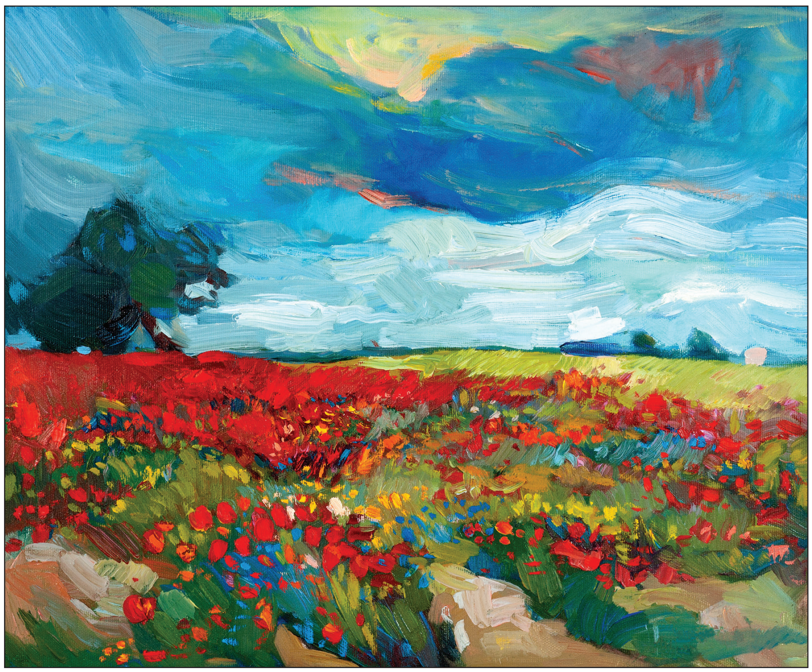
THE UNIVERSITY OF TEXAS SCHOOL OF LAW

THE WEALTH MANAGEMENT AND TRUST DIVISION
OF THE TEXAS BANKERS ASSOCIATION

13TH ANNUAL CHANGES AND TRENDS AFFECTING

SPECIAL NEEDS TRUSTS

A Guide for Attorneys, Financial Advisors and Trust Officers



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THURSDAY MORNING, FEB. 9, 2017

Presiding Officer:
Renée C. Lovelace, The Lovelace Law Firm, P.C., Austin, TX

9:30 a.m. Registration Opens
Includes light refreshments.

10:20 a.m. Welcoming Remarks

10:30 a.m. 1.00 hr

Special Needs Trusts: Decision Tree Analysis
Learn how to utilize a decision tree approach to ask and answer key questions concerning a client's need for a special needs trust, and if one is needed, which type of special needs trust is the best choice.

Craig C. Reaves, Reaves Law Firm, P.C., Kansas City, MO

11:30 a.m. 1.00 hr | .50 hr ethics

Maximizing Public Benefits
Review the fundamental rules and professional responsibilities every special needs attorney and trust officer should understand to protect eligibility of a trust beneficiary for SSI and Medicaid. Hear an update on recent SSI developments with a focus on trust policy; and an introduction to other important means tested benefits, including Medicaid waiver programs.

H. Clyde Farrell, Farrell & Pak PLLC, Austin, TX
Christina Lesher, The Law Office of Christina Lesher, PC, Houston, TX

12:30 p.m. Pick Up Lunch
Included in registration.

THURSDAY AFTERNOON

Presiding Officer:
Renée C. Lovelace, The Lovelace Law Firm, P.C., Austin, TX

LUNCHEON PRESENTATION

12:50 p.m. .75 hr ethics

Ethical Issues in Joint Representation
In this interactive presentation, examine the ethical issues that occur with multiple clients. Through hypothetical scenarios, learn how to spot issues and determine a resolution with client identification, conflicts of interest, and clients with diminished capacity.

Rebecca C. Morgan, Stetson University College of Law, Gulfport, FL

1:35 p.m. Break

1:50 p.m. .50 hr

Property Code vs. Estates Code: Which is Appropriate When Creating Your SNT?

Holly J. Gilman, Gilman & Associates, P.C., Austin, TX

2:20 p.m. .50 hr

Court Accountings for Trusts Established Under Chapter 1301 of the Texas Estates Code
Trusts established under Chapter 1301 of the Texas Estates Code generally require the filing of court accountings "in the same manner and form that is required of a guardian of the estate." Understand the basic requirements of such accountings, including both annual and final accountings, as well as when to seek court permission in advance for unusual or large disbursements, rather than surprising the court at the time of the accounting. Are there situations where a court accounting is not required on a 1301 Trust? Is the cost and hassle of a court accounting a reason to consider alternatives to a 1301 Trust? And are there things that a trustee can do to make the court accounting process proceed in a cost-efficient and timely manner?

Scott Stebler, Stebler & Sulak, PLLC, Austin, TX
Sarah Sulak, Stebler & Sulak, PLLC, Austin, TX

2:50 p.m. .75 hr

Maintaining SSI Eligibility Once the SNT is Created
Mission control: We have a trust! And the beneficiary has certain disabilities. How do you maintain eligibility and still provide quality of life distributions? Explore best practices and strategies for you and your client, including an initial meeting to set goals and control expectations, documenting the file with court orders and agency correspondence regarding payment of subrogation liens, obtaining a copy of the notice of change of circumstance (e.g., existence of a trust) that was filed with the relevant agencies, tips for establishing "safety nets" prior to reporting, sample notice language, potential distributions, and much more.

Patricia F. Sitchler, The Law Office of Patricia Flora Sitchler, La Vernia, TX
Nancy Sosa, Cadence Bank, Austin, TX

3:35 p.m. Break

3:45 p.m. .50 hr

SSA Ethical Rules: Mountains or Molehills
Hear a discussion on the Social Security Administration's real-life approach to whether fee approval is needed for preparing SNTs (a molehill) and whether trustees can pay family members to care for their beneficiaries (a mountain).

Constance R. Somers, Law Office Of Constance Somers, San Antonio, TX

4:15 p.m. .50 hr

View from HHSC
A discussion of current issues and trends from the Texas Health and Human Services Commission.

Shari L. Nichols, Texas Health and Human Services Commission, Austin, TX

4:45 p.m. .50 hr ethics

A HIPAA Compliance Guide

Texas House Bill 300 expands the definition of "a covered entity" to *any person* who comes into possession of protected health information. Review the top issues and problems in previous investigated cases and explore the corrective actions taken to avoid fines and penalties from the Department of Justice and/or the Texas Attorney General's Office.

Aleida Villarreal, Law Office of Aleida A. Villarreal, San Antonio, TX

5:15 p.m. **Adjourn to Reception**

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Frost BANKING INVESTMENTS INSURANCE

5:15 p.m. – 6:15 p.m.

Join program faculty and attendees for drinks and hors d'oeuvres.

FRIDAY MORNING, FEB. 10, 2017

Presiding Officer:
Peyton Taylor, Texas Bankers Association, Austin, TX

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .75 hr

Case Law Update

Review significant cases from the past year, including trends represented in those cases and suggestions for attorneys working with special needs clients.

Elisa Dillard Rainey, Rainey & Rainey, Attorneys at Law LP, Waco, TX

9:15 a.m. .75 hr | .25 hr ethics

Representing Parties in Supported Decision-Making Agreements

Hear about practical issues attorneys and individuals face when using the new Supported Decision-Making Agreement as an alternative to guardianship. Learn about the types of clients who have not only signed but used a Supported Decision-Making Agreement ("SDMA"), and in what situations SDMA's worked or did not work. Explore ideas about using the SDMA to deal with third parties, and what releases may enhance third parties' cooperation. Review ethical issues, such as identifying the client, determining client capacity, and whether the supporter owes a fiduciary duty toward the individual with disabilities.

Tresi Moore Weeks, The Weeks Law Firm, Plano, TX
Richard Lavallo, Disability Rights Texas, Austin, TX

10:00 a.m. **Break**

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10:15 a.m. 1.00 hr

Getting It from the Source: SSA Regional Trust Lead Presentation Regarding SSI Trusts

A discussion with the Regional Trust Lead on the regional centralization of the SSI trust review process, including key players and their roles and the handling of reopenings and appeals. Plus, hear the newest developments in the review of SNTs, including the latest policy clarifications regarding trusts and manual notices, and the 90-day amendment period with a regional chief counsel opinion.

Commentator:
Pi-Yi Mayo, Law Office of Pi-Yi Mayo, Baytown, TX

Speaker:
Amanda Flood, U.S. Social Security Administration, Dallas, TX

11:15 a.m. 1.00 hr

Working with SSA Part II: Updates, Practice Tips, and More

The Social Security Administration continues to implement changes to its trust review program and controls on the administration of Special Needs Trusts when SSI is involved. Hear tips on communicating with the SSA, the latest policy changes, techniques for avoiding problems, and what we should expect in the future.

Neal Winston, Winston Law Group, LLC, Somerville, MA

12:15 p.m. Pick Up Lunch

Included in registration.

FRIDAY AFTERNOON

Presiding Officer:
Patricia F. Sitchler, The Law Office of Patricia Flora Sitchler, La Vernia, TX

LUNCHEON PRESENTATION

12:35 p.m. .75 hr

Advising and Distribution Plans

Explore how creating a distribution plan for a special needs trust can be a good tool to coordinate the activities of the SNT management team. Discuss the advantages of offering distribution advisement services, which can be a good source of sustainable revenue, and can assist the law firm to better serve the beneficiary in identifying problems before they happen and acting quickly to minimize disruption of benefit eligibility if threatened.

Stephen W. Dale, The Dale Law Firm, PC, Pacheco, CA

1:20 p.m. **Break**

1:35 p.m. .75 hr

Decanting and SNTs

The trust instrument actually governing administration in a particular instance may be less than ideal. Whether it is important to add specific "special needs" provisions, or to limit trustee discretion, or to provide for trustee succession—or any of a host of other changes that need to be considered—decanting, trust modification, and trust reform are often helpful concepts to master and apply capably.

Robert B. Fleming, Fleming & Curti, PLC, Tucson, AZ

2:20 p.m. .75 hr

Crowdfunding: Manna from Heaven, or Disaster in the Making?

The road to ineligibility is paved with good intentions. Crowdfunding sites (GoFundMe, Indiegogo, Kickstarter, to name a few) gather thousands and even hundreds of thousands of dollars for people in distress, including those with disabilities. What happens when public benefits are involved? How can SNT attorneys pre-plan or crisis plan for beneficiaries—and can SNTs play a role? ABLE accounts? Discuss our latest challenge: planning for the crowdfunding beneficiary.

Mary Alice Jackson, Mary Alice Jackson, P.C., Austin, TX

3:05 p.m. .50 hr

ABLE: Practical Applications

ABLE Accounts are now available across the country. Through a series of case studies, review the advantages of this new tool and how it can work with a special needs trust, and learn how to use this new tool to better serve the beneficiary and enhance the special needs trust practice. Plus, explore how to partner with disability organizations and provide education in their communities about both ABLE Accounts and special needs trusts.

Stephen W. Dale, The Dale Law Firm, PC, Pacheco, CA

3:35 p.m. **Break**

3:45 p.m. .50 hr

Transitioning the Adult Disabled Child

Understand the use of the Pickle Amendment for an adult disabled child to obtain medicaid benefits.

Bryn A. Poland, Law Office of Pi-Yi Mayo, Baytown, TX

4:15 p.m. **.50 hr ethics**

Identifying Financial Exploitation

Financial scams are getting more sophisticated every year. Strangers, caregivers, and even family members sometimes target the accounts of people with cognitive impairments. Learn how to identify financial exploitation and options to prevent it.

Leah Cohen, arrangeCARE, Austin, TX
Michael J. Curran, Michael Curran, PC, Austin, TX

4:45 p.m. **.50 hr**

SNT Modifications and Reformations

Discuss the objective of avoiding SNT modifications when possible, the reasons why modifications or reformations promote a trust grantor's intent, and how an attorney should proceed with the analysis and steps.

Renée C. Lovelace, The Lovelace Law Firm, P.C., Austin, TX

5:15 p.m. **Adjourn**

ACCREDITATION

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.75 hours, of which 2.50 credit hours will apply to legal ethics/professional responsibility credit.

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Advance Preparation: None

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13TH ANNUAL

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Special Room Rate: $199
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KEY DATES

February 1, 2017
last day for early registration
add $50 for registrations
received after this time

February 3, 2017
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February 6, 2017
last day for cancellation (partial refund)
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February 9, 2017, 10:20 a.m.
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