ethical practice of law. Through ethics opinions, FAQs, and the Ethics Helpline, SBM offers attorneys expert advice on ethical issues; indeed, each week, the Ethics Helpline receives dozens of calls from attorneys and judges seeking assistance regarding the proper application of the Michigan Rules of Professional Conduct to their complex, real-life situations. The need for ethical advice has continued to grow with both the increase in remote lawyering and remote hearings, as well as ever-evolving technology. SBM has experienced an approximate 30% increase in the number of calls to the Helpline since the start of the COVID-19 pandemic. In addition, SBM offers attorneys advice on how to best implement technology to practice law ethically and effectively, including offering resources on maintaining technological competency in response to the Court’s recent amendments to the comments of MRPC 1.1. With adequate funding, SBM will be able to continue to support the growing need for both ethical and technological support for attorneys.

Improving the Quality of Legal Services. As part of its core mission, SBM assists the Court in improving the quality of legal services in Michigan. SBM is an essential partner in this mission; as an integrated bar, SBM can bring

¹ Historically, SBM has followed the traditional cycle of dues funding for bars, meaning that at the beginning of a dues cycle a significant portion of the dues increase revenue stream is “banked and invested” to extend the life cycle of the dues amount as long as possible. At the other end of the cycle, the bar’s spending per member exceeds the member’s dues. The trigger for SBM’s fee increase request was a calculation that the spending required to maintain present operations will soon put SBM’s finances below a reasonable financial safety margin. A non dues-cycle model, of course, could also provide adequate funding to cover expenses. Such a model, however, would require the Court to review the bar’s budget annually and adjust licensing fees much more frequently than the traditional dues cycle has required.

together the diverse perspectives of attorneys and judges across the state to understand how to improve the system based on the on-the-ground experiences of those working within the system. In the public policy realm, SBM has helped bring about positive change to the court system, including indigent defense reform, improvements in judicial funding, modernization of the civil discovery rules, and consistency to the fee waiver process. SBM is also able to provide the Court with a broad base of knowledgeable insight from practitioners when considering amendments to its rules, including offering significant feedback on the e-filing rules. SBM looks forward to continuing this work to improve access to and quality of legal services in its leadership responsibilities within the Justice for All Commission.

SBM has been an innovator in developing new ways to provide legal assistance for those who cannot afford to pay for an attorney under the traditional delivery model. Through its limited scope representation resources, modest means referral program, and work in developing LEAN delivery models, SBM is focused on designing the affordable legal delivery models of the future to help modest- and middle-income individuals afford the legal assistance they need. For those who are unable to afford legal assistance, SBM supports and encourages pro bono representation, through its pro bono programs, workshops, honor role, and advocacy for legal services funding.

Protecting the Public. SBM devotes significant resources to protecting the public. Under your authority, as part of its statutory duties of investigating and prosecuting those who engage in the unauthorized practice of law, SBM obtains injunctions against unlicensed individuals attempting to provide legal services or advice and against individuals who attempt to mislead the public as to their authority to provide legal services. SBM also provides the public with practical resources on how to prevent becoming victim to these unlicensed individuals, how unlicensed individuals can negatively impact their legal issues and lives, and how the public can obtain the legal assistance they need. To help broaden and appropriately target its outreach efforts, SBM works collaboratively with other agencies, such as United States Citizenship and Immigration Services, to help alert vulnerable communities to the dangers of the unauthorized practice of law.

SBM Lawyers & Judges Assistance Program (LJAP) protects the public from misconduct caused by lawyers and judges with untreated mental illness and/or substance use disorders. While lawyers and judges can voluntarily seek help, LJAP also monitors lawyers and judges who have had grievances filed related to mental illness or problematic substance use. LJAP works with these individuals to identify the help they need and provide them with support and accountability through monitoring agreements and reporting requirements with the goal that these attorneys and judges can return to competently providing legal services.

With the onset and continuation of the COVID-19 pandemic, the need for LJAP is only growing. Legal professionals are now recognizing the need to address lawyer well-being and the significantly elevated rates of depression, anxiety, stress, and alcohol abuse in the lawyer population. With the newly developed Virtual Support Groups, SOLACE Program, and well-being outreach, the demand for LJAP services continues to rise. The number of individuals who contacted LJAP to obtain assistance — whether for themselves, a colleague, a family member, or a friend — increased by 175% from FY2020 to FY2021. In addition, the number of requests for LJAP presentations to the legal community on maintaining mental, emotional, and physical health has increased by 60%.

Conclusion. For 18 years, against the compounding pressure of inflation, SBM has provided these services — and many, many more² — through fiscal prudence, increasingly leaner operations, and the enormous contribution of volunteer attorneys. Without adequate funding, however, SBM will not be able to continue this level of operation and evolve to respond to the changing needs of the legal profession, attorneys, and the public. As both the SBM 150-member Representative Assembly and 32-member Board of Commissioners — who represent the broad and diverse spectrum of Michigan’s legal community — have recognized, the time has come to adjust license fees to reflect the cost of adequately funding SBM’s work going forward.

² To read about all of SBM’s work to support the Court, legal community, and public, please visit our [Strategic Plan page](#).

For all these reasons, SBM continues to respectfully request a dues increase of \$80. We thank the Court for its attention to this issue.

Sincerely,



Janet K. Welch
Executive Director



Dana M. Warnez
President



Nicholas M. Ohanesian
Chair, Representative Assembly

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court