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ESTATE PLANNING AND ADMINISTRATION

NEWSLETTER

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Loper Bright: Administrative Practice in this Brave New World

By Valerie Sasaki, Attorney and Partner, Samuels Yoelin Kantor LLP

First, a disclaimer. My first-year contracts professor at the University of Oregon used to say, "The law is a seamless web." (Confronted with terrified 1Ls at the beginning of their legal education, he rather grandly and heavily implied the capitalization of the letter "L"). While many of the examples that I use in this article will be tax-related, because that's my preferred sandbox, I want to acknowledge that the subject we call "estate planning" is much broader than tax.[1] Just as people's economic lives are complicated, so too are their deaths. Thus, it's important to acknowledge that the administration of a decedent's estate may involve regulations issued by agencies that are not the Treasury Department. The broad strokes of this article will apply in those contexts as well.

Second, a limitation. This is a rapidly changing area of federal law. While it is likely that there will be some downstream, Oregon impact from the Supreme Court opinions, the rules we use to evaluate the degree of deference a court should afford a state agency's regulation are discussed elsewhere. This author recommends the Bar Book, Oregon Administrative Law, Chapter 14, Section III, as a helpful resource that is available on the state bar's website for licensed attorneys.

High school students learn that there are three separate and co-equal branches of government.[2] The legislature passes laws that become statutes. The executive implements the laws. The courts interpret the laws. Less clear, unfortunately, are the interrelationships between these branches and the degree of deference that courts should give the executive to interpret the laws, which is ostensibly the jurisdiction of the judicial branch.

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Of course, executive agencies do interpret laws. Sometimes the legislature will merely describe in broad strokes the intended outcome and delegate to an agency the authority to get from where we are now to that intended outcome. These explicit grants of authority are considered "legislative" regulations and are subject to the procedures set forth in the Administrative Procedures Act.[3] Therefore, most challenges to the legislative regulations occur when there is a defect in the process that the administrative agency uses to adopt that regulation under the APA.[4]

However, very occasionally the laws that are passed lack clarity, and to implement the law, the agency relies on its experts to interpret what the legislature may have been thinking, if they were thinking, when they passed the law. Generally, rules or statements issued by an agency to advise the public of the agency's construction of the statutes it administers are considered interpretative. These "interpretive" regulations are not subject to the APA. Most IRS/Treasury regulations are considered interpretative because the underlying statute implemented by the regulation contains the necessary legal authority for the action taken, and any effect of the regulation flows directly from that statute.[5] The IRS has set out criteria to help practitioners evaluate whether a regulation is legislative or interpretive.[6] While a statute may specifically grant the Secretary of the Treasury authority to promulgate legislative regulations, the Secretary of the Treasury has broad authority to promulgate guidance under IRC 7805(a). This broad authority is the basis for most interpretive regulations.

A Supreme Court case from the mid-1940s, Skidmore v. Swift & Co., involved a packing plant in Fort Worth, Texas. That company required its employees to stay on the plant's premises when not on the clock in case there was an emergency. Seven employees brought a lawsuit under the Fair Labor Standards Act of 1938 to recover overtime, liquidated damages, and attorney fees. The administrative agency promulgated a regulation that held "waiting time" could be classified as "working time."

The Supreme Court agreed and deferred to the agency's expertise in evaluating these situations. The court developed a test to determine how much courts should give an administrative agency based on factors including the thoroughness of the agency's investigation, the validity of its reasoning, the consistency of its interpretation over time, and "other persuasive powers" of the agency.[7]

In the mid-1980s, the Supreme Court issued its opinion in Chevron USA, Inc. v. Natural Resources Defense Council, Inc.That landmark case involved a challenge to the Environmental Protection Agency's interpretation of "source" in the 1963 Clean Air Act. EPA changed its regulatory definition of "source" to make it easier for companies to avoid a lengthy EPA review process when expanding a factory. The Natural Resources Defense Council challenged the agency's interpretation and initially won. Chevron appealed to the Supreme Court, which held that courts should defer to agency interpretations, reasoning that when Congress passes a law containing an ambiguity, that ambiguity may be an implicit delegation of authority to the agency. The new test, the Court said, was: "(1) Has Congress directly spoken to the precise issue at question? and (2) Is the agency interpretation based on a permissible construction of the statute?" Courts should defer to agency expertise unless agency regulations are "arbitrary, capricious, or manifestly contrary to the statute."[8]

The Internal Revenue Service initially took the position that they were not subject to Chevron; however, the Supreme Court held otherwise in a 2011 opinion.[9] A more recent case held that the Chevron deference standard would apply to sub-regulator guidance (an agency's interpretation of its own regulation), provided that such interpretation was "not inconsistent" with the regulation.[10] This is important for those working with the IRS on estates, as the IRS issues a lot of sub-regulatory guidance where it interprets its own regulations.[11]

With this background, the Supreme Court's decision in Loper Bright v. Raimundo at the end of June, 2024 was a seismic event. That case involved the

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Magnuson-Stevens Fishery Conservation and Management Act (FCMA) of 1976, as amended. When it passed the FCMA, Congress gave the National Oceanic and Atmospheric Administration (NOAA) the authority to require monitors on commercial fishing boats. Monitors on fishing boats are intended to ensure that fishermen adhere to NOAA-mandated practices. The FCMA states that the owners of certain boats have to pay for their own monitors; however, doesn't it specifically include herring boats in that list? NOAA promulgated 85 Fed. Reg 7414 (2020) and started making herring fishermen pay for the monitors. [12]

The petitioners in Loper Bright were herring fishermen who lost at the lower level and argued that the Supreme Court should establish a better standard for judicial review than articulated in Chevron because NOAA didn't have the authority it thought it did to make a rule requiring herring boats to pay for their own monitors; Chevron makes it difficult for citizens to anticipate how an agency will interpret and apply the law; and Chevron deference is unfair where a court defers to an agency's interpretation of the law where the agency is also a litigant.

The Supreme Court agreed with the herring fishermen. Writing for the majority, Justice Roberts's opinion held that ambiguity in a statute does not necessarily mean that Congress decided to delegate the authority to administrative agencies to interpret an ambiguous law. Rather, it is the job of courts to interpret ambiguous statutes. "The judiciary is the final authority on issues of statutory construction." The opinion further held that the doctrine of stare decisis does not require the preservation of the Chevron doctrine. "Stare decisis is not an 'inexorable command,"* * * and the stare decisis considerations most relevant here—'the quality of [the precedent's] reasoning, the workability of the rule it established, . . . and reliance on the decision,"* * * all weigh in favor of letting Chevron go." [13]

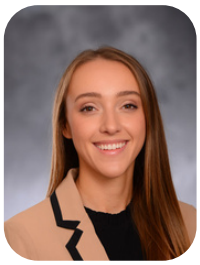
The Supreme Court's opinion in Loper Bright means that administrative agencies, such as the Treasury Department, will need to refine and reexamine their rulemaking process, Courts will need to adhere toan analytical framework more similar to that espoused in Skidmore v. Swift & Co.; specifically, has Treasury (or any agency) engaged in "reasoned decision-making?" Courts will also need to evaluate whether the statute that a regulation purports to interpret supports only the agency's interpretation or whether there are other permissible interpretations. Agency expertise still matters but is no longer the final word.

The Supreme Court's opinion in Loper Bright will have an impact on estate planning and administration practitioners. It is this writer's belief that the number of situations where lead counsel, a high-net-worth settlor, or a fiduciary may want to get a legal opinion to address statutory ambiguity has significantly expanded. For example, a taxpayer with excellent tax counsel may have a position that is better reasoned than a Treasury Department interpretation. These opinions may be a particularly powerful tool where the issuer can get to a "more likely than not" (or better) level of opinion. Additionally, even in cases where an administrative agency has complied with procedural hurdles for rulemaking, practitioners should consider whether the agency is correct in its interpretation of the law and advise clients accordingly. ♦

1 Although "tax touches everything" is also a truism, albeit one with less capitalization.
2 In Oregon, in 2024, credit for this may be largely due to the fine work of the nonprofit organization formerly known as the Classroom Law Project (https://civicslearning.org/). Please consider a donation if you are burdened with surplus cash (or even if you are not).
3 Internal Revenue Manual ("IRM") 32.1.1.2.7.
4 See, e.g., the recent opinion in Valley Park Ranch LLC v. Commissioner, 162 TC No. 6 (March 28, 2024).
5 IRM 32.1.1.2.6.
6 IRM 32.1.1.2.8.
7 Skidmore v Swift & Co., 323 US 134 (1944).
8 Chevron USA, Inc. v. Natural Resources Defense Council, Inc., 467 US 837 (1984).
9 May Foundation for Medical Education and Research v. United States, 562 US 44 (2011).
10 Kisor v. Wilkie, 588 US ___(2019).
11 See, e.g., Revenue Rulings, Revenue Procedures, Private Letter Rulings, Technical Advice Memoranda, Notices, Announcements, etc.
12 Loper Bright Enterprises v. Raimundo, 603 U.S. ____ (June 28, 2024), 144 S. Ct. 2244.
13 Internal citations and this author's feelings about the current court's respect for stare decisis intentionally omitted. I'm looking at you South Dakota v. Wayfair opinion. Yes. I can still be grumpy about a 6 year old case.

About The Writer: Valerie Sasaki is a seasoned attorney specializing in tax, business, and estate planning at Samuels Yoelin Kantor, LLP, where she is Partner and Chair of the Taxation Practice. She is admitted to practice in Oregon, Washington, Idaho, Utah, and Arizona.

ORS 125.060 Overview



By Emily Goodwin, Attorney & Professional Fiduciary, Parker & Griffith, P.C. (pictured left)
Nathan Parker, Attorney & Professional Fiduciary, Parker & Griffith, P.C. (pictured right)

Editor's Note: Editor's Note: The following information was originally presented by co-authors Emily Goodwin and Nate Parker in the form of a CLE during the 2024 Fall Marion County Brown Bag luncheon. They were kind enough to share the information from that presentation in article format for the newsletter.

When representing clients in protective proceedings, a common question from support staff in an elder law practice is, "To whom do we give notice?" It is common to simply over-notice; the idea being that giving more notice is better than forgetting someone. It is also common that when a person or entity has received notice in the initial petition, they continue to receive notices until the end of the protective proceeding. ORS 125.060 explains exactly who must be given notice.

ORS 125.060(2) details who must be given notice in a petition for the appointment of a fiduciary or the entry of other protective orders.

ORS 125.060(7) describes additional notice requirements when filing a petition for the appointment of a guardian.

ORS 125.060(3) details who must be given notice in a motion for termination of a protective proceeding, for removal of afiduciary, for modification of powers or authority of a fiduciary, for approval of a fiduciary's actions, or for protectiveorders in addition to those sought in the petition.

ORS 125.060(8) describes additional notice requirements when filing the motions described in ORS 125.060(3), but only if a guardian has been appointed.

This article does not go in depth on subparts (4) and (5) of ORS 125.060; simply put, it is always necessary to notice anyone who files a request for notice.

When filing a petition for the appointment of any type of fiduciary, under ORS 125.060(2), the petitioner is required to provide notice to the following recipients:

- The respondent.
- The spouse, parents, and adult children of the respondent.
- If the respondent does not have a spouse, parent, or adult child, the person or persons most closely related to the respondent.
- Any person who is cohabitating with the respondent and is interested in the respondent's welfare.
- Anyone who has been nominated to serve as the fiduciary, trustee, health care representative or any person acting as attorney-in-fact for the respondent under a power of attorney.
- *If the respondent is a minor, the person who has exercised principal responsibility for the care and custody of the respondent during the 60-day period before the filing of the petition.
- If the respondent is a minor and has no living parents, any person nominated to act as fiduciary either by will or other instrument prepared by a parent of the minor.
- If the respondent is receiving benefits from the Department of Veteran's Affairs (VA), a representative of the VA.
- If respondent is a recipient of public benefits provided by Oregon Department of Human Services, a representative of the department.
- If respondent is a recipient of benefits provided by Oregon Health Authority (OHA), a representative of OHA.
- If the respondent is committed to the legal and physical custody of the Department of Corrections, the Attorney General and the superintendent or other officer in charge of the facility in which the respondent is confined.
- If the respondent is a foreign national, the consulate for the respondent's country.
- Any other person the court requires.

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In addition to these requirements, and ONLY IF the petition is seeking the appointment of a guardian, ORS 125.060(7) also requires notice be given to the following recipients:

- any attorney representing the respondent,
- the Long Term Care Ombudsman (LTCO) IF the respondent is a resident of a nursing home or residential facility, or if the nominated fiduciary intends to place the respondent in either, and
- to Disability Rights Oregon (DRO) if the respondent is a resident of a mental health treatment facility or aresidential facility for individuals with developmental disabilities, or if the nominated fiduciary intends to place the respondent in either.

Note that the LTCO and DRO do not receive notice if the petition is seeking only the appointment of a conservator.

When filing a motion to terminate a protective proceeding, remove a fiduciary, modify a fiduciary's powers and authority,or seek approval of a fiduciary's actions, ORS 125.060(3) requires notice be given to the following recipients:

- The protected person (if 14 years or older).
- Any person who has filed a request for notice in the proceeding.
- Any fiduciary (other than the one making the motion) who has been appointed.
- The VA, if the protected person receives VA benefits.
- The Attorney General and prison superintendent if the protected person is in legal and physical custody of the Department of Corrections.
- The consulate of the country of nationality or, if unknown, the consulate of the protected person's last country ofresidence prior to the United States if the protected person is a vulnerable youth.

In addition to those requirements, and ONLY IF a guardian has been appointed, ORS 125.060(8) also requires notice be given to the following recipients:

- any attorney representing the protected person. The LTCO IF the protected person is a resident of a nursing home or residential facility, or if the nominated fiduciary intends to place the respondent in either, and
- to DRO if the protected is a resident of a mental health treatment facility or a residential facility for individuals with developmental disabilities, or if the nominated fiduciary intends to place the respondent in either.

Again, the LTCO and DRO do not receive notices under this section unless a guardian has been appointed.

- Several other sections of ORS chapter 125 refer back to ORS 125.060 when notices are required by that section.
- Objections under ORS 125.075 shall be given to anyone required to receive notice under ORS 125.060, any stepparent or stepchild of the respondent or protected person, and any other person the court requires.
- Under ORS 125.155, a [court visitor] report shall be filed with the court under the provisions of this section; as soon as possible thereafter, the clerk of the court shall mail copies of the report to any person who has filed with the court a specific request for a copy of the report. A request made under ORS 125.060(3)(b) does not meet the requirements of this subsection unless the request specifically requests a copy of the visitor's report.
- ORS 125.210 requires that a notice of change in circumstances be given to those persons entitled to notice under ORS 125.060(3).
- ORS 125.240 requires that professional fiduciary disclosures be given to those persons entitled to notice under ORS 125.060(3).

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ORS 125.323 requires that notice of a motion to limit association be given to those persons entitled to notice under ORS 125.060(3).

- ORS 125.325 requires that copies of the guardian's reports be given to those persons entitled to notice under ORS 125.060(3).
- ORS 125.430 requires that notice of a motion seeking the sale of the protected person's primary residence be given to those persons entitled to notice under ORS 125.060(3).
- ORS 125.475 requires that copies of accountings be given to those persons entitled to notice under ORS 125.060(3).

ORS chapter 125 statutes that specifically mention ORS 125.060(8) or require notice to the LTCO or DRO include the following:

- ORS 125.082: Upon appointment, a guardian shall deliver written notice of the order of appointment to the persons described in ORS 125.060(3).

a. ORS 125.082(3)(d): If the protected person is in a mental health treatment facility or facility for persons with developmental disabilities, or the guardian plans placement in either, notice must be given to DRO.

- ORS 125.320(3)(a): Before a guardian may change the abode of an adult protected person or place an adult protected person in a mental health treatment facility, a nursing home, or other residential facility, the guardian must file with the court and serve a statement declaring that the guardian intends to make the change of abode or placement in the manner set forth in paragraph (b) of this subsection.

a. ORS 125.320(3)(b)(A): The statement must be filed and served in the manner provided for serving a motion under ORS 125.065 to the persons specified in ORS 125.060(3) and (8) at least 15 days prior to each change of abode or placement of the protected person. (Emphasis added.)

In general, the LTCO and DRO receive notice of the following events:

- The filing of a petition, but only if the petition seeks the appointment of a guardian;
- The appointment of a guardian (DRO), but only if the protected person is in a mental health treatment facility or afacility for developmental disabilities, or the guardian plans to place the protected person in such a facility; and
- The placement, but only if the protected person is in a long-term care facility (LTCO) or a mental health treatment facility or a facility for developmental disabilities (DRO).

In providing notices, strict compliance with ORS 125.060 dictates that the LTCO and DRO only be notified of filings in a very narrow set of circumstances. Nothing prohibits the practice of over-noticing, of course, but the rules do not requirethat if a person/entity receives notice in the initial petition, that notice to that person/entity be given in every subsequent filing. ♦

About The Writers: Emily Goodwin is an Oregon native, born in McMinnville and a graduate of the University of Oregon. Emily graduated from the Willamette University College of Law in 2023. During her time at Willamette, Emily worked for Nate as a case manager and legal assistant. After graduation, she joined the firm full time as an attorney and professional fiduciary. Emily is licensed to practice law in Oregon and has an inactive license in Utah. Emily is a Certified National Guardian.

Nate was raised in Bountiful, Utah. After high school, Nate served a two-year church mission in Southern Argentina where he became fluent in Spanish. After graduating from Weber State University, Nate and his wife, Raegan, moved their family to Oregon for law school. Nate graduated from the Willamette University College of Law in 2013. He became a Certified National Guardian in 2015. Nate purchased his practice from Allan Griffith in 2016, creating what is now Parker & Griffith P.C. Nate is licensed to practice law in both Oregon and Utah.

Q&A: Mentorship in Estate Planning

Merging Experience with Fresh Perspectives

By Rebecca S. Kueny, Managing Partner & Attorney, Kueny Law LLC
Austin J. Willhoft, Attorney Fellow, Kueny Law LLC
Introduction written by Gabe Borquez

The relationship between a seasoned estate planning attorney and a newcomer to the field is a dynamic blend of wisdom and fresh perspectives, tradition and innovation. Veteran attorneys often serve as mentors, offering guidance born from years of navigating complex family dynamics, probate procedures, and the nuances of drafting wills and trusts. Attorney Brian Haggerty shared, **"Good estate planning is not just a matter of being familiar with the laws regarding wills and trusts and their administration. Really good estate planning requires an understanding of family dynamics…A good mentor has been there, so you don't need to go there too."**

Meanwhile, new attorneys bring a sense of curiosity and adaptability, contributing to what is often described as "reverse mentoring." Reflecting on this dual role, attorney Anastasia Meisner shared, **"My mentors have helped me to navigate my career path and my understanding of professionalism. And as a mentor to other attorneys, I hope I have done the same. And what I believe is called reverse mentoring, I am constantly learning something new from my mentees."** Together, they demonstrate how mentorship not only shapes the careers of individual attorneys but also elevates the practice of estate planning itself.

The following Q&A showcases the professional relationship between two attorneys at Kueny Law: veteran Estate Planning and Elder Law attorney and partner Rebecca Kueny and Attorney Fellow Austin Willhoft. Both are alumni of Willamette University College of Law, with Willhoft earning his degree just last year.

Austin: "As a recent Willamette Law graduate and Attorney Fellow, I'm finding the adjustment to balancing work demands and personal life challenging. How did you manage this balance early in your career, and what strategies have you found most effective over time?"

Rebecca: "Honestly, I am not sure that I managed work/life balance really well at the beginning of my attorney career. In fact, I was working insane hours, feeling overwhelmed by all the information and responsibilities and billable requirements. I was experiencing anxiety on a daily basis. If my 2024 self could talk to my 2013 self, I would recommend what has taken me 11 years of counseling and career coaching to learn: 1) Have boundaries about work and be clear with yourself, with your family, and with your work about what that looks like for you. 2) Have a mental health plan, whether it be counseling, career coaching, working out, meditation…anything that ensures you are doing what you need to do for yourself. 3) Make sure you have time for your family and friends in a way that you can be present with them completely."

Austin: "One thing I'm learning is how valuable networking is in the legal field, especially in estate planning. How did you approach building connections early on, and are there any networking habits you'd recommend starting now?"

Rebecca: "I often think the word 'networking' is misunderstood. I prefer 'creating relationships.' I believe we all bring something to this community and have some offerings to share. I approach creating relationships as finding mentors (of all ages and expertise levels) to learn from. I have created so many relationships with colleagues just by asking questions and sharing information. I have chosen to volunteer my time for our legal community, which is often seen as detracting from the billable hours. However, the information and skills that I have learned from being an active member of the legal community's boards and committees have helped me build relationships with so many outstanding people, including judges, non-legal colleagues, and attorneys from across the state or country. When choosing boards and committees, I highly suggest joining ones that bring you joy and are energizing."

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Austin: "Transitioning from law school to practicing law has shown me how different real-world cases can be from hypothetical ones. How did you develop the confidence to tackle complex or unfamiliar cases in your early years?"

"Each case I have done, especially the hardest ones, have taught me so many different skillsets, such as boundary setting with clients and myself, legal understandings, and practical skillsets. In some ways each case is similar to a hypothetical, but I have more tools in my toolbox to handle the information with ease and confidence. Even my mentors say they still have complex cases they do not know how to handle; I think we always will. I also know that we become more comfortable with being uncomfortable."

Austin: "Finding mentors and support has been essential as I start my career. What role did mentorship play for you as you were starting out, and how did you seek out supportive relationships in your field?"

"I cannot imagine a life without mentors. To this day I rely on mentors and colleagues to brainstorm and ask questions. When I look for a mentor, I often am looking for someone who I respect and/or has been recommended to me by a colleague to teach me a skillset that they are known for having. I still look for mentors to ask questions about areas of law I do not know as well. What has been interesting is seeing how mentoring others has changed my life as well. Through mentoring others, I have learned so much about myself and have learned how to teach."

Austin: "Working in estate planning, especially in emotionally charged cases, can sometimes be stressful. What techniques do you use to manage stress and stay focused, particularly when dealing with sensitive issues?"

"This is hard. This is why mentorship is so important. If I have a highly emotional or difficult case, mentorship and brainstorming can provide feedback, comfort, suggestions, different outlook, etc. Sometimes just hearing 'there is not a good solution or easy answer' is helpful for the conscience. Talking it out has always been helpful for me. In addition to that, counseling and career coaching have been pivotal in helping me (personally) manage the stress and emotions."

Austin: "As I gain experience, I'm interested in building a niche within estate planning. How did you go about developing your own specializations, and is there anything you wish you had focused on earlier in your career?"

"I wish I had known more about taxation! In all seriousness, it happens organically I think. I tried out a few types of cases and clientele, but realized which types of cases and/or clients I preferred. Itend to gravitate to long-standing client relationships, while other attorneys prefer more transactional. I think it is important to do what one enjoys doing (to the best of their abilities) so that work is less stressful and more rewarding."

Austin: "The learning curve in a new position can be intense. How did you stay motivated and positive during the early stages of your career, especially when the workload felt overwhelming?"

"I enjoyed learning and getting to know colleagues. Again, for me, it's always been about relationships and building knowledge through them. Friendships and mentorships has helped keep me feeling motivated, supported, and positive during my career. Additionally, I like to do non-legal activities. I love art and soccer, so both of those let me have a break from the legal world. Lastly, I made changes in my career a few times that were very difficult, but I always decided to trust my gut and bet on myself. It has proven to be the right decision every time." ⧫

About The Writers: Rebecca has been working in the estate planning and elder law industry since 2008. Accredited with the Department of Veterans Affairs, Rebecca educates our aging population on benefit programs. She is very active with the Salem charitable community, assisting vulnerable populations receive legal protections, promoting the arts, and educating the community on the legal principles surrounding life and mental incapacity. Rebecca earned her undergrad from the University of Arizona and graduated from the Willamette University College of Law in 2013.

Austin is a recent graduate of Willamette University and is excited to continue advancing his legal career. Known for his dynamic personality and passion for learning, Austin is steadily expanding his expertise in Estate and Long-Term Care Planning. He is currently participating in the Supervised Practice Portfolio Examination (SPPE) through the Oregon State Bar, which would qualify him for licensure if he successfully completes it. The program provides him the opportunity to develop and demonstrate practical legal skills under the direct supervision of a licensed attorney.

Upcoming CLE Opportunities

Wednesday, March 12th, 2025
Trust Modifications
Location: Zoom Meeting, Click here to register.
Description:
Noon–1 p.m., Wednesday, March 12, 2025
1 General CLE credit (applied for; ID 119915)
Sponsored by the Estate Planning and Administration Section.

Friday, March 14th, 2025
Trust and Estate Planning for Pets—WebCredenza Audio Webinar (Replay)
Location: Audio Webinar, Click here to register.
Description:
Brought to you in partnership with WebCredenza, a professional education broadcast network.
10 a.m.–11 a.m. Pacific, Friday, March 14, 2025
1 General CLE credit

Monday, March 24th, 2025
Income and Fiduciary Tax Issues for Trust and Estate Planners, Part 1—WebCredenza Audio Webinar (Replay)
Location: Audio Webinar, Click here to register.
Description:
Brought to you in partnership with WebCredenza, a professional education broadcast network.
10 a.m.–11 a.m. Pacific, Monday, March 24, and Tuesday, March 25, 2025
1 General CLE credit (each day)

Tuesday, March 25th, 2025
Income and Fiduciary Tax Issues for Trust and Estate Planners, Part 2—WebCredenza Audio Webinar (Replay)
Location: Audio Webinar, Click here to register.
Description:
Brought to you in partnership with WebCredenza, a professional education broadcast network.
10 a.m.–11 a.m. Pacific, Monday, March 24, and Tuesday, March 25, 2025
1 General CLE credit (each day)

Wednesday, April 9, 2025
How to Avoid a Will Contest
Location: Zoom Meeting, Click to register:
Description:
Noon–1 p.m., Wednesday, April 9, 2025
1 General CLE credit (to be applied for)

For more information and CLE opportunities, please visit the Oregon State CLE here.

Corporate Transparency Act

An Update on the Reporting, Enforcement and Fines

By Joshua J. Capp, Attorney, Thorp Purdy Jewett Urness & Wilkinson, PC

On February 27, 2025, the Financial Crimes Enforcement Network (FinCEN) announced that it will not issue fines or penalties or take any other enforcement actions relating to the Corporate Transparency Act against companies based on a failure to file or update beneficial ownership information (BOIR) reports. FinCEN intends on issuing an interim rule regarding BOIR reports no later than March 21, 2025, which seeks to provide guidance and clarity as to how the Corporate Transparency Act shall be enforced moving forward.

Subsequently, on March 2, 2025, the U.S. Department of the Treasury announced that it is suspending the enforcement of the Corporate Transparency Act against U.S. citizens and domestic reporting companies. It went even further to state that even when a new rule is issued, the Treasury Department will not enforce penalties or fines against U.S. citizens or domestic reporting companies or their beneficial owners after the rule change takes effect. Instead, the Treasury Department intends on issuing further rulemaking that narrows the scope of the rule to apply only to foreign companies.

The future of the Corporate Transparency Act's reporting requirements remains uncertain. The filing of reports remains voluntary until further guidance and clarity is provided by FinCEN and the Treasury Department.♦

Sources:

FinCEN Not Issuing Fines or Penalties in Connection with Beneficial Ownership Information Reporting Deadlines | FinCEN.gov

Treasury Department Announces Suspension of Enforcement of Corporate Transparency Act Against U.S. Citizens and Domestic Reporting Companies | U.S. Department of the Treasury

Oregon State Bar

ESTATE PLANNING AND ADMINISTRATION

NEWSLETTER COMMITTEE

The Elder Law Newsletter is published quarterly by the
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