THE UNIVERSITY OF TEXAS SCHOOL OF LAW

THE WEALTH MANAGEMENT AND TRUST DIVISION
OF THE TEXAS BANKERS ASSOCIATION

12TH ANNUAL CHANGES AND TRENDS AFFECTING

SPECIAL NEEDS TRUSTS

A Guide for Attorneys, Financial Advisors and Trust Officers

February 4–5, 2016
Radisson Hotel and Suites Downtown ▪ Austin, Texas

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THURSDAY MORNING, FEB. 4, 2016

Presiding Officer:
Patricia F. Sitchler, The Law Office of Patricia Flora Sitchler, San Antonio, TX

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

10:20 a.m. Welcoming Remarks

10:30 a.m. 1.00 hr

How to Make a Trust a Special Needs Trust

Learn what is required for a trust to be a "special needs trust," what clauses are important to include in the trust document, and which standard clauses should be left out.

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

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

Maximizing Public Benefits

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; an update on recent SSI developments with a focus on trust policy; and an introduction to other important means-tested benefits.

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

LUNCHEON PRESENTATION

12:50 p.m. .75 hr

Case Law Update

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

Rebecca C. Morgan, Stetson University College of Law, Gulfport, FL
Elisa Dillard Rainey, Rainey & Rainey, Attorneys at Law LP, Waco, TX

1:35 p.m. Break

1:50 p.m. .50 hr

Medicaid Planning for Kids

Examine Medicaid benefits available to children with disabilities and to children of needy families, learn planning techniques that can be implemented to protect both types of Medicaid benefits, and evaluate possible trust distributions with a focus on providing the highest quality of life for these little ones.

Christina Lesher, The Law Office of Christina Lesher, PC, Houston, TX

2:20 p.m. .50 hr

Texas Health and Human Services Commission Update

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

2:50 p.m. .75 hr | .25 hr ethics

The 3 As: Accessible, Affordable, and Available Healthcare Resources

Blending choice, private, public, and community resources into obtaining healthcare for our clients continues to be a daunting set of tasks and changes regularly. Explore some examples of the choices clients must make to obtain and maintain their health from the attorney, trustee, and care manager perspectives.

Leah Cohen, arrangeCARE, Austin, TX
Anna María Méndez, Cadence Bank, Austin, TX
Tresi Moore Weeks, The Weeks Law Firm, Plano, TX

3:35 p.m. Break

3:45 p.m. 1.00 hr

Working with SSA and the Regional Trust Reviewer Teams

Hear representatives of SSA's Regional Trust Reviewer Team walk through the process of Initial Trust Review and subsequent reviews, identify key players and their roles during the process, and take you through the steps to request reopening prior to formal appeal. Plus, gain insight into Regional Counsel Opinions on amending trusts, including some of the most common mistakes reviewers see.

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

Speakers:
Amanda Flood, U.S. Social Security Administration, Dallas, TX
Dana Marquez, U.S. Social Security Administration, Dallas, TX

4:45 p.m. Break

5:00 p.m. .75 hr

Special Needs Trusts and the New SSA Trust Review Procedures

We may have gotten more than expected when we asked the SSA to better train their representatives to review special needs trusts. Old trusts that have previously passed review are now being retroactively rejected, and every detail of the creation, funding, and administration of an old or new trust must pass strict and sometimes redefined SSA policy interpretations for compliance. In addition, the agency is often not telling us why the trusts are rejected nor how they can be cured. Gain insight into the current state of the advocates' concerns, what to expect, and how best to handle the trust review process.

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

5:45 p.m. Adjourn to Reception

5:45 p.m. – 6:45 p.m.

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

FRIDAY MORNING, FEB. 5, 2016

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

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:00 a.m. .50 hr

Supported Decision-Making: What the New Law Could Mean for Your Clients

A look at recently enacted Texas Estates Code Chapter 1357, the Supported Decision-Making Agreement Act, with a discussion of the potential benefits as well as the possible concerns or risks that the law introduces.

Tresi Moore Weeks, The Weeks Law Firm, Plano, TX
Renée C. Lovelace, The Lovelace Law Firm, P.C., Austin, TX

8:30 a.m. .75 hr

Legislative Update: The New Landscape in Texas

Legislative update, focusing on developments directly affecting trusts and trustees.

Craig Hopper, Hopper Mikeska, PLLC, Austin, TX

9:15 a.m. .75 hr

Special Needs Trusts and Tax Planning

Review the income, gift, and estate tax rules that impact first-party and third-party special needs trusts, paying particular attention to the Grantor Trust income tax rules, qualified disability trust rules, and designating a first and third-party SNT as a beneficiary of a qualified retirement account.

Bradley J. Frigon, Law Offices of Bradley J. Frigon, Englewood, CO

10:00 a.m. .50 hr | .25 hr ethics

IRAs and SNTs: From the Ground Up

Easing into tax issues, understand the differences between "designated" and "mere" beneficiaries, as well as SNT options.

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

10:30 a.m. Break

10:45 a.m. .75 hr

The Texas ABLE Act: What You Need to Know

Explore the ABLE Act with illustrations on useful opportunities to combine this type of savings tool with an SNT. Review the recently passed Texas ABLE Act statute with a focus on the opportunities for SNT practitioners to educate their communities on the need for, and the range of, additional estate planning vehicles. Lastly, in light of the Texas ABLE Act providing SNT practitioners with an unprecedented opportunity to collaborate with key disability organizations in Texas on practical implementation and policy issues, hear from a staff member of one of Texas's largest and oldest cross-disability organizations—available to answer questions and to provide practitioners with guidance and opportunities for disability community involvement.

Stephen W. Dale, The Dale Law Firm, PC, Pacheco, CA
Chris Masey, Coalition of Texans with Disabilities, Austin, TX

11:30 a.m. .75 hr

Veterans' Benefits and SNTs

Explore the elaborate system for the award and review of veterans' benefits under Title 38 of the United States Code and discover how the availability of such benefits ties into planning for the disabled client, including the use of SNTs.

Michael P. Allen, Stetson University College of Law, Gulfport, FL

12:15 p.m. Pick Up Lunch

Included in registration.

FRIDAY AFTERNOON

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

LUNCHEON PRESENTATION

12:35 p.m. 1.00 hr | .50 hr ethics

Hindsight is 20/20: Getting Families to Spend More Time Planning Ahead

Denying a request for a distribution is one of the hardest things that counsel and trustees of SNTs deal with regularly. Explore the value of creating a plan (ideally) before the trust is funded—both to manage expectations of the beneficiary and family members, and to avoid unpleasant surprises—and consider strategies for motivating long-term planning for a beneficiary of a third-party trust that will not be funded immediately, usually, in estate planning for the parent(s) of a person with a disability.

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

Panelists:
Matthew J. Badders, Frost Bank, San Antonio, TX
H. Clyde Farrell, Farrell & Pak PLLC, Austin, TX
Nancy Sosa, Cadence Bank, Austin, TX
Scott Stebler, Stebler & Sulak, PLLC, Austin, TX

1:35 p.m. Break

ACCREDITATION

CLE CREDIT

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 14.00 hours, of which 2.50 credit hours will apply to legal ethics/professional responsibility credit.

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Program Level: Overview
Advance Preparation: None

CFP CREDIT

Certified Financial Planner (CFP) CE Credit approval expected.

1:50 p.m. 1.00 hr

Paying Caregivers

Consider the decisions and details involved when a special needs trust employs caregivers for the beneficiary. Issues discussed include hiring a family member, deciding whether the caregiver is an independent contractor or an employee, withholding of FICA and income taxes, worker's compensation and unemployment taxes, and establishing a formal Caregiver Employment Agreement.

Katherine N. Barr, Sirote & Permutt, P.C., Birmingham, AL
Scott Stebler, Stebler & Sulak, PLLC, Austin, TX

2:50 p.m. .75 hr

A Key Player in Winding Up Litigation: The SNT Attorney

Understand the value of consulting with an SNT attorney who works with the personal injury attorney and their clients—explaining the breadth of supplemental security income and Medicaid benefits, the value of an SNT, potential Medicare set-asides, and structured settlement annuities—in order to avoid unintended consequences and potential loss of government benefits.

Patricia F. Sitchler, The Law Office of Patricia Flora Sitchler, San Antonio, TX

3:35 p.m. 1.00 hr ethics

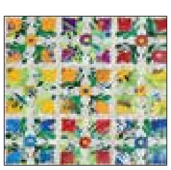
"Yes, I *Am* Your Client!": Ethical Issues in SNT Planning

The most important issue for special needs attorneys is not "who is my client," but to recognize "who *thinks* he is my client." Timing is a key component to the mix. Explore the questions to ask yourself and other parties when accepting a new special needs matter.

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

4:35 p.m. **Adjourn**

ABOUT THE COVER



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REASONS TO ATTEND SPECIAL NEEDS TRUSTS

- **A special presentation** from the Social Security Administration's Regional Trust Review Team with must-have insight on the review process and opinions on amending trusts; plus Neal Winston with advice and tips for practitioners in handling the trust review process
- **Updates on recent Texas legislation**, including the possible impacts of the new Supported Decision-Making Agreement Act, and exploration of the Texas ABLE Act with Stephen W. Dale
- **A review of special needs trusts basics**, including essential drafting tips and clauses from Craig C. Reaves; and the fundamental rules for protecting your client's eligibility for SSI and Medicaid
- **Issues and trends** from the Texas Health and Human Services Commission (HHSC)
- **Discussion** on SNTs and tax planning, plus specific guidance on IRAs and SNTs
- **An exploration of veterans' benefits** and their impact on SNT planning
- **An in-depth look** at the value of consulting with an SNT attorney in winding up PI litigation to preserve benefits and avoid unintended consequences with Patricia F. Sitchler

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AUSTIN

February 4–5, 2016

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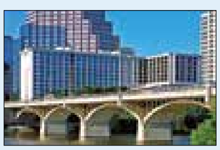

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add $50 for registrations
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January 29, 2016
last day for cancellation (full refund)

February 1, 2016
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February 4, 2016, 10:20 a.m.
Conference begins

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