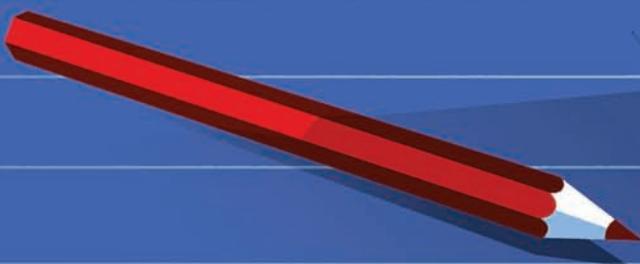


WINTER 2018 VOL. 23 NO. 3

TPI Texas Paralegal Journal

VOTE!





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PRESIDENT'S *Message*

Mona H. Tucker, ACP

Greetings and salutations to all my paralegal friends! I hope you had a wonderful holiday season, making memories with family and friends.

So, how many New Year's resolutions have you made for 2018? May I suggest one for you? *Get Involved!* We're currently gearing up for Director elections in the even-numbered Districts. (Maybe you've considered stepping up?) I really hope you will take the time to look at the candidates and the proposed Bylaws changes, and get involved in the business of the Paralegal Division.

Several of our Districts need sub-chairs right now, so if you've thought about being more active, that is a great way to do it. Even if you aren't sure you're ready

to take a sub-chair position, how about helping out with a single event? Contact your Director to see what opportunities are available in your area. Or, if you want to help organize something close to you, let your Director know!

You probably saw this in the *Paralegal Pulse* or your monthly newsletter, but I want to remind you that, beginning with the 2018 membership renewal, for Active and Associate members, one of your six CLE hours must be in *Ethics*. You have until the end of May to get all your hours in.

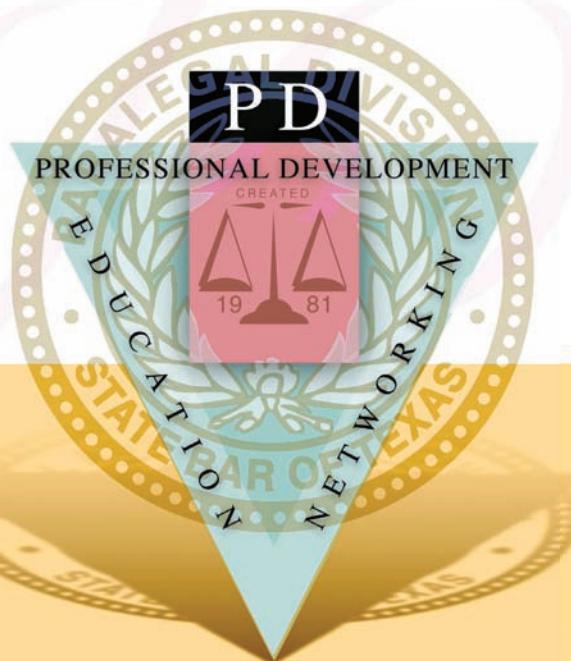
From December 1st through February 25,

2018, the Division is offering half-price membership fees. If you know someone who dropped from our ranks this year, or there's someone you've been trying to encourage to join us, now is the time. Active and Associate members who are rejoining will need to have their six hours of CLE. Please help us promote this great discount!

As we all struggle to get used to writing the new year on our checks, let each time you write "2017" be a reminder to leave the old year behind and look forward to bigger and better things to come!

Best!
Mona

Mona H. Tucker, ACP
2017 President, Paralegal Division, State Bar of Texas



*Be a step above the rest –
Join the Paralegal Division
of the State Bar of Texas*

PD provides many benefits for career growth:

- Networking with paralegals across the state
- Powerful CLE opportunities such as Texas Advanced Paralegal Seminar (TAPS)
- Professional Development
- Professional magazine with substantive articles and updates from across the nation

THINK ABOUT IT.....

an organization designed just for YOU! ENHANCE YOUR CAREER by becoming a part of PD today.

Go to www.txpd.org and see for yourself or contact the PD Coordinator via email at pd@txpd.org or call (806) 803-3267

TPJ

Texas Paralegal Journal

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EDITOR'S Note

Happy New Year wishes! Have your 2018 calendar ready. Several exciting PD events are ready to be marked on your 2018 calendar!

This issue will focus on the some of the electoral procedural matters of the Paralegal Division. In addition to the President-Elect election by the Board, there is the even-numbered District Directors' election this spring by even-numbered active district members. Also, there will be a spring election for proposed Bylaws amendments for the entire assembly of active PD members on which to vote. The Online Election will commence on **March 24, 2018** and conclude on **April 7, 2018**. Please take time to review the proposals and calendar these important deadlines for voting! The proposed amendments are listed in this issue, but can also be found at <https://txpd.org/2018%20Bylaw%20Changes.asp>.

The TAPS 2017 recap is included in this issue with highlights about a few of the many speakers at the conference. Included with the article is this list of the TAPS 2017 speakers and topics to show the vast CLE opportunities offered and how beneficial attending TAPS can be for next year! TAPS 2018 will be **September 26–28, 2018** at the Crowne Plaza in Addison. With TAPS being in one of the PD's largest membership districts, there is an abundant resource of speakers and members advocating for TAPS in the area. Combine that with being in the booming area of Addison, will surely make TAPS 2018 even more promising!

We have already made it to the half-way mark for the 2017–2018 term! That means the rate for pro-rated membership dues is half-price. This is a great opportunity to encourage a colleague, student, or vendor to join and enjoy the benefits of the PD at half-price through February 25, 2018! Visit the PD website at www.txpd.org or email this link <https://txpd.org/page.asp?p=Applications> and ask them to join today!

A part of the Paralegal Division's mission is to help the community. The PD is proud to have so many members offer their time to do pro bono work. If you or if you know of a PD member who is eligible, the Pro Bono Chair is accepting nominations for Exceptional Pro Bono Nominations before **March 31, 2018**. See the notice in this issue or contact the Pro Bono Chair, Shanna Mello, for more information – probonochair@txpd.org.

The next issue will focus on professional accolades of our PD members. If you have a submission, please email tpj@txpd.org for more details. The deadline is March 4, 2018.

Megan Goor, TBLS-BCP, Immediate Past President and TPJ Editor, is the Senior Paralegal at The Brender Law Firm, Fort Worth, TX.



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Rhonda J. Brashears, CP, TBLS-BCP, Coordinator
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The Texas Paralegal Journal is electronically published four times a year as a service to the paralegal profession. An electronic copy of each issue is furnished to the members of the Paralegal Division as part of their dues.

Paralegal Division

President—Mona Hart-Tucker, ACP
President-Elect—Stephanie Sterling, TBLS-BCP
Treasurer—Javan Johnson, ACP, TBLS-BCP
Secretary—Mary R. Wintermote
Parliamentarian—Edna Garza, TBLS-BCP
Coordinator—Rhonda Brashears, CP, TBLS-BCP

BOARD OF DIRECTORS

President, Mona Hart-Tucker, ACP, Daingerfield;
President-Elect, Stephanie Sterling, TBLS-BCP,
Austin; District 1 Director, Sherylyne Hollinger,
RP, PHP, Houston; District 2 Director, Jay M.
Williams, TBLS-BCP, Dallas; District 3 Director
and Secretary, Mary R. Wintermote, Fort Worth;
District 4 Director, Pam Ete, ACP, Austin; District
5 Director, Susi Boss, San Antonio; District 6
Director, vacant; District 7 Director, Sharla Fowler,
CP, Amarillo; District 10 Director, Jennifer Barnes,
CP, Conroe; District 11 Director, Sandra Seutter,
Midland; District 12 Director, vacant; District
14 Director and Treasurer, Javan Johnson, ACP,
TBLS-BCP, Longview; District 15 Director and
Parliamentarian, Edna W. Garza, TBLS-BCP; and
District 16 Director, Rebecca Lopez, El Paso.

PUBLICATIONS COMMITTEE MEMBERS

Publications Chair: Megan Goor, TBLS-BCP
Board Advisor: Edna Garza, TBLS-BCP (District
15)
Sub-Chairs: Fairalee Carrier (District 1), Jeannie
Shipley (District 2), Brenda Colvin, TBLS-BCP
(District 4), Sharla Fowler, CP (District 7), Carmen
Antol (District 15), Louise Elorreago (District 16)

DEADLINE FOR SPRING ISSUE IS MARCH 4, 2018. E-mail tpj@txpd.org.

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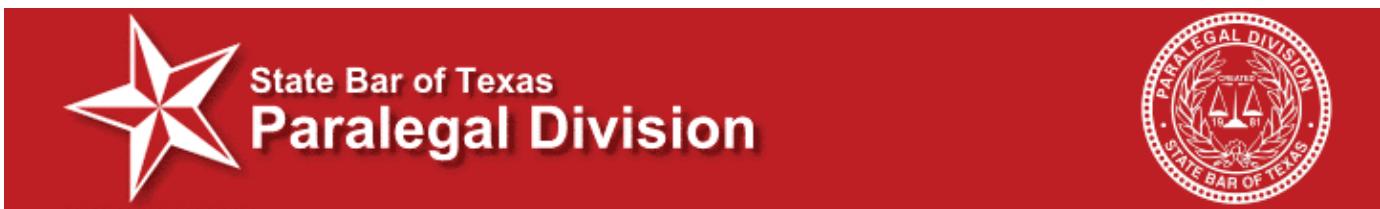
Focus on...

IN THIS ISSUE, THE “FOCUS ON” SECTION ADDRESSES THE SEVERAL ELECTORAL AND/OR NOMINATION MATTERS BEFORE THE BOARD, EVEN-NUMBERED DISTRICTS, OR THE MEMBERSHIP, AS A WHOLE:

1. PROPOSED 2018 BYLAW CHANGES (APPLIES TO ACTIVE MEMBERS);
2. 2018–2019 PRESIDENT-ELECT NOMINATION (APPLIES TO BOARD OF DIRECTORS);
3. 2018 EVEN-NUMBERED DIRECTOR ELECTIONS (APPLIES TO ACTIVE MEMBERS OF DISTRICTS 2, 4, 6, 8, 10, 12, 14 AND 16); AND
4. NOMINATIONS FOR EXCEPTIONAL PRO BONO SERVICE AWARD (APPLIES TO ALL PD MEMBERS).

PLEASE TAKE TIME TO REVIEW AND ACTIVELY PARTICIPATE IN THESE IMPORTANT PARALEGAL DIVISION MATTERS.

IF YOU HAVE ANY QUESTIONS REGARDING ANY OF THESE MATTERS, PLEASE CONTACT YOUR DISTRICT DIRECTOR ([HTTPS://TXPD.ORG/CONTACTS.ASP#CONTACT260](https://txpd.org/contacts.asp#contact260)) OR PRESIDENT, MONA HART TUCKER ([PRESIDENT@TXPD.ORG](mailto:president@txpd.org)).



Proposed 2018 Bylaw Changes

The Paralegal Division Active members will be voting in the Spring 2018 Election on the following four Proposed Bylaw Changes. The Online Election will commence on March 24, 2018 and conclude on April 7, 2018.

The Proposed Amendments are being posted for your review prior to the Election. Should you have any questions about these changes, please contact your District Director, and/or the President, Mona Tucker, at president@txpd.org.

Proposed Amendment	File
Correction of Article IX Section 2.c.11	
Redistricting Districts 6 and 8	
Director Place 1 and Place 2	
Ex Officio members	

The full language for the Bylaws changes are as follows:



PROPOSED AMENDMENTS TO THE BYLAWS FOR THE SPRING 2018 ELECTION

Online Election with voting to commence on March 24, 2018 and end on April 7, 2018

QUOTE OF PROPOSED AMENDMENT

PROPOSED BYLAWS REVISION

Merging District 6 with District 7 and District 11;
Merging District 8 with District 5 and District 15

ARTICLE III BOARD OF DIRECTORS

Section 4. Districts.

The Districts of the Division shall be comprised of the following counties¹:

- (1) **District #1:** Austin, Brazoria, Colorado, Fayette, Fort Bend, Galveston, Harris, Jackson, Lavaca, Matagorda, Waller, Washington, and Wharton.
- (2) **District #2:** Dallas and Ellis.
- (3) **District #3:** Callahan, Comanche, Eastland, Erath, Hood, Johnson, Jones, Palo Pinto, Parker, Shackelford, Somerville, Stephens, and Tarrant.
- (4) **District #4:** Bastrop, Bell, Blanco, Bosque, Brazos, Brown, Burnet, Burleson, Caldwell, Coleman, Coryell, Falls, Gillespie, Hamilton, Hays, Hill, Kimble, Lampasas, Lee, Llano, Mason, McCulloch, McLennan, Menard, Milam, Mills, Robertson, San Saba, Travis, and Williamson.
- (5) **District #5:** Atascosa, **Aransas**, Bandera, **Bee**, Bexar, **Calhoun**, Comal, **Dewitt**, Dimmit, Edwards, Frio, **Goliad**, Gonzales, Guadalupe, Karnes, Kendall, Kerr, Kinney, La Salle, **Live Oak**, Maverick, **McMullen**, Medina, **Nueces**, Real, Refugio, San Patricio, Uvalde, **Victoria**, Wilson, and Zavala.

¹ District 9 merged with District 2, District 3, District 4, and District 14 in 2006. District 13 merged with District 1 in 2014. District 6 merged with District 7 and District 11 in 2018. District 8 merged with District 5 and District 15 in 2018.



- (6) **District #6:** Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Gaines, Garza, Hale, Hockley, Kent, King, Lamb, Lubbock, Lynn, Motley, Scurry, Stonewall, Terry, and Yoakum.
- (7) **District #7:** Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Kent, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Terry, Wheeler, and Yoakum.
- (8) **District #8:** Aransas, Bee, Calhoun, DeWitt, Duval, Goliad, Jim Wells, Kleberg, Live Oak, McMullen, Nueces, Refugio, San Patricio, and Victoria.
- (10) **District #10:** Chambers, Grimes, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler, and Walker.
- (11) **District #11:** Andrews, Borden, Coke, Concho, Crane, Crockett, Dawson, Ector, Fisher, Gaines, Glasscock, Howard, Iron, Loving, Martin, Midland, Mitchell, Nolan, Pecos, Reagan, Reeves, Runnels, Schleicher, Scurry, Sterling, Sutton, Taylor, Terrell, Tom Green, Upton, Val Verde, Ward, and Winkler.
- (12) **District #12:** Archer, Baylor, Camp, Clay, Collin, Cooke, Delta, Denton, Fannin, Foard, Franklin, Grayson, Hardeman, Haskell, Hopkins, Hunt, Jack, Knox, Lamar, Montague, Rockwall, Red River, Throckmorton, Titus, Wichita, Wilbarger, Wise, and Young.
- (14) **District #14:** Anderson, Angelina, Bowie, Cass, Cherokee, Freestone, Gregg, Harrison, Henderson, Houston, Kaufman, Leon, Limestone, Madison, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, Upshur, Van Zandt, and Wood.
- (15) **District #15:** Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Starr, Webb, Willacy, and Zapata.



- (16) **District #16:** Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, and Presidio.

REASON FOR PROPOSED AMENDMENT: This redistricting proposal is being presented to the membership for voting due to lack of participation in each of the districts and for fiscal reasons.

DISCUSSION ON BOTH SIDES OF THE ISSUE:

Pros:

- 1) These districts would be merged with districts that are more active and offering CLE events and social/ networking events.
- 2) Currently unrepresented districts would have more representation at the board meetings allowing their voice to be heard.
- 3) District 8 is being merged with District 5 and District 15 depending on the location of the county to allow for easier commute to events.
- 4) District 6 is being merged with District 7 and District 11 depending on the location of the county to allow for easier commute to events.
- 5) This redistricting proposal will allow for more financial stability within the Paralegal Division.

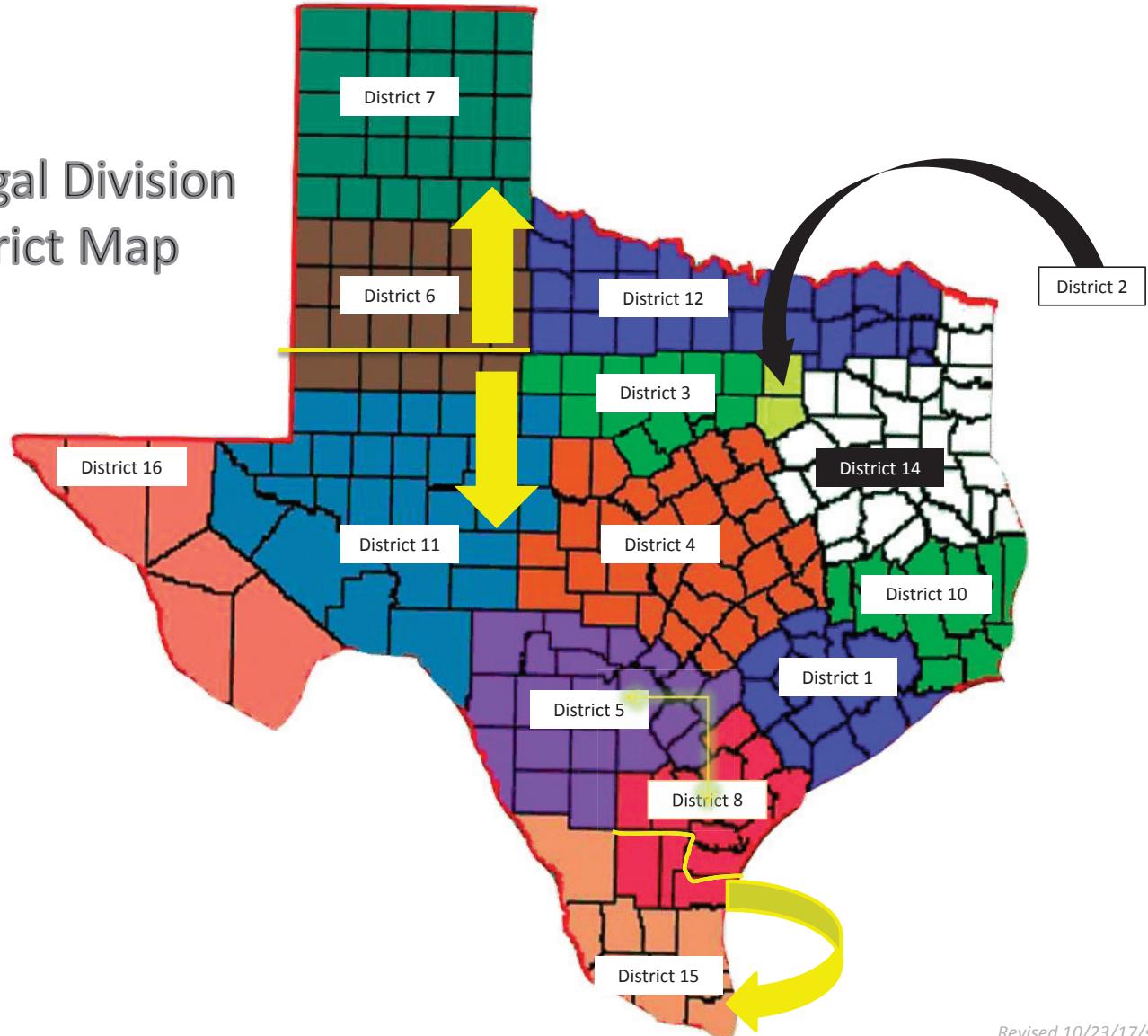
Cons:

- 1) The Director representation will be a little bit further away.
- 2) Members may have to drive further to attend events.

EFFECTIVE DATE FOR PROPOSED AMENDMENTS (IF PASSED): June 21, 2018.

Focus on...

Paralegal Division District Map



Revised 10/23/17/srs



PROPOSED AMENDMENTS TO THE BYLAWS FOR THE SPRING 2018 ELECTION

Online Election with voting to commence on March 24, 2018 and end on April 7, 2018

QUOTE OF PROPOSED AMENDMENT

PROPOSED BYLAWS REVISION

ARTICLE III BOARD OF DIRECTORS

Section 5. Biennial Elections.

Except as provided in Article III, Section 9.c, Directors representing odd-numbered Districts shall be elected during odd-numbered years. The same shall be true for even-numbered Districts in even-numbered years. **In a District with more than one Director Place, odd-numbered Places shall be elected in odd-numbered years and even-numbered Places shall be elected in even-numbered years.**

(Amended September 1994; June 2018)

REASON FOR PROPOSED AMENDMENT: This revision is needed to the Bylaws as an update to clarify when elections would take place should a District have more than one Director

DISCUSSION ON BOTH SIDES OF THE ISSUE:

Pros:

- 1) It will help clarify the election process when there is more than one Director in a District to stagger the election years.

Cons:

None

EFFECTIVE DATE FOR PROPOSED AMENDMENTS (IF PASSED): June 21, 2018.



PROPOSED AMENDMENTS TO THE BYLAWS FOR THE SPRING 2018 ELECTION

Online Election with voting to commence on March 24, 2018 and end on April 7, 2018

QUOTE OF PROPOSED AMENDMENT

PROPOSED BYLAWS REVISION

ARTICLE III BOARD OF DIRECTORS

Section 7. Ex Officio Members.

a. The immediate past President of the Division shall serve as non-voting Executive Advisor to the Board and to the Executive Committee.

~~b. The Chair of the State Bar of Texas Committee on Paralegals shall serve as a non-voting ex officio member of the Board and shall be the liaison between the committee and this Division.~~

~~e-~~ b. The President-Elect shall be a non-voting member of the Board.

REASON FOR PROPOSED AMENDMENT: This revision is needed to the Bylaws as an update since there is not a State Bar of Texas Committee on Paralegals any longer.

DISCUSSION ON BOTH SIDES OF THE ISSUE:

Pros:

- 1) This is an update to our Bylaws to reflect the current Ex Officio Members of the Board.

Cons:

None

EFFECTIVE DATE FOR PROPOSED AMENDMENTS (IF PASSED): June 21, 2018.



PROPOSED AMENDMENTS TO THE BYLAWS FOR THE SPRING 2018 ELECTION

Online Election with voting to commence on March 24, 2018 and end on April 7, 2018

QUOTE OF PROPOSED AMENDMENT

PROPOSED BYLAW AMENDMENTS

ARTICLE IX ELECTIONS

(Adopted June 1992)

Section 2. Notice of Election.

a. Responsibility for Giving Notice. The Publications Committee Chair shall have responsibility for giving Notice of Election to the general membership.

b. Manner of Giving Notice. Notice of Election must be given in the following manner.

1. Preparation of Notice.

a. Elections of Directors. The Election Committee shall cause a Notice of Election of Directors to be prepared and delivered to the Publications Committee Chair. The Publications Committee Chair shall receive the Notice of Election of Directors no later than 30 days prior to the Nominating Period.

b. Amendment(s) to Bylaws. The Elections Committee Chair and the Publications Committee Chair shall receive the Notice of Election for amendment(s) to Bylaws no later than 30 days prior to the mailing of the official publication.

c. Referendum. The Elections Committee Chair and the Publications Committee Chair shall receive the Notice of Election for referendum no later than 30 days prior to the mailing of the official publication.

d. Publication of Notice.

i. Spring Election: The Publication Committee Chair shall cause the Notice of Election of Directors, amendment(s) to Bylaws, or referendum to be published in the Division's official publication, newsletter and/or website no later than 30 days prior to the mailing of the official publication.

ii. Fall Election: The Publication Committee Chair shall cause the Notice of Election amendment(s) to Bylaws, or referendum to be published in the Division's official publication, newsletter and/or website no later than 30 days prior to the mailing of the official publication.



c. **Contents of Notice.** Every Notice of Election must state:

1. **Description of Election and Date.** The nature and date of the election;

2. **Description of Qualifications and Requirements.** The eligibility requirements for voting in the election and, where applicable, the eligibility requirements for holding office and nominating candidates; and

3. **Notice of Election for Amendment(s) to Bylaws and/or Referendum.** In addition to the requirements for Notice of Election set forth hereinabove, Notice of Election for amendment(s) to these Bylaws and/or a referendum shall contain the following:

a. **Proposed Amendment.** The proposed Bylaws amendment(s) and/or proposed measure(s) that is/are the subject of the referendum;

b. **Need.** A full discussion as to why the Bylaws amendment(s) and/or the proposed measure(s) that is/are the subject of the referendum are needed;

c. **Discussion.** A full discussion of the relative merits of both sides of the issues raised by the proposed amendment(s) to the Bylaws or by the measure(s) that is/are the subject of the referendum; and

d. **Effective Date.** The effective date of the proposed Bylaws amendment(s) or measure(s) that is/are the subject of the referendum.

Section 3. List of Registered Voters.

Section 11. Effective Date.

An amendment to the Bylaws and/or referendum adopted in accordance with Article IX, Section 8 of these Bylaws shall be effective as of the date so specified in the Notice of Election for such amendment or referendum pursuant to Article IX, Section 2.c. 4.–3.d. of these Bylaws.

REASON FOR THE PROPOSED AMENDMENT: This revision is needed to the Bylaws as a correction because there is no Article IX, Section 2.c.4.d. of the Bylaws. It should read Article IX, Section 2.c.3.d. as reflected above.

DISCUSSION ON BOTH SIDES OF THE ISSUE:

Pros:

- 1) This is a correction to our Bylaws to reflect the current cite of Article IX, Section 2.c.3.d.

Cons:

None

EFFECTIVE DATE FOR PROPOSED AMENDMENTS (IF PASSED): June 21, 2018.



2018–2019 PRESIDENT-ELECT NOTICE OF NOMINATION

Nominations are currently being accepted for 2018-2019 President-Elect

Pursuant to Standing Rule XIV of the Paralegal Division of the State Bar of Texas, notice is hereby given of an election for the office of 2018-2019 President-Elect. This election will be held by electronic mail during the month of January 2018 by the Board of Directors.

Qualifications for serving as President Elect of the Paralegal Division are contained in Standing Rules XIV as follows:

XIV. OFFICERS

B. ELIGIBILITY

Any current or past Director who is currently an active member of the Division and who has completed at a minimum a full term (two (2) consecutive years) as Director is eligible to be elected as President or President-Elect.

1. Any current or past Director who is currently an active member of the Division and who has completed at a minimum a full term (two (2) consecutive years) as Director is eligible to be elected as President or President-Elect.

Any qualified individual who is interested in running for office of President-Elect should forward a one-page resume, together with a letter of intent to run, to the nominations committee chair at the following address **TO BE RECEIVED NO LATER THAN JANUARY 15, 2018.**

Jennifer Barnes, CP

Chair, President-Elect Nomination Committee
Jenkins & Kamin, LLP
201 Simonton Street
Conroe, Texas 77301
936-703-3127 (o)
jbarnes@jenkinskamin.com

Note: In the event the Board of Directors of the Paralegal Division elects an individual who is currently serving as a Director, a vacancy will be declared in the district in which that individual serves. An election will be held to replace the outgoing Director (President-Elect) at the time the elections for the Board of Directors are regularly scheduled.



PARALEGAL DIVISION

Notice of 2018—District Director Election

The Paralegal Division's DIRECTOR ELECTION for District Directors in even-numbered districts (Districts 2, 4, 6, 8, 10, 12, 14 and 16) will take place March 24 through April 7, 2018.

- Beginning on January 31, 2018 each Elections Subcommittee Chair will prepare and forward, upon request, the following materials to potential candidates for director in their respective district at any time during the nominating period:
 - a. A copy of the List of Registered Voters in candidates' respective district;
 - b. A sample nominating petition; and
 - c. A copy of Rule VI of the Standing Rules entitled "Guidelines for Campaigns for Candidates as Director."
- Each potential candidate must satisfy the following requirements:
 - a. Eligibility Requirements. The candidate must satisfy the eligibility requirements of Article III, Section 3 and Article IX, Section 1 A and Section 4 of the Bylaws and Rule V B, Section 5c of the Standing Rules.
 - b. Declaration of Intent. The candidate must make a declaration of intent to run as a candidate for the office of director through an original nominating petition declaring such intent that is filed with the Elections Subcommittee Chair in the candidate's district pursuant to Rule V B, Section 5 of the Standing Rules.
 - c. Nominating Petition. The original nominating petition must be signed by the appropriate number of registered voters and must be submitted to the Elections Subcommittee Chair in such district, on or before February 22, 2018.

If you are interested in running for District Director, or need further information regarding the election process, contact the Elections Committee Sub-Chair in your District, or the Elections Chair, Martha Ramirez, CP, at Elections@txpd.org.



2017–2018 District Election Committee Sub-Chairs:

District 2—Eugene Alcala – eugenealcala@outlook.com

District 4—Jennifer Rogers, CP – jbrogers@jw.com

District 6—Martha Ramirez, CP – Elections Chair – elections@txpd.org

District 8—Stephanie Sterling, TBLS_BCP – president-elect@txpd.org

District 10—Angie Laird, ACP-TBLS-BCP – alaird@obt.com

District 12—Sunnie Palmer – sunnie@zellmerlaw.com

District 14—Ginger Gage, ACP, BCP, TBLS-BCP – ginger.gage@boonlaw.com

District 16—Peggy Dieter, CP, TBLS-BCP – pdieter@kempsmith.com

NOTICE OF VOTING—March 24–April 7, 2018

All Active members of the Paralegal Division in good standing as of March 24, 2018 are eligible to vote. All voting must be completed on or before 11:59 p.m., April 7, 2018.

All voting will be online and no ballots will be mailed to members.

Please take a few minutes to logon to the PD's website and cast your vote for your district's director. The process is fast, easy, anonymous, and secure.

- Between March 24th and April 7, 2018 go to www.txpd.org
- In the Members-Only section, click on “Vote”
- Follow the instructions to login and vote



EXCEPTIONAL PRO BONO SERVICE AWARD

The Paralegal Division (PD) of the State Bar of Texas is proud to sponsor an Exceptional Pro Bono Service Award. Its purpose is to promote the awareness of pro bono activities such as those defined by the State Bar of Texas, and to encourage PD members to volunteer their time and specialty skills to pro bono projects within their community by recognizing a PD member who demonstrates exceptional dedication to pro bono service. Paralegals are invited to foster the development of pro bono projects, to provide assistance to established pro bono programs, and work closely with attorneys to provide unmet legal services to people with low incomes. This annual award will go to an individual PD member, who performed the pro bono service(s) in the State of Texas, and has volunteered his or her time and special skills in providing uncompensated services in pro bono assistance to their community. The recipient of the award will be announced at the Paralegal Division Annual Meeting Luncheon, his/her expenses to attend the Annual Meeting Luncheon will be incurred by the Division, and a profile of the individual will be published in the Fall issue of the *Texas Paralegal Journal*.

Definition of Paralegal Pro Bono Service (Adopted June 2013)

Providing legal assistance, without remuneration or compensation to the paralegal, that requires specific legal skills, knowledge or training, under the supervision of a licensed attorney or qualified organizations, whether individually, or through non-profit charitable, religious, civic, community, or governmental organizations, and serving as an advocate for those with limited means or that are unable to speak for themselves.

1. Providing legal support services for persons of limited means, either through qualified legal services/legal aid programs.
2. Providing legal support services at community legal clinics; and
3. Providing assistance for, working directly with attorneys on cases, or providing direct client advocacy, under legal services/advocacy programs that are sponsored by a bar association, court, governmental agency or non-profit agency.

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Fort Worth/Weatherford
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Long-Term Care Planning Challenges and Concerns

By Rick B. Weaver and Travis R. Weaver

I. OVERVIEW OF CURRENT MEDICAID RULES.

This is not intended to be a complete overview of all Medicaid rules. However, it is intended to give a basis framework which may be used for planning purposes.

A. Basics of Medicaid Qualification for Nursing Care

1. Income Limits—In 2017, the income limit in Texas is \$2,205.00 in countable income of the Medicaid applicant. If both spouses reside in the same nursing home, the incomes are combined, and the income cap for the combined income is twice the cap for an individual (\$4,410.00). However, if the combined incomes exceed this cap, one spouse can still be eligible as long as his or her income alone is below the individual cap (\$2,205.00).
2. Resources (Assets)—
 - a. The resource limitation for an unmarried applicant is \$2,000.00.
 - b. The resource limitation for a married couple, with an ineligible spouse not living in a medical institution is half the couple's combined resources, subject to a minimum "protected resource amount" of \$24,180.00 and a maximum of \$120,900.00. (This may be expanded in certain cases);
 - c. The resource limitation for a married couple, both of whom live in a nursing facility and apply for Medicaid is \$3,000.00. Resources of both spouses are counted toward this limit.
 - d. The resource limitation for a married couple, both of whom live in a nursing facility, if only one applied for Medicaid is \$2,000.00. Resources of the non-applicant



spouse are not deemed to the applicant spouse because they are not regarded as living in the same household. Therefore, the non-applicant spouse can have unlimited resources.

3. Name on the Check Rule for Income—The federal "spousal impoverishment" rules require that, for the purpose of allocating the income of a married Medicaid beneficiary and his or her spouse after eligibility is established, community property rules are disregarded. Rather, income is allocated according to the person or persons to whom it is payable on the check or other instrument by which it is paid, unless the instrument specifically provides otherwise.
4. Rules Affecting Rental Income—In general, countable rental income is gross income received, less actual expenses, such as (but not limited to) property taxes, utilities, maintenance, repairs and advertising. A good rule of practice is to rent out the property in question to a family member or trusted tenant under an agreement where the tenant makes payments equal to the cost of property taxes, utilities, maintenance, repairs, and advertising.
5. Requirement of "Accessibility" for Resources—To be counted, a resource must be both owned (solely or in part) by the client and "accessible to" the client. If a client has the right, authority or power to liquidate the property or his share of it, the property is a resource. If a client would be required to seek court action to access or dispose of property, that property is not considered a resource. However, a client's resources are considered available to him when they are being managed by a legal guardian, agent under power of attorney or other fiduciary agent of the client, unless a court denies the guardian or agent access to the resources.
6. Joint Bank Accounts—if a client has a joint bank account and can legally withdraw funds from it, all the funds in the account are considered a resource of the client. However, this is just a presumption, and the client is allowed an opportunity to prove that some or all of the funds are the property of someone else.
7. Trusts—Generally, property in a trust is a resource if the client has the authority to revoke the trust; or if the trustee has discretion to make distributions to the client, and the client contributed the property to the trust.
8. Exempt Resources—The following are exempt resources:
 - a. The home—One principal place of residence in Texas is excluded.
 - b. Burial spaces—A "burial space" or agreement that represents the purchase of a burial space held for the burial of the client, his or her spouse, or any other member of

- the client's "immediate family" is excluded, regardless of value.
- c. Prepaid burial contracts—An **irrevocable**, prepaid burial contract is excluded, regardless of value.
- d. One automobile:
- Unmarried individual, or married and both spouses eligible: The value of one automobile is excluded, regardless of value.
 - Married, one spouse in the community: one automobile is excluded regardless of its value or use.
- e. Household goods and personal effects:
- Unmarried individual, or both spouses eligible: If the client's equity in these items exceeds \$2,000.00, it is counted as a resource. However, caseworkers are instructed not to develop the value of **household** goods and personal effects unless a client lists items exceeding \$500.00 on the Medicaid application (Form 1200) or discusses these items in the interview. Further, the instructions state that items used for everyday living, such as, a set of silver or an antique table, are not counted.
 - Married, one spouse in the community: all personal and household effects are excluded, regardless of value.
- f. Life Insurance:
- Term insurance (no cash value): All is excluded, regardless of amount of death benefit.
 - Cash value insurance (e.g., whole life, universal life): The cash value (not including dividend additions) is counted as a resource; provided, if the total face value of all policies owned by the client (or a spouse, if any) is \$1,500.00 or less, the cash value is excluded.
- g. Otherwise non-exempt assets which have been placed for sale.
- h. Livestock:
- Livestock that is maintained as part of a trade of business or exclusively for home consumption is not counted as a resource for Medicaid purposes.
 - The Spouse's Protected Resource Amount—All resources of both spouses are combined. A "protected resource amount" for the community spouse is then determined, according to the rules discussed below. Then, within the first year of eligibility, all countable assets in excess of \$2,000.00 must be transferred to the community spouse. The following is a summary of the specific rules:
 - When the protected resource amount is calculated: DHS examines resources of both spouses, as of 12:01 a.m. of the first day of the month in which the first continuous period of institutionalization on or after September 30, 1989 began. Hospitals, as well as nursing homes, are "medical institutions," and a move from one institution directly to another does not stop the clock running on this period.
 - How the protected resource amount is calculated:
 - All property is included, without regard to its characterization as community or separate.
 - The PRA is the *greater* of:
 - One-half of the couple's combined countable resources, not to exceed the maximum set by federal law (\$120,900.00 in 2017); or
 - The minimum set by federal law (\$24,180.00 in 2017).

Examples:

 - If combined resources total \$300,000.00, PRA is \$120,900.00.
 - If combined resources total \$100,000.00, PRA is \$50,000.00.
 - If combined resources total \$25,000.00, PRA is \$24,180.00.
 - How the PRA can be increased to provide for the community spouse:
 - The spousal allowance.
- Federal law provides for a "minimum monthly maintenance needs allowance" for the community spouse, which in 2017 is \$3,022.50 per month if the other spouse is in a nursing facility.
- The right to a PRA increase to provide for the spousal allowance. In some cases, all the income of both spouses together is insufficient to give the community spouse the full spousal allowance. If either spouse establishes this, DHS is required to increase the PRA to an amount sufficient to provide the full minimum monthly needs allowance.
 - The Formula. The total resources that can be protected are equal to the cost of a one-year CD that will produce enough interest, when added to the couple's total *noninvestment* countable income, to give the community spouse a total of \$3,022.50 per month income (in 2017).
10. Transfer ("Gifting") Rules:
- Basic Rule—The basic rule (subject to exceptions discussed below) is that a person making a transfer for less than fair market value is ineligible for Medicaid for one day for every \$162.41 gifted. The \$162.41 amount represents the DHS estimate of the average (private-pay) daily cost of nursing home care in Texas.
 - Only Transfers Within The "Lookback Period" Are Subject to Penalty:
 - Only transfers within the "lookback period" are subject to penalty. The current lookback period is 60 months.
 - Certain Transfers Excepted From Penalty: The following transfers are *not* subject to transfer penalties:

- i. Transfers of a *home* to:
 - a. The client's spouse; or
 - b. A child of the client who is (1) under age 21 *or* (2) blind or permanently disabled; or
 - c. A sibling of the client who has an equity interest in the home and who resided there for at least one year immediately before the date the client became institutionalized; or
 - d. A son or daughter of the client who was residing in the client's home at least two years immediately before the date the client became institutionalized and who provided care to the client which permitted the client to reside at home rather than in an institution or facility.
 - ii. Any transfers to the client's spouse or to another for the sole benefit of the client's spouse (e.g. trusts and annuities).
 - iii. Any transfers from the client's spouse to another for the sole benefit of the client's spouse (again, trusts and annuities).
 - iv. Any transfers to a trust established solely for the benefit of the client's blind or disabled child (regardless of age of the "child"), or to such a child of the client directly. The disability must meet the Social Security Administration (SSA) disability criteria.
 - v. Any transfers to a trust established solely for the benefit of an individual under 65 years of age who is disabled as defined under SSA disability criteria.
 - vi. Transfers in which the client intended to dispose of the property at fair market value (even if actual consideration turned out to be less).
 - vii. Transfers made exclusively for a purpose other than to qualify for Medicaid.
 - viii. Transfers of property that has since been returned to the client.
11. Legal Capacity Requirement for Gifting:
 - a. Legal Capacity Required. Like any other legal transaction, the gift is invalid if the donor did not understand the nature and purpose of the transaction at the time of the gift. The transaction may later be attacked by family members or others. Other grounds, such as undue influence and unconscionability, may be asserted.
 - b. Specific gifting powers required in durable power of attorney. An agent under a general and durable power of attorney does not have the power to make transfers for less than adequate consideration in Texas, unless the instrument makes a specific grant of such power.
 12. Rules for Calculating the Penalty Period—In summary, here is how to calculate the daily penalty period for any transfer for less than fair market value:
 - a. Determined the difference between the value of the property or money transferred, and the value paid (if any) to the client. If the client received nothing, use the full value of the asset(s) transferred.
 - b. Divide that number by \$162.41 (or whatever number is effective at the time of the application).
 13. Treatment of Multiple Transfers—if there are multiple uncompensated transfers in which the penalty periods overlap, all such transfers during the lookback period are totaled, and the total value is divided by the average private pay costs (currently, \$156.34) to calculate the daily penalty period.
 14. Planning Techniques that Should be Considered by Potential Medicaid Recipients:
 - a. Prepayment of funerals using an *irrevocable* contract.
 - b. Purchase of burial plots.
 - c. Use of a Miller Trust if the income of the recipient requires.
 - d. Consideration of execution of new wills to exclude spouse to spouse transfers. This is particularly useful if a potential Medicaid recipient is about to inherit property.
 - e. Execution of new Statutory Durable Powers of Attorney with broad gifting powers.
 - f. Lump sum gifting to children or other beneficiaries in order to trigger the "look-back" period.
 - g. Use of Special Needs Trusts to be created by children or other beneficiaries for the benefit of Medicaid applicants.
 - h. Creative use of mortgages to help expand the Protected Resource Amount for a healthy spouse.
 - i. Creative use of the purchase of additional property to expand the Protected Resource Amount for a healthy spouse.
15. Medicaid Estate Recovery Rules.
- a. Estate Recovery will only affect Medicaid recipients over the age of 55 who applied for Medicaid Services on or after March 1, 2005.
 - b. The State will not file a claim for recovery if at the time of the recipient's death there was:
 - i. A surviving spouse;
 - ii. A child under age 21;
 - iii. A blind or disabled child; or
 - iv. An unmarried adult child living in the Medicaid recipient's homestead (such child must have been living in the homestead for a period of at least one year before the recipient's death).
 - c. Medicaid Estate Recovery will not extend to assets in Joint Accounts with Right of Survivorship.
 - d. Estate Recovery will not be pursued if a hardship waiver is granted. Hardship waivers will be granted on a case by case basis in the following circumstances:
 - i. For the first \$100,000.00 of the value of the homestead if one or more siblings or direct descendants of the deceased Medicaid recipient had gross family income below 300% of the Federal Poverty Level;
 - ii. For a homestead that is the site of an operation of a family busi-

- ness farm or ranch and produces at least 50% of the family's livelihood if Estate Recovery would result in the loss of the primary source of income for the heirs;
- iii. If Estate Recovery would allow beneficiaries of the Estate to become eligible for public assistance;
 - iv. If allowing one or more survivors to receive the estate will enable them to discontinue public assistance;
 - v. If the cost for Estate Recovery is equal to or greater than the value of the property;
 - vi. If the Medicaid recipient received medical assistance as a result of a crime committed against the recipient.
- e. A deduction from the amount of Medicaid costs to be recovered will be allowed for reasonable expenses of home maintenance including taxes; utility bills, home insurance, home repairs and lawn care as well as for reasonable expenses for costs of care that delayed the institutionalization of a Medicaid recipient.
16. Strategies for Medicaid Recipients:
- a. The use of a Revocable Trust to own the homestead is no longer available;
 - b. Transfer the homestead while reserving a life estate in the homestead. This reduces the value of the gift and allows the Applicant to retain the over 65 property tax exemption;
 - c. Purchase of a life estate in a residence, *but only if the applicant will live in the residence for at least one year*; and
 - d. Use of "Enhanced Life Estate Deeds" reserving a life estate in the homestead.

II. INCOME TAX ISSUES.

The following is a partial list of income tax concerns which need to be considered when helping an elder client plan for long term care:

- A. Loss of step-up in basis. Often elderly clients may own an appreciated asset with a very low basis. Most elder clients have relatively short life expectancies. Accordingly, if the asset is sold or gifted the client's family will lose the step-up in basis which will occur at the client's death. This could result in a significant increase in the overall capital gain tax payable by the family. Consideration of this potential negative income tax effect should always be considered before appreciated assets are sold or gifted.
- B. Tax on the distribution of assets from a qualified plan, IRA or annuity - Other assets commonly held by elder clients are investments held in an IRA, 401(k), defined contribution plan or tax deferred annuity. Sound Medicaid planning may suggest the client liquidate some of these investments in order to:
1. Make gifts;
 2. Invest in assets which are exempt from Medicaid purposes; or
 3. Purchase exempt annuities which do not count as Resources for Medicaid purposes.
 4. However, the income tax effect of any of these actions must be balanced against the favorable effect of any of these actions from a Medicaid planning standpoint. Some helpful techniques are as follows:
 - a. spread withdrawals from retirement assets over at least two years to minimize the income tax effect in any particular year;
 - b. try to match withdrawals from retirement assets with years where there will be significant income tax deductions; and
 - c. if the client is going to give away a portion of his or her assets and retain a portion to provide for his or her care over the five year look-back period, have the client retain the retirement assets and/or annuity so that the withdrawals may be spread over a several year period.
- C. Long-Term Income Tax Effect of
- Significant Gifts—Many clients are wary of making large gifts because they believe their children will pay income tax on the gifts. While this is clearly not going to occur, clients who wish to make significant gifts in order to trigger the five year look-back period do need to consider additional income taxes which may be paid by their children on the income earned by these gifted assets following the gifts. In most cases, the children are in a higher tax bracket than their parents. Over a number of years the difference in the brackets can make a large difference in the overall tax paid by the family. Recent extensions in the look-back period from three to five years have given families incentive to make gifts earlier in an elder client's lifetime. This will only increase the potential negative income tax effect of these gifts.
- D. Gift Taxes—This is another area where clients almost are universally misinformed. Most believe there is an absolute limit on the amount which can be gifted from a person to his or her children in a year. Most still believe this limit is \$10,000.00 per year per donee. For Medicaid planning it is often advantageous to make gifts far in excess of this limit (now \$14,000.00). However, clients need to be made aware that such gifts exceeding the \$14,000.00 annual limit per donee do require filing of a federal gift tax return (Form 709). As part of the interview process, it is important to ask the client about prior gifts. Often gift tax returns are due for prior years.
- E. Property Taxes—Often an elder client's largest tax obligation is for property tax on the homestead. These clients will be very irritated if any action causes them to lose their Over 65 Exemption or Homestead Exemption. The use of Deeds Reserving Life Estate, including Lady-Bird Deeds, allows the elder client to retain the Over 65 and Homestead Exemptions in Texas.

III. ESTATE PLANNING ISSUES.

In a perfect situation we all like to have fully competent clients who already have good estate planning documents in place as we begin the Medicaid planning process. Unfortunately, this is rare. Generally we deal with clients with some diminished capacity who often have inadequate planning documents, if any such documents exist at all. My preference is not to modify the ultimate disposition of a client's assets while I am engaged in Medicaid planning. I do make exceptions to this general rule when I have clients who are obviously competent and who strongly wish to modify their earlier documents. When we know a client is going to engage in Medicaid planning, particular aspects of each of these estate planning documents become more important.

A. Durable Power of Attorney—I prefer the statutory form as it is favored by most banks, brokerage houses and other third parties. However, I do like to make several modifications to the form:

1. It is important to give the agent and the back-up agent the ability to make unlimited gifts as this may be appropriate for Medicaid planning. I often include language allowing unlimited gifts which are consistent with the existing will or trust of the client.
2. It is important that we have at least one back-up agent since we do not want an agent making a gift to himself or herself.
3. We may include special language which authorizes the transfer of any real property owned by the client that specifically includes the authority to transfer real property owned at the time of execution by the client.

B. Medical Power of Attorney—The author has recently become aware of at least two cases where guardianships were created following a referral to the probate judge by a nursing home in cases where the family was actively involved with the ward. There was no financial abuse of the client and the client was

receiving proper medical care and was not refusing to receive any sort of needed medical treatment. The sole reason for the institution of the guardianship was the apparent incapacity of the client and the lack of a Medical Power of Attorney. As we will see later in the outline, the existence of a guardianship may significantly reduce the client's ability to engage in Medicaid planning. Therefore, the Medical Power of Attorney is an extremely important document to have in place.

IV. WHAT ARE THE QUALIFICATION REQUIREMENTS FOR VA?

A. Veterans Eligibility Factors.

1. 65 or older need assistance with the Activities of Daily Living;
2. Disability does not have to be attributable to wartime service;
3. Discharge under other than dishonorable conditions;
4. Served a total of 90 days with one day during wartime; and
5. Limited Income and net worth.

B. Income.

1. Determined by the deficit need for care;
2. Must have a monthly deficit after subtracting medical expenses;
 - a. Example: if a person is paying \$2500 for care and has \$1500 in income, then VA will pay the difference up to \$2,120 for a married Veteran; and
 - b. Example: if they are paying \$2500 for care, but have \$3000 in income, there will be no reimbursement.

C. Resources.

1. Exempt Assets: Single Family dwelling, and personal effects;
2. Amount of Countable assets allowed—Varies with age:
 - a. Generally \$78,000 is a safe number; and
 3. Currently there is no penalty for gifting. This may change soon.

D. Where will VA pay for care?

1. Care in the home—Housebound

allowance; and

2. Care in Assisted Living or Nursing Home.

E. Advantages:

1. Pays for care in Home Settings and Assisted Living; and
2. Benefits are paid retroactive to date of application.

F. Disadvantage.

1. Ceiling on Benefits:
 - a. Married Veteran @ \$2,127;
 - b. Single Veteran @ \$1,794; and
 - c. Veteran's Widow @ \$1,153.



Rick Weaver and Travis Weaver, of the Weaver Firm, in Rhome, Texas, are both Board Certified in Estate Planning and Probate by the Texas Board of Legal Specialization and offer nearly three decades of experience in Wills & Probate, Elder Law, and Business and Real Estate matters.

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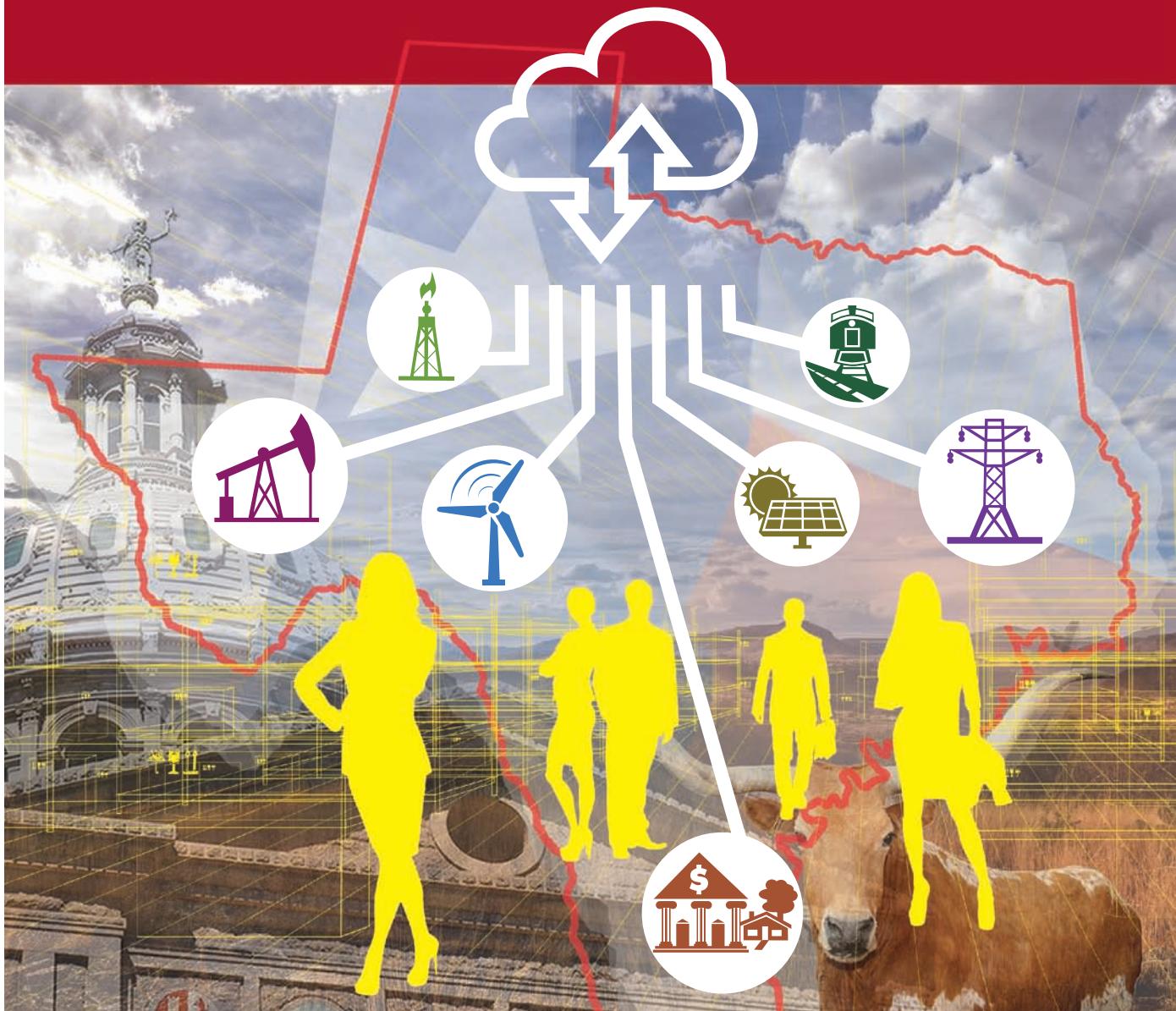
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Tax Alert: What Does New Tax Bill Mean for Individuals and Business Owners?

By James D. Reardon, Partner at Porter Hedges LLP
Published on December 20, 2017

Last night the Senate passed the Tax Cuts and Jobs Act (the “Tax Reform Act of 2017”). The House is expected to re-vote on it this afternoon. Kevin Brady, Chairman of the House Ways and Means Committee, and Paul Ryan, Speaker of the House, have presented the Tax Reform Act of 2017 as the most significant tax legislation since the Tax Reform Act of 1986. The President is expected to sign it into law before Christmas.

Corporations Are Clearly the Winners
The new bill will eliminate the corporate alternative minimum tax. The corporate rate will drop from a maximum 35% to a flat 21%. Shareholders will still be entitled to the lower 20% capital gains rate on long-term capital gains and qualified dividend income. Other changes are not as favorable, but in many cases are not limited to corporations – net operating loss carrybacks and carryforwards will be significantly limited, and every business, subject to certain exceptions, is now subject to additional limitations on business interest deductions.

Individual Taxpayers Receive Only a Temporary Benefit

On the personal income tax side, the Tax Reform Act of 2017 leaves much to be desired. To the extent there are tax cuts for individual taxpayers, these cuts sunset in 2025. This is not the first time Congress has implemented provisions only temporarily, to have them revert back to the pre-implementation provisions should they not be renewed by subsequent legislative action. Efforts to simplify the Internal Revenue Code have seemingly failed.

Individuals are still subject to the alternative minimum tax, generally with increased exemption amounts. The marginal regular tax brackets are generally



reduced, although for some ranges of taxable income some taxpayers will see their highest marginal rate increase. The highest rate fell from 39.6% to 37% for single taxpayers making more than \$500,000 and married taxpayers filing jointly making more than \$600,000 (Congress did not eliminate the marriage penalty for double income couples).

For taxpayers that itemize their deductions, Congress limited the mortgage interest deduction for future home purchases to \$750,000 of value (which can include both a primary residence and one secondary home), while capping the deduction for state and local property and income taxes at \$10,000 per year in the aggregate.

Business Owners Receive a “Phantom” Deduction

Individuals who are also entrepreneurs are allowed a “phantom” (based on phase-outs described below) deduction of 20% to offset their qualified business income (as defined in the bill). This deduction

is limited to 50% of the wages that the taxpayer directly or indirectly pays to employees in the qualified business unless the taxpayer earns less than \$157,500 for single taxpayers and \$315,000 for married taxpayers filing jointly. (For income levels between \$157,500 and \$207,500, and \$315,000 and \$415,000, respectively, the limitation on the deduction to 50% of wages paid to employees in the business is phased, but springs into full effect once taxable income hits \$207,500 for singles and \$415,000 for joint returns.) At the last minute an alternative limitation was inserted for businesses that have few or no employees but that have capital assets, with the 20% deduction limited under this alternative to the sum of (a) 25% of employee wages, plus (b) 2.5% of the unadjusted basis of qualified property. This appears to help capital intensive businesses like real estate developers.

For most professionals, i.e. doctors, dentists, lawyers, and most financial advisors (but not engineers and architects), this 20% deduction is phased out for income in excess of \$157,500 for single taxpayers (\$315,000 for married taxpayers filing jointly), and the 20% deduction is completely eliminated if such professional’s income exceeds \$207,500 (\$415,000 for married taxpayers filing jointly). The deduction does not apply against guaranteed payments received by a partner. Based on these phase-outs described above, this 20% deduction will likely be in large part phased out for most entrepreneurs who could otherwise benefit from it.

International Businesses, Individuals and Pass-through Businesses Are Still Subject to Worldwide Taxation

With respect to the U.S. taxation of international businesses, individuals and pass-through businesses are still subject

to worldwide taxation. C corporations on the other hand have moved to a quasi-territorial system with respect to foreign income earned through foreign corporations. However, both individual taxpayers and C corporations have to pay a toll tax on accumulated foreign earnings in order to move to this new system, with such toll tax equal to 15.5% of earnings held in cash and 8% on earnings reinvested in business assets (which at the election of the taxpayer can be paid over an 8-year period with the amounts payable generally back loaded).

In return, U.S. corporate shareholders of foreign corporations are allowed a 100% dividend received deduction on foreign earnings received from such foreign corporations in the future, although this deduction is not allowed to individual owners of foreign corporations. All taxpayers will be subject to a minimum income tax on their foreign corporations' foreign earnings going forward (at a minimum rate of approximately 10%) for income in excess of certain levels.

The extent to which the 10% minimum tax applies depends in large part on (a) the magnitude of the foreign corporation's investment in tangible assets, and (b) whether the foreign corporation is

subject to foreign corporate income tax above a 10% rate. For hybrid ownership structures, where an S corporation owns a foreign corporation, the S corporation individual shareholders may defer payment of the toll tax until they sell the business or unwind it, but they will never get the benefit of the 100% dividend received deduction on dividends distributed by their foreign corporations.

Business Owners Should Reevaluate Their Business Structure

Most business owners should reevaluate their legal structure and determine whether there is a better alternative to take advantage of the changes under the Tax Reform Act of 2017.

Given the higher tax rates imposed on personal income (and additional limitations on deductible expenses), many business owners should consider operating their business through a C corporation, especially if the business has significant international operations. The lower 21% rate is permanent, which allows better forecasting for long-term investments.

Congress fixed a last minute error in the House bill, which now clarifies that only capital contributions made by a government entity or by a customer in aid of

a construction project will be taxable to a corporation (thus other capital contributions to a corporation can generally be made tax free, consistent with long standing existing law). The existing tax policy favorable to the corporate form of business has been expanded.

The Tax Reform Act of 2017 makes foreign investors subject to income tax on sales of U.S. partnership interests. Foreign investors should think twice before investing in the U.S. through a partnership.

The Tax Bill Goes Into Effect Immediately

Once the President signs the bill, the legislation will have immediate effects and long-term consequences, with most, but not all, of its provisions going into effect at the beginning of 2018.



Jim Reardon is a partner in the corporate practice group and tax section of Porter Hedges LLP, Houston, with over twenty years of experience representing private and public companies in corporate and tax matters.

A Paralegal's Guide to Selecting a Mediator in Texas

Trina Nycol Brown, Founder, Lead Mediator & Trainer at Mediators of Tarrant County

Alternative Dispute Resolution (ADR) is the process of resolving a matter outside of the traditional litigation realm. Mediation is a form of ADR which allows the parties to have more control over the process of resolving their dispute within a controlled, confidential, impartial environment facilitated by an impartial third-party such as a mediator.

The practice of mediation carries many benefits. More specifically, mediation minimizes the "win-lose" and/or "right-wrong" paradigm found in most litigated matters as well as other forms of ADR. Mediation also attempts to remove the adversarial components of conflict by thereby getting to the root cause of the

challenges presented before the mediator.

Definition of Mediation in Texas

According to the *Texas Civil Practice & Remedies Code 6 154.023* mediation is defined as follows:

Sec. 154.023. MEDIATION.

- (a) *Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them.*
- (b) *A mediator may not impose his own judgment on the issues for that of the parties.*
- (c) *Mediation includes victim-offender*

mediation by the Texas Department of Criminal Justice described in Article 56.13, Code of Criminal Procedure.

Qualifications and Standards of Impartial Third Parties in Texas

According to the *Texas Civil Practice & Remedies Code, 6154.052 and 6 154.053* the qualifications and standards of impartial third parties in Texas are as follows:

Sec. 154.052. QUALIFICATIONS OF IMPARTIAL THIRD PARTY.

- (a) *Except as provided by Subsections (b) and (c), to qualify for an appointment as an impartial third party under this subchapter a person must have com-*

pleted a minimum of 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court making the appointment.

- (b) To qualify for an appointment as an impartial third party under this subchapter in a dispute relating to the parent-child relationship, a person must complete the training required by Subsection (a) and an additional 24 hours of training in the fields of family dynamics, child development, and family law, including a minimum of four hours of family violence dynamics training developed in consultation with a statewide family violence advocacy organization.
- (c) In appropriate circumstances, a court may in its discretion appoint a person as an impartial third party who does not qualify under Subsection (a) or (b) if the court bases its appointment on legal or other professional training or experience in particular dispute resolution processes.

Sec. 154.053. STANDARDS AND DUTIES OF IMPARTIAL THIRD PARTIES.

- (a) A person appointed to facilitate an alternative dispute resolution procedure under this subchapter shall encourage and assist the parties in reaching a settlement of their dispute but may not compel or coerce the parties to enter into a settlement agreement.
- (b) Unless expressly authorized by the disclosing party, the impartial third party may not disclose to either party information given in confidence by the other and shall at all times maintain confidentiality with respect to communications relating to the subject matter of the dispute.
- (c) Unless the parties agree otherwise, all matters, including the conduct and demeanor of the parties and their counsel during the settlement process, are confidential and may never be disclosed to anyone, including the appointing court.
- (d) Each participant, including the impartial third party, to an alternative dispute resolution procedure is subject to the requirements of Subchapter B, Chapter 261, Family Code, and Subchapter C, Chapter 48, Human

Resources Code.

Tips for Choosing a Mediator in Texas

When choosing a mediator appropriate mediation training should not be your only qualification, however it should be the price of admission into the selection process. To that end, there are many strategies and ideologies on the measurements which are deemed appropriate for the selection of a Mediator. Here are four (4) tips I'd consider when selecting a Mediator in Texas.

1. **Mediation Style:** Mediators utilize different styles of mediation to include: facilitative, evaluative and transformative. The facilitative style of mediation is process, and party focused by using the process to assist the parties in resolving their dispute whereas an evaluative style of mediation is process, and substance focused which provide case assessments and alternative options. Lastly, the transformative style of mediation consists of encouraging the parties to design a process around their goals. It's important to have a clear understanding of your client's needs and your mediator's mediation style when choosing a mediator.
2. **Mediation Association Membership:** Association membership is a ready source for personal and professional growth as well as an assurance of continually met continuing education courses. Most mediation associations, the Texas Mediation Credentialing Association and the Texas Association of Mediation to name a few, provide minimum standards on membership which includes training, hours/numbers of mediations conducted and continuing education. Choosing a mediator from one of the Texas associations adds a layer of comfort in knowing that your mediator has met specific standards in the field.
3. **Continuing Education:** Continuing education is a great way to develop the necessary skills to remain abreast of the changes in any profession. Mediators who attend continuing education courses show that they have invested in their practice. Feel free to ask a potential mediator which continuing education courses they've taken in any given year to ensure that

level and quality meets your client's needs.

- 4. **Pro Bono:** Many courthouses have pro bono mediation programs which provide a great service to those who need mediations for matters currently being litigated. Many mediators share their expertise through this platform as a contribution to the development of a better society and legal community. Selecting a court-appointed, pro bono mediator or a mediator who participates in providing a pro bono service to court-appointed ADR programs, ensures that you have chosen someone whom the courts deem appropriate to handle judge-mandated matters.

About Trina Nycol Brown, MPS, CAM



After a paralegal career that spanned for more than two decades, Trina Nycol Brown founded Mediators of Tarrant County, a mediation practice with offices in both Mansfield and Arlington Texas. Trina mediates both in private practice as well as through Dallas and Tarrant County Courts as a Court-Appointed Mediator. She has conducted hundreds of hours of mediation and mediation training. Trina is currently a Credentialed Advanced Mediator by the Texas Mediation Credentialing Association and she also trains those wanting to become mediators through her State Bar of Texas accredited Basic and Family Mediation Training programs. Trina is also an award-winning Paralegal Professor within an ABA-approved paralegal degree program and her current doctoral work in conflict resolution at Abilene Christian University explores the antecedents surrounding neuroscience and conflict resolution at mediation. Trina holds a masters in Paralegal Studies from George Washington University and a bachelors in Organization Dynamics from Immaculata University. She has also been awarded membership into both the Texas Bar College and the Pro Bono College of the State Bar of Texas. Visit her website(s) at: www.MediatorsOfTarrantCounty.com or www.TrinaNycolBrown.com.

References

- Texas Civil Practices Remedies Code 6 154.023
- Texas Civil Practices Remedies Code 6 154.052
- Texas Civil Practices Remedies Code 6 154.053

Scruples

Ethical Considerations Regarding Legal Terminology

Ellen Lockwood, ACP, RP

Words are important. Paralegals spend hours conducting detailed analysis of legal language in statutes, cases, pleadings, agreements, and correspondence. We also spend time carefully considering and choosing the correct terminology and phrasing for the documents we draft. Paralegals are well aware of the ability of words to convince or dissuade, and to influence, either positively or negatively, the reader.

Language changes constantly. We are required by the rules of ethics and professional responsibility to keep up with statutes and case law, and we should extend that requirement to our use of legal terminology. In addition to working to retire outdated phrases such as “comes now” and “witnesseth” (a battle many of us have with our supervising attorneys), we should also stay current on legal vocabulary.

As technology and legal practice evolve, new terms may be coined to address new legal concepts or procedures. For example, we now use the terms “e-discovery” and “efiling,” words that were not commonly used by the legal community 25 years ago. At times, legal terms are changed and updated by the government. In 2016, President Obama signed bipartisan legislation to remove the terms “Negro” and “Oriental” from federal law.

Groups of people usually determine the term or terms they prefer to identify themselves. In the United States, the term “Native Americans” was considered appropriate, but now, many Native Americans now prefer the term “American Indians.”



People of Latin American descent may use the terms “Latino” or “Hispanic” interchangeably, but some argue that while all Latinos are Hispanic, but not all Hispanics are Latinos. In the case of terms used to identify groups of people, it is better to do some research to determine which term to use. If referring to a specific person, such as a client, paralegals should use the term preferred by the client.

The situation is clearer in the case of the term “Chinese Wall.” Although the origin of the term is unclear and may not have been originally intended as derogatory, the term is obviously outdated and may be offensive. Further, terms such as “ethical wall,” “ethical screen,” “informational wall,” “informational barrier,” or “firewall” (borrowed from IT) are all more accurate and require less explanation to anyone unfamiliar with the terms.

A few legal terms may be more difficult to address. For example, while many are of the opinion that the correct term for people who are in the country illegally is “undocumented immigrant,” others are equally convinced that “illegal alien” is the proper legal term. People may have social and/or political reasons as the basis for their position that their preferred term is correct. Regardless, paralegals should use the term preferred by the court in which the matter is filed, the term used in the law at issue, or a similar authority. Although the paralegal may have strong feelings regarding which term is appropriate, unless the subject of the document is the distinction between the two terms, or a related issue, the best course is to use the term preferred by the relevant authority.

Because legal terminology transforms in response to technology, practice changes, the law, and societal changes, it is another area in which paralegals should make an effort to stay updated.



Ellen Lockwood, ACP, RP, is the Chair of the Professional Ethics Committee of the Paralegal Division and a past president of the Division. She is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division's Paralegal Ethics Handbook published by Thomson Reuters. You may follow her at www.twitter.com/paralegalethics and she may be contacted at ethics@txpd.org.



Paralegal Division State Bar of Texas

Board of Directors Quarterly Board Meeting Summary December 2017



Submitted by President-Elect, Stephanie R. Sterling, TBLS-BCP

The Paralegal Division Board of Directors is hard at work for you. Here are some interesting highpoints from our last quarterly meeting on October 27th and 28th as well as some membership highlights.

New Ethics CLE Requirement

In keeping with the Paralegal Division's vision of empowering paralegals, the Board of Directors passed a new CLE requirement. Effective for the 2017-2018 Renewal Period, all active and associate members will be required to have one (1) hour of the current six (6) hour requirement in ethics by May 31, 2018. Please note that the 1 hour ethics credit must meet the criteria for approval of continuing education courses as listed in the Standing Rules (see I.I.4.) and cannot be counted as a self-study hour.

Elections

The Annual Spring Election time is quickly approaching on March 24, 2018. That is when online voting for Active members will begin for the even District Director Elections (Districts 2, 4, 6, 8, 10, 12, 14, and 16), as well as there will be four (4) proposed Bylaw amendments that will be voted on at the same time. Please click [HERE](#) to view the proposed Bylaw amendments.

Additionally, the Board of Directors will be voting in the next couple of months on the 2018-2019 President-Elect, Secretary, Treasurer and Parliamentarian. Those announcements will be made as soon as the voting results are returned.

Membership Spot-Audit

The Spot-Audit is currently underway. What is an audit and have you ever been audited? As you know, all Active and Associate members must list their 6 hours of CLE at renewal time. In order to ensure compliance with the CLE requirement, the Paralegal Division performs audits of a random sample sort of 10% of the membership (roughly 119 members) each year. It is our duty as paralegals to maintain competence and attend continuing legal education to effectively support our attorneys. To comply with the audit, you must submit your CLE Proof of Attendance Certificates, so be sure to keep them in a safe place.

TAPS 2018—SAVE THE DATE—Texas Advanced Paralegal Seminar September 26–28, 2018 in Addison, Texas is the dates for the next TAPS. The TAPS Planning Committee is getting underway to plan another great event with approximately 14 hours of CLE, socials, networking and Friday luncheon. We hope to see everyone there!!

Possible Transitioning of Annual Meeting to TAPS Friday Luncheon

The board is considering transitioning our Annual Meeting in June to the TAPS Friday Luncheon and would like your feedback and comments. As a result, be on the lookout for a survey from your District Director for you to complete to provide us with your feedback.

Board of Directors and Committees

Get to know your Board of Directors and Committee Chairs. We are working to continue the advancement of the paralegal profession.

Pro Bono Records

Did you know that you can track your pro bono hours on the Members Only section of the website? All you need to do is log in – go to the Members Only section and select “Manage My Pro Bono Records” to input your hours.

e-Group

Are you part of the e-group? This is a membership benefit and such a valuable tool. Be sure to try it out and subscribe to it [HERE](#).

Online Store

Get your Paralegal Division logo merchandise at the PD Online Store. TAPS merchandise was recently added to selections. 35th Anniversary merchandise is still available, but only for a limited time.

Digital TPJ

The *Texas Paralegal Journal* (TPJ) is fully digital now, so be sure to read it when the e-blast with the link to access it is sent out to the membership. You can read past print and electronic issues [HERE](#).

Paralegal Pulse

The Paralegal Division's monthly e-newsletter sent out to the membership on or about the 15th of the month. Did you know that you can access the Paralegal Pulse archives online?

Paralegal Division Blog

Read and subscribe to the PD Blog

Social Media – Follow, Like, Join



NEW ETHICS CLE REQUIREMENT

The Paralegal Division's vision is empowering paralegals; as such the board feels that ethics education is important. At the June 22nd meeting, the Board of Directors voted to approve that for all renewing active and associate members one (1) hour of the current six (6) CLE hours will need to be in Ethics. This new CLE requirement is effective for the 2017–2018 membership renewal period. Upon renewal, all active and associate members should remember when obtaining your six (6) CLE hours that one (1) of those hours will need to be an Ethics CLE obtained by May 31, 2018.

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et AL.



“Pointers” From Member Renewal Spot Audit Committee Chair

Member Renewal Spot Audit Committee Chair, Deb Pointer, has encountered some common issues when members have not complied with the first spot audit request. Here are some “pointers” to keep in mind to streamline your CLE record-keeping:

- keep your CLE certificates
- fill out the certificates
- request a certificate if it is not given to you at the event
- regularly update your CLE records on the PD website (www.txpd.org – go to “Members Only” -> “Manage My CLE records” and log on)
- keep a copy of your renewal application
- MOST IMPORTANTLY, it is highly-recommended that members keep a hard copy of their certificates and renewal applications as a back-up *for 2 years* in case of computer failures to avoid the possible difficulty providing the necessary back-up documentation

Contact Deb Pointer, Member Renewal Spot Audit Chair, at MRC@txpd.org with comments or questions.

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PARALEGAL DIVISION ONLINE STORE

The PD is offering PD products with the 2017 TAPS logo, as well as its traditional logo. There are 35th Anniversary logo products (in Black and White or Bronze) available for a limited time. The Paralegal Division of the State Bar of Texas offers members merchandise to promote the paralegal profession and their membership of the Paralegal Division.
Go to the PD online store today!

<http://www.cafepress.com/paralegaldivision>

TAPS Unmasqued—Knowledge Awaits 2017



The Paralegal Division's mission states, "The purpose of the Division shall be to enhance paralegals' participation in the administration of justice, professional responsibility and public service in cooperation with the State Bar of Texas." In that spirit, the Paralegal Division has its Texas Advanced Paralegal Seminar ("TAPS") that offers up to 14 hours of CLE. This annual three-day event also includes socials, an exhibition hall, and keynote luncheon.

This year, TAPS was held on October 4–6, 2017 at the spacious Crowne Plaza in Addison. With almost 70 speakers, the presentations covered numerous topics in various areas of law. Speakers range from attorneys, paralegals, professors, judges, etc. This year, the lineup included U.S. Bankruptcy Judge H. DeWayne Hale, District Judge Graham Quisenberry, and Casey Kennedy, of the Office of Court Administration—just to name a few. The complete list of these appreciated speakers, their topics, and areas of law are at the end of this article.

TAPS Scholarships

The Paralegal Division offers two scholarships that are applied to the registration fee of TAPS. This year's topic was, "Why is CLE important to paralegals, even when certification or membership doesn't depend on it?" There were several sub-



missions this year and this year's recipients were Nikita Glass, of Paige, and Regina Karako, of San Antonio. *"Thanks to each and all for making my first TAPS conference possible and wonderful! Several of the conferences were immediately beneficial! I am so grateful for this opportunity."*—Regina Karako

TAPS App

The TAPS App continues to be an integral part of the conference by giving alerts or notifications about the day's events, help-

ful features, like bookmarking speakers, quick reference guide about the speakers, vendors, socials, and so many others. One of the most popular features is the "Click" game. This is a scavenger hunt where the sought-out items are submitted by "clicking" a photo of them through the app. In line with the murder mystery theme of TAPS, a photo of a planning committee member with a "Clue" mystery game playing card was added to the list. The two very competitive Click game winners were Priscilla Nash and Pearl Garza.

SOCIALS

Wednesday's "A Killer Networking Social"

The mystery of TAPS Unmasqued began with the "Killer Networking Social" on Wednesday night at the Crowne Plaza with light hors d'oeuvres and door prizes. The night was lively and entertaining and included an interactive mystery game that involved both attendees and vendors.

Thursday Night Social—"Murder at the Masquerade"

The Murder Mystery Co. was the host for this "killer" evening at the very chic Nuvo Room. Some of the attendees



were recruited to be a part of the cast of characters who took part of the murder at a masquerade party. The entire audience participated in solving this murder mystery and revealed to have been committed by PD member, Pam Snavely ("Ella Vadered")! This exciting evening included a three-course meal, non-stop entertainment, and a masquerade costume contest.



There were an overwhelming number of costumes and masquerade masks. The winners of the masquerade contest were Megan Goor and Frank Hinnant (Innovative Solutions).

EXHIBITION HALL

The exhibition hall is an essential part of TAPS. This is where vendors discuss their services and ways to streamline the

responsibilities of paralegals in today's legal atmosphere. The Crowne Plaza provided a large floor plan for the many sponsors for this event. The hall opened on Wednesday and had extended hours and an exclusive vendor break, where CLE classes were not held, on Thursday. The vendors continued to be supportive of the current TAPS theme by colorfully decorating and/or offering masquerade-related items. Attendees visit the booths and turn in their completed vendor cards to be eli-

gible for one of the \$500.00 Grand Prize drawings at the keynote luncheon. The lucky winners of the Grand Prize drawings were Rosemary Foster (Chamberlain McHaney), Janine Schiell (Mediators of Tarrant County) and Sandi Staskus (McKool Smith).

Friday—Speakers and Keynote Luncheon—“Unmasqueing the Final Clue: Wrong or Right?”

The “Special Session” held early Friday morning is geared towards professional development. This year, Past President Debbie McBride and PD E-Blog Coordinator, Cynthia Minchillo, on behalf of the Wendi Atwood Rogers Foundation, gave a presentation, “Searching for Your Next Step? 10 Strengths of a Great Mentor.” The inspiring presentation focused on how you can become or improve as a mentor and how to give back in different aspects in daily living and the community.

One of the other Friday speakers was Cameron Vann, of Texas Lawyers' Assistance Program (“TLAP”). She gave a presentation about mental wellness in the legal community. She provided a hard discussion about the signs of stress and mental health of attorneys and non-attorneys and tips on ways to help.

Keynote Speaker, Michael L. Ware, of



Fort Worth, gave a moving presentation, "Wrongful Convictions," about his fight for justice for those who have been wrongfully convicted. He discussed his fighting journey to win justice for the San Antonio Four's freedom that began in 2011. He also talked about the making of the documentary and about his work on other wrongful conviction cases.

"All of the speakers and topics were excellent, as always. I have to say my personal favorite was Tom Mighell. I am a tech nerd, so I always look forward to his presentations to stay on top of all the new computer resources that will help me in my legal work. Great work again by the TAPS planning committee on their creativity in planning the Thursday night social. It was great fun!"—Angie F. Laird, ACP, TBLS-BCP, Orgain Bell & Tucker, LLP, Beaumont

"Thanks for a great 1st time at TAPS—a first time attendee expressed, "Just returned home from my first TAPS conference and wanted to say thank you to all of the division members that I had the pleasure of meeting. The classes were interesting and the topics timely. Everyone was friendly and made me feel at home, especially Janet McDaniel and the members of my Midland/Odessa division. I look forward to attending next year!"—Lana Straub, Straub Corporation in Stanton, Texas.





TAPS 2017 was chaired by Immediate Past President Megan Goor, TBLS-BCP, and the planning committee included Erica Anderson, ACP; Deborah Andreacchi, TBLS-BCP; Pam Ete, ACP; Javan Johnson, TBLS-BCP, ACP; Francesca Romans, ACP; Patricia Giuliano; Misti Janes, TBLS-BCP; and Mona Hart Tucker, ACP, with Public Members, Frank Hinnant (Innovative Solutions) and Dean Shaw (Kim Tindall & Associates), and TAPS Meeting Planner, Rhonda Brashears, TBLS-BCP, CP. "Thank you" to the speakers and volunteers who also help make this event a success every year and a special "thank you" to our sponsors. TAPS certainly could not be possible without them:

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TAPS 2018 will be held on September 26–28, 2018, at Crowne Plaza, Addison, Texas. Additional photographs from TAPS 2017 and any updates about TAPS 2018 can be found on the PD's Facebook page at <https://www.facebook.com/TAPS2014/>

If you were unable to attend TAPS this year, some of the videotaped CLE presentations can be found at <http://txpd.inreachce.com/>. Under Advance Search, type in “From the Texas Advanced Paralegal Seminar” in the search term field and either “October 4, 2017” or “October 5, 2017” in the event date search field.

TAPS SPEAKERS

Thank you to our generous speakers for giving their time to prepare and give their presentations. Here is the list of this year's speakers with the advanced and cutting edge topics and applicable areas of law.

Brief Writing: Making Yourself Useful as Well as Ornamental

Stephen K Hayes
 Civil Trial Law, Personal Injury Trial Law, and Family Law

Helping Your Attorney with Client Preparation

Jim Mueller
 Family Law

New Age Evidence and Discovery

Jessica Hall Janicek
 Civil Trial Law and Banking Law





Taxpayer Remedies in the Texas Property Tax Appraisal Process

John Brusnaike
Real Estate Law

Ten Things Every Paralegal Should Remember About Bankruptcy

Honorable H. DeWayne Hale

Bankruptcy Law

Case Law Update Mega Trends (Health Law Liability Update 2017)
Paula Sweeney

Civil Trial Law and Personal Injury Trial Law

Issues in Same Sex Marriage and Divorce
Larry Hance
Family Law

Dealing With County Officials and County Regulations

Ann Montgomery-Moran, ADA
Civil Trial Law, Personal Injury Trial Law, Criminal Law

Real Estate Due Diligence—Beyond the Checklist

Kendall D. Adair
Real Estate Law

E-filing and Re: SearchTX: The Clerk's Perspective

Sharena Gilliland—Parker County District Clerk
All Areas of Law

Jury Selection—All Hands-on Deck

Bill Lane
Civil Trial Law, Personal Injury Trial Law, and Criminal Law

How to Pursue and Defendant Child Support Cases

Lauren E Melhart
Family Law

Cybersecurity and Data Breach Issues

Jeremy Rucker
All Areas of Law

The New Orders of Non-Disclosure—The Requirements and Eligibility for Sealing Your DWI

Hon. Sharen Wilson—Tarrant County District Attorney
Criminal Law

What Legal Professional Should Know About Bank Transactions with the FDIC

Jerry Sanchez

Civil Trial Law and Banking Law

Social Medial Evidence
Nick Bettinger—Tarrant County Bar President

Civil Trial Law, Personal Injury Trial Law, Family Law and Criminal Law Enforcements

Fred Adams
Family Law

First Amendment Issues in These Complicated Times

Barbara E. Kirby, J.D.—Texas Wesleyan University
All Areas of Law

Federal and State Court Receiverships

Eduardo Espinosa and Michael Napolitano
Civil Trial Law, Bankruptcy Law and Corporate Law

Bonds, Inventories and Accountings

Randall Johnson

Estate Planning and Probate Law

Legal Ethics in the Cloud at a Time of Cyber Threat
Peter Vogel
All Areas of Law and Ethics

Drafting Effective Discovery—One Size Does NOT Fit All

Natalie Webb and Kay Redburn
Family Law

Helping Your Clients Navigate the Fair Labor Standards Act

James Griffis
Civil Trial Law and Labor and Employment Law

Legislative Criminal Law Update

Erin Bakker
Criminal Law

Overview of Estate Planning—Necessary Documents and Financial Considerations

Steve Katten
Estate Planning and Probate Law

The Anti-SLAPP Statute: Burdens of Proof, Evidence, Fee Shifting and More

Thomas J. Williams
Civil Trial Law, Personal Injury Trial Law, Real Estate Law and Family Law

What Paralegals Need to Know About Texas Marital Property Law

Brian L. Webb
Family Law and Real Estate Law

ProBono Paralegals: In and Outside the Firm

Ethan A. Minshull
All Areas





Update on *Stern v. Marshall* After Supreme Court Rulings
Autumn Highsmith
Bankruptcy Law

Probate Process in Texas—How Do I Get What I Am Entitled To Get When Someone Dies?
Steve Katten
Estate Planning and Probate Law

HIPAA: Navigating Medical Privacy and Confidentiality Laws in Texas
Brandon S. Kulwicki
Civil Trial Law, Personal Injury Trial Law, Family Law and Corporate Law

Preparing Discovery Responses
William M. Repetto, III
Family Law

Top 10 Issues to Consider Regarding the Rural Oil and Gas Leas
James D. Eggleston, Jr.
Oil, Gas and Mineral Law and Real Estate Law

Different Types of Trustees Found in Bankruptcy
Daniel "Corky" Sherman
Bankruptcy Law

Unauthorized Practice of Law

Tom A. Kulik
All Areas of Law—Ethics

Liability Insurance Policies 101

Tom Alleman
Civil Trial Law and Personal Injury Trial Law

When is an Agreement an Agreement?

Greg Beane
Family Law

Texas Uniform Trade Secrets Act

Elizabeth Voss
Labor and Employment Law

International Bankruptcy: Chapter 15, Puerto Rico & Beyond

Tim Springer
Bankruptcy Law

Firearms Law for Property Owners & Proprietors

Fred Adams
Real Estate Law, Civil Trial Law

E-Filing Updates and Tips

Casey Kennedy, Office of Court Administration
All Areas of Law

Top 10 Responsibilities for a Paralegal

Michelle May O'Neil
Family Law

Choice of Organization of Texas

Business Entities
Blake C. Billings
Business and Corporate Law

IP 101—Patents, Trademarks and Copyrights

Scott Harper
Civil Trial Law and IP Law

Prosecuting the Aryan Brotherhood

Joshua D. Ross
Criminal Law

When Is A Lie Not A Lie? An Update On Life Insurance Claims

Jennifer Weber Johnson
Civil Trial Law and Personal Injury Trial Law

**Walking the Tightrope—Diligence
in Electronic Investigation Without
Crossing the Line**
Larry L. Martin
Family Law

**Dealing with the Body—Everything
You Need to Know**
David Bakutis
Estate Planning and Probate

Oil and Gas Issues in Bankruptcy
Mark Andrews
Bankruptcy Law

**A Brief Discussion of Environmental
Liability and the Use of Phase I and II
ESAs**
Bruce Flowers
Environmental Law

**General Evidence Concepts—Overview of
Rule of Evidence**
Hon. Graham Quisenberry
Civil Trial Law, Personal Injury Trial Law,
Family Law and Criminal Law

Unusual and Unique Child Support Cases
Lon Loveless
Family Law



**Alphabet Soup: Basics of Employment
Based Immigration**
Heather Frayre
Labor and Employment Law, Immigration
Law

Powers of Attorney
Paul McNutt, Jr.
Real Estate Law, Estate Planning and
Probate Law, Civil Trial Law and Personal
Injury Trial Law

**Internal Investigations and Attorney
Client Privilege**
Edwin Tomko
Criminal Law

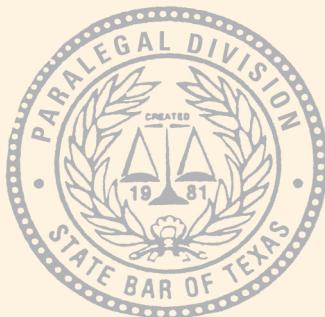
Special Session
Searching for Your Next Step?
10 Strengths of a Great Mentor
Debbie Oaks McBride, Cynthia Minchillo
and S. Kristine Farmer
All Areas of Law

**This is All About You—Maintaining
Wellness in the Legal Community**
Cameron Vann
All Areas of Law—Ethics

Why Millennial Jurors Matter
Stan Thiebaud
Civil Trial Law, Personal Injury Trial Law,
Family Law
60 Technology Tips in 60 Minutes
Tom Michell
All Areas of Law

**The Use of Experts in Medical
Malpractice and Personal Injury Cases**
Kimberly Kizziah Bocell
Civil Trial Law and Personal Injury Trial
Law

Wrongful Convictions
Michael L. Ware
Criminal Law/Ethics



TEXAS ADVANCED PARALEGAL SEMINAR

SAVE THE DATE

September 26–28, 2018

Crowne Plaza, Addison, Texas

Event details—coming soon in April 2018



TAPS

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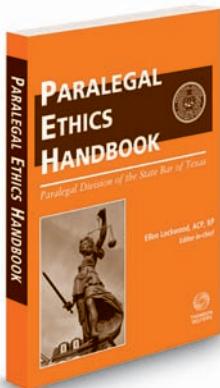
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The Paralegal Ethics Handbook, 2017 ed.

By Ellen Lockwood, Laurie L. Borski, Rhonda J. Brashears, Debra Crosby, Javan Johnson, Lisa Sprinkle

This handbook is an essential resource for experienced paralegals, those new to the profession, and the attorneys working with them.

The Paralegal Ethics Handbook is a resource for all paralegals that addresses ethical considerations for 17 practice areas, as well as considerations for in-house, corporate, freelance, administrative, governmental, and regulatory law paralegals. This title:

- Examines topics such as defining ethics, ethical obligations, and remaining ethical
- Addresses ethical considerations for e-filing, e-discovery, and technology
- Provides resources for state information and paralegal association ethics canons, plus related information
- Contains rules and regulations for all 50 states and Washington, D.C.
- Explains how to determine whether an action may be an ethical violation

Features & Benefits:

Format: Book - softbound

Components: Print1

Pages: 324

Print Product Number: 40638127

Print Price: \$110.00

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State Bar of Texas
Paralegal Division
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We provide... leadership • professionalism • public service

Join PD and reap the benefits!

Below is a highlight of a few of the benefits that can make your membership invaluable.

- » **E-Group Forum:** Join the members-only forum with hot topics, forms, ethics, and general questions posted and answered by paralegals. The eGroup is a way for members to share information and to obtain input to help address questions. Say you have a question and think the group would be a good resource; you could send your question to the eGroup. In a matter of minutes, you can have an answer to your question, a fresh idea about the matter, or a lead in the right direction. The amount of time that you can save with the eGroup is worth the cost of membership alone.
- » **CLE:** The Paralegal Division provides many opportunities to obtain CLE. Every year the Paralegal Division sponsors the Texas Advanced Paralegal Seminar (TAPS), a 3-day CLE seminar where you can obtain up to 14 hours of CLE for one low great price. A majority of the topics are TBLS approved for those board certified paralegals. If you are not able to attend TAPS, the Paralegal Division provides other opportunities by providing at least 3 hours of CLE in your district and online CLE. The Paralegal Division has over 60 different CLE topics available online for those paralegals that are not able to attend CLE outside of the office. You can obtain your CLE hours while at your computer.
- » **Mentor Program:** The mentor program is available to all members of the Paralegal Division. The purpose of this program is to provide support on topics such as ethics, career advancement, professionalism, and the Division. Mentors will provide support, guidance, and direction to new paralegals that will strengthen their links to the paralegal community, and contribute to their success as a paralegal. Protégés also have access to valuable networking opportunities with other paralegals and the legal community through their mentor, as well as at state-wide and district Paralegal Division events.

Membership criteria and additional member benefits can be found at www.txpd.org under "Membership" tab. All applications are accepted and processed online at www.txpd.org/apply. Dues payment accepted by check, money order or credit card. Questions regarding membership in the Paralegal Division can be forwarded to pd@txpd.org or memberchair@txpd.org.

A Division with Vision... Empowering Paralegals!



PARALEGALS

Texas Bar College

Associate Membership

PRIDE & PROFESSIONALISM

REQUIREMENTS

A paralegal may become, or may maintain his or her status as an associate member of the College by:

- (1) completing twelve hours of approved CLE in the current or preceding calendar year, including 2 hours ethics
- (2) paying the required fee,
- (3) submitting an application form on which a licensed Texas attorney verifies the applicant's good character and qualifications as a paralegal, and
- (4) submitting a report identifying the sponsor of the CLE programs attended, the specific topics included, the names and firms of speakers on the programs.

Two of the twelve hours, including one hour ethics, may be earned through non-accredited CLE and submitting the necessary information for each.

PURPOSE

In delivering the highest quality legal services to clients, the lawyer-paralegal team is an essential element. As the law develops, continuing legal education for paralegals is as important as it is for lawyers. Through associate member status, the College honors paralegals that make a commitment to maintain and enhance their professional skills through attending an extraordinary amount of continuing legal education hours.

BENEFITS

- A certificate of membership and a leather portfolio with the Texas Bar College logo
- Newsletter sent three times a year
- Distinction of attaining a higher level of professional membership
- Unlimited free access to the Online Library of TexasBarCLE.com that includes thousands of CLE articles from TexasBarCLE courses
- A twenty-five dollar discount to all TexasBarCLE.com live or video replay seminars

JOIN TODAY!

Please visit the Texas Bar College website for more information on becoming a Paralegal Associate Member:
<https://texasbarcollege.com/merchandise/membership>



TEXAS

Professionalism Through Education.



State Bar of Texas Paralegal Division



PD Mentor / Protégé Program

Are you studying to be a paralegal, or are you new to the field?

Have you recently changed the type of law that you work in?

The Paralegal Division offers a mentor program to help you get started!

Participants receive direction and support on topics such as ethics, career advancement, and professionalism. Protégés also have access to valuable networking opportunities with other paralegals and the legal community through their mentor, as well as at state-wide and district Paralegal Division events.



Eligible PD members include:

- Student members
- Active and Associate members with less than 3 years' work experience as a paralegal
- PD members changing the area of law on which they focus

The mentor / protégé relationship can be very rewarding, with benefits extending long past the official end of the relationship.

All of the PD mentors are Division members who have at least 7 years' experience working as a paralegal. Many of our mentors are also Division leaders and liaisons.

Mentors are located across the state and work in many areas of law.

Protégés may be matched with a mentor who is not geographically close by; meetings may be held electronically based on the mentor and protégé's preferences.

The mentoring program is a **free benefit** available to Paralegal Division members.

Join the PD today and let us match you with a mentor in your area of legal interest!

Visit www.txpd.org to learn more about membership and the Mentor/Protégé program.