

# On The Record . . .

Official Newsletter of BERTOLINO LLP

November 2023



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## SPECIAL ANNOUNCEMENT: Please welcome my grandson, Ronan Mateo Peoples!

by Tony Bertolino, Esq.



Although I typically prepare a monthly article, instead, I would like to make an exciting announcement to all our valued newsletter readers.

I am overjoyed to announce the arrival of our newest family member, Ronan Mateo Peoples! Born on October 23, 2023, in the city of Honolulu, Hawaii, Ronan is the son of my daughter, Natassia E. Bertolino, and her husband, Cody N. Peoples.

At birth, Ronan weighed a healthy 8 pounds and 12 ounces, and he has

brought so much joy into my family's lives from the very first moment he arrived. Although I have not yet had the chance to meet my little grandson in person, I have booked a flight for November 20th and am anxiously counting the days.

As we welcome Ronan into the world, I can't help but be filled with a sense of wonder and excitement for the fantastic journey that lies ahead for Natassia and Cody. We look forward to watching him grow, learn, and discover the world around him. His name, Ronan Mateo, holds a special meaning, as "Ronan" signifies a little "seal" of love, while "Mateo" means "gift of God." It's a full name that speaks to the love and joy that he has already brought into our lives.



## Harnessing the Power of AI: The Crucial Need for Careful Consideration in Implementing Generative AI for Law Firms

By Sheri Middlemas

In an era where technological advancements continue to reshape industries, the legal profession is no exception. The integration of artificial intelligence (AI), particularly generative AI, in law firms has become a topic of growing interest. While AI offers numerous advantages, its implementation

in a law firm requires extensive research and strategic planning to ensure a seamless transition as well as to maximize its potential.



Generative AI, which encompasses technologies like natural language processing (NLP) and machine learning, has the potential to revolutionize the legal sector by streamlining processes, improving efficiency, and increasing accuracy. However, its adoption in law firms comes with significant considerations and challenges that necessitate a well-thought-out approach.

### 1. Data Security and Privacy:

The legal industry handles an immense amount of sensitive and confidential information. Law firms are entrusted with their clients' most sensitive data, and any AI system must adhere to the highest standards of data security and privacy. A breach of client confidentiality could have disastrous consequences, both legally and reputationally.

Strategic Planning: Law firms must rigorously assess AI solutions for their data security and privacy features. This includes encryption protocols, access controls, and the ability to comply with data protection regulations like GDPR and HIPAA.

## 2. Ethical and Regulatory Considerations:

Generative AI can generate legal documents, contracts, and even assist in legal research. However, it must be designed to follow ethical guidelines and adhere to the strict regulations governing the legal profession. Ensuring that AI-generated content is ethically sound and legally compliant is paramount.

Strategic Planning: Legal professionals should work closely with AI developers and legal experts to create AI systems that operate within the bounds of established ethical and legal frameworks.

## 3. Training and Expertise:

To fully benefit from generative AI, law firms must invest in training their staff to use these tools effectively. A lack of understanding and expertise can hinder the implementation's success and the realization of its full potential.

Strategic Planning: A comprehensive training program is essential to prepare lawyers and support staff for working alongside AI systems effectively. This may involve upskilling existing staff and recruiting individuals with AI expertise.

## 4. Integration and Workflow:

Integrating AI into existing law firm workflows can be complex. Without proper planning, the implementation can disrupt operations, leading to inefficiencies and decreased productivity.

Strategic Planning: Law firms should carefully map their existing workflows and identify where AI can be integrated seamlessly. A phased approach, beginning with specific use cases, can help ensure a smooth transition.

## 5. Cost Considerations:

While AI promises long-term benefits, it often involves substantial initial investments. Law firms need to evaluate the cost-effectiveness of AI solutions and justify these expenditures to clients.

Strategic Planning: A cost-benefit analysis should be conducted, weighing the long-term advantages against the initial expenses. This should be presented to clients transparently.

The integration of generative AI in a law firm has the potential to transform the legal profession, making it more efficient and accurate. However, the process requires extensive research and strategic planning to address data security, ethical concerns, training, workflow integration, and cost considerations.

Law firms that invest the time and effort into careful preparation will be better



equipped to harness the power of AI effectively while maintaining the high standards of client service, confidentiality, and ethical practice that are integral to the legal profession. The future of law is undoubtedly intertwined with AI, and those who navigate this path wisely will be best positioned to succeed.

## Employee Spotlight: Penny Smith

### Certified Paralegal, Penny Smith, Celebrates Four years of Dedication at the Bertolino Law Firm

I want to express my sincere gratitude and appreciation for an important member of our Bertolino family, Penny Smith, who is celebrating four years of dedicated service with us.



Penny joined the Bertolino Law Firm after leaving an illustrious career as a paralegal with the Texas Education Agency and the Texas Attorney General's office, and since day one, her commitment and hard work have left an indelible mark on our law firm. Over these last four years, Penny has been a pillar of support to our attorneys, while helping to navigate the intricate landscape of our professional/occupational license defense practice. Her experience and background in working for Texas state agencies has brought a unique perspective to our legal team, enhancing the effectiveness of our legal services.

What truly set Penny apart is not just her unique paralegal experience, but also the positive spirit she brings to our clients. I have spoken to countless clients who have expressed their enormous appreciation for Penny's empathy, kindness, and compassion. I really thank her for that.

I want to extend my deepest thanks to Penny for her commitment, hard work, and the positive energy she brings to our team and our clients. Please join me in congratulating Penny on this remarkable four-year anniversary.

-Tony R. Bertolino, Managing Partner

## Hallmark Achievements

### Texas Board of Nursing v. MHB

**Facts:** Our client, MHB, hired us to defend her against a complaint filed with her regulator alleging she had engaged in unlicensed activity as a nurse. She faced damage to her professional reputation, potential disciplinary action from the Board and a negative impact on her livelihood all due to the false complaint allegations believed to be filed by a disgruntled former employee.



**Outcome:** The Firm collected and evaluated the documentation needed to fight back against the illegitimate allegations, and advocated on the client's behalf to demonstrate to the assigned investigator that the complaint had no merit. We

demonstrated to the investigator why the client had not violated the law and why the complaint needed to be immediately dismissed without further Board action. After the Board completed the investigation, the investigator agreed the matter lacked any merit, and needed to be dismissed. The client's complaint was dismissed, and the Board took no action against her license, leaving her professional reputation and livelihood intact so she could continue doing the job she loved.

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### Texas Medical Board v. LC



**Facts:** Client hired our Firm after receiving a complaint from TMB alleging that she prescribed a controlled substance to a family member. The evidence showed that client had been prescribing her husband a controlled substance for over 10 years.

**Outcome:** Firm submitted a response to TMB regarding the allegations and argued that client's conduct was isolated in nature and still within the standard of care. The Firm provided evidence of several other practitioners who prescribed the same controlled substance to her husband. Thereby proving that the controlled substance was medically necessary. The Firm also provided evidence of a report conducted by another provider demonstrating that her husband was not misusing or abusing the controlled substance. Based on the provided evidence, TMB found no need for an ISC and issued client a non-disciplinary order.

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## Do You Know Your Regulator's Structure and Role?

by Troy Beaulieu, Esq.



### Know How Your License and Livelihood are Impacted

As a former regulator and current license defense attorney, I am frequently surprised at how little people know about the operations, functions, and role of their state regulator who issues and regulates their license. This article will provide an overview of how most state licensing regulators are structured, what their functions are and how they usually operate so that you can be more informed about your state regulator.

### What is My Regulator's Structure?

Most state licensing regulators have state-wide jurisdiction over a particular industry or profession. Sometimes this will include related industries, professions or occupations consolidated within one state agency. There are two main components to the regulatory agency: (1) the members who are typically appointed by the Governor with the advice and consent of the Texas Senate, and (2) the agency staff, who are usually hired and managed by an executive director hired by the appointed agency members. The name of the agency's gubernatorially appointed body varies somewhat, but common names include the board, the commission, the department, the council

etc. While the number of members varies depending on the agency, many agencies commonly have nine members, with a mixture of industry members and public members sitting on the agency's governing body. The regulatory agency's governing body serves a policymaking role and usually has the authority to issue rules that have the force and effect of law. However, these rules cannot be contradictory to the laws passed by the Legislature, which passes the legislation which creates the regulatory agency and sets up its primary functions, powers and limited jurisdiction and authority. The appointed members typically serve a limited term of several years, and many agencies allow members to be reappointed for up to a maximum number of years. The agency's governing body will also usually have a chairperson who is either elected by the other members or sometimes appointed by the Governor. In addition, the members may also elect a vice chair and secretary / treasurer. The members also often sit in smaller numbers on subcommittees that address key areas of the agency's jurisdiction (finance, education, licensing, and enforcement etc.) to evaluate and then elevate matters for the full governing body's consideration at one of their regularly scheduled meetings. Meetings of the full governing body and the associated subcommittees typically occur at least once per quarter (sometimes more) and are usually open to the public under the Texas Open Meetings Act. Many agencies also stream their meetings live and recordings can often be found on their website or on YouTube. In fact, many agencies will give their license holders some continuing education credit for attending or watching meetings of the governing body.

### **What is My Regulator's Role and How Does it Operate?**

State licensing and regulatory agencies in Texas typically serve a public protection function. Their role is to make sure that a regulated profession or industry has people with licenses who are competent to practice or work in the field so that consumers are not harmed. Regulatory agencies typically accomplish this through several key functions:

Licensing Function – Most agencies employ a robust licensing process that typically involves completing an application, satisfying qualifying education requirements, passing a finger-print based background check, passing a licensing examination, and sometimes satisfying certain apprenticeship, trainee or other types of hands-on training or experience requirements prior to obtaining a full license from the agency. All these requirements are set out in the law and have specific requirements that must be met prior to the agency issuing a valid license to the applicant. This is done so that consumers who use their services know that people holding a valid license have met minimum, state-wide standards reflecting a certain level of knowledge, skill and competence.

Rulemaking Function – To aid in protecting the public, regulatory agencies are usually empowered by the Legislature to issue certain rules which are legally enforceable against applicants and license holders. The agency must follow proper procedures for developing, proposing, and adopting rules before they become effective, and that process includes public participation, comment, and input on those rules. State agency issued rules may not contradict the laws passed by the Legislature or the constitutional rights all citizens have. In addition, these rules may not go beyond the authority the Legislature has given the agency in state law.



Enforcement Function - State regulatory agencies also usually have the authority to receive, investigate and resolve complaints filed by the public against a license holder concerning their conduct as a license holder. The agency often retains experts in the specialized field to assist them in evaluating complaints to ascertain whether minimum competency standards of care were violated. If the agency's investigation reveals violations of the law or agency rules, the agency typically has authority to take disciplinary action against the license holder. This can take the form of a written reprimand, imposition of administrative penalties, requiring remedial education, oversight of the person's licensed activities or in serious cases the agency can suspend or revoke a license. License holders have due process rights and the opportunity to participate in the process and if an agreed resolution is not reached, they have the right to their day in court to challenge the allegations.

### **Stay Aware of Your Regulator, What Their Role is and How They Operate**

As a license holder, your livelihood and reputation are impacted by what your regulator does. It's important to know how the agency is structured, typically with a policymaking body appointed by the Governor and staff who are managed by an executive director. You need to be aware of the role your regulator has in licensing individuals in your industry, passing rules that impact your field and resolving complaints filed against license holders. Each of these key roles is designed to help the regulatory agency serve its overall purpose of protecting the public. Be aware of your state regulator's role and operations so that you can protect your livelihood, and the career and reputation you have worked so hard to achieve.

## **Save Money on Legal Fees: How to Save Costs When Sending Files**

Part 4 in a Series by London de la Teja

Many might not be aware but sending documentation in .pdf format is very important. This eliminates staff having to spend time converting documentation from a different file format so the material can be used effectively to aid in your defense. Please be sure to convert documents you have in pdf. If you need assistance, it's much easier to ask upfront prior to sending.



### **Professional Recognition Days November Calendar**

Team Bertolino is grateful for the expertise and dedication of these professionals. Thank you for your outstanding contributions to your respective industries.

#### **November 3:**

- "Love your Lawyer" Day

## **“Know Your Regulator” A Free, Informational Bulletin Tailored to Your Regulated Industry**

Your industry is constantly changing, and you need to be in the know to stay ahead of your competition. To help license holders meet this challenge, Bertolino LLP is excited to announce it has launched a free, educational update to keep license holders informed of the ever-changing laws, rules, regulations and legal interpretations that impact their livelihood and businesses.

[Subscribe](#) for this free, periodic, informational service to stay current on what’s happening in the regulatory world impacting your industry.

### **November 7:**

- Notary Public Day

### **November 10:**

- International Accounting Day

### **November 12:**

- Nurse Practitioner Week
- Perioperative Nurse Week

### **November 14:**

- Operating Room Nurse Day

### **November 15:**

- National Educational Support Professionals Day

### **November 17:**

- Substitute Educators Day

## **Side Bar ...**

### **Bertolino LLP Launches Group Presentations Web Page Dedicated to Legal Education Opportunities**

Bertolino LLP is excited to announce that it will be launching a group presentations page on its website. The page will focus on providing people with information about the Firm’s free legal education presentation opportunities provided across Texas. If you have a trade, occupational or professional group that wants to learn more about their regulator, the complaint process or just how to keep your license out of regulatory trouble, then your group can benefit from the Firm’s free presentation opportunities. Watch for Bertolino LLP’s new presentations page to learn more about a free presentation by one of the Firm’s attorneys.

A DEFENSE FIRM REPRESENTING PROFESSIONAL, OCCUPATIONAL LICENSE HOLDERS  
THROUGHOUT TEXAS

## **Don't Risk Losing Your License & Career**

Bertolino law offers **free legal presentation opportunities**  
for your industry group that will give you peace of mind and  
continuing education credit

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The advertisement features a dark background with a blurred image of a person presenting at a podium. On the right side, there is a red vertical bar. Below the text, there is a photograph of four people (three men and one woman) in professional attire, smiling. A blue button with the text 'CONTACT US' is located in the bottom left corner.



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