



Key Note

Volume 95

Northeast Texas Association of Paralegals, Inc.
An Affiliate of the National Association of Legal Assistants, Inc.
Editor, Mona Hart Tucker, ACP

November 2012

President's Message

*When you are through changing,
You are through.*

--Bruce Barton

Just as I am about to get a bit too comfortable in my space, *poof*, the winds change my direction!

Whether a change in age, a change of seasons, a change in routine, there always is that trepidation associated with the unknown. But then again, I have to remind myself this is the rhythm of living – *action and reaction, ebb and flow, trial and error, change.*

As we begin to prepare for the end of yet another successful NTAP year, let us always be grateful and count it a privilege to be inconvenienced at the expense of change. Otherwise, “[I]f we don’t change, we don’t grow. If we don’t grow, we aren’t really living.” Gail Sheehy.

Andrea Brunson, CP
NTAP President, 2012



2012 Executive Committee

President – Andrea Brunson, CP
1st Vice President – Sandi Clarke, CP
2nd Vice President – Nadriette Hardeman, CP
Secretary – Cindy VanBlaricom
Treasurer – Shannon Qualls
NALA Liaison – Javan Johnson, ACP

2012 Chairpersons

Parliamentarian – Mona H. Tucker, ACP
Employment – Andrea Brunson, CP
Auditor – Andrea Brunson, CP
Scholarship – Javan Johnson, ACP
Nominations & Elections – Mona H. Tucker, ACP



We're Moving!

Beginning November 21, all NTAP meetings will be held at the Summit Club in Longview rather than the Community Center. A lunch menu will be available at a cost ranging from \$3.00 to \$10.00 (depending on your menu item). We will continue to meet on the third Wednesday of each month at 12:00 noon.



What's Happening



Sandi Clarke is having knee replacement surgery on Nov. 12. Hope you're soon as good as new, Sandi!

Too Cute! These are **Holly Trests's** daughters, all dressed up for Halloween. Audrey will be four in December, and Olivia just turned two.



Audrey is the butterfly and Olivia is the bumblebee.

Mona Tucker has been featured in Vicki Voisin's "Paralegal Mentor" newsletter. Vicki also printed one of the recipes from the NTAP cookbook, along with a link to our website.





Northeast Texas Association of Paralegals, Inc.
Minutes of the Membership Meeting
October 17, 2012

The monthly membership meeting of the Northeast Texas Association of Paralegals was held at The Summit Club on Wednesday, October 17, 2012. We were also there for the celebration of Texas Paralegal Day.

Those in attendance were Pat Aguilar, Ana Berrospe, Balivia Andrews, Andrea Brunson, Elisha Calhoun, Lori Campbell, Deb Carney, Sandi Clarke, Doug Conn, Gloria Gibbons, Staci Grant, Nadriette Hardeman, Javan Johnson, Lisa Liston, Kathy Magness, Pam Matthews, Gina Neuse, Chad Newman, Joe Newsom, Shannon Qualls, Crystal, Roberts, William Runnels, Gretchen Shore-Tucker, Mona Tucker, Cindy VanBlaricom, and Devon Whatley.

President, Andrea Brunson welcomed members and guests and called the meeting to order at 12:07 p.m.

Reports:

Secretary - The minutes from the September membership meeting were printed in the Key Note. Cindy VanBlaricom made a motion to approve the minutes. Pam Matthews seconded the motion, and the minutes were approved as printed.

Treasurer - The Treasurer's Report was presented by Shannon Qualls. Shannon Qualls made a motion to approve. Lisa Liston seconded the motion, and the treasurer's report was approved.

Membership - William Runnels, Doug Conn, and Staci Grant were presented to the membership for approval. Nadriette Hardeman made a motion to approve and Mona Tucker seconded the motion.

Membership Drive - In 2013 we will schedule a campus visit to Kilgore College and Texas A&M Commerce.

Scholarship - In 2013 we are planning to give a scholarship in April for \$250.00 per semester.

Website/Facebook - Shannon Qualls is updating the website. Cindy VanBlaricom is updating the Facebook page.

Speaker - November's speakers will do the closing and we will know the outcome of the case.

Charities - We are currently supporting the Rainbow Room. For 2013, we are looking into supporting a women's shelter.

New location - The Summit Club will be our new meeting location as of November 2012. You will not be allowed to bring outside food in, but there will be a menu with reasonably priced items.

CP Review Course - The CP Review Course is scheduled for October 26 and 27, 2012 at The Summit Club.

TAPS - Several members attended TAPS that was held October 3-5, 2012 and had a great time.

Wills Clinic - The Wills Clinic will take place on November 17, 2012 at Joe Newsom's office in Gilmer, Texas.

2013 Officer Nominations and Elections - Straw Ballots for the 2013 Officer Nominations and Elections must be turned in no later than November 26, 2012.

Key Note - Key Note submissions are due no later than November 9, 2012.

Employment - David Griffith in Gilmer has a position open.

President Brunson read a Thank You note from American Cancer Society, in memory of Lori Campbell's father, Floyd "Jerry" M. Sanders.

Chad Newman presented the Plaintiff's opening statement. Joe Newsom presented the Defendant's opening.

There were three door prizes. Cindy VanBlaricom, Deb Carney, and Staci Grant were our lucky winners.

With no further business, the meeting was adjourned at 1:05 p.m.

Cindy VanBlaricom
NTAP Secretary



**NTAP Celebrates
Texas Paralegal Day**

On Oct. 17, 2012, 26 NTAP members and friends gathered at the Summit Club in Longview to celebrate Texas Paralegal Day. The occasion was marked with door prizes and opportunities for involvement in the legal profession.



Our President, Andrea Brunson

The Texas Senate was the first in the nation to observe Paralegal Day, and many states have since followed suit. The official date is October 23, which marks the anniversary of the founding of the Paralegal Division of the State Bar of Texas.



The special cake for the occasion



Recap of 2012 CP Review Course

NTAP held its first CP Review Course in five years on Friday and Saturday, Oct. 26 & 27, at the Summit Club in Longview. Besides the speakers and workers, there were 16 in attendance.

Sandi Clarke did an excellent job of getting some

great speakers lined up, and she and Andrea Brunson went above and beyond in gathering nearly \$1,000 in door prizes and giveaways for the event.



Christina Hollwarth held the group's interest with her presentation on Family Law.

The speakers, who gave so freely of their time and expertise, were:

- Cary Crump, Esq. - Civil Procedure
- Hon. Vincent Dulweber - Estate Planning & Probate
- Matt Harris, Esq. - Criminal Law & Procedure
- Javan Johnson, ACP, TBLS - Legal Research
- Elizabeth Fulton, Esq. - Contracts
- Christina Hollwarth, Esq. - Family Law
- Rhonda Brashears, CP, TBLS - Ethics
- John Whitehead, Esq. - Judgment & Analytical Ability
- Pat Florence, Esq. - Real Estate
- Jerilyn Williams - Communications
- Jonathan Wharton, Esq. - Administrative Law, Business Organizations
- Carol Cross Stone, Esq. - Bankruptcy

The door prizes were awesome, too. Everybody present went home with both a prize and a NALA bag full of items donated by our supporters. Just take a look at this list!

- Grand Prize -- iPad - Gretchen Shore Court Reporting, won by Gloria Gibbons
- 2nd Prize -- \$50 Visa card - Piney Woods Process, won by Devon Whatley
- 3rd Prize -- \$25 Target gift card - Kim Tindall & Associates, won by Holly Trest
- \$25 Visa gift card - Sloan Bagley Hatcher & Perry, won by Chanda Hawkins
- Mary Kay Gift Set - Exhibit A, Graphics for the Courtroom, won by Sandi Clarke
- \$50 Visa gift card - Piney Woods Process, won by Shelley Cujko

- \$25 Starbucks gift card - Boon Shaver Echols Coleman & Goolsby, won by Cindy VanBlaricom
- \$50 Dressin Gaudy gift card - Exhibit A, Graphics for the Courtroom, won by Andrea Brunson
- Camelback insulated thermos - Nix, Patterson & Roach and \$25 Chili's gift card - Sloan Bagley, won by Karen Evans
- \$25 Visa gift card - Sloan Bagley -- Crystal Roberts
- \$25 Starbucks gift card - Boon Shaver and insulated thermos - Nix, Patterson & Roach, won by Shannon Qualls
- \$25 Visa gift card - Boon Shaver, won by Devon Whatley
- \$25 Visa gift card - Boon Shaver, won by Holly Trest
- \$25 Visa gift card - Boon Shaver, won by Doug Conn
- \$25 Visa gift card - Boon Shaver, won by Candice Dillon
- \$25 Applebee's gift card - Boon Shaver, won by Jeron McGough
- \$25 Chili's gift card - Boon Shaver, won by Gloria Gibbons
- \$25 Applebee's gift card - by Sloan Bagley, won by William Runnels



Gloria was excited to win the iPad.

Sandi, Andrea, and the rest of the NTAP Board would like to extend a heartfelt "Thank you" to our wonderful sponsors.



Veterans Will Clinic

NTAP will hold its second annual Veterans Will Clinic on Saturday, Nov. 17, at the Law Office of Joe Newsom in Gilmer.

Those of you who participated at the pro bono clinic in Longview last year will remember the

event as a thoroughly exhausting, but thoroughly satisfying day. We were really short-handed, and would appreciate every one of our members participating this year.

If you absolutely cannot attend, please do your part by donating (or asking your firm to donate) paper, flash drives, lunch and drinks, or refreshments for our workers. We are also going to need the use of a printer/copier for the day.

Please encourage your attorneys to take part in this event. We cannot do it without their help.



Officer Elections

Straw Ballots were sent out to the voting members on October 25th. If you have not yet returned your ballot, please do so before November 26th. Ballots received after that date will not be considered.

We will elect officers at the December 19th membership meeting, and the installation ceremony will be conducted on January 16th.



New Medical Privacy Law in Texas: What You Need to Know

by Peg D. Hall and Matt Nickel

Few things are as personal, private or important as one's medical records. It is not surprising that there is extensive federal and state legislation protecting patient privacy. Nearly everyone is familiar with the federal Health Insurance Portability and Accountability Act (HIPAA). The federal Health Information Technology for Economic and Clinic Health Act (HITECH) is not as well known, yet works in conjunction with HIPAA to safeguard the privacy of health information.

Concerned that HIPAA and HITECH did not provide enough safeguards for protected health information (PHI), the Texas legislature passed H.B. 300 in 2011. This law, containing even more stringent regulation than the federal scheme, will go into effect on September 1, 2012. Because H.B. 300 has potential effects on any entity that comes into contact with PHI (including law firms), it is important that both attorneys and clients understand and prepare for its impact.

“Covered Entities”

H.B. 300 requires that “covered entities” meet several new requirements regarding the privacy and security of PHI. The existing federal and Texas laws have different definitions of what constitutes a “covered entity.” Generally, HIPAA considers health care plans and health care providers to be “covered entities.” The Texas definition is more expansive, defining a “covered entity” as any individual, business or organization that:

- engages in the practice of assembling, collecting, analyzing, storing or transmitting PHI;
- comes into the possession of PHI;
- obtains or stores PHI; or
- is an employee, agent, or contractor of a person described in numbers 1-3
- above (if they create, receive, obtain, maintain, use or transmit PHI). Tex. Health and Safety Code, §181.001(b)(2).

Thus, many businesses and individuals currently exempt from HIPAA may soon be subject to the requirements of H.B. 300. In Texas, it is likely that law firms, record storage and disposal companies, accounting firms, auditors, and others may be considered “covered entities.” Accordingly, every business and organization should analyze its contacts with PHI and understand its potential to be a “covered entity” under Texas law.

New Requirements and Potential Penalties

Individuals and entities determined to be “covered entities” under H.B. 300 will face several new requirements, including: new training for employees regarding PHI; additional patient rights related to electronic medical records; and the potential for increased penalties for noncompliance.

1. Employee Training

Under the new Texas law, “covered entities” must provide ongoing, customized training for their employees regarding both federal and state law related to the protection of PHI. The training should be tailored for the employee’s responsibilities and the entity’s contacts with PHI. Each new employee must complete the training within 60 days after his or her hire date, and the training must be repeated at least once

every two years. Notably, under HIPAA, training is only required within a reasonable amount of time after hiring and when there are any material changes in privacy policies.

Under both HIPAA and H.B. 300, “covered entities” must maintain records of every employee’s training attendance.

2. Patient Rights Regarding Electronic Medical Records

Beginning in September 2012, “covered entities” must provide patients with electronic copies of their electronic health records within 15 business days of the patient’s written request (under HIPAA, records must be provided within 30 days of a request). Additionally, the new Texas law requires the Texas Attorney General to establish a website that explains patient’s privacy rights under Texas and federal law. Also contained in H.B. 300 are provisions that prohibit the sale of PHI and require notice to patients regarding the electronic disclosure of PHI.

3. Increased Penalties

“Covered entities” that wrongfully disclose a patient’s PHI will face increased civil penalties under H.B. 300, in addition to any penalties for violating federal laws. The new Texas law allows for penalties ranging from \$5,000 to \$1.5 million per year. To determine the penalty amount, H.B. 300 lists five factors a court may consider: 1) the seriousness of the violation; 2) the entity’s compliance history; 3) the risks of harm to the patient; 4) the amount necessary to deter future violations; and 5) efforts made to correct the violation.

Preparing for H.B. 300

This article only provides a glimpse into a few of the requirements of the new Texas law. Any individual, business or organization that may be considered a “covered entity” should thoroughly analyze H.B. 300 to understand and prepare for the new requirements. These efforts should include updating any policies and procedures related to PHI and conducting employee trainings immediately.

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Texas HB 300 Compliance Information

On September 1, 2012 Texas law [H.B. 300](#) took effect and new bureaucratic medical record disclosure rules and penalties now apply to medical practices as well as "any person ... who comes into possession of protected health information." ([Texas Health Code Chapter 181.001](#) as modified by HB 300)

Proponents of the law claim it protects patient privacy. However, like HIPAA, the law provides for disclosure of patient records to certain third parties (for example insurance companies) without the patient's authorization. ([Texas Health Code Chapter 181.154](#) as modified by HB 300)

The law also gives additional authority to a public-private non-profit corporation (THSA) to develop statewide "standards for the electronic sharing of protected health information" and "a process by which a covered entity may apply for certification by the corporation of a covered entity's past compliance." ([Texas Health Code Chapter 182](#) as modified by HB 300)

Below are key points physicians will need to know and comply with following H.B. 300's effective date of Sept 1.

(Please note, even if you are not a covered-entity under the federal HIPAA law, these provisions of H.B. 300 apply to you per the definition of "covered entity" in [Texas Health Code Chapter 181.001](#))

- Each covered entity shall **provide a training program to employees** (within the first 60 days of employment) regarding state and federal law concerning protected health information as it relates to the covered entity's particular course of business; and each employee's scope of employment. Employees must review this program at least once every two years. [Click here to view a sample training program.](#) A covered entity shall require employees receiving training to sign a

statement verifying the employee's attendance at the training program. The covered entity shall maintain the signed statement. ([Texas Health Code Chapter 181.101](#) as modified by HB 300)

- If a health care provider is using an electronic health records system that is capable of fulfilling the request, the health care provider, not later than the 15th business day after the date the health care provider receives a written request from a person for the person's electronic health record, shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form. ([Texas Health Code Chapter 181.102](#) as modified by HB 300)
- The sale of protected health information is prohibited, except "as otherwise authorized or required by state or federal law." ([Texas Health Code Chapter 181.153](#) as modified by HB 300)
- If there is an unauthorized electronic disclosure of a patient's PHI, then the patient should be notified. ([Business and Commerce Code Chapter 521.053](#) as modified by HB 300)
- A covered entity shall provide notice to an individual for whom the covered entity creates or receives protected health information if the individual's protected health information is subject to electronic disclosure. ([Texas Health Code Chapter 181.154](#) as modified by HB 300)
- A covered entity may not electronically disclose an individual's protected health information to any person without a separate authorization from the individual or the individual's legally authorized representative for each disclosure. Authorization is not required if the disclosure is made for the purpose of treatment, payment, health care operations; or performing an insurance or health maintenance organization function or as otherwise authorized or required by state or federal law. ([Texas Health Code Chapter 181.154](#) as modified by HB 300)
- Violations of the above and other sections of HB 300 can be penalized with fines up to \$1.5 million dollars. ([Texas Health Code Chapter 181.201](#) and [Business and Commerce Code](#)

Chapter 521.151 as modified by HB 300) Certain violations are a "state jail felony" offense. ([Business and Commerce Code Chapter 522.002](#) as modified by HB 300)

- In addition to fines, a violation by an individual or facility that is licensed by a Texas agency (e.g. Texas Medical Board) is subject to investigation and disciplinary proceedings, including probation or suspension by the licensing agency. If there is evidence that the violations of this chapter constitute a pattern or practice, the agency may revoke the individual's or facility's license. ([Texas Health Code Chapter 181.202](#) as modified by HB 300)

This article was first published by the American Association of Physicians and Surgeons, www.aapsonline.org, and is reprinted here by permission.



November



The membership meeting will be at noon on November 21st at the Summit Club. Chad Newman and Joe Newsom will present closing arguments in our "life of a trial" series, so you'll want to be there to see how it all wraps up.

Lunch is available for purchase at the Summit. Please have correct change or a check made payable to NTAP. No change will be made because NTAP will write one check to the Summit. Please do not bring food or drink from outside.



Now We're
Cookin'



This recipe is from the NTAP cookbook, and was featured this week in Vicki Voisin's *Paralegal Mentor*.

Cranberry Jello Salad

- Mona Tucker

- 1 package fresh cranberries, chopped
- 1 ½ cups sugar (or substitute 1 can whole cranberry sauce for cranberries and sugar)
- 1 6-ounce package raspberry Jello
- 1 cup boiling water
- 1 cup cold water
- 1 medium can crushed pineapple, drained
- 2 cups chopped pecans

Stir the Jello into the boiling water until dissolved. Add cold water and stir. Add all other ingredients and refrigerate.



COOKBOOKS - \$10.00

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WEDNESDAY, NOVEMBER 21, 2012

PLEASE BRING EXACT CHANGE TO MEETING (as we will have no change available) or PLEASE MAKE CHECK PAYABLE TO NTAP.

Thank you.

\$10.00

Choice of:

NY Strip Sandwich (served with fruit or fries) and Tea
Southwestern Chicken Salad and Tea

\$3.00

Choice of:

Tortilla Soup and Tea
Soup du Jour and Tea

\$2.00 Drinks (free refills)

Choice of:

Coffee
Soda

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CLE Calendar

For additional information about CLE across the State see the SBOT - PD web site at www.txpd.org. Also, don't forget that the PD and NALA both offer on-line CLE.

(Online) November 14, 2013, 12:00 noon. "Cutting Edge Strategies for Effective Discovery Review". A free one-hour webinar featuring two of the top experts in this critical area. Sponsored by Law Partner Publishing. Register at <http://www.lawclecenter.com/Course/45/cutting-edge-strategies-for-effective-discovery-review>.

(Montgomery) February 1, 2013. Paralegal Division District 10 will sponsor its 6th annual "Important Skills for Today's Paralegal" at the Walden Yacht Club. Topics include Case Investigation through Discovery, Immigration, e-Discovery, and Legal Research. Cost is \$40 for Paralegal Division members, \$55 for non-members. Contact Cheryl Bryan, cbryan@obt.com, for details and to register.

(Online) Texas Bar CLE free online seminar. TexasBarCLE offers a complimentary half hour of participatory MCLE credit. You will find a new topic available every other month. The current topic is "Ethics of Advocacy". www.texasbarcle.com. *Please note: NALA will not accept courses under 50 minutes in length.*

Check out the **Ten Minute Mentor** on www.texasbar.com. These instructional video presentations are from leading lawyers in their areas of expertise. Each presentation is typically short (around 10 minutes or less), practical, and free. Viewing presentations qualifies for MCLE self-study credit only. Topics available include Daubert challenges, petitions for review, bankruptcy issues, and many more.

(Online) NALA Campus Live! has many topics to choose from, and the Texas Board of Legal Specialization has approved certain programs for certification and re-certification. The fall program runs through December 7th. More information is available at www.nala.org.

Articles published herein do not necessarily represent the opinions of the Northeast Texas Association of Paralegals. Calendar listings and seminars should not be considered as endorsement of any such program or seminar.

NTAP EMPLOYMENT REFERRALS

One of the benefits of your membership is NTAP's employment referral service. We receive calls from firms offering employment opportunities. If you are seeking a position or considering a change, we encourage you to use NTAP's employment referral service. If your firm is searching for qualified paralegals, ask your attorney or firm administrator to let us know about current openings.

If you are interested in being listed with the service, mail a current resume and contact information to:

Andrea Brunson, CP
AndreaB@NixLawFirm.com
NTAP, P.O. Box 2284, Longview, Texas 75601

THANK YOU for sponsoring our CP Review Course!

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Exhibit A

Graphics for the Courtroom



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