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# The College Bulletin

News for Members of the Texas Bar College • Spring 2017



From  
the  
Chair



Patsy Micale

**T**he first and foremost mission of the Texas Bar College is the pursuit of professionalism in the legal community. In my opinion, professionalism does not only entail our actions and behavior in the workplace but extends to who we are outside of the office or the courtroom. An insightful quote I reflect upon at the beginning of each day is:

**"Professionalism: It's NOT the job you DO,  
It's HOW you DO the job."**

— Anonymous

Professionalism encompasses much more than just our job descriptions. It includes civility - treating others respectfully (even if we do not agree), integrity - upholding the highest ethics in all that we do, accountability - being responsible for our actions, reliability - getting the job done well, and competence - continuing to learn and achieve excellence through education. All of these characteristics translate equally between our professional and personal lives, as we all strive to be the best we can daily. By virtue of qualifying for membership in the Texas Bar College, each of us has been recognized as a lawyer, paralegal or judge who possesses these traits.

The College's mission further promotes outstanding service to the legal profession and the public. To that end, the College recently created the Patrick Nester Outstanding

Achievement in CLE Award in honor of our Executive Director Pat Nester, who will be retiring after 39 tremendous years of service this May. Pat has proven himself to be indispensable to the State Bar through his contributions to TexasBarCLE, among a myriad of other accomplishments, and is also consulted nationally for his CLE skills. The College is looking forward to recognizing Pat as the first recipient of this award, which will subsequently be bestowed in his honor annually, during Summer School.

I hope you will join us at Summer School in Galveston this July 13-15 to honor Pat and his legacy of professionalism, as well as to pursue professionalism through education together.







# Trump Administration and the Future of Medicare Certification

By Richard Y. Cheng

**W**hat does the inauguration of President Donald Trump mean for health care providers and suppliers, specifically enrollment and Medicare certification? The truth is, no one really knows or have a definitive answer. However, on inauguration day, Donald Trump signed an Executive Order to direct federal agencies to minimize the cost and burden of the Affordable Care Act (ACA) until it is repealed. While the American Health Care Act (AHCA) has been proposed, it faces great criticism from multiple health care trade associations and nothing concrete has been implemented to repeal and replace the ACA. Despite the ACA's occasional unpopularity, the federal government credits it to combat health care fraud and abuse, recovering \$4-6 billion dollars per year since 2011. Because the returns on the government's investment to fight health care fraud and abuse is so good, it is highly unlikely those provisions will be repealed and replaced.

Earlier last year, the Centers for Medicare & Medicaid Services (CMS) proposed new enrollment regulations to significantly increase disclosure requirements for entities enrolling or revalidating enrollment with Medicare, Medicaid, or CHIP.<sup>1</sup> The proposed regulations also provide CMS with broader discretion to limit re-enrollment of providers and suppliers. Donald Trump's Executive Order may delay these regulations from being confirmed, but CMS has taken a favorable stance to these proposed regulations and there are very few opposing comments submitted.

<sup>1</sup> Department of Health and Human Services, 81 Fed. Reg. 10719 (proposed Mar. 1, 2016) (to be codified at 42 C.F.R. pts. 405, 424, 455, and 457).

## Enrollment Appeals

To appeal unfavorable enrollment decisions, health care providers are compelled to file an appeal with the Department of Health and Human Services, Departmental Appeals Board (DAB), Civil Remedies Division. It is critical for providers to fully comply with the enrollment rules and completeness is key in a Medicare enrollment applications. The legislative intent of enrollment rules were originally aimed at addressing illegitimate providers participating in health care fraud and abuse arrangements. However, the rules now are more expansive and its application penalizes legitimate providers for common oversight or inadvertent mistakes in a complex

enrollment system. Many providers and suppliers today are obligated to refund monies received for legitimate services because their enrollment is retroactively revoked.

There were several cases in 2016 which exemplified the challenging climate involving enrollment revocations. One case in particular<sup>2</sup> involved a home health care agency relocating its corporate office and subsequently had its enrollment revoked, along with a two year enrollment ban. The revocation and ban was due to the agency failure to notify CMS, despite notifying other government agencies regarding the move. In another case,<sup>3</sup> CMS instituted an enrollment revocation and two year re-enrollment ban after durable medical equipment (DME) company failed a site visit that resulted after it relocated its office, even though the DME company was advised by its Medicare Administrative Contractor (MAC) and the CMS contractor that supports the CMS electronic enrollment system the DME company could not report the change while their revalidation application was pending. Both the home health care agency and DME company filed an appeal with the DAB.

### Cautions During Provider Transactions

Providers should exercise caution and diligence in transactions involving the merger with or acquisition of another health care provider. Minor or technical mistakes can lead to the revocation of a provider enrollment with minimal recourse. Whether it is a change of ownership (CHOW) or a change of information (CHOI), a buyer intending to utilize the seller's existing Medicare provider enrollment is strongly advised to ensure the accuracy of the seller's enrollment record. During the due diligence process, the buyer should engage in the following:

1. Review and verify all seller's enrollment information to ensure information is accurate and up-to-date. The most recently filed enrollment/ revalidation application should also be reviewed.

<sup>2</sup> *Care Pro Home Health Inc.*, Dec. No. 2723, Department of Health and Human Services, Departmental Appeals Board (July 21, 2016).

<sup>3</sup> CR 4529, Civil Remedies Division, Department of Health and Human Services Departmental Appeals Board, February 9, 2016.

2. Conduct criminal history and OIG exclusion database checks on seller's officers, owners, and management staff.
3. Get representations and warranties from the seller regarding the accuracy and regulatory compliance of the Medicare enrollment record.
4. Obtain an agreement from the seller to indemnify against any losses sustained due to pre-closing regulatory or enrollment violations.

CMS and the MAC have typically accepted and processed delayed updates to the enrollment record (e.g., new board members not disclosed within the regulatory timeframe). Buyers may want to consider delaying the transaction until the seller has made any necessary corrections to its enrollment record and those changes have been processed by the MAC. Buyers should understand CMS and the MACs have recently revoked providers and suppliers for untimely self-reporting changes of information. Buyers should timely file the appropriate CMS 855 form for the transaction, disclosing all individuals and organizations with ownership or control, practice locations, adverse events, and/or other information required to be reported.<sup>4</sup>

### Overview & Conclusion

Provider enrollment and certification has been a constant evolving area, creating many challenges for providers and suppliers. Even with the Trump administration and fluctuating political environment, constant evolution and emphasis on compliance should continue. Because Medicare and Medicaid programs are so critical to providers and suppliers and the consequences of an enrollment revocation are so overwhelming, careful attention to these issues in business planning and transactions is paramount. ■

<sup>4</sup> 42 C.F.R. § 424.516



**RICHARD Y. CHENG** is a shareholder in the Dallas firm of Munsch Hardt Kopf & Harr PC where his practice focuses on corporate transactions, health care operations, regulatory, compliance matters, and administrative appeals.

## A Quote We Love... from a 20-Year College Member!

**Hey, I think \$60 is a great deal for a 20 year renewal!!! Actually, this was quite a nice milestone to realize I've been in the high CLE club for that long. I will say that all the quality CLE along with interesting work has built my reputation and respect among peers and business associates for years. The Texas Bar College pays off in so many ways!**

**— Wayne Isaacks, Isaacks & Associates, Ltd., LLP, Houston  
Board Certified in Tax Law by the TBLS**





# IMMIGRATION

## – First 100 Days

By Cindy Kang Ansbach

**P**resident Trump has tackled various aspects of immigration within his first 100 days of presidency. A summary of steps include:

\*On January 25, 2017, President Trump issued his first Executive Orders on immigration. Not surprisingly, such orders focus on border security and enforcement. The President directed the Department of Homeland Security (“DHS”) to construct a physical wall between the U.S. and Mexico; announced an increase of enforcement agency personnel, if funding is available; and ordered DHS and Department of Justice to ensure that certain cities, often referred to as “sanctuary cities,” do not receive federal grants. Sanctuary cities are generally considered cities with policies to not prosecute undocumented individuals for violating federal immigration laws.

\*On January 27, 2017, President Trump signed another Executive Order on immigration, specifically related to barring individuals from certain countries. This order bans individuals from certain countries, namely Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen, from entering the U.S. for a period of 90 days. The ban covers individuals who would enter the U.S. as nonimmigrants, as well as permanent residents. Further, the order refers to individuals “from” a country on the “countries of concern” list determined by the Department of State (“DOS”). The underlying regulation to which the order refers indicates it applies to “nationals” of that country, so an individual that was originally born in that country but is not currently a citizen of that country (i.e., an individual born in Iran, but a citizen of Canada) should be permitted entry into the U.S. However, due to the language of the order as applying to individuals that are “from” such a country, it was unclear if Customs and Border Protection would interpret the order to bar individuals that were born in the above-listed countries and other “countries of concern” determined by the Department of State despite their current citizenship. As a result of such order, several individuals from the affected countries listed above who arrived in the U.S. on that day and over the weekend were detained by Department of Homeland Security. Subsequently, on January 28, 2017, the U.S. District Court, Eastern District of New York, granted an emergency stay for individuals who arrived in the U.S. affected by such order. On February 3, 2017, the U.S. District Court for the Western District of Washington

issued a temporary restraining order against this Executive Order, essentially halting the enforcement of this Executive Order; the decision was also upheld by the Ninth Circuit. The DOS then confirmed that provisionally revoked visas were once again valid for travel to the U.S., and DHS announced that inspections of travelers would resume under standard policies and procedures.

\*On February 20, 2017, Department of Homeland Security (“DHS”) issued two internal memoranda implementing the Executive Orders entitled “[Border Security and Immigration Enforcement Improvements](#)” and “[Enhancing Public Safety in the Interior of the United States](#),” issued by the President on January 25, 2017. These internal memoranda provide guidance for all DHS personnel concerning the enforcement of U.S. immigration laws. Under the new policies, several changes are expected, some of which include:

- Increased use of “expedited removal” procedures which may result in a larger number of individuals being deported from the U.S. without any legal or court proceedings;
- Stricter use of “catch and release” procedures for undocumented individuals who are awaiting court proceedings which may result in a larger number of individuals being detained and potentially straining the government’s limited detention resources;
- Broadening discretionary authority of DHS officers in determining initial claims of individuals seeking asylum which may result in fewer protections afforded to asylees;
- Increased use of deportation procedures for non-Mexican individuals to Mexico if such individuals entered the U.S. through Mexico;
- Strengthening of federal government’s ability to empower state and local law enforcement agencies to perform certain immigration enforcement functions.
- Limiting the use of “Advance Parole” by tightening the definition of “urgent humanitarian reasons” or in furtherance of a “significant public benefit.”

\*On March 3, 2017, U.S. Citizenship and Immigration Services (“USCIS”) announced that it will suspend premium processing for all H-1B petitions effective April 3, 2017. As background, the H-1B category is designed for foreign professional workers holding a university degree and authorizes a foreign professional to work in the United States in a “specialty occupation.” The suspension will cover all H-1B filings including H-1B cap cases, H-1B extension petitions, and H-1B amendments, among others. H-1B cases filed with premium processing prior to April 3, 2017, will continue to be processed in line with the premium processing program. USCIS has indicated that the suspension is anticipated to extend for up to 6 months. This suspension does not apply to other classifications, so premium processing will continue to be available for other petitions (including L-1s, I-140s, and others).

\*On March 6, 2017, President Trump signed another Executive Order on immigration, specifically related to barring individuals from certain countries. This revised order bans individuals from certain countries, namely Iran, Libya, Somalia, Sudan, Syria and Yemen, from entering the U.S. for a period of 90 days, effective March 16, 2017. The notable differences between the first Executive Order signed on January 27, 2017, and this revised Executive Order are the following:

- Iraq has been removed from the list of banned countries.
- Permanent residents are “carved out” of the Executive Order – the ban does not cover permanent residents.
- Certain nonimmigrants are “carved out” of the Executive Order. The ban still covers individuals who would enter the U.S. as nonimmigrants; however, if an individual from one of the designated countries already holds a valid visa either on January 27, 2017 or on the effective date of the revised Executive Order (March 6, 2017), the individual is not barred from entry.
- The order applies to individuals based on their current citizenship – i.e., the passport presented at time of entry. In other words, if an individual was born in one of the above-listed banned countries but holds citizenship in a different non-designated country (i.e., individual born in Iran but holds Canadian citizenship), the individual would not be subject to this revised Executive Order.

On March 15, 2017, a federal judge in Hawaii issued a temporary restraining order against the revised Executive Order, again essentially halting the enforcement of this Executive Order. U.S. District Judge Derrick Watson indicated that the state of Hawaii showed a strong likelihood of success and that the revised Executive Order failed to pass legal muster. A federal judge in Maryland also blocked the revised Executive Order from taking effect, with the current administration indicating that it would appeal the Maryland order.

\*On March 21, 2017, the DHS released details on a bar to carry-on personal electronic devices larger than a cell phone or smart phone for commercial flights. Examples include:

- Laptops
- Tablets
- E-Readers
- Cameras
- Portable DVD players
- Electronic game units larger than a smartphone
- Travel printers/scanners

Specifically, these devices must be placed in checked baggage for flights traveling to the U.S. from the following airports:

- Queen Alia International Airport (AMM) in Amman, Jordan
- Cairo International Airport (CAI) in Cairo, Egypt
- Ataturk International Airport (IST) in Istanbul, Turkey
- King Abdul-Aziz International Airport (JED) in Jeddah, Saudi Arabia
- King Khalid International Airport (RUH) in Riyadh, Saudi Arabia
- Kuwait International Airport (KWI) in Farwaniya, Kuwait
- Mohammed V Airport (CMN) in Casablanca, Morocco
- Hamad International Airport (DOH) in Doha, Qatar
- Dubai International Airport (DXB) in Dubai, UAE
- Abu Dhabi International Airport (AUH) in Abu Dhabi, UAE

The restriction applies only to those flights in which one of the above-listed airports is the last point of departure to the U.S. It will not apply to any flights departing from the U.S.

Notably, the current administration has left President Obama’s executive order relating to “DREAMers” intact. In other words, Deferred Action for Childhood Arrivals (“DACA”) continues to stand such that certain individuals who entered the U.S. as children and meet several guidelines may request consideration of deferred action and employment authorization.

President Trump’s immigration actions in the early days of his presidency have caused some amount of confusion to businesses and individuals, and as stated earlier, it is difficult to predict what issues will be addressed, as well as how and when policies will be implemented. Also as stated, one thing that is certain – individuals, undocumented as well as lawful, and businesses are keen to see what happens next. ■



**CINDY KANG ANSBACH** is a Partner with the Dallas firm of Ansbach + Ghouse, PLLC, where she co-manages the practice. Prior to founding Ansbach + Ghouse, Cindy was the head of global immigration for one of the top 10 global law firms.



# Profiles of New Members

The College's membership committee sent a short questionnaire to some of our newest members, asking about the member's education, employer, practice area(s), professional honors, hobbies, and—most important to the committee—why the member joined.

## **Tyler Mayo**

Midland County District Attorney's Office, *Midland*



Tyler earned his J.D. from the Texas Tech University School of Law in 2014. He earned a B.A. from Texas A&M University (Cum Laude) in 2011. He expects his continued focus will be in criminal law.

Tyler definitely appreciates the outdoors. He likes visiting the Palo Duro and Caprock Canyons State Parks, fishing on the Texas Gulf Coast, and taking his wife along to as many zoos "as possible."

Why did he join the College? "I joined because I have always had a passion to learn and keep growing," Tyler says. "I wanted to become more knowledgeable in the areas of the law which I do not encounter as a criminal prosecutor."

## **Jonathan Stovall**

Galmor, Stovall & Gilthorpe, Attorneys at Law, *Beaumont*



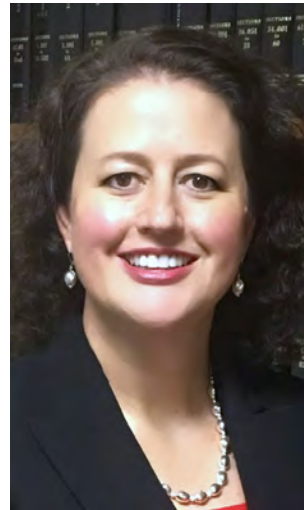
Jonathan received a J.D. from the Texas Tech University School of Law in 2008 and a B.A. in Spanish from Lamar University in 2005. He practices family law, federal criminal defense, and personal injury law.

In his spare time Jonathan enjoys camping, travelling, and being a husband to his wonderful wife Brooke and a dad to their two sons.

Why did he join the College? "I love the 'rabbit chasing' that goes into the practice of law," Jonathan says. "And the Bar College gives me the tools and resources to really find the right law that applies."

## **Constance Filley Johnson**

Filley Law Firm, *Victoria*



Constance graduated from the Thurgood Marshall School of Law in 2005 (Summa Cum Laude). She also earned a B.S.I.S. (Education Major) from the University of Houston-Victoria in 1993. She began a criminal defense practice in 2006 and was a Municipal Court Judge for the City of Victoria from 2012 to 2016. Prior to becoming a lawyer, Constance was a classroom teacher for Victoria from 1993 to 1997 and a Safe and Drug-Free Schools Coordinator for Region III from 1997 to 2003.

A Past President of the Victoria County Bar Association, Constance served on the State Bar's Grievance Committee (District 11) from 2010 to 2016 and was a Panel Chair for 2013 to 2014. She is a Founding Member of the Victoria County DWI Court, a Criminal Law Representative to the Victoria County Shared Solutions Summit, and an Adjunct Instructor and Advisory Council Member to the Victoria College Police Academy.

Constance counts among her hobbies travelling and camping with her family (husband of 24 years and two children, ages 18 and 15), as well as volunteering for various non-profit organizations.

Why did she join the College? "As a former teacher, I recognize the importance of education," Constance says. "I joined the College to connect with others in our profession who are committed to improving the representation we provide to our clients through the continuous expansion of knowledge in our respective areas of expertise." ■



# Checking in with Charter Members

## Barry H. Edelman

*Las Vegas*



Barry looks back fondly on the founding of the College and his commitment to it. "When the Texas Bar College was created," he says, "I saw it as a way to enhance CLE for Texas lawyers and I enthusiastically became a member, not knowing that I was to be known as a 'founding member.' The College has been a real success story and I am pleased to have been a part of its success. Even though I've been retired for a number of years, I continue my membership as a small

token of my gratitude. Best wishes to the College and all the members that support its goals and objectives."

## Mark W. Laney

*Laney & Bollinger, Plainview*



"Unfortunately, the practice of law since I was first licensed in 1972 bears little resemblance to the practice of law today," Mark says. "While I have enjoyed my legal career, I am saddened that the professionalism between lawyers that existed when I started my legal career in 1972 has become almost non-existent. The Rule 11 agreement did not exist back then—because it was not necessary! A lawyer's word WAS what is now known as the 'rule 11 agreement.'"

"Nothing stays the same, as the only thing that is constant in life is change. Time changes things as perspectives and priorities change. Life is too short not to enjoy what you are doing. So, when the practice of law was no longer a joy, and there were other things occupying my time that I did enjoy, I decided to 'change gears'— in favor of the things I enjoyed, including but not limited to traveling all across this great nation in our motor home, hauling our mounts in the trailer behind, and trail riding on the back of my mule, alongside of my wonderful bride

and companion of 31 years on her horse—and hang it up (although I still find time to keep up to date and maintain my Bar College membership).

"While our roots and home remain in Texas and we continue our travels and trail riding across the nation, we are spending much of our time at one of the many beautiful places that we have been so fortunate to have ridden over the years, and that is at Leatherwood Mountains in North Carolina. Ironically, in the late 1800's my paternal great-great grandfather moved his family from Monroe, Union County, NC (a little over 100 miles from Leatherwood) to Duffau, near Stephenville, in Erath County in Texas. And the nearby post office that serves Leatherwood bears the name of my maternal great grandparents—Ferguson."

## Rodney C. Koenig

*Norton Rose Fulbright, Houston*



Rodney is in his 48<sup>th</sup> year as a Texas lawyer, all at Fulbright, Crooker, Freeman, Bates & Jaworski, which has changed in name over the years to its current name of Norton Rose Fulbright. A Partner and now "Of Counsel", he continues to enjoy law practice and serves on a number of Foundations, including the Jackson, Orton, Alice Taylor Gray, Williams and Luck & Loessin Trust. He is still active on other charitable boards such as the Bach Society Houston, Main Street Theater, James Dick Foundation for the

Performing Arts in Round Top, U T Health Science Center, Houston-Leipzig Sister City Association, English Speaking Union, and the Houston Saengerbund. He also serves as President of Midshipmans Foundation at UT Austin. Rod has written a quarterly column for 30 years entitled "Leave Your German Mark" in the German-Texan Heritage Society Journal in Austin. Rod continues to play his trumpet in a church brass band and sings in a Sea Shanty Choir. He and his wife Mary sing in several church and community choirs.

Annually he and Mary travel for the meetings of the International Academy of Estate and Trust Law, which has met in such diverse locations as Sydney, Cape Town, Shanghai, Rome, Cartagena, Toronto, Edinburgh, Paris, Berlin, and Florence, among others. Some of the Choirs also have interesting trips abroad. Many weekends will find him



back near his roots in Fayette County outside of La Grange, Texas, where he grew up. He still maintains the ranch his grandfather John A. Koenig founded and enjoys a second home overlooking the city of La Grange. He believes that he may be in a dwindling group of lawyers who grew up on a farm without electricity, telephones, or indoor toilets, and who grew up picking cotton. He loved studying as a way to escape cotton picking and is happy to have 35+ years of consecutive membership in the Texas Bar College. He and his wife have created an endowed Scholarship with Midshipmans Foundation at UT Austin, as well as an endowed Scholarship at the University of Texas School of Law. He has given other scholarships at UH for students of German for over 25 consecutive years. Since Rod went to UT on a Naval scholarship and went to UT law school on the GI Bill after his Naval service, he is an advocate for granting scholarships, individually and with the Foundations on whose boards he sits.

### John F. Nichols, Sr.

Nichols Law, Houston



Since being admitted to the State Bar of Texas in 1967, John has built an impressive collection of accomplishments. He has been named among the "Best Matrimonial Lawyers in America" by several publications, named as The National Advocates, Top 100 Lawyers, and has been named one of "Houston's Top Lawyers," "Texas Super Lawyer" and one of the top family lawyers in the U.S.A. He has written and delivered over 178 articles to classes, seminars and publications.

He is a certified specialist by The State Bar of Texas in the areas of Family Law, Personal Injury, and Civil Trial Law. He has argued before the highest Texas courts and the U.S. Court of Appeals for the Fifth Circuit, and is admitted to practice before the Supreme Court of the United States.

A lifelong Houston resident, John graduated from Rice University in 1964 and from the University of Houston College of Law in 1967. He is a proud member of the Rice University Athletic Hall of Fame (Football). He is also a fellow of the Texas Bar Foundation, the American Academy of Matrimonial Lawyers, the International Academy of Family Lawyers, and the International Society of Barristers, Fellow, Gulf Coast Family Law Specialists Association, Fellow, National Board of Trial Advocates.

"I just want to say what a tremendous benefit it has been to be a founding member of the Texas Bar College," John

says. "The State Bar has been exceedingly generous to me and has helped my career. I thank the College from the bottom of my heart. I wish it good luck for its fabulous contributions to me and my fellow lawyers here in Texas for many years."

### Charles M. Wilson III

Goranson Bain PPLC, Dallas



Charlie has continued his commitment to advancing continuing legal education and to improving the quality of the legal profession. For several years he taught Trial Advocacy, as an Adjunct at Southern Methodist University's Dedman School of Law. In 2007 Charlie joined the Board of Trustees of the Texas Center for Legal Ethics and Professionalism, and served as chair of the Trustees in 2011. In 2008, Charlie was honored to receive the *Jim Bowmer Professionalism*

*Award* from the Texas Bar College for "Outstanding Contributions to the Profession." He has continued to work on planning committees, as a course director and/or a speaker on numerous advanced courses for the State Bar, and in 2010, he was a recipient of the *Standing Ovation Award* from the TexasBarCLE staff for his energy, commitment and leadership in CLE activities. At the 2015 State Bar convention, Charlie received *The Lola Wright Foundation Award*, from the Texas Bar Foundation, "in recognition for outstanding public service in advancing and enhancing legal ethics in Texas." Charlie continues to write and speak frequently for the Bar in various CLE activities.

Personally, Charlie has been a single parent since 2000, raising two wonderful children. His daughter, Julie, graduated from Saint Mary's University School of Law and is a prosecutor in the Bexar County (San Antonio) District Attorney's office. Charlie's son, Charlie (IV), is a third year student at Southern Methodist University's Dedman School of Law, where he is a member of the dean's list, an articles editor of a law review, and active in the Family Law clinic. Upon his graduation, he has already accepted a position at a prominent real estate litigation firm, beginning next fall.

As a sustaining charter member, Charlie is extremely proud of the Texas Bar College: "The members of the Texas Bar College are attorneys who are interested in both high ethical standards and enhanced continuing legal education for all Texas attorneys. These are the hallmarks of true professionalism." ■



# New Members of the Texas Bar College

Welcome! We thank you for committing to the ideals and goals of the College.

## **ABILENE**

Kelley K. Messer  
Shekeira Renee Ward

## **ALEDO**

Valerie Kruse

## **ALVIN**

Sallie Anne Tennant Godfrey

## **AMARILLO**

Adair M. Buckner  
Linda Wynn Drain  
Tyler Ryan Mayo  
Joby John Mills  
Barry Don Peterson

## **ARLINGTON**

Laurie Denise Robinson  
Jacob Ryan Shelton  
Stephen D. Willey  
David Eugene Williams

## **AUSTIN**

John George Absher  
Rita Sanderson Uribe Alister  
Meril Eugene Anthes  
Megan Baumer  
Desiree Marie Bedasa  
Srinivas Behara  
Christopher Alan Blackwell  
Phillip Paul Boyd  
Charles Weston Carver  
Jonathon Conrad Clark  
Georgia Nell Crump  
Christopher Blair Dancy  
Duane L. Daniels  
Rebecca Suzanne Dimasi  
Hettie Karen Fastenau

Hermes Flores  
Jessica Shaye Freud  
Barbara Ann Gibson  
Christopher Nhu Tuan Ha  
Sarah Miranda Harp  
John Daniel Hennen  
Alfred R. Herrera  
Carlota Hopinks-Baul  
Eric H. Hsu  
Michelle Elizabeth Hunter  
Carole Hurley  
Jonathan Jefferson-Bearrie  
Kimberlee Kovach  
Tabytha Dee Kuykendall  
John Andrew Laboon  
Barbara Marie Lazard  
Dana Rae Avant Lewis  
Jennifer Anne Lloyd  
Ann Vevier Lockwood  
Brian Rolland McGiverin  
Charles Otis Medearis  
Eric Wade Nelson  
Joseph Emeka Nwaokoro  
Marvin Ifeanyi Okafor  
Julie Elizabeth Pennington  
Walter C. Prentice  
Ruben Rodriguez  
Joshua Paul Rogers  
Webber Barton Roscher  
Eleanor V. Ruffner  
Adam Hugh Sencenbaugh  
Henry Joel Simmons  
Jarrod Lee Smith  
Jason Eric Trumpler  
James Bradley Vinson  
Theadora Dinelle Whalen  
Jennifer Louise Wissinger  
Jason Wesley Wright  
Anna Esther Yi

Mitchell Forsyth Zoll

## **AZLE**

Sheila Grace Neal

## **BASTROP**

Sharah Glass Johnson

## **BAYTOWN**

Jorge Lopez

## **BEAUMONT**

Randy E. Drewett  
John W. Johnson  
Steven Spencer Packard  
Joe Phillips  
Jonathan Lee Stovall  
David L. Tolin

## **BEDFORD**

Tiffany Dawn Mir  
R. Keith Spencer

## **BELLAIRE**

Ronald Galen Byrnes

## **BELLVILLE**

Barkley Faye Bryant

## **BOERNE**

Kevin D. Fine

## **BRENHAM**

William H. Betts  
Christopher Stephen Hardy

## **BROWNSVILLE**

Mara Charlene Martinez  
Christopher Lee Phillippe

**CANYON LAKE**

Jennifer Lee Moore Hastedt

**CARROLLTON**

Gary W. Blanscet

Fonda G. Fitzgerald

**CEDAR PARK**

Leonel Rolando Morales

**CENTER**

James Allen Payne

**CLEVELAND**

Cole Benjamin Combs

**CLUTE**

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Robert Hugh Johnston

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Cullen Drew Elrod

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Robley Evans Sicard  
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Aziza Ann Travis  
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## LIVE Galveston Island

July 13-15, 2017

Moody Gardens Hotel

## Purpose and Scope

This is an essential seminar for general practitioners with new topics and updates in most practice areas, including Texas Board of Legal Specialization credit approved in nineteen practice areas. This course is frequently attended by judges.

"A superb course providing a smorgasbord of key topics over a broad range of Texas practice areas. Easily the best value and most enjoyable Texas CLE program."

## MCLE CREDIT

**17.5 Hours (3.25 Ethics)**

**MCLE Course No: 901368529**

Applies to the Texas Bar College and the Texas Board of Legal Specialization in:

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Bankruptcy .....	7
Civil Appellate.....	15.75
Civil Trial .....	15.75
Construction Law.....	6.5
Consumer and Commercial.....	10.25
Criminal .....	8
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Estate Planning and Probate .....	7.75
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Health .....	5
Immigration and Nationality .....	5.25
Juvenile.....	7.25
Labor and Employment.....	9
Oil, Gas and Mineral.....	7
Personal Injury Trial .....	9.25
Real Estate.....	8
Tax.....	4.75
Workers' Compensation.....	4.25

## Thursday

6.75 hours including 1.25 ethics

8:00 **Registration**  
**Coffee & Pastries Provided**

8:45 **Welcoming Remarks**  
**Course Director**  
Chad Baruch, *Dallas*  
Johnston Tobey Baruch

8:50 **Texas Bar College Update**  
(no MCLE credit)  
John C. Grace, *Lubbock*  
Assistant City Attorney  
City of Lubbock  
Vice-Chair, Texas Bar College

9:00 **State of the State Bar Address** .25 hr  
G. Thomas Vick, Jr., *Weatherford*  
VickCarney  
President-Elect, State Bar of Texas

## UPDATES

9:15 **Texas Supreme Court Update** .5 hr  
Jay Jackson, *Houston*  
Abraham Watkins Nichols Sorrels  
Agosto & Aziz

9:45 **U.S. Supreme Court Update** .5 hr  
Daniel L. Geyser, *Dallas*  
Stris & Maher

10:15 **Break**

10:30 **Texas Legislative Update** .75 hr  
Brian Eppes, *Fort Worth*  
Townsend Gebhardt and Eppes

11:15 **Texas Court of Criminal Appeals Update** .75 hr  
Hon. David Newell, *Austin*  
Judge, Texas Court of Criminal Appeals  
Hon. Bert Richardson, *Austin*  
Judge, Texas Court of Criminal Appeals

12:00 **Break - Lunch Provided**

## ETHICS

12:15 **Luncheon Presentation: Rule 202 and Social Media – Who's Defaming You? Who's the Defendant?** .5 hr ethics  
John G. Browning, *Dallas*  
Passman & Jones

12:45 **Break**

## CONSUMER AND COLLECTIONS

1:00 **Collecting Your Judgments**  
.5 hr (.25 ethics)  
Matt E. Garcia, *Austin*  
Barnett & Garcia

1:30 **Consumer Law Update** .5 hr  
Steven C. James, *El Paso*  
Steven C. James Attorney

## INTELLECTUAL PROPERTY

2:00 **Rescue Operations: Trademark Issues, Goodwill, Spotting the Issues, and Knowing When to Ask for Help**  
.5 hr (.25 ethics)  
Al Harrison, *Houston*  
Harrison Law Office

2:30 **Networking Break**

## IMMIGRATION

2:45 **Overlap of Immigration Law with Other Areas of Law (Including Family and Criminal)**  
.75 hr (.25 ethics)  
Rehan S. Alimohammad, *Sugar Land*  
Alimohammad & Zafar

## EMPLOYMENT

3:30 **Trade Secrets: The Fifty Billion Dollar Challenge** .5 hr  
Stanley P. Santire, *Houston*  
Santire Law Firm

4:00 **Hot Topics in Employment Law** .75 hr  
Katrina Grider, *Cypress*  
Katrina Grider & Associates

4:45 **Adjourn**

**6:00 - 8:00**

**Party by the Pool! Bring your family for food and refreshments.**







## Friday

7.25 hours including 1.5 ethics

7:30 **Coffee & Pastries Provided**

8:25 **Morning Announcements**

### ► LITIGATION

8:30 **Building Good Relationships with the Judge - Top Ten Things You Can Do to Make Judges Happy** .25 hr  
Hon. Steve Smith, *Bryan*  
Judge, 361st District Court

8:45 **CPRC: Chapter 27** .5 hr  
Hon. Jane Bland, *Houston*  
Justice, First Court of Appeals  
Laura Lee Prather, *Austin*  
Haynes and Boone

9:15 **Motions for New Trial - The New Standard** .5 hr  
Mark T. Murray, *Houston*  
Stevenson & Murray

9:45 **The Occasional Tourist's Guide to the Texas Courts of Appeals** .5 hr (.25 ethics)  
Jim Moseley, *Dallas*  
Gray Reed & McGraw

10:15 **Break**

10:30 **Arbitration: How Preparing for an Arbitration Is Different Than Preparing for Trial - Including Discovery** .75 hr  
Dawn Estes, *Dallas*  
Estes Okon Thorne & Carr  
Roland K. Johnson, *Fort Worth*  
Harris Finley & Bogle  
Robert L. Tobey, *Dallas*  
Johnston Tobey Baruch

### ► PERSONAL INJURY

11:15 **P.I. Discovery on a Budget – Getting What You Need Without Going Broke** .5 hr  
Thomas W. Duesler, *Beaumont*  
Wilson Elser Moskowitz Edelman & Dicker  
Alton C. Todd, *Friendswood*  
The Law Firm of Alton C. Todd

11:45 **Break - Lunch Provided**

### ► ETHICS

12:00 **Luncheon Presentation: Client Relations, Engagement Letters, and Getting Paid Ethically** .75 hr ethics  
Claude E. Ducloux, *Austin*  
Attorney at Law

12:45 **Break**

1:00 **Texas Bar College Awards**

### ► REAL ESTATE

1:15 **The Taking: Key Issues in the Law and Policy of Eminent Domain** .5 hr  
Jim Bradbury, *Fort Worth*  
James D. Bradbury, PLLC  
Austin\*Fort Worth

1:45 **Current Issues in Groundwater Transactions** .5 hr  
Rhonda S. Jolley, *San Antonio*  
Branscomb PC

### ► PERSONAL INJURY

2:15 **Driving While Distracted – The New DWI** .5 hr  
Todd Clement, *Dallas*  
The Clement Law Firm

### ► CRIMINAL

2:45 **Flaws in the Criminal Justice System - How Things Go Wrong** .5 hr ethics  
Terri H. Moore, *Fort Worth*  
Law Office of Terri Moore

3:15 **Networking Break**

### ► ESTATE PLANNING AND PROBATE

3:30 **Planning for Incapacity** .5 hr  
Jovana Popovich, *Houston*  
Fizer Beck Webster Bentley & Scroggins

4:00 **Advising Same Sex Couples on Wills and Estates** .5 hr  
Lorie Burch, *Dallas*  
The Law Office of Lorie L. Burch

4:30 **What Happens Between Death and Probate** .5 hr  
Arielle Prangner, *Houston*  
Davis & Willms

5:00 **Adjourn**

## Saturday

3.5 hours including .75 ethics

7:30 **Coffee & Pastries Provided**

8:25 **Morning Announcements**

### ► FAMILY

8:30 **Online Impersonation, Revenge Porn, and Other Online Causes of Action** .75 hr (.25 ethics)  
Hon. Emily Miskel, *McKinney*  
Judge, 470th District Court

9:15 **Does Marriage Really Mean Marriage for Same Sex Couples?** .5 hr  
Ellen A. Yarrell, *Houston*  
Ellen A. Yarrell, PC

:45 **Family Violence** .5 hr  
Amy Allen, *Houston*  
Gray Reed & McGraw

0:15 **Networking Break**

0:30 **SAPCR and Property Legislative Update** .5 hr  
JoAl Cannon Sheridan, *Austin*  
Sheridan Barrett Coble & Andrae

1:00 **CPS Lawyers' Best Practices** .5 hr (.25 ethics)  
Hon. Katrina Griffith, *Houston*  
Associate Judge, CPS Project Court

1:30 **Alternative Dispute Resolution** .75 hr (.25 ethics)  
Hon. Meca L. Walker, *Houston*  
Walker ADR Services  
Warren Cole, *Houston*  
The Law Office of Warren Cole  
Norma Levine Trusch, *Houston*  
Norma Levine Trusch, Attorney at Law

12:15 **Adjourn**



## Reserve Your Hotel Room Early

Hotel rooms have been blocked at special rates on a space available basis. To make a reservation, tell the hotel that you will be attending this State Bar of Texas course.

### **GALVESTON ISLAND**

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## GALVESTON ISLAND ATTRACTIONS

### **Ghost Tours of Galveston Island**

Dash Beardsley has spent his entire life researching history and paranormal activity in the Galveston area and has packaged his knowledge into tours, offering something for everyone. Founded in 1999, Ghost Tours of Galveston IS Galveston Island's first, foremost, and original haunted historical walking tour. The #1 ghost tour in the state of Texas and the #2 most popular ghost tour in America! 100% fascinating! This unique two hour tour combines history, mystery, ghost stories and legends taking you on a journey into Galveston's richly unknown past. Come view the Island as you have never before. Even if you don't believe in spirits now, you may very well change your mind after walking the brick-lined streets of The Strand.

### **Historic Pleasure Pier - It's back!**

For decades, the historic Pleasure Pier served as a catalyst for stimulating tourism to Galveston's Seawall Boulevard and Gulf beaches. Originally built in the late 1940s as a recreational facility for the military, the Pier was turned over to the city after World War II and named Pleasure Pier. The Pleasure Pier operated as an iconic family destination until 1961 when Hurricane Carla damaged the property. In 1965, the Flagship Hotel opened on the site and was severely damaged by Hurricane Ike in 2008.

### **Moody Gardens**

This tropical destination is ideal for families and groups alike. You can experience life at the Rainforest Pyramid®, featuring exotic and endangered plants and animals from the rainforests of the world. Explore the Aquarium Pyramid® where you can meet a real penguin in our Penguin Encounter. Tour travelling exhibits at the Discovery Museum and immerse yourself at the MG3D, 4D and Ridefilm theaters. Enjoy beautiful Galveston Bay on the Colonel Paddlewheel Boat and a little summer fun on the new lazy river at beautiful Palm Beach. Finally, take a swing at the Moody Gardens Golf Course and escape to the four-diamond Moody Gardens Hotel, Spa & Convention Center. Visit Moody Gardens and prepare to experience life.

### PLEASURE PIER



Photo Credit: PleasurePier.com

### MOODY MANSION TOUR



Photo Credit: GICVB







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I really want my law practice to be successful. From client relations, document presentation, funning the office and cyber-security, this is how to have success for your practice. **Administering the Modern Law Office** by Claude E. Ducloux. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=187779&t=PDF&e=15320&p=1>

Did they really post that on social media? Let's use social media creatively when dealing with employees and litigation adversaries. **Social Media: Internet to Evidence** by Michael J. Golden and Steven H. Garrett. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=187884&t=PDF&e=15111&p=1>

I think I am entitled to recover my attorney's fees as damages. Does the American Rule prevent recovery even when the relevant attorney's fees are sought as actual damages? **Recovering Attorney's Fees as Damages** by Brandy Wingate Voss and Allegra Hill. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=187878&t=PDF&e=15111&p=1>

Damages, damages, everywhere. What damages will the Court permit to be recovered and where do they draw the line? Consequential Damages: **Probing the Limits of What Can Be Recovered** by Geoff A. Gannaway. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=187868&t=PDF&e=15111&p=1>

Help! I'm being SLAPPED. How can I used the Texas Anti-SLAPP Law to get rid of this lawsuit? **The Texas Anti-SLAPP Law: What is Left of Reputational Torts? Or, Strategic Motions Against Citizens-SMACS** by Mark C. Walker. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=187834&t=PDF&e=15111&p=1>

My emails are out of control, my files are a mess and I have killed every tree on the planet. Focus on improving your practice and get the tips and insight into managing your communications and casefiles. **Managing Your Communication and Documents** by Chris Meuse. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=188411&t=PDF&e=15495&p=1>

I just don't understand why I don't have any money coming in. Maybe it's because you don't practice good billing habits. **Good Billing Habits: What They Don't Teach You in Law School** by Claude E. Ducloux. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=188098&t=PDF&e=15495&p=1>

Let's get this lawsuit dismissed. How Rule 91a can address the rules governing dismissal procedures. **Update on Rule 91a** by Cindy Saiter, Carlos R. Soltero, and Kennon L. Wooten. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=190492&t=PDF&e=15110&p=1>

That's not what I meant! Unless you have good writing skills, punctuation like a simple comma can totally change what you said vs. what you meant. **Writing Mechanics and Why You Should Care** by Chad Baruch. <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=190199&t=PDF&e=15110&p=1>

Could someone please get the Legislature to fix what doesn't work? What works, what doesn't and what do we think could be done better. **Fixing It — A Panel Discussion** by David E. Chamberlain, Guy D. Choate, and Michele Yennie Smith, moderated by Claude E. Ducloux, <http://www.texasbarcle.com/cle/OLViewArticle.asp?a=187548&t=PDF&e=15110&p=1>



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