

LOUISIANA STATE BAR ASSOCIATION  
**HOUSE OF DELEGATES**  
FRIDAY, JUNE 11, 2010  
SANDESTIN GOLF AND BEACH RESORT

**\* M I N U T E S \***

The House of Delegates was convened at 11:15 a.m. on Friday, June 11, 2010, in the Baytowne Conference Center at the Sandestin Golf and Beach Resort in Destin, Florida.

**I. Certification of Quorum by the Secretary**

*After concurring with Assistant Secretary Loretta Larsen, Ms. Boyle announced that a quorum had been certified and declared the meeting to be in session. A copy of the attendance roster is attached as an addendum to these Minutes.*

**II. Recognition of Deceased Members of the House of Delegates.**

*There were no deceased members of the House of Delegates since January 2010.*

**III. Reports of Standing Committees of the House**

*No oral reports were given; all reports that were given were submitted in writing.*

**IV. Reports of Officers, Board of Governors, Standing Committees and Sections of the Louisiana State Bar Association**

1. Kim M. Boyle, President

*Ms. Boyle had made a report to the General Assembly and waived further report.*

2. Michael A. Patterson, President-Elect

*Mr. Patterson waived his report.*

3. Jack K. Whitehead, Jr., Treasurer

*Mr. Whitehead waived his report.*

*Ms. Boyle advised that reports of all committees had been emailed to all members of the House.*

*Next Ms. Boyle advised that the House of Delegates would be electing five members for three-year terms on the Legislation Committee. She announced that the nomination period would be open for at least 15 minutes, and that all nominations should be submitted to Assistant Secretary Loretta Larsen using the forms available at each table.*

*Ms. Boyle then introduced a video on the foster care system which was produced by the Children's Law Committee.*

*At the conclusion of the video, Ms. Boyle declared the nomination period to be closed and directed staff to immediately prepare and distribute ballots to all members of the House of Delegates.*

**V. Reports of Special Committees of the Louisiana State Bar Association**

*There were no reports either written or oral.*

**VI. Other Reports**

*No oral reports were given.*

**VII. Old Business**

*There was no Old Business to be considered.*

**VIII. Approval of Minutes**

*The following motion was made:*

*“BE IT RESOLVED, that the minutes of the January 23, 2010 Meeting of the House of Delegates are approved.”*

*The motion was seconded and unanimously approved.*

**IX. Elections**

1. Election of three (3) members of the House of Delegates to the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association. This committee was created by a resolution adopted by the House on November 13, 1971. The committee is composed of the president, president-elect, secretary, chair of the Public Information Committee, and three (3) members designated from the membership of the House of Delegates by the House of Delegates.

*Ms. Boyle opened the floor for nomination for three members of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association. The following motions were made:*

*“BE IT RESOLVED that Keith M. Couture of the 22<sup>nd</sup> Judicial District be elected a member of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association.”*

*“BE IT RESOLVED that Tyler G. Storms of the 3<sup>rd</sup> Judicial District be elected a member of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association.”*

*“BE IT RESOLVED that Walter I. Willard of Orleans Parish be elected a member of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association.”*

*There being no further nominations, Ms. Boyle declared the nominations closed and declared Mr. Couture, Mr. Storms and Mr. Willard elected.*

2. Election of a member of the Louisiana State Bar Association to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation for a three-year term. This individual must be a Fellow of the Louisiana Bar Foundation.

*Ms. Boyle opened the floor for nominations for a member of the Louisiana State Bar Association to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation for a three-year term. The following motion was made and seconded:*

*“BE IT RESOLVED that Donald R. Abaunza of Orleans Parish be elected to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation for a three-year term.”*

*There being no further nominations, Ms. Boyle declared the nominations closed and declared Mr. Abaunza elected.*

3. Election of five (5) members of the House of Delegates to serve three-year terms on the Legislation Committee. To ensure geographically diverse representation, there shall be no more than three (3) House of Delegates representatives from a judicial district at any given time. Terms commence on July 1 immediately following the election.

*The ballots were collected until the adjournment of the House of Delegates, at which time they were duly counted by LSBA staff members. The following results were posted at the LSBA registration desk later that afternoon, and circulated via the House of Delegates listserv on June 15:*

|   |                |
|---|----------------|
| <i>Charles C. Bourque – 32<sup>nd</sup> Judicial District</i> | <i>ELECTED</i> |
| <i>Val P. Exnicios, – Orleans Parish</i>                      | <i>ELECTED</i> |
| <i>Steven J. Farber – 21<sup>st</sup> Judicial District</i>   |                |
| <i>Bruce L. Feignerts – Orleans Parish</i>                    |                |
| <i>Keenan K. Kelly – 10<sup>th</sup> Judicial District</i>    | <i>ELECTED</i> |
| <i>Andrew Lee – Orleans Parish</i>                            |                |
| <i>Michael W. McKay – 19<sup>th</sup> Judicial District</i>   | <i>ELECTED</i> |
| <i>Ann S. Siddal – 7<sup>th</sup> Judicial District</i>       | <i>ELECTED</i> |
| <i>Tyler G. Storms – 3<sup>rd</sup> Judicial District</i>     |                |

## **X. Resolutions**

### Committee Resolutions

1. Resolution from the Bar Governance Committee to amend law student membership category language adopted by the House in June 2009, to address the unintended consequence of excluding certain students.

*S. Guy DeLaup made the following motion. “BE IT RESOLVED that the resolution from the Bar Governance Committee to amend law student membership category language adopted by the House in June 2009, to address the unintended consequence of excluding certain students be adopted.”*

*The motion was seconded and adopted unanimously.*

2. Resolution from the Bar Governance Committee proposing amendments of Article VIII of the Association’s Bylaws addressing the relationship between the Association and its sections.

*S. Guy DeLaup made the following motion: “BE IT RESOLVED that the resolution from the Bar Governance Committee proposing amendments to Article VIII of the Association’s Bylaws addressing the relationship between the Association and its sections be adopted.”*

*Ms. Boyle called upon Section Council Chair Val P. Exnicios, representing the Bench & Bar Section, to speak in favor of this resolution.*

*The motion was seconded and adopted unanimously.*

3. Resolution from the Legislation Committee requesting that the House of Delegates determine what position, if any, the Louisiana State Bar Association should take regarding an increase in the limitations of liability (Cap) in the Louisiana Medical Malpractice Act.

*The following motion was made by Legislation Chair Michael W. McKay: “BE IT RESOLVED, that the resolution from the Legislation Committee requesting that the House of Delegates determine what position, if any, the Louisiana State Bar Association should take regarding an increase in limitations of liability (Cap) in the Louisiana Medical Malpractice Act be adopted.”*

*A number of members spoke for and against the resolution.*

*L. Paul Foreman from the 14<sup>th</sup> Judicial District moved to table the resolution.*

*The motion was seconded and a vote taken.*

*The motion to table the resolution was adopted.*

4. Resolution from the Lawyers in Transition Committee proposing to amend the Rules of Professional Conduct to allow for the appointment of “successor attorneys” to facilitate the transition of a lawyer’s clients to another lawyer should the original lawyer become deceased, disabled, missing for any reason, or is subject to discipline which prohibits him/her from engaging in the practice of law.

*The following motion was made by Edward J. Walters, Jr.: "BE IT RESOLVED, that the resolution from the Lawyers in Transition Committee proposing to amend the Rules of Professional Conduct to allow for the appointment of "successor attorneys" to facilitate the transition of a lawyer's clients to another lawyer should the original lawyer become deceased, disabled, missing for any reason, or is subject to discipline which prohibits him/her from engaging in the practice of law be adopted."*

*The motion was seconded and adopted unanimously.*

Board of Governors Resolution

5. Resolution from the Board of Governors asking the House to join in the unfailing support of the Rules of Professional Conduct as promulgated by the Louisiana Supreme Court.

*Elizabeth Erny Foote motioned "BE IT RESOLVED, that the resolution from the Board of Governors asking House to join in unfailing support of the Rules of Professional Conduct as promulgated by the Louisiana Supreme Court be adopted."*

*The motion was seconded and adopted unanimously.*

**XI. Other Business**

*There being no further business, the meeting was adjourned at 12:40 p.m.*

Respectfully Submitted:



Loretta Larsen  
Assistant Secretary

December 17, 2010

**APPROVED BY HOUSE OF DELEGATES  
JANUARY 22, 2011  
NEW ORLEANS, LA**

**Resolution to the Louisiana State Bar Association  
House of Delegates  
Regarding the Law Student Membership Category**

*Submitted by the Bar Governance Committee*

WHEREAS, the Louisiana State Bar Association House of Delegates at its meeting in June 2009 approved a resolution which created a law student membership category within the Louisiana State Bar Association; and

WHEREAS, this amendment to the Articles of Incorporation was subsequently approved by the membership of the Louisiana State Bar Association; and

WHEREAS, the requirement that law schools be members of the Association of American Law Schools had the unintended consequence of excluding Southern University Law Center students from eligibility for law student membership in the Louisiana State Bar Association; and

WHEREAS, this unintended consequence was not discovered until voting was underway on the relevant amendment to the Articles of Incorporation; and

WHEREAS, the intent from the beginning was that all students at ABA accredited law schools be eligible to enroll as law student members in the Louisiana State Bar Association.

NOW, THEREFORE, BE IT RESOLVED that the House of Delegates approve the attached "Exhibit A" regarding Article IV, Section 5 of the Articles of Incorporation, to allow students in any ABA accredited law school to become law student members of the Louisiana State Bar Association.

Respectfully Submitted by  
S. Guy deLaup, Chair



On Behalf of LSBA BAR GOVERNANCE COMMITTEE:

Richard L. Becker

Robert L. Bussey

Joseph L. Caverly

Paula Hartley Clayton

Paul B. Deal

Val P. Exnicios

Trent A. Garrett, Sr.

Edmund J. Giering IV

Franchesca Hamilton-Acker

C. Kevin Hayes

Jay M. Jalenak

W. Jay Luneau

John H. Musser IV

Charles M. Raymond

Jeffrey A. Riggs

Valerie T. Schexnayder

Sharonda R. Williams

Phillip A. Wittmann

**APPROVED BY HOUSE OF DELEGATES**

**JUNE 11, 2010**

**DESTIN, FL**

**APPROVED BY BOARD OF GOVERNORS**

**JUNE 11, 2010**

**DESTIN, FL**

# EXHIBIT “A”

## ARTICLES OF THE LOUISIANA STATE BAR ASSOCIATION

### ARTICLE IV. MEMBERSHIP

#### **Section 5. Law Student Members**

Any law student in good standing in a ~~Louisiana~~ law school ~~belonging to the Association of American Law Schools~~ accredited by the American Bar Association may voluntarily pay the prescribed dues and thereby become entitled to exercise all the rights of membership in this Association, except the right to practice law and to hold office.

**LOUISIANA STATE BAR ASSOCIATION  
BAR GOVERNANCE COMMITTEE RESOLUTION**

**SECTIONS**

WHEREAS, sections of the Louisiana State Bar Association are groups having special interests in particular areas of practice, practice environment or other areas identified by the sections; and

WHEREAS, LSBA members in good standing are eligible for membership in voluntary sections upon payment of authorized dues; and

WHEREAS, as voluntary, non-appointed entities, sections elect their own officers and choose their own activities within limitations established by the Bylaws of each section, as well as by the Articles and Bylaws of the Louisiana State Bar Association; and

WHEREAS, all voluntary sections operate under the auspices of the Louisiana State Bar Association and under the Association's non-profit tax structure; and

WHEREAS, it is necessary to balance accountability to the Association with the sections' flexibility to be creative and responsive to their members; and

WHEREAS, it is also necessary to coordinate activities such as lobbying/governmental affairs to ensure that the Association speaks with one voice; and

WHEREAS, it is also necessary to ensure that sections provide value to those individuals who choose to join such sections.

NOW THEREFORE BE IT RESOLVED, that the House of Delegates approve the attached amendments to Article VIII of the Association's Bylaws (Appendix A), which further define the relationship between the Association and its sections.

Respectfully Submitted by:  
S. Guy deLaup, Chair



**APPROVED BY HOUSE OF  
DELEGATES  
JUNE 11, 2010  
DESTIN, FL**

**APPROVED BY BOARD OF  
GOVERNORS  
JUNE 11, 2010  
DESTIN, FL**

On Behalf of LSBA BAR GOVERNANCE COMMITTEE:

Richard L. Becker

Robert L. Bussey

Joseph L. Caverly

Paula Hartley Clayton

Paul B. Deal

Val P. Exnicios

Trent A. Garrett, Sr.

Edmund J. Giering IV

Franchesca Hamilton-Acker

C. Kevin Hayes

Jay M. Jalenak

W. Jay Luneau

John H. Musser IV

Charles M. Raymond

Jeffrey A. Riggs

Valerie T. Schexnayder

Sharonda R. Williams

Phillip A. Wittmann



## APPENDIX "A"

### ARTICLE VIII. SECTIONS

#### Section 1. Creation and Purpose

~~The work of the Association and Sections shall be at all times in furtherance of the unity of the law as a science. The House of Delegates may approve the creation of sections devoted to the improvement of professional knowledge and skill, and in the interest of the profession and the performance of its public obligations. Sections shall constitute autonomous units within the Association but shall operate under the auspices of the Association. At no time shall the work and/or activities of the sections be inconsistent with the mission and goals of the Association.~~

Sections shall operate under the general umbrella of the Association and shall have such powers and duties not inconsistent with the Articles of Incorporation and By-Laws of the Association as may be determined by the members of each section or the council thereof. The work and activities of the sections shall be coordinated and correlated with those of the Association, and no section shall assume to represent or speak for the Association without the prior authorization of the Board of Governors.

Sections may be created by filing a resolution and proposed bylaws with the House of Delegates in accordance with established procedures. A petition signed by not less than fifty (50) Association members who are committing to join the section must accompany the resolution.

Consistent therewith, the following Sections for implementing the work of the Association have been created pursuant to the Article XI of the Association's Articles of Incorporation.

(1) *Administrative Law* - The purpose of this Section is to provide a forum for study and discussion of administrative law issues arising under the laws of the State of Louisiana and of the United States; to contribute to the continuing education of the attorney who practices in this field; to disseminate information regarding recent administrative law decisions of the state and federal agencies and courts; to encourage publication of legal writings on administrative law questions among the members of the Association; to establish liaison with the Louisiana State Bar Association, the American Bar Association, and the legal academic community to achieve these purposes; and to take such actions in respect thereto as may be desirable and consistent with the Articles of Incorporation and Bylaws of this Association.

(Added effective June 8, 2001; Amended January 24, 2004)

(2) *Alternative Dispute Resolution* - The purpose of this Section is to develop and promote reasonable dispute resolution alternatives to litigation for use by the public, the judiciary and members of the Bar; to educate the public, the judiciary and members of the Bar regarding such alternatives; to assist the judiciary and the legislature with laws and rules implementing reasonable dispute resolution alternatives to litigation; and to take such related actions as may be desirable and consistent with the Articles of Incorporation and By-Laws of this Association.

(Amended January 24, 2004)

(3) *Animal Law* – The purpose of this Section is to promote and assist members of the profession in the study and understanding of the laws, regulations, and court decisions dealing with legal issues involving animals and to provide a forum for members of the profession to consider and discuss the legal issues involved in human beings' relationships and coexistence with animals.

(Added January 12, 2008)

(4) *Antitrust and Trade Regulation Law* - The purpose of this Section is to provide a catalyst for discussion and research of the antitrust field of law in Louisiana; to contribute to and provide opportunities for the continuing education of the attorney who practices in the antitrust field; to promote interest in and study of the existing statutes and jurisprudence, both state and federal, which govern this field.

(Amended January 24, 2004)

(5) *Appellate* – The purpose of this section is to provide a forum to study and discuss appellate practice issues; to disseminate information regarding recent developments in this area to the members of the Association; and to establish liaison with the appellate courts covering Louisiana to further the rule of law, and improve the administration of justice and the practice of law before the appellate courts.

(Added June 27, 2005)

(6) *Art, Entertainment and Sports Law* – The purpose of this Section is to provide a forum for study and discussion of art, entertainment and sports law issues arising under the laws of the State of Louisiana and of the United States to contribute to the continuing education of attorneys who practice in this field; to disseminate information regarding recent legal decisions of the state and federal and international agencies and courts relative to these areas of law; to encourage publication of legal writings on art, entertainment and sports law questions among the members of the Association; to establish a liaison with the Louisiana State Bar Association, the American Bar Association, various industry and trade associations with legal relevance to the practice of art, entertainment and sports law, and the legal academic community to achieve these purposes; and to take such actions in respect thereto as may be desirable and consistent with the Articles of Incorporation and Bylaws of this Association.

(Added June 10, 2004)

(7) *Bankruptcy Law* – The purpose of this Section is to encourage and foster discussions and studies and the dissemination of information relative to the statutes and jurisprudence relating to bankruptcy law; continuing education of the practicing attorney with regard to current developments in this field; study of possible improvements in the statutes and jurisprudence in this field and recommendations of changes to appropriate committees and sections within the Louisiana State Bar Association; to promote interest, activity and research in this field, to diffuse knowledge thereof among members of the legal profession and others to formulate professional opinion thereon; and to cooperate with those sections of the American Bar Association which have bankruptcy law committees whenever possible and not otherwise inconsistent with these Bylaws.

(Added June 27, 2005)

(8) *Bench and Bar* - The purpose of this Section is to provide a forum for the study and discussion of the composition and administration of the judicial branch of government in the State of Louisiana; to contribute to the continuing education of the attorneys regarding the judicial branch of government; to disseminate information regarding potential legislation and/or litigation that might affect the method of selecting judges; to encourage study, publication of legal writings and recommendations regarding the composition and administration of the judicial branch of government in the State of Louisiana; to establish liaison with the Louisiana State Bar Association, the American Bar Association, the legal academic community, and members of the judiciary, to achieve these purposes; to promote and encourage dialogue and meetings between members of the bench and bar; and to take such actions in respect thereto as may be desirable, consistent with the Articles of Incorporation and By-Laws of this Association, to the end that the blessings of liberty and excellence in the selection and maintenance of members of the judiciary may be preserved to ourselves and transmitted to our posterity.  
(Amended January 24, 2004)

(9) *Bill of Rights* - The purpose of this Section is to provide a forum for study and discussion of civil liberties questions arising under the federal Bill of Rights and the Louisiana Declaration of Rights; to contribute to the continuing education of the attorney who practices in this field; to disseminate information regarding recent civil liberties decisions of state and federal courts; to encourage publication of legal writings on civil liberties questions among the members of the Association; to establish liaison with the Louisiana State Bar Association, the American Bar Association, and the legal academic community to achieve these purposes; and to take such actions in respect thereto as may be desirable, consistent with the Articles of Incorporation and By-Laws of this Association, to the end that the blessings of liberty may be preserved to ourselves and transmitted unimpaired to our posterity.  
(Amended January 24, 2004)

(10) *Civil Law and Litigation* - The purpose of this Section is to examine and study the Civil Law of Louisiana and the Louisiana jurisprudence and statutes of the state, with a view of discovering defects and inequities; recommending needed reforms; preserving and perpetuating the historic sources of basic Civil Law and supplying information indispensable to an accurate understanding and evaluation of the philosophy reflected in the Civil Code; to foster and furnish a forum for the better understanding of the Civil Law of Louisiana; and generally, to work in cooperation with the Civil Law Section of the Louisiana State Law Institute in the accomplishment of these purposes.  
(Amended January 24, 2004)

(11) *Class Action, Mass Tort and Complex Litigation* – The purposes of this Section are to promote and assist members of the profession in the study and understanding of the laws, regulations, and jurisprudence addressing the legal issues involving class action procedural provisions, mass joinder and complex litigation and provide a forum for members of the profession to consider and discuss the legal issues involved in the class action procedural provisions, mass joinder and complex litigation.  
(Added June 12, 2008)

(12) *Consumer Protection Law* - The purpose of this Section is to encourage and foster discussions and studies and the dissemination of information relative to the statutes and jurisprudence relating to consumer protection law; continuing education of the practicing

attorney with regard to current developments in this field; study of possible improvements in the statutes and jurisprudence in this field and recommendations of changes to appropriate committees and sections with the Louisiana State Bar Association; to promote interest, activity and research in this field, to diffuse knowledge thereof among members of the legal profession and others, to formulate professional opinion thereon; and to cooperate with those Sections of the American Bar Association which have consumer protection law committees whenever possible and not otherwise inconsistent with these Bylaws.

(Amended January 24, 2004; June 27, 2005)

(13) *Corporate and Business Law* - The purpose of this Section is to foster the study and improvement of the corporation laws of the State of Louisiana.

(Amended January 24, 2004)

(14) *Criminal Law* - The purpose of this Section is to foster the study and improvement of criminal law and procedure of the State of Louisiana.

(Amended January 24, 2004)

(15) *Environmental Law* - The purpose of this Section is to encourage and foster discussions and research in the field of environmental law in Louisiana.

(Amended January 24, 2004)

(16) *Family Law* - The purpose of this Section is to encourage and foster discussions and studies and the dissemination of information relative to the statutes and jurisprudence relating to family law.

(Amended January 24, 2004)

(17) *Fidelity, Surety and Construction Law* - The purpose of this Section is to promote the objectives of the Association and the Section; and to further the development of expertise in the practice of law and to strive for improvement in the application of justice concerning matters relating to: the law applicable to the rights, duties and obligations of the parties to, or persons affected by, contracts of fidelity and forgery insurance contracts, by surety and guaranty bonds, general indemnity agreements and construction contracts of all types and descriptions and the relationships of the various parties thereto and the various types of insurance policies relevant to the construction industry; the services and facilities provided by corporate and individual sureties; the coverages afforded by contracts of fidelity and forgery insurance and by similar contracts; the drafting and interpretation of construction and professional contracts and related documents; and it shall be the further purpose of this Section to disseminate information regarding potential legislation and/or litigation that might affect such attorneys; to encourage study, publications of legal writings and make recommendations regarding areas of interest to such attorneys; to establish liaison with the LSBA, the American Bar Association, and the legal academic community, and the general community, to achieve these purposes; to promote and encourage dialogue and meetings between members of this Section and other members of the bar; and to take such actions in respect thereto as may be desirable, consistent with the Articles of Incorporation and By-Laws of this Association, to the end that excellence in legal services be encouraged, aided and maintained.

(Amended January 24, 2004)

(18) *Francophone* - The purpose of this Section is to encourage and foster discussions in the field of Francophone issues; to contribute to and provide opportunities for the continuing education of the attorneys who deal with Francophone issues; to promote interest in and study of the existing statutes and jurisprudence which govern this field; and to cooperate and establish liaison with the Louisiana State Bar Association, American Bar Association, local bar associations and the legal academic community to achieve these purposes whenever possible in a manner not otherwise inconsistent with these by-laws.

(Added June 10, 1999; amended January 24, 2004)

(19) *Health Law* - The purpose of this Section is to provide a forum for the study and discussion of health law issues arising under the laws of the State of Louisiana and of the United States; to contribute to the continuing education of the attorney who practices in this field; to disseminate information regarding recent health law decisions of state and federal courts; to encourage publication of legal writings on health law questions among the members of the Association; to establish liaison with the Louisiana State Bar Association, the American Bar Association, and the legal academic community to achieve these purposes; and to take such actions in respect thereto as may be desirable and consistent with the Articles of Incorporation and By-Laws of this Association.

(Added effective January 24, 1998)

(20) *Insurance, Tort, Workers Compensation and Admiralty Law* - The purpose of this Section is to bring about the improvement of the law of insurance and the laws pertaining to actions for negligence, compensation benefits for employees, actions under admiralty and related laws, to encourage and foster discussions of matters involving said laws among members of the Bar of the State of Louisiana.

(Amended June 13, 2003; January 24, 2004)

(21) *Intellectual Property Law* - The purpose of this section is to encourage and foster discussions in the field of intellectual property; to contribute to and provide opportunities for the continuing education of the attorney who practices in the intellectual property field; to promote interest in and study of the existing statutes and jurisprudence which govern this field; and to cooperate and establish liaison with the Louisiana State Bar Association, American Bar Association, local bar associations and the legal academic community to achieve these purposes whenever possible in a manner not otherwise inconsistent with these By-Laws.

(Amended January 24, 2004)

(22) *International Law* - The purpose of this Section is to promote the goals and objectives of the Louisiana State Bar Association in the field of International Law by: conducting studies, analyses, and conferences with respect to Federal, State and foreign legislation, new and existing, affecting transnational legal and business affairs; preparing reports and other educational material with respect to such studies, analyses and conferences for presentation to and the enhancement of the skills of the interested members of the Louisiana State Bar Association; cooperating with the various law schools of the State in their work in the international field, and encouraging the exchange of law professors and students between other nations and this State and the United States; cooperating and working with the American Bar Association and any of its Sections or Committees, with the International Bar Association and any of its Sections or Committees, with bar associations of the various states and their various Sections and Committees, and with foreign Bar Associations and their various Sections and

Committees in endeavors devoted to the field of international law; encouraging cordial association and exchange of ideas and visits between officers and members of the State Bar and officers and members of the bars of other countries in order to promote greater understanding of their respective legal systems; and undertaking and promoting such other work and projects as might reasonably be expected to enhance and advance the knowledge and understanding of international law among members of the Louisiana State Bar Association.  
(Amended January 24, 2004)

(23) *Labor and Employment Law* - The purpose of this Section is to seek improvement in the laws relating to labor relations, and administration thereof, and to encourage general improvement in labor relations as a whole affecting employers and employees in the State of Louisiana toward that end that industrial unrest may be minimized. "Labor Law" as used herein includes laws affecting wages, hours and working conditions of employees, relations between employers and labor organizations and employees, either or all of them and, Social Security legislation.

(Amended January 24, 2004)

(24) *Mineral Law* - The purpose of this Section is to study and consider the problems peculiar to the law of oil, gas and other natural resources.

(Amended January 24, 2004)

(25) *Minority Involvement* - The purpose of this Section is to provide a forum for the study and discussion of the problems and concerns involved in the practice of law by minorities; to contribute to the continuing education of the attorneys so engaged in such practices; to disseminate information regarding potential legislation and/or litigation that might affect such attorneys; to encourage study, publication of legal writings and make recommendations regarding areas of interest to such attorneys; to establish liaison with the Louisiana State Bar Association, the American Bar Association, and the legal academic community, and the general community, to achieve these purposes; to promote and encourage dialogue and meetings between members of this Section and other members of the Bar; and to take such actions in respect thereto as may be desirable, consistent with the Articles of Incorporation and Bylaws of this Association, to the end that excellence in legal services be encouraged and maintained.

(26) *Public Law* - The purpose of this Section is to provide a forum for study and discussion of public law questions arising under the laws of the State of Louisiana and the United States Constitution; to contribute to the continuing education of the attorney who practices in this field; to disseminate information regarding recent public law decisions of state and federal courts; to encourage publication of legal writings on public law questions among the members of the Association; to establish liaison with the Louisiana State Bar Association, the American Bar Association, and the legal academic community to achieve these purposes; and to take such actions in respect thereto as may be desirable consistent with the Articles of Incorporation and By-Laws of this Association, to the end that the blessings of liberty may be preserved to ourselves and transmitted unimpaired to our posterity.

(Amended January 24, 2004)

(27) *Public Utility* - The purpose of this Section is to encourage and foster discussions in the field of public utilities; to contribute to and provide opportunities for the continuing education of the attorney who practices in the public utility field; to promote interest in and study

of the existing statutes and jurisprudence, which govern this field; and to cooperate and establish liaison with the Louisiana State Bar Association, American Bar Association, local bar associations and the legal academic community to achieve these purposes whenever possible in a manner not otherwise inconsistent with these Bylaws.

(Added June 8, 2001; Amended January 24, 2004)

(28) *Solo and Small Firm* - The purpose of this Section is to provide a forum for the study and discussion of the problems and concerns involved in the practice of law by sole practitioners and members of small firms; to contribute to the continuing education of the attorneys so engaged in such practices; to disseminate information regarding potential legislation and/or litigation that might affect such attorneys; to encourage study, publication of legal writings and make recommendations regarding areas of interest to such attorneys; to establish liaison with the Louisiana State Bar Association, the American Bar Association, and the legal academic community, and the general community, to achieve these purposes; to promote and encourage dialogue and meetings between members of this Section and other members of the bar; and to take such actions in respect thereto as may be desirable, consistent with the Articles of Incorporation and By-Laws of this Association, to the end that excellence in legal services be encouraged and maintained.

(Amended June 8, 2001)

(29) *Taxation* - The purpose of this Section is to study and consider all problems relating to federal, state or local tax laws or regulations and the practice of law with relation thereto.

(Amended January 24, 2004)

(30) *Trusts, Estates, Probate and Immovable Property Law* - The purpose of this Section is to study and improve in all phases of the laws relating to trusts, estates, probate matters and immovable property.

(Amended January 24, 2004)

(31) *Young Lawyers* - The purpose of this Section is to foster discussions and interchange of ideas relative to the duties, responsibilities and problems of the younger members of the legal profession in the State of Louisiana; to aid in their advancement; to encourage their interest and participation in the activities of this Association, and, in general, to further the purposes and objectives of this Association.

(Amended April 23, 1983; January 24, 2004)

## **Section 2. ~~Combining or Discontinuing Sections-Powers and Duties~~ Discontinuation**

If the membership of any section drops below twenty-five (25) for one year, the section will be given notice that it will be disbanded if it cannot increase its membership to twenty-five (25) within the following year. Any unused section funds will revert to the Association's general fund upon the disbandment of the section.

~~Such sections may be combined or discontinued and new sections created by the House of Delegates. They shall constitute autonomous units within the Association and shall have such powers and duties not inconsistent with the Articles of Incorporation and By-Laws of the Association as may be determined by the members of each section on the council thereof; the work and activities of the sections, however, shall be coordinated and correlated with those of~~

~~the Association, and no section shall assume to represent or speak for the Association save with the authorization of the House of Delegates.~~

### **Section 3. Membership**

Any member of the Association may enroll as a member and attend meetings of any section, provided the member meets the requirements of and complies with the By-Laws of such section.

(Amended June 10, 1993)

### **Section 4. By-Laws**

Each section shall have the power to adopt and amend its By-Laws, not inconsistent with the Articles of Incorporation and By-Laws of the Association. Such By-Laws or amendments thereto shall become effective when approved by the House of Delegates.

### **Section 5. Officers**

The affairs of each section shall be administered by ~~such the~~ officers, which shall include a chair, a secretary and a treasurer, and additional officers as may be provided ~~by for in~~ each section's By-Laws.

(Amended April 23, 1983)

### **Section 6. Mandatory Reports-Reporting, --Meetings - and Elections**

No later than May 1 of each year, ~~Each each~~ section shall submit to the President of the Association ~~make an annual~~ written report summarizing the section's ~~of its~~ activities for the fiscal year which ends on June 30~~within 30 days of the close of the fiscal year.~~

Also no later than May 1 of each year, the chair of each section shall submit to the President of the Association the section's proposed programs and activities for the period July 1 of that year through June 30 of the next year, along with a corresponding budget. The Board of Governors shall have authority to review all section budgets.

Failure to comply with the above provisions will result in the suspension of the section's authority to operate, including its ability to collect dues. The suspension will remain in place until the Board of Governors or its designee determines that the section has met its obligations as set forth above.

Annual meetings for the elections of officers and the transaction of other business of the sections shall be held by all sections at the time and place as set forth in the respective By-Laws of each section, provided that said meetings shall take place before or at the time and place of the annual meeting of the Louisiana State Bar Association.

(Amended April 23, 1983; January 24, 2004)

### **Section 7. Finances and Financial Responsibility~~Expenses~~**



Individual sections shall be responsible for payment of all expenses incurred in connection with their activities. Sections that have not adopted expense reimbursement policies shall be subject to the Louisiana State Bar Association's expense reimbursement policies.

(Added January 22, 2005)

Section dues shall be set forth in each section's bylaws and shall be collected at a time and in a manner determined by the Association.

Sections shall remit to the Association on an annual basis an administrative fee to cover the costs of section staffing, administration and overhead. This fee shall be set by the Association's Board of Governors and shall be reviewed every three years.

The Executive Director of the Association shall serve as ex-officio treasurer of each section and shall receive and account for dues and other funds received on behalf of each section. The ex-officio treasurer shall retain custody of all section funds in an account or accounts of the Association, and shall act as disbursing agent for each section, subject to approval by an officer of that section.

### **Section 8. Legislative Activity and Lobbying**

Any section of the Association that desires the Association to take a position on pending legislation shall inform the Legislation Committee through its staff liaison or the Executive Director of the exact nature of the proposed legislation and the section's recommended position as soon as is practicable after the introduction of the legislation, but not later than the final meeting of the Legislation Committee as set forth in the Association's legislative calendar.

Any section desiring to sponsor legislation shall inform the Legislation Committee through its staff liaison or the Executive Director of the exact nature of the proposed legislation no later than December 1 for consideration by the Legislation Committee. The section shall provide to the Legislation Committee: (a) the specific legislation or policy which is proposed; (b) a summary of existing law; (c) principal known proponents and opponents of the legislation or policy and, if possible, a brief statement of the reasons for opposition or support by the other interests; (d) a list of any other sections of the Association which may have an interest in the legislation or policy; and (e) the position which the section recommends be adopted by the Association.

No section, or any member of a section in his or her capacity as such, shall express a position to the public or engage in legislative activity without prior review by the Legislation Committee and authorization from the Board of Governors.

### **Section 89. Filing of Amicus Briefs by Sections**

The following policies and procedures will apply to the filing of amicus briefs by any and all sections of the Louisiana State Bar Association.

1. Each President of the LSBA will appoint a Committee of three (3) attorneys who practice law in the State of Louisiana. The President will also appoint two (2) alternate members of the Committee in the event that a committee member is unable to satisfy his or her

duties at the appropriate time, and/or must recuse him or herself. The President shall act under his or her authority and discretion in appointing Committee members who he or she believes has the requisite legal expertise to participate in the determination of whether a Section should be allowed to file an amicus brief under these Rules. The Committee will have the sole responsibility for determining the propriety of an LSBA Section filing an amicus brief.

2. In determining whether a Section should be allowed to file a proposed amicus brief, the Committee will be governed by the following limitations and conditions: Any proposed brief shall not be in conflict with any of the rules, regulations, policies and procedures of the LSBA, or any section of the LSBA. Moreover, the proposed brief must be related to and relevant to the administration of justice. Specifically, amicus briefs may be authorized only when such briefs involve legal questions relating to the regulation of the profession, improving the administration of justice, or the quality of legal services, but may not be authorized for matters that are ideological or political in nature.
3. A Section seeking authority to file an amicus brief must file an application with the Committee as outlined in paragraph 6 of these Rules and must comply with certain conditions and limitations:
  - a. A Section shall be allowed to expend funds in its efforts to file an amicus brief, but no funds of the LSBA will be expended for such purpose, nor will the LSBA reimburse any Section for funds expended for the filing of an amicus brief. The Section must bear all expenses related to the filing of the proposed brief and no legal fees may be paid by the Section for the filing of such brief.
  - b. Any action taken by a Section pursuant to this provision shall be clearly identified as the action of the Section and not that of the LSBA. Such proposed brief must, as a preamble, contain the following disclaimer in capital letters, underlined with bold print:

**THIS POSITION IS BEING PRESENTED ONLY ON BEHALF OF THE (INSERT SECTION NAME) SECTION OF THE LOUISIANA STATE BAR ASSOCIATION. THIS POSITION SHOULD NOT BE CONSTRUED AS REPRESENTING THE POSITION OF THE BOARD OF GOVERNORS, THE EXECUTIVE COMMITTEE, OR THE GENERAL MEMBERSHIP OF THE LOUISIANA STATE BAR ASSOCIATION. THE (INSERT SECTION NAME) SECTION WHICH TAKES THIS POSITION IS A VOLUNTARY SECTION OF (INSERT TOTAL MEMBERSHIP) MEMBERS COMPOSED OF LAWYERS PRACTICING IN A SPECIFIED AREA OF LAW.**

**THIS POSITION IS TAKEN AS THE RESULT OF A VOTE OF (VOTE COUNT) TO (VOTE COUNT) OF THE EXECUTIVE COMMITTEE OF THE (INSERT SECTION NAME) SECTION, WHICH IS THE GOVERNING BODY OF THAT SECTION. NO APPROVAL OR DISAPPROVAL OF THE GENERAL MEMBERSHIP OF THE SECTION HAS BEEN OBTAINED.**

If the general membership of this Section has approved the Section's position, paragraph II of the disclaimer may be omitted.

4. The Section proposing the filing of an amicus brief must comply with its own rules, bylaws, and/or regulations concerning the assertion of the position in the brief and/or the filing of the brief itself. Moreover, the Section must inform its general membership of the action taken in a manner that is consistent with such Section's rules, bylaws, and/or regulations. In order to allow the Committee a fair and adequate opportunity to determine whether a Section should file a proposed brief, the following requirements must be satisfied:
  - a. The Section proposing the filing of a brief must give the Committee a minimum of ten (10) days notice prior to the due date of filing, which notice shall consist of the following information:
    - i. Caption of the case.
    - ii. Last court to render a decision in the case.
    - iii. Court in which the proposed brief is to be filed. The Committee will generally only consider briefs to be filed with the Louisiana Supreme Court. (Please attach a copy of the decision or order appealed from, accompanying opinion and other relevant documents, including briefs of the parties.)
    - iv. Date by which the proposed amicus brief must be filed.
    - v. Full statement of the relevant facts of the controversy.
    - vi. A statement of whether the policy of principle of law to be supported has been adopted by the LSBA or any Section thereof.
      - aa. If yes, please provide the reference to and full quotation of the relevant policy or principle of law by the House of Delegates, the Board of Governors, or other authoritative action by the LSBA.
      - bb. If the application seeks authority to file an amicus brief in support of a position or principle of law which has not been adopted by the Association or by a Section, please provide a concise statement of the policy position to be supported and a statement of reasons why it should be adopted by the Section.
    - vii. A statement as to the reasons why this controversy is important for Section participation and why the Section's participation would assist the Court in reaching its decision, including why this would be an additional contribution to that advanced by either party to the controversy.
    - viii. The names and firm connections, if any, of those who have written or who would write the brief on behalf of the Section.
    - ix. A listing of all sections, divisions, or committees which have any interest in the issue presented with a notation of whether a copy of the application has been sent to each and what each entity's position is. Failure to provide these entities with adequate notice could result in denial of the application, but may not result in such denial by the Committee, in its discretion. If possible, these entities should be consulted and their positions ascertained prior to submission of the application. The application shall discuss what has been done in this respect and the position, if any, of the other entities.
    - x. The Section must attach a copy of the draft brief.

5. The Committee's decision to allow the filing of an amicus brief by a Section must be unanimous, and the Committee must respond to the application within seven (7) days of receipt. If, however, one member of the Committee is a member of the Section's Executive Committee that is proposing the filing of the brief, and/or is a member of a law firm which has direct or indirect involvement with the controversy before the Court, that committee member should recuse him or herself, and the President should appoint one of the alternate members to consider the proposed filing of the amicus brief. The Committee's decision is final and there shall be no appeals of the Committee's decision to the LSBA Board of Governors, Executive Committee, or House of Delegates.  
(Added January 22, 2000)

#### Section 10. Section Council

There shall be a Section Council which shall be composed of the chair of each section, or his/her designee. The Section Council shall have co-chairs who shall serve one-year terms and convene over all Council meetings. One co-chair shall be elected from the section representatives and the other shall be a designee by and from the Association's Executive Committee.

The Section Council shall be charged with reviewing and discussing matters of interest to the sections, and with making recommendations regarding same to the Board of Governors and/or House of Delegates.

The Section Council shall meet during the Association's Annual and Midyear Meetings, and at other such times and designated by the Council co-chairs.

**RESOLUTION TO THE LOUISIANA BAR ASSOCIATION  
HOUSE OF DELEGATES  
REGARDING INCREASING THE CAP  
FOR MEDICAL MALPRACTICE CASES**

WHEREAS, a Bill has been introduced in the Louisiana State Legislature to increase the limitations of liability (Cap) in the Louisiana Medical Malpractice Act;

WHEREAS, the Legislation Committee is in need of guidance on the issue from the House of Delegates;

WHEREAS, the Louisiana Malpractice Act along with its limitations of liability of \$500,000.00 first took effect in the year 1976; and

WHEREAS, it is now the year 2010, more than thirty years since the Louisiana Medical Malpractice Act took effect, and there has never been an increase in the limitation of liability (Cap) even to take into account inflation.

NOW, THEREFORE BE IT RESOLVED, that the House of Delegates determine what position, if any, the Louisiana State Bar Association should take regarding an increase in the limitations of liability (Cap) in the Louisiana Medical Malpractice Act.

Respectfully Submitted,  
LEGISLATION COMMITTEE



Michael W. McKay, Chair

B. Scott Andrews  
Paula Adams Ates  
Adrienne Landry Baumgartner  
Julie J. Baxter  
Charles C. Bourque, Jr.  
Dana B. Brown  
Thomas C. Cerullo  
Dean A. Cole  
Hon. Sylvia R. Cooks  
Steven G. Durio  
Val Patrick Exnicios  
Geraldyn P. Garvey

Franchesca Lynette Hamilton-Acker  
Craig F. Holthaus  
Philip G. Hunter  
Keenan Kirk Kelly  
Robert A. Kutcher  
Thomas L. Lorenzi  
Deanna Dunham McCallum  
Jennifer Monique Medley  
Marta-Ann Schnabel  
Ronald J. Sholes  
Nicholas Jacob Zeringue  
John David Ziober

**APPROVED BY HOUSE  
OF DELEGATES  
JUNE 11, 2010  
DESTIN, FL**

**APPROVED BY BOARD  
OF GOVERNORS  
JUNE 11, 2010  
DESTIN, FL**

**RESOLUTION PROPOSED BY THE  
LAWYERS IN TRANSITION COMMITTEE  
OF THE LOUISIANA STATE BAR ASSOCIATION**

**WHEREAS**, the Lawyers in Transition Committee (“Committee”) was appointed by the LSBA and charged with the responsibility to study the effect on a lawyer’s clients when a lawyer is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice, and to develop a procedure to implement a system of orderly transition to another lawyer in order to protect the interests of that lawyer’s clients;

**WHEREAS**, the Committee studied the local and national issues concerning the effect on clients when a lawyer is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice;

**WHEREAS**, the Committee has examined, reviewed and studied the procedures in place in other states;

**WHEREAS**, the Committee has reviewed recommendations from the ABA in this area; and

**WHEREAS**, the Committee recommends that the attached Recommendations labeled “Exhibit A” be adopted.

**NOW THEREFORE BE IT RESOLVED THAT** the LSBA House of Delegates approve the attached Recommendations of the LSBA Lawyers in Transition Committee.

Respectfully submitted,  
LSBA Lawyers in Transition Committee

---

Edward J. Walters, Jr., Chair  
Mathile W. Abramson  
Aneatra P. Boykin  
Lawrence J. Centola, III  
Anderson O. Dotson, III  
Elizabeth E. Foote  
Judith A. Gainsburgh  
William B. Gaudet  
Lauren A. McHugh, Supreme Court Liaison  
Charles B. Plattsmier, Disciplinary Liaison  
Joseph A. Prokop, Jr.  
Leslie J. Schiff  
Lawrence P. Simon, Jr.  
Sheva M. Sims

This \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**APPROVED BY HOUSE OF DELEGATES  
JUNE 11, 2010  
DESTIN, FL**

**APPROVED BY BOARD OF GOVERNORS  
JUNE 11, 2010  
DESTIN, FL**

## Exhibit "A"

### RECOMMENDATIONS OF THE LAWYERS IN TRANSITION COMMITTEE OF THE LOUISIANA STATE BAR ASSOCIATION

**WHEREAS**, the Lawyers in Transition Committee ("Committee") was appointed by the LSBA and charged with the responsibility to study the effect on a lawyer's clients when that lawyer is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice, and to develop a procedure to implement a system of orderly transition to another lawyer in order to protect the interests of the clients of the lawyer who is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice;

**WHEREAS**, the Committee studied the local and national issues concerning the effect on clients when a lawyer is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice;

**WHEREAS**, the Committee has examined, reviewed and studied the procedures in place in other states;

**WHEREAS**, the Committee has reviewed recommendations from the ABA in this area; the committee recommends as follows:

#### **The Problem**

According to statistics from the American Bar Association, in 2008 there were over 1,000,000 lawyers in the United States. Roughly 74% of those attorneys practice in the private sector and 48% of these private sector lawyers fall into the category of sole practitioners.

With the aging of "baby boomers," by the year 2020 some 250,000 lawyers nationally will reach retirement age. The Louisiana demographics should be similar.

As these "baby boomers" age, many will become ill, disabled or die. This particularly affects the clients of solo practitioners and clients of those who practice in small law firms.

Several states have adopted a system of "Planned Succession" of a lawyer's practice in the event that a lawyer is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice. The "Plan" requires a lawyer to designate another lawyer to be the "caretaker" of his or her practice should he become deceased, disabled, missing for any reason, or the subject of discipline which prohibits him from engaging in law practice, thus easing the transition for that lawyer's clients. While in large firms, or even medium-sized firms, succession of clients from one lawyer to another may be accomplished with some degree of ease, such is not the case for solo practitioners or for many in small firms.

Louisiana has no such structure. Louisiana has no "plan" to have another lawyer serve as "caretaker" to protect the immediate interests of the clients and to assist the client until the client makes a decision as to who the client wishes to have represent him going forward.

The only law that addresses this situation is Louisiana Supreme Court Rule 19, Section 27 which states as follows:

#### **Section 27. Appointment of counsel to protect clients' interests when respondent is transferred to disability inactive status, suspended, disbarred, disappears, or dies.**

**A. Inventory of Lawyer Files.** If a respondent has been transferred to disability inactive status, or has disappeared or died, or has been suspended or disbarred and there is evidence that he or she has

not complied with Section 26, and no partner, executor or other responsible party capable of conducting the respondent's affairs is known to exist, the presiding judge in the judicial district in which the respondent maintained a practice or a lawyer member of the disciplinary board should the presiding judge be unavailable, upon proper proof of the fact, shall appoint a lawyer or lawyers to inventory the files of the respondent, and to take such action as seems indicated to protect the interests of the respondent and his or her clients.

**B. Protection for Records Subject to Inventory.** Any lawyer so appointed shall not be permitted to disclose any information contained in any files inventoried without the consent of the client to whom the file relates, except as necessary to carry out the order of the court which appointed the lawyer to make the inventory.

## **The Proposal**

Several other states have enacted a structure which requires each lawyer to designate another lawyer who is willing to serve as a “caretaker” of the first lawyer’s practice should he become deceased, disabled, missing for any reason, or the subject of discipline which prohibits him from engaging in law practice. What the Lawyers in Transition Committee proposes is that Louisiana adopt such a plan.

## **The Structure**

The structure of the plan is that yearly, on each lawyer’s registration statement, the lawyer shall designate one lawyer who has agreed to be that lawyer’s “Caretaker Attorney” in case the first lawyer is deceased, disabled, becomes missing for any reason, or is the subject of discipline which prohibits him from engaging in law practice.

This position is variously referred to in other states as “Inventory Attorney” (Florida), “Caretaker Attorney” (New York), “Assisting Attorney” (Oregon), “Receiver” (Maine), “Attorney Surrogate” (Indiana) and “Assisting Attorney” (North Carolina).

The committee is drafting a “Handbook” which will provide helpful instructions to the “Caretaker Attorney” concerning the requirements of his or her job and will provide certain forms which may be used by the “Caretaker Attorney” to help accomplish his task. Once we have the approval of the Court, and after the Court gives us some guidance on a few points, we can complete the “Handbook” and submit it to the Court for approval.

The structure of this plan includes the following elements:

1. Before being appointed, the “Caretaker Attorney” must be in good standing with the Louisiana State Bar Association;
2. The structure requires a court order to begin the process. There needs to be an “official start” and an “official end” monitored by the court so that the “Caretaker Attorney” has the ability to take necessary steps on behalf of the other lawyer’s clients. The court order will clearly delineate the Caretaker Attorney’s duties and responsibilities; and
3. The role of the “Caretaker Attorney” would be that of “caretaker” of the lawyer’s practice by stepping in to protect the immediate interests of each client and to assist the client until the client makes a decision as to who the client wishes to have represent him going forward.

## **The ABA**

The ABA approached the sole practitioner’s death or disability by adding Comment 5 to Rule 1.3 of the



Model Rules of Professional Conduct. Rule 1.3 and Comment 5 follow:

**Rule 1.3: Diligence**

A lawyer shall act with reasonable diligence and promptness in representing a client.

**Commentary**

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).

In 2007 nineteen states have adopted both Rule 1.3 (which Louisiana has done) and Comment 5 (which Louisiana has not done).

The Committee requests that the House of Delegates suggest to the Louisiana Supreme Court that the Court adopt Comment 5.

**Limited Immunity**

The Committee asks that the House of Delegates suggest that the Louisiana Supreme Court approve the concept of "Caretaker Attorney" and approve an amendment to Louisiana Supreme Court Rule 19, Section 12 which would provide limited immunity to "Caretaker Attorneys" for any civil liability for any action or inaction during the limited time they serve as "Caretaker Attorneys." and such immunity be limited to immunity from suit for any conduct in the course of their official duties or reasonably related to their official duties.

It is suggested that Rule 19, Section 12 be amended to state as follows:

**Section 12. Immunity.**

**A. From Civil Suits.** Communications to the board, hearing committees, or disciplinary counsel relating to lawyer misconduct or disability and testimony given in the proceedings shall be absolutely privileged, and no lawsuit predicated thereon may be instituted against any complainant or witness. Members of the board, members of the hearing committees, disciplinary counsel, staff, probation monitors and monitoring lawyers appointed pursuant to this rule or its appendices, inventorying lawyers and caretaker attorneys appointed pursuant to Section 27, members of the Ethics Advisory Committee adopted by resolution to the House of Delegates and approved by the Board of Governors of the Louisiana State Bar Association on November 2, 1991 and members of the Lawyer Advertising Advisory Service Committee adopted by resolution to the House of Delegates and approved by the Board of Governors of the Louisiana State Bar Association on June 9, 1995, shall be immune from suit for any conduct in the course of their official duties or reasonably related to their official duties.

**NOW THEREFORE BE IT RESOLVED THAT** the LSBA House of Delegates approve these

Recommendations of the LSBA Lawyers in Transition Committee.

Respectfully submitted,  
LSBA Lawyers in Transition Committee

---

Edward J. Walters, Jr., Chair  
Mathile W. Abramson  
Aneatra P. Boykin  
Lawrence J. Centola, III  
Anderson O. Dotson, III  
Elizabeth E. Foote  
Judith A. Gainsburgh  
William B. Gaudet  
Lauren A. McHugh, Supreme Court Liaison  
Charles B. Plattsmier, Disciplinary Liaison  
Joseph A. Prokop, Jr.  
Leslie J. Schiff  
Lawrence P. Simon, Jr.  
Sheva M. Sims

This \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**RESOLUTION TO THE LOUISIANA BAR ASSOCIATION  
HOUSE OF DELEGATES  
REGARDING RULES OF PROFESSIONAL CONDUCT**

WHEREAS, in the wake of the April 20 Deepwater Horizon oil rig explosion and resulting massive oil spill, the Louisiana State Bar Association Board of Governors would like to remind the 21,000 lawyers licensed in Louisiana of the Rules of Professional Conduct regarding solicitation of clients;

WHEREAS, the Rules of Professional Conduct prohibit solicitation of employment through unwanted personal visits or telephone calls by an attorney with whom the client has no prior association, or by someone acting on that attorney's behalf;

WHEREAS, the Rule of Professional Conduct further prohibit an attorney from initiating written communications within 30 days of an accident or disaster;

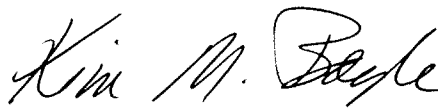
WHEREAS, the Louisiana State Bar Association has taken steps to ensure that Louisiana's citizens are armed with the knowledge needed to make thoughtful, educated decisions about possible legal representation; and

WHEREAS, the Board of Governors wants to ensure that the legal profession is represented honorably and ethically by the members of the Louisiana State Bar Association.

NOW, THEREFORE BE IT RESOLVED that the House of Delegates reiterate the Association's mission to assist its members in the practice of law, assure access to and aid in the administration of justice, and assist the Supreme Court in the regulation of the practice of law, uphold the honor of the courts and the profession, and increase public understanding of and respect for the law; and

AND BE IT FURTHER RESOLVED that the House of Delegates join the Board of Governors in its unfailing support of the Rules of Professional Conduct as promulgated by the Louisiana Supreme Court.

Respectfully Submitted,  
BOARD OF GOVERNORS



Kim M. Boyle, President

**APPROVED BY HOUSE OF DELEGATES  
JUNE 11, 2010  
DESTIN, FL**

**APPROVED BY BOARD OF GOVERNORS  
JUNE 11, 2010  
DESTIN, FL**