



### State Bar of Texas Diversity and Inclusion Efforts

Recognizing that historical and continuing discrimination based on race, sex, and sexual orientation can impede the career opportunities of Texas attorneys and their ability to provide quality legal services, the State Bar's Office of Minority Affairs, created in 1991, implements and carries out initiatives to further the bar's commitment to create a fair and equal legal profession for minority, women, and LGBT attorneys. The office works with the State Bar's Diversity in the Profession, Women in the Profession, and Texas Minority Counsel Program Steering committees and hosts a variety of projects and programs. All Texas attorneys may participate in the office's programs.

In 2007, after the hard work of a diversity task force created by former State Bar Presidents Eduardo Rodriguez and Martha Dickie, the State Bar's mission statement was expanded to include: "and promote diversity in the administration of justice and the practice of law."

## Taking Action on DIVERSITY AND INCLUSION

*The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law, and promote diversity in the administration of justice and the practice of law.*

— State Bar of Texas Mission Statement

### THE STATE BAR OF TEXAS IS COMMITTED TO ITS MISSION STATEMENT—EVERY WORD OF IT.

As a former board member, a past president, and the current executive director of this organization, I know that to be true. But even the best mission statement is still just a collection of words. Action must result or the mission rings hollow.

On July 27, the State Bar of Texas Board of Directors held a special meeting by videoconference to discuss and consider action regarding President Larry McDougal's online comments. The board heard from 61 speakers and accepted hundreds of written comments before voting on a series of action items (see "Board Update, page 534"). These actions set the stage for the bar to further demonstrate its decades-long commitment to diversity, equity, and inclusion.

I am heartened that so many people cared enough about their State Bar to write letters and even attend the meeting to provide input. Many spoke of facing systemic racism or sexism in the profession, or the stigma surrounding substance use and other mental health issues. These comments were heartfelt, and they were heard. I am also proud of our board for standing up and giving thoughtful discussion and debate to such important issues. Their resolve to protect and improve our profession was evident and should be acknowledged by all.

For people expecting immediate results—namely, the president's removal—I'm sure the meeting was disappointing. The State Bar has no removal or recall provision that applies to this situation, and as of this writing, President McDougal has declined to resign. Instead, he has pledged to advance diversity and inclusion initiatives during the remainder of his term, which ends in June 2021, and many people are going to help hold him to that pledge.

To all members, I invite your engagement as we work together to accomplish the State Bar's mission. Vote in bar elections. Run for a seat on the board. Volunteer to serve on a task force or standing committee. Continue to attend board meetings and hold your elected officials accountable.

I know that trust, once lost, is difficult to regain. It will require a process of recognizing and developing ongoing amends for harm caused in our state, in our system of justice, in our institutions, in our bar. It will require action.

State Bar leaders have pledged to continue to work closely with and support the bar's Office of Minority Affairs and the sections and committees that are committed to advancing the goals of diversity and inclusion and equal justice under the law. The board also approved President-elect Sylvia Borunda Firth's proposal to create a task force to further advance these issues. I look forward to reporting more about these efforts in the months ahead. We must recommit ourselves in this important moment in our profession to carry out the State Bar's mission.

Sincerely,

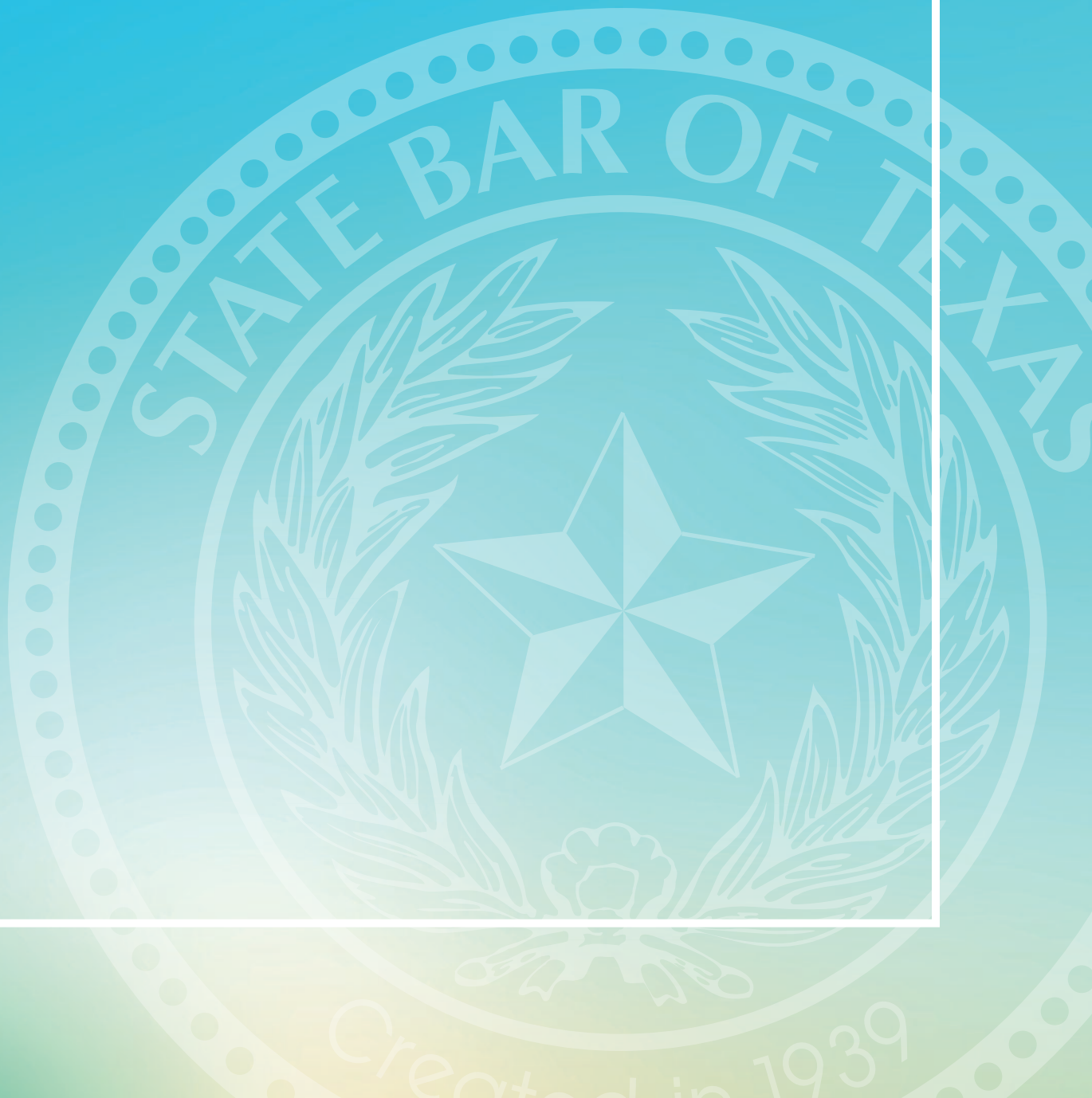
**TREY APFFEL**

Executive Director, State Bar of Texas  
Editor-in-Chief, *Texas Bar Journal*



STATE BAR *of* TEXAS

# ANNUAL REPORT 2019-2020



We've seen it many times before. A disaster hits and lawyers step up to meet it head-on. Name any major crisis, and Texas lawyers have been there to solve problems, to help each other, and to serve their fellow Texans.

Today, amid the COVID-19 pandemic, lawyers who are busy managing their own lives and practices are still selflessly volunteering their services. Firms are offering pro bono help for small-business owners applying for disaster loans or laid-off workers seeking unemployment benefits. Local bar associations are helping organize virtual legal clinics, virtual food drives for community pantries, and virtual supply drives for senior centers.



The Texas Supreme Court has continued its work with remote oral arguments and videoconferences, while responding to the evolving needs of our state with a series of emergency orders. The Office of Court Administration quickly equipped judges throughout the state with Zoom licenses to enable remote video proceedings and continues to provide critical guidance on court procedures.

Texas' legal services and access to justice organizations have joined with the State Bar of Texas to help low-income Texans with civil legal problems resulting from the pandemic. These partners are promoting the State Bar's statewide disaster legal assistance hotline—800-504-7030—which connects callers with local legal aid lawyers who can advise them on issues including bankruptcy and debt collection, unemployment applications and appeals, mortgage or foreclosure issues, and landlord-tenant problems.

Many individual lawyers have stepped up to serve through the State Bar and its sections and committees by producing free CLE webcasts and other resources. The Texas Lawyers' Assistance Program team has worked diligently to make sure lawyers have the emotional support and well-being resources they need. From hosting Remote Well-Being Wednesdays on Zoom to collecting remote living resources at [texasbar.com/coronavirus](https://texasbar.com/coronavirus), the TLAP team is providing a vital service to our profession.

The State Bar's Austin-based staff and regional disciplinary counsel employees have been working hard—all remotely, through telework—to help ensure the administration of the legal system continues and that Texas lawyers have the tools and guidance they need to carry on their practices. I thank them for their dedication.

To all members of the State Bar of Texas, I offer my gratitude as you continue to diligently serve your clients and defend the rule of law amid the COVID-19 crisis. Remember to be kind to each other and to take care of yourselves, and we will meet these new challenges together.

Sincerely,

A handwritten signature in black ink, appearing to read 'Trey Apffel'.

Trey Apffel  
Executive Director  
State Bar of Texas



# 2019-2020 ACHIEVEMENTS

As president of the State Bar of Texas in 2019-2020, Houston trial lawyer Randy Sorrels worked to ensure the bar remained an organization “of the lawyers, by the lawyers, and for the lawyers” of Texas while also meeting its responsibilities to serve the public. Sorrels joined with the State Bar board and staff to offer new or expanded member benefits and discounts for travel, law practice management, insurance, technology, and other services that help lawyers more effectively serve their



clients. Sorrels also helped roll out new or improved member services, including QR codes to simplify MCLE reporting and a portal to help lawyers easily designate custodian attorneys to wind down their practices in the event of need. Sorrels also worked to enhance communication with members by taking his “30 Member Benefits in 30 Short Minutes” CLE presentation to lawyer groups across the state. These efforts—along with new ideas, innovations, and improvements from State Bar members—helped make lawyers’ professional and personal lives better.



## MANDATORY BAR LITIGATION

The State Bar of Texas continued to uphold its statutory structure as defendants in the *McDonald vs. Sorrels* litigation. In May 2020, U.S. District Judge Lee Yeakel issued a ruling in favor of the bar, which the plaintiffs appealed. The case is before the 5th Circuit Court of Appeals in New Orleans, along with a similar lawsuit against the mandatory bar in Louisiana.

Almost six decades of U.S. Supreme Court precedent supports the constitutionality of the unified bar structure, which was reinforced by the decisions of the court in 2020 to deny the plaintiffs’ petitions for certiorari in *Fleck v. Wetch* and *Jarchow v. State Bar of Wisconsin* challenging mandatory membership in the state bars of North Dakota and Wisconsin. The State Bar of Texas is carrying out its statutory obligations by regulating the legal profession and improving the quality of legal services in Texas.

## STATE BAR OF TEXAS MISSION STATEMENT

*The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law, and promote diversity in the administration of justice and the practice of law.*

## CONNECT WITH US ON SOCIAL MEDIA



FACEBOOK.COM/STATEBAROFTexas



@STATEBAROFTexas



LINKEDIN.COM/COMPANY/STATE-BAR-OF-TEXAS



@STATEBAROFTexas



YOUTUBE.COM/STATEBAROFTexas



PINTEREST.COM/STATEBAROFTexas



# WHAT WE DO

## LAW PRACTICE MANAGEMENT

The State Bar of Texas offers tools to help attorneys grow their practices. One is the Lawyer Referral and Information Service, which connects clients in need of legal representation with attorneys who can help. LRIS makes referrals in the 246 Texas counties that do not have local referral programs and offers participating attorneys access to the largest potential client pool possible. Callers to the service are given a 30-minute consultation with a participating attorney for \$20, with the attorney charging regular fees afterward if retained. LRIS attorney-members receive 20% off TexasBarCLE products and services. The bar also offers the Texas Bar Career Center, which is an online portal for both employers and job seekers. Visit the Career Center to post open positions or search online for legal-related jobs. Every other week, State Bar of Texas members receive a Job Flash featuring the latest jobs posted to the Career Center. The State Bar's Law Practice Resources Division created a new website, Texas Bar Practice, which will launch in summer/fall 2020 and provide law practice management tools in addition to housing Texas Bar Books and Texas Bar Books Online resources. For client protection and emergency management, the State Bar launched a portal through which lawyers can designate a custodian attorney in the event need arises.

## COMMUNICATIONS

The bar keeps members informed in a variety of ways. Each month, except a combined issue of July/August, members receive the *Texas Bar Journal*, which includes information and in-depth stories on current legal topics, human interest features, disciplinary actions, technology, and more. It can also be viewed online at [texasbar.com/tbj](https://texasbar.com/tbj) or via the digital edition at [texasbar.com/digitaltbj](https://texasbar.com/digitaltbj). Members and the public can follow the bar on Facebook, Twitter, LinkedIn, and Instagram for timely announcements on lawyers in the news, reminders about their membership, links to special articles, and information about events. The Texas Bar Blog provides more information about special events, award recipients, *Bar Journal* summaries, and attorney profiles, while Texas Bar Today offers curated legal news and commentary by Texas lawyer-bloggers. Finally, the *State Bar of Texas Podcast* showcases interviews with experts on the latest legal trends and hot topics.

## CONTINUING LEGAL EDUCATION

TexasBarCLE is one of the top providers of continuing legal education in the country and often sets the national standard for CLE content and delivery. During the 2019-2020 bar year, TexasBarCLE offered 190 webcasts, 1,295 online classes, 85 live courses, and 48 video replays. Most programs are recorded and archived for online viewing, with more than 2,700 hours available as online classes. Also, more than 27,000 CLE articles are featured in the online library, including 2,400 ethics-related articles.

## EDUCATING THE PUBLIC

The State Bar, the Texas Young Lawyers Association, and the bar's Law-Related Education Department publish, in print and online, dozens of handbooks and pamphlets in both English and Spanish on such topics as health issues, senior citizen issues, employment law, veterans rights, family law, school law, and consumer and tenants rights (see [texasbar.com/resources](https://texasbar.com/resources), [tyla.org/resources](https://tyla.org/resources), and [texaslre.org](https://texaslre.org)). Law-Related Education holds teacher workshops and publishes educational materials about the law and civics for teachers and students. To learn more, go to [texaslre.org](https://texaslre.org).

## EDUCATING YOUNG LAWYERS

In addition to providing continuing legal education for all lawyers, the bar plays an important role in educating young lawyers, helping them build a strong foundation for law practices. Programs include: After the Bar Exam, which offers links to more than 2,000 hours of CLE online classes and access to other helpful resources for students who have graduated from law school and are awaiting the results of the bar exam, and the Texas Young Lawyers Association's *Ten Minute Mentor*, a collection of 10-minute online videos of lawyers offering practical advice or tips on specific legal topics. Also, 38 State Bar sections offer free memberships for young lawyers (defined as lawyers licensed two years or less) and 19 sections offer free memberships to law students. Sections often participate in mentoring programs for law students and sponsor CLE programs at Texas law schools, which students are allowed to attend for free. Finally, the State Bar of Texas Law Student Division provides an avenue for law students to connect to the bar before graduating—offering educational, networking, and scholarship opportunities.

# WHAT WE DO

## **ETHICS HELPLINE**

The Ethics Helpline at 800-532-3947 is a free benefit to attorney-members of the State Bar of Texas. Ethics attorneys provide non-binding, non-confidential guidance to Texas-licensed attorneys on a first-come, first-served basis. Guidance is limited to questions involving the Texas Disciplinary Rules of Professional Conduct, Texas Rules of Disciplinary Procedure, and ethics opinions. Some caselaw and additional resources are also provided.

## **LEGAL SERVICES FOR ALL TEXANS**

The State Bar of Texas is committed to ensuring that all Texans have access to justice regardless of income. The State Bar's Legal Access Division works to achieve this goal by providing resources such as malpractice insurance, Westlaw, CLE, and language access services to legal aid organizations and pro bono attorneys; striving to remove barriers to pro bono service; and partnering with legal aid organizations on disaster preparedness and response efforts. The Legal Access Division also assists the public by providing information and referrals to low-income Texans. For more information, go to [texasbar.com/probono](https://texasbar.com/probono) and [probonotexas.org](https://probonotexas.org).

## **LOCAL BAR SERVICES**

The Local Bar Services Department fosters and maintains relationships between the State Bar and local bar associations, offering a number of support services. Each year, the Bar Leaders Conference offers education and networking for local bar executives, young lawyer affiliates, and other volunteer leaders. Outreach to local bars helps to fulfill one of the purposes outlined in the State Bar Act.

## **MEMBER BENEFITS**

The State Bar of Texas Member Benefits Program offers numerous resources to help attorneys with the everyday practice of law. In the 2019-2020 bar year, 60 contracted benefits were offered through the State Bar Member Benefits Program. Goods and services include lawyer-specific products like practice management tools, financial services, travel discounts, car rentals, office supplies, health insurance through the Texas Bar Private Insurance Exchange, and professional liability insurance through TLIE. Learn more about the offerings at [texasbar.com/benefits](https://texasbar.com/benefits).

## **PROTECTING THE PUBLIC**

The Client-Attorney Assistance Program answers the Grievance Information Helpline to assist clients in communicating with their Texas attorneys and to provide information about the grievance process and other programs and services of the State Bar of Texas. The Texas attorney discipline system is administered by the Office of Chief Disciplinary Counsel, whose work is overseen by the Commission for Lawyer Discipline. CDC represents the commission in disciplinary litigation. In the 2019-2020 bar year, the Ethics Helpline returned approximately 5,500 calls, and the State Bar disciplinary system issued a total of 403 sanctions, resolving 497 complaints. Also, the Client Security Fund assists clients whose lawyers improperly take funds belonging to the clients. Clients can apply to the fund after disciplinary proceedings are completed. Payouts are funded through an annual appropriation from the bar, interest on the corpus, and any restitution received. In the 2019-2020 bar year, 230 applications were reviewed, resulting in grants totaling \$871,782.89.

## **TEXAS LAWYERS' ASSISTANCE PROGRAM**

The Texas Lawyers' Assistance Program helps lawyers, judges, and law students who are struggling with mental health or substance use concerns, chronic stress, or cognitive decline. In the 2019-2020 bar year, TLAP handled 877 consultations. All communication with TLAP is confidential by statute. For more information, go to [tlaphelps.org](https://tlaphelps.org).

## **TEXAS LAWYERS FOR TEXAS VETERANS**

Texas Lawyers for Texas Veterans, a State Bar of Texas program to develop and assist pro bono legal advice clinics for military veterans and their families, continues to thrive, and more than 25 local bar associations are now participating. Since its inception in 2010, over 32,000 veterans have been served by more than 11,000 volunteer attorneys, paralegals, and law students. For more information, go to [texasbar.com/veterans](https://texasbar.com/veterans).

# BY THE NUMBERS

The State Bar of Texas adopts a strategic plan every two years that includes goals and performance measures. The State Bar has identified six broad categories guiding these measures: 1) Service to the Public; 2) Service to Members; 3) Protection of the Public; 4) Access to Justice; 5) Sound Administration and Resources; and 6) Financial Management. The following are highlights of the results and outcomes for the 2019-2020 bar year. For a full list of results, go to [texasbar.com/performance/numbers](https://texasbar.com/performance/numbers).

## SERVICE TO THE PUBLIC

Number of people who received a referral through the Lawyer Referral and Information Service:

**56,445**  
CALLERS HELPED

**64,177**  
REFERRALS MADE

Visits to pages on State Bar-related websites containing legal information on issues of importance to the public:

**20,018,930**  
TOTAL HITS  
TEXASBAR.COM

**4,263**  
PAGE HITS  
TEXASBAR.COM/DISASTER

**24,706**  
PAGE HITS  
TEXASBAR.COM/RESOURCES

## SERVICE TO MEMBERS

**TexasBarCLE**

**158,581**  
registrations obtained through **1,618**  
continuing legal education offerings



TEXAS LAWYERS'  
ASSISTANCE PROGRAM  
*Confidential. Respectful. Voluntary.*

**877**  
CONSULTATIONS

**63%** were related to mental health, **34%** to substance use, and **3%** to cognitive issues. TLAP's website—[tlaphelps.org](https://tlaphelps.org)—garnered **19,893** page views. TLAP made **140** educational outreach presentations, including at law schools.

## PROTECTION OF THE PUBLIC

**=CAAP=**  
CLIENT-ATTORNEY  
ASSISTANCE PROGRAM

**22,664**  
contacts received via mail, email, and phone to CAAP program. Communications between attorney and client successfully reestablished in **87%** of cases.

ATTORNEY DISCIPLINE (CDC)	
Total complaints resolved	<b>497</b>
Total sanctions	<b>403</b>
Disbarments	<b>21</b>
Resignations	<b>9</b>
Suspensions	<b>142</b>
Public reprimands	<b>39</b>
Private reprimands	<b>106</b>
Grievance Referral Program	<b>86</b>

## ACCESS TO JUSTICE



**\$1,302,313**

The amount of voluntary ATJ contributions through dues statements from **9,582** attorneys



# STATE BAR RESPONDS TO COVID-19

In the spring of 2020, COVID-19 wreaked havoc across the globe. In the U.S., cities and states began to issue stay-at-home orders, and the State Bar of Texas quickly mobilized to continue its efforts to assist members and serve the public. The State Bar's offices temporarily closed to visitors, and the Austin-based staff and regional disciplinary counsel employees began working remotely to help ensure the administration of the legal system continued and that Texas lawyers had the tools and guidance they needed to carry on their practices. Throughout this time, the State Bar remained fully operational, providing services to its members. One such service is a webpage titled "State Bar of Texas Response to Coronavirus Pandemic," which provides a plethora of information, including the following highlights:

**1. MCLE and Dues Extensions**—The State Bar of Texas granted extensions for dues payment and MCLE compliance deadlines.

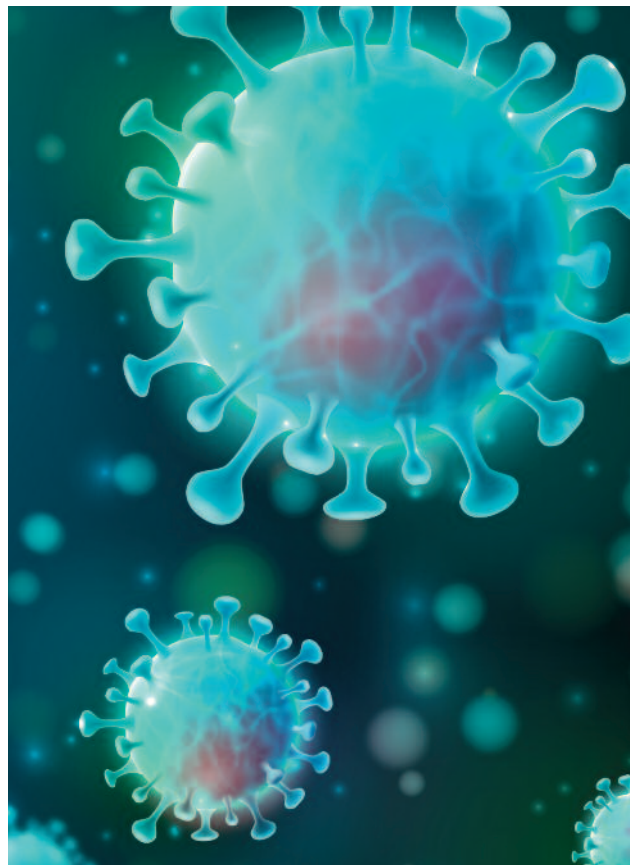
**2. Court Guidance**—The Texas Supreme Court and Court of Criminal Appeals have issued numerous emergency orders and the Office of Court Administration has issued guidance on court closures, procedures, and travel authorizations.

**3. Free Webinars and CLE Opportunities**—The State Bar offered 5.5 hours of free CLE on the TexasBarCLE website, including webcasts related to the coronavirus.

**4. Telehealth**—For a limited time, the Texas Bar Private Insurance Exchange offered all State Bar members a complimentary subscription to telehealth services, with only a \$10-per-visit copay. The complimentary period expired June 30, but members interested in the telehealth service can purchase an ongoing subscription for \$9 per month.

**5. Relevant Educational Materials and Helpful Family Law and Estate Planning Items**—The State Bar has been collecting podcasts and articles related to the coronavirus and how it affects the legal profession as well as providing resources for estate planning execution and family law issues.

**6. Well-Being Resources**—Texas Lawyers' Assistance Program professionals created a webpage of resources to assist the many attorneys, law students, judges, and families who may be isolated and struggling with a mental health issue or needing recovery support. TLAP professionals also produced a weekly video series focused on remote living and well-being.



After careful consideration, the State Bar canceled the in-person 2020 Annual Meeting scheduled for June 25-26 in Dallas and replaced it with the 2020 State Bar of Texas Annual Meeting On Demand, a two-day virtual event that featured 25 sessions of up to 8 hours of video-on-demand CLE. State Bar sections provided programming on Thursday, which featured pre-recorded seminars. Friday's content included a welcome message from the executive director, swearing-in ceremonies, an awards presentation, and a CLE seminar on well-being led by the Texas Lawyers' Assistance Program.

# STATE BAR OF TEXAS

## OFFICERS AND DIRECTORS

2019 - 2020

### **PRESIDENT**

Randall O. Sorrels *Houston*

### **PRESIDENT-ELECT**

Larry P. McDougal *Richmond*

### **IMMEDIATE PAST PRESIDENT**

Joe K. Longley *Austin*

### **BOARD OF DIRECTORS**

Jerry C. Alexander, Chair *Dallas*

Jeffrey W. Allison *Houston*

Andrés E. Almanzán *El Paso*

Kate Bihm *Conroe*

Rebekah Steely Brooker *Dallas*

Luis M. Cardenas *Edinburg*

Alison W. Colvin *Brownsville*

Derek Cook *Midland*

Robert D. Crain *Dallas*

Christina M. Davis *Tyler*

Alistair B. Dawson *Houston*

Leslie W. Dippel *Austin*

Michael Dokupil *Houston*

Victor A. Flores *Plano*

Jarrod T. Foerster *Houston*

John Charles "Charlie" Ginn *McKinney*

Shari Goldsberry *Texas City*

Marc E. Gravely *San Antonio*

August W. Harris III *Austin*

Britney E. Harrison *Dallas*

Wendy-Adele Humphrey *Lubbock*

Michael K. Hurst *Dallas*

Neil D. Kelly *Houston*

David C. Kent *Dallas*

Aldo R. Lopez *El Paso*

Yolanda Cortés Mares *Temple*

Robert E. McKnight Jr. *Victoria*

Stephen J. Naylor *Fort Worth*

Amie S. Peace *Denton*

Sally Pretorius *Dallas*

Carmen M. Roe *Houston*

Adam T. Schramek *Austin*

David Sergi *San Marcos*

Alan E. Sims *Cedar Hill*

Dinesh H. Singhal *Houston*

Jason C.N. Smith *Fort Worth*

Diane St. Yves *Houston*

Santos Vargas *San Antonio*

G. Michael Vasquez *Austin*

K. Nicole Voyles *Houston*

Amy Welborn *Austin*

James Wester *Amarillo*

James C. Woo *San Antonio*

### **LIAISONS TO THE BOARD**

Justice Gina Benavides *Edinburg*

Denise Reid Hoggard *Little Rock, Arkansas*

Justice Debra H. Lehrmann *Austin*

Judge Bert Richardson *Austin*

Judge Xavier Rodríguez *San Antonio*

### **SECTION REPRESENTATIVES TO THE BOARD**

Judge Elizabeth Copeland *Washington, D.C.*

Deborah L. Cordova *Edinburg*

Shelby Jean *Fort Worth*

Matthew Kolodoski *Dallas*

Emily Miller *Brownwood*

Kathryn J. Murphy *Plano*

### **EX OFFICIO**

### **IMMEDIATE PAST CHAIR OF THE BOARD**

Laura Gibson *Houston*

### **EXECUTIVE DIRECTOR**

Trey Apffel *Austin*

### **GENERAL COUNSEL**

Ross Fischer *Austin*

STATE BAR *of* TEXAS

[texasbar.com](http://texasbar.com)



## Timeline of *McDonald* Litigation

• <b>March 6, 2019</b>	Plaintiffs filed complaint
• <b>March 25</b>	Plaintiffs filed motion for preliminary injunction and motion for partial summary judgment on liability
• <b>April 25 – July 22</b>	<ul style="list-style-type: none"> <li>• Amicus briefs filed in support of Plaintiffs: (1) Texas Attorney General Ken Paxton; and (2) Goldwater Institute</li> <li>• Amicus briefs filed in support of the State Bar: (1) Texas Legal Ethics Counsel; (2) Former Presidents of the State Bar of Texas, Former Chairs of the Texas Bar College, and Former Chairs of the State Bar of Texas Council of Chairs; (3) Texas Access to Justice Commission; (4) Concerned Lawyers of Color</li> </ul>
• <b>May 13</b>	State Bar filed responsive briefs, cross-motion for summary judgment, and motion to dismiss for lack of subject-matter jurisdiction
• <b>May 23</b>	Status conference held; Court scheduled summary-judgment merits hearing for August 1. Plaintiffs agreed to pay their 2019-2020 State Bar dues.
• <b>May 31</b>	Plaintiffs filed responses and replies. Plaintiffs amended the complaint in response to the State Bar's motion to dismiss, and added the Chief Disciplinary Counsel of the State Bar and the members of the State Bar Commission for Lawyer Discipline as defendants to the case
• <b>June 4</b>	Court dismissed without prejudice the State Bar's motion to dismiss
• <b>June 18</b>	State Bar filed reply in support of cross-motion for summary judgment
• <b>July 15</b>	Plaintiffs and Defendants filed a joint stipulation regarding the defendants in the action
• <b>August 1</b>	Summary-judgment merits hearing held; motion for preliminary injunction dismissed
• <b>August 30 &amp; September 4</b>	State Bar filed notice of supplemental authority informing the Court of the Eighth Circuit's favorable decision in <i>Fleck v. Wetch</i> , and Plaintiffs filed response
• <b>January 15 &amp; 21, 2020</b>	State Bar filed notice of supplemental authority informing the Court of the E.D. Louisiana's favorable decision in <i>Boudreaux v. La. State Bar Ass'n</i>

	and the Seventh Circuit's favorable decision in <i>Jarchow v. State Bar of Wis.</i> , and Plaintiffs filed response
• <b>March 9</b>	State Bar filed notice of supplemental authority informing the Court of the Supreme Court's denial of certiorari in <i>Fleck v. Wetch</i>
• <b>May 29</b>	The Court denied Plaintiffs' motion for partial summary judgment, granted the State Bar's cross-motion for summary judgment, and entered final judgment for the State Bar
• <b>June 2</b>	Plaintiffs filed an appeal in the Fifth Circuit
• <b>June 5 &amp; 11</b>	Plaintiffs filed, and the Fifth Circuit granted, Plaintiffs' unopposed motion to expedite
• <b>June 30</b>	Plaintiffs filed their opening brief
• <b>July 30</b>	State Bar filed its responding brief
• <b>August 5 &amp; 13</b>	The Fifth Circuit oral argument panel requested, and the parties filed, supplemental briefs regarding the applicability of the Tax Injunction Act. Both parties argued the TIA is inapplicable to Plaintiffs' claims.
• <b>August 11</b>	The oral argument panel postponed oral argument until "the court is able to return to normal operations." The oral argument panel is comprised of Judges Jerry Smith, Don Willett, and Kyle Duncan.
• <b>August 14</b>	Plaintiffs filed their reply brief
• <b>September 11</b>	State Bar filed a notice of supplemental authority informing the Fifth Circuit of the W.D. Michigan's favorable decision in <i>Taylor v. Barnes</i>

## State Bar Arguments on Cross-Motion for Summary Judgment

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### Count I

The State Bar argues that Plaintiffs' facial challenge to membership in the State Bar is clearly foreclosed by binding Supreme Court precedent in *Keller* and *Lathrop*.

### Count II

The State Bar argues that Plaintiffs' challenge to specific State Bar expenditures fails because all of the State Bar's expenditures are consistent with *Keller* as they relate to regulating the legal profession and improving the quality of legal services.

### Count III

The State Bar argues that Plaintiffs' challenge to the State Bar's procedures for providing members with a refund for expenditures with which they disagree fails because all of the State Bar's expenditures are germane under *Keller*.



## Related Lawsuits Against State Bars

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### North Dakota

*Fleck v. Wetch*

- **April 2019** – Amicus briefs filed in support of the State Bar of North Dakota:
  - Chuck Herring for Texas Legal Ethics Counsel; State Bar of California; joint brief of several integrated state bars (Alaska, Michigan, etc.); Missouri Bar
- **August 30, 2019** – Eighth Circuit issued decision again affirming the district court's grant of summary judgment for the defendants on remand from the Supreme Court
- **November 21, 2019** – Fleck filed a petition for writ of certiorari with the U.S. Supreme Court
- **December 2019** – Four amicus briefs filed in support of Fleck: Liberty Justice Center; Pacific Legal Foundation; joint brief of National Right to Work Legal Defense Foundation, Inc. and Reason Foundation; 1889 Institute
- **March 9, 2020** – The U.S. Supreme Court denied Fleck's cert. petition
- **April 3, 2020** – Fleck filed a petition for rehearing asking the Court to consider the petition at the same time as the cert. petition in *Jarchow*
- **May 4, 2020** – The U.S. Supreme Court denied Fleck's petition for rehearing

**Wisconsin**

*Jarchow v. State Bar  
of Wisconsin*

- **April 8, 2019** – Complaint filed
- **May 21, 2019** – Defendants filed a motion to dismiss under 12(b)(1) and 12(b)(6), and a motion to stay the proceedings pending a resolution in *Fleck v. Wetch* (as an alternative to dismissal)
- **June 2019** – All motion to dismiss briefing completed
- **December 2019** – District court granted 12(b)(6) motion to dismiss and plaintiffs appealed the decision to the Seventh Circuit. The plaintiffs moved for summary affirmance of the district court's decision.
- **December 23, 2019** – Seventh Circuit affirmed district court's dismissal of the case under *Keller*
- **December 31, 2019** – Plaintiffs filed a petition for writ of certiorari with the U.S. Supreme Court
- **April 3, 2020** – Wisconsin Bar filed response to plaintiffs' cert. petition
- **June 1, 2020** – U.S. Supreme Court denied Jarchow's cert. petition. Justices Thomas and Gorsuch filed a short opinion dissenting from the denial of cert.

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## Wisconsin

*File v. Kastner et al.*

- **July 25, 2019** – Complaint filed against State Bar officers, Wisconsin Supreme Court justices
- **November 2019** – Defendants filed motions to dismiss and a motion to stay the case pending resolution of the motions to dismiss
- **December 2019** – Briefing on defendants' motions to dismiss and stay complete
- **March 2020** – Plaintiff filed a motion to disqualify Judge Adelman
- **June 29, 2020** – District court dismissed the complaint, holding that plaintiff's claim is foreclosed by *Keller*, and denied the plaintiff's motion to disqualify
- **July 28, 2020** – Plaintiff filed an appeal in the Seventh Circuit
- **September 8, 2020** – Plaintiff filed opening brief
- **November 6, 2020** – Bar defendants' responding brief due
- **November 30, 2020** – Plaintiff's reply brief due

## Oregon

*Gruber v. Oregon State Bar*

*Crowe v. Oregon State Bar*

- **April 1 and May 24, 2019** – Magistrate judge issued findings and recommendation. Magistrate judge recommended dismissal of the suits and rejected many of the same claims and legal arguments that the *McDonald* Plaintiffs assert. The district court adopted the magistrate judge's findings and dismissed both cases
- **May 29-30, 2019** – Plaintiffs in both cases filed a notice of appeal to the Ninth Circuit. *Crowe* lawsuit sponsored by Goldwater Institute, the same organization that is sponsoring *Fleck*
- **September – November 2019** – Appellate briefs filed in both cases. Amicus briefs in support of Oregon Bar filed by Arizona Bar, California Bar, and the State of Oregon
- **May 12, 2020** – Oral argument held in both cases consecutively

**Oklahoma**

*Schell v. The Chief  
Justices of the  
Oklahoma Supreme  
Court et al.*

- **March 26, 2019** – Complaint filed; lawsuit sponsored by Goldwater Institute
- **April 24, 2019** – Defendant filed motion to dismiss under 12(b)(1) and 12(b)(6)
- **May 15, 2019** – Plaintiff amended the complaint to add justices of the Oklahoma Supreme Court and members of the Bar Board of Governors
- **May 21, 2019** – Judge Friot recused himself and Judge Heaton is now presiding over the case
- **June 21, 2019** – Board of Governors, Executive Director, individual Board of Governors defendant, and OK Supreme Court justices filed separate motions to dismiss
- **September 18, 2019** – Defendants' motions to dismiss granted in part and denied in part; only plaintiff's third claim (Bar procedures) remains
- **October 2, 2019** – Defendants filed answers to complaint
- **March 13 & 25, 2020** – Defendants filed unopposed motion to dismiss the remaining claim due to changes in the Oklahoma Bar's objection procedures; case is dismissed
- **April 2020** – Plaintiff filed an appeal in the Tenth Circuit
- **May 19, 2020** – Plaintiff filed opening brief
- **June 18, 2020** – Defendants filed responding brief
- **July 10, 2020** – Plaintiff filed reply brief

**Louisiana**

*Boudreaux v.  
Louisiana State Bar  
Ass'n et al.*

- **August 1, 2019** – Complaint filed against Louisiana Bar, the Louisiana Supreme Court and justices; lawsuit sponsored by Goldwater Institute
- **September 30, 2019** – Defendants filed motions to dismiss under 12(b)(6) and 12(b)(1)
- **November 2019** – Briefing on defendants' motions to dismiss complete
- **January 13, 2020** – District court granted defendants' 12(b)(2) and 12(b)(6) motions to dismiss, dismissing all three of plaintiff's claims against all defendants
- **February 10, 2020** – Plaintiff filed appeal in the Fifth Circuit
- **May 22, 2020** – Briefing in the Fifth Circuit is complete
- **TBD** – Oral argument to be held concurrently with the *McDonald* oral argument

**Michigan**

*Taylor v. Barnes et al.*

- **August 22, 2019** – Complaint filed against the State Bar of Michigan, and President and other officers of the State Bar of Michigan Board of Commissioners
- **September 19, 2019** – Defendants filed answer to complaint
- **May 14, 2020** – Parties filed, and court entered, stipulation dismissing the Michigan Bar as a defendant; only individual defendants remain
- **May 15, 2020** – Plaintiff filed motion for summary judgment and opening brief in support
- **June 15, 2020** – Defendants filed opening brief in response to plaintiff's motion, and in support of cross-motion for summary judgment
- **July 27, 2020** – Summary judgment briefing completed
- **September 8, 2020** – The district court granted summary judgment for the Bar defendants on all of the plaintiff's claims, including that mandatory membership in, and financial support for, the State Bar of Michigan violate attorneys' First Amendment rights to freedom of association and speech—two of the same claims made by the *McDonald* plaintiffs





# LAW OFFICES OF DICKY GRIGG

DICKY GRIGG

BOARD CERTIFIED - CIVIL TRIAL ADVOCACY  
NATIONAL BOARD OF TRIAL ADVOCACY  
BOARD CERTIFIED - PERSONAL INJURY TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION

IMELDA E. NOYOLA  
ATTORNEY

Austin, TX 78746

(512) 582-8560 - fax

JULY 17, 2020

Mr. Trey Appfel  
Executive Director of the State Bar of Texas  
Texas Law Center  
1414 Colorado Street  
Austin, Texas 78701

Re: State Bar's contribution to the Sheeran Crowley Trust

Dear Trey,

The trustees of the Sheeran Crowley Memorial Trust would like to express our gratitude to the Board of Directors of the Texas State Bar for their contribution of \$225,000 to the Trust. We would appreciate your forwarding this letter to the members of the board.

In these difficult times Texas lawyers need more help from TLAP than ever before. The financial and personal costs of COVID-19 have increased the number of lawyers calling TLAP for help. Even in the best of times, many lawyers in need of treatment for their alcoholism, substance abuse, depression and other mental health disorders do not have the insurance or available funding to obtain the treatment they desperately need. COVID-19 has increased the number of lawyers needing financial assistance to obtain help.

In just the last six years, the Trust has funded treatment for over 370 Texas lawyers, law students, and judges. Since the pandemic struck our state, the Trust has given financial assistance to over 100 lawyers impaired by chemical dependency or mental health disorders.

Your contribution will save careers, save families, and save lives. From the Trustees of the Sheeran Crowley Trust please accept our heartfelt thank you.

Thank you,



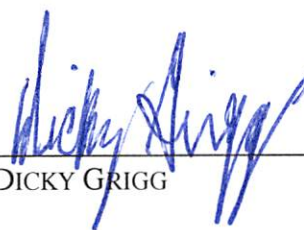
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MIKE LEE



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BOB NEBB



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DICKY GRIGG



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- These statistics mean there's a **chance it will be you and a certainty it will be someone you know**. Care for your colleagues and yourself.
- When you **see something, do something**. These issues can destroy lives and damage lawyers' reputations.
- Getting help for a friend or asking for help yourself **saves lives, futures, families, and practices**. Ignoring or doing nothing can cost a life.

# 32%

of lawyers under 31 and  
21% of all lawyers have a  
**DRINKING PROBLEM**

# 28%

of lawyers face  
**DEPRESSION**

# 19%

of lawyers experience  
**ANXIETY**

# 11%

of lawyers have  
experienced  
**SUICIDAL THOUGHTS**

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TEXAS LAWYERS'  
ASSISTANCE PROGRAM

*Confidential. Respectful. Voluntary.*

## I. SOME SIGNS AND SYMPTOMS OF DEPRESSION AND SUBSTANCE ABUSE:

Consistent feelings of sadness or hopelessness

Lack of interest in people, things, or activities previously enjoyed

Increased fatigue or loss of energy, restlessness or irritability

Noticeable change in appetite, weight or sleep patterns

Isolation from family, friends, colleagues

Feelings and expressions of guilt or worthlessness

Diminished ability to remember, think clearly, concentrate, or make decisions

Thoughts or expressions of death or suicide

Using alcohol or drugs to bolster performance

Using alcohol/substances on the job, during the day, before appointments, meetings, deposition or court appearances

Failing to show for appointments, meetings, depositions, court appearances; failing to return phone calls

Declining quality and quantity of work product

Avoiding law partners, staff, colleagues, clients, friends, and family

Drinking/using substances alone. Making excuses for, or lying about, frequency or amount

Moral, ethical, and behavioral transgressions

## II. WHAT CAN YOU DO?

Call TLAP at 1-800-343-8527 (TLAP) or 512-427-1453  
Or, call the TLAP Judges' Line at 1-800-219-6474

Identity of caller can remain confidential

## III. WHY DO IT?

Provide help, not discipline

Fulfill your ethical obligation to report

## IV. WHAT HAPPENS?

TLAP staff or volunteer lawyers can contact impaired lawyer, offer help, and educate on available services

Staff can provide coaching and education about professional resources and options

## V. TLAP SERVICES INCLUDE:

Crisis support, coaching, and referral

Referrals to resources (counselors, therapists, psychologists, psychiatrists)

Recommendations for out-patient and in-patient treatment programs

Match lawyer, law student or judge with peer volunteers and/or support groups

Referrals for limited financial assistance for lawyers without resources

**TLAP helpline for  
LAWYERS: 1-800-343-8527 (TLAP)**

**TLAP helpline for  
JUDGES: 1-800-219-6474**

**tlaphelps.org**



**TEXAS LAWYERS'  
ASSISTANCE PROGRAM**

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**NEED  
HELP?**

# **CONFIDENTIAL & FREE** HELP FOR LAW STUDENTS

## **IF YOU ARE SUFFERING FROM:**

- Stress
- Anxiety
- Depression
- Substance Abuse Problems

**WE DON'T KEEP RECORDS OR SHARE INFO  
YOU CAN CALL ANONYMOUSLY**

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(8527)



**TEXAS LAWYERS' ASSISTANCE PROGRAM**  
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# TEXAS LAWYERS' ASSISTANCE PROGRAM

*Confidential. Respectful. Voluntary.*

## **MENU OF PRESENTATIONS**

- ***How to Avoid Burnout in the Legal World.*** In this program, you will learn about the causes of burnout and explore evidence-based tips on how to manage stress and anxiety to avoid compassion fatigue and to avoid losing enthusiasm for the practice of law.
- ***Tips for Wellness in the Practice of Law.*** This course overviews obstacles to lawyer wellness and examines evidence-based strategies for building and maintaining mental health while engaging in the very demanding practice of law.
- ***How Trauma Affects Lawyers and What to do About it.*** Trauma is virtually everywhere in the legal world. This program looks at how trauma affects clients, staff, and attorneys. It also overviews types of direct and secondary trauma they experience, how such trauma affects wellness, and skills to process it or prevent it from causing mental health issues.
- ***Suicide Prevention: ASK About Suicide to Save a Life.*** Attorneys often interact with colleagues or clients at risk for suicide. The program provides participants with an overview of the basic epidemiology of common mental health issues, suicide and suicidal behavior, and risk and protective factors. Participants will learn to recognize warning signs—behaviors and characteristics that might indicate elevated risk for suicidal behavior. It will also cover what to do if a person they think might be at risk, including guidance for referring the person to help.
- ***Technology and Mental Health for Lawyers.*** Between texts, emails, and social media, lawyers are struggling to find the space for self-care. This presentation looks at how today's 24/7 access to information and to each other has negatively affected our mental health. It also focuses on effective ways to disconnect from technology that can help improve work-life balance.
- ***Depression and Anxiety: What Every Lawyer Should Know.*** This presentation overviews the common mental health problems faced by lawyers. It looks at how to assess and treat the anxiety and depression that often create difficulties for lawyers. It also examines preventative tips to avoid these issues.

100% CONFIDENTIAL  
CALL 1-800-343-8527 (TLAP).  
GET HELP WITH SUBSTANCE ABUSE  
AND MENTAL HEALTH ISSUES.  
TLAPHELPS.ORG

Call 24/7  
1-800-343-8527 (TLAP)

- **Mindfulness and the Practice of Law.** According to research, anxiety is one of the most common problems for lawyers. Mindfulness is a leading solution to anxiety. In this program, you will look at powerful research regarding the benefits of breathing exercises and meditation. You will also learn basic guidance on how to use mindfulness in your professional life to achieve a successful work-life balance.
- **Substance Use Disorders: What All Lawyers Should Know.** More than 1 in 5 lawyers suffer from a substance use disorder. Even more suffer while observing a colleague self-destruct in an addiction. Whether it is alcohol, prescription drugs, or other substances, lawyers need to know the basics about these issues for clients, colleagues, and for their own wellbeing. This presentation looks at the leading substance use disorders, research, symptoms, evidence-based solutions, and treatments. It also provides some guidance to help those living with or working with an impaired attorney.
- **Cognitive Decline: How to Deal with Aging or Impaired Attorneys.** Over 17 percent of attorneys in Texas are over the age of 65. It is no surprise that we are seeing more attorneys practicing with cognitive impairments. This presentation examines the problem of cognitive impairments and how to deal with colleagues facing them, including practical tips and helpful resources.
- **Grief and Loss: Being Prepared for its Effect on Clients and Colleagues.** Attorneys are already often dealing with plenty of hardships when the worst news comes. Adding the loss of a family member or colleague to the mountain of worries lawyers already face can be overwhelming. This presentation introduces how grief works, the stages, and leading evidence-based suggestions for dealing with it.
- **The Three Fs: How Lawyers Fail at Food, Fitness, and Fun.** Lawyers often struggle with basic health. An inordinate number of lawyers and law students have eating disorders, fail to get recommended sleep and exercise, and fall prey to bad habits. This program looks at the research on lawyer health, suggests strategies to implement long-term change, and offers resources and guidance for a variety of lawyer health challenges.

#### TLAP HELPS

LAW STUDENTS  
YOUNG LAWYERS  
LAWYERS  
AGING LAWYERS  
JUDGES  
LEGAL EMPLOYERS

#### TLAP HELPS WITH

WELLNESS  
STRESS & ANXIETY  
DEPRESSION & BIPOLAR  
SUICIDE PREVENTION  
SUBSTANCE ABUSE  
COGNITIVE DECLINE

#### TLAP HELPS VIA

SUPPORT & REFERRALS  
PEER ASSISTANCE  
CLE & EDUCATION  
MANDATED MONITORING  
VOLUNTEER OPPORTUNITIES





# TLAP ONLINE RESOURCES

[HTTPS://WWW.TEXASBAR.COM/TLAPHELPS/REMOTE-WELL-BEING](https://www.texasbar.com/tlaphelps/remote-well-being)

CALL OR TEXT 1-800-343-TLAP (8527).GET HELP WITH SUBSTANCE USE AND OTHER MENTAL HEALTH ISSUES.

## Well-Being Resources for Remote Living

For the many attorneys and law students and families that may be isolated and struggling with a mental health issue or needing recovery support, here are some valuable online support options, including ways to get group support, referral, and professional help.

If you do not already, PLEASE follow us on [www.facebook.com/tlaphelps](https://www.facebook.com/tlaphelps) and get daily wellness programming, updates on local events, online-presentations, groups, and meetings.

### TLAP QUARANTINE SUPPORT VIDEOS

- [Being at Home Boot Camp for Lawyers](#)
- [Crisis Fatigue](#)
- [Handling Anxiety During the Coronavirus](#)
- [Handling Hard Times and Practicing Law](#)
- [How Attorneys Can Make Life Changes Happen](#)
- [How Lawyers Can Manage Thinking During the Coronavirus](#)
- [How to Set Boundaries and Practice Law](#)
- [How Young Lawyers are Handling the Coronavirus Epidemic](#)
- [Law Student Hope, Health, and Help](#)
- [Lawyer Boundaries for Technology and Mental Health During Quarantine](#)
- [Lawyers and Trauma in the Age of the Coronavirus](#)
- [Lawyers, Stress and OCD](#)
- [Mindfulness for Lawyers During Quarantine](#)
- [Staying Healthy During Covid 19](#)
- [Well-Being for Bar Exam Takers](#)
- [Why Attorneys Struggle with Self-Worth and Solutions](#)

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### Resources available online include:

- TLAP QUARANTINE SUPPORT VIDEOS
- REMOTE LAWYER/LAW STUDENT SUPPORT BY DAY OF THE WEEK:
- ONLINE/TELEPHONIC SUPPORT GROUPS, MENTAL HEALTH RESOURCES, AND SUPPORT
- RESOURCES SHARED BY THE AMERICAN BAR ASSOCIATION'S COMMISSION ON LAWYER ASSISTANCE PROGRAMS (COLAP)
  - AUSTIN RESOURCES
  - BEAUMONT RESOURCES
  - DALLAS RESOURCES
  - FORT WORTH RESOURCES
  - HOUSTON RESOURCES
  - LUBBOCK AND PANHANDLE RESOURCES
  - SAN ANTONIO RESOURCES
- INTERNATIONAL RESOURCES
- COVID-19 RELATED WELL-BEING SUPPORT READING
- EXPLORE ARTS & CULTURE\*
- EXPLORE MUSIC\*
- EXPLORE VIRTUAL NATURE\*
- EXPLORE FITNESS\*