

**STATE BAR OF ARIZONA  
ELDER LAW, MENTAL HEALTH, AND SPECIAL NEEDS  
PLANNING SECTION BYLAWS**

**ARTICLE I: IDENTIFICATION**

**1.1 NAME:** This Section shall be known as The Elder Law, Mental Health, and Special Needs Planning Section and shall be hereinafter designated simply as the "Section".

**1.2 PURPOSE:** The purpose of this Section shall be to engage and educate Section members through an exchange of information and ideas about the legal aspects of the various subject areas covered by the Section, and to propose, promote and monitor legislation, rules and regulations to improve services to the public in these subject areas. The subject areas covered by this Section include, but are not limited to the following:

- A. Planning for the elderly, disabled and incapacitated.
  - 1. Guardianships and conservatorships for adults and children.
  - 2. Special needs planning, including specialized trusts and estate planning.
  - 3. Planning and qualification for Arizona Long Term Care System. (ALTCS), Arizona Health Care Cost Containment System (AHCCCS), Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Veteran's Administration benefits, and other public benefits.
  - 4. Living wills, powers of attorney and advance directives.
- B. Abuse and exploitation of the elderly, vulnerable, and incapacitated.
  - 1. Nursing home neglect and abuse.
  - 2. Financial exploitation.
- C. Mental and behavioral health (Arizona Revised Statutes Title 14 and Title 36).
  - 1. Adult guardianship with mental health powers and mental health powers of attorney.

**1.3 LIMITATIONS:** In addition to these bylaws, the section must adhere to the Rules of the Arizona Supreme Court and the State Bar Board of Governors' bylaws and policies.

**1.4 NOMENCLATURE:**

- A. "Affiliate Director" shall be a person who, meeting the criteria of Article II, Section 2.3 below, is voted by the Section Members to the Executive Council.
- B. "Executive Council" refers to the body empowered and authorized by these bylaws to conduct the activities discussed in Article V, herein.
- C. "Judicial Director" is a judicial officer of the Superior Court of Arizona, probate / mental health division., who is voted by the Section Members to the Executive Council. "Legislative Liaison" refers to a position which interfaces with the State Bar and lobbyist(s), when appropriate, to promote or oppose legislation.
- D. "Member" refers to a person who has membership within the State Bar of Arizona.
- E. "Member Director" refers to a person with a membership in both the State Bar of Arizona and the Section who is currently sitting on the Executive Council of the Section.

- F. “Officer” refers to one of four of the following positions which may be held by a Director:
  - 1. Chair;
  - 2. Chair Elect or Vice Chair;
  - 3. Secretary;
  - 4. Budget Officer
- G. “Position” includes the four Officer roles above, and also includes the roles of “Past Chair”, “Affiliate Director”, “Judicial Director”, “Legislative Liaison”, and “Section Liaison”(s). The duration of a “position” is one year.
- H. “Section” shall refer to the Elder Law, Mental Health, Special Needs Planning Section of the State Bar of Arizona as used within these Bylaws,.
- I. “Section Affiliate Member” shall refer to a person who is not a member of the State Bar of Arizona but who has applied and been accepted as a Section Member.
- J. “Section Liaison” refers to the position which interfaces and coordiantes activities with other Arizona State Bar sections and councils.
- K. “Section Member” refers to a person who has membership within the Section.
- L. “Year” ,is the period of July 1 to June 30 of the subsequent calendar year for purposes of calculating terms of service.

## **ARTICLE II: MEMBERSHIP**

**2.1 THE MEMBERSHIP.** Any member of the State Bar of Arizona in good standing shall be eligible for membership in the Section upon application and payment of such annual dues, if any, as the Executive Council shall fix, with the approval of the Board of Governors of the State Bar of Arizona. Section affiliate memberships may be available to non-Arizona attorneys and other qualified professionals who are not members of the State Bar of Arizona, upon application to the State Bar, the payment of annual Section dues and compliance with these bylaws and the rules, regulations and bylaws of the State Bar of Arizona.

**2.2 DUES.** Dues for membership in the Section shall be in an amount set by the Section and approved by the Board of Governors, payable upon enrollment and thereafter annually in advance each year, at the beginning of the State Bar’s fiscal year succeeding such enrollment.

**2.3 SECTION AFFILIATE MEMBERS:** Persons who are not members of the State Bar of Arizona, may be eligible to join the section as a Section Affiliate Member upon application to the State Bar and payment of the dues. Such individuals will be entitled to the same section benefits as SBA members except that such non-SBA members may not vote, hold elected office, or be counted in determining the presence of a quorum. Section Affiliates shall not advertise or hold themselves out as members of the State Bar of Arizona, nor shall they use or knowingly permit the use of their non-voting status in any directory or law list for the purpose of soliciting or obtaining business or financial advantage. In any advertisements or professional listings, non-SBA members must describe their association with the State Bar (if they reference it at all) as Affiliates of a particular section, and must include the phrase “not licensed to practice law in Arizona”. Section Affiliates who advertise themselves as members of the State Bar of Arizona will be immediately removed from their section.

**2.4 DELINQUENCY:** Any member of the Section whose annual dues shall be more than six months past due shall cease to be a member of the Section

### **ARTICLE III: MEETINGS OF THE SECTION MEMBERSHIP**

**3.1 ANNUAL MEETING:** The Section shall hold an Annual Meeting of members in conjunction with the Annual Meeting of the State Bar. The Section should hold other meetings of members throughout the year.

**3.2 QUORUM:** The members of the Section present at any Annual Meeting shall constitute a quorum for the transaction of business.

**3.3 CONTROLLING VOTE:** Action of the Section shall be by majority vote of members present.

**3.4 VOTING ELIGIBILITY:** Any member of the State Bar and the Section whose good standing can be certified by official State Bar records for thirty (30) days prior to the time of voting shall be eligible to vote.

**3.5 AGENDA:** Among the matters of business to be transacted at the Annual Meeting of the membership shall be the election of officers and Executive Council members. The agenda shall consist of other matters as decided by the chair or Council. All members can submit items for the agenda to the chair at least 15 days prior to the publication of the agenda to the membership

**3.6 VOTING:** The Executive Council may direct that a matter be submitted to the membership of the Section for vote by mail, e-mail, facsimile transmission or telephonically. In that event, binding action of the Section shall be by a majority of the votes received from members in accordance with rules fixed by the Council.

### **ARTICLE IV: DUTIES OF OFFICERS**

**4.1 CHAIR.** The Chair shall preside at the meetings of the Section and of the Executive Council. The Chair shall appoint the chair of all committees of the Section who are to hold office during his/her term as Chair. The Chair may appoint all members of committees active during his/her term or delegate that authority to the committee chair. The Chair shall superintend the performance of all activities of the Section. The Chair shall keep the Executive Council informed and carry out its decisions. The Chair shall perform such other duties and acts as usually pertain to the Chair office or as may be designated by the Executive Council.

**4.2 VICE-CHAIR or CHAIR-ELECT:** The Vice Chair, in the absence of the Chair, shall preside at any meetings of the Section and of the Executive Council. The Vice Chair shall aid the Chair in the performance of the Vice Chair's responsibilities in such manner and to such extent as the Chair may request. The Vice Chair shall perform such further duties and have such further powers as

usually pertain to the Vice Chair's office or as may be designated by the Executive Council or the Chair. In case of death, resignation, or disability of the Chair, the Vice Chair shall perform the duties of the Chair for the remainder of the Chair's term or disability, as the case may be.

**4.3 SECRETARY.** The Secretary shall consult with and assist all the officers of the Section as to the work of the Section generally in the manner and to the extent they may request. The Secretary shall keep a true record of the proceedings of all meetings of the Section and of the Executive Council, whether assembled or acting under submission. The Secretary shall provide the State Bar staff with a copy of the minutes of all meetings. The Secretary, in conjunction with the Chair, as authorized by the Executive Council, shall attend generally to the business of the Section.

**4.4 BUDGET OFFICER.** The Accounting Office of the State Bar shall keep an accurate record of all monies appropriated to the Section and expended by the State Bar for purposes of the Section. The Budget Officer receives reports, and other documents prepared by the Accounting Department of the State Bar as to the Section funds, revenues, and expenditures, and works with the State Bar staff and the accounting department to ensure the accuracy of the reports. The Budget Officer reports on the Section's present and projected financial condition at each meeting of the Executive Council and the Section. State Bar staff and the Budget Officer advise the Officers and Executive Council as to the financial impact of any proposed action by the Officers, Executive Council or Section.

## **ARTICLE V: THE COUNCIL**

**5.1 POWERS:** The Executive Council shall be vested with the powers and duties necessary for the administration of the affairs of the Section. The policies of the Executive Council shall be consistent with the policies. The policies of the Executive Council shall be consistent with the policies set by the Board of Governors. It shall especially authorize all commitments that entail the payment of money, and shall authorize the expenditure of all monies appropriated by the State Bar for the use or benefit of the Section. It shall not, however, authorize commitments that entail the payment of more money during any fiscal year than the amount appropriated to the Section for the fiscal year. No action of any Section committee shall be effective until approved by the Executive Council or by the Section

### **5.2 COMPOSITION:**

A. The Executive Council shall be composed of the following persons:

1. Nine (9) Member Directors
2. One (1) Past-Chair, who must have served as Chair in the year immediately preceding and may be a current Director or a Section Member whose term as Director has expired;

B. The Executive Council may also be composed of the following persons:

1. One (1) Affiliate Director;
2. One (1) Judicial Director,.

### 5.3 TERMS OF SERVICE

- A. The nine (9) Member Directors are to each serve for a three (3) year term. The election of Member Directors will occur every year, but only as to the three (3) Member Directors whose term of service is expiring. Thus, at any one time, one-third of the Member Directors shall be serving the first year of their terms, one-third shall be serving the second year, and one-third shall be serving the third year.
- B. The term of service for **all positions**, including the position of “Chair”, “Vice Chair” or “Chair-Elect”, “Secretary”, “Budget Officer”, “Past Chair”, “Affiliate Director”, “Judicial Director”, “Legislative Liaison”, and “Section Liaison”, is one year. The expiration of the term of service of a **position** does not affect a Member Director’s term of service as a Member Director.
- C. A Section Member is not precluded from running for appointment as a Director at the expiration of that person’s current term of service; however, no Section Member may act as a Director for more than six (6) consecutive years.
- D. Positions not held by a Member Director, including but not limited to Judicial Director and Affiliate Director, regardless of title, terminate at the end of the year. Persons holding such positions may apply/nominate themselves for the ballot slate for successive years, as consistent with these Bylaws.

### 5.4 VOTING:

- A. Only the Nine (9) Member Directors, regardless of any position(s) a Member Director may hold, may vote as to Executive Council Decisions.
- B. Positions not held by a Member Director, including but not limited to Judicial Director and Affiliate Director, regardless of title, have no ability to vote on Executive Council Decisions.

**5.5 CONTROLLING VOTE:** Action of the Executive Council shall be by a majority vote of those Member Directors present. A quorum consisting of a majority of the voting Executive Council members shall be required to conduct its business.

**5.6 VOTING BY PROXY:** For matters identified to be voted on in a written agenda sent to the Executive Council members at least five (5) days prior to any meeting...

**5.7 MEETINGS:** The Executive Council shall hold at least one regular meeting each year at the time and place of the Annual Meeting of the State Bar to dispatch any necessary business. The chair shall call regular meetings of the Executive Council between Annual Meetings.

**5.8 POLL OF COUNCIL:** In urgent matters requiring immediate action, the chair may submit to each of the Member Directors of the Executive Council, a proposition upon which the Executive Council may be authorized to act, and the Member Directors of the Executive Council may

vote upon the proposition either by written ballot, electronic mail ballot, facsimile transmission or by telephone vote, confirmed in writing. The Secretary shall record the proposition and votes in the matter.

**5.9 EXECUTIVE COUNCIL AUTHORITY:** Between meetings of the Section, the Executive Council shall have full power to do and perform all acts and functions that the Section itself might perform. Any such action taken by the Executive Council shall be reported to the Section at its next meeting. The Executive Council may direct that a matter be submitted to the members of the Section for vote. In such event, binding action of the Section shall be a majority of the votes received in accordance with rules fixed by the Executive Council.

**5.10 COMMITTEES:** The Executive Council may appoint committees and chairpersons from the Executive Council or from the members of the Section to perform such duties and exercise such powers as the Executive Council may direct, including but not limited to the position of Legislative Liaison, Section Liaison, etc.. The Chair, on direction of the Executive Council, shall remove any chairperson or member from any such committee and fill the vacancies on such committees created by removal or resignation.

**5.11 NO COMPENSATION:** No salary or compensation for services shall be paid to or by any officer, member of the Executive Council, or member of any committee, except as may be specifically authorized by the Board of Governors.

## **ARTICLE VI: ELECTIONS**

**6.1 ELECTIVE OFFICES.** At the first meeting of the Executive Council for the year, the Member Directors shall elect Officer positions, and Officers or Executive Council members to fill vacancies in any position open on the Executive Council as provided in Article VII. The Chair may also designate a Legislative Liaison and (a) Section Liaison(s) as deemed appropriate.

**6.2 CHAIR:** The Vice-Chair or Chair-Elect shall automatically succeed to the office of Chair unless he/she declines, refuses or is disqualified. The Vice-Chair or Chair Elect shall serve a term of one year and may not again succeed to that office. In the event the office of Chair-Elect shall be vacant, then a Chair shall be elected in the manner set forth in Section 7.4.

**6.3 ELIGIBILITY FOR OFFICE:** Any member of the State Bar and the Section whose good standing can be certified by official State Bar records for thirty (30) days prior to the time of election shall be eligible for office.

**6.4 NOMINATIONS AND VOTING:** Nominations and voting for elective offices shall be conducted as follows:

a) By March 1 of each year, the Chair, after consultation with the Council, shall appoint a Nominating Committee to include the Vice Chair or Chair Elect and not less than two (2) members of the Section. The Chair may appoint a member to fill any vacancy that may arise

thereafter in the Nominating Committee.

b) The Chair shall announce the names and addresses of the members of the Nominating Committee to the Section members and elicit any interest from the Section Members to become Members on the Council.

c) The Nominating Committee shall make and report one nomination for each position which is to be filled by elections as provided elsewhere in these bylaws. The report shall identify each nominee and shall include a brief statement of the nominee's activities in the Section and in the law profession generally. The Nominating Committee shall submit its report to the chair of the Section within enough time to allow the Executive Council to consider and vote on the slate of nominees recommended by the Nominating Committee and for the Chair to have a slate of nominees approved by the Executive Council to be published to the Section members not later than fifteen (15) days prior to the Annual Meeting.

d) The Chair of the Nominating Committee or his/her designee shall announce the committee's slate of nominees at a meeting of the Executive Council. The Executive Council may accept the slate of nominees recommended by the Nominating Committee or reject it or revise it. The Chair of the Section shall cause the slate of nominees approved by the Executive Council to be published to the members of the Section together with an announcement of the time and place when the election shall be held. All elections except special elections shall be held at a business session of the Section during the Annual Meeting. Elections shall be by voice vote unless otherwise directed by the Executive Council or a motion for voting by written ballot is approved by the Section at the Annual Meeting. Nominations also may be made from the floor. Each contested position shall be voted upon separately. Election shall be by a majority of the votes cast, and a run-off election to choose between the two leading candidates shall be held if a majority vote is not initially obtained.

e) New Member or Officer positions on the Executive Council created by an amendment to these bylaws shall be filled by vote of the Executive Council and confirmed by vote of the section membership at the next occurring Annual Meeting.

**6.5 TERMS OF OFFICE:** The term of office shall begin with the adjournment of the Annual Meeting following the election and shall end following the Annual Meeting at which a successor has been duly elected. If at the close of any term of office a successor has not been elected, then the term shall be extended until a successor shall have been elected.

## **ARTICLE VII: SUCCESSION OF OFFICERS AND VACANCIES**

**7.1 CHAIR-ELECT or VICE-CHAIR:** The Chair-Elect or Vice-Chair, unless he/she declines, refuses or is disqualified, automatically assumes the office of the Chair for a term of one year at the end of the Annual Meeting following the election. The Chair-Elect or Vice-Chair is disqualified if his/her office is automatically vacated by absenteeism in accordance with Article VII section 7.3 or if he/she is removed for cause in accordance with Section 7.4.

**7.2 OFFICERS AND COUNCIL:** Between Annual Meetings of the Section, the Executive Council may fill vacancies in its own membership, or in the offices of Chair, Vice-Chair, Secretary, or Budget Officer. Members of the Executive Council and Officers so elected shall serve until the next Annual Meeting of the Section, at which time the membership of the Section shall

elect Officers or Members to fill any unexpired terms existing at the time.

**7.3 ABSENTEEISM:** If any Officer, Member Director, or other person occupying a position on the Executive Council shall fail to attend two successive meetings of the Council, the Officer, Member Director, or other position shall be automatically vacated by that person, unless excused upon good cause accepted by the Member Directors of the Council. The Executive Council shall fill any vacancies caused by removal or resignation. The newly appointed Officer, Member Director, or other person occupying a position shall serve for the remainder of the replaced person's term.

**7.4 REMOVAL FOR CAUSE:** The Executive Council may remove any Officer, Member Director, or other person occupying a position on the Executive Council by majority vote of the Member Directors at a regular or special meeting scheduled with notice to the that person. The Executive Council shall fill any vacancies. The newly appointed Officer, Member Director, or other person occupying a position on the Executive Council shall serve for the remainder of the replaced person's term.

**7.5 RETIRING CHAIR:** At the end of the Chair's term of office, the retiring Chair shall hold the position of "Past Chair" for a term of one year.

**7.6 SUCCESSION:** No Member Director may serve more than two successive terms as a Member Director.

## **ARTICLE VIII: AMENDMENTS**

**8.1** These bylaws may be amended at any Annual Meeting of the Section by a majority vote of the members of the Section present and voting, providing such proposed amendment shall first have been approved by a majority of the Executive Council. The bylaws may also be amended by referendum submitted to the members of the Section for vote. In such event, binding action of the Section shall be a majority of the votes received in accordance with rules fixed by the Executive Council. Any amendment shall become effective upon approval by the Board of Governors.

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