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Child Welfare Law and Practice: Purpose and Use of this Publication

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INTRODUCTION TO THE SECOND EDITION

Child Welfare Law and Practice: Purpose and Use of this Publication

Child welfare law has become an increasingly complex area of practice that requires lawyers to not only understand complex federal and state law and procedure, but also detailed institutional information regarding child welfare funding streams, treatment and placement options, medicine, mental health, and child development. All of this takes place in a context of heart-wrenching abuse, neglect, and poverty and a complex and under-resourced bureaucracy which both under-responds and over-responds to presenting problems. What was once a cause has become a profession for highly trained and skilled attorneys. Child welfare law has arrived as a distinct legal specialty, as evidenced by the extensive body of state and federal law and procedure, law school curriculum, scholarship, continuing legal education, and national and state standards of practice for attorneys.

Yet the profession is still young and has not yet fully matured. Children are not simply small adults, and our assumptions and rules of lawyering are not automatically transferable to the child welfare law context. The role and duties of the child's attorney are still developing. Likewise, the nuances of representing parents and state agencies present special challenges for the child welfare attorney. The result is that, while the practice of child welfare law has arrived as a professional legal specialty, there is much work to be done to create a high-functioning child welfare system throughout the country. A critical piece in that process is a comprehensive understanding of the competencies of child welfare. This book is intended to facilitate that understanding.

This book and national certification standards would not have been possible, even a few years ago. Historically, child welfare law and practice have varied significantly from state to state. Recently, however, a national model of child welfare law with applicability to every state has emerged through a culmination of federal law and policy and through widely accepted national standards of lawyer practice. From the Child Abuse Prevention and Treatment Act, the Adoption and Safe Families Act, the Fostering Connections Act, and other federal laws, there is now considerable federal statutory direction with which states must comply to secure significant amounts of federal funding for child protection and child welfare services. Additionally, the NACC and ABA have adopted national standards of practice for representing children, and the ABA has adopted national standards for agency and parent attorneys. State Program Improvement Plans resulting from the Child and Family Service Review (CFSR) process further define performance standards for attorneys and call for training and education consistent with the emerging national model. While child welfare law technically remains the province of state law, it is heavily influenced by federal policy. What was once a local practice, varying considerably from state to state, has increasingly become a national model of practice. The benefit

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of these developments is an increasing uniformity of the legal representation of children, parents, and state agencies. Now it is possible to produce a meaningful national practice book and to award specialty certification based on a mastery of the knowledge and skills presented here.

This book is intended to serve as a resource for agency, parent, and children's attorneys preparing for the NACC child welfare law certification exam. But the NACC "Red Book" has become more than an exam study guide for it represents the body of knowledge that defines child welfare law as a specialized field of legal practice. The first edition also became widely used as a basis for attorney training, a guide and reference for judges and lawyers representing all parties, and a teaching tool in law school substantive and clinical courses. We are very pleased about the widespread and strong acceptance of "Red Book I." Now, having the benefit of five years of experience with the book, we tried to consolidate some chapters and keep them concise and informative. This second edition includes ten new chapters and contributions from the leading authorities in the country. In most cases this book discusses what the law is and can reasonably be interpreted to mean rather than advocating for policy changes we would like to see accomplished. The field of child welfare law continues to develop rapidly, and we have endeavored to provide Web site addresses to assist the reader in keeping abreast of changes.

We are struck by the different tone we can adopt now in this Introduction. Five years ago the Introduction seemed to press hard for recognition of child welfare law as a real and legitimate specialty. Now there is no need to do that. The legitimacy and importance of our specialty is well established. Improved training and greater professionalization of child welfare lawyers is happening in nearly all states. NACC specialty certification is recognized in 14 states and the District of Columbia with more on the way. The federal government has just created a National Quality Improvement Center on Child Representation in the Child Welfare System, at the University of Michigan Law School which is to develop and disseminate empirical knowledge on child representation. Child Welfare law attorneys are increasingly recognized for the serious work we do. Our hope is that this book can continue to support the maturing of the field.

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