

## Committee on Disciplinary Rules and Referenda

### Agenda

**Date and Time: Wednesday, November 6, 2024 – 10:00 a.m. CST by Teleconference**

**Join by Meeting Link: <https://texasbar.zoom.us/j/82915903796>**

**Or Join by Telephone: 888-788-0099 (Toll Free); Meeting ID: 829 1590 3796.**

**View Meeting Agenda and Materials: <https://www.texasbar.com/cdrr/participate>**

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1. Call to Order; Roll Call
2. Comments from the Chair
3. Discussion and Possible Action: Approval of the Minutes of the Last Meeting (Bates Numbers 000003 – 000004)
4. Discussion and Possible Action: Changes to Texas Rules of Disciplinary Procedure  
*Consider Initiation of the Rule Proposal Process and Possible Publication of Proposed Rule Amendments in the Texas Bar Journal and Texas Register; Consider Possible Amendments to and Recommendation of Comments to Proposed Rules and any existing Rules*
5. Discussion and Possible Action: Rule 1.04. Fees, Texas Disciplinary Rules of Professional Conduct (Bates Numbers 000005 – 000014)  
*Consider Initiation of the Rule Proposal Process and Possible Publication of Proposed Rule Amendments in the Texas Bar Journal and Texas Register; Consider Possible Amendments to and Recommendation of Comments to Proposed Rules and any existing Rules*
6. Discussion: Preliminary Approval of Rules Governing Licensed Legal Paraprofessionals and Licensed Court-Access Assistants issued by the Supreme Court of Texas on August 6, 2024 (Bates Numbers 000015 – 000038)
7. Discussion: Annual Report for 2024 (Bates Number 000039)
8. Agenda Items for Next Meeting
9. Adjourn

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modifications and equal access to communications will be provided upon request. For assistance, please contact Haksoon Andrea Low at (877) 953-5535 or (512) 427-1323 at least five working days prior to the scheduled meeting so that appropriate arrangements can be made. Individuals with speech or hearing disabilities can contact Ms. Low by routing through Relay Texas at phone number 7-1-1 or another designated phone number provided at [relaytexas.com](http://relaytexas.com).

**MEETING OF THE  
COMMITTEE ON DISCIPLINARY RULES AND REFERENDA**

October 2, 2024  
By Teleconference

**MINUTES**

**CALL TO ORDER OF THE MEETING AND ROLL CALL**

Chair Kinard called the meeting to order at 10:01 a.m. CDT. Ms. Low called the roll, and a quorum was present.

Members Present: Chair M. Lewis Kinard; Timothy D. Belton; Scott Brumley; Robert Denby; Judge Phyllis Gonzalez; Jennifer Hasley; April Lucas; and Karen Nicholson.

Members Absent: Amy Bresnen.

State Bar of Texas Staff Present: Ray Cantu, Deputy Executive Director; Seana Willing, Chief Disciplinary Counsel; and Andrea Low, Disciplinary Rules and Referenda Attorney.

**COMMENTS FROM THE CHAIR**

Chair Kinard welcomed everyone to the meeting and thanked all who called in for their participation. He explained the Committee's purpose and mandate, directed the public to the Committee's website to find information about the Committee, and encouraged the public to participate in the process.

Chair Kinard thanked Ray Cantu upon his retirement for his meritorious service to the Committee.

Chair Kinard announced that Karen Nicholson was reappointed by Steve Benesh, President of the State Bar of Texas, for the term of January 1, 2025, to December 31, 2027.

**APPROVAL OF THE MINUTES OF THE LAST MEETING**

Mr. Brumley moved to approve the Minutes of the September 4, 2024, meeting, as amended to reflect that he was present. Judge Gomzalez seconded the motion. The motion carried unanimously.

**SUPREME COURT OF TEXAS MISC. DOCKET NO. 24-9050: PRELIMINARY  
APPROVAL OF RULES GOVERNING LICENSED LEGAL PARAPROFESSIONALS  
AND LICENSED COURT-ACCESS ASSISTANTS**

The subcommittee of Amy Bresnen, Robert Denby, Judge Phyllis Gonzalez, and Jennifer Hasley identified issues for the Committee to consider. The subcommittee discussed the proposed comments approved by the board of directors of the State Bar of Texas at its September 27, 2024,

meeting for submission to the supreme court. Committee members discussed the history of action by the supreme court and the Texas Access to Justice Commission and agreed to seek more information from the Chief Disciplinary Counsel, the Texas Board of Law Examiners, the Unlicensed Practice of Law Committee, and disciplinary authorities of other jurisdictions.

Chair Kinard suggested that each member of the Committee submit comments as an individual while the Committee monitors developments that may relate to the purpose and authority of the Committee in the future.

Committee members agreed to continue consideration of the issues at the next meeting. The subcommittee agreed to meet before the next meeting of the Committee.

The Committee took no action on this matter.

### **CHANGES TO THE TEXAS RULES OF DISCIPLINARY PROCEDURE**

Ms. Lucas reported that the subcommittee of Jennifer Hasley, April Lucas, and Karen Nicholson continues to meet regularly with the Chief Disciplinary Counsel (CDC), Seana Willing. The subcommittee did not have a formal report but requested that this item be placed on the agenda for the next meeting.

The Committee took no action on this matter.

### **APPROVAL OF DATES OF MEETINGS IN 2025**

Ms. Nicholson moved to approve the dates of the meetings in 2025. Mr. Brumley seconded the motion. The motion carried unanimously.

### **AGENDA ITEMS FOR FUTURE MEETINGS**

Mr. Denby suggested that the agenda include discussion and possible action on a rule on the sale of a law practice at the next meeting. After some Committee members and State Bar of Texas staff recounted the history of the Committee's consideration of the issue, Committee members stated that they preferred to add this item to the agenda only if staff were to indicate new issues have arisen for the sale of a law practice.

Committee members had no agenda items for the November 6, 2024, meeting.

### **ADJOURNMENT**

Mr. Denby moved to adjourn the meeting. Judge Gonzalez seconded the motion. The motion carried unanimously. The meeting was adjourned at 10:53 a.m. CDT.

## Texas Disciplinary Rules of Professional Conduct [Back to Outline](#)

(Tex. Disciplinary R. Prof. Conduct, (1989) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app. (Vernon Supp. 1995)(State Bar Rules art X [[section]]9))

**SEARCH**

# I CLIENT-LAWYER RELATIONSHIP

## 1.04 FEES

 **ADD BOOKMARK**

(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

(b) Factors that may be considered in determining the reasonableness of a fee include, but not to the exclusion of other relevant factors, the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

(c) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(d) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph(e) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined. If there is to be a differentiation in the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, the percentage for each shall be stated. The agreement shall state the litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement describing the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(e) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee for representing a defendant in a criminal case.

(f) A division or arrangement for division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is:

(i) in proportion to the professional services performed by each lawyer; or

(ii) made between lawyers who assume joint responsibility for the representation; and

(2) the client consents in writing to the terms of the arrangement prior to the time of the association or referral proposed, including

(i) the identity of all lawyers or law firms who will participate in the fee-sharing arrangement; and

(ii) whether fees will be divided based on the proportion of services performed or by lawyers agreeing to assume joint responsibility for the representation; and

(iii) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be made; and

(3) the aggregate fee does not violate paragraph (a),

(g) Every agreement that allows a lawyer or law firm to associate other counsel in the representation of a person, or to refer the person to other counsel for such representation, and that results in such an association with or referral to a different law firm or a lawyer in such a different firm, shall be confirmed by an arrangement conforming to paragraph (f). Consent by a client or a prospective client without knowledge of the information specified in subparagraph (f)(2) does not constitute a confirmation within the meaning of this rule. No attorney shall collect or seek to collect fees or expenses in connection with any such agreement that is not confirmed in that way, except for:

(1) the reasonable value of legal services provided to that person; and

(2) the reasonable and necessary expenses actually incurred on behalf of that person.

(h) Paragraph (f) of this rule does not apply to payment to a former partner or associate pursuant to a separation or retirement agreement, or to a lawyer referral program certified by the State Bar of Texas in accordance with the Texas Lawyer Referral Service Quality Act, Tex. Occ. Code 952.001 et seq., or any amendments or recodifications thereof.

### **Comment:**

1. A lawyer in good conscience should not charge or collect more than a reasonable fee, although he may charge less or no fee at all. The determination of the reasonableness of a fee, or of the range of reasonableness, can be a difficult question, and a standard of reasonableness is too vague and uncertain to be an appropriate standard in a disciplinary action. For this reason, paragraph (a) adopts, for disciplinary purposes only, a clearer standard: the lawyer is subject to discipline for an illegal fee or an unconscionable fee. Paragraph (a) defines an unconscionable fee in terms of the reasonableness of the fee but in a way to eliminate factual disputes as to the fees reasonableness. The Rules unconscionable standard, however, does not preclude use of the reasonableness standard of paragraph (b) in other settings.

### **Basis or Rate of Fee**

2. When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee. If, however, the basis or rate of fee being charged to a regularly represented client differs from the understanding that has evolved, the lawyer should so advise the client. In a new client-lawyer relationship, an understanding as to the fee should be promptly established. It is not necessary to recite all the factors that underlie the basis of the

fee, but only those that are directly involved in its computation. It is sufficient, for example, to state that the basic rate is an hourly charge or a fixed amount or an estimated amount, in order to identify the factors that may be taken into account in finally fixing the fee. When developments occur during the representation that render an earlier estimate substantially inaccurate, a revised estimate should be provided to the client. A written statement concerning the fee reduces the possibility of misunderstanding, and when the lawyer has not regularly represented the client it is preferable for the basis or rate of the fee to be communicated to the client in writing. Furnishing the client with a simple memorandum or a copy of the lawyer's customary fee schedule is sufficient if the basis or rate of the fee is set forth. In the case of a contingent fee, a written agreement is mandatory.

### **Types of Fees**

3. Historically lawyers have determined what fees to charge by a variety of methods. Commonly employed are percentage fees and contingent fees (which may vary in accordance with the amount at stake or recovered), hourly rates, and flat fee arrangements, or combinations thereof.
4. The determination of a proper fee requires consideration of the interests of both client and lawyer. The determination of reasonableness requires consideration of all relevant circumstances, including those stated in paragraph (b). Obviously, in a particular situation not all of the factors listed in paragraph (b) may be relevant and factors not listed could be relevant. The fees of a lawyer will vary according to many factors, including the time required, the lawyer's experience, ability and reputation, the nature of the employment, the responsibility involved, and the results obtained.
5. When there is a doubt whether a particular fee arrangement is consistent with the client's best interest, the lawyer should discuss with the client alternative bases for the fee and explain their implications.
6. Once a fee arrangement is agreed to, a lawyer should not handle the matter so as to further the lawyer's financial interests to the detriment of the client. For example, a lawyer should not abuse a fee arrangement based primarily on hourly charges by using wasteful procedures.

### **Unconscionable Fees**

7. Two principal circumstances combine to make it difficult to determine whether a particular fee is unconscionable within the disciplinary test provided by paragraph (a) of this Rule. The first is the subjectivity of a number of the factors relied on to determine the reasonableness of fees under paragraph (b). Because those factors do not permit more than an approximation of a range of fees that might be found



reasonable in any given case, there is a corresponding degree of uncertainty in determining whether a given fee is unconscionable. Secondly, fee arrangements normally are made at the outset of representation, a time when many uncertainties and contingencies exist, while claims of unconscionability are made in hindsight when the contingencies have been resolved. The unconscionability standard adopts that difference in perspective and requires that a lawyer be given the benefit of any such uncertainties for disciplinary purposes only. Except in very unusual situations, therefore, the circumstances at the time a fee arrangement is made should control in determining a question of unconscionability.

8. Two factors in otherwise borderline cases might indicate a fee may be unconscionable. The first is over-reaching by a lawyer, particularly of a client who was unusually susceptible to such overreaching. The second is a failure of the lawyer to give at the outset a clear and accurate explanation of how a fee was to be calculated. For example, a fee arrangement negotiated at arms length with an experienced business client would rarely be subject to question. On the other hand, a fee arrangement with an uneducated or unsophisticated individual having no prior experience in such matters should be more carefully scrutinized for overreaching. While the fact that a client was at a marked disadvantage in bargaining with a lawyer over fees will not make a fee unconscionable, application of the disciplinary test may require some consideration of the personal circumstances of the individuals involved.

### **Fees in Family Law Matters**

9. Contingent and percentage fees in family law matters may tend to promote divorce and may be inconsistent with a lawyer's obligation to encourage reconciliation. Such fee arrangements also may tend to create a conflict of interest between lawyer and client regarding the appraisal of assets obtained for client. See also Rule 1.08(h). In certain family law matters, such as child custody and adoption, no res is created to fund a fee. Because of the human relationships involved and the unique character of the proceedings, contingent fee arrangements in domestic relations cases are rarely justified.

### **Division of Fees**

10. A division of fees is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fees facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring or associating lawyer initially retained by the client and a trial specialist, but it applies in all cases in which two or more lawyers are representing a single client in the same matter, and without regard to whether litigation is involved. Paragraph (f) permits the lawyers to divide a fee either on the basis of the proportion of services they render or

if each lawyer assumes joint responsibility for the representation.

11. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (d) of this Rule.

12. A division of a fee based on the proportion of services rendered by two or more lawyers contemplates that each lawyer is performing substantial legal services on behalf of the client with respect to the matter. In particular, it requires that each lawyer who participates in the fee have performed services beyond those involved in initially seeking to acquire and being engaged by the client. There must be a reasonable correlation between the amount or value of services rendered and responsibility assumed, and the share of the fee to be received. However, if each participating lawyer performs substantial legal services on behalf of the client, the agreed division should control even though the division is not directly proportional to actual work performed. If a division of fee is to be based on the proportion of services rendered, the arrangement may provide that the allocation not be made until the end of the representation. When the allocation is deferred until the end of the representation, the terms of the arrangement must include the basis by which the division will be made.

13. Joint responsibility for the representation entails ethical and perhaps financial responsibility for the representation. The ethical responsibility assumed requires that a referring or associating lawyer make reasonable efforts to assure adequacy of representation and to provide adequate client communication. Adequacy of representation requires that the referring or associating lawyer conduct a reasonable investigation of the client's legal matter and refer the matter to a lawyer whom the referring or associating lawyer reasonably believes is competent to handle it. See Rule 1.01. Adequate attorney-client communication requires that a referring or associating lawyer monitor the matter throughout the representation and ensure that the client is informed of those matters that come to that lawyer's attention and that a reasonable lawyer would believe the client should be aware. See Rule 1.03. Attending all depositions and hearings, or requiring that copies of all pleadings and correspondence be provided a referring or associating lawyer, is not necessary in order to meet the monitoring requirement proposed by this rule. These types of activities may increase the transactional costs, which ultimately the client will bear, and unless some benefit will be derived by the client, they should be avoided. The monitoring requirement is only that the referring lawyer be reasonably informed of the matter, respond to client questions, and assist the handling lawyer when necessary. Any referral or association of other counsel should be made based solely on the client's best interest.

14. In the aggregate, the minimum activities that must be undertaken by referring or associating lawyers pursuant to an arrangement for a division of fees are substantially greater than those assumed by a lawyer who forwarded a matter to other counsel,

undertook no ongoing obligations with respect to it, and yet received a portion of the handling lawyer's fee once the matter was concluded, as was permitted under the prior version of this rule. Whether such activities, or any additional activities that a lawyer might agree to undertake, suffice to make one lawyer participating in such an arrangement responsible for the professional misconduct of another lawyer who is participating in it and, if so, to what extent, are intended to be resolved by Texas Civil Practice and Remedies Code, ch. 33, or other applicable law.

15. A client must consent in writing to the terms of the arrangement prior to the time of the association or referral proposed. For this consent to be effective, the client must have been advised of at least the key features of that arrangement. Those essential terms, which are specified in subparagraph (f)(2), are

- 1) the identity of all lawyers or law firms who will participate in the fee-sharing agreement,
- 2) whether fees will be divided based on the proportion of services performed or by lawyers agreeing to assume joint responsibility for the representation, and
- 3) the share of the fee that each lawyer or law firm will receive or the basis on which the division will be made if the division is based on proportion of service performed. Consent by a client or prospective client to the referral to or association of other counsel, made prior to any actual such referral or association but without knowledge of the information specified in subparagraph (f)(2), does not constitute sufficient client confirmation within the meaning of this rule. The referring or associating lawyer or any other lawyer who employs another lawyer to assist in the representation has the primary duty to ensure full disclosure and compliance with this rule.

16. Paragraph (g) facilitates the enforcement of the requirements of paragraph (f). It does so by providing that agreements that authorize an attorney either to refer a person's case to another lawyer, or to associate other counsel in the handling of a client's case, and that actually result in such a referral or association with counsel in a different law firm from the one entering into the agreement, must be confirmed by an arrangement between the person and the lawyers involved that conforms to paragraph (f). As noted there, that arrangement must be presented to and agreed to by the person before the referral or association between the lawyers involved occurs. See subparagraph (f)(2). Because paragraph (g) refers to the party whose matter is involved as a "person" rather than as a "client," it is not possible to evade its requirements by having a referring lawyer not formally enter into an attorney-client relationship with the person involved before referring that person's matter to other counsel. Paragraph (g) does provide, however, for recovery in quantum meruit in instances where its requirements are not met. See subparagraphs (g)(1) and (g)(2).

17. What should be done with any otherwise agreed-to fee that is forfeited in whole or in part due to a lawyer's failure to comply with paragraph (g) is not resolved by these rules.

18. Subparagraph (f)(3) requires that the aggregate fee charged to clients in connection with a given matter by all of the lawyers involved meet the standards of paragraph (a) — that is, not be unconscionable.

### **Fee Disputes and Determinations**

19. If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by a bar association, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, or when a class or a person is entitled to recover a reasonable attorney's fee as part of the measure of damages. All involved lawyers should comply with any prescribed procedures.

## **Bluebook Citation** Copy

Texas Disciplinary Rules of Professional Conduct. § 1.04, (Texas Center for Legal Ethics, 2024) from <https://legalethics.texas.com/resources/rules/texas-disciplinary-rules-of-professional-conduct/fees/> (last visited Oct 31, 2024)

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[1.03 Communication](#)

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[1.05 Confidentiality of Information](#)

[Outline](#)

**Opinion 266**  
**October 1963**  
**18 Baylor L. Rev. 341 (1966)**

**SOLICITATION - CONFIDENCES OF A CLIENT**

It is unethical for a member to purchase, to sell or to advertise for sale a law practice with "established clientele."

Canons 24, 34.

**QUESTION**

Upon the death of an attorney, his heir, who is not a lawyer, desired to dispose of the law library, office equipment and unexpired office lease, and submitted for publication in the Texas Bar Journal the following advertisement.

"Aggressive, competent, and reliable lawyer needed to take over practice of [ ] of [ ]. Firm has operated under name of [ ] and for over 40 years. Large clientele, and good standing in community and area. Deal includes everything, library, location, and secretary. Contact for interview."

Is such an advertisement proper under the Canons of Ethics?

**OPINION**

The legal profession has in numerous past opinions condemned the sale, or the advertisement for sale, or the purchase of a law practice including good will and established clientele. ABA Opinion 266 states: "The good will of the practice of a lawyer is not, however, of itself an asset, which either he or his estate can sell." Opinion 266, further, quotes from Opinion 109 of the Ethics Committee of the New York County Lawyers' Association: "Clients are not merchandise. Lawyers are not tradesmen. They have nothing to sell but personal service. An attempt, therefore, to barter in clients, would appear to be inconsistent with the best concepts of our professional status." Another opinion, No. 16 of the Ethics Committee of the New York City Bar Association, says that an advertisement of the sale of a law practice with "established clientele" is improper.

The advertisement in the inquiry was, as stated, submitted to the Bar Journal by the heir of a deceased lawyer, which heir is not a lawyer and, therefore, not subject to the decisions of this committee. Such heir's transactions, however, will necessarily be conducted with lawyers, who are guided by the opinions of the Ethics Committee and who, according to the Canons, would be acting unethically if they bought or sold a law practice in the manner of the proposed advertisement, or if they accepted such advertisement for publication in the Bar Journal.

It is the committee's opinion that the purchase or sale of a deceased or retired lawyer's law practice, including good will and an established clientele, would result in a situation in violation of Canons 24 and 34. Canon 24 prohibits solicitation and would, therefore, preclude a lawyer from purchasing a law practice with established clientele because such purchase upon such conditions would unavoidably involve the solicitation of these clients to continue their business with the purchaser. It would likewise preclude a lawyer from selling a law practice, including the clients, because such a sale would imply that the seller would urge and solicit the established

clients to give their business to the purchaser. Such solicitation, if engaged in, would inevitably result in giving a preferred position to the highest obtainable bidder for the law practice, which is not the basis on which an attorney should be retained. (ABA Opinion 266). Also involved in the purchase or sale of an "established clientele" would be the question of confidence of clients. Canon 34 states that "the duty to preserve his clients' confidences outlasts the member's employment," and ABA Opinion 266 states that "Every lawyer's files contain confidential information from clients which neither he nor his heirs or personal representatives may properly disclose without the client's express permission."

Upon the death or retirement of a lawyer, it has been held proper to advertise for sale his library, office equipment, and unexpired lease. It is suggested that such an advertisement could properly read:

"For sale: Law library and office equipment of [ ] of [ ], Texas. Purchaser can take over established office lease if desired. Experienced secretary also available. Good location for competent, reliable lawyer. Contact for further information."(9-0.)

# Supreme Court of Texas

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Misc. Docket No. 24-9050

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## **Preliminary Approval of Rules Governing Licensed Legal Paraprofessionals and Licensed Court-Access Assistants**

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This Order invites public comments on proposed new and amended rules that allow licensed legal paraprofessionals and licensed court-access assistants to provide certain limited legal services to low-income individuals.

Many individuals have incomes low enough to qualify for assistance from legal aid and volunteer attorney organizations, but resources and staffing constraints allow these organizations to serve only a small fraction of qualified applicants. The Legal Services Corporation reported recently that 92% of low-income Americans have unmet civil legal needs. Often, the only option for individuals who cannot be served is to attempt to represent themselves in court proceedings. For years, the Court has made combating this “justice gap” a top priority, and it has become clear that we must think beyond traditional efforts—such as funding and volunteer work—and focus on reforms that will help bridge the justice gap with new providers.

To that end, the Court, through its liaison to the Texas Access to Justice Commission, Justice Busby, sent a letter on October 24, 2022, requesting that the Commission examine existing rules and propose modifications that would allow qualified non-lawyers to provide limited legal services directly to low-income individuals. The letter expressly directed the Commission to consider qualifications, licensing, practice areas, and oversight of providers; eligibility criteria for clients; and whether compensation for providers should be limited to certain sources, such as government and non-profit funds. It also noted the need for input from the State Bar of Texas and a range of other relevant constituencies in developing a proposal.

In response, the Commission created a Working Group on Access to Legal Services for Low-Income Texans, which was led by the Honorable Michael Massengale, Lisa Bowlin Hobbs, and Kennon L. Wooten, and assisted by Commission Chair Harriet Miers, Commission employees, and representatives from the National Center for State Courts. The Working Group met five times in 2023—on January 30, April 26, July 27, September 26, and November 2. Shortly after its first meeting, the Working Group divided into subject-matter subcommittees, including the Scope of Practice Subcommittee and the Paraprofessional Licensing Subcommittee, to study issues and make recommendations for allowing certain qualified individuals to provide limited legal services to low-income

Texans. These subcommittees included Working Group members as well as others from the bench and bar. Subcommittee members carried the laboring oar, meeting many times in 2023 and working between meetings to ensure timely completion of the tasks assigned to them. In addition, they kept the Working Group apprised of their progress and gathered its input. The Working Group also sought and collected input from others throughout the process, including by conducting an online survey, conducting focus groups, visiting with stakeholders in and beyond the State Bar, and creating an email inbox for suggestions with assistance from the State Bar. All input was carefully reviewed and analyzed.

The Working Group submitted its final report to the Commission on December 5, 2023. The Commission considered the Working Group's recommendations relating to scope of practice and licensing at its December 15, 2023 meeting, and it approved them unanimously (with four Commissioners abstaining) as recommendations of the Commission to the Court.

Records of the above-described meetings, input received, the Working Group's report, and other materials are available at <https://www.texasatj.org/access-legal-services-working-group>.

The Court extends its gratitude to the Commission, the Working Group leaders and members, the subcommittee members, the National Center for State Courts, the State Bar and its various sections, the Texas Board of Law Examiners, the Texas Board of Legal Specialization, the Office of Court Administration, the Justice Court Training Center, and the many other groups and individuals who lent their time and expertise to provide thoughtful input.

After considering the recommendations of the Commission and the supporting materials provided, the Court concludes that the licensing of legal paraprofessionals and court-access assistants to provide limited legal services to low-income individuals will help narrow the justice gap and expand access to justice for low-income individuals.

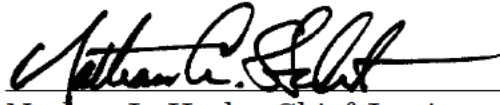
Accordingly, it is **ORDERED** that:

1. The Court invites public comments on proposed new Articles XV and XVI of the State Bar Rules and on proposed amendments to Texas Rules of Civil Procedure 500.4 and 510.4, as set forth in this Order.
2. Articles XV and XVI of the State Bar Rules are provided in clean form. The amendments to Texas Rules of Civil Procedure 500.4 and 510.4 are provided in redline form.
3. Comments regarding the new and amended rules should be submitted in writing to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov) by November 1, 2024.

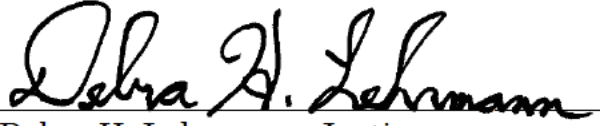


4. The Court will issue an order finalizing the new and amended rules after the close of the comment period. The Court may change the new and amended rules in response to public comments. The Court expects the new and amended rules to take effect on December 1, 2024.
5. The Clerk is directed to:
  - a. file a copy of this Order with the Secretary of State;
  - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this Order to each elected member of the Legislature; and
  - d. submit a copy of this Order for publication in the *Texas Register*.

Dated: August 6, 2024.



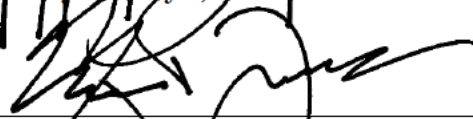
Nathan L. Hecht, Chief Justice



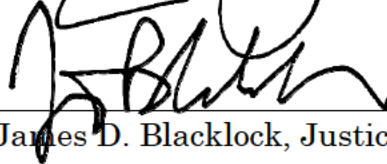
Debra H. Lehrmann, Justice



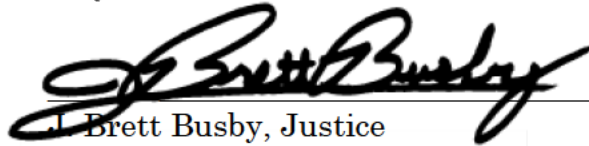
Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



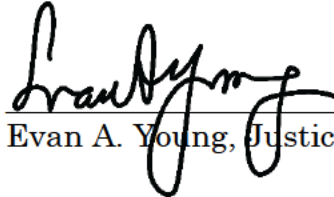
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

**STATE BAR RULES****ARTICLE XV  
LICENSED LEGAL PARAPROFESSIONALS****Section 1. Definitions**

**A.** “Applicant” means a person who files with the State Bar an application for licensure as a legal paraprofessional.

**B.** “Approved entity” means:

1. the Court;
2. an organization that reports to the Court, including the Texas Access to Justice Commission, the Office of Court Administration, the Texas Judicial Commission on Mental Health, and the Texas Children’s Commission;
3. any Texas court; and
4. eFileTexas.

**C.** “Complex property issues” means that the suit involves a third-party sale or title transfer of real estate.

**D.** “Immigration services” means applying federal, state, and local laws to determine legal strategies, solutions, consequences, and eligibility related to immigration benefits, compliance, defenses, and forms of relief, including actions such as selecting, assisting with, filling out, preparing, and drafting applications, petitions, and filings, and representing individuals and entities in such matters before federal, state, and local agencies. For example, immigration services includes the processes of seeking visas, waivers, lawful permanent residence, and humanitarian benefits (such as asylum, parole, and U visas). Immigration services also includes providing advice and assistance related to immigration laws, forms, policies, strategies, and regulations.

**E.** “Intentional crime” means:

1. a serious crime that requires proof of knowledge or intent as an essential element; or
2. any crime involving misapplication of money or other property held as a fiduciary.

**F.** “Lawyer supervision” means that a lawyer reviews all documents before they are filed, is identified in all filings, and is available to answer any questions relating to the tasks

being completed. It does not mean that the supervising lawyer is required to appear, whether in person or electronically, for court proceedings.

**G.** “Low income” means at or below 200% of the federal poverty guidelines as published annually by the U.S. Department of Health and Human Services.

**H.** “NALA” means the National Association of Legal Assistants.

**I.** “NFPA” means the National Federation of Paralegal Associations.

**J.** “Paralegal” means a person—qualified through various combinations of education, training, or work experience—who is or has been employed or engaged by a lawyer, law office, court, governmental agency, nonprofit, or other entity to perform substantive legal work.

**K.** “Program” means the Licensed Legal Paraprofessionals Program established by this Article.

**L.** “Serious crime” means:

1. barratry;
2. any felony involving moral turpitude;
3. any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or
4. any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.

**M.** “Substantive legal work” includes conducting client interviews and maintaining general contact with a client, locating and interviewing witnesses, conducting investigations and research, drafting pleadings and correspondence, summarizing testimony or discovery, and attending court proceedings. It does not include clerical or administrative work.

**N.** “TBLE” means the Texas Board of Law Examiners.

**O.** “TBLS” means the Texas Board of Legal Specialization.

**P.** “Uncontested divorce” or “uncontested suit” means a suit in which there is no opposition by another party to any issue before the court. Uncontested suits include no-answer default-judgment suits. The filing of a general denial without a request for affirmative relief does not cause a suit to be contested unless the general denial includes a contrary position on an issue before the court. The serving of process upon a party does

not cause the suit to be contested. A suit becomes “contested” when a party files a pleading or motion with the court that takes a contrary position on any issue before the court or otherwise communicates to the court, in a hearing or otherwise, a contrary position on any issue before the court.

**Q.** “Uncontested court proceeding” means a court proceeding in which there is no opposition by another party to any issue before the court at that court proceeding.

## **Section 2. Eligibility**

To be eligible for licensure as a legal paraprofessional, an applicant must:

- A.** have a high school diploma or equivalent;
- B.** be at least 18 years old;
- C.** be authorized to work lawfully in the United States;
- D.** meet at least one of the following criteria:
  - 1.** be a TBLS Certified Paralegal;
  - 2.** be a Certified Paralegal through NALA;
  - 3.** be a Registered Paralegal through NFPA;
  - 4.** have completed an ABA-approved paralegal education program;
  - 5.** have completed a paralegal education program that consists of at least 15 semester credit hours, 30 quarter credit hours, or 100 clock hours of substantive legal courses;
  - 6.** have been employed as a paralegal for at least 5 years and dedicated at least 50% of the applicant’s work to substantive legal work; or
  - 7.** have a bachelor’s degree or higher;
- E.** meet subject-area specific requirements as provided in Section 4;
- F.** be of present good moral character and fitness as provided in Section 5;
- G.** have successfully completed the legal paraprofessional examinations as provided in Section 6, unless expressly exempted under Section 6;
- H.** be willing to abide by this Article, including the Code of Ethics in Section 9; and

I. pay the appropriate application, licensing, examination, and enrollment fees.

### **Section 3. Application, Licensure, and Enrollment**

A. An applicant must submit to the State Bar an application for licensure as a legal paraprofessional and fees in an amount set by the State Bar in consultation with the Court and TBLE.

B. The application must state the subject matter or matters for which the applicant is requesting licensure. The subject matters available are:

1. family law;
2. estate-planning and probate law; and
3. consumer-debt law.

C. If the State Bar determines that the applicant has satisfied the requirements of Section 2, the State Bar must enroll the applicant as a member of the State Bar and certify the applicant to the Court in the appropriate subject matter or matters. The Clerk of the Court will issue a corresponding license for each subject matter certified.

D. No general licensure as a legal paraprofessional is available.

### **Section 4. Subject-Specific Requirements**

To be eligible for licensure, an applicant must meet at least one of the following criteria in each subject matter for which the applicant is requesting licensure:

- A. be a TBLS Certified Paralegal in the subject matter;
- B. have been employed as a paralegal in Texas and dedicated at least 50% of the applicant's work in 3 of the past 5 years to the subject matter; or
- C. have completed training approved by the Court or the State Bar for the subject matter.

### **Section 5. Present Good Moral Character and Fitness Requirement**

A. To be eligible for licensure as a legal paraprofessional, an applicant must have present good moral character and fitness.

**B.** Within 270 days after the date of application and fee payment, TBLE or the State Bar will assess the applicant's present good moral character and fitness by considering:

1. school-related discipline;
2. criminal-history information, including a criminal background check;
3. professional licenses and certifications held and any disciplinary history related to those licenses or certifications;
4. reports of unauthorized practice of law either to the Unauthorized Practice of Law Committee or the State Bar's Paralegal Division;
5. employment history;
6. military service;
7. legal and financial information, including information about participation in legal proceedings, child-support judgments and arrearages, and past-due debts; and
8. information about whether a candidate has ever offered immigration services or used the term "notario" to refer to their work.

## **Section 6. Examinations**

**A.** To be eligible for licensure as a legal paraprofessional, an applicant must have successfully completed:

1. an ethics examination; and
2. except as provided in paragraph (D), the subject-matter examination in each subject matter for which the applicant is requesting licensure.

**B.** The ethics examination covers the Code of Ethics in Section 9 and other ethics rules, including ethics related to a licensed legal paraprofessional's permitted activities under Section 7.

**C.** The subject-matter examination covers the subject matter in which the applicant requests licensure. The family-law examination must cover best practices for referring matters that may adversely affect immigration status.

**D.** An applicant is exempt from the subject-matter examination if the applicant:

1. has received a score of 260 on the Texas State Bar Examination;

2. has taken another examination that tests competency in the subject matter, including an examination by TBLS, NALA, or NFPA; or
3. has met another exemption standard set by the State Bar.

**E.** An applicant who has failed the ethics examination 5 times cannot become a licensed legal paraprofessional in any subject matter. An applicant who has failed a subject-matter examination 5 times cannot become a licensed legal paraprofessional in that subject matter. For good cause, the State Bar may waive this prohibition.

### **Section 7. Permitted Practice**

**A.** As set forth in this Section, a legal paraprofessional licensed by the Court may provide limited legal services to clients with low income.

**B.** In representing a client, a licensed legal paraprofessional must:

1. obtain the client's self-certification, by affidavit or unsworn declaration under Chapter 132 of the Texas Civil Practice and Remedies Code, that the client has low income;
2. enter into a written engagement agreement with the client explaining that the licensed legal professional is not a lawyer and describing the limited scope of the representation; and
3. provide the client with a brochure approved by the State Bar explaining the Program and how to report concerns or potential violations.

**C.** A legal paraprofessional licensed by the Court in any of the available subject matters may represent a client, without lawyer supervision, in a civil suit in justice court, including:

1. handling the preparation, litigation, and settlement of a suit;
2. communicating with an unrepresented opposing party or, if represented, the lawyer, authorized agent, licensed legal paraprofessional, or court-access assistant for the opposing party;
3. perfecting an appeal of a judgment to the county court; and
4. handling post-judgment collection, discovery, and receiverships.



**D. Family Law.**

1. Except as provided in paragraph (2), a legal paraprofessional licensed by the Court in family law may provide, without lawyer supervision, the following limited legal services in an uncontested divorce that does not involve children or complex property issues:

- a. advise a client on completing and file family law forms that have been approved by an approved entity;
- b. represent a client in court proceedings, including preparation of affidavits in support of temporary orders and divorce decrees;
- c. communicate with the court on issues related to the matters described in paragraphs (a) and (b); and
- d. communicate with an unrepresented opposing party or, if represented, the lawyer or licensed legal paraprofessional for the opposing party on issues related to the matters described in paragraphs (a) and (b).

2. When providing services under paragraph (2), the licensed legal paraprofessional must not, without lawyer review, prepare a qualified domestic relations order (“QDRO”) required to make the division of retirement funds effective. If not preparing a QDRO, the licensed legal paraprofessional must advise the client to seek prompt assistance from a lawyer.

3. A legal paraprofessional licensed by the Court in family law may provide, with lawyer supervision, the following limited legal services in an uncontested suit for protection under Title IV of the Family Code or in an uncontested suit affecting the parent–child relationship—including an uncontested divorce involving children—that only involves standard conservatorship provisions, standard possession schedules, and guideline child-support issues:

- a. advise a client on completing and file family law forms that have been approved by an approved entity;
- b. represent a client in court proceedings, including preparation of affidavits in support of temporary orders and final orders;
- c. communicate with the court on issues related to the matters described in paragraphs (a) and (b); and
- d. communicate with an unrepresented opposing party or, if represented, the lawyer or licensed legal paraprofessional for the opposing party on issues related to the matters described in paragraphs (a) and (b).

4. An uncontested suit affecting the parent–child relationship in paragraph (3) excludes any suit where the Texas Department of Family and Protective Services is a party to the suit.

**E. *Estate-Planning and Probate Law.*** A legal paraprofessional licensed by the Court in estate-planning and probate law may provide, without lawyer supervision, the following limited legal services:

1. advise a client on completing and file the following forms:
  - a. Health Insurance Portability and Accountability Act release;
  - b. annual reports of a person in guardianship;
  - c. medical power of attorney;
  - d. declaration of guardian;
  - e. directive to physicians;
  - f. declaration for mental health treatment;
  - g. supported decision-making agreements;
  - h. statutory durable power of attorney;
  - i. transfer on death deed;
  - j. small estate affidavit; and
  - k. muniment of title application;
2. in addition to the forms in paragraph (1), advise a client on completing and file estate-planning and probate forms that have been approved by statute or an approved entity;
3. represent a client in an uncontested court proceeding related to a muniment of title;
4. communicate with the court on matters related to annual reports of a person in guardianship, small estate affidavits, or muniment of title applications; and

5. communicate with an unrepresented opposing party or, if represented, the lawyer or licensed legal paraprofessional for the opposing party on issues related to the matters described in paragraphs (1) to (3).

**F. *Consumer-Debt Law.*** A legal paraprofessional licensed by the Court in consumer-debt law may provide, without lawyer supervision, the following limited legal services in courts other than justice courts:

1. advise a client on completing and file consumer-debt forms that have been approved by statute or an approved entity;
2. represent a client in an uncontested court proceeding related to consumer debt;
3. communicate with the court on issues related to the matters described in paragraphs (1) and (2); and
4. communicate with an unrepresented opposing party or, if represented, the lawyer or licensed legal paraprofessional for the opposing party on issues related to the matters described in paragraphs (1) and (2).

**G.** Nothing in this Article should be construed as:

1. limiting a licensed legal paraprofessional's or other person's ability to provide legal information, including:
  - a. providing information about court rules, court terminology, and court procedure, including how to initiate, advance, and finalize a suit and compliance with local procedure;
  - b. directing to legal resources, forms, and referrals;
  - c. encouraging litigants to consult a lawyer;
  - d. offering educational classes and informational materials;
  - e. recording on forms verbatim;
  - f. reviewing forms and other documents for completeness and, if incomplete, stating why the form or document is incomplete; and
  - g. explaining how to navigate a courthouse, including providing information about security requirements and directional information and explaining how to obtain access to a suit file or request an interpreter;

2. regulating the use of paralegals by lawyers; or
3. regulating the activities an authorized agent or court-access assistant can perform in justice court suits under Texas Rule of Civil Procedure 500.4.

### **Section 8. Appearance, Client Protection, and Withdrawal**

**A.** If a licensed legal paraprofessional's representation involves appearing before or communicating with a court, then the licensed legal paraprofessional must file a notice of limited appearance signed by the licensed legal paraprofessional and the client. The notice must be served on all parties. The notice must identify:

1. the licensed legal paraprofessional making the limited appearance;
2. the subject matter or matters in which the licensed legal paraprofessional is licensed;
3. the party the licensed legal paraprofessional represents;
4. the tasks for which the licensed legal paraprofessional will represent the party; and
5. the service information for the licensed legal paraprofessional.

**B.** If, during the representation of a client, the licensed legal paraprofessional learns that the suit requires performance of activities beyond those permitted in Section 7, the licensed legal paraprofessional must take appropriate steps to protect the client, including:

1. notifying the client in writing or in a court proceeding of the scope issues and of all pending deadlines or settings known to the licensed legal professional;
2. providing the court and the opposing party with the client's service information;
3. requesting an extension or continuance from the court, as appropriate;
4. directing the client to known resources;
5. surrendering papers and property to which the client is entitled; and

6. if the suit requires performance of activities wholly beyond those permitted in Section 7, do at least one of the following:

- a. move to withdraw consistent with Texas Rule of Civil Procedure 10; or
- b. add a lawyer in charge.

### **Section 9. Code of Ethics**

**A.** A licensed legal paraprofessional must maintain a high standard of competency and ethical conduct to better assist the legal profession in fulfilling its duty to provide quality legal services to the public and to contribute to the integrity of the legal profession.

**B.** A licensed legal paraprofessional must only engage in the practice of law as permitted in Section 7 or as otherwise authorized by statute or Court rule.

**C.** A licensed legal paraprofessional must exercise care in using independent professional judgment and in determining the extent to which a client may be assisted within the scope of the licensed legal paraprofessional's license.

**D.** A licensed legal paraprofessional owes a duty of candor to a court consistent with the duty owed by lawyers under Rule 3.03 of the Texas Disciplinary Rules of Professional Conduct.

**E.** A licensed legal paraprofessional must preserve and protect the confidences and secrets of a client as required by lawyers under Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct.

**F.** A licensed legal paraprofessional must avoid any interest or association that constitutes a conflict of interest pertaining to a client matter. Avoidance may include withdrawal if a representation becomes improper.

1. A licensed legal paraprofessional must not represent opposing parties to the same litigation.

2. A licensed legal paraprofessional must not represent a person if the representation of that person:

a. involves a substantially related matter in which that person's interests are materially and directly adverse to the interests of another client of the licensed legal paraprofessional or the licensed legal paraprofessional's firm; or

b. reasonably appears to be or become adversely limited by:

- i. the licensed legal paraprofessional's or the licensed legal paraprofessional's firm's responsibilities to another client or to a third person; or
- ii. the licensed legal paraprofessional's or licensed legal paraprofessional's firm's own interests.

**3.** A licensed legal paraprofessional who has represented multiple parties in a matter must not thereafter represent any of such parties in a dispute among the parties arising out of the matter unless prior consent is obtained from all such parties to the dispute.

**G.** A licensed legal paraprofessional must not make or sponsor a false or misleading communication about the licensed legal paraprofessional's qualifications or services and, to the extent applicable, should follow the advertising rules applicable to lawyers under Section VII of the Texas Disciplinary Rules of Professional Conduct.

**H.** A licensed legal paraprofessional must not provide immigration services.

**I.** A licensed legal paraprofessional must not charge or receive, either directly or indirectly, any compensation for preparing a legal instrument affecting title to real property under Texas Government Code § 83.001.

## **Section 10. Court Sanctions and Discipline**

**A.** A licensed legal paraprofessional may be sanctioned by a court in the same manner as a lawyer.

**B.** A complaint against a licensed legal paraprofessional must be filed with the State Bar.

**C.** The State Bar must notify the licensed legal paraprofessional of the complaint and investigate.

**D.** After an investigation, the State Bar must:

- 1. dismiss the complaint with notice to the licensed legal paraprofessional and the complainant; or
- 2. request a response from the licensed legal paraprofessional and conduct a hearing.

**E.** The State Bar may suspend or revoke a license for:

- 1. a violation of this Article;

2. for a court sanction against the licensed legal paraprofessional; or
3. for conviction of a serious crime or intentional crime or being placed on probation, with or without an adjudication of guilt, for a serious crime or intentional crime.

F. A licensed legal paraprofessional seeking to appeal a license suspension or revocation must submit a written appeal to the Executive Director of the State Bar or within 30 days. The licensed legal paraprofessional must elect to have the appeal heard by either:

1. the Executive Director of the State Bar or the Executive Director's designee; or
2. a single member of the Board of Disciplinary Appeals who will be selected on a randomized basis.

G. The State Bar must notify the Clerk of the Court when a licensed legal paraprofessional's license is suspended or revoked.

### **Section 11. Duty to Notify; Annual Licensing Requirements**

A. A licensed legal paraprofessional must notify the State Bar of:

1. any change in contact information within 30 days of the change; and
2. any arrests or court sanctions received immediately after the arrest or sanction.

B. A licensed legal paraprofessional must comply with the following each year to renew licensure:

1. pay annual dues in an amount set by the State Bar in consultation with the Court;
2. complete at least 3 hours of continuing education on ethics;
3. complete at least 7 hours of continuing education in each subject matter in which the licensed legal paraprofessional is licensed to practice; and
4. report the number of clients served by the licensed legal paraprofessional under this Article and any other data requested by the State Bar.

C. The initial compliance year for each member is the 12-month period that begins on the first date of the licensed legal paraprofessional's birth month following the date of licensure. All subsequent compliance years begin on the first date of the licensed legal paraprofessional's birth month.

**D.** A licensed legal paraprofessional’s license may be suspended for failure to comply with paragraphs (A) or (B). A licensed legal paraprofessional’s license may be revoked for failure to comply with the duty to notify in paragraph (A)(2) and the education requirements in paragraphs (B)(2) and (B)(3).

## **Section 12. Privilege**

The rules of law and evidence relating to privileged communications between lawyer and client govern communications made or received by a licensed legal paraprofessional performing activities under this Article.

# **ARTICLE XVI LICENSED COURT-ACCESS ASSISTANTS**

## **Section 1. Definitions**

**A.** “Approved legal assistance organization” means:

1. a nonprofit that:
  - a. is funded in part by the Texas Access to Justice Foundation;
  - b. is funded in part by the Legal Services Corporation; or
  - c. provides at least 50% of its legal services at no cost to individuals living at or below 200% of the federal poverty guidelines published annually by the U.S. Department of Health and Human Services;
2. a clinic or pro bono program of a Texas law school; or
3. a pro bono project or program of the State Bar or of a local or specialty bar association within Texas.

**B.** “JCTC” means the Justice Court Training Center.

## **Section 2. Eligibility**

To be eligible for licensure as a court-access assistant, an applicant must:

- A.** have completed justice court training approved by the Court or JCTC that includes training on justice court procedures, professional conduct, and the substantive areas of civil law handled by justice courts;
- B.** pass a criminal-history background check; and



C. provide a certificate of sponsorship by an approved legal assistance organization.

### **Section 3. Application, Licensure, and Enrollment**

A. An applicant must submit to the State Bar an application for licensure as a court-access assistant.

B. The application must be in the form directed by the State Bar and include a certificate of sponsorship by the approved legal assistance organization explaining the scope of the applicant's services, the processes for lawyer supervision, and any training provided.

C. If the State Bar determines that the applicant has satisfied the requirements of Sections 2 and 3, the State Bar must enroll the applicant as a member of the State Bar and certify the applicant to the Court. The Clerk of the Court will issue a corresponding license.

### **Section 4. Permitted Practice**

A. A licensed court-access assistant may, under the supervision of a lawyer at the sponsoring approved legal assistance organization, provide in a civil justice court suit legal services on which they have been trained if the licensed court-access assistant:

1. informs all clients in writing that the court-access assistant is not a lawyer; and
2. obtains written consent from the client to their representation by a non-lawyer.

B. To supervise a licensed court-access assistant, a lawyer must be available to answer any questions relating to documents filed and other tasks undertaken by the licensed court-access assistant but need not appear, whether in person or electronically, with the licensed court-access assistant for court proceedings. A sponsoring approved legal assistance organization must adopt policies for lawyer supervision of its licensed court-access assistants.

C. Nothing in this Article should be construed as limiting a licensed court-access assistant's or other person's ability to provide legal information, including:

1. providing information about court rules, court terminology, and court procedure, including how to initiate, advance, and finalize a suit and compliance with local procedure;
2. directing to legal resources, forms, and referrals;
3. encouraging litigants to consult a lawyer;
4. offering educational classes and informational materials;

5. recording on forms verbatim;
6. reviewing forms and other documents for completeness and, if incomplete, stating why the form or document is incomplete; and
7. explaining how to navigate a courthouse, including providing information about security requirements and directional information and explaining how to obtain access to a suit file or request an interpreter.

### **Section 5. License Revocation; Reinstatement**

**A.** A license issued to a court-access assistant is revoked and the court-access assistant must cease any activities permitted under Section 4:

1. for good cause and upon notice and an opportunity to be heard by the State Bar; or
2. upon the termination of sponsorship by the sponsoring approved legal assistance organization.

**B.** A license revoked under paragraph (A)(2) may be reinstated upon submission of a new application and certification of sponsorship by another approved legal assistance organization.

**C.** The State Bar must notify the Clerk of the Court when a court-access assistant's license is revoked.

### **Section 6. Sponsor Obligations**

The sponsoring approved legal assistance organization must:

**A.** require all licensed court-access assistants to complete at least 3 hours of continuing education by the sponsoring approved legal assistance organization or another entity approved by the Court or JCTC; and

**B.** immediately notify the State Bar if it:

1. has knowledge that the licensed court-access assistant has committed conduct that raises a substantial question as to the court-access assistant's honesty, trustworthiness, or fitness to assist clients; or
2. will no longer sponsor the licensed court-access assistant; and

C. annually report the number of clients served by the licensed court-access assistants under this Article and any other data requested by the State Bar.

### Section 7. Compensation

A licensed court-access assistant must not directly charge a client for services or claim or receive a percentage fee, contingency fee, or origination fee. However, nothing in these rules is intended to prevent the licensed court-access assistant from being paid for services by the sponsoring approved legal assistance organization.

### Section 8. Privilege

The rules of law and evidence relating to privileged communications between lawyer and client govern communications made or received by a licensed court-access assistant performing activities under this Article.

## TEXAS RULES OF CIVIL PROCEDURE

### PART V – RULES OF PRACTICE IN JUSTICE COURTS

#### RULE 500. GENERAL RULES

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#### RULE 500.4. REPRESENTATION IN JUSTICE COURT CASES

(a) *Representation of an Individual.* An individual may:

(1) represent himself or herself;

~~(2) be represented by an authorized agent in an eviction case; or~~

~~(3)~~ be represented by:

~~(A) an attorney;~~

~~(B) in an eviction case, an authorized agent;~~

~~(C) a legal paraprofessional licensed by the Supreme Court under Article XV of the State Bar Rules; or~~

~~(D) a court-access assistant licensed by the Supreme Court under Article XVI of the State Bar Rules.~~

- (b) *Representation of a Corporation or Other Entity.* A corporation or other entity may:
- (1) be represented by an employee, owner, officer, or partner of the entity who is not an attorney;
  - (2) be represented by a property manager or other authorized agent in an eviction case; or
  - (3) be represented by an attorney.
- (c) *Assisted Representation.* The court ~~may, for good cause, must~~ allow an self-represented individual representing himself or herself to be assisted in court by a family member or other individual who is not being compensated by the self-represented individual, unless the court determines there is good cause not to allow such assistance. The self-represented individual must be present for any court proceeding in which assistance is provided.
- (d) Notice If representation by a non-attorney under paragraph (a)(2) involves appearing before or communicating with the court, then the non-attorney must file a notice of limited appearance signed by the non-attorney and the client. The notice must be served on all parties. The notice must identify:
- (1) the non-attorney making the limited appearance;
  - (2) the party the non-attorney represents;
  - (3) the tasks for which the non-attorney will represent the party;
  - (4) the service information for the non-attorney; and
  - (5) if the non-attorney is a court-access assistant:
    - (A) the tasks on which the court-access assistant is trained;
    - (B) the court-access assistant's sponsoring approved legal assistance organization, as defined in Article XVI of the State Bar Rules; and
    - (C) any limitations placed on the court-access assistant's representation by that organization.

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**RULE 510. EVICTION SUITS**

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**RULE 510.4. ISSUANCE, SERVICE, AND RETURN OF CITATION**

- (a) *Issuance of Citation; Contents.* When a petition is filed, the court must immediately issue citation directed to each defendant. The citation must:
- (1) be styled “The State of Texas”;
  - (2) be signed by the clerk under seal of court or by the judge;
  - (3) contain the name, location, and address of the court;
  - (4) state the date of filing of the petition;
  - (5) state the date of issuance of the citation;
  - (6) state the file number and names of parties;
  - (7) state the plaintiff’s cause of action and relief sought;
  - (8) be directed to the defendant;
  - (9) state the name and address of attorney for plaintiff, or if the plaintiff does not have an attorney, the address of plaintiff;
  - (10) state the day the defendant must appear in person for trial at the court issuing citation, which must not be less than 10 days nor more than 21 days after the petition is filed;
  - (11) notify the defendant that if the defendant fails to appear in person for trial, judgment by default may be rendered for the relief demanded in the petition;
  - (12) inform the defendant that, upon timely request and payment of a jury fee no later than 3 days before the day set for trial, the case will be heard by a jury;
  - (13) contain all warnings required by Chapter 24 of the Texas Property Code; and
  - (14) include the following statement: “For further information, [visit www.texaslawhelp.org](http://www.texaslawhelp.org) and consult Part V of the Texas Rules of Civil Procedure, which is available online and also at the court listed on this

citation. To determine whether you may represent yourself or be represented by an attorney or other individual in this case, consult Texas Rule of Civil Procedure 500.4.”

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# CDRR



To: Members of the Committee on Disciplinary Rules and Referenda

From: Andrea Low, Disciplinary Rules and Referenda Attorney

Subject: Annual Report for 2024

Date: November 6, 2024

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A draft of the annual report for 2024 will be circulated to Committee members by Friday, November 15, 2024, for review and comment. For the December 4, 2024, meeting, of the Committee, I expect to circulate the materials incorporating any changes to the draft made by Committee members on Wednesday, November 27, 2024, before the Thanksgiving holiday. At the December 4, 2024, meeting, if Committee members have additional changes, they may discuss revisions to the draft included in the meeting materials and return it to staff to present another draft at the next meeting. Alternatively, if changes are not substantive, Committee members may vote to approve the annual report, as amended, for the final publication.

After the Committee votes to approve the draft annual report for 2024, the Communications Department of the State Bar of Texas will format the report with graphics and ensure that the report is consistent with the format and style of other State Bar publications. State Bar staff will conduct the review process for compliance with *Boudreaux v. Louisiana State Bar Association*, 86 F.4th 620 (5th Cir. 2023).

As with the annual report for 2023, the Office of Legal Counsel of the State Bar of Texas recommends that the Committee vote to approve the draft annual report for 2024 with the directive that it be formatted and published with the content in the document, as written or as amended, subject to the requirements of *Boudreaux* and State Bar style.

Please contact me if you have any questions about the production process or the timeline for the annual report for 2024.