

12th Annual Advanced Texas Administrative Law Seminar
August 24-25, 2017 • AT&T Conference Center • Austin, TX
August 24-25, 2017 • Live Webcast

Thursday Morning, Aug. 24, 2017

Presiding Officer:

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

7:30 am In Austin Only	Registration Opens Includes continental breakfast.
8:20 am	Welcoming Remarks
8:30 am 0.50 hr	Case Law Update, Part I Discuss significant administrative law cases issued during the last year. Laurie Ratliff, Ikard Golden Jones P.C. - Austin, TX
9:00 am 0.50 hr	Trending Issues in APA § 2001.038 Rule Challenges Discuss the latest trends in APA § 2001.038 claims, including an update on recent case law on both substantive and procedural rule challenges. Nichole Bunker-Henderson, Texas Attorney General's Office - Austin, TX
9:30 am 0.75 hr	Legislative Update Review and focus on the bills enacted by the 85th Texas Legislature that impact administrative law practitioners. Moderator: April G. Griffin, Texas Higher Education Coordinating Board - Austin, TX Panelists: Geoffrey S. Connor, Clements Center for National Security - Austin, TX Gina Hinojosa, Texas House of Representatives - Austin, TX Karen M. Kennard, Greenberg Traurig, LLP - Austin, TX
10:15 am	Break

10:30 am 1.00 hr 0.50 hr ethics	<p>Confidential Agency Records in Court Proceedings</p> <p>Explore the current trend toward documents being identified as confidential at the agency-hearing stage and how they should be handled at the district court level when judicial review is sought. Discuss the near-universal desire to move to electronic records, though many agencies are just not there yet.</p> <p>Moderator: Kellie E. Billings-Ray, Office of the Attorney General - Austin, TX</p> <p>Panelists: Hon. Lesli Ginn, State Office of Administrative Hearings - Austin, TX Velva L. Price, Travis County District Clerk - Austin, TX Karen L. Watkins, Office of the Attorney General - Austin, TX Hon. Stephen Yelenosky, Former District Judge, 345th Judicial District Court - Austin, TX</p>
11:30 am 0.50 hr	<p>The Advisability of Agency Advisory Opinions</p> <p>When can agencies issue advisory opinions? And when should they? Examine the process, including the impact such opinions have on parties and non-parties.</p> <p>Elizabeth G. (Heidi) Bloch, Husch Blackwell LLP - Austin, TX</p>
12:00 pm 0.50 hr	<p>The End of the Dance? The <i>Chevron</i> Two-Step and New Directions for Administrative Law</p> <p>Consider recent developments in federal administrative law given the focus on <i>Chevron</i>'s legitimacy during Justice Neil Gorsuch's confirmation hearing, with particular emphasis on how the new Supreme Court and the new Administration may affect judicial review of administrative decision-making.</p> <p>Shane A. Pennington, Baker Botts LLP - Houston, TX Evan A. Young, Baker Botts - Austin, TX</p>
12:30 pm In Austin Only	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Thursday Afternoon, Aug. 24, 2017

Presiding Officer:

Donald N. Walker, Stone Loughlin & Swanson, LLP - Austin, TX

LUNCHEON PRESENTATION

12:50 pm 0.50 hr ethics	<p>The Lobbying Line</p> <p>What are the legal and ethical lines to watch when you are lobbying at the Texas Capitol? How do you know if you have crossed them?</p> <p>Royce Poinsett, Gardere Wynne Sewell - Austin, TX Mark Vane, Gardere Wynne Sewell - Austin, TX</p>
1:20 pm	<p>Break</p>

1:35 pm 0.75 hr	<p>Administrative Regulation and Sunset Review</p> <p>The 85th Legislative Session opened with a theme of refocusing priority areas and improving efficiencies among regulatory agencies. Review whether these themes came to fruition and the possible effects on administrative regulation.</p> <p>Antonio A. Cobos, Sharp & Cobos - Austin, TX Glenn E. Johnson, Kelly Hart & Hallman LLP - Austin, TX Leonard J. Reese, Texas Department Of Transportation - Austin, TX</p>
2:20 pm 0.75 hr	<p>Mediation Best Practices at SOAH</p> <p>Mediation presents unique opportunities and challenges for administrative law practitioners. Gain tips for best practices from a SOAH judge, a private practice attorney, and an agency attorney.</p> <p>Franklin Hopkins, Germer Beaman & Brown PLLC - Austin, TX Barbara Jordan, Texas Medical Board - Austin, TX Hon. Howard S. Seitzman, State Office of Administrative Hearings - Austin, TX</p>
3:05 pm 0.50 hr	<p>Did <i>Patel</i> Swallow <i>Burger</i>?</p> <p>Warrantless administrative searches have traditionally been evaluated under the <i>Burger</i> test established by the U.S. Supreme Court in 1987 in <i>New York v. Burger</i>, but the Court's recent decision in <i>Patel v. City of Los Angeles</i> has brought recent attention to the issue. Review the consequences of the Court's recent decision in <i>Patel</i>, and how it may be interpreted going forward.</p> <p>Paul Michael Shirk, Texas Department of Licensing and Regulation - Austin, TX</p>
3:35 pm	<p>Break</p>
3:45 pm 0.75 hr	<p>Ultra Vires Update</p> <p>Review recent appellate decisions together with a plea for clarity in using the phrase "ultra vires."</p> <p>J. Bruce Bennett, Cardwell, Hart & Bennett, L.L.P. - Austin, TX Linda B. Secord, Office of the Attorney General - Austin, TX</p>
4:30 pm 0.50 hr ethics	<p>Pro Bono Survey</p> <p>Pro bono work encompasses more than just representation of clients in need of assistance in litigation matters. Discuss what pro bono work really means, including ethical considerations, and how you can get involved.</p> <p>Janet I. Monteros, Texas Health and Human Services Commission - El Paso, TX</p>
5:00 pm 0.50 hr	<p>SOAH Update</p> <p>Hear a discussion of recent developments at State Office of Administrative Hearings.</p> <p>Hon. Gary W. Elkins, State Office of Administrative Hearings - Austin, TX Hon. Lesli Ginn, State Office of Administrative Hearings - Austin, TX Cynthia Villarreal-Reyna, State Office of Administrative Hearings - Austin, TX</p>
5:30 pm In Austin Only	<p>Adjourn to Reception</p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees.</p>

Friday Morning, Aug. 25, 2017

Presiding Officer:

Linda B. Secord, Office of the Attorney General - Austin, TX

7:30 am In Austin Only	Conference Room Opens Includes continental breakfast.
8:30 am 0.50 hr	Case Law Update, Part II Continue the discussion of significant administrative law cases issued during the last year. Laurie Ratliff, Ikard Golden Jones P.C. - Austin, TX
9:00 am 0.50 hr	Open Government Update Review recent judicial decisions and legislative developments related to the Texas Public Information Act and the Texas Open Meetings Act. Kimberly L. Fuchs, Office of the Attorney General - Austin, TX Lori Fixley Winland, Locke Lord LLP - Austin, TX
9:30 am 0.75 hr	Agency Spotlight: Texas Department of Insurance Hear a discussion on the varied and unique administrative law issues Texas Department of Insurance attorneys face and the varied roles they play on a daily basis on behalf of the regulator of the Texas insurance market. Gain insights into how TDI's expansive work impacts you personally and professionally. Rachel Cloyd, Texas Department of Insurance - Austin, TX Norma Garcia, Texas Department of Insurance - Austin, TX Leah Gillum, Texas Department of Insurance - Austin, TX Margaret Jonon, Texas Department of Insurance - Austin, TX Co-Author: Amy Wills, Texas Department of Insurance - Austin, TX
10:15 am	Break
10:30 am 1.00 hr ethics	Ethical Considerations Regarding Attorney Contacts with State Agency Texas Disciplinary Rule of Professional Conduct 4.02 addresses communications by an attorney with "a person, organization, or entity of government the lawyer knows to be represented by another lawyer regarding that subject." Explore how this Rule relates to private attorney contact with state agency staff and, in cases being handled by the Office of the Attorney General, with in-house agency counsel. Moderator: Ann Bright, Texas Parks and Wildlife Department - Austin, TX Panelists: Reuben Booker Harrison, TCEQ - Austin, TX James E. Davis, Office of the Attorney General - Austin, TX Patricia McCandless, Health Care Service Corporation - Austin, TX Mark L. Walters, Jackson Walker LLP - Austin, TX

11:30 am 0.50 hr	<p>New SOAH Discovery Rules</p> <p>Consider, from a practitioner standpoint, how the new SOAH discovery rules may affect your administrative litigation practice.</p> <p>Hon. Hunter Burkhalter, State Office of Administrative Hearings - Austin, TX Andres S. Medrano, Gardere Wynne Sewell LLP - Austin, TX</p>
12:00 pm 0.50 hr	<p>Addressing Open Government Practices with Technology Solutions</p> <p>Explore how common Open Government issues can be addressed with innovative technology solutions. Examine methods that can make compliance more efficient and cost effective, and see the future of where technology in government is headed.</p> <p>Martin H. Zelinsky, Texas Department of Information Resources - Austin, TX</p>
12:30 pm In Austin Only	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Friday Afternoon, Aug. 25, 2017

Presiding Officer:

Franklin Hopkins, Germer Beaman & Brown PLLC - Austin, TX

LUNCHEON PRESENTATION

12:50 pm 0.50 hr ethics	<p>Impaired Attorneys and Texas Lawyers' Assistance Program</p> <p>Learn about the lifesaving services of the Texas Lawyers Assistance Program, including the Sheeran Crowley Memorial Trust, which assist lawyers, judges, and law students who are dealing with substance abuse and/or mental health disorders. These disorders can impact a law practice—hear about services available to restore the lawyer's life and practice to the highest ethical standards.</p> <p>Allan K. DuBois, State Bar of Texas - San Antonio, TX Chris C. Ritter, State Bar of Texas - Austin, TX</p>
1:20 pm	<p>Break</p>
1:35 pm 0.50 hr	<p>Behind the Scenes at the Third Court of Appeals</p> <p>Discover the things you always wanted to know about the processes at the Third Court of Appeals, and get insight into issues with accelerated cases.</p> <p>Moderator: Colleen M. Sullivan, Third Court of Appeals - Austin, TX Panelists: Alessandra Ziek Beavers, Third Court of Appeals - Austin, TX Jenny Brannen, Third Court of Appeals - Austin, TX</p>

2:05 pm 0.50 hr	<p>Some Things That Could or Should be Fixed in Texas Administrative Law and the APA</p> <p>Consider what could or should be fixed in Texas Administrative Law and the APA, with insight from one attorney who remembers how it was before the APA and how it's been in the forty plus years since its enactment.</p> <p>Ace Pickens, Husch Blackwell LLP - Austin, TX</p>
2:35 pm 1.00 hr	<p>Judicial Panel</p> <p>Engage in an unscripted round-robin discussion, with time for questions from the audience. Please submit your questions in advance to ConferenceQA@utcle.org or on-site at the conference registration desk.</p> <p>Moderator: Hon. Suzanne Formby Marshall, State Office of Administrative Hearings - Austin, TX</p> <p>Panelists: Hon. Bob Pemberton, Third Court of Appeals - Austin, TX Hon. Karin Crump, 250th District Court - Austin, TX</p>
3:35 pm	<p>Adjourn</p>