

11th Annual Advanced Texas Administrative Law Seminar
September 1-2, 2016 • AT&T Conference Center • Austin, TX
September 1-2, 2016 • Live Webcast

Thursday Morning, Sep. 1, 2016

Presiding Officer:

Hon. Lesli Ginn, State Office of Administrative Hearings - Austin, TX

7:30 am In Austin Only	<p>Registration Opens</p> <p>Includes continental breakfast.</p>
8:20 am	<p>Welcoming Remarks</p>
8:30 am 0.50 hr	<p>Case Law Update: Part I</p> <p>Discuss significant administrative law cases issued during the last year.</p> <p>Andres S. Medrano, Gardere Wynne Sewell LLP - Austin, TX Laurie Ratliff, Ikard Golden Jones P.C. - Austin, TX</p>
9:00 am 0.50 hr	<p>Open Government Update</p> <p>Review recent legislation and judicial decisions concerning the Texas Public Information Act and the Texas Open Meetings Act.</p> <p><i>This session has moved to 12:50 PM Thursday</i></p> <p>Kimberly L. Fuchs, Office of the Attorney General - Austin, TX Lori Anne Fixley Winland, Locke Lord LLP - Austin, TX</p>
9:30 am 0.50 hr	<p>Motion for Rehearing Update</p> <p>An examination of the intent and key provisions of Senate Bill 1267, which recently amended the notice and rehearing provisions of the Texas Administrative Procedure Act.</p> <p>John H. H. Bennett, Office of Senator Craig Estes - Austin, TX</p>
10:00 am 0.50 hr	<p>Contracting after the 2015 Legislative Session: New Reporting and Oversight Requirements</p> <p>A discussion of the significant legislation relating to contracting with governmental bodies enacted by the 84th Texas Legislature, including new requirements for monitoring and disclosures.</p> <p>Ann Bright, Texas Parks and Wildlife Department - Austin, TX Sydney W. Falk Jr., Bickerstaff Heath Delgado Acosta LLP - Austin, TX</p>
10:30 am	<p>Break</p>

<p>10:45 am 0.50 hr</p>	<p>Chapter 55 Implementation: Veterans and Licensing</p> <p>A brief history and discussion of implementing legislation designed to bridge the gap for veterans reentering the workforce, with practice tips for expediting veteran licensure.</p> <p>Moderator: Randy Nesbitt, Texas Department of Licensing and Regulation - Austin, TX</p> <p>Panelists: Virginia S. Fields, Texas Department of Licensing and Regulation - Austin, TX Douglas A. Jennings, Texas Department of Licensing and Regulation - Austin, TX</p>
<p>11:15 am 0.75 hr 0.25 hr ethics</p>	<p>Licensing: Temporary Suspensions and Convictions</p> <p>Explore the current landscape of temporary suspensions and criminal dispositions. Learn what the government has to prove in these proceedings, develop effective rebuttal strategies, and understand the difference between deferred adjudication and deferred prosecution.</p> <p>Franklin Hopkins, Germer Gertz Beaman & Brown PLLC - Austin, TX Joseph T. Marcee, Law Office of Joseph T. Marcee - Georgetown, TX</p>
<p>12:00 pm 0.50 hr</p>	<p>Top Ten Tips for Drafting Legislation</p> <p>In anticipation of the upcoming legislative session, get the expert's advice on some best practices for preparing and analyzing bills and amendments.</p> <p>Erin Smith, Texas Legislative Council - Austin, TX</p>
<p>12:30 pm In Austin Only</p>	<p>Pick Up Lunch (Austin)</p> <p>Included in registration</p>

Thursday Afternoon, Sep. 1, 2016

Presiding Officer:

Janet I. Monteros, Texas Health and Human Services Commission - El Paso, TX

LUNCHEON PRESENTATION

<p>12:50 pm 0.50 hr 0.25 hr ethics</p>	<p>The Civility Oath</p> <p>Recent changes to the Texas Lawyer's Oath put the state's citizens firmly behind the idea that Texas lawyers and judges should conduct themselves with the highest standards of civility and professionalism. Hear one legislator's take on the new oath and on the current state of the practice.</p> <p><i>This session has moved to 9:00 AM Thursday</i></p> <p>Kirk Watson, Texas State Senate, District 14 - Austin, TX</p>
<p>1:20 pm</p>	<p>Break</p>

<p>1:35 pm 0.50 hr</p>	<p>Challenges to Agency Rules</p> <p>The Legislature creates agencies and grants them rulemaking authority. Statutes also provide an opportunity to comment on proposed rules, to require agencies to justify their rules, and to challenge rules believed to impair rights or privileges of affected entities. Hear a review of the authority granted to agencies and examine the rulemaking challenges in the current landscape.</p> <p>Dudley D. McCalla, Of Counsel, Jackson Walker LLP - Austin, TX</p>
<p>2:05 pm 0.50 hr</p>	<p>What is a “Rule”? Navigating a Notoriously Muddled Corner(stone) of Texas Administrative Law</p> <p>When must a Texas administrative agency use the APA’s notice-and-comment rulemaking procedures? When is a statement by an agency or an agency official considered to be a rule that can be challenged in an APA declaratory judgment action? A review of the case law sheds some light on these mysteries.</p> <p>Steven Baron, Baron Consulting and Legal Services - Austin, TX</p>
<p>2:35 pm 1.00 hr</p>	<p>Rules and Rulemaking: The Need for Clarification of Procedural Requirements and the Opportunities for Substantive Challenges</p> <p>Is Texas law on rules and rulemaking procedures as muddled as some say? What are the prospects for clarification by the Texas Supreme Court? When can a rule be challenged on substantive due course of law grounds under the Court’s decision in <i>Patel v. Texas Department of Licensing and Regulation</i>? A panel of experienced administrative law practitioners discusses these issues.</p> <p>Moderator: Steven Baron, Baron Consulting and Legal Services - Austin, TX Panelists: Dudley D. McCalla, Of Counsel, Jackson Walker LLP - Austin, TX Kristofer S. Monson, Office of the Attorney General - Austin, TX Donald N. Walker, Stone Loughlin & Swanson, LLP - Austin, TX</p>
<p>3:35 pm</p>	<p>Break</p>
<p>3:45 pm 0.50 hr</p>	<p>Texas v. United States: Procedural Lessons Learned</p> <p>Explore the important procedural differences between state and federal administrative law practice.</p> <p>Linda B. Secord, Office of the Attorney General - Austin, TX Mark L. Walters, Jackson Walker LLP - Austin, TX</p>
<p>4:15 pm 0.50 hr</p>	<p>State Office of Administrative Hearings Update</p> <p>Hear an update on developments at SOAH, including implementation of Sunset recommendations, rule amendments, plans for an electronic case management system, and other items of interest.</p> <p>Hon. Lesli Ginn, State Office of Administrative Hearings - Austin, TX Hon. Tom Walston, State Office of Administrative Hearings - Austin, TX</p>
<p>4:45 pm 0.75 hr</p>	<p>State Office of Administrative Hearings Judicial Panel</p> <p>A discussion of recent developments at SOAH, including the use of mass dockets, new procedural rules, access for self-represented litigants, and other procedural matters.</p> <p>Hon. Hunter Burkhalter, State Office of Administrative Hearings - Austin, TX Hon. Roy Scudday, State Office of Administrative Hearings - Austin, TX Hon. Rebecca Smith, State Office of Administrative Hearings - Austin, TX Hon. Holly Vandrovec, State Office of Administrative Hearings - Austin, TX</p>

5:30 pm	Adjourn
In Austin Only	<p>NETWORKING RECEPTION (in Austin from 5:30 p.m. to 6:30 p.m.)</p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees.</p> <p>THANK YOU TO OUR RECEPTION SPONSOR The Administrative and Public Law Section of the State Bar of Texas</p>

Friday Morning, Sep. 2, 2016

Presiding Officer:

Susan Henricks, Texas Board of Law Examiners - Austin, TX

7:30 am In Austin Only	<p>Conference Room Opens</p> <p>Includes continental breakfast.</p>
8:30 am 0.50 hr	<p>Case Law Update: Part II</p> <p>A continuation of the discussion of significant administrative law cases issued during the last year.</p> <p>Andres S. Medrano, Gardere Wynne Sewell LLP - Austin, TX Laurie Ratliff, Ikard Golden Jones P.C. - Austin, TX</p>
9:00 am 0.50 hr ethics	<p>Who is Your Client?</p> <p>A discussion of the role of the Attorney General in the attorney-client relationship.</p> <p>James E. Davis, Office of the Attorney General - Austin, TX</p>
9:30 am 0.50 hr	<p>Governmental Immunity Review</p> <p>A review of recent Supreme Court of Texas decisions on governmental immunity, with a focus on the Court's application of the governmental-proprietary dichotomy in the context of contract claims.</p> <p>Emily R. Jolly, Enoch Kever PLLC - Austin, TX</p>
10:00 am 0.50 hr	<p>Use or Abuse of Social Media by Texas Administrative Agencies</p> <p>On December 14, 2015, the U.S. General Accounting Office issued Ruling B-326944 regarding application of federal publicity or propaganda and anti-lobbying provisions to certain social media activities of the Environmental Protection Agency. Is this a uniquely federal issue, or a new concern for agency counsel in Texas? What law or policies restrict use of social media by Texas agencies?</p> <p>Steve Kosub, San Antonio Water System - San Antonio, TX</p>
10:30 am	Break

10:45 am 0.50 hr ethics	<p>Data Breaches</p> <p>Best practices for avoiding breaches and addressing them when they occur.</p> <p>Claudia V. Escobar, Texas Department of Information Resources - Austin, TX April G. Griffin, Office of the Attorney General - Austin, TX</p>
11:15 am 0.50 hr ethics	<p>Impaired Attorneys and the Texas Lawyers' Assistance Program</p> <p>Learn about the lifesaving services of the Texas Lawyers Assistance Program, and the Sheeran Crowley Memorial Trust, which assist lawyers, judges and law students who are dealing with substance abuse and/or mental health disorders. These disorders can impact a law practice—hear about services available to restore the lawyer's life and practice to one of the highest ethical standards.</p> <p>Allan K. DuBois, Immediate Past President, State Bar of Texas - Austin, TX</p>
11:45 am 0.50 hr	<p>Agency Spotlight: Employees Retirement System of Texas (ERS)</p> <p>Hear an overview of current activity at ERS, whose mission is to provide competitive benefits in support of the State of Texas workforce. The ever-changing benefits and budget landscape offers continual challenges in meeting this mission, with real impacts to employees and their families.</p> <p>Porter Wilson, Executive Director, Employees Retirement System of Texas - Austin, TX</p>
12:15 pm In Austin Only	<p>Pick Up Lunch (Austin)</p> <p>Included in registration</p>

Friday Afternoon, Sep. 2, 2016

Presiding Officer:

James W. Checkley Jr., Cross Texas Transmission, LLC - Austin, TX

LUNCHEON PRESENTATION

12:35 pm 0.50 hr ethics	<p>Pro Bono Opportunities</p> <p>Learn about the advocacy and volunteer opportunities at Disability Rights Texas (DRTx), the federally-designated protection and advocacy organization for the State of Texas. Hear about the services available to Texans living with disabilities and the pro bono volunteer lawyer opportunities to work on DRTx cases.</p> <p>Cicely C. Reid, Disability Rights Texas - Houston, TX</p>
1:05 pm	<p>Break</p>
1:20 pm 0.50 hr	<p>The Meaning of Inaction</p> <p>Explore the concept of legislative acquiescence in Texas law.</p> <p>Hon. Lesli Ginn, State Office of Administrative Hearings - Austin, TX</p>

1:50 pm
0.50 hr

Agency Deference at the Texas Supreme Court

An overview of the Court’s view of agency deference and the interplay between how the Court construes statutes and when it defers to agencies.

James E. Davis, Office of the Attorney General - Austin, TX
Brantley D. Starr, Office of the Attorney General - Austin, TX

2:20 pm
0.50 hr

Forcing the Agency’s Hand: Right to Final Agency Action and Judicial Review of Temporary Suspension Orders post-Wiseman

Analyze the exhaustion of administrative remedies doctrine as applied to temporary agency actions such as temporary suspensions, the practical effects, such as an elongated suspension period, of temporary agency action, and the right of the licensee to appeal such actions prior to a final agency order post the *Wiseman* appellate decision.

Dan Lype, Leichter Law Firm - Austin, TX
Rodney Montes, Montes Law Practice - Austin, TX

2:50 pm
1.00 hr

Judicial Panel

An unscripted round-robin discussion.

Moderator:

Hon. Suzanne Formby Marshall, State Office of Administrative Hearings - Austin, TX

Panelists:

Hon. Jeffrey S. Boyd, The Supreme Court of Texas - Austin, TX

Hon. Jeffrey L. Rose, Third Court of Appeals - Austin, TX

Hon. Amy Clark-Meachum, 201st Judicial District Civil Court - Austin, TX

3:50 pm

Adjourn