PREPARING FOR THE CHILD WELFARE SPECIALIZATION EXAM

1st Annual Advanced Child Protection Law Course
Texas Law Center
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Presented by:
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Child Welfare Law Specialization crosses many boundaries and involves, at least, the following areas:

1. Texas Statues;
2. Federal Statues;
3. Texas Rules of Civil Procedure;
4. Texas Rules of Appellate Procedure;
5. Texas Administrative Code;
6. Code of Federal Regulations;
7. Texas Appellate Case Law;
8. Federal Appellate Case Law; and

In Order to successfully prepare for the exam, a methodical approach is highly recommended.
PREPARATION SUGGESTIONS:

1. Review the Standards for Certification (Appendix “A”);

2. Review the Exam Specifications (Appendix “B”);

3. Learn the Exam Format;
   
   A. MORNING SESSION
   
   3 Exams – 100 points each (Pay attention to point allocation and do not spend too much time on a question part that is worth far less points than other parts to the question.)
   
   TIME ALLOCATION: 3 hours

   B. AFTERNOON SESSION
   
   100 Multiple Choice Questions – 2 points each
   90 Questions in Specialty Area
   10 Ethics Questions
   
   TIME ALLOCATION – 3 hours
4. Gather Study Resources:

4.1 Texas Family Code;
4.2 Texas Rules of Civil Procedure;
4.3 Texas Rules of Appellate Procedure;
4.4 Texas Code of Professional Responsibility;
4.5 Bench book from Children's Commission;
4.6 NACC Redbook – Child Welfare Law and Practice (3rd Edition);
4.7 Case Law Updates (this course, Advanced Family, etc.);
4.8 Seminal Case Decisions, both State and Federal;
4.9 Recent legislative changes; and

5. This is a significant undertaking. GIVE YOURSELF ENOUGH TIME!
6. Form Reliable Study Groups
   6.1 Break down separate areas;
   6.2 Identify subject areas where others have expertise and have them present for an hour or so at your study group;

7. Shortly before exam, find a venue where you can study with little interruption;

8. Eat healthy foods;

9. Exercise;

10. Get enough sleep;

11. Exam Day (or Austin – before exam):
   A. Have materials needed.
   B. Computer charging cords, etc.;

12. Get to exam site at least 45 minutes early (reduce stress);
Recap:

A. Most of Federal Law and Case Decisions – Redbook Child Welfare Law and
B. Practice Third Edition NACC;
C. Sampson Tindall notes and comments on important cases and legislative intent;
D. Conservatorship;
E. Trials;
F. Appeals;
G. Roles & Duties;
H. Best Interest;
I. Appellate Deadlines;
J. Standards of Review;
K. Special Rules and Statues; and
L. Code of Professional Responsibility.
APPENDIX “A”
TEXAS BOARD OF LEGAL SPECIALIZATION
STANDARDS FOR ATTORNEY CERTIFICATION

PART II
SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XX
CHILD WELFARE LAW

A. DEFINITIONS
1. “Child welfare law” involves litigating suits under Title 5, Subtitle E of the Texas Family Code and issues that arise in suits by a governmental entity for the protection of an abused or neglected child, including but not limited to the possession and conservatorship of a child, the termination of parental rights, the placement of a child in foster care, or the adoption of a child. Practitioners of child welfare law must have:
   • knowledge of applicable federal law, including the Indian Child Welfare Act, the Adoption and Safe Families Act, the Fostering Connections to Success and Adoption Act, the Safe and Stable Families Act, the Strengthening Families Act, the Every Student Succeeds Act, constitutional law, education law, immigration law, and disability law;
   • knowledge of applicable state law, including the Texas Education Code, the Texas Penal Code, guardianship law, and juvenile law; and
   • experience in the trial or appeal of judicial or administrative proceedings involving a governmental entity for the protection of an abused or neglected child.
2. “Lead counsel” is the lawyer who takes primary responsibility for the representation of the client in the case. To be considered lead counsel in a case at the trial level, the applicant must make an opening statement or closing argument, and conduct significant direct and cross-examination of live witnesses at trial. To be considered lead counsel in an appeal, applicant must be a signatory to and perform substantial work in drafting the briefs for that party.
3. “Post-trial proceedings” include prosecuting or defending against an appeal or original proceeding in an intermediate appellate court or in the Supreme Court of Texas and proceedings to correct an action of the trial court incident to an appeal.

B. SUBSTANTIAL INVOLVEMENT. To demonstrate substantial involvement and special competence in child welfare law practice, applicant must meet the following minimum requirements:
1. Certification.
   a. Percentage of Practice Requirement. Applicant must have devoted a minimum of 25% of his or her time practicing child welfare law in Texas during each of the three years immediately preceding the application.
APPENDIX “B”
EXAM SPECIFICATIONS FOR CHILD WELFARE LAW

PURPOSE OF THE EXAM. The purpose of the certification exam is to require an applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in child welfare law.

EXAM FORMAT. The exam consists of a three-hour morning session with three essay questions each worth 100 points and a three-hour afternoon session with 100 multiple choice questions (10 of which involve professional ethics) each worth 2 points. The required passing score is 350. The essay portion of the exam may be taken by laptop (supplied by the examinee) or by writing. Answers to the multiple choice questions will be documented by the applicant on a scantron answer sheet supplied by TBLS.

ESSAY QUESTIONS. Essay questions consist of a fact pattern followed by a series of questions (usually 4-6) for an applicant to answer. Essays are designed to require an applicant to recognize and analyze issues in the fact pattern and explain how those issues should be resolved. The fact patterns will involve situations you would likely encounter in your practice. Applicants should make sure to provide the specific information each question asks for and to communicate as clearly as possible. An organized, clearly written answer using complete sentences will almost always receive a higher score than a choppy, disorganized one. In order to pass the exam, applicants must be able to clearly express answers in a manner that would be persuasive to the decision-maker in a case.

MULTIPLE CHOICE QUESTIONS. These questions are designed to test a breadth of issues in the specialty area and require an applicant to select the best available answer option.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES. An applicant in child welfare law is expected to understand all aspects of child welfare and is also expected to be familiar with the procedures for resolving child welfare cases both in the Texas Family Code and in the Texas Rules of Civil Procedure, a general application of the Texas Rules of Civil Procedure and Texas Rules of Evidence, provisions in the Texas Constitution and other state laws relating to child welfare law, and federal laws relating to child welfare law. This will include legislation in effect at the time of the exam that may have been recently enacted as well as any recent case law. The subject areas required of a child welfare law applicant are set out below.

NOTE: NOT ALL TOPICS LISTED BELOW WILL BE COVERED ON ANY GIVEN EXAM. APPLICANTS WILL BE TESTED ON RULES AND LAWS IN EFFECT AT THE TIME OF THE EXAM UNLESS OTHERWISE SPECIFIED.

1. Federal Law
   a. U.S. Constitution
   b. Child Abuse Prevention and Treatment Act
   c. Social Security Act (Title IV-B and IV-E)
   d. Adoption and Safe Families Act
   e. Childfree Act
   f. Fostering Connections to Success Act
   g. Indian Child Welfare Act
   h. Preventing Sex Trafficking and Strengthening Families Act

Child Welfare Law
TBLS Exam Specifications (2018)
i. Servicemembers Civil Relief Act
j. Special Immigrant Juvenile Status

2. State Statutes and Regulations
   a. Texas Family Code
   b. Texas Rules of Civil Procedure
   c. Texas Rules of Evidence
   d. Texas Administrative Code
   e. Child Protective Services (TDFPS) Handbook

3. Intake and Investigations
   a. Reporting Child Abuse/Neglect
   b. DFPSS Interviews with Children
   c. Family Based Services
   d. Orders in Aid of Investigation
   e. Orders to Participate in Services
   f. Records and Confidentiality

4. Trial of Cases Involving TDFPS
   a. Removals
   b. Pleadings
   c. Jurisdiction, including UCCJEA
   d. Venue
   e. Service of Process and Due Diligence
   f. Discovery
   g. Emergency Removal Hearing
   h. Non-Emergency Removals
   i. Adversary Hearing
   j. Evidentiary rules
   k. Paternity
   l. Aggravated Circumstances
   m. Protective Orders and Family Violence
   n. Substance Abuse issues
   o. Mental Health issues
   p. Expert Witnesses
   q. Status Review Hearings
   r. Visitation and Access issues
   s. Incarcerated Parent/ Bench Warrants
   t. Permanency Hearing
   u. Monitored Return of Children
   v. Dismissal and Extension of Court’s Jurisdiction
   w. Permanency Care Assistance (PCA)
   x. Court proceedings involving conservatorship without TPR
   y. Joint Managing Conservatorship
   z. Termination of Parental Rights
   aa. Jury Trial - from voir dire to Instructions and Verdict
   bb. DeNovo Hearings
   cc. Post-Judgment Motions and Appeals from Final Judgment
   dd. Mandamus and Bill of Review
5. Interventions

6. Mediation and Non-Adversarial Dispute Resolutions

7. Attorney Ad Litem / Guardian Ad Litem
   a. Appointment DM
   b. Requirements for effective advocacy
   c. Ineffective Assistance of Counsel
   d. Counseling parent clients
   e. Counseling child clients
   f. Professional responsibilities
   g. Court Appointed Special Advocates and Guardian Ad Litem

8. Children
   a. Best interests of children
   b. Texas Service Levels System
   c. Children in court
   d. Foster Children Bill of Rights
   e. Disproportionality
   f. Psycho Social Aspects of Family
   g. Medical Care and Coverage

9. Education
   a. School Stability
   b. McKinney Vento Act
   c. Individuals with Disabilities Education Act
   d. Special Education issues
   e. Uninterrupted Scholars Act
   f. Tuition and Fee Waivers

10. Long Term Care
    a. Permanency After Final Order (Placement) Hearings
    b. Extended Foster Care
    c. Transitional Living
    d. Trial Independence
    e. Guardianship
    f. PAL
    g. Aging out of Care

11. Adoptions

12. Associate Judges

13. The Texas Disciplinary Rules of Professional Conduct. The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an applicant is advised to be familiar with all provisions of the TDRPC.
SUGGESTED STUDY MATERIALS:

- Articles from Statewide seminars
- The Family Code
- The Handbook of the Department of Family & Protective Services
- Recent changes to legislation-Legislative Update
- Rules of Civil Procedure
- Texas Rules of Appellate Procedure
- Supreme Court of Texas Children’s Commission resources:
- Related sections of the Education Code