

Wills Clinic Can Serve as Pro Bono Model for PBA Committees, Sections

Creating personal estate documents such as wills, living wills and powers of attorney for those with wealth seems both obvious and responsible. It also may provide a moment of pride as those having such documents drafted reflect on their life.

Creating the same materials for those in need is just as necessary and often produces the same moments of pride. However, access to creating estate planning documents is often very limited to those in poverty.

The PBA recognizes this and has stepped up its work, with the help of the PBA's Real Property, Probate and Trust Law (RPPT) Section, to serve as a model for helping the community at large prepare wills, notably for the impoverished or underserved.

"Almost all the clients the RPPT Section helps are impoverished," said David Keller Trevaskis, PBA director of pro bono services. "It is not that there are no programs out



David Keller Trevaskis



Justin H. Brown



Alison Smith

there helping those in need get estate documents prepared, especially for seniors, but the RPPT is really providing a significant service to the field, basically amplifying the work done by these other programs that do wills for seniors."

In 2021, the RPPT Section launched its pro bono program to conduct estate planning clinics and provide estate planning documents to low-income individuals free of charge.

The section recruits volunteer lawyers to meet with clients and

draft simple wills, financial powers of attorney and advance health care directives, which may include a health care power of attorney and/or a living will.

The section utilizes two clinic models to deliver pro bono estate planning services to clients. In the law school clinical educational model, the section teams up with a law school clinical education program that identifies and screens the clients. Law students also participate in the clinic under the supervision of a volunteer attorney.

The law students typically take the lead in the client conversation and drafting, and the volunteer attorney has a supervisory role. This model provides volunteers with the opportunity to mentor law students as they gain practical drafting and client interviewing skills.

In the legal services model, the section collaborates with a community legal services organization that identifies the clients. The section provides volunteer attorneys to meet with the organization's clients. Any PBA member can volunteer to participate in a clinic. Prior estate planning experience is not necessary. The section or the partner organization provides training and template forms for all volunteers.

In most clinics, volunteers have the option to participate either in person or virtually. To date, the section has sponsored 13 clinics, and PBA volunteer attorneys have

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served more than 100 clients and mentored 45 law students.

Purpose of Clinics

The purpose of the wills clinic is to provide individuals, who would otherwise not have such an opportunity,

access to attorneys who can draft estate planning documents for them.

“It is a huge problem in our country that people don’t have the necessary estate planning documents in place, whether they are wills, powers of attorney, health care powers of attorney or advanced health care

directives,” said Justin H. Brown, Ballard Spahr LLP, Philadelphia, and RPPT chair. “People just don’t have the documents. The wills clinics provide those individuals with the ability to be protected for when they ultimately pass away, to make sure that their assets pass in a manner

consistent with their goals.”

Alison Smith, chief counsel in the legal department at PNC Bank NA, Pittsburgh, designed the plan. Smith is chair of the RPPT Pro Bono Committee. She uses her experience as an estates and trusts lawyer to outline the work of the clinics.

“When I decided that this section should be more proactive about pro bono programs, I reached out to Grace Wankiiri Orsatti, director of the Thomas R. Kline School of Law of Duquesne University’s clinical education program,” Smith said. “I gathered some information from her about how they hold their clinics and how often and logistically how they set them up. I took what she was doing as a model and then planned out what resources we would need to be able to do this.”

Smith said she had prior experience working with Duquesne because of its clinical education program.

“They actually have an estate planning clinic where they serve low-income clients, and the school’s law students do a lot of the work,” Smith said. “But the students have to be supervised by attorneys. I met Orsatti through the PBA.”

Smith worked with Pamela K. Kance, PBA committees and sections coordinator, to develop a system so that the RPPT Section could register volunteers for the clinics once the committee planned them. Smith is the planner and coordinator for all the clinics.

“I reach out to the organizations that we partner with, whether it’s a



Court
Summaries

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the act are also rejected.

TRUSTS

Superior Court

PETITION TO REMOVE ADMINISTRATOR OF ESTATE — notice — standing — WAIVER — failure to raise issues in brief at hearing — de novo standard of review — plenary scope of review — subject-matter jurisdiction — failure to join indispensable parties — siblings — other heirs — renunciation of right to administer estate — order removing administrator of the estate affirmed

In Re Estate of Anderson, 2024 PA Super 117 (June 5, 2024) — Issues in appellate brief are waived when they were not raised before the trial court.

ZONING AND LAND USE

Commonwealth Court

DENIAL OF ZONING APPEALS — CURATIVE AMENDMENT — transitional living facility — homeless shelters — substance abuse treatment facilities — halfway houses for persons on parole or probation — psychiatric step-down centers — no single use — specific business model — no obligation to permit all uses in single zoning district — IMPACT FACTORS —

Section 609.1 — Municipalities Planning Code — 53 PS 10609.1 — burden on applicant — denials of zoning appeals affirmed

Bloomsburg Town Center v. Town of Bloomsburg, No. 151 C.D. 2023 (June 3, 2024) — Denial of curative amendment for transitional living facility properly denied since facility, which includes homeless shelters, substance abuse treatment facilities, halfway houses and psychiatric step-down centers, does not constitute single use, hence municipality has no obligation to permit such uses in single zoning district; applicant bears the burden of addressing evidence of impacts facility would have on surrounding community.

PRELIMINARY LAND DEVELOPMENT PLAN — Section 508(3) — Municipalities Planning Code — 53 P.S. 10508(3) — denial letter — lack of compliance with 53 P.S. 10508(2) — no reference to engineer review letter — no documents incorporated by reference — failure to include independent and adequate special reasons for denying revised application within four corners of decision — grant of peremptory judgment affirmed

CRG Services Management v. Low-hill Township, No. 1091 C.D. 2023 (June 3, 2024) — Grant of peremptory judgment affirmed when revised preliminary land development plan application denied but board fails to include any independent and adequate expression of reasons for denying such application within the four corners of written decision.

TIMELINESS — appeal of land development decision — APPEAL BY OBJECTOR — attendance at meeting — knowledge of process — order quashing appeal affirmed

St. John v. Matamoras Borough Council, No. 1284 C.D. 2022 (June 4, 2024) — Appeal by objector from grant of request for land development approval with certain conditions quashed when filed more than 30 days after decision.

USE APPLICATION — deemed approval — failure to conduct hearing within 60 days of receipt of application — application subject to deemed approval as submitted — order reversing denial of variance application affirmed to extent court deemed application approved — reversed insofar as conditions on deemed approval imposed

Folk v. Mifflin Township Zoning Hearing Board, No. 969 C.D. 2023 (June 5, 2024) — When deemed approval of variance application approved, imposition of conditions on deemed approval improper since application is subject to deemed approval as submitted.

Resources

Pennsylvania courts: <https://www.pacourts.us/courts/supreme-court/court-opinions/>

Third Circuit courts: <https://www.ca3.uscourts.gov/recent-precedential-opinions>

All federal courts: <https://www.gov-info.gov/app/collection/uscourts>

Decisis (login required): <https://bit.ly/PBADecisis>

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law school, legal services or a social services organization, to identify the date, set the day, promote the clinic to the bar and to the PBA members and work with Pam to set up the registration site,” Smith said. “Once we have volunteers identified, then the organization that we’re partnering with identifies the people and the clients. I match volunteers to the clients, attend the clinic and meet with clients if we don’t have enough volunteers that day. I also act as on-site troubleshooter to help facilitate the meetings on the days of the clinic and do the training.

“For each clinic that we do, we provide training to the volunteers and partner with some of the legal services organizations that will do the training,” she said. “But when we partner with the law schools, the PBA does the training. I have developed the training deck and materials for the volunteer attorneys.”

‘Access to Resources’

“People think if they don’t have any money, they don’t need a will,” Smith said. “They believe they don’t need a power of attorney. But it’s often those people that do need these types of documents, especially the power of attorney. They may not have access to resources where people are encouraging them to make these arrangements in advance. We try to fill that hole by making sure that they are doing this planning. If something happens to them, if they’re in an accident, or if they become ill, then the family has those documents in place instead of having to deal with a social services system that

isn’t always easy to navigate or isn’t particularly helpful. If somebody has a power of attorney and has already decided in advance that I want my daughter, my nephew or my brother, whoever it is, to make decisions for me if I can’t make my own, then the person making the decisions for them is somebody that they’ve chosen in advance. It is someone they trust and feel comfortable knows what they would want if they were able to make decisions for themselves.”

Without that planning, Smith said, the situations arise where people need court-appointed guardians, and there are strangers and others making decisions for them that don’t really know them and don’t have backgrounds or full understanding of what their wishes or their situation is.

“The fewer resources people have to access these services, the more they actually need them,” she said.

With low-income individuals in underserved communities, Smith said, they’re really looking for the basic estate planning documents.

“That’s not to say they don’t have complications or complexities in

‘Regardless of how much wealth a person has, their assets and the distribution of their assets are important to them.’

— Justin H. Brown, Ballard Spahr LLP, Philadelphia, and RPPT chair

their family life or their particular situation, they do,” she said. “We don’t do any sort of complex wills in these clinics because it just wouldn’t work in that environment. It’s relatively straightforward. We’re trying to find out from people, what do they own, who are their loved ones, who is it that they want to leave their belongings or their assets to upon their death.

“If we’re drafting a will and if we’re preparing a power of attorney for them, whether it’s a financial power of attorney or health care power of attorney, we’re just trying to find out what their family relationships are, who they trust and who they would want to make those decisions for them if they weren’t able to make them for themselves,” she said. “We help guide them through making a decision about who to appoint to act for them in those scenarios.

It’s a lot more counseling than it is necessarily black-letter law, and it’s also a resource that most of these people wouldn’t otherwise have access to.”

The RPPT Pro Bono Committee has conducted 13 clinics through March 2024, roughly four per year. The last one, in March, was in Pittsburgh, in partnership with the Thomas R. Kline School of Law of Duquesne University, at an adult day care facility in Pittsburgh. The clinic served 10 clients that day with six volunteer attorneys who totaled 30 hours and mentored a law student, Smith said.

Smith noted 88 individuals were served at the 13 clinics.

The committee had its first clinic in August 2021.

“We did it in conjunction with our annual retreat, and so the first clinic we did contemporaneously with the retreat,” Smith said. “We partnered with the Senior Law Center in Philadelphia. They identified the clients, and we provided the volunteer attorneys to meet with the clients and draft their wills, powers of attorney and other estate planning documents that they would need.

“We have between 10 to 15 volunteers, on average, per clinic,” she said.

In 2022, for example, the committee coordinated five clinics with about 50 volunteers.

“It’s still a challenge to get





William L. Baldwin

volunteers,” Smith said. “We started this program during COVID-19. For our first couple of clinics, the volunteers volunteered remotely. We had video conferenc-

ing on site and the clients would come in and be in-person, but the volunteer lawyers were remote. It’s much better for everybody to be in person, but in today’s day and age, there’s just not as much willingness for people to travel to be in person and they prefer to do things remotely if they can, just because it’s more convenient. We probably still get between 30 to 40 volunteers annually, and there are times where we’re scrambling at the last minute to get enough volunteers for the clients that are registered. For that reason, 10 clients is probably the most that we can see in any given day, because we do need to make sure we have enough volunteers and because we do create a package of documents that is legally binding when they leave that day. It’s a time-intensive meeting.”

A meeting with one client is three to four hours long, she said. That’s how long it takes to meet them, understand their situation, draft and review the documents, print them and get them signed and notarized. It’s a big time commitment.

“The nice part is, once volunteers do it, they want to come back and do it again,” Smith said. There are many repeat volunteers.

“My role as chair of the section is simply to help Alison with the clinics in whatever way I can,” Brown said, “whether I’m getting the word out that they’re going to be clinics or trying to recruit members to participate in the clinic, and then supporting Alison in all of the things that she is doing from a pro bono perspective.”

‘Organized Presence’

“When I became chair, I took a look around at what the section’s pro bono efforts were, and decided that we needed to have a more organized pro bono presence and a more organized pro bono program,” Smith said. “It grew from there.”

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‘Concentrating on this real property pro bono project of providing estate documents for those in need, the great thing is how our RPPT section, with its expertise in this field, is giving of its services while providing a model for other sections and committees for how they might do pro bono.’

— David Keller Trevaskis, PBA director of pro bono programs and services

this field, is giving of its services while providing a model for other sections and committees for how they might do pro bono,” Trevaskis said.

“Bill (William L. Baldwin, deputy director of pro bono services) and I are inspired by the example of the RPPT, but we know they are not alone in doing public interest work,” Trevaskis said. “We have been talking to different leaders of committees and sections and have identified eight committees and sections that have targeted pro bono projects. Some are very nascent, such as the Utility Law Section that has set up a utility law question area on the free legal answers project that we do.”

The last couple of years, the

RPPT committee has built what Trevaskis believes is a perfect model of what a section or committee might do.

The PBA has 18 sections and 52 committees, so the potential for pro bono service through those groups is huge.

“We’ve always wanted to make it mandatory for each committee and section to tell us what they were doing for pro bono,” Trevaskis said. “It’s really an odd mixture of things that are being done

“Under our Rules of Professional Responsibility 6.1, which is the one that encourages pro bono service, they are fulfilling 6.1 with some vitality,” he said. “We have a couple sections that have been creating summer

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Disability Services Committee Awards Grant to Penn State Dickinson Law

The PBA Disability Services Committee has awarded an \$1,800 grant to Penn State Dickinson Law to provide critical and/or novel ways to help individuals with disabilities in the legal system.

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internships and I'm asking the interns to do pro bono work. We may have some hidden gems that we need to find out about. This model is a wonderful way to showcase very good work. In the meantime, Bill and I are going to be calling different sections and committees and asking, 'What pro bono work are you doing?'"

The Pennsylvania Continuing Legal Education Board fairly recently approved giving lawyers CLE credit for pro bono services, Smith said.

"You have to volunteer at least five hours, and you get one CLE credit for every five hours that you provide pro bono services through a sponsoring organization," she said. "The PBA is a sponsoring organization, and it is an approved pro bono CLE provider. That means if an attorney volunteers for a total of five hours, they get one CLE, and it's not just for on-site work. You can also include preparation time and it can include the training."

"Anyone doing the RPPT clinic, because it's under the auspices of the PBA and both RPPT and pro bono, we keep track of their hours," Trevaskis said. "When they get five hours of pro bono service, they let us know and we give them a credit. Each year they can get up to three credits for pro bono service. You have to get 12 hours of CLE to fulfill your requirement."

"When the section started this pro bono program, we had to develop forms that we could use at the clinics, a template will form and a template powers of attorney," Smith said. "The volunteer attorneys don't have to be estate and trust lawyers, and not everyone has a lot of experience writing wills or preparing powers of attorney. We review the forms. We go over the key provisions in each document and then we share with the volunteers some key issues that they want to make sure they cover in the meeting with the clients. We give them a brief overview of the types of legal issues that typically need to be addressed when you're

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— Alison Smith, chief counsel in the legal department at PNC Bank NA, Pittsburgh

meeting with a client to prepare their will or their power of attorney, and give the volunteers an opportunity to ask questions about the forms or about the law in particular.

"We have the training to help them feel comfortable with the information on the subject they're going to be talking to the clients about," Smith said. "They don't have to be an estate and trust expert, they don't have to be 100% knowledgeable about the topic and they will find, as they meet these clients and engage with them, it really is sort of a counseling type role. As they get to know the person and interact with them, that will make them feel more and more comfortable and be able to be confident that they are serving the client well."

Volunteer Training

Volunteer training lasts an hour.

"It's probably about a 15- to 20-page deck," Smith said. "If somebody wants to go and take a primer on estate planning, the Pennsylvania Bar Institute offers a Fundamentals of Estate Planning course."

The clinic documents are in Microsoft Word.

"When an attorney registers to be a volunteer for a clinic, the week of the clinic they get an email from me with all of the template forms," Smith said. "They have an opportunity to review them. During the clinic, either the law

student, if we're doing it with the law school, or the attorney, if we're doing it with the social services or legal services organization, they're meeting with the client, basically drafting as they go, filling out the forms, typing in what their wishes are. Then the same day as the clinic, we finish drafting everything. We print it, review it with the client, make sure that they understand it and make sure that they agree with how it's been



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drafted and how it's worded. Once they have reviewed it and are comfortable with it, then we have them sign it and get it notarized so they leave that day with fully executed, valid binding legal documents."

Volunteer recruitment is key to the committee's success.

"We have a very active and vibrant listserv for our section," Brown said. "Whenever we have a clinic, we advertise it on the listserv to try to recruit members. We will reach out to local attorneys

who have participated in the past and try to recruit them. We reach out to local bar associations, and the probate and trust law sections of local bar associations if they have them, to try to recruit members that way. We also make an impassioned plea to our council for anybody who is going to be in the area to help out with the wills clinic."

What keeps the volunteers coming back, Smith said, is that "really good feeling to be able to bring that level of comfort to someone,

to know that their affairs are in order," she said. "The clients that we serve in these clinics are just so appreciative. It's not unusual for them to cry and be teary-eyed, because they never thought they would have an opportunity to do these types of documents because they couldn't afford it. I hope that most of us decide to become lawyers because we want to help people. When you're working in a big firm or a large corporation, and you're doing work in your daily

job, helping people isn't always as apparent. But when you are helping people in these clinics, that they're not otherwise served, it's very apparent that you're helping people and that's what makes it so rewarding."

Expand Reach

The committee wants to expand the reach of the program.

"I've been reaching out to other organizations and local bar associations to see if we can

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PBA Partners With Decisis to Provide Legal Research Member Benefit

PBA members can now access Decisis, a comprehensive and reliable legal research database, for free. With this new partnership, members can expect a streamlined legal research solution with tailored search filters to pull highly relevant results from a massive primary law database.

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Decisis also provides a citator called InterCite™. Users can view the InterCite™ symbols next to the case name when they have that case open to see if there is negative direct history for their case. Users can also view the InterCite™ Report to see which cases are citing the case. InterCite™ uncovers the citations that can stand up to the scrutiny of the judge. If it comes up on Decisis, users can be confident it's good law.



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One of the most significant advantages of Decisis for PBA members is its cost-effectiveness. While the typical annual fee for the platform can reach \$1,740 per year, the PBA is offering its members access to Decisis at no additional cost. The partnership with Decisis aligns with the PBA's commitment to supporting its members and providing them with critical services every lawyer needs. By leveraging this intuitive platform, members can streamline their research processes, access comprehensive legal resources and receive research assistance.

Log in at <https://bit.ly/PBADecisis>.

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partner with some of them to do clinics in areas away from the cities of the state,” Smith said. “We’re looking at trying to do some in southwestern Pennsylvania, in more rural areas such as Washington and Greene counties. David Trevaskis sent me an e-mail about potentially doing something in York County. We’re trying to spread the reach at this point beyond Philadelphia and Pittsburgh.”

The committee’s next scheduled clinic is Oct. 18 with the Duquesne Law School, the Butler County Area

Agency on Aging and Neighborhood Legal Services in Butler County.

Regardless of how much wealth a person has, their assets and the distribution of their assets are important to them, Brown said.

“If we can help put them at ease to make sure that their assets are going to pass the way they want, regardless of their wealth level, it’s a tremendous success and benefit for all the participants,” he said. “There’s always going to be a demand for people to have wills. There are so many people out there who don’t have wills. We would love for there to never be a shortfall of estate

‘I’ve been reaching out to other organizations and local bar associations to see if we can partner with some of them to do clinics in areas away from the cities of the state. We’re looking at trying to do some in southwestern Pennsylvania, in more rural areas such as Washington and Greene counties. David Trevaskis sent me an e-mail about potentially doing something in York County. We’re trying to spread the reach at this point beyond Philadelphia and Pittsburgh.’

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planning because the reality is that there is always going to be this need.”

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