

## CBA LEGISLATIVE AGENDA October 2020

The Connecticut Bar Association has authorized **Association positions** on the following issues for the 2020 regular legislative session of the Connecticut General Assembly:

**Tax on Legal Services.** The CBA, on behalf of the CBA Executive Committee, opposes the imposition of any tax on legal services. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

**Human Trafficking.** The CBA, on behalf of the Committee on Human Trafficking and the Human Rights and Responsibilities section, supports legislation that strengthens anti-human trafficking efforts, not limited to redefining trafficking to a federal statute; providing additional anti-trafficking training; and extending confidentiality provisions, providing immunity from prosecution and establishing affirmative defenses for victims of child trafficking in connection with trafficking-related offenses. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session.

**Right to Counsel in Eviction Cases.** The CBA, on behalf of the Pro Bono Committee, supports legislation for a pilot program to be established in one judicial district to provide legal representation for defendants and plaintiffs in residential eviction cases as was recommended by the Civil Gideon Pilot Program report to the CT General Assembly, July 1, 2019 and the Task Force to Improve Access to Legal Counsel in Civil Matters. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Civil Gideon.** The CBA, on behalf of the Pro Bono Committee, supports, as an ASSOCIATION position, legislation of a pilot program for counsel for indigents in civil restraining orders under CGS 46b-15. Currently applicants and respondents without sufficient funds lack access to counsel. This bill arises out of the Task Force for Right to Counsel in Civil Matters. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Legal Services to Homeless Veterans.** The CBA, on behalf of the Pro Bono Committee supports, as an ASSOCIATION position, the Legal Services to Homeless Veterans Act of 2017 that would amend Title 38, United States Code, to authorize the Secretary of Veterans Affairs to award grants or enter into contracts with public and private entities to provide pro bono legal services to homeless veterans and veterans at risk of homelessness. Such grants and contracts are subject to the availability of funds. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Foreclosure Mediation Program.** The CBA, on behalf of the Consumer Law Section, supports legislation to extend the Foreclosure Mediation Program (FMP) through 2023 as proposed by S.B. 823, which was approved by the Judiciary Committee, and by H.B. 6996, which has been approved by the Banking Committee. Presently the FMP is scheduled to sunset on June 30, 2019. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session. (PA19-145)

**Elimination of Transcription Services.** The CBA, on behalf of the Executive Committee, Litigation, Appellate Advocacy, Estates & Probate, Human Rights and Responsibilities, Law Librarians, Administrative Law and Education Law sections oppose legislation seeking the elimination of transcription services for public hearings at the legislature. Legislative intent will be missing in that dialogue between the person testifying and the legislator will not be available through transcription. Approved by the House of Delegates, June 18, 2018; expires end of 2021 Legislative session.

A CBA Section has an authorized position on the following issues during the 2020 regular legislative session of the Connecticut General Assembly:

***Alternative Dispute Resolution Section:***

**Uniform Mediation Act.** The Alternative Dispute Resolution section supports legislation promoting uniformity in mediation, establishing the integrity of the mediation process as a method of resolving conflict and self-determination, and setting forth clear guidelines safeguarding the confidentiality of mediation proceedings. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

***Animal Law Section:***

**Big Six.** The Animal Law Section supports legislation to prohibit the importation and trade of big six African species. These endangered animals are sought by trophy hunters and armed commercial poachers who sell ivory and organs. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***Business Law Section:***

**Establishing Benefit Limited Liability Companies.** The Business Law section supports legislation creating a Connecticut Benefit Limited Liability Companies Act similar to the Connecticut Benefit Corporation Act. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Series LLC.** The Business Law section supports the establishment of Series LLCs in CT with acceptable language at the appropriate time. This Act will provide the ability to use one LLC to create divisions of the LLC in a series so each series can hold separate assets, potentially separate management, and retain legal independence from each division in the series. It has potential broad application for a variety of entrepreneurial companies seeking to hold multiple portfolio ventures under one master holding structure. It has been authorized by the Uniform Law Commission. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

***Child Welfare and Juvenile Law:***

**Specific Steps form (JM106).** The Child Welfare and Juvenile Law section supports amending language in the Juvenile Court to the Specific Steps form through approved discussions with the Judicial Branch and with the Department of Children and Family. The Specific Steps are the roadmap for the parent to end Protective Supervision or for the reunification of the child to occur. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Restoration of Terminated Parental Rights.** The Child Welfare and Juvenile Law section supports legislation in a case where parental rights have been terminated pursuant to section 17a-112, and where a child was never adopted, a petition may be filed in the Superior Court for Juvenile Matters that would restore the parental rights of one or both parents of children found to be “unadoptable” and should have the option to revisit the biological parents under the right set of circumstances. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

**Petition for Permanent Transfer of Guardianship.** The Child Welfare and Juvenile Law section supports proposed legislation that would change the “Motion” for Permanent Transfer of Guardianship (PTOG) to a “Petition” for Permanent Transfer of Guardianship. Adoption, neglect, and termination of parental rights petitions are all treated as separate petitions, rather than as motions. Changing the motion for permanent transfer of guardianship to a petition would provide the Court greater uniformity. In addition, there should be a greater protection for parents due to the parents’ loss of their right to return to Court to seek a reinstatement. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

**Timely Notice in Child Protection.** The Child Welfare and Juvenile Law Section supports legislation that would provide timely notice of child placement information from DCF to the attorney representing the child in a child protection matter. This is a reoccurring problem for attorneys representing children in child protections matters. These proposed changes are already the DCF policy regarding notice to the child’s attorney; however, policy is often not followed and there is no accountability due to not following DCF’s policy. Approved by the House of Delegates, March 19, 2018; expires end of 2020 Legislative session.

***Commercial Law and Bankruptcy:***

**Regarding Bankruptcy Filing.** The Commercial Law and Bankruptcy section supports proposed FEDERAL legislation, S2282, that would remove language currently contained in 28 U.S.C. § 1408 that permits companies to file for bankruptcy where they are incorporated or where smaller affiliates operate. Approved by the House of Delegates, March 19, 2018; expires end of 2020 Legislative session.

***Construction Law Section:***

**False Claims Act.** The Construction Law Section opposes the establishment of a state False Claims Act which could potentially be misused. It would impose significant civil and criminal penalties; is an incorrect remedy for problems associated with the state contract bidding process; and would likely reduce business with the state and revenue. The Section is not opposed to legislation that would include penalties resulting from willful or intentional fraudulent conduct. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**State Contracts Enforcement.** The Construction Law Section supports legislation which would authorize and allow the enforcement of state construction contracts signed by the State’s authorized representatives. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Pass Through Claims.** The Construction Law Section supports legislation amending C.G.S. §4-61 to allow general contractors to include subcontractor pass-through claims in a claim against the state arising out of a highway or public works contract without requiring the contractor to first admit liability for the subcontractor's claim. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Occupational Licensing and Building Trades and Contractor Debarment.** The Construction law section opposes legislation which grants to the Labor Commission the authority to debar any person or firm from working on state or municipal projects for a period of up to five (5) years based on a finding by the Commissioner on the basis of "substantial evidence" listed in the legislation. The proposed bill is unnecessary because substantial authority already exists in current statutes to allow the Labor Commissioner to debar a contractor who knowingly and willfully violates said laws. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

***Disability Law Section:***

**Open for Hearings.** The Disability Law section supports communicating with their Members of Congress for assistance to persuade the Social Security Administration to reopen the Hearings Offices within the next six weeks since their present closures nationwide have resulted in considerable harm to the disabled, and there does not seem to be any urgency from SSA to open. Approved by the CBA Executive Committee, July 29, 2020; expires end of 2021 Legislative session.

***Elder Law Section:***

**Revised Uniform Law on Notarial Acts.** The Real Property, Elder Law, Paralegal and Estates and Probate sections oppose 2020 legislation as written which would authorize electronic remote notarizations of documents and would eliminate the need for the notary to be in the physical presence of the signer. The notary does not need to be licensed in Connecticut and there is no exception for documents such as Wills, Trusts, powers of attorney and deeds. Approved by the Executive Committee, March 11, 2020; expires end of the 2020 session.

**Community Spouse Protected Amount.** The Elder Law Section supports legislation and/or administrative and regulatory advocacy that would increase the minimum Community Spouse Protected Amount to the maximum Community Spouse Protected Amount in the Medicaid long-term care coverage group for married couples. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.

**Transfer of Assets.** The Elder Law Section opposes and seeks changes to proposed regulations effecting patient transfer of assets and nursing home eligibility qualifications issued by the Department of Social Services intending to implement provisions of the 2006 Federal Deficit Reduction Act (DRA). Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Applied Income.** The Elder Law Section *opposes* legislation that would add additional grounds for allowing nursing home facilities to transfer or discharge patients, including but not limited to residents who fail to pay applied income to the facility for more than sixty days. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Inaccessible Assets.** The Elder Law section *opposes* legislation from the Department of Social Services (DSS) to remove the word "inaccessible" as it applies to assets and income in Medicaid and certain other programs. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Life Use Estates Regulations.** The Elder Law Section *opposes* the CT Department of Social Services (DSS) proposed regulations to amend UPM Section 4030.35, which would change the calculation of interest on life use estates. This proposed regulation would greatly overstate the value of a life use. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Life Use Recovery.** The Elder Law Section *opposes* an expansion of the state's right of recovery for medical assistance benefits paid to include claims against life uses. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Supported Decision Making Agreement By a Person with a Disability.** The Elder Law Section *opposes* legislation, with conditional support for the underlying concept, reflecting efforts made nationally to reduce the number of disabled but capable persons who are conserved or under guardianship, by creating a statutory process for the disabled person to enter into an agreement with a "Supporter" who would support the disabled person in making their own important life decisions, and help them gather information and communicate their decisions, with the decisions to be those of the disabled person. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session.

**Medicaid Eligibility for Home Care Services.** The Elder Law Section *supports* legislation requiring the Department of Social Services to provide payments for Medicaid services almost immediately upon application for services, as long as the individual didn't transfer any assets for less than fair market value during the 60 months before applying for services. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Deadline for Fair Hearing Decisions.** The Elder Law Section *opposes* legislation which would reverse or in any way diminish the holding in *Handel v. Commissioner of Social Services*, 183 Conn. App. 392 (2018), requiring DSS to issue a fair hearing decision within 90 days of the request for a fair hearing. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.

**Probate Court Orders Compliance.** The Elder Law Section *supports* legislation that would require state agencies to recognize, apply and enforce any order, denial or decree of a Probate Court. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Prior Title Holders.** The Elder Law Section *supports* legislation which prevents a previously recorded interest in property from losing its priority to an unrecorded or subsequently recorded claim or lien by the state against a person for repayment of state aid. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Waivers.** The Elder Law Section *opposes* legislation which would repeal C.G.S. 17b-8. C.G.S. providing legislative oversight by the Appropriations and Human Services committees over requests for waivers by the Department of Social Services to the Centers for Medicare and Medicaid Services. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Agency Efficiency in the Regulation Process.** The Elder Law Section *opposes* legislation that would allow agency heads the ability to not promulgate certain legislative regulations. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Non-Taxable Annuity.** The Elder Law Section *opposes* legislation that seeks to include the nontaxable annuity income from the spouse of an institutionalized individual who is a Medicaid recipient to the spouse's income for purposes of determining the amount that the spouse owes as a contribution as a "legally liable relative." Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Disclosure of Additional Costs.** The Elder Law section *supports* legislation to expand the types of long term care facilities which are required to disclose additional costs and notices to residents and to emphasize federal law prohibiting third party guarantees of payment. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Budget line items.** The Elder Law Section *opposes* the elimination of line item budget review in Human Services. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Caregiver Agreements.** The Elder Law Section *opposes* legislation that would require a written agreement between a Medicaid applicant or recipient and a family member. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Personal Needs Allowance.** The Elder Law Section *supports* legislation increasing the personal needs allowance for nursing home residents on Medicaid. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Training requirements for Senior Services.** The Elder Law section *opposes* HB 5395, "An Act Concerning Training and Experience Requirements for Providers of Services to Senior Citizens," unless it is amended in Sections 1 and 2 to specifically exclude attorneys licensed to practice in the State of Connecticut. Approved by the House of Delegates, March 19, 2018; expires end of 2020 Legislative session.

**Medicare Savings Program.** The Elder Law Section *opposes* legislation which would decrease benefits provided under the Medicare Savings Program. Approved by the House of Delegates, March 19, 2018; expires end of 2020 Legislative session.

**To expand the definition of "exploitation" under C.G.S. § 17b-450.** The Elder Law section *supports* legislation that would allow for a means by which to hold nursing home facilities responsible for offering legal advice to admitted patients and/or their families in qualifying for Medicaid, but said advice may not be in the best financial interest of the patient. Approved by the House of Delegates, March 19, 2018; expires end of 2020 Legislative session.

**Requiring Community Service.** The Elder Law section *opposes* legislation that would require work or community service of those receiving public assistance. Approved by the House of Delegates, March 19, 2018; expires end of 2020 Legislative session.

**Protections of Elderly from Abuse.** The Elder Law section *opposes* banking legislation calling on elder abuse protections that are too broad in scope and do not provide any procedural safeguards including notice, recourse, or appeal rights to the bank customer/elderly person. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

**Elder Exploitation.** The Elder Law section *opposes* legislation which is intended to prevent elder abuse and exploitation but is so broadly drafted as to create significant adverse unintended consequences for the families of elderly citizens. Elderly being defined as anyone 60+. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

**Surviving Spouse a Statutory Share.** The Elder Law section *opposes* legislation that would provide a Probate Court judge with the discretion to award a surviving spouse a statutory share of an estate that exceeds one-third of all property passing under a will based on the equities of the case. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

**Money Follows the Person.** The Elder Law section *supports* legislation that would increase the availability of home and community based services for the elderly and individuals under age sixty-five, including but not limited to, increasing the number of persons served in various Medicaid waiver programs and/or increasing the availability of services under the Money Follows the Person Program. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

***Elder Law and Estates and Probate Sections:***

**Statutory Share.** The Estates and Probate and the Elder law sections *oppose* legislation to increase the value of a surviving spouse's statutory share. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

### ***Elder Law and Human Rights & Responsibilities Sections***

**Aid in Dying.** The Elder Law and the Human Rights and Responsibilities sections oppose legislation concerning “AAC Compassionate Aid in Dying for Terminally Ill Patients” unless additional safe guards are added, which would be that:

1. Care givers and heirs cannot be witness to the request by the patient;
2. Two independent physicians must sign off on the terminal nature of the illness;
3. Nothing in this Act shall limit the jurisdiction or authority of the Office of Protection and Advocacy for People with Disabilities to exercise its statutory powers;
4. The two independent physicians referenced in #2 above must advise the patient of the availability of counseling with a psychologist, psychiatrist or licensed clinical social worker.

As written, this bill would allow a physician to prescribe medication at the request of a mentally competent patient who has a terminal illness that such patient may self-administer to bring about his or her death. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

### ***Environmental Law Section:***

**Transfer Act Audit Period.** The Environmental Law section supports legislation which proposes shortening of the time period during which the Department of Energy and Environmental Protection may conduct an audit of a verification filed pursuant to the Transfer Act, CGS Section 22a-134 et seq., which governs remediation of certain industrial and commercial properties in Connecticut at the time when ownership of an establishment is transferred. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session. (PA19-75)

**Administrative Orders on Consent.** The Environmental Law Section supports legislation to clarify that the power of the Connecticut Department of Energy and Environmental Protection to "issue, modify or revoke" administrative orders under Conn. Gen. Stat. §22a does not authorize unilateral revocation of administrative orders on consent. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.

### ***Environmental Law and Real Property Sections:***

**Green Bank.** The Environmental Law and Real Property Sections support an amendment to legislation regarding the residential Property Assessed Clean Energy (PACE) Financing program which (i) deletes recent legislation to utilize a super lien and replaces it with text that would make the resulting residential PACE lien subject to existing liens of record and (ii) supports the remaining provisions of such proposed legislation. Approved by the House of Delegates, June 19, 2017; expires the end of the 2020 Legislative session.

### ***Estates and Probate Section:***

**Probate Court Operations.** The Estates and Probate Section supports legislation proposed by the Probate Court to address technical provisions, in which the key components will enable electronic filing in the probate courts. The bill also could repeal existing law that permits unconstitutional freezing of assets upon mere application for conservatorship without due notice or hearing. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.



**Revocation by Dissolution of Marriage.** The Estates and Probate section supports legislation which would revoke certain beneficiary designation or testamentary transfers passing to a former spouse following a dissolution of the marriage. This legislation would provide similar relief to the current law which revokes testamentary provisions under a will for a former spouse. The proposal is intended to assist the divorced individual who hasn't yet had a chance to revise their beneficiary designations. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Revised Uniform Law on Notarial Acts.** The Real Property, Elder Law, Paralegal and Estates and Probate sections oppose 2020 legislation as written which would authorize electronic remote notarizations of documents and would eliminate the need for the notary to be in the physical presence of the signer. The notary does not need to be licensed in Connecticut and there is no exception for documents such as Wills, Trusts, powers of attorney and deeds. Approved by the Executive Committee, March 11, 2020; expires end of the 2020 session.

**Trust Law.** The Estates and Probate section supports the adoption of legislation that would adopt legislation modernizing and codifying Connecticut trust law to keep trust business in Connecticut and remain competitive with neighboring states. The legislation includes enhanced protection for beneficiaries more in line with the Restatement Third of Trusts, authority to appoint a director to enable retention of unique assets, such as closely-held business interests, prospective elimination of the rule against perpetuities to allow for longer term protection of trust assets and adoption of law enabling the protection for the qualified disposition of assets in self-settled trusts. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session. (PA19-137)

**Gift Tax Repeal.** The Estates & Probate section supports legislation to eliminate the Connecticut gift tax. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***Estates & Probate and Real Property Sections:***

**Infinite Duration of the Succession, Estate and Probate Fee Liens.** The Estates & Probate and Real Property sections support legislation to address the fact that a) Probate Court fee liens and estate/successions tax liens are of infinite duration; and b) property is sometimes conveyed or mortgaged without such liens being cleared. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***Family Law Section:***

**Uniform Parentage Act.** The Family Law section supports the Uniform Parentage Act with proposed amendments regarding presumed parentage and findings on *de facto* parentage. Approved by the House of Delegates, March 16, 2020; expires end of 2022 Legislative session.

**Immunity.** The Family Law Section opposes legislation that would remove tort immunity from all counsel and from AMCs and GALs (Carrubba v. Moskowitz, 274 Conn. 533 (2005)) involved in civil and family matters. The section also opposes abolishment of common law immunity for attorneys for statements made in a courtroom in the prosecution of a case. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Supervised Visitation.** The Family Law section opposes legislation which would limit the circumstances under which the court might order supervised visits between a parent and child, or limit the period during which supervised visits may be ordered, or limit the qualifications of providers, or otherwise limit the court's discretion to enter visitation orders designed to protect the best interests of the child. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Immunity for Psychologists & Psychiatrists.** The Family Law section supports legislation which would confer quasi-judicial immunity in tort litigation on licensed mental health professionals appointed by the court to perform forensic evaluations of the parties and/or their child (ren) in custody cases. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Custody.** The Family Law section opposes any attempt to reduce or eliminate judicial discretion to enter orders regarding custody or parental access (visitation) or eliminate the "best interests of the child" standard. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Family Court evaluations.** The Family Law section opposes legislation that would (1) allow each parent to select his/her own evaluator in a child custody case, (2) delay necessary medical care for a child, (3) remove the child's guardian ad litem from the list of persons who may receive a copy of an evaluation report, and (4) permits copies of such a report to be provided directly to the parents without a requirement that the report be kept confidential by the parents. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Litigation Privilege.** The Family Law Section opposes abolishment of common law immunity for attorneys for statements made in a courtroom in the prosecution of a case. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

**Alimony Deduction.** The Family Law Section opposes in federal legislation (HR 1) the repeal of Sections 215 and 71 of the Internal Revenue Code, which provide for an income tax deduction for individuals who pay qualifying alimony, and require recipients to declare taxable alimony as income. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

**DPH and Family Court.** The Family Law Section opposes legislation that seeks to establish a task force to study the Department of Public Health's "involvement" in the family court system. Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

***Human Rights and Responsibilities Section:***

**LGBTQ rights.** The HR&R section opposes the U.S. Department of Health and Human Services (HHS) Office for Civil Rights' proposed rule to modify the Health Care Rights Law (Section 1557 of the Affordable Care Act) to eliminate the rights of LGBTQ people, and to restrict lower or eliminate protections for limited English proficient (LEP) older adults and to limit the ability of victims of discrimination to seek redress for any discrimination they have suffered. Approved by the Board of Governors, September 16, 2019; expires September 16, 2020.

**Redefining Poverty Threshold.** The HR&R section opposes the implementation of the U.S. Office of Management and Budget's new rules effecting social services which would redefine poverty by lowering the thresholds and modifying inflation measures in such a way as to limit those elderly and poor citizens able to receive social services benefits. Approved by the Board of Governors, September 16, 2019; expires September 16, 2020.

***Human Rights & Responsibilities Section and Pro Bono Committee:***

**Access to Legal Counsel for Indigent Individuals in Immigration Removal Proceedings.** The Pro Bono Committee and the Human Rights and Responsibilities Section support legislation to establish a right to legal representation for indigent respondents in hearings pending at the Connecticut Executive Office for Immigration Review. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***International Law Section:***

**Choice of Law.** The International Law Section supports the enactment of a commercial choice of law statute. This draft bill substantially tracks New York general obligation §5-1401[1] and §5-1402. The predictability of contractual provisions is very important in commercial transactions, including international trade. A commercial contractual provision between parties of equal bargaining position should mean what it says. Currently under Connecticut law, such a provision might not be enforced because a transaction has no "reasonable relationship" to Connecticut. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Mediation Convention.** The International Law Section supports the ratification of United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (the "Singapore Convention on Mediation"). This convention was signed by the United States on July 8, 2019. It promotes the expedited enforcement of settlement agreements. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**UNCITRAL Model Law.** The International Law Section supports the 2005 revisions to the UNCITRAL Model Law on International Commercial Arbitration (the original version is enacted in Connecticut General Statutes Title 50a). The revisions clarify a number of points not well covered when the Model Law was drafted in 1985: interim measures of protection and to modernize the form required for an arbitration agreement. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Choice of Courts.** The International Law Section supports ratification of Hague Convention of 30 June 2005 on Choice of Court Agreement. The convention was concluded with significant input from the United States. It was signed by the United States on January 19, 2009. It will promote the enforcement of judgments multi-nationally. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Hague Foreign Judgements.** The International Law Section supports the ratification of Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (July 2, 2019). The convention was recently concluded with significant input from the United States. It will promote the enforcement of judgments multi-nationally. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

***Litigation Section:***

**Court Reporters.** The Litigation section supports any state legislation requiring the state licensing of shorthand reporters to ensure the integrity and competence of court reporters. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session (PA19-64).

**Self-incrimination.** The Litigation Section opposes a proposed rule revision to Codes of Evidence regarding “Privilege against self-incrimination” that would protect only natural persons and not corporations whereas corporations in Connecticut do not enjoy privilege against self-incrimination. The opposition is within the commentary of the proposed rule. Approved by the House of Delegates, December 11, 2017; expires December 11, 2020.

**Tax Appeals.** The Litigation Section opposes legislation which proposes to prohibit contingency attorneys’ fee agreements in certain appeals of property tax assessments to the Connecticut Superior Court. Approved by the House of Delegates, March 16, 2020; expires end of 2022 Legislative session.

**Black Boxes.** The Litigation Section opposes that black boxes be automatically subject to production pursuant to section 13-3 of the Practice Book. Rather than be automatically required, the need for production should be case to case basis, thus not imposing undue burden and expense. Approved by the House of Delegates, December 11, 2017; expires December 11, 2020.

***Paralegal Section:***

**Revised Uniform Law on Notarial Acts.** The Real Property, Elder Law, Paralegal and Estates and Probate sections oppose 2020 legislation as written which would authorize electronic remote notarizations of documents and would eliminate the need for the notary to be in the physical presence of the signer. The notary does not need to be licensed in Connecticut and there is no exception for documents such as Wills, Trusts, powers of attorney and deeds. Approved by the Executive Committee, March 11, 2020; expires end of the 2020 session.

***Planning & Zoning Section:***

**Zoning Variances.** The Planning and Zoning Section supports legislation that would amend CGSA Sec. 8-6 to authorize the zoning board of appeals to have the authority to grant a Use Variance and an Area Variance. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Access to Public Records.** The Real Property and the Planning and Zoning Sections support the CBA to lobby the Governor's office to provide guidance/instructions to municipalities and other governmental agencies to provide reasonable, physical access to government offices for the purpose of accessing and researching public records, including Land Records, which in the reasonable opinion of the person seeking access, cannot be reasonably accessed online. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

***Professional Discipline Section:***

**Rule 1.11.** The Professional Discipline Section opposes a proposed amendment to Rule 1.11 of the Practice book, regarding Special Conflicts of Interest for Former and Current Government Officers and Employees. The proposed amendment seeks to prohibit grievance counsel, disciplinary counsel, bar counsel, and members of the grievance committee and panels from representing clients before the grievance committee and panels for one year after serving in their disciplinary role. Approved by the House of Delegates, December 11, 2017; expires December 11, 2020.

***Real Property Section:***

**Access to Public Records.** The Real Property and the Planning and Zoning Sections support the CBA to lobby the Governor's office to provide guidance/instructions to municipalities and other governmental agencies to provide reasonable, physical access to government offices for the purpose of accessing and researching public records, including Land Records, which in the reasonable opinion of the person seeking access, cannot be reasonably accessed online. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Commercial Real Estate Receivership.** The Real Property section supports the adoption in Connecticut of the Uniform Commercial Real Estate Receivership Act. Receivership is an equitable remedy allowing a court to oversee the orderly management and disposition of property subject to a lawsuit. This Uniform Commercial Real Estate Receivership Act applies to receiverships involving commercial real estate, and provides a standard set of rules for courts to apply. It will result in greater predictability for litigants, lenders, and other parties doing business with a company subject to receivership. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

**Revised Uniform Law on Notarial Acts.** The Real Property, Elder Law, Paralegal and Estates and Probate sections oppose 2020 legislation as written which would authorize electronic remote notarizations of documents and would eliminate the need for the notary to be in the physical presence of the signer. The notary does not need to be licensed in Connecticut and there is no exception for documents such as Wills, Trusts, powers of attorney and deeds. Approved by the Executive Committee, March 11, 2020; expires end of the 2020 session.

**Real Estate Closings.** The Real Property Section supports legislation such as SB 320, “An Act Concerning Real Estate Closings and Attorneys and Law Firms Preferred by Mortgage Lenders” in support TO (1) prohibit persons other than attorneys admitted in this state from representing the legal interests of parties to real estate closings concerning real property in this state, and (2) prohibit mortgage lenders from inducing or requiring prospective mortgagors to use preferred attorneys or law firms to represent such mortgagors in proposed mortgage loan transactions concerning real property in this state. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session. (PA19-88)

**Fixed Recording Fees.** The Real Property Section supports proposed legislation that would set recording fees by category of document (e.g., one fee for a deed, one fee for a mortgage), regardless of number of pages of the document; to support legislation that would set fixed recording fees for documents to be filed on the land records in Connecticut; to support such legislation in order to simplify the disclosures process in connection with residential closings occurring after federal Consumer Financial Protection Bureau regulations in effect on October 3, 2015. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Non-attorney title producers to sell Title Insurance.** The Real Property Section opposes any legislation which would place title insurance sales in the hands of non-attorneys who are not knowledgeable about real property law and legal concepts pertaining to title. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

***Real Property and Estates & Probate Sections:***

**Infinite Duration of the Succession, Estate and Probate Fee Liens.** The Estates & Probate and Real Property sections support legislation to address the fact that a) Probate Court fee liens and estate/successions tax liens are of infinite duration; and b) property is sometimes conveyed or mortgaged without such liens being cleared. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Veterans and Military Affairs Section:**

**Mental Health Resources for Veterans.** The Veterans and Military Affairs section supports legislation to expand the VA commissioner’s obligations requiring the commissioner in consultation with the Mental Health and Addictions Commissioner to collect data to better identify mental health needs of members of the armed forces and direct resources to address such needs, hopefully leading to more efficient use of resources to provide aid. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Workers Compensation Section:**

**WCC titling.** The Workers' Compensation section supports legislation proposed by the WCC that would change the title of Workers Compensation Commissioner to "Administrative Law Judge" to accurately reflect the adjudicative functions of Commissioners to more appropriately reflect their adjudicative duties interpreting and resolving legal disputes in accordance with Connecticut law. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.

**Workers Compensation Locations.** The Workers Compensation section supports maintaining all eight workers' compensation district offices. These offices are operated through the fees collected and have no impact on state funding. The Stamford office is being targeted for closure. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

**Repeal of the Medical Panel in Occupational Disease Cases.** The Workers Compensation section supports legislation to repeal C.G.S. section 31-298a. The medical panel concept, enacted in 1981 to establish a panel of five to ten expert pulmonologists "for use in solving controverted medical issues in claims for workers' compensation due to occupational lung disease," failed decades ago for a number of reasons. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Repeal of the Transfer of Employer Liability to the Second Injury Fund.** The Workers Compensation section supports legislation to repeal of CGS 31-349, subsections (b) through (f). A basic principle of workers' compensation law is that the employer takes the employee as he finds him or her at the time of an injury arising out of and in the course of employment. This principle means that the effects of preexisting conditions, latent tendencies or predispositions are fully compensable, when they increase the pathological effects of a work-related injury or disease. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**A CBA committee** has an authorized position on the following issues during the 2020 regular legislative session of the Connecticut General Assembly:

**Rule 8.4 (7)**

A number of sections and committees support a proposal to the Rules Committee of the Superior Court that amends Rule 8.4 (Misconduct) of the Connecticut Rules of Professional Conduct to make it professional misconduct for an attorney to engage in discrimination or harassment in the practice of law by engaging in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, sexual orientation, gender identity, gender expression or marital status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation. Approved by the House of Delegates, September 10, 2020; expires end of 2023 Legislative session.

**Pro Bono Committee:**

**Legal Counsel to Civil Matters.** The Pro Bono Committee supports legislation that would reconstitute a task force to improve access to legal counsel in civil matters by examining the feasibility of establishing a program that provides legal services to individuals in civil matters. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Pro bono practice in Limited circumstances.** The Pro Bono Committee and the Standing Committee on Professional Ethics support a proposal to amend Rule 5.5 of the Rules of Professional Conduct to include pro bono practice under limited circumstances as a new category of permissible practice in Connecticut by emeritus attorneys licensed and in good standing in other jurisdictions. Approved by the House of Delegates, March 16, 2020; expires March 16, 2023.

**Right to Counsel for Immigrant Children.** The Pro Bono Committee supports legislation that would amend the general statutes to ensure that the children of immigrants are represented in issues regarding their well-being. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***Human Rights & Responsibilities Section and Pro Bono Committee:***

**Access to Legal Counsel for Indigent Individuals in Immigration Removal Proceedings.** The Pro Bono Committee and the Human Rights and Responsibilities Section support legislation to establish a right to legal representation for indigent respondents in hearings pending at the Connecticut Executive Office for Immigration Review. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Standing Committee on Professional Ethics**

**Pro bono practice in Limited circumstances.** The Pro Bono Committee and the Standing Committee on Professional Ethics support a proposal to amend Rule 5.5 of the Rules of Professional Conduct to include pro bono practice under limited circumstances as a new category of permissible practice in Connecticut by emeritus attorneys licensed and in good standing in other jurisdictions. Approved by the House of Delegates, March 16, 2020; expires March 16, 2023.

**Lawyer Advertising.** The Ethics Committee seeks authorization to recommend to the Rules Committee of the Superior Court that Rules 7.1-7.5 of the Connecticut Rules of Professional Conduct be amended to conform our state's Rules with the American Bar Association's amendment, at its August 2018 meeting, of the provisions concerning lawyer advertising in the Model Rules of Professional Conduct. Approved by the House of Delegates, March 18, 2019; expires March 18, 2022.

**Practice Pending (Rule 5.5).** The Professional Ethics Committee supports a proposed amendment to Rule 5.5 of the Connecticut Rules of Professional Conduct (Unauthorized Practice of Law) which would create a new category of permissible temporary practice that would permit a lawyer who has relocated to Connecticut from another state to practice in Connecticut provided that he or she seeks admission in Connecticut (by exam, motion, or transfer of UBE score) within a reasonable time after relocating. Approved by the House of Delegates, December 16, 2019; expires December 16, 2022.



**CBA Policing Task Force:**

**Inspector General Candidates.** The CBA Policing Task Force supports an amendment of Section 33(a) of Special Session Public Act 20-1, An Act Concerning Police Accountability, House Bill 6004, to be changed so that candidates outside of the State Criminal Justice Commission are eligible for the position of Inspector General and for positions within the staff of the Inspector General's Office. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

*\*\* Although there are a number of authorized positions that have become public acts (note parenthesized) as voted through the Connecticut General Assembly or through the Practice Book rule changes approved at the annual judges meeting, the positions still remain on this Legislative agenda until the authorization expires.*