By Rebecca L. Smitherman

The NC Bar Association year runs from July 1 through June 30, which means that this is the final comments article I am writing for The Will and The Way. It has been my pleasure to serve as chair of the Section this year, and I think we have had a successful year.

We are preparing for our 40th annual meeting. The annual meeting will be at Kiawah Island this year. The dates are July 25-27. I suggest calling the resort to book accommodations immediately! If there is no room at the resort, there are several accommodation opportunities in Freshfields Village, close to the gate for Kiawah Island. The NCBA has issued the program announcement, agenda, and registration information. Please note that our tuition rate did not rise from the prior year's rate. Our CLE Committee and Ad Hoc Fundraising Committee have been hard at work planning to make sure that our 40th annual meeting is one to remember.

As we approach a new bar year, there many changes afoot. The biggest change is a change in the NCBA's membership dues. The NCBA engaged in an extensive study about the value of NCBA membership and has made changes to the membership structure to give members more benefit.

The main change is the addition of up to 12 hours of on-demand CLE. These 12 hours will be provided through the Expert Series CLE, which is a series of one-hour CLE web presentations, released each month. When each new program is released, members can download it and have unlimited viewing access for up to 90 days. The Expert Series will NCUPAA: The Past, The Present, and The Future

By Janice L. Davies

The North Carolina Uniform Power of Attorney Act became effective Jan. 1, 2018. With over a year of experience after its effective date, it is time to review the past, discuss the present, and take a glimpse into the future of the North Carolina Uniform Power of Attorney Act.

The Past

A look back on the past year or more highlights a problem in the present. Also, it highlights changes attorneys should consider in their draft powers of attorney.


Session Law 2017-153 repealed Articles 1, 2, 2A, 2B, and 5 of Chapter 32A. For a Statutory Short Form Power of Attorney created in accordance with N.C.G.S. Section 32A-1 before Jan. 1, 2018, N.C.G.S. Section 32C-4-403(d) provides that the powers conferred by former N.C.G.S. Section 32A-2 shall apply to a Statutory Short Form Power of Attorney created in accordance with N.C.G.S. Section 32A-1 before Jan. 1, 2018. Therefore, the powers so conferred by N.C.G.S. Section 32A-2 survive repeal for application to and for a Statutory Short Form Power of Attorney created in accordance with N.C.G.S. Section 32A-1 before Jan. 1, 2018. N.C.G.S. Section 32C-4-403(d) does not expressly
include two hours of ethics, one hour of substance abuse/mental health training, one hour of technology training, and eight hours of substantive and timely CLE topics. The Expert Series will provide a convenient way to obtain the mandatory special CLE hours (mental health/substance abuse and technology) as well as making it easier for members to obtain their required CLE hours.

An additional change is that NCBA membership now includes membership in one section. I am hopeful that our Section will get more members with the new structure, and that more NCBA members will understand the value of membership in the Estate Planning and Fiduciary Law Section, which includes outstanding CLE, networking opportunities, a vibrant Listserv, the opportunity for scholarships, pro bono opportunities, and more. Members can join additional sections for $36 each.

The dues for next year for attorneys in practice for six years or more will be $360. For attorneys licensed for three to five years, dues will be $180. For attorneys licensed for one to two years, the dues will be $0. Paralegals may join for $90.

I have had the opportunity to attend several meetings of the NCBA Board of Governors this year, and I am pleased to report that our Section is well regarded for its accomplishments. I am very proud of the leaders of our Section and even more so of the commitment of so many of our Section members who contribute by participating on committees and working behind the scenes.

Over the course of this year, our Section has presented legislation for consideration by the General Assembly (thanks to Janice Davies, Kemp Mosley and our Legislative Committee); we have provided timely and valuable CLE programs (thanks to Beth Wood, Caitlin Horne and our CLE Committee); we have given members the opportunity to write scholarly articles and given the membership useful updates and information in The Will and The Way (thanks to Lucy Siler); we have published a fiduciary litigation manual (thanks to Christian Perrin and the Fiduciary Litigation Committee); we have participated in hurricane relief and other pro bono efforts (thanks to Brooks Jaffa and the Pro Bono Committee); we have grown our Section membership numbers (thanks to Ansley Cella and the Membership Committee); we have monitored technological developments in our field and kept up with our Listserv (thanks to Carter Webb and the Technology Committee); we have monitored the State Bar’s activities and ethics opinions that affect our practices (thanks to John Kelso and Bill Kratt on the Ethics Committee); and we have continued the never-ending process of maintaining and updating The Estate Administration Manual (thanks to Anna Winger and Zac Lamb).

I am grateful to have had the opportunity to serve as chair of the Section, and I am looking forward to the great things we’ll do, together, in the future.