CBA LEGISLATIVE AGENDA  
June 2019 (Expired positions not included)

The Connecticut Bar Association has authorized Association positions on the following issues for the 2019 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.

**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.

**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.

**Civil Gideon.** The CBA, on behalf of the Pro Bono Committee, **supports** 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, September 18, 2017; expires end of 2020 Legislative session.

**Legal Services to Homeless Veterans.** The CBA, on behalf of the Pro Bono Committee, **supports** Congressional legislation in HR2703 (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, June 19, 2017; expires end of 2020 Legislative session.
A CBA Section has an authorized position on the following issues during the 2019 regular legislative session of the Connecticut General Assembly:

Business Law Section:

Series LLC. The Business Law section supports legislation that 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 been authorized by the Uniform Law Commission. Approved by the House of Delegates, January 22, 2018; expires end of 2020 Legislative session.

Child Welfare and Juvenile Law:

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 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.

Elder Law Section:

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.
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.

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.

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.

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.

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.

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.

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.

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.
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.

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.

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.

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.

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.

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.

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.

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.
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.

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:

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:

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.

Family Law Section:

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.

Relocation. The Family Law section supports legislation which would amend C.G.S. 46b-56d to add “the court should not inquire or permit inquiry or consider whether the person seeking relocation of a child will relocate without the child if relocation of the child is denied.” Approved by the House of Delegates, December 11, 2017; expires end of 2020 Legislative session.

Litigation Section:
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.

Court Reporters. The Litigation section supports legislation requiring the state licensing of shorthand reporters. Approved by the House of Delegates, March 19, 2018; expires end of 2020 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.

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:
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.
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.

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.

Workers Compensation Section:
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.

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.

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.
A CBA committee has an authorized position on the following issues during the 2019 regular legislative session of the Connecticut General Assembly:

Standing Committee on Professional Ethics

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.

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