

Standing Committee Objectives

submitted by
Committee Chairs through September 2009

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ADMINISTRATION OF RULES OF EVIDENCE

- Attorney/client Privilege and Work Product: limitations on waiver. The FRE adopted similar changes this year. The Committee is reviewing those changes and will make proposals for revision of TRE 502 or 511.
- Unsworn Declarations—The Committee recommended last term the adoption of a rule permitting use of unsworn declarations, along with a proposed amendment to the criminal code to provide for perjury penalties for false declarations, as is currently provided for inmates. In response AREC was advised to draft proposed statutory amendments for both the Criminal Code and the Civil Practice and Remedies Code so that the purpose could be accomplished consistent with existing statutory framework.
- Evidence of previous sexual conduct in civil cases—AREC has been asked to study adoption of proposed Rule 412, limiting admissibility of a party or witness' previous sexual conduct except in limited circumstances.

- Production of witness statements in criminal cases—AREC has been asked to study whether Rule 615 should be amended to provide for earlier required prosecutor tender of witness statements.
- The AREC Technology Subcommittee continues to review whether the TRE should be amended to address electronic evidence differently in terms of best evidence and authentication issues.
- AREC has learned that the FRE are being restyled in full. A subcommittee is being formed to study whether a similar wholesale restyling of the TRE is warranted.

Administration of Rules of Evidence's Projects/Objectives:

- Attorney/client privilege and work product; limitations on waiver. AREC completed its initial recommendation for adoption of amendments TRE 502 in light of the new FRE 503. A few minor issues were raised at our last meeting that should be resolved by the January 2010 meeting so that the final rule proposal can be forwarded with full committee recommendation.
- Notarized Jurats—proposed Rule 1010—the committee's recommendation that Rule 1010 be adopted to permit unsworn declarations was rejected because there was not in place a statutory criminal penalty for violation. It was recommended that the project be revised to propose a statutory amendment rather than a rule adoption.

ADVERTISING REVIEW

- The committee meets monthly to review attorneys' submissions of advertisements and solicitations for pre-approval and upon filing, pursuant to the committee's internal operating rules and procedures. The Committee provides guidance to the bar regarding interpretation and implementation of Part VII of the TDRPC. Activities in pursuit of these goals include participation in MCLE activities, preparation of documents for posting on the State Bar website, and announcement of new interpretive comments. In addition, the committee stands ready to assist the State Bar Rules committee in its efforts to consider alignment of the Texas Disciplinary Rules of Professional Conduct with the ABA Model Rules of Professional Conduct.

Advertising Review's Completed Projects/Objectives:

- The committee, with staff, has developed speaking opportunities for committee members statewide during the coming year. The committee, with staff, is developing plans to prepare additional interpretive comments to the advertising rules for the further guidance of advertising attorneys. The committee expects to spend time analyzing ways in which social media including Facebook, Myspace and YouTube are implicated by the rules governing attorney advertising.

ANNUAL MEETING

- The Annual Meeting Committee will plan the 2010 Annual Meeting in Fort Worth. The meeting will take place on June 10-11. The committee hopes to plan the highest quality of CLE for members, offering dynamic speakers and diverse CLE tracks. Additionally, the meeting will offer an opportunity for leaders in the legal community to be recognized.

Annual Meeting's Completed Projects/Objectives:

- The Annual Meeting Committee met for the first time during September. Members received action items to complete by the next meeting in November.

CHILD ABUSE & NEGLECT

- Provide legal professional presentations on child abuse & neglect topics at two seminars: Robert O.

Dawson Juvenile Law Institute in February 2010 and the Advanced Family Law Course in August 2010.

- Analyze legislative issues in the present state of child protection laws, explore legislative initiatives that may need to be proposed as interim charges.
- Obtain state-wide nominees for the annual Fairy Davenport Rutland Award for Distinguished Service to Children and Families, select an attorney from the state-wide nominations, and present award at the Annual Advanced Family Law Seminar in August of 2010.
- Begin distribution of the Spanish version of the video on shaken baby syndrome and continue distribution of the English version to health care providers, schools, and other professionals by May 2010.
- Continue to work on publications to assist attorneys in child protection cases by August 2010.
- Develop and encourage training for attorneys in child protection cases, and, in particular, at the seminars for juvenile and family law at the dates listed above.
- Begin development of a web page for the Child Abuse Committee which provides general information and a link to resources by May 2010.
- Investigate issues in connection with fetal alcohol syndrome and projects which may provide greater community awareness of the impact of this syndrome on child abuse and neglect by May 2010.
- Promote pro bono representation related to child abuse cases through the Texas Lawyers for Children website and through National Adoption Day programs and other initiatives, possibly through presentations at the Bar Leaders Conference in 2010 and/or at CLE programs.
- Begin planning a state-wide child welfare law conference to be conducted in 2011.
- Suggest to the Texas Bar Journal having an issue devoted to issues concerning issues related to child abuse and child welfare by August 2010 and solicit or write articles for this issue if idea is accepted.
- Plan activities to celebrate the 25th anniversary of this committee, including inviting the founding members and other past members to attend a luncheon at the Advanced Family Law Conference in August 2010.

Child Abuse & Neglect's Completed Projects/Objectives:

- Provided legal professional presentations on child abuse & neglect topics at two seminars: Robert O. Dawson Juvenile Law Institute in February 2009 and the Advanced Family Law Course in August 2009.
- Analyzed legislative issues in the present state of child protection laws, explored legislative initiatives that were proposed during the 2009 legislative session, monitored legislation during the 2009 legislative session, provided support and resource witnesses when important bills were submitted before the House and Senate, summarized all child protection legislation passed during the 2009 legislative session and presented summary of legislative changes to the Bar at the 2009 Advanced Family Law course in August.
- Obtained state-wide nominees for the annual Fairy Davenport Rutland Award for Distinguished Service to Children and Families, selected an attorney from the state-wide nominations, and presented award at the Annual Advanced Family Law Seminar in August of 2009.
- Completed production of Spanish version of the video on shaken baby syndrome and continued distribution of Spanish and English versions of the video on shaken baby syndrome to health care

providers, schools, and other professionals.

- Continued to work on publications to assist attorneys in child protection cases by August 2009.
- Developed and encouraged training for attorneys in child protection cases, and, in particular, at the seminars for juvenile and family law at the dates listed above.
- Began design of a web page for the Child Abuse Committee to provide general information and a link to resources.
- Investigated issues in connection with fetal alcohol syndrome and projects which may provide greater community awareness of the impact of this syndrome on child abuse and neglect.
- Analyzed and identified ways to improve the legal representation of children and families in child abuse cases.
- Promoted pro bono representation related to child abuse cases through the Texas Lawyers for Children website and through National Adoption Day programs and made presentations about both projects at the Bar Leaders Conference in 2009.

CONTINUING LEGAL EDUCATION

- To review, discuss, and advise the TexasBarCLE and TexasBarBooks staff, regarding the needs of Texas lawyers for educational programs and publications across the spectrum of relevant subject areas and across the geographical diversity of the state. {Note: In order to involve each and every member of the CLE Committee in the activities of the committee there are, in addition to the Chair and Vice-Chair, four subcommittee chairs. The four subcommittees are: 1) Course Director Selection and Training; 2) Improving Written Materials; 3) Technology and Webcasts, and 4) Economics. Two general meetings of the committee will be held. The Chair and Vice-Chair will have teleconferences on a regular basis with the four subcommittee chairs. In turn, the subcommittee chairs will have regular teleconferences with their subcommittee members.
- To discuss and advise staff regarding new techniques and formats for educational products and publications, including technological methodologies.
- To review State Bar policies and procedures relating to publishing and CLE and to suggest to the Board Professional Development Subcommittee recommendations for changes.
- To review TexasBarCLE and TexasBarBooks financial statements and to make appropriate recommendations to the Board Professional Development Subcommittee and to the Board Budget Committee regarding adequate funding for CLE and publishing activities. To recommend appropriate projects to be funded from the Bar's Book Fund.
- To review and make recommendations regarding the availability of CLE and publications from other commercial, bar association, and non-profit organizations in Texas, including sections of the State Bar, and to advise staff about how (a) to make the best of CLE and publishing opportunities and (b) to minimize destructive competition.
- To consider and make recommendations about development of joint educational projects with other CLE and publishing organizations.
- To review and recommend changes in mandatory CLE rules that would improve lawyers' access to high-quality CLE, such recommendations to be forwarded to the MCLE Committee.

Continuing Legal Education's Completed Projects/Objectives:

- With the advice and oversight of the CLE Committee, TexasBarCLE and TexasBarBooks met aggressive budget and activity goals set for FY 2008-09.

COUNCIL OF CHAIRS

- The 2009-2010 Council of Chairs will address issues that are critical to the State Bar of Texas, as varied as new attorney mentoring, PLI disclosure, and how CLE is delivered to our members. In addition, the Council of Chairs will continue to espouse issues that are core values to the State Bar of Texas, such as diversity and inclusion.
- As was started in the 2008-2009 version of the Council of Chairs, we will implement the suggestions regarding overhauling the meeting structure to provide more value to sections, and to encourage greater and more consistent attendance by all section chairs. To the end, changes have been made both in the structure of the meetings (to promote greater section interaction, including in social settings) and in the invited speakers (to broaden the speakers that address the Council). The goal is to encourage and solicit more ideas and suggestions from the “more populated side” of the podium.
- A secondary goal is to assist sections in providing greater value to their members by establishing regular and ongoing “best practices” programs at Council meetings. For example, sharing information on recommended meeting locales, “best of class” By-Laws, and membership retention.

Council of Chairs’ Completed Projects/Objectives:

- The Council of Chairs has convened once in 2009, and the feedback was overwhelmingly positive regarding the amount of time dedicated to hearing suggestions from the members.

COURT RULES

- **Local Rules Initiative:**
 - Load available Local Rules on OCA website, if possible by December 31, 2009.
 - Explore feasibility of gathering materials relating to the jurisdiction of the trial-level courts for inclusion on the Local Rules website.
 - Explore feasibility of obtaining Standing Orders of trial-level courts and providing them to OCA for inclusion on Local Rules website; also explore feasibility and methodology for obtaining periodic updates of Standing Orders:
 - Gather authority for Local Rules, whether this consists of Supreme Court orders or prior statutory approval, and submit same to OCA for inclusion on Local Rules website.
 - Consider whether the Committee should study various counties’ Local Rules to determine whether there is a sufficiently broad consensus regarding some provisions that they should be considered for addition to the TRCP?
- **Pretrial Rules Subcommittee:**
 - TRCP 21a: Consider whether TRCP 21a should be amended with respect to various service issues. Specifically, if service is made via multiple methods (e.g., fax and mail), should the recipient receive the benefit of the 3-day provision for fax service? Should the 3-day provision apply to fax service at all? Should TRCP 21a authorize service via email?
 - Unsworn declarations: Continue to study and monitor issue and consider whether or not they can properly be addressed by rule, as opposed to statute.

- Third Party Practice: Consider whether the Committee should recommend clarifications to the rules governing third party practice, such as the application of Rule 11 to non-parties.
- Matters to be considered jointly because of their commonality:
 - Whether the Committee should consider a rule governing jurisdictional pleas.
 - Whether the Committee should consider clarifying the distinction between traditional and "no-evidence" summary judgment motions in TRCP 166a, or consider something analogous to a special exceptions rule for MSJs.
 - Whether the Committee should consider adoption of the FRCP 12(b)(6) standard (dismissal for failure to state a claim on which relief can be granted) into the TRCP.
- **Discovery Rules Subcommittee:**
 - Document retention: Address possible rules related to document destruction and retention during litigation and litigation holds.
 - Electronic Discovery: Review of discovery rules in light of *In re Weekly Homes, L.P.*
 - Disclosures: Address desirability of specific disclosure requirements for particular areas of the law such as family law matters.
 - Disclosures: Whether to adopt a rule (or disclosure rule amendment) requiring the disclosure of the citizenship all members of a plaintiff unincorporated association, to avoid the need for formal discovery relating to citizenship for purposes of possible removal.
 - Experts: Review the rules relating to expert witness expenses and disclosure and make appropriate recommendations.
- **Trial Subcommittee:**
 - Dismissals: Address desirability of revising rules relating to dismissals for failure to prosecute.
 - Supersedeas: Address possible rule relating to supersedeas issues that have arisen before the state trial courts. The Trial Subcommittee will coordinate its efforts on this issue with Judge Kurita.
- **Appellate Rules Subcommittee:**
 - Parental-rights termination issues: Continue to monitor this matter and address possible rulemaking issues as they arise.
 - Dispositive motion rule proposals: Coordinate efforts with the Pretrial Subcommittee as indicated in (B.4.a-c) above.

Court Rules' Completed Projects/Objectives:

- We have continued to update our Court Rules Committee website.
- We have obtained virtually all of the Local Rules promulgated pursuant to Tex.R.Civ.P. 3a by the Texas district, family, and probate courts. With the help of the Office of Court Administration, we have created a web page through which these Local Rules will be available to state jurists and practitioners (in some instances there will be links to existing state court websites; in others, copies of the Local Rules will be loaded onto the OCA server). When activated in late 2009 or early 2010, the web page will be accessible through both the Texas Supreme Court and State Bar of Texas web sites.

CRIME VICTIMS

- Educate attorneys, judges, and others about victim services and compensation through PowerPoint presentations at State Bar section meetings, local bar association meetings, and meetings of associations that provide training for criminal justice professionals (primarily judges and attorneys).
- Educate attorneys and others about victim services and compensation through the Committee's web page on the State Bar's website.
- Educate attorneys and others about victim services relating to specific groups of victims (such as child victims and sexual assault victims) through TYLA's 10-Minute Mentor program.

Crime Victims' Completed Projects/Objectives:

- January 2009 - Victim Rights' Presentation to Corpus Christi Bar Association
- January 2009 - Information included in the Asian American Bar Association newsletter about Victims' Rights
- January 2009 - Legal Aid webinar on Victims' Rights
- February 2009 - Four TYLA 10 Minute Mentor presentations recorded on the following: Family Violence, Assisting Sexual Assault Victims, Child Victims of Crimes, and Federal Crime Victims
- June 2009 - Crime Victims Rights and Compensation Presentation to Texas Municipal Judges Association
- July 2009 - Victims Rights Presentation to the Houston Metropolitan Paralegal Assoc.

DISABILITY ISSUES

- Sign Up Fund—This last year marked the end of the Sign Up Fund; however, the committee plans to explore and enlist the help of other organizations such as private foundations, etc., to create a permanent and on-going Sign Up Fund.
- Mentorship Program—The committee plans on continuing its efforts to establish a mentor/mentee program available to law students with disabilities. This year, we hope to coordinate efforts with President Roland Johnson's mentorship program.
- CLE—The committee hopes to continue to assist the CLE Division of the State Bar in holding the annual program on special education & juvenile justice issues; in addition, the committee plans to co-sponsor a series of webcasts on Americans with Disabilities Act Amendments issues.
- Lawyer Survey— With the help of the State Bar's Research and Analysis division, the committee is in the final stages of distributing its survey to the state bar membership and this year, hopes to have concrete data regarding the membership's needs in relation to the role and purpose of the committee. We hope to use this data to plan and implement committee projects responsive to these needs.
- Mental Health Awareness Project—This year, the committee plans to coordinate efforts with the State Bar President Elect in his initiative to expand awareness on mental health issues impacting the membership, families, and the public, in general.
- Attorney Recognition/Spotlight—Last year, the committee initiated efforts to identify and actively seek out different forums to ensure the recognition of attorneys who have done significant disability work or whose work has advanced the rights of Texans with disabilities. We hope to continue those efforts this year.

- Committee Website-this year consistent with the committee's plans to establish its mentor/mentee program, we hope to develop a mentor/mentee page on the website.
- Public Awareness Project-the committee hopes to make headway on this project this year and engage in an active campaign to bring information on the committee to local bar associations; disability advocacy groups; and the public in general via email alerts, existing blogs, or other legal publications.

Disability Issues' Completed Projects/Objectives:

- Sign Up Fund—This year marked the end of this project as all monies have been or are in the process of being fully expended. To complete the project, the committee made these funds available in lump sum allotments to all the metropolitan bar associations. Email announcements were sent out inviting them to apply for these funds. These funds went to very worthwhile events as some of these funds were used to provide sign language interpreters to individuals attending legal rights clinics. The Fund was also successful in assisting attorneys who incurred sign language interpreting costs but more importantly in assuring effective communication in their representation of individuals who are deaf or hard of hearing.
- Mentorship Program—Committee members continued to explore ways to enlist mentors to assign to students with disabilities needing guidance in navigating law school, the Bar, and the transition to practice. The committee drafted a short announcement which it now hopes to publish in its on-going efforts to recruit mentor volunteers. Committee members themselves served as mentors to students who contacted the committee seeking this assistance.
- CLE—Once again, the committee was actively involved in the CLE Division's conference planning committee for the Annual Conference on Special Education and Juvenile Justice Issues. The committee also continued discussions with the CLE Division to consider and plan a CLE event on the ADA Amendments Act of 2008.
- Lawyer Survey—This year, the committee got one step closer to its distribution of its survey to the state bar membership. It coordinated efforts with the State Bar's Research and Analysis Division to formulate a survey that could be circulated and completed on-line.
- Attorney Recognition-In its efforts to promote the recognition of attorneys doing significant work to advance the rights of Texans with disabilities, the committee took the lead in nominating some outstanding attorneys for ABA committee slots and ABA awards. Although the committee's nominees were not selected, the committee continued to explore other avenues/forums to promote this effort.
- Committee Website-The committee continued to address inquiries coming through its web-based question and answer segment.

HISTORY & PRESERVATION

- The Committee will continue its partnership with the Texas General Land Office in sponsoring exhibits in the Texas Law Center on important events and individuals in Texas legal history. The exhibit entitled, "Taking the Bull By the Horns: Charles Rogan and the \$7 Billions Fight Over Public School Land Minerals," debuted at the 2009 Annual Meeting, and will be displayed in the Texas Law Center beginning in the Fall, 2009 through Spring, 2010.
- The Committee began the process of obtaining an official Texas Historical Commission marker to honor the lawyers who died at the Battle of the Alamo. After being unable to complete the project in the 2008-2009 term, Committee members have come to understand it will be a lengthy process involving the Bexar County Historical Commission, several offices of the City of San Antonio, and the Texas Historical Commission. The support of the County Historical Commission Chair has been obtained, a

preliminary site has been selected, and the proposal is winding its way through the normal process at the City. The Committee believes a realistic objective for this 2009-2010 year is the final approval by the City and the Texas Historical Commission. The marker will be dedicated in the following 2010-2011 year to coincide with the 175th Anniversary of the Alamo battle.

- The Committee is re-evaluating its approach to a legal history book project considering the appropriate scope of such a book, the state of the economy, and the costs of such a venture. Several proposals are under consideration, including a solid history of Texas law and also adding an historically themed child's coloring book and/or youth oriented book to the list of possible projects. The Committee anticipates making a final decision and developing a marketing and funding strategy by the 2010 Annual Meeting.
- As part of its strategy to encourage MCLE courses that recognize the importance of legal history, the Committee approved the sponsorship of one or more courses to be offered at the 2010 Annual Meeting. The Committee is working with several providers of historically themed courses approved in other states to tailor a course suitable for the Annual Meeting. The Committee also would encourage the easing of restrictions on accreditation of historically themed MCLE.
- The Committee approved the creation of a website to be associated with the State Bar website, and is in the process of working on the design and content to tell about important events and individuals in Texas legal history. The website will be up and running before the 2010 Annual Meeting.
- The Committee continues to encourage Texas law schools to offer legal history courses so that in providing historical perspective these courses can give students an appreciation of how current ideas about many legal issues have originated and developed. Committee members will continue to meet with deans of Texas law schools to get courses actually offered in the curricula.
- The Committee will continue working to place historical markers associated with the legal history of Texas and will continue to encourage and assist local and specialty bars in doing so.
- The Committee continues to encourage the publication of articles about different facets of Texas legal history in publications ranging from academic journals to law reviews to specialty legal periodicals to general interest publications.

History & Preservation's Completed Projects/Objectives:

- Because of the state of the economy, the Committee decided not to proceed with the book about the history of the Texas Bench and Bar with the particular author with whom the Committee had been working. This was an amicable decision by both parties, and the Committee recommends that the decision be formalized during this Bar year.
- In furtherance of the Committee's goal of encouraging Texas law schools to offer legal history courses, the deans of the University of Texas School of Law, Southern Methodist University School of Law, and Baylor Law School were contacted to ascertain their opinions.
- In partnership with the Texas General Land Office and the Texas Bar Historical Foundation, the Committee placed in the Texas Law Center during the 2008-2009 year an exhibit entitled "The Constitution of the Republic of Texas and Its Lawyer Founders." An article in the March, 2009 *Texas Bar Journal* showcased the exhibit for those who could not see it firsthand.
- Although begun in the 2008-2009 term, the placing of a Texas historical marker to honor lawyers who died at the Alamo could not be completed in one year due to the many requirements at multiple levels of government. Work, however, is progressing.
- The Committee continued its cooperative efforts with the Texas Bar Historical Foundation in collecting

records and artifacts of attorneys and jurists who have contributed significantly to the Bar. These artifacts and documents significant in Texas legal history thereby are preserved for future generations. It also has continued to lend support and guidance to the Gov. Bill and Vara Daniel Center for Legal History in its efforts to convert appropriate State Bar materials to an electronic digital format and make some available through a link to the State Bar website.

JURY SERVICE

- The purpose of this committee is to concern itself with improving the manner in which jurors are treated within the judicial process, including compensation; and to develop and implement programs to ensure broad citizen participation in and support for our jury system. The committee will prepare a recommendation to be submitted to the Bar's Board that would urge the adoption of a Juror's Bill of Rights. This year the committee will review and revise the proposal in light of legislation that was offered during the last legislative session and after that review has been accomplished.

Jury Service's Completed Projects/Objectives:

- Please see above

LAW FOCUSED EDUCATION

- Recruit teachers and participate in the *Play By The Rules Texas: Laws for Youth* Program.
- Make a presentation to a community group or local bar association about Law Focused Education programs and website.
- Serve as judges or facilitators for the We the People Competition on December 12, 2009
- Serve as Texas Citizen Bee Competition Site Coordinators or support personnel for the 2010 regional competitions starting in March, 2010.
- Continue to support the work of the Law-Related Education Department and the Law Focused Education, Inc. through recruiting speakers for institutes and editing of curriculum.

Law Focused Education's Completed Projects/Objectives:

- Review and edit *Play By The Rules Texas: Laws for Youth* Program
- Served as judges or facilitators for the *We the People* Competition on December 13, 2008

LAWS RELATING TO IMMIGRATION & NATIONALITY

- Seek funding and representation for detained children and families.
- Improve public safety by allowing drivers licenses for immigrants.
- Strive for quicker adjudication processing times from the US CIS and the Departments of Labor and State.
- Seek non-emergency health care options for immigrants and refugees.
- Help ProBAR obtain funding and volunteer lawyers to handle detained cases.
- Work to protect consumers from unauthorized practice of law and other schemes targeting immigrants.

- Promote fair immigration laws to reunite families and match immigrant workers with employers facing labor shortages.
- Continue liaison with the Department of State concerning new passport requirements.
- Participate in events related to the SBOT's "After the Bar" program.

Laws Relating to Immigration & Nationality's Completed Projects/Objectives:

- During the past year the Committee made strides in meeting and performing substantial work relating to the project goals. We met on three occasions and were able to produce results with respect to ProBAR recruiting as well as continuing more formal liaison with the Houston Passport Agency. Our committee hopes to work on each and every one of the projects/ goals listed above. The committee has a long history of active involvement by its members so completion or at least substantial work is anticipated in all of the areas.

LAWYER REFERRAL & INFORMATION SERVICES

- Prepare proposal for SBOT board consideration to address complaints of websites that function as lawyer referral services without complying with state law regulating such services, including the formation of a task force of relevant SBOT committees and sections.
- Prepare proposal to present to SBOT board for adoption of modest means panel to pair clients with income of 125-250% of the federal poverty guidelines with attorneys willing to work for \$65-\$100 per hour.

Lawyer Referral & Information Services Completed Projects/Objectives:

- Recommendation to SBOT board of directors requiring members of LRIS service to maintain professional liability insurance.
- Identified the categories of uncertified referral services that are the subject of most complaints (i.e., those that push business to participating firms, those whose membership is not open to all firms that wish to participate, and those that purport to rate attorneys without the attorney's consent).
- Determined that the problem of uncertified online referral services should begin with educating the bar, then warning those in violation, and finally referring violating attorneys to the State Bar general counsel.
- Attended local and state Unauthorized Practice of Law committees to obtain information about the participation of persons not licensed to practice law in the state of Texas in online referrals through referral services not in compliance with state statutes.
- Made preliminary decisions regarding the modest means panel proposal, including the maximum and minimum income for clients that may participate in modest means referral, determined maximum hourly rates that may be charged by attorneys participating in modest means referrals, retainer amounts that participating attorneys may accept, and procedures for verification of reported client income.

LAWYER'S ASSISTANCE PROGRAM

- **Due to the nature of the Committee and the services provided by the Committee, TLAP staff and volunteers, some of these projects are necessarily ongoing:**
 - Collaborate with SBOT President Elect, Terry Tottenham, to implement his presidential initiatives relating to TLAP issues: Development of DVD on substance use disorders and other issues facing lawyers in these tough economic times; produce TLAP presentations for every

TexasBarCLE event for 2010-2011; exploration of practice assistance support for lawyers in crisis; fundraising for Sheeran Trust, and networking with MH professionals and providers for expanded resources for Texas lawyers, judges and law students.

- Continue to provide confidential peer assistance and referrals to Texas lawyers, judges and law students who are challenged by substance use disorders, depression and other mental health disorders;
- Continue to increase awareness of TLAP solutions and services for mental health and substance use disorders through educational and individual outreach;
- Participate in monitor programs of Commission on Lawyer Discipline and the Board of Law Examiners, and other interested organizations by providing recruitment and training of monitors and completing an upgrade to drug screen protocols;
- Continue and expand outreach to judges to increase awareness of TLAP solutions and services;
- Continue and expand outreach to all Texas Law Schools, with special emphasis on orientation and professional responsibility classes;
- **Pursue interests of TLAP Sub-Committees on MH Initiatives, Fundraising, Monitoring, Presentations/Marketing, Law Schools and Judges, with special emphasis on SBOT president-elect initiatives:**
 - **MH Initiatives**- developing resources for lawyers returning to work after CD or MH treatment and continued support of support groups in Dallas and Houston and development of groups in Austin and San Antonio.
 - **Fundraising** – Assistance for fundraising for Texas lawyers' Concerned for Lawyers' Sheeran Trust.
 - **Monitoring** – Recruiting additional monitors for increased demand from CDC, maintaining monitor training protocols and developing general tips for success for monitors.
 - **Presentations/Marketing** – Assist in developing standard presentations for CLE events, help to recruit TLAP volunteers for speaking at variety of CLEs, assist in development of materials for Texas Bar Journal publications with special emphasis on September 2010 issue highlighting SBOT presidential initiatives and TLAP issues.
 - **Law School Outreach** – Assisting in developing standing relationships with Dean of Students at the 9 Texas law schools and developing and making presentations for law school orientations and PR classes; continued development of TLAP materials targeted for law students.
 - **Judges** – Maintaining judicial outreach initiatives; increasing number of judge volunteers; developing and implementing judicial educational outreach opportunities; supporting National Judicial Hotline utilizing TLAP Judges Hotline; and continued development of resources for judges.

Lawyers' Assistance Program Completed Projects/Objectives:

- Participation in peer assistance outreach to **533 lawyers** (55% Substance Use Disorders/45% MH Disorders). Additional assistance in education, coaching and crisis assistance to **224 concerned others**.
- Participation in **43 CLE presentations** by Staff and Volunteers.
- Help in marketing and distribution of approximately **900 DVDs**, "Practicing from the Shadows: Depression and the Legal Profession."
- **4 Judicial Outreach Initiative:** Email outreach and education/presentations offered for all Texas Judges about how TLAP can help lawyers and judges. Assist in developing articles for publication in *Texas Bar Journal*. Presentations made to judges in the following counties: Bexar, El Paso, Gregg, Harris, Nueces, Smith, Washington and Williamson.
- **Lawyers' Voices Project:** Participation in development of project: Audio clips on webpage of interviews with Texas lawyers about what it was like, what happened and what it's like now.
- Help in creation of **Houston Lawyers Forum on Depression:** A monthly support and educational meeting for lawyers with depression. Assistance in creation of **Houston Women Lawyers' Support group** – monthly support group meeting in Houston for women lawyers and law students with substance use and mental health disorders.
- **Monitoring support services:** Continuing support and monitoring for the Board of Law Examiners and Chief Disciplinary Counsel's Office

LEGAL SERVICES TO THE POOR IN CIVIL MATTERS

- Recommend nominees for Pro Bono Awards to SBOT Board
- Recommend legal services initiatives and explore funding for these initiatives
- Coordinate a Civil Gideon Forum with the Texas Access to Justice Foundation
- Develop a Civil Gideon survey to send to the judiciary
- Assist in the development of the State Bar's Pro Bono Survey
- Assist in the expansion of LiveHelp, an online service that allows low-income persons to obtain legal information from volunteer attorneys, to other areas of the state and in times of disaster, as needed

Legal Services to the Poor in Civil Matters' Completed Projects/Objectives:

- Researched pro bono policy
- Recommended award to recognize a pro bono coordinator to the SBOT Board

LEGAL SERVICES TO THE POOR IN CRIMINAL MATTERS

- Research and consider whether to propose solutions to educate court personnel and the public about the collateral consequences associated with a misdemeanor conviction.
- Identify existing indigent criminal defense awards and consider whether to propose new award to recognize a private practitioner who provided outstanding pro bono criminal defense representation to an indigent client.

- Finalize, publish, and disseminate *Guidelines for Counsel in Non-Capital Cases*.
- Feature the *Capital Counsel Guidelines* in criminal law related webcasts, trainings, and CLE courses.
- Identify existing problems within the juvenile justice system in Texas and consider whether to propose solutions to those problems.
- Continue State Capital Habeas Project.

Legal Services to the Poor in Criminal Matters' Completed Projects/Objectives:

- Completed second draft of *Guidelines for Counsel in Non-Capital Cases*.
- Provided TexasBarCLE with *Capital Counsel Guidelines* for incorporation into the 2009 Advanced Criminal Law Course.

LOCAL BAR SERVICES

- Enhance communication from committee members and SBOT leadership to constituents.
- Better coordinate with TYLA and Minority Affairs about communication and joint programs.
- Identify mechanisms to improve the Bar Leaders Conference.
- Decrease expenses related to the Bar Leaders Conference.
- Improve communication to local bar associations through more frequent newsletters and better content on the webpage.
- Administer and encourage local bar participation in the Stars of Texas Bars Awards.
- Administer and encourage local bar participation in the Law Day celebration and contest

Local Bar Services' Completed Projects/Objectives:

- We currently have the most up-to-date and reliable local bar roster.
- Have shared up-to-date information with the office of Minority Affairs.
- Implemented cost savings measures during the Bar Leaders Conference.

MINIMUM CONTINUING LEGAL EDUCATION

- This year, the MCLE Committee has proposed changes to the MCLE Regulations and Accreditation Standards that will modernize the program and focus accreditation on quality legal education. The proposal moves the delivery method(s) approved from the Regulations to the Accreditation Standards to accommodate future changes as technology changes and new delivery methods are introduced.
- The proposed changes to the Regulations and Standards will be reviewed at the September 2009 and January 2010 State Bar Board Meeting. If approved by the State Bar Board in January 2010, MCLE Regulations will change to require twelve "Accredited CLE" hours with three hours that can be completed through self-study. Many formats for presenting CLE (CD, DVD, MP3, MP4) currently accredited only for self-study, can be submitted for Accredited CLE credits.

Minimum Continuing Legal Education's Completed Projects/Objectives:

- The proposed Changes to the Regulations and Accreditation Standards have been completed and are awaiting approval by the State Bar Board.

PARALEGALS

To continue its commitment in an advisory role concentrating on the services of paralegals under the direction and supervision of licensed attorneys in the state of Texas, this Standing Committee has implemented a plan of action of the following goals and objectives for the period 2009-2010:

- Appointment of Articles subcommittee charged with identifying topics and authoring articles and/or the coordination of authorship of articles relating to ethical and effective utilization of paralegals in the lawyer's practice and relating to the future talent and trends in the professional development of the paralegal profession for posting on the committee's website, for publishing in the Texas Bar Journal and for publishing in local bar association newsletters.
- Appointment of ongoing ad hoc Guide Subcommittee charged with the continual development and collaboration in posting Guidelines for Attorneys to Practicing with Paralegals and publishing chapters and reference materials on the Committee website.
- Appointment of Website subcommittee charged with website posting and updating of articles, of the Guide chapters, of highlights of upcoming CLE and seminars relating to the effective utilization of paralegals, of ABA Model Guidelines for Paralegal Utilization, of links to other paralegal information, and charged with updating and maintaining the website resource information, generally.
- Appointment of Editing subcommittee charged with all submission –ready articles, the Guidelines for Attorneys to Practicing with Paralegals and other related information about paralegal utilization by Texas lawyers.
- Continued collaboration with the Paralegal Division and reporting to the State Bar as to special projects and initiatives.
- Continued collaboration and partnership with Paralegal Educators in statewide paralegal programs, either accredited by ABA or other state education agencies, to encourage and promote curriculum that is more up-to-date in educating and training paralegals for the lawyer's practice in the state of Texas.
- Continued collaboration and partnership with the TBLS organization and other national paralegal organizations relating to voluntary certification of paralegals and the current trend by paralegals to achieve this status in Texas.
- Development and publishing of brochure entitled "Why Your Firm Needs a Paralegal." Brochure to be distributed to local bar associations, at CLE events and other bar related events.
- 9) Texas Forum XXVII, annual conclave of educators, attorneys, paralegal managers, legal administrators and working paralegals, will be presented in Dallas, Texas and hosted by the Standing Committee in February, 2010. The 2010 event will concentrate on aligning value and practices to be successful in the current economic climate. The discussion and presentation will address both the attorney practice and the paralegal utilization and how to leverage the attorney and paralegal team for essential success in the current workplace. Practice area topics will include both transactional practices and litigation practices. The Committee has also planned a nuts and bolts e-Discovery two-hour boot camp to be included in the Texas Forum. The event will be free to paralegal educators. Plans are underway to obtain underwriting sponsors to cover the majority of the event planning expense and luncheon. In 2009, Texas Forum XXVI was held in Dallas and concentrated on electronic data discovery for paralegals at all entry levels and how Texas Paralegal Programs are Preparing paralegals.

- Collaboration with State Bar Journal staff to dedicate a 2010 publication to the paralegal profession and utilization by Texas attorneys. The targeted articles will focus on the future of the paralegal profession in practice management specifics for Texas lawyers and best practices techniques in developing effective utilization and career development.

Paralegals' Completed Projects/Objectives:

- Submitted recommendation to State Bar Board to revise definition of a paralegal and include voluntary education, training and experience standards that attorneys should consider when hiring and identifying someone as a paralegal in their law practice.
- Followed through in confirming the TBLS website information incorporated the new definition of a paralegal and also TBLS materials and resource information incorporated the paralegal name change in its TBLS voluntary certification.
- Hosted and presented the Texas Forum XXVI, a conclave consisting of attorneys, paralegals and paralegal educators involved in paralegal education. The MCLE-approved event, entitled The Paralegal's Role in Shaping Internal Protocols and Practices - Electronic Data Discovery and ESI Systems, was held on February 27, 2009 in Dallas. Two panel discussions were presented – panel #1 presented *Current Practices vs. Emerging Trends* and panel #2 presented *Expanding Paralegal Roles through Strategic Teams and Strategic Education*. A keynote speaker for the noon break presented a topic entitled *Special Masters in E-Discovery, Helping Judges and Parties*. Approximately 18 paralegal programs in Texas were also represented.

PATTERN JURY CHARGES – BUSINESS, CONSUMER & EMPLOYMENT

- We will continue our annual review of each existing section to update as needed based on any changes in the law.
- We will complete our work on new questions and instructions for Texas Securities Act cases.
- We will work on new questions and instructions for insurance contract cases.
- We will monitor public comments on existing and proposed pattern instructions to determine whether any action is warranted.
- We plan to complete each of these in time for publication of the 2010 edition.

Pattern Jury Charges – Business, Consumer & Employment's Completed Projects/Objectives:

- In 2008-09 the committee completed new patterns for defamation cases. We also reviewed each existing section and made any necessary changes based on changes in the law. Proposed changes were posted on the PJC portal for public comment.

PATTERN JURY CHARGES – CRIMINAL

- The committee has begun work on a second volume of criminal jury charges and expects to complete it this fiscal year. In addition, the committee will monitor the law and update the first volume as required.

Pattern Jury Charges – Criminal Completed Projects/Objectives:

- The committee completed the first new volume of criminal pattern jury charges, covering intoxication and controlled substances.

PATTERN JURY CHARGES – FAMILY

- To update the Family Patter Jury Charge to include all changes necessitated by recent legislative changes to the Family Code.
- To begin work with the new members of our committee with probate expertise to create a Pattern Jury Charges volume that addresses jury charges for both areas of practice.

PATTERN JURY CHARGES – GENERAL NEGLIGENCE AND INTENTIONAL PERSONAL TORTS

- We expect to continue to review developments in the law as it evolves from the Supreme Court, Courts of Appeals and the Legislature, determine if such developments suggest changes are necessary to make our volume of the PJC more complete, and make and suggest changes as necessary.

Pattern Jury Charges – General Negligence and Intentional Personal Torts' Completed Projects/Objectives:

- We reviewed new and evolving case law and suggested and made changes in the PJC volume to conform with changes in the law.

PATTERN JURY CHARGES – MALPRACTICE, PREMISES & PRODUCTS

- The committee has identified a number of areas that will be reviewed and potentially revised in a connection with a new edition in 2010. Among the possible additions are a new chapter on public and private nuisance, a comment that discusses the damages available in professional negligence actions, and a comment discussing the relationship between negligence and strict products liability.

Pattern Jury Charges – Malpractice, Premises & Products' Completed Projects/Objectives:

- The committee published a new volume in late 2008 after undertaking a complete review of the entire volume to identify any additions, corrections, or inconsistencies.

PATTERN JURY CHARGES – OVERSIGHT

- Continue working on identifying potential problems with the existing jury charges, eliminating inconsistencies between volumes, and discussing new areas of law for jury charges.
- Consider ways to improve accessibility to the jury charges by the public.

Pattern Jury Charges – Oversight's Completed Projects/Objectives:

- Finished the work on updating the 226a instructions and presented those instructions to the Supreme Court Advisory Committee. We hope to see a new rule from the Supreme Court soon.
- Oversaw the publication of the updated volumes and a new volume on criminal law.

PUBLIC AFFAIRS

- Plan, implement, and publicize the Texas Gravel Awards, which acknowledge journalistic excellence that fosters public understanding of the legal system.
- Plan, implement, and publicize the Open Government Seminar held in conjunction with the State Bar Annual Meeting.
- Consider other opportunities that help achieve the mission of the Public Affairs Committee.

Public Affairs' Completed Projects/Objectives:

- Successfully produced the Open Government Seminar during the 2009 State Bar Annual Meeting.
- Successfully delivered the Texas Gravel Awards program during the annual conference of the Freedom of Information Foundation of Texas (see http://foift.org/st_conf.aspx).

PROFESSIONALISM

- Assist State Bar with implementing Mentoring Program on-line and through local affiliates.
- Study ways to promote professionalism including possible update of Texas Lawyer's Creed, presentation of CLE webcast on ethics, and ways to collaborate with the Texas Center for Legal Ethics and Professionalism.

Professionalism's Completed Projects/Objectives:

- This report to the State Bar Board regarding Mentoring was presented October 3, 2008 in Midland.

RACIAL DIVERSITY IN THE PROFESSION

- Continue to assist with planning and hosting the Texas Minority Counsel Program to take place in Dallas, fall of 2010
- Continue to assist with planning and hosting the Texas Minority Attorney Programs in Houston, San Antonio and/or McAllen this fiscal year.
- Increasing participation in Pipeline Program.
- Participate in the selection of State Bar Board Minority Directors.
- Publish winter and spring issues of the Texas Spectrum Newsletter.
- Plan and host Minority Leadership Summit.
- Assist Local Bar Services Committee with Diversity Summit at Bar Leaders Conference.
- Examine and develop goals regarding economic opportunities and retention of minority lawyers in the practice to include encouragement of mentoring efforts at the local level.
- Establish goals in collaboration with all nine Texas law schools for minority student retention.
- Establish guidelines for Lawyer to Lawyer mentoring.
- Plan General Counsel and Managing Partner Roundtable

Racial Diversity in the Profession's Completed Projects/Objectives:

- TMCP 2009 in San Antonio (September 2-4, 2009)
- TMAP 2009-Houston (May 29, 2009)
- TMAP 2009- McAllen (June 12, 2009)

REAL ESTATE FORMS

- The 2010 supplement to the Texas Real Estate Forms Manual will address changes from the 81st Texas Legislature, including a thorough revision of the mechanics lien materials driven by changes in the regulatory structure. The committee will also complete its work on improving the federal regulator materials and expanding information on opinion letters using new technology to expand the user's

access to current information. A new chapter compiling disclosure notices from throughout the various Texas Codes and the related statutory requirements will also be added.

Real Estate Forms' Completed Projects/Objectives:

- In Bar year 2008-2009, reviewing federal legislation and state and federal case law, the committee completed a supplement published in mid-2009 that addresses changing federal home loan regulations, and makes other updates. The committee also greatly expanded the coverage of water law transactions, adding extensive new text as well as adding sixteen new forms and revising two others.

TEXAS BAR JOURNAL BOARD OF EDITORS

- Continue systematic review of magazine initiated in 2008–2009
- Determine editorial focus for 2009-2010
- Identify topics and authors for January “Year in Review” issue
- Work with staff to develop special issues and feature articles
- Review legal article submissions
- Consider feedback and suggestions from readership survey
- Discuss ways to enhance TBJ webpage with re-launch of TexasBar.com
- Coordinate annual Short Story Fiction Writing Contest

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

- The Texas Supreme Court is continuing to provide policy decisions on the Rules for which the Committee and the Court’s Task Force had substantially differed following a multi-year review of virtually all of the Texas Disciplinary Rules of Professional Conduct. The Committee will be preparing comments on this language as the Court makes its decisions. Depending on the Court’s schedule, the Committee anticipates completing comments for all of the revised Rules and the defined terms in the terminology section during the current Bar year.

Texas Disciplinary Rules of Professional Conducts' Completed Projects/Objectives:

- The last meeting of the Committee in the 2007-2008 Bar year was on May 30, 2008, when geographical subcommittees were provided with additional assignments for completing comments on Rules for which the Committee and the Court’s Task Force had reached substantial agreement. In the 2008-2009 Bar year, through four subsequent meetings of the full Committee, comments on the majority of these rules were finalized, along with most of the definitions in the terminology section of the Rules. Later in the year, the Court began communicating policy decisions on the Rules for which the Committee and the Task Force substantially differed, and the Committee has begun preparing comments for these Rules.

WEB SERVICES

- Continue assessing, improving, and promoting the networking and information dissemination services of the Texas Bar Circle.
- Promote the use of e-filing by Texas Lawyers.

- Assist the State Bar in maintaining and improving usability and services provided by online CLE, including the implementation of CLE podcasts.
- Analyze disaster recovery planning for Texas lawyers, including partnering with outside vendors regarding possible online backup, file synchronization, and recovery services.
- Analyze desirability and feasibility of ensuring full access to all Texas Bar online services by all platforms (e.g., Windows/Vista, Mac operating system, Linux, etc.).
- Explore any other meaningful ideas proposed by the Committee's members.

Web Services' Completed Projects/Objectives:

- None, as projects are of an ongoing nature.