



Louisiana  
State Bar  
Association

*Serving the Public. Serving the Profession.*

**HOUSE OF DELEGATES**  
**9 a.m. Saturday, January 19, 2019**  
**Renaissance Raton Rouge Hotel**

**MINUTES**

President Barry Grodsky called the meeting of the House of Delegates of the Louisiana State Bar Association to order at 9:15 a.m., Saturday, January 19, 2019. Business was conducted in accordance with the agenda below.

Prior to convening the House of Delegates meeting, the following awards were presented:

- LSBA Citizen Lawyer Awards – presented by President Barry H. Grodsky:
  - Jasmine N. Brown, Metairie
  - Steven J. Farber, New Orleans
  - Hon. Peter J. Garcia, Covington
  - Britney A. Green, Shreveport
  - G. Trippe Hawthorne, Baton Rouge
  - Elizabeth S. Sconzert, Mandeville
  - Scott L. Sternberg, New Orleans
  - Hon. Lisa M. Woodruff-White, Baton Rouge
  
- LCLCE Judge Benjamin Jones Judges in the Classroom Award – presented by LCLCE President Hon. Randall L. Bethancourt:
  - Hon. Robin D. Pittman
  
- President Grodsky recognized members of the Leadership LSBA 2018-2019 Class:
  - Denia S. Aiyegbusi, New Orleans
  - Alyson V. Antoon, Lake Charles
  - R. Danielle Barringer, Baton Rouge
  - Taryn C. Branson, Baton Rouge
  - Cortney M. Dunn, Lake Charles
  - Valerie E. Fontenot, New Orleans
  - Sanae D. Hall, Shreveport
  - Teresa D. King, Houma
  - Melissa M. Lessell, New Orleans

- Collin R. Melancon, New Orleans
- Christopher R. Mistich, New Orleans
- Ronald J. Sholes, Jr., Metairie
- Joseph B. Williams III, Lake Charles
- Aaron R. Wilson, Bossier City
- Betty Ann Maury, Co-Chair, Gretna
- Christopher J. Seller, Jr., Co-Chair, New Orleans

## A G E N D A

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

*Mr. McAuliffe certified that a quorum was present. 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 to recognize.*

### **General Session**

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

*There were no oral reports from Standing Committees of the House.*

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

#### 1. Barry H. Grodsky, President

*Mr. Grodsky reported that 2018/2019 has been a productive year to date based on the following:*

- *The amended Code of Professionalism, as approved by the HOD in January 2018, was approved by the Louisiana Supreme Court and distributed to all LSBA members;*
- *The LSBA embarked on a new strategic planning process, which included a membership survey, stakeholder surveys and a retreat. The plan is being finalized, with implementation to begin in FY 2019/2020;*
- *With the assistance of Section Council Chair Val P. Exnicios, a number of sections have committed to sponsoring full scholarships for members of the Leadership LSBA class and other young lawyers to attend the 2019 Annual Meeting/Summer School for Lawyers and Judges; and*
- *Access to Justice and Outreach initiatives are continuing.*

*Mr. Grodsky also reported on the Janus and Fleck cases, which pose challenges to mandatory bar associations. He stressed the importance of mandatory bars not engaging in political or divisive issues and encouraged the Legislation Committee and House of Delegates to consider positions in the context of these challenges.*

*Mr. Grodsky thanked those who assisted him as president: officers, Board members, committee and section chairs and staff.*

2. Robert A. Kutcher, President-Elect  
*Mr. Kutcher thanked Mr. Grodsky for his myriad efforts on behalf of the LSBA and the profession.*
3. John E. McAuliffe, Jr., Secretary  
*Mr. McAuliffe waived his report.*
4. Shayna L. Sonnier, Treasurer  
*Ms. Sonnier reported that the LSBA was financially solvent and on track with its 2018/2019 budget.*

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

*Committee reports were emailed in advance of the House of Delegates meeting.*

**VI. Other Reports**

*There were no other reports.*

**Activities of the House of Delegates**

**VII. Old Business**

*There was no old business to come before the House.*

**VIII. Approval of Minutes**

Consideration of approval of the Minutes of the June 7, 2018 meeting of the House of Delegates, held in Destin, Florida.

*Upon motion by Robert Kutcher, 24<sup>th</sup> Judicial District by proxy from Simone B. Boustead, and second by Val P. Exnicios, Class Action, Mass Tort and Complex Litigation Section, the House unanimously approved the minutes as presented.*

**IX. Elections**

1. Election of one member to serve a three-year term on the House of Delegates Liaison Committee, to commence at the conclusion of the 2019 Annual Meeting and end at the conclusion of the 2022 Annual Meeting. This member shall be elected from House of Delegates members representing the 1<sup>st</sup> through 19<sup>th</sup> Judicial Districts.

*Mr. Grodsky opened the floor for nominations. Michael B. Holmes, 33<sup>rd</sup> Judicial District, nominated Charles D. Elliott of the 9<sup>th</sup> Judicial District, which nomination was duly seconded. Mr. Exnicios nominated Ann S. Siddall of the 7<sup>th</sup> Judicial District, which nomination was duly seconded. C. Frank Holthaus of the 19<sup>th</sup> Judicial District spoke in favor of Ms. Siddall. The nominations were closed and the House elected Ms. Siddall by voice vote.*

2. Election, from the three Liaison Committee members, of a Chair of the House of Delegates Liaison Committee for 2019-2020, whose term will commence at the conclusion of the 2019 Annual Meeting. The Chair of the Liaison Committee is a voting member of the Board of Governors.

*Mr. Grodsky announced that the House would elect a 2019/2020 chair from the three committee members: Shayna Beevers Morvant of the 24<sup>th</sup> Judicial District, Jeffrey A. Riggs of the 15<sup>th</sup> Judicial District and Ms. Siddall of the 7<sup>th</sup> Judicial District, noting that the chair is a voting member of the Board of Governors.*

*Mr. Exnicios nominated Mr. Riggs, which nomination by duly seconded. Michael E. Holoway of the 22<sup>nd</sup> Judicial District nominated Ms. Morvant, which nomination was duly seconded. The nominations were closed and the House elected Ms. Morvant by voice vote.*

3. Election of a member of the House of Delegates to serve on the Budget Committee for the term beginning July 1, 2019 and ending June 30, 2021.

*After being nominated by B. Scott Andrews of the 19<sup>th</sup> Judicial District, which nomination was duly seconded, Jack K. Whitehead, Jr. of the 19<sup>th</sup> Judicial District was elected by acclamation.*

## **X. Resolutions**

### **Committee Resolution**

1. Resolution from the Criminal Justice Committee asking the LSBA to adopt the following recommendations regarding bail and pretrial detention:

- Shift the system's reliance on money bail toward a focus on risk to public safety;
- Create clear policies and procedures for determining whether to detain or release individuals, and ensure those policies provide for access to meaningful legal representation;
- Restore the constitutionally-mandated presumption of release and require pretrial detention only when allowed by law and when strictly necessary;
- Create a statewide data collection system that can be used to increase uniformity and consistency in bail setting practices; and
- Urge the judiciary, district attorneys, public defenders, sheriffs, and all stakeholders involved in bail and retrial detention to consider adoption of tools and methods for carrying out these recommendations.

*Criminal Justice Committee Chair Graham Bosworth introduced the resolution and spoke in favor of its adoption. James E. Boren of the 19<sup>th</sup> Judicial District moved its adoption, which motion was duly seconded. Mr. Holmes spoke against the resolution. Jesse H. Bankston, Jr., spoke in favor of tabling the resolution and motioned for same. The motion was duly seconded and the House voted by voice vote to TABLE the resolution.*

### **Board of Governors Resolution**

2. Resolution from the Board of Governors that the LSBA recommend to the Louisiana Supreme Court amendments to Rule XIX, Section 24 (E)(3) to clarify the Judges and Lawyers Assistance Program's (JLAP) role in lawyer discipline cases, and support JLAP's duties, programming and mission in the realm of monitoring lawyers in disciplinary cases. *This resolution was WITHDRAWN prior to the opening of the House meeting.*

### **Member Resolutions**

3. Resolution from R. Bradley Lewis, 22<sup>nd</sup> Judicial District, asking the House of Delegates to direct the LSBA to:

- Conduct a membership survey to determine whether the majority of its members would prefer to have the annual meeting held within the State of Louisiana and to consider the likelihood that doing so would increase attendance at the annual meeting; and
- Explore appropriate places within the State of Louisiana where the annual meeting could be held, and report same to the House of Delegates at its June 2019 meeting, along with what year the annual meeting could be held at such appropriate places within the State of Louisiana.

*Mr. Lewis introduced the resolution and moved its adoption, which motion was duly seconded. Mr. Lewis spoke in favor of the resolution. The following members submitted salmon slips and spoke to the resolution:*

- *Against – Val P. Exnicios, Class Action, Mass Tort and Complex Litigation Section*
- *For – Ben E. Clayton, 22<sup>nd</sup> Judicial District*
- *Against – Richard K. Leefe, Past President and 24<sup>th</sup> Judicial District*
- *Against – Phillip A. Wittmann, 41<sup>st</sup> Judicial District*

*Mr. Grodsky recognized Mr. Kutcher for a point of clarification.*

*The question was called and a voice vote was taken. However, the voice vote was inconclusive and Mr. Grodsky asked House members for a show of hands. The resolution FAILED by a vote of 86-76.*

4. Resolution from David A. Szwak, Consumer Protection Section, and Vercell Fiffie, 40<sup>th</sup> Judicial District, asking the House of Delegates to recommend to the Louisiana Supreme Court that:
  - it discontinue the use of consumer credit reports and credit scores as part of the character and fitness process for admission to the Louisiana State Bar Association; and
  - it discontinue the use of consumer credit reports and credit scores by the Office of Disciplinary Counsel.

*Mr. Szwak introduced the resolution and moved its adoption, which motion was seconded by Lynn Luker, Civil Law and Litigation Section. Mr. Szwak spoke in favor of the resolution. The following members submitted salmon slips and spoke to the resolution:*

- *Against – Joseph J. Shea, Jr., Past President and 1<sup>st</sup> Judicial District*
- *For – Lynn Luker, Civil Law and Litigation Section*
- *Against – Jack K. Whitehead, Jr., 19<sup>th</sup> Judicial District*
- *Against – John E. McAuliffe, Jr., Secretary and UPL Committee Chair*
- *For – Adrian F. LaPeyronnie III, 24<sup>th</sup> Judicial District*

*The question was called and the House APPROVED the resolution via voice vote.*

## **Louisiana Board of Legal Specialization Resolutions**

5. Resolution from the Louisiana Board of Legal Specialization to amend Estate Planning and Administration Standards regarding continuing legal education programs.  
*After introduction by LBLs Chair Carl Servat III and upon motion and second, the House unanimously APPROVED the resolution.*
  
6. Second resolution from the Louisiana Board of Legal Specialization to amend Estate Planning and Administration Standards regarding basic requirements.  
*After introduction by Mr. Servat and upon motion and second, the House APPROVED the resolution.*  
  
*Mr. Exnicios moved for a waiver of the rules in order to take the final three resolutions together. The motion was seconded by failed to receive the required vote to suspend the rules.*
  
7. Resolution from the Louisiana Board of Legal Specialization to amend Family Law Standards to add additional topics of limited importance which may be included on the exam.  
*After introduction by Mr. Servat and upon motion and second, the House APPROVED the resolution.*
  
8. Resolution from the Louisiana Board of Legal Specialization to amend Tax Law Standards regarding basic requirements.  
*After introduction by Mr. Servat and upon motion and second, the House APPROVED the resolution.*
  
9. Resolution from the Louisiana Board of Legal Specialization to amend Appellate Practice Standards regarding basic requirements.  
*After introduction by Mr. Servat and upon motion and second, the House APPROVED the resolution.*

## XI. **Other Business**

Consideration of any other business to come before the House of Delegates.

*Eric P. Duplantis, 16<sup>th</sup> Judicial District, thanked the LSBA staff for assisting with his accommodation regarding his hearing impairment.*

*There being no further business, the meeting was adjourned at 11 a.m.*

Respectfully submitted:



John E. McAuliffe, Jr.  
Secretary

**APPROVED BY HOUSE OF DELEGATES  
JUNE 6, 2019  
MIRAMAR BEACH, FL**

**ADDENDUM**  
**2018-2019 HOUSE OF DELEGATES**  
**ATTENDANCE - 2019 MIDYEAR MEETING**

**FIRST JUDICIAL DISTRICT (14 seats) Parish of Caddo**

Claude W. Bookter, Jr.  
PRESENT Clinton M. Bowers  
PRESENT James L. Fortson, Jr.  
PRESENT Stephen Christopher Fortson  
Daryl Gold  
PRESENT W. James Hill III  
PRESENT Richard M. John  
PRESENT Lauren B. McKnight  
PRESENT Amy Michelle Perkins  
PRESENT Nyle A. Politz  
PRESENT Joseph L. Shea, Jr.  
PRESENT Kenneth Craig Smith, Jr.  
PRESENT Scott R. Wolf  
PRESENT Paul L. Wood

**SECOND JUDICIAL DISTRICT (3 seats) Parishes of Bienville, Claiborne & Jackson**

Tammy G. Jump

**THIRD JUDICIAL DISTRICT (3 seats) Parishes of Lincoln & Union**

PRESENT Paul Heath Hattaway  
PRESENT Albert Carter Mills IV  
PRESENT Tyler G. Storms

**FOURTH JUDICIAL DISTRICT (11 seats) Parishes of Morehouse & Ouachita**

Martin Shane Craighead  
PRESENT Dianne L. Hill  
Daniel J. Hunter  
Marcus L. Hunter  
Robert S. Noel II  
PRESENT Ramsey L. Ogg  
PRESENT Dayna Michelle Ryan  
Arthur L. Stewart  
PRESENT William Michael Street  
PRESENT Peggy J. Sullivan  
PRESENT Thomas G. Zentner, Jr.

**FIFTH JUDICIAL DISTRICT (3 seats) Parishes of Franklin, Richland, & West Carroll**

John Clay Hamilton  
John Hoychick, Jr.  
PRESENT Matthew Kyle Moore



**SIXTH JUDICIAL DISTRICT (2 seats) Parishes of East Carroll, Madison & Tensas**

PRESENT George F. Fox, Jr.

**SEVENTH JUDICIAL DISTRICT (2 seats) Parishes of Catahoula & Concordia**

PRESENT Joseph A. Boothe

PRESENT Ann S. Siddall

**EIGHTH JUDICIAL DISTRICT (1 seat) Parish of Winn**

Justin Keith Gates

**NINTH JUDICIAL DISTRICT (7 seats) Parish of Rapides**

PRESENT Charles D. Elliott

PRESENT Alainna R. Mire

Harold A. Murry

Amani C. Perkins

PRESENT Stephen D. Wheelis BY PROXY TO Edward L. Tarpley, Jr.

PRESENT David M. Williams

PRESENT Zebulon M. Winstead BY PROXY TO Amanda Barnett

**TENTH JUDICIAL DISTRICT (2 seats) Parish of Natchitoches**

Keenan K. Kelly

Richard Bray Williams

**ELEVENTH JUDICIAL DISTRICT (1 seat) Parish of Sabine**

Rebecca Riall

**TWELFTH JUDICIAL DISTRICT (2 seats) Parish of Avoyelles**

PRESENT Douglas L. Bryan

PRESENT Dan B. McKay, Jr.

**THIRTEENTH JUDICIAL DISTRICT (2 seats) Parish of Evangeline**

Abby Bergeron Landreneau

PRESENT Christopher Ludeau

**FOURTEENTH JUDICIAL DISTRICT (9 seats) Parish of Calcasieu**

PRESENT Theresa A. Barnatt

PRESENT Cade R. Cole

PRESENT L. Paul Foreman

PRESENT Thomas L. Lorenzi

PRESENT Robert C. McCorquodale BY PROXY TO Joey Williams

John F. Robichaux

PRESENT Michael H. Schwartzberg

PRESENT Chantell Marie Smith

Kenneth M. Wright

**FIFTEENTH JUDICIAL DISTRICT (13 seats) Parishes of Acadia, Lafayette & Vermillion**

Steven G. Durio  
Chase J. Edwards  
Valerie Gotch Garrett  
PRESENT Scott F. Higgins  
Matthew J. Hill, Jr.  
PRESENT Katherine L. Hurst  
PRESENT Andrew B. Mims  
PRESENT Donovan J. O’Pry II  
PRESENT Joseph R. Oelkers III  
PRESENT Jeffrey A. Riggs  
PRESENT Michael D. Skinner  
PRESENT Dwazendra J. Smith  
PRESENT Juliette B. Wade

**SIXTEENTH JUDICIAL DISTRICT (8 seats) Parishes of Iberia, St. Martin & St. Mary**

PRESENT Adolph B. Curet III  
PRESENT Eric P. Duplantis  
PRESENT Pamela A. Lemoins  
PRESENT Marsha McNulty  
PRESENT Andrew Reed  
PRESENT Maggie T. Simar  
PRESENT Anne G. Stevens  
PRESENT Dennis R. Stevens

**SEVENTEENTH JUDICIAL DISTRICT (5 seats) Parish of Lafourche**

PRESENT William N. Abel  
PRESENT Daniel A. Cavell  
PRESENT Marla Mitchell  
PRESENT Robert M. Pugh  
PRESENT Nicholas J. Zeringue

**EIGHTEENTH JUDICIAL DISTRICT (4 seats) Parishes of Iberville, Pointe Coupee & West  
Baton Rouge**

PRESENT J. Lane Ewing, Jr.  
PRESENT Stephen Philibert Jewell  
PRESENT Deidre Deculus Robert  
David M. Tubbs

**NINETEENTH JUDICIAL DISTRICT (21 seats) Parish of East Baton Rouge**

PRESENT B. Scott Andrews  
PRESENT Kelly E. Balfour  
PRESENT Jesse H. Bankston, Jr.  
PRESENT Valerie B. Bargas BY PROXY TO Danielle Basringer  
PRESENT James E. Boren  
Dana B. Brown

PRESENT Douglas J. Cochran  
PRESENT Jean M. Faria  
PRESENT Frank A. Fertitta  
PRESENT Jack Pascal Harrison  
PRESENT Christopher B. Hebert  
PRESENT C. Frank Holthaus  
PRESENT Jay M. Jalenak, Jr. BY PROXY TO Jordan Faircloth  
Susan W. Manuel  
PRESENT Adrian G. Nadeau  
PRESENT Julie Baxter Payer  
PRESENT Lynette Roberson  
PRESENT Mary E. Roper  
PRESENT David Abboud Thomas  
PRESENT Mary Ann M. White  
PRESENT Jack K. Whitehead, Jr.

**TWENTIETH JUDICIAL DISTRICT (2 seats) Parishes of East Feliciana & West Feliciana**

PRESENT Samuel Christopher D'Aquilla  
PRESENT Stewart B. Hughes

**TWENTY-FIRST JUDICIAL DISTRICT (9 seats) Parishes of Livingston, St. Helena & Tangipahoa**

PRESENT Mary E. Heck Barrios  
PRESENT Erik L. Burns  
PRESENT Anthony Todd Caruso  
PRESENT Steven J. Farber  
PRESENT Colt Justin Fore  
PRESENT Ivy Landry Graham  
PRESENT D. Blayne Honeycutt  
Amanda L. Huff Brown  
PRESENT Robert W. Morgan

**TWENTY-SECOND JUDICIAL DISTRICT (12 seats) Parishes of St. Tammany & Washington**

PRESENT Clayton J. Borne IV  
PRESENT Ben E. Clayton  
PRESENT Debra Kay Henkels  
Waldon M. Hingle  
PRESENT Michael E. Holoway  
PRESENT Robert C. Lehman  
PRESENT R. Bradley Lewis  
L. Jay McCreary  
PRESENT Sean M. Morrison  
PRESENT Patrice W. Oppenheim  
Todd C. Taranto

**TWENTY-THIRD JUDICIAL DISTRICT (5 seats) Parishes of Ascension, Assumption & St.**

**James**

PRESENT Christopher J. Bridges  
PRESENT Lana O. Chaney  
PRESENT Michael J. Poirrier  
PRESENT Timothy E. Pujol

**TWENTY-FOURTH JUDICIAL DISTRICT (19 seats) Parish of Jefferson**

PRESENT Simone B. Boustead BY PROXY TO Robert A. Kutcher  
PRESENT Thomas C. Cerullo  
David L. Colvin  
PRESENT Sandra K. Cosby  
PRESENT S. Guy deLaup  
Michael R. Delesdernier  
PRESENT Edwin R. Fleischmann, Jr.  
PRESENT Paul C. Fleming, Jr.  
PRESENT Michael R. Gelder  
PRESENT Christy M. Howley  
PRESENT Adrian F. LaPeyronnie III  
PRESENT Richard K. Leefe  
PRESENT Betty Ann Maury  
Scott W. McQuaig  
PRESENT Shayna Beevers Morvant  
Bryan A. Pfleeger  
PRESENT Roy A. Raspanti  
PRESENT George B. Recile  
PRESENT Tina Louise Suggs

**TWENTY-FIFTH JUDICIAL DISTRICT (2 seats) Parish of Plaquemines**

PRESENT S. Jacob Braud  
PRESENT Dominick Scandurro, Jr.

**TWENTY-SIXTH JUDICIAL DISTRICT (6 seats) Parishes of Bossier & Webster**

PRESENT John Zachary Blanchard, Jr.  
PRESENT Amanda J. Hulett  
PRESENT Patrick R. Jackson BY PROXY TO Aaron Wilson  
PRESENT Ross E. Shacklette  
PRESENT John B. Slattery, Jr.  
PRESENT David L. White

**TWENTY-SEVENTH JUDICIAL DISTRICT (4 seats) Parish of St. Landry**

PRESENT Scherri N. Guidry  
PRESENT Francis A. Olivier III  
PRESENT Ogden L. Pitre  
PRESENT Randy Wagley

**TWENTY-EIGHTH JUDICIAL DISTRICT (1 seat) Parish of LaSalle**

PRESENT Kamra S. Craig

**TWENTY-NINTH JUDICIAL DISTRICT (3 seats) Parish of St. Charles**

PRESENT Steven F. Griffith, Sr.  
Don Paul Landry  
Robert L. Raymond

**THIRTIETH JUDICIAL DISTRICT (3 seats) Parish of Vernon**

PRESENT Wesley R. Bailey  
Mary K. Beaird  
Mark H. Kramar

**THIRTY-FIRST JUDICIAL DISTRICT (1 seat) Parish of Jefferson Davis**

PRESENT Richard M. Arceneaux

**THIRTY-SECOND JUDICIAL DISTRICT (5 seats) Parish of Terrebonne**

PRESENT Charles C. Bourque, Jr.  
James Christopher Erny  
Teresa D. King  
Patricia P. Reeves-Floyd

**THIRTY-THIRD JUDICIAL DISTRICT (2 seats) Parish of Allen**

PRESENT Mary Hebert Holmes  
Michael Bruce Holmes

**THIRTY-FOURTH JUDICIAL DISTRICT (5 seats) Parish of St. Bernard**

PRESENT Roberta L. Burns  
Tracy Helen Duplantier  
Gregory J. Noto  
Gregory W. Rome  
Paul A. Tabary III

**THIRTY-FIFTH JUDICIAL DISTRICT (1 seat) Parish of Grant**

PRESENT Scott M. Prudhomme

**THIRTY-SIXTH JUDICIAL DISTRICT (2 seats) Parish of Beauregard**

**THIRTY-SEVENTH JUDICIAL DISTRICT (1 seat) Parish of Caldwell**

PRESENT Brian E. Frazier BY PROXY TO Don Burns

**THIRTY-EIGHTH JUDICIAL DISTRICT (1 seat) Parish of Cameron**

PRESENT Robert James Sheffield, Jr.

**THIRTY-NINTH JUDICIAL DISTRICT (1 seat) Parish of Red River**

Luke D. Mitchell

**FORTIETH JUDICIAL DISTRICT (3 seats) Parish of St. John the Baptist**

PRESENT Vercell F. Fiffie  
PRESENT Geoffrey M. Michel  
PRESENT William D. O'Regan III

**FORTY-FIRST JUDICIAL DISTRICT (32 seats) Parish of Orleans**

PRESENT Donald R. Abaunza BY PROXY TO Barry H. Grodsky  
PRESENT Glenn B. Adams  
PRESENT Francis J. Barry, Jr.  
PRESENT Ashley L. Belleau  
PRESENT Alicia M. Bendana  
PRESENT Jack C. Benjamin, Jr.  
PRESENT Evan J. Bergeron BY PROXY TO Melissa Lessell  
PRESENT Thomas A. Casey, Jr.  
PRESENT Lawrence J. Centola, III  
PRESENT Justin M. Chopin  
PRESENT Thomas Louis Colletta, Jr. BY PROXY TO Patrick Talley  
PRESENT Richard B. Eason, II  
PRESENT Judith A. Gainsburgh  
PRESENT James C. Gulotta, Jr.  
PRESENT Philip K. Jones, Jr.  
PRESENT Tracy O. Joseph  
PRESENT Mark D. Latham  
PRESENT David W. Leefe  
PRESENT Chadwick J. Mollere  
PRESENT André J. Mouledoux BY PROXY TO Valerie Fontenot  
PRESENT Brian P. Quirk BY PROXY TO Molaison Colin  
PRESENT Christopher K. Ralston  
PRESENT Louis Gravois Schott  
PRESENT Karen B. Sher  
PRESENT Ronald J. Sholes BY PROXY TO Ronald J. Sholes, Jr.  
PRESENT John A. Stassi II BY PROXY TO Courtney Dunn  
PRESENT Patrick A. Talley, Jr.  
PRESENT Irving J. Warshauer  
PRESENT Craig R. Webb  
PRESENT Edward D. Wegmann BY PROXY TO Graham H. Ryan  
PRESENT Phillip A. Wittmann  
PRESENT Jay C. Zainey, Jr.

**FORTY-SECOND JUDICIAL DISTRICT (2 seats) Parish of DeSoto**

PRESENT Dick D. Knadler  
PRESENT Adrienne D. White

**SECTION CHAIRS**

Alyson V. Antoon, Animal Law

Richard J. Arsenault, Insurance, Tort, Worker's Comp & Admiralty Law  
Philip O. Bergeron, Administrative Law  
Susan J. Burkenstock, Trusts, Estate, Probate & Immovable Property Law  
PRESENT Val P. Exnicios, Class Action, Mass Torts & Complex Litigation  
Steven J. Farber, Government & Public Law  
Edgar D. Gankendorff, Art Entertainment & Sports Law  
Kathleen Gasparian, Immigration Law  
Demarcus Gordon, Minority Involvement  
Emily L. Gummer, Intellectual Property  
PRESENT Edward T. Hayes, International Law  
Leland G. Horton, Mineral Law  
Abid Husain, Solo & Small Firm  
Kathryn M. Knight, Labor & Employment  
Louis C. LaCour, Appellate  
PRESENT Lynn Luker, Civil Law & Litigation  
Tristan E. Manthey, Bankruptcy Law  
Alexander M. McIntyre, Antitrust & Trade Regulation  
Mark A. Myers, Alternative Dispute Resolution  
Kathlyn Perez, Labor & Employment  
Warren A. Perrin, Francophone  
John W. Redmann, Bench & Bar  
David L. Schroeder, Corporate & Business Law  
Ryan M. Seidemann, Environmental Law  
H. Bruce Shreves, Fidelity, Surety & Construction Law  
Jacob S. Simpson, Health Law  
PRESENT David A. Szwak, Consumer Protection Law  
Cherish D. van Mullem, Tax  
Michael S. Walsh, Criminal Law  
Melissa K. Watson, Public Utility  
PRESENT Jeffrey S. Wittenbrink, Family Law BY PROXY TO Marcus Foote

RESOLUTION FOR RECOMMENDED REFORMS TO PRETRIAL PRACTICES  
PROPOSED BY  
THE CRIMINAL JUSTICE COMMITTEE  
OF THE LOUISIANA STATE BAR ASSOCIATION

WHEREAS, the mission of the Louisiana State Bar Association's Criminal Justice Committee in part is "to recognize and address issues affecting the Louisiana criminal justice system . . . and develop programs and solutions for fair and effective administration of justice;" and

WHEREAS, Louisiana has the highest pretrial detention rate of any state in the nation and more than double the national average; and

WHEREAS, pretrial detention of low-risk defendants unable to afford money bail implicates Due Process and Equal Protection guarantees and is associated with higher rates of recidivism, both pretrial and post-disposition; and

WHEREAS, the bail system creates a debilitating financial burden on the municipalities that end up shouldering the cost of unnecessarily housing pretrial defendants; and

WHEREAS, the Criminal Justice Committee produced a report on the current state of the bail system, available on the LSBA Criminal Justice Committee webpage, to review practices and make recommendations, based on its findings, for policy changes that would save municipalities money while increasing public safety and reducing recidivism; and

WHEREAS, the report details major holdings and constitutional challenges occurring in Louisiana and other States against the existing bail practices and statutes that condition release and detention on ability to pay rather than through risk assessment, including *In re Humphrey*, 19 Cal. App. 5th 1006 (2018), *O'Donnell v. Harris County*, 892 F. 3d 147 (5th Cir. 2018), and the Louisiana specific holding in *Caliste v. Cantrell*, 2017 WL 6344152 (E.D. La. 2017); and

WHEREAS, these major holdings, and others noted in the Committee's Report, confirm that the constitutional mandates applicable to a State bail system and pretrial detention procedures call into question the constitutionality of the Louisiana pretrial detention procedures and practices, under the Due Process Clause and the Equal Protection Clauses, including financial conflicts of interest in the use of bail bond fees financing the criminal judiciary; and

WHEREAS, the Committee disseminated a survey to all judicial districts to understand the application of pretrial procedures used in various jurisdictions and found that said procedures vary from jurisdiction to jurisdiction and in some cases courtroom to courtroom; and

WHEREAS, the overwhelming majority of courts do not use research-based pretrial risk assessments to predict the likelihood of a defendant's success in returning to court and remaining arrest-free when released on bail;



WHEREAS, a tripartite model for bail decision-making is used by the federal system and supported by the American Bar Association, which includes: 1) release on recognizance for those who pose little risk, 2) non-financial release with a range of supports or supervision for those who pose some degree of risk, and 3) non-financial preventative detention for defendants for whom the court finds, "by clear and convincing evidence, that no conditions of release can reasonably assure the safety of the community or any person;" and

WHEREAS, the timeliness of this report coincides with the passing of two Louisiana House of Representatives Concurrent Resolutions, 97 & 100, during the 2018 legislative session — the former requesting the Department of Insurance to create a Task Force to study the commercial bail bond industry and make recommendations for proposed legislation to "more effectively serve the residents of Louisiana" and the latter urging the Louisiana State Law Institute study "whether a system which provides for the presumed release of a person on unsecured personal surety or bail without surety in lieu of a preset bail schedule would be more successful in ensuring the appearance of the defendant and the public safety of the community. "

NOW, THEREFORE, BE IT RESOLVED, that the Louisiana State Bar Association adopt the following recommendations:

- (1) Shift the system's reliance on money bail towards a focus on risk to public safety;
- (2) Create clear policies and procedures for the determining whether to detain or release an individual and ensure those policies provide for access to meaningful legal representation;
- (3) Restore the constitutionally-mandated presumption of release and require pretrial detention only when allowed by law and when strictly necessary;
- (4) Create a statewide data collection system that can be used to increase uniformity and consistency in bail setting practices; and

BE IT FURTHER RESOLVED, that the LSBA urges the judiciary, district attorneys, public defenders, sheriffs, and all stakeholders involved in bail and pretrial detention to consider adoption of tools and methods for carrying out these recommendations.

Respectfully Submitted,  
LSBA Criminal Justice  
Committee December 14, 2018



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Mr. Graham Bosworth, Esq.  
Criminal Justice Committee  
Chair

TABLED

HOUSE OF DELEGATES & BOARD OF GOVERNORS

JANUARY 19, 2019

BATON ROUGE, LA

## RESOLUTION TO LSBA HOUSE OF DELEGATES

WHEREAS, the Louisiana State Bar Association (LSBA) has for many years held its annual meeting at the Sandestin Resort in Florida;

WHEREAS, attendance by members of the LSBA at the annual meeting has been declining in recent years;

WHEREAS, the LSBA has in excess of 24,000 members and only a few hundred members of the bar association attend its annual meeting at Sandestin Resort, and the leadership of LSBA has expressed concern as to how the bar association could get greater participation in bar activities from its general membership;

WHEREAS, the attendees at the LSBA greatly contributes to the economy of Florida and also to the treasury of the State of Florida through sales, gasoline, and hotel taxes.

WHEREAS, if the annual meeting of the LSBA was held within the State of Louisiana, such meeting would help to stimulate the economy of the State of Louisiana and money spent for sales, gasoline, and hotel taxes would go to the Treasury of the State of Louisiana;

THEREFORE, BE IT RESOLVED that the Louisiana state Bar Association conduct a survey of its members to see if the majority of its members would prefer to have the annual meeting held within the State of Louisiana and to consider the likelihood that doing so would increase attendance at the annual meeting;

BE IT FURTHER RESOLVED that LSBA explore appropriate places within the State of Louisiana to have its annual meeting and report to the House of Delegates at the annual meeting at Sandestin, Florida in June, 2019, as to what year the annual meeting could be held in such appropriate places within the State of Louisiana.

Respectfully submitted,

LOUISIANA STATE BAR ASSOCIATION  
HOUSE OF DELEGATES

A handwritten signature in black ink, appearing to read "R. Bradley Lewis", is written over a horizontal line.

R. BRADLEY LEWIS, MEMBER  
22<sup>nd</sup> JUDICIAL DISTRICT

FAILED BY A VOTE OF 86-76  
HOUSE OF DELEGATES & BOARD OF GOVERNORS  
JANUARY 19, 2019  
BATON ROUGE, LA

**PROPOSED RESOLUTION FROM THE  
LOUISIANA STATE BAR ASSOCIATION HOUSE OF DELEGATES  
TO THE HONORABLE JUSTICES OF THE LOUISIANA SUPREME COURT**

The House of Delegates having held its Mid-Year Meeting on January 19, 2019, and the following Proposed Resolution has been brought by David A. Szwak, of Shreveport, Chairman of the Consumer Protection Section and a Member of the Committee on the Profession, and Vercell Fiffie, of Edgard, and the matter being brought before the House of Delegates for vote and approval:

BE IT RESOLVED THAT the House of Delegates for the Louisiana State Bar Association has considered and voted to approve the following recommended action to the Honorable Justices of the Louisiana Supreme Court for approval and further orders to issue according and as necessary: That the use of consumer credit reports and credit scores as part of the character and fitness process be terminated. Further, that the use of consumer credit reports and credit scores by the Office of Disciplinary Counsel be terminated. For reasons outlined by the proponents of this Resolution, there are a number of substantial problems which make the use of those reports and scores problematic and lacking as a reliable measure for character, fitness and as an investigative device for discipline.

The House of Delegates having approved this Proposed Resolution, the Resolution should be issued to the Honorable Justices of the Louisiana Supreme Court for approval and further orders to issue according and as necessary.

Movers:



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David A. Szwak, LBR #21157  
Bodenheimer, Jones & Szwak, LLC  
416 Travis St., Ste. 1404, Midsouth Tower  
Shreveport, Louisiana  
318-424-1400  
Fax 221-6555



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Vercell Fiffie, LBR #30243  
116 West 1<sup>st</sup> St.  
Edgard, Louisiana 70049  
985-267-9111

**APPROVED**  
**HOUSE OF DELEGATES & BOARD OF GOVERNORS**  
**JANUARY 19, 2019**  
**BATON ROUGE, LA**

**MEMO IN SUPPORT OF  
PROPOSED RESOLUTION FROM THE  
LOUISIANA STATE BAR ASSOCIATION HOUSE OF DELEGATES  
TO THE HONORABLE JUSTICES OF THE LOUISIANA SUPREME COURT**

For many of you who have practiced law for decades, it may come as a surprise to you to learn that the Bar began the practice of using consumer [credit] reports as part of character and fitness investigations of applicants. Further, the ODC uses consumer [credit] reports for investigating and prosecuting ODC charges. While the federal Fair Credit Reporting Act may allow same under 15 U.S.C. 1681b, the actual practice is problematic.

[1] Error Rates of 50% to 90% of all Reports

Consider the error rates for consumer credit reports. Published testimony of industry personnel and studies by non-consumer reporting agencies showed that the error rate is 50%-90% across the board for all reports published by all three national consumer reporting agencies, Experian, Equifax and Trans Union.<sup>1</sup> Despite decades of litigation, monumental damages and punitive damages awards, mainly in the federal court system due to removal and preemption, those agencies have failed to make necessary improvements and corrections. Testimony proved that roughly half of the error rate [25%-45% of all reports] consisted of errors that were so serious that the error[s] would have resulted in the denial of credit, denial of employment, denial of a license, denial of a mortgage, denial of a security clearance, etc. Hence, this is not a mere incorrect address or a contested "typographical error" but includes the kinds of errors discussed below.

So, why are these reports treated as "reliable" when they are anything but reliable? The reports are treated with a presumption of accuracy because it is in a written report. I should not have to remind you all of the countless, daily reports of the nightmares encountered by consumers seeking correction of errors. Some of these processes never resolve. After all, disputes, dispute reinvestigations, dispute corrections, and the like are not profit-centers for the consumer [credit] reporting agencies of their symbiotic partners, the information furnishers, resellers, public record vendors, etc. These error resolution processes are cost-centers. Most of these entities transferred and outsourced these processes to India, South America, the Caribbean and other third world locations. Have any of you tried obtaining corrections by contacting an outsourced call and automated dispute resolution center? It is a horrific and never-ending process.

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<sup>1</sup> See "Credit Reports Are Full of Errors: FTC," American Banker, <https://www.americanbanker.com/news/credit-reports-are-full-of-errors-ftc> [Feb. 11, 2013]; In a deposition taken in February, 1996, in *Sheridan v. Equifax, et al.*, cause no. 95-274-CIV-ORL-22, United States District Court, Middle District of Florida, Judith Chipley, a major Florida-based Mortgage Reporting Company's Credit Investigation Supervisor, testified that in her experience of reviewing credit bureau reports from the three major credit bureaus, TRW, Trans Union and Equifax, she found an error/inaccuracy rate of 50%-90%. In essence, over half of all reports contained errors. Many of the error-ridden reports contained substantial and significant errors. Her job was to reinvestigate the credit reports and compile a thorough, complete mortgage report on the applicants, through use of the data in the three major bureaus' reports on the applicants. Mortgage reports, since it is a protracted, large dollar transaction, are more carefully prepared through reinvestigating the error-ridden reports of the three major bureaus then compiling accurate data for use by the lender. Chipley's statement that more than half of all the reports she reviewed were error-ridden is astounding. Chipley testified that father-son, junior-senior, generational difference and common named persons, suffered at least a 90% error rate virtually insuring their reports are inaccurate. Chipley's testimony was summarized and highlighted in: R. Smith, "*A Look Inside a Credit Bureau's Operation*," Privacy Journal, Vol.22, No.6, p.5 [April 1996]. Oddly, Chipley's laughter was noted on the deposition record as she described the bizarre error rates and problems suffered by consumers. Also, see [https://ivebeenmugged.typepad.com/my\\_weblog/2013/02/ftc-credit-report-errors.html](https://ivebeenmugged.typepad.com/my_weblog/2013/02/ftc-credit-report-errors.html)

[2] In re Mark Carter, ODC Matter, Louisiana State Bar Association

Consider the application of Mr. Carter to become a Louisiana Bar member on transfer from another state where he was a licensed bar member. He was fully qualified however his credit report contained some negative trade line information or at least ODC felt it did. Carter's application was held up, as ODC was convinced Carter lied about his credit usage, and he could not become a Louisiana Bar member and licensed Attorney due to ODC's interpretation of his credit report. A trial was eventually held after inordinate delays and Honorable Andy Gallagher presided. It was proven that Carter's credit report was not being interpreted correctly by ODC. Carter had to pay an attorney, an expert and endure litigation through trial to clear his good name; all due to misinterpretation of his credit report. He has been a successful attorney and contributor to our Bar since.

[3] Identity Theft

Identity theft is "application fraud." It is where a defrauder uses the victim's name or other unique identifier, like social security number, to apply for any form of benefit in the identity of the victim. The defrauder actually assumes the victim's identity. An address accessible by the defrauder is used as the "mail drop." Benefits are directed, via the application to the mail drop. The victim's name [or a permutation or likeness] and the victim's social security number [or a permutation within at least seven of nine digits of the victim's identifier to cause a "hit" on the victim's file] or other unique identifiers are listed on the application. Use of the victim's name and identifier causes the victim's credit file, for example, to be used during issuance of the benefit [for example, victim's credit score used in issuance process] and subsequent reporting of the unpaid fraud charges by the duped creditor attach to the victim's credit file.

Identity theft continues to grow each year.<sup>2</sup> Financial frauds surge in natural disaster areas. Identity theft wreaks havoc on already error-laden consumer reporting databases. Unraveling fraud accounts from non-fraud accounts takes vigilance. The agencies view the consumers-victims as an expense caused by the agencies' symbiotic partners, the creditors, whose furnishing of credit reports on the fraud accounts ends up posting into the victims' files. The agencies cannot charge the consumers to clean up the mess and the agencies would not dare ask their partners to pay thus the agencies muddle along and hope the consumers-victims simply go away or, worse yet, pay the fraud charges to the duped creditors.

[4] Mixed Credit Files

Mixed files result from deficiencies in the consumer reporting agencies' match

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<sup>2</sup> "To be sure, identity theft remains a huge threat that costs businesses \$50 billion a year and plunges victims into a draining, time-consuming battle to eradicate fraudulent activity. The FTC will release a survey this spring, but its most recent figures show that 10 million people, or roughly 4.6% of the adult population, are affected by identity theft each year, and that victims spend an average of \$500 and 30 hours to clear their records. \*\*\* Such [data] breaches have led to an outcry from consumer advocates, and lawmakers across the country moved to enact stiffer penalties and stronger protections. Legislation in Congress has stalled, but many states have enacted laws that force companies to disclose breaches or allow consumers to shield their credit reports from unauthorized access. \*\*\* The FTC's complaint data showed that identity theft accounted for 37% of total fraud complaints. For the fourth year in a row, Washington, D.C., was the leader in total per-capita fraud complaints, and several Western cities led in the category of identity-theft complaints, including Phoenix, Las Vegas and Los Angeles. Meanwhile, identity-theft complaints surged in hurricane-ravaged Louisiana, rising 26% last year, while Mississippi saw an 8% increase. Complaints related to "government documents or benefits" in Louisiana more than doubled, however, to 551 from 247, possibly an indicator of post-Katrina fraud." "ID Theft Complaints Still Rising, but Rate of Increase Slows," The Wall Street Journal [Jan. 29, 2006].

algorithms.<sup>3</sup> First, inadequate inquiry data fields are required to be completed. Then the inquiry data is used in a matching algorithm where an inadequate number of required points of correspondence between the inquiry data is compared to identification data connected to the data in the database. What results is “over-information” a known problem when matching algorithms are loosened up to allow more hits than proper. It results in extraneous information listing as a match for inclusion in the report generated. As examples, father-son/senior-junior-III, partial first name consideration, ignoring last names, common names, 7 of 9 match on social security numbers, etc. There are many forms of mixed files however the common thread is that there is some minimal match process used resulting in over-information in the resultant report. The agencies frequently blame the consumer by claiming inconsistent use of identifiers on credit applications and other writings. The agencies often cover up mixed file issues by claiming identity theft when it really is not.

[5] Student Loans, Gym Club Memberships, Parking Tickets and Other Such Reportings

Student loan debt in America was \$1.3 Trillion dollars at the end of 2015 and had surpassed credit card debts owed by Americans. Student loan debt is now second only to housing debts owed by Americans. Many law students are burdened with excessive student loans. Student loan credit reporting is mandated by the Higher Education Act. The loans have a negative impact on the face of the credit reports as well as economic ratios and credit scores. Making matters worse, in a race to the bottom, agencies seek out new sources of negative information such as gym club membership account data, parking ticket data, tenant data, and every other type imaginable. Any form of negative information is used to tweak the consumer and assess higher interest rates and charges.

Credit reporting and particularly debt collection credit reporting serves no function but to damage the consumer who is the subject of the reportings. Credit reporting is an act of debt collection by debt collection agencies.<sup>4</sup> Credit reporting is a cheap and effective means of damaging the subject consumer which is the intended result sought by the defendants, as furnishers.<sup>5</sup>

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<sup>3</sup> “On December 11, 2002, Comeaux filed this lawsuit under Sections 1681e[b] and 1681i[a] of the Fair Credit Reporting Act [“FCRA”], claiming that a mixed credit file has caused her to be denied credit with various lenders. More specifically, Comeaux claims that Experian combined her credit file with the credit file of another consumer, Mrs. Cindy Carr, thereby causing adverse credit that belonged to Mrs. Carr to be placed in Comeaux's credit file. Some of the inaccurate and derogatory information in Comeaux's credit file included: misspellings of Comeaux's name; that she had filed Chapter 7 bankruptcy; a listing of at least 70 trade lines and collection accounts; that she was married to another woman, Bridget, who is Mrs. Carr's teenage daughter; a listing of Mrs. Carr's home mortgage; that she had joint accounts with Louis Carr, Mrs. Carr's ex-husband; that she worked and lived in New Orleans; a listing of false telephone numbers, employer data; and finally, five different social security numbers, with only one being Comeaux's.” *Comeaux v. Experian Information Solutions*, 2004 WestLaw 1354412 [U.S.D.C. E.D. Tex. June 8, 2004]. Also see, as examples: *Taylor v. Tenant Tracker, Inc.*, 710 F.3d 824, 2013 WL 1235314, [8<sup>th</sup> Cir. [Ark.], March 28, 2013] [Catherine Taylor, a CPA, and her husband applied for federal housing assistance. During a required background check, Tenant Tracker produced a public records report which showed two criminal records for a “Chantel Taylor,” [and other “Taylors”] who were born on the same day as the plaintiff. The report did not explain that the other criminal records [including convictions for sex crimes and multiple financial frauds] related to someone other than plaintiff.]; *Jensen v. Experian Info. Solutions, Inc.*, 2001 U.S.Dist.Lexis 15134, 2001 WestLaw 1045510 [U.S.D.C. E.D. Tex. 2001].

<sup>4</sup> *James v. MRC Receivables Corp., et al*, 2018 WL 3213147 [U.S.D.C. W.D. La. June 29, 2018] [No. 5:16cv00448] [Hicks, J.].

<sup>5</sup> *Rivera v. Bank One*, 145 F.R.D. 614, 623 [D.P.R.1993] [The court held that a creditor's "ability to report on the credit habits of its customers is a powerful tool designed, in part, to wrench compliance with payment terms from its cardholder. [The creditor's] alleged refusal to correct mistaken information can only be seen as an attempt to tighten the screws on a non-paying customer."]; *Bartels v. Retail Credit Co.*, 175 N.W.2d 292 [Neb. 1970] [An erroneous or careless report serves no purpose but to substantially damage the target of the report, who

## Concluding Remarks

Credit reports fall short of a reliable tool to examine character and fitness of a candidate for the Bar. The inaccuracy rates are astounding. If any manufacturer performed with such rates, they would be run out of business. Sadly, because the reports are in writing, the reports are given an unusual presumption of accuracy when it should be the opposite. It falls on the consumer to protest and endure undue punishment and expense to seek corrections. We should recommend putting to an end the use of the reports in our processes.





## **RESOLUTION OF THE LOUISIANA BOARD OF LEGAL SPECIALIZATION TO AMEND ESTATE PLANNING AND ADMINISTRATION STANDARDS**

**WHEREAS**, the Louisiana Board of Legal Specialization is empowered under Section 3.1C of the Louisiana State Bar Association Plan of Legal Specialization to make recommendations to the House of Delegates of the Louisiana State Bar Association with respect to reasonable and non-discriminatory standards concerning education, experience, proficiency and other relevant matters for granting certificates of special competence to lawyers in defined and designated fields of law;

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Estate Planning and Administration Advisory Commission that an amendment to the Standards is in order to revise Section III (A)(3) of the Estate Planning and Administration Law Standards, to make them consistent with the amended Tax Law Standards, which the House of Delegates approved on January 20, 2018; and which presently read:

### **Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS**

#### **A. Program Development and Presentation**

...

3. Program content should be current and 70% or more of the program must be related to estate planning and administration law subjects. No specialization continuing legal education credit will be awarded for attending a program which does not satisfy the 70% requirement.

**WHEREAS**, a determination was made by the Estate Planning and Administration Advisory Commission that the requirement of 70% should be reduced to 50% of a program that must be devoted to estate planning and administration subjects to grant estate planning and administration specialization credit; and furthermore, that if the program does not meet the 50% requirement, that individual sessions will qualify for estate planning and administration credit if 50% or more of the content of the individual session is devoted to estate planning and administration; and that Section III(A)(3) of the Estate Planning and Administration Standards should be amended, consistent with the tax law amendments approved by the House of Delegates on January 20, 2018, as follows:

3. Program content should be current. Estate planning and administration specialization CLE credit will be granted for an entire program if 50% or more of the program is devoted to estate planning and administration subjects. If the program in its entirety does not meet the 50% requirement, individual sessions within the program will qualify for estate planning and administration

specialization CLE credit if 50% or more of the content of the session is devoted to estate planning and administration.

**WHEREAS**, it is the recommendation of the Louisiana Board of Legal Specialization that it would be appropriate to amend Section III(A)(3) of the Louisiana Board of Legal Specialization Estate Planning and Administration Standards to grant estate planning and administration specialization CLE credit for an entire program if 50% or more of the program is devoted to estate planning and administration subjects. If the program in its entirety does not meet the 50% requirement, individual sessions within the program will qualify for estate planning and administration specialization CLE credit if 50% or more of the content of the session is devoted to estate planning and administration.

**NOW, THEREFORE, BE IT RESOLVED** that:

The Louisiana Board of Legal Specialization does hereby resolve that there should be an amendment to Section III(A)(3) of the Louisiana Board of Legal Specialization Estate Planning and Administration Standards to grant estate planning and administration specialization CLE credit for an entire program if 50% or more of the program is devoted to estate planning and administration subjects. If the program in its entirety does not meet the 50% requirement, individual sessions within the program will qualify for estate planning and administration specialization CLE credit if 50% or more of the content of the session is devoted to estate planning and administration;

**FURTHER**, be it resolved that this Resolution be submitted to the House of Delegates of the Louisiana State Bar Association for approval.

Respectfully submitted,

Carl J. Servat III, Chair  
Louisiana Board of Legal Specialization

December 14, 2018  
New Orleans, Louisiana

APPROVED  
HOUSE OF DELEGATES & BOARD OF GOVERNORS  
JANUARY 19, 2019  
BATON ROUGE, LA



## LOUISIANA BOARD OF LEGAL SPECIALIZATION ESTATE PLANNING AND ADMINISTRATION STANDARDS

Pursuant to the authority vested in the Louisiana Board of Legal Specialization (the "Board") by the Supreme Court of Louisiana and on the recommendation of the Estate Planning and Administration Advisory Commission (the "Advisory Commission") the Board promulgates the following standards and requirements for Board certification in estate planning and administration in accordance with the Louisiana State Bar Association Plan of Legal Specialization (the "Plan") and the Rules and Regulations of the Louisiana Board of Legal Specialization (the "Rules").

### Section I. DEFINITIONS

- A. The practice of law means full-time legal work performed for the purpose of rendering legal advice or legal representation to the general public, private employers or governmental agencies.
- B. Full-time shall be defined as working a minimum of 35 hours per week.
- C. Estate planning and administration is the practice of law dealing with the creation, protection and disposition of a client's assets, during life, upon, and after death, in accordance with the law and the client's desires after considering the tax and family relationship consequences of the client's acts and wishes. It includes providing advice about donations, wills, trusts, life insurance, business arrangements and agreements, income and transfer taxes, the estate planning aspects of qualified and nonqualified plans and deferred compensation agreements, and other estate planning matters. It includes the preparation of simple and complex wills (which may include provisions for testamentary trusts, marital deductions and elections), donations, revocable and irrevocable inter vivos trusts (including trusts for minors and charitable trusts), and business planning agreements (including buy-sell and other shareholder agreements), powers of attorney, advance directives, and other estate planning instruments. Estate planning and administration also includes advising clients and handling matters related to the administration of estates, trusts, interdictions and tutorships, the probate of wills, determination of heirship, will contest and interpretation suits, and other proceedings related to the disposition of assets of a decedent, interdict or minor. It also includes the preparation and review of United States estate tax and generation skipping transfer tax returns, Louisiana estate transfer tax returns, federal gift tax returns, and legal representation before the Internal Revenue Service, the Louisiana Department of Revenue and Taxation, and the Court in connection with tax returns and related controversies. It also includes issues affecting the elderly and disabled such as Social Security, Medicare, Medicaid, Veterans benefits, Special Needs Trusts, housing and other government benefits.
- D. Certification as a specialist shall be effective the date the Board authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

### Section II. BASIC REQUIREMENTS

- A. Application
  - 1. Each applicant, shall be an active member in good standing of the Louisiana State Bar Association.

2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application.
3. Each applicant shall certify under oath that during at least 48 of the 60 months immediately preceding the year of application has been as an attorney practicing in the state of Louisiana and that he or she devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C.
4. The Advisory Commission must receive on behalf of an applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) reference statements from practicing attorneys who can attest to the applicant's competence in the specialty field of estate planning and administration. Of the five (5) references, at least one (1) must be from a Board Certified Estate Planning and Administration Specialist. These submissions shall be subject to the limitations as outlined in Section 8.4 of the Rules.
5. Each applicant shall consent to a confidential inquiry by the Board and/or the Advisory Commission, directed to all persons who serve as references for the applicant, and to other persons regarding about the applicant's competence and qualifications to be recognized as an Estate Planning and Administration Specialist. This inquiry and review shall consider information furnished by references and other information that the Advisory Commission deems relevant to whether the applicant has sufficient competence and proficiency handling the usual matters of the specialty field. This information may include the applicant's work product, problem analysis, statement of issues and analysis, ethics, reputation, professionalism or such other criteria which the Advisory Commission deems appropriate to take into account prior to making its recommendations.
6. Each applicant must comply with the rules and regulations established by the Board as they relate to release of disciplinary action information.
7. Each applicant is required to obtain by December 31 of the year of application a minimum of 18 hours of continuing legal education (CLE) in the field of estate planning and administration. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education ("MCLE") and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 18 hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption in the year of application.
8. Each applicant must maintain professional liability insurance in the minimum amount of \$1,000,000 and the policy must be offered by a company reasonably acceptable to the Board. Evidence of insurance shall be provided to the Advisory Commission by December 1 of the year of application.
9. Each applicant must take and pass a written examination.

B. Maintenance

Each Board Certified Estate Planning and Administration Specialist must satisfy the following criteria to maintain their estate planning and administration specialization certification:

1. Be an active member in good standing of the Louisiana State Bar Association.
2. Certify under oath, on a form provided by the Board that he or she engages in the actual practice of law on a full time basis.

3. Certify under oath, on a form provided by the Board, that he or she is an attorney practicing in the state of Louisiana and that he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C herein.
4. During each year of certification, must attend a minimum of 18 hours of approved estate planning and administration continuing legal education programs which comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved estate planning and administration specialization CLE earned in excess of the 18 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.
5. Maintain professional liability insurance in the minimum amount of \$1,000,000, unless waived for good cause by the Board. The policy must be offered by a company reasonably acceptable to the Board. Proof of insurance shall be provided annually with payment of the annual dues and upon request.
6. Pay all fees required by the Rules.

C. Recertification

1. Recertification as a Board Certified Estate Planning and Administration Specialist shall be required every five (5) years from the date of certification or recertification, as the case may be.
2. Each Board Certified Estate Planning and Administration Specialist shall present an application every five (5) years, on a form furnished by the Board, certifying that he or she has met the requirements of Section II B above.

**Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS**

B. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Estate Planning and Administration Specialist in the area of estate planning and administration law and should be open for attendance by all such attorneys.
2. Programs should be developed by individual(s) qualified in the subject matter.
3. Program content should be current. Estate planning and administration specialization CLE credit will be granted for an entire program if 50% or more of the program is devoted to estate planning and administration subjects. If the program in its entirety does not meet the 50% requirement, individual sessions within the program will qualify for estate planning and administration specialization CLE credit if 50% or more of the content of the session is devoted to estate planning and administration.
4. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required), and teaching methods.
5. Instructors or discussion leaders should be qualified with respect to program content and teaching method used.

6. Program sponsors should encourage participation only by individuals with appropriate education and/or experience.
7. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.

C. Programs Which Qualify

1. General Rule

Continuing legal education (“CLE”) programs must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) before approval can be granted by the Advisory Commission. The overriding consideration in determining if a specific program qualifies as acceptable continuing legal education is that it be a formal program of learning which contributes directly to the professional competence of an attorney who specializes in the field of estate planning and administration law.

2. Program Approval

Programs shall be approved on a case-by-case basis by the Advisory Commission provided the program meets the general standards set forth in Section III, A and B 1.

No credit shall be awarded for firm meetings or "in house" CLE programs.

**Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT**

A. General Rules

1. Any other method of earning specialization CLE credit must be approved by MCLE before approval can be granted by the Advisory Commission, who shall then approve each request on a case-by-case basis.
2. All credit earned shall be calculated by MCLE in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.
3. All requests for CLE credit shall be submitted to MCLE and the Advisory Commission within a reasonable period of time but no later than January 31 of the calendar year following the activity for which CLE credit is being sought.

B. Teaching

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter. If an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not teach in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education. No credit will be given for repetitious presentations of a program.
2. Teaching of academic courses in estate planning and administration law in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.

3. CLE credit may be awarded for teaching an estate planning and administration course at any seminar, provided the presentation meets all criteria contained in Section III, A and B, other than Section III, A.3.

C. Writing

CLE credit may be awarded for writing of articles and other publications directed primarily to attorneys specializing in the estate planning and administration field of law and published in professional periodicals and publications. Credit will not be awarded for authorship of articles and other publications until the writing has been published.

D. Louisiana State Law Institute Committee Meetings

CLE credit may be awarded for attendance at Louisiana State Law Institute Committee meetings pertinent to the field of estate planning and administration.

E. Pro Bono

CLE credit may be awarded for providing uncompensated pro bono legal representation related to an estate planning and administration matter, as defined in Section IC herein, to an indigent or near-indigent client or clients. CLE credit shall not be granted until the representation has been assigned, completed and verified by the assigning organization as defined by and in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section V. CREDIT HOURS GRANTED**

- A. Only credit hours or the equivalent (and not hours dedicated to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instruction with intervening breaks, the number of minutes of instruction are summed for the entire program for which the credit is claimed and then the total number of minutes is divided by 60.
- C. A participant who is not present for an entire program may claim credit only for the portion he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section VI. COMPLIANCE**

A. General Rule

Specialization CLE credit hours will be computed on a calendar year basis and all attendance information for CLE credits earned shall be delivered to MCLE by January 31 of the following year.

B. Notification

The Board will notify each non-compliant Board Certified Estate Planning and Administration Specialist of the credit hours he or she has earned during the preceding calendar year. The specialist shall have 30 days from the date of notification to appeal the award of credit hours.

A specialization transcript may be obtained from the Louisiana Board of Legal Specialization website located at: <https://www.lascmcle.org/specialization/index.aspx>.

**Section VII. ADMINISTRATION**

The Advisory Commission may delegate its responsibility to rule on all matters pertaining to estate planning and administration CLE requirements to a committee consisting of at least three (3) Advisory Commission members. Any such committee shall report to the Advisory Commission, and the Advisory Commission shall, at all times, retain the right to review, modify, or supersede the decisions of any such committee.





## **SECOND RESOLUTION OF THE LOUISIANA BOARD OF LEGAL SPECIALIZATION TO AMEND ESTATE PLANNING AND ADMINISTRATION STANDARDS**

**WHEREAS**, the Louisiana Board of Legal Specialization is empowered under Section 3.1C of the Louisiana State Bar Association Plan of Legal Specialization to make recommendations to the House of Delegates of the Louisiana State Bar Association with respect to reasonable and non-discriminatory standards concerning education, experience, proficiency and other relevant matters for granting certificates of special competence to lawyers in defined and designated fields of law;

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Estate Planning and Administration Advisory Commission that amendments to the Estate Planning and Administration Standards are in order to revise Section II (A)(2) and (3) of the Estate Planning and Administration Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and are of a “housekeeping” nature; the Estate Planning and Administration Standards presently read:

### **Section II. BASIC REQUIREMENTS**

#### **A. Application**

...

2. Each applicant shall have a minimum of five (5) years of continuous actual practice of law on a full time basis immediately preceding the year of application.
3. Each applicant shall certify under oath that during at least four (4) of the five (5) years immediately preceding the year of application has been as an attorney practicing in the state of Louisiana and that he or she devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C.

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Estate Planning and Administration Advisory Commission that the Estate Planning and Administration Standards should be consistent with Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and the amendments are of a “housekeeping” nature; and that Section II (A)(2) and (3) of the Estate Planning and Administration Standards should be amended as follows:

**Section II. BASIC REQUIREMENTS**

A. Application

...

2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application.
3. Each applicant shall certify under oath that during at least 48 out of 60 months immediately preceding the year of application has been as an attorney practicing in the state of Louisiana and that he or she devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C.

**WHEREAS**, it is the recommendation of the Louisiana Board of Legal Specialization that it would be appropriate to amend Section II (A)(2) and (3) of the Louisiana Board of Legal Specialization Estate Planning and Administration Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017.

**NOW, THEREFORE, BE IT RESOLVED** that there should be amendments to the Estate Planning and Administration Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and are of a “housekeeping” nature; and that Section II (A)(2) and (3) of the Estate Planning and Administration Standards should be amended as follows:

**Section II. BASIC REQUIREMENTS**

A. Application

...

2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application.
3. Each applicant shall certify under oath that during at least 48 out of 60 months immediately preceding the year of application has been as an attorney practicing in the state of Louisiana and that he or she devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C.

**FURTHER**, be it resolved that this Resolution be submitted to the House of Delegates of the Louisiana State Bar Association for approval.

Respectfully submitted,

Carl J. Servat III, Chair  
Louisiana Board of Legal Specialization

December 14, 2018  
New Orleans, Louisiana

APPROVED  
HOUSE OF DELEGATES & BOARD OF GOVERNORS  
JANUARY 19, 2019  
BATON ROUGE, LA



## LOUISIANA BOARD OF LEGAL SPECIALIZATION ESTATE PLANNING AND ADMINISTRATION STANDARDS

Pursuant to the authority vested in the Louisiana Board of Legal Specialization (the "Board") by the Supreme Court of Louisiana and on the recommendation of the Estate Planning and Administration Advisory Commission (the "Advisory Commission") the Board promulgates the following standards and requirements for Board certification in estate planning and administration in accordance with the Louisiana State Bar Association Plan of Legal Specialization (the "Plan") and the Rules and Regulations of the Louisiana Board of Legal Specialization (the "Rules").

### Section I. DEFINITIONS

- A. The practice of law means full-time legal work performed for the purpose of rendering legal advice or legal representation to the general public, private employers or governmental agencies.
- B. Full-time shall be defined as working a minimum of 35 hours per week.
- C. Estate planning and administration is the practice of law dealing with the creation, protection and disposition of a client's assets, during life, upon, and after death, in accordance with the law and the client's desires after considering the tax and family relationship consequences of the client's acts and wishes. It includes providing advice about donations, wills, trusts, life insurance, business arrangements and agreements, income and transfer taxes, the estate planning aspects of qualified and nonqualified plans and deferred compensation agreements, and other estate planning matters. It includes the preparation of simple and complex wills (which may include provisions for testamentary trusts, marital deductions and elections), donations, revocable and irrevocable inter vivos trusts (including trusts for minors and charitable trusts), and business planning agreements (including buy-sell and other shareholder agreements), powers of attorney, advance directives, and other estate planning instruments. Estate planning and administration also includes advising clients and handling matters related to the administration of estates, trusts, interdictions and tutorships, the probate of wills, determination of heirship, will contest and interpretation suits, and other proceedings related to the disposition of assets of a decedent, interdict or minor. It also includes the preparation and review of United States estate tax and generation skipping transfer tax returns, Louisiana estate transfer tax returns, federal gift tax returns, and legal representation before the Internal Revenue Service, the Louisiana Department of Revenue and Taxation, and the Court in connection with tax returns and related controversies. It also includes issues affecting the elderly and disabled such as Social Security, Medicare, Medicaid, Veterans benefits, Special Needs Trusts, housing and other government benefits.
- D. Certification as a specialist shall be effective the date the Board authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

### Section II. BASIC REQUIREMENTS

- B. Application

1. Each applicant, shall be an active member in good standing of the Louisiana State Bar Association.
2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application.
3. Each applicant shall certify under oath that during at least 48 of the 60 months immediately preceding the year of application has been as an attorney practicing in the state of Louisiana and that he or she devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C.
4. The Advisory Commission must receive on behalf of an applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) reference statements from practicing attorneys who can attest to the applicant's competence in the specialty field of estate planning and administration. Of the five (5) references, at least one (1) must be from a Board Certified Estate Planning and Administration Specialist. These submissions shall be subject to the limitations as outlined in Section 8.4 of the Rules.
5. Each applicant shall consent to a confidential inquiry by the Board and/or the Advisory Commission, directed to all persons who serve as references for the applicant, and to other persons regarding about the applicant's competence and qualifications to be recognized as an Estate Planning and Administration Specialist. This inquiry and review shall consider information furnished by references and other information that the Advisory Commission deems relevant to whether the applicant has sufficient competence and proficiency handling the usual matters of the specialty field. This information may include the applicant's work product, problem analysis, statement of issues and analysis, ethics, reputation, professionalism or such other criteria which the Advisory Commission deems appropriate to take into account prior to making its recommendations.
6. Each applicant must comply with the rules and regulations established by the Board as they relate to release of disciplinary action information.
7. Each applicant is required to obtain by December 31 of the year of application a minimum of 18 hours of continuing legal education (CLE) in the field of estate planning and administration. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education ("MCLE") and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 18 hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption in the year of application.
8. Each applicant must maintain professional liability insurance in the minimum amount of \$1,000,000 and the policy must be offered by a company reasonably acceptable to the Board. Evidence of insurance shall be provided to the Advisory Commission by December 1 of the year of application.
9. Each applicant must take and pass a written examination.

C. Maintenance

Each Board Certified Estate Planning and Administration Specialist must satisfy the following criteria to maintain their estate planning and administration specialization certification:

1. Be an active member in good standing of the Louisiana State Bar Association.

2. Certify under oath, on a form provided by the Board that he or she engages in the actual practice of law on a full time basis.
3. Certify under oath, on a form provided by the Board, that he or she is an attorney practicing in the state of Louisiana and that he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of estate planning and administration law, as defined in Section I, C herein.
4. During each year of certification, must attend a minimum of 18 hours of approved estate planning and administration continuing legal education programs which comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved estate planning and administration specialization CLE earned in excess of the 18 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.
5. Maintain professional liability insurance in the minimum amount of \$1,000,000, unless waived for good cause by the Board. The policy must be offered by a company reasonably acceptable to the Board. Proof of insurance shall be provided annually with payment of the annual dues and upon request.
6. Pay all fees required by the Rules.

D. Recertification

1. Recertification as a Board Certified Estate Planning and Administration Specialist shall be required every five (5) years from the date of certification or recertification, as the case may be.
2. Each Board Certified Estate Planning and Administration Specialist shall present an application every five (5) years, on a form furnished by the Board, certifying that he or she has met the requirements of Section II B above.

**Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS**

A. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Estate Planning and Administration Specialist in the area of estate planning and administration law and should be open for attendance by all such attorneys.
2. Programs should be developed by individual(s) qualified in the subject matter.
3. Program content should be current. Estate planning and administration specialization CLE credit will be granted for an entire program if 50% or more of the program is devoted to estate planning and administration subjects. If the program in its entirety does not meet the 50% requirement, individual sessions within the program will qualify for estate planning and administration specialization CLE credit if 50% or more of the content of the session is devoted to estate planning and administration.
4. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required), and teaching methods.
5. Instructors or discussion leaders should be qualified with respect to program content and teaching

method used.

6. Program sponsors should encourage participation only by individuals with appropriate education and/or experience.
7. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.

B. Programs Which Qualify

1. General Rule

Continuing legal education ("CLE") programs must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) before approval can be granted by the Advisory Commission. The overriding consideration in determining if a specific program qualifies as acceptable continuing legal education is that it be a formal program of learning which contributes directly to the professional competence of an attorney who specializes in the field of estate planning and administration law.

2. Program Approval

Programs shall be approved on a case-by-case basis by the Advisory Commission provided the program meets the general standards set forth in Section III, A and B 1.

No credit shall be awarded for firm meetings or "in house" CLE programs.

**Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT**

A. General Rules

1. Any other method of earning specialization CLE credit must be approved by MCLE before approval can be granted by the Advisory Commission, who shall then approve each request on a case-by-case basis.
2. All credit earned shall be calculated by MCLE in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.
3. All requests for CLE credit shall be submitted to MCLE and the Advisory Commission within a reasonable period of time but no later than January 31 of the calendar year following the activity for which CLE credit is being sought.

B. Teaching

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter. If an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not teach in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education. No credit will be given for repetitious presentations of a program.

2. Teaching of academic courses in estate planning and administration law in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.
3. CLE credit may be awarded for teaching an estate planning and administration course at any seminar, provided the presentation meets all criteria contained in Section III, A and B, other than Section III, A.3.

C. Writing

CLE credit may be awarded for writing of articles and other publications directed primarily to attorneys specializing in the estate planning and administration field of law and published in professional periodicals and publications. Credit will not be awarded for authorship of articles and other publications until the writing has been published.

D. Louisiana State Law Institute Committee Meetings

CLE credit may be awarded for attendance at Louisiana State Law Institute Committee meetings pertinent to the field of estate planning and administration.

E. Pro Bono

CLE credit may be awarded for providing uncompensated pro bono legal representation related to an estate planning and administration matter, as defined in Section IC herein, to an indigent or near-indigent client or clients. CLE credit shall not be granted until the representation has been assigned, completed and verified by the assigning organization as defined by and in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section V. CREDIT HOURS GRANTED**

- A. Only credit hours or the equivalent (and not hours dedicated to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instruction with intervening breaks, the number of minutes of instruction are summed for the entire program for which the credit is claimed and then the total number of minutes is divided by 60.
- C. A participant who is not present for an entire program may claim credit only for the portion he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section VI. COMPLIANCE**

A. General Rule

Specialization CLE credit hours will be computed on a calendar year basis and all attendance information for CLE credits earned shall be delivered to MCLE by January 31 of the following year.

B. Notification



The Board will notify each non-compliant Board Certified Estate Planning and Administration Specialist of the credit hours he or she has earned during the preceding calendar year. The specialist shall have 30 days from the date of notification to appeal the award of credit hours.

A specialization transcript may be obtained from the Louisiana Board of Legal Specialization website located at: <https://www.lascmcle.org/specialization/index.aspx>.

## **Section VII. ADMINISTRATION**

The Advisory Commission may delegate its responsibility to rule on all matters pertaining to estate planning and administration CLE requirements to a committee consisting of at least three (3) Advisory Commission members. Any such committee shall report to the Advisory Commission, and the Advisory Commission shall, at all times, retain the right to review, modify, or supersede the decisions of any such committee.



## **RESOLUTION OF THE LOUISIANA BOARD OF LEGAL SPECIALIZATION TO AMEND FAMILY LAW STANDARDS**

**WHEREAS**, the Louisiana Board of Legal Specialization is empowered under Section 3.1C of the Louisiana State Bar Association Plan of Legal Specialization to make recommendations to the House of Delegates of the Louisiana State Bar Association with respect to reasonable and non-discriminatory standards concerning education, experience, proficiency and other relevant matters for granting certificates of special competence to lawyers in defined and designated fields of law;

**WHEREAS**, a determination was made by the Family Law Advisory Commission that an amendment to the Family Law Standards is in order to revise Section II (A)(9) of the Family Law Standards, which presently reads:

The following topics are of limited importance, but the written examination may contain questions concerning them:

- a. Adoptions
- b. The Hague Convention
- c. Nullity of Marriage

**WHEREAS**, a determination was made by the Family Law Advisory Commission to add two additional topics: d. Child in Need of Care (CINC) and e. Family in Need of Services (FINS); and that Section II(A)(9) of the Family Law Standards should be amended as follows:

The following topics are of limited importance, but the written examination may contain questions concerning them:

- a. Adoptions
- b. The Hague Convention
- c. Nullity of Marriage
- d. Child in Need of Care (CINC)
- e. Family in Need of Services (FINS)

**WHEREAS**, it is the recommendation of the Louisiana Board of Legal Specialization that it would be appropriate to amend Section II (A)(9) of the Louisiana Board of Legal Specialization Family Law Standards to add two topics: d. Child in Need of Care (CINC) and e. Family in Need of Services (FINS).

**NOW, THEREFORE, BE IT RESOLVED** that:

The Louisiana Board of Legal Specialization does hereby resolve that there should be an amendment to Section II (A)(9) of the Louisiana Board of Legal Specialization Family Law Standards, as follows:

The following topics are of limited importance, but the written examination may contain questions concerning them:

- a. Adoptions
- b. The Hague Convention
- c. Nullity of Marriage
- d. Child in Need of Care (CINC)
- e. Family in Need of Services (FINS)

**FURTHER**, be it resolved that this Resolution be submitted to the House of Delegates of the Louisiana State Bar Association for approval.

Respectfully submitted,

Carl J. Servat III, Chair  
Louisiana Board of Legal Specialization

December 14, 2018  
New Orleans, Louisiana

APPROVED  
HOUSE OF DELEGATES & BOARD OF GOVERNORS  
JANUARY 19, 2019  
BATON ROUGE, LA



## LOUISIANA BOARD OF LEGAL SPECIALIZATION FAMILY LAW STANDARDS

### Section I. DEFINITIONS

- A. The practice of law means full-time legal work performed for the purposes of rendering legal advice or legal representation to the general public, private employers or governmental agencies.
- B. Full-time shall be defined as working a minimum of 35 hours per week.
- C. Family law is defined as the actual practice of law dealing with all matters arising from or related to the areas of family law as defined in Section II, A9 herein.
- D. Certification as a specialist shall be effective the date the Louisiana Board of Legal Specialization authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

### Section II. BASIC REQUIREMENTS

#### A. Application

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each applicant must satisfy the following criteria in order to apply for recognition as a family law specialist:

1. Each applicant shall be an active member in good standing of the Louisiana State Bar Association.
2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis immediately preceding the date of application.
3. Each applicant must certify under oath that he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in each of the five (5) years immediately preceding the date of application in the field of family law and that he or she has actual experience in the representation of clients, contested hearings and trials, negotiation and settlement of family law matters, and knowledge of appellate procedures.
4. The Family Law Advisory Commission must receive on behalf of the applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) satisfactory reference statements in support of their application for certification from practicing attorneys who can attest to the applicant's competence in the specialty field of family law. Of the five (5) satisfactory reference statements, at least two (2) must be from a Board Certified Family Law Specialist. These submissions shall be subject to the limitations as outlined in section 8.4 of the Rules and Regulations of the Louisiana Board of Legal Specialization.
5. Each applicant shall consent to a confidential inquiry, by the Louisiana Board of Legal Specialization and/or the Family Law Advisory Commission, directed to all persons who serve as

references for the applicant, and to other persons regarding the applicant's competence and qualifications to be recognized as a Family Law Specialist. This inquiry and review shall consider information furnished by references and other information that the Advisory Commission deems relevant to demonstrate whether the applicant has sufficient competence and proficiency handling the usual matters of the specialty field. This information may include the applicant's work product, problem analysis, statement of issues and analysis, ethics, reputation, professionalism or such other criteria which the Advisory Commission deems appropriate to take into account prior to making its recommendations.

6. Each applicant must comply with the rules and regulations established by the Louisiana Board of Legal Specialization as they relate to release of disciplinary action information.
7. Each applicant is required to obtain by December 31 of the year of application, credit for 18 hours of continuing legal education (CLE) in the field of family law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) and the Louisiana Board of Legal Specialization Family Law Advisory Commission. CLE earned in prior years may not be used to satisfy the 18 hours required within the year of application. An applicant will not qualify for specialization CLE exemption in the year of application.
8. Each applicant must provide evidence of professional liability insurance in the minimum amount of \$500,000 with the application. The professional liability insurance policy must be offered by a company reasonably acceptable to the Board.
9. Each applicant must pass a written examination applied uniformly to all applicants demonstrating sufficient knowledge, proficiency and experience in the following areas of family law as is necessary to justify the representation of special competence to the legal profession and to the public:
  - a. The procedure in Civil Code Articles 102 and 103 Divorces
  - b. Domicile, Venue and Jurisdiction
  - c. Child Support
  - d. Child Custody
  - e. Alimony/Spousal Support and Alimony/Spousal Support Pendente Lite
  - f. Use and Occupancy of the Family Home and Community Movables and Immovables, and Rental Value for Use and Occupancy
  - g. Temporary Restraining Orders and Injunctive Relief
  - h. Appointment of Attorneys to Represent Children in Child Custody and Visitation Proceedings
  - i. Matrimonial Regimes, including Partition of Community Property and Settlement of Claims Arising from Matrimonial Regimes
  - j. Co-ownership of Former Community Property
  - k. Qualified Domestic Relations Orders
  - l. Uniform Child Custody Jurisdiction Act
  - m. Parental Kidnapping Prevention Act
  - n. Matrimonial Agreements
  - o. The Domestic Abuse Assistance Act
  - p. Ethics and Professional Conflicts
  - q. Income Tax Consequences upon Divorce and Partition of Community Property
  - r. Qualified Medical Child Support Orders

The written examination may also include the following subjects, which are of lesser importance than the areas of family law listed above:

- a. Appeals and Writs
- b. Ex-parte Orders
- c. Illegitimates, Acknowledgment, Legitimation, Filiations, Disavowal, and Paternity Testing
- d. Divorce When the Defendant is a Non-resident, and Other Curator Issues
- e. Claims for Contributions to Education or Training
- f. Affidavits of Non-Military Service
- g. Visitation Rights of Non-Parents
- h. Major Pension Partition Cases
- i. Court Ordered Mediation
- j. Emancipation
- k. Evidence, but limited to evidentiary rules that are peculiar to family law or particularly important to family law

The following subjects, which are considered of lesser importance than the areas and subjects listed above, may be tested to a limited extent on the written examination:

- a. Name Confirmations
- b. Conflict of Laws
- c. Putative Marriages

The following topics are of limited importance, but the written examination may contain questions concerning them:

- a. Adoptions
- b. The Hague Convention
- c. Nullity of Marriage
- d. Child in Need of Care (CINC)
- e. Family in Need of Services (FINS)

## B. Maintenance

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each Board Certified Family Law Specialist must satisfy the following criteria in order to maintain their family law specialization certification:

1. Be an active member in good standing of the Louisiana State Bar Association.
2. Certify under oath, on a form provided by the Louisiana Board of Legal Specialization, that he or she engages in the actual practice of law on a full time basis as defined in Section I herein.
3. Certify under oath, on a form provided by the Louisiana Board of Legal Specialization, that he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of family law.
4. During each calendar year of certification, must attend a minimum of 18 hours of approved family law specialization continuing legal education programs which comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved family law specialization CLE earned in excess of the 18 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from

the application year.

5. Maintain professional liability insurance coverage in the minimum amount of \$500,000, unless waived for good cause by the Louisiana Board of Legal Specialization. The professional liability insurance policy must be offered by a company reasonably acceptable to the Board. Proof of said insurance shall be provided annually with payment of annual dues and upon request.
6. Pay all fees required by the Rules and Regulations of the Louisiana Board of Legal Specialization.

C. Recertification

1. Recertification as a Board Certified Family Law Specialist shall be required every five (5) years from the date of certification or recertification, as the case may be.
2. Each Board Certified Family Law Specialist shall present an application every five (5) years, on a form furnished by the Louisiana Board of Legal Specialization, certifying that he or she has met all of the requirements listed in Section II B above.

**Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION (CLE) PROGRAMS**

A. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Family Law Specialist in the area of family law and should be open for attendance by all such attorneys.
2. Programs should be developed by individuals(s) qualified in the subject matter.
3. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required) and teaching methods.
4. Instructors or discussion leaders should be qualified with respect to program content and teaching method used.
5. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.

B. Programs Which Qualify

1. General Rule

Continuing legal education (CLE) programs must first be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) before approval can be granted by the Family Law Advisory Commission. The overriding consideration in determining whether a specific program qualifies as acceptable continuing legal education is that it be a formal program of learning which contributes directly to the professional competence of an attorney who specializes in the field of family law.

2. Program Approval

Programs shall be approved on a case-by-case basis by the Family Law Advisory Commission provided the program meets the general standards set forth in Section III, A and B1 above.

No credit will be awarded for firm meetings or "in house" CLE programs.

#### **Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT**

##### **A. General Rules**

1. Any other method of earning specialization CLE credit must be approved by MCLE before approval can be granted by the Family Law Advisory Commission, who shall then approve each request on a case-by-case basis.
2. All credit earned shall be calculated by MCLE in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.
3. All requests for CLE credit shall be submitted to MCLE and the Family Law Advisory Commission within a reasonable period of time but no later than January 31 of the calendar year following the activity for which CLE credit is being sought.

##### **B. Teaching**

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter. If an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not teach in accordance with the Supreme Court of Louisiana Rules for continuing Legal Education. No credit will be given for repetitious presentations of a program.
2. Teaching of academic courses in family law in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.
3. CLE credit may be awarded for teaching a family law course at any seminar, provided the presentation meets all criteria contained in Section III, A and B.

##### **C. Writing**

CLE credit may be awarded for writing of articles and other publications directed primarily to attorneys specializing in family law and published in professional periodicals and publications. Credit will not be awarded for authorship of articles and other publications until the writing has been published.

##### **D. Louisiana State Law Institute Committee Meetings**

CLE credit may be awarded for attendance at Louisiana State Law Institute Committee meetings pertinent to the field of family law.

##### **E. Pro Bono**

CLE credit may be awarded for providing uncompensated pro bono legal representation related to a family law matter, as defined in Section II A9 herein, to an indigent or near-indigent client or clients. CLE credit shall not be granted until the representation has been assigned, completed and verified by the assigning organization as defined by and in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.



**Section V. CREDIT HOURS GRANTED**

- A. Only credit hours or the equivalent (and not hours devoted to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instructions with intervening breaks, the number of minutes of instructions are summed for the entire program for which credit is claimed and then such total number of minutes is divided by 60.
- C. A participant who is not present for an entire program may claim credit only for the actual time he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Family Law Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit in accordance with the Supreme Court of Louisiana Rules for continuing Legal Education.

**Section VI. COMPLIANCE**

A. General Rule

Specialization CLE credit hours will be computed on a calendar year basis and all attendance information for CLE earned shall be delivered to MCLE by January 31 of the following year.

B. Notification

The Louisiana Board of Legal Specialization will notify each non-compliant Board Certified Family Law Specialist of the credit hours he or she has earned during the preceding calendar year. The specialist shall have 30 days from notification to appeal any award of credit hours.

A specialization transcript may be obtained from the Louisiana Board of Legal Specialization website located at <https://www.lascmcle.org/specialization/index.aspx>.

**Section VII. ADMINISTRATION**

The Family Law Advisory Commission may delegate its responsibility to rule on all matters pertaining to family law CLE requirements to a committee consisting of at least three (3) Family Law Advisory Commission members. Any such committee shall report to the Family Law Advisory Commission, and the Family Law Advisory Commission shall, at all times, retain the right to review, modify, or supersede decisions of any such committee.



## **RESOLUTION OF THE LOUISIANA BOARD OF LEGAL SPECIALIZATION TO AMEND TAX LAW STANDARDS**

**WHEREAS**, the Louisiana Board of Legal Specialization is empowered under Section 3.1C of the Louisiana State Bar Association Plan of Legal Specialization to make recommendations to the House of Delegates of the Louisiana State Bar Association with respect to reasonable and non-discriminatory standards concerning education, experience, proficiency and other relevant matters for granting certificates of special competence to lawyers in defined and designated fields of law;

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Tax Law Advisory Commission that amendments to the Tax Law Standards are in order to revise Section II (A)(3) of the Tax Law Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and are of a “housekeeping” nature; the Tax Law Standards presently read:

### **Section II. BASIC REQUIREMENTS**

#### **A. Application**

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each applicant must satisfy the following criteria for recognition as a tax law specialist:

...

3. Each applicant must certify under oath that during four (4) of the five (5) years immediately preceding the year of application, he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of tax law.

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Tax Law Advisory Commission that the Tax Law Standards should be consistent with Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and the amendments are of a “housekeeping” nature; and that Section II (A) (3) of the Tax Law Standards should be amended as follows:

### **Section II. BASIC REQUIREMENTS**

#### **A. Application**

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each applicant must satisfy the following criteria for recognition as a tax law specialist:

...

3. Each applicant must certify under oath that during 48 of the 60 months immediately preceding the year of application, he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of tax law.

**WHEREAS**, it is the recommendation of the Louisiana Board of Legal Specialization that it would be appropriate to amend Section II (A)(3) of the Louisiana Board of Legal Specialization Tax Law Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017.

**NOW, THEREFORE, BE IT RESOLVED** that there should be amendments to the Tax Law Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and are of a “housekeeping” nature; and that Section II (A)(3) of the Tax Law Standards should be amended as follows:

**Section II. BASIC REQUIREMENTS**

A. Application

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each applicant must satisfy the following criteria for recognition as a tax law specialist:

...

3. Each applicant must certify under oath that during 48 of the 60 months immediately preceding the year of application, he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of tax law.

**FURTHER**, be it resolved that this Resolution be submitted to the House of Delegates of the Louisiana State Bar Association for approval.

Respectfully submitted,

Carl J. Servat III, Chair  
Louisiana Board of Legal Specialization

December 14, 2018  
New Orleans, Louisiana

APPROVED  
HOUSE OF DELEGATES & BOARD OF GOVERNORS  
JANUARY 19, 2019  
BATON ROUGE, LA



## LOUISIANA BOARD OF LEGAL SPECIALIZATION TAX LAW STANDARDS

### Section I. DEFINITIONS

- A. The practice of law means full-time legal work performed for the purposes of rendering legal advice or legal representation to the general public, private employers or governmental agencies.
- B. Full time shall be defined as working a minimum of 35 hours per week.
- C. Tax law is defined as the actual practice of law dealing with all matters arising under the Internal Revenue Code, Employee Retirement Income Security Act (ERISA), state and local taxes, and foreign taxes, including counseling with respect thereto, and practice before Federal and State courts and Governmental Agencies dealing with tax matters.
- D. Certification as a specialist shall be effective the date the Louisiana Board of Legal Specialization authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

### Section II. BASIC REQUIREMENTS

#### B. Application

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each applicant must satisfy the following criteria for recognition as a tax law specialist:

1. Each applicant shall be an active member in good standing of the Louisiana State Bar Association.
2. Each applicant must have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application.
3. Each applicant must certify under oath that during 48 of the 60 months immediately preceding the year of application, he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of tax law.
4. The Tax Law Advisory Commission must receive on behalf of an applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) satisfactory reference statements in support of his or her application for certification from practicing attorneys who can attest to the applicant's competence in the specialty field of tax law. Of the five (5) satisfactory reference statements, at least one (1) must be from a Board Certified Tax Law Specialist. These submissions shall be subject to the limitations as outlined in section 8.4 of the Rules and Regulations of the Louisiana Board of Legal Specialization.
5. Each applicant shall consent to a confidential inquiry by the Louisiana Board of Legal Specialization and/or the Tax Law Advisory Commission, directed to all persons who serve as

references for the applicant, and to other persons regarding the applicant's competence and qualifications to be recognized as a Tax Law Specialist. This inquiry and review shall consider information furnished by references and other information that the Tax Law Advisory Commission deems relevant to demonstrate whether the applicant has sufficient competence and proficiency handling the usual matters of the specialty field. This information may include the applicant's work product, problem analysis, statement of issues and analysis, ethics, reputation, professionalism or such other criteria which the Advisory Commission deems appropriate to take into account prior to making its recommendations.

6. Each applicant must comply with the rules and regulations established by the Louisiana Board of Legal Specialization as they relate to release of disciplinary action information.
7. Each applicant is required to obtain by December 31 of the year of application at least 18 hours of continuing legal education (CLE) in the field of tax law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) and the Louisiana Board of Legal Specialization Tax Law Advisory Commission. CLE earned in prior years may not be used to satisfy the 18 hour requirement within the year of application. An applicant will not qualify for specialization CLE exemption in the year of application.
8. Each applicant must provide evidence of professional liability insurance in the minimum amount of \$1,000,000 with the application and the policy must be offered by a company reasonably acceptable to the Board.
9. Each applicant must take and pass a written examination.

### C. Maintenance

In accordance with the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each Board certified Tax Law Specialist must satisfy the following criteria to maintain their tax law specialization certification:

1. Be an active member in good standing of the Louisiana State Bar Association.
2. Certify under oath, on a form provided by the Louisiana Board of Legal Specialization, that he or she engages in the actual practice of law on a full time basis.
3. Certify under oath, on a form provided by the Louisiana Board of Legal Specialization, that he or she has devoted a minimum of 35% of a full time work schedule in the practice of law annually in the field of tax law.
4. During each calendar year of certification, must attend a minimum of 18 hours of approved tax law specialization continuing legal education programs which comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved tax law specialization CLE earned in excess of the 18 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.
5. Maintain professional liability insurance coverage in the minimum amount of \$1,000,000 unless waived for good cause by the Louisiana Board of Legal Specialization. The professional liability insurance policy must be offered by a company reasonably acceptable to

the Board. Proof of insurance shall be provided annually with payment of annual dues and upon request.

6. Pay all fees required by the Rules and Regulations of the Louisiana Board of Legal Specialization.
7. If a Board Certified Tax Law Specialist is a government employee or in-house counsel, he or she may request an exemption from Section II, B5 above, upon submission and approval of a certification to the Louisiana Board of Legal Specialization, on a form furnished by the Louisiana Board of Legal Specialization, indicating that 100% of his or her practice is as a full time government employee or in-house counsel; that he or she does not have any private clients and that he or she does not engage in the public practice of law.

D. Recertification

1. Recertification as a Board Certified Tax Law Specialist shall be required every five (5) years from the date of certification or recertification, as the case may be.
2. Each Board Certified Tax Law Specialist shall present an application every five (5) years, on a form furnished by the Louisiana Board of Legal Specialization, certifying that he or she has met all the requirements of Section II B above.

**Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS**

A. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Tax Specialist in the area of tax law and should be open for attendance by all such attorneys.
2. Programs should be developed by individual(s) qualified in the subject matter.
3. Program content should be current. Tax law specialization CLE credit will be granted for an entire program if 50% or more of the program is devoted to tax law subjects. If the program in its entirety does not meet the 50% requirement, individual sessions within the program will qualify for tax law specialization CLE credit if 50% or more of the content of the session is devoted to tax law.
4. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required), and teaching methods.
5. Instructors or discussion leaders should be qualified with respect to program content and teaching method used.
6. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.

B. Programs Which Qualify

1. General Rule

Continuing Legal Education (CLE) programs must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) before approval can be granted by the Tax Law Advisory Commission. The overriding consideration in determining whether a specific program qualifies as acceptable continuing legal education is that it be a formal program of learning which contributes directly to the professional competence of an attorney who specializes in the field of tax law.

## 2. Program Approval

Programs shall be approved on a case-by-case basis by the Tax Law Advisory Commission CLE Committee provided the program meets the general standards set forth in Section III, A and B1 above.

No credit will be awarded for firm meetings or "in house" CLE programs.

## **Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT**

### A. General Rules

1. Any other method of earning specialization CLE credit must be approved by MCLE before approval can be granted by the Tax Law Advisory Commission, who shall then approve each request on a case-by-case basis.
2. All credit earned shall be calculated by MCLE in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.
3. All requests for CLE credit shall be submitted to MCLE and the Tax Law Advisory Commission within a reasonable period of time but no later than January 31 of the calendar year following the activity for which CLE credit is being sought.

### B. Teaching

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter if an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not teach on an hour-for-hour basis. No credit will be given for repetitious presentations of a program.
2. Teaching of academic courses in tax law in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.
3. CLE credit may be awarded for teaching a tax law course at any seminar, provided the presentation meets all criteria contained in Section III, A and B, other than Section III, A3.

### C. Writing

CLE credit may be awarded for writing of articles and other publications directed primarily to attorneys specializing in tax law and published in professional periodicals and publications. Credit will not be awarded for authorship of articles and other publications until the writing has been published.

### D. Louisiana State Law Institute Committee Meetings

CLE credit may be awarded for attendance at Louisiana State Law Institute Committee meetings pertinent to the field of tax law.

E. Pro Bono

CLE credit may be awarded for providing uncompensated pro bono legal representation related to a tax matter, as defined in Section IC herein, to an indigent or near-indigent client or clients. CLE credit shall not be granted until the representation has been assigned, completed and verified by the assigning organization as defined by and in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section V. CREDIT HOURS GRANTED**

- A. Only credit hours or the equivalent (and not hours devoted to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instructions with intervening breaks, the number of minutes of instructions are summed for the entire program for which credit is claimed and then such total number of minutes is divided by 60.
- C. A participant who is not present for an entire program may claim credit only for the actual time he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Tax Law Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit under the rules of the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education.

**Section VI. COMPLIANCE**

A. General Rule

Specialization CLE credit hours will be computed on a calendar year basis and all attendance information for CLE credit earned shall be delivered to MCLE by January 31 of the following year.

B. Notification

The Louisiana Board of Legal Specialization will notify each non-compliant Board Certified Tax Specialist of the credit hours he or she has earned during the preceding calendar year. The specialist shall have 30 days from date of notification to appeal any award of credit hours.

A specialization transcript may be obtained from the Louisiana Board of Legal Specialization website located at <https://www.lascmcle.org/specialization/index.aspx>.

**Section VII. ADMINISTRATION**

The Tax Law Advisory Commission may delegate its responsibility to rule on all matters pertaining to tax law CLE requirements to a committee consisting of at least three (3) Tax Law Advisory Commission members. Any such committee shall report to the Tax Law Advisory Commission, and the Tax Law



Advisory Commission shall, at all times, retain the right to review, modify, or supersede decisions of any such committee.



## **RESOLUTION OF THE LOUISIANA BOARD OF LEGAL SPECIALIZATION TO AMEND APPELLATE PRACTICE STANDARDS**

**WHEREAS**, the Louisiana Board of Legal Specialization is empowered under Section 3.1C of the Louisiana State Bar Association Plan of Legal Specialization to make recommendations to the House of Delegates of the Louisiana State Bar Association with respect to reasonable and non-discriminatory standards concerning education, experience, proficiency and other relevant matters for granting certificates of special competence to lawyers in defined and designated fields of law;

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Appellate Practice Advisory Commission that amendments to the Appellate Practice Standards are in order to revise Section II (A)(2) (3) and (9) and (B)(4) of the Appellate Practice Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and are of a “housekeeping” nature; the Appellate Practice Standards presently read:

### **Section II. BASIC REQUIREMENTS**

#### **A. Application**

Applicants must at the time of initial application for certification:

1. Be an active member in good standing of the Louisiana State Bar Association;
2. Have a minimum of five (5) years of continuous actual practice of law on a full time basis preceding the year of application;
3. Certify under oath that during the five (5) years immediately preceding the year of application they have devoted a minimum of 25% of a full-time work schedule in the practice of law annually in the field of appellate practice as defined in Section I, C.  
...
9. Obtain by December 31 of the year of application a minimum of 18 hours of continuing legal education (CLE) in the field of appellate law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 18 hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption under Rule 7.10 of the Rules in the year of application.

B. Maintenance

Those bar members certified in the Appellate Practice specialty must satisfy the following requirements to maintain their certifications:

...

4. During each year of certification, must attend a minimum of 18 hours of approved appellate law continuing legal education programs that comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved appellate law specialization CLE earned in excess of the 18 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.

**WHEREAS**, a determination was made by the Louisiana Board of Legal Specialization Appellate Practice Advisory Commission that the Appellate Practice Standards should be consistent with Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and the amendments are of a “housekeeping” nature; and that Section II (A)(2) (3) and (9) and (B)(4) of the Appellate Practice Standards should be amended as follows:

**Section II. BASIC REQUIREMENTS**

A. Application

Applicants must at the time of initial application for certification:

1. Be an active member in good standing of the Louisiana State Bar Association;
  2. Have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application;
  3. Certify under oath that during 48 of the 60 months immediately preceding the year of application they have devoted a minimum of 25% of a full-time work schedule in the practice of law annually in the field of appellate practice as defined in Section I.C.
- ...
9. Obtain by December 31 of the year of application a minimum of 15 hours of continuing legal education (CLE) in the field of appellate law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 15 hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption under Rule 7.10 of the Rules in the year of application.

B. Maintenance

Those bar members certified in the Appellate Practice specialty must satisfy the following requirements to maintain their certifications:

4. During each year of certification, must attend a minimum of 15 hours of approved appellate law continuing legal education programs that comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved appellate law specialization CLE earned in excess of the 15 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.

**WHEREAS**, it is the recommendation of the Louisiana Board of Legal Specialization that it would be appropriate to amend Section II (A)(2) (3) and (9) and (B)(4) of the Louisiana Board of Legal Specialization Appellate Practice Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017.

**NOW, THEREFORE, BE IT RESOLVED** that there should be amendments to the Appellate Practice Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization and the Health Law Standards approved by the House of Delegates and the Board of Governors on January 21, 2017, and the Supreme Court of Louisiana on September 28, 2017, and are of a “housekeeping” nature; and that Section II (A)(2) (3) and (9) and (B)(4) of the Appellate Practice Standards should be amended as follows:

**Section II. BASIC REQUIREMENTS**

A. Application

Applicants must at the time of initial application for certification:

1. Be an active member in good standing of the Louisiana State Bar Association;
2. Have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application;
3. Certify under oath that during 48 of the 60 months immediately preceding the year of application they have devoted a minimum of 25% of a full-time work schedule in the practice of law annually in the field of appellate practice as defined in Section I.C.
- ...
9. Obtain by December 31 of the year of application a minimum of 15 hours of continuing legal education (CLE) in the field of appellate law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 15 hour requirement within the year of

application. An applicant will not qualify for the specialization CLE exemption under Rule 7.10 of the Rules in the year of application.

B. Maintenance

Those bar members certified in the Appellate Practice specialty must satisfy the following requirements to maintain their certifications:

4. During each year of certification, must attend a minimum of 15 hours of approved appellate law continuing legal education programs that comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved appellate law specialization CLE earned in excess of the 15 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.

**FURTHER**, be it resolved that this Resolution be submitted to the House of Delegates of the Louisiana State Bar Association for approval.

Respectfully submitted,

Carl J. Servat III, Chair  
Louisiana Board of Legal Specialization

December 14, 2018  
New Orleans, Louisiana

APPROVED  
HOUSE OF DELEGATES & BOARD OF GOVERNORS  
JANUARY 19, 2019  
BATON ROUGE, LA



**LOUISIANA BOARD OF LEGAL SPECIALIZATION  
APPELLATE PRACTICE STANDARDS**

Pursuant to the authority vested in the Louisiana Board of Legal Specialization (the “Board”) by the Supreme Court of Louisiana, the Board, on the recommendation of the Appellate Practice Advisory Commission (the “Advisory Commission”), prescribes the following standards and requirements for Board certification in Appellate Practice in accordance with the Plan of Legal Specialization (the “Plan”) and Rules and Regulations of the Louisiana Board of Legal Specialization (the “Rules”).

**Section I.      DEFINITIONS**

- A. The practice of law means full-time legal work performed for the purpose of rendering legal advice or legal representation to the general public, private employers, or governmental agencies.
- B. Full time shall be defined as working a minimum of 35 hours per week.
- C. Appellate Practice is defined as the practice of law involving matters brought before a Louisiana or federal appellate court;
- D. Certification as a specialist shall be effective the date the Board authorizes recognition and shall remain effective for five (5) years from January 1 of the year of recognition.

**Section II.     BASIC REQUIREMENTS**

B. Application

Applicants must at the time of initial application for certification:

- 1. Be an active member in good standing of the Louisiana State Bar Association;
- 2. Have a minimum of five (5) years of actual practice of law on a full time basis preceding the year of application;
- 3. Certify under oath that during 48 of the 60 months immediately preceding the year of application they have devoted a minimum of 25% of a full-time work schedule in the practice of law annually in the field of appellate practice as defined in Section I.C.
- 4. Have served as lead counsel, or had substantial responsibility in, 25 or more appellate matters at the time of application. Applicants who have served on the appellate bench for three (3) or more years in the five (5) years immediately preceding the date of application are exempted from this requirement;
- 5. Have presented at least six (6) oral arguments over the course of their professional careers;

6. The Advisory Commission must receive on behalf of an applicant, on a form furnished by the Louisiana Board of Legal Specialization, a minimum of five (5) reference statements from practicing attorneys who can attest to the applicant's competence in the specialty field of appellate practice. Of the five (5) references, at least one (1) must be from a Board Certified Appellate Practice Specialist. These submissions shall be subject to the limitations outlined in Rule 8.4 of the Rules;
7. Consent to a confidential inquiry by the Board and/or the Advisory Commission, directed to any person who serves as a reference for the applicant, and to other persons regarding the applicant's competence and qualifications to be recognized as an Appellate Practice Specialist. This inquiry and review shall consider information furnished by references and other information that the Advisory Commission deems relevant to whether the applicant has sufficient competence and proficiency handling the usual matters of appellate practice. This information may include the applicant's work product, ethics, reputation, professionalism, or such other criteria that the Advisory Commission deems appropriate to consider in reaching its recommendations;
8. Comply with the rules and regulations established by the Board as they relate to release of disciplinary action information;
9. Obtain by December 31 of the year of application a minimum of 15 hours of continuing legal education (CLE) in the field of appellate law. All CLE credits of an applicant must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education and the Advisory Commission. CLE earned in prior years may not be used to satisfy the 15 hour requirement within the year of application. An applicant will not qualify for the specialization CLE exemption under Rule 7.10 of the Rules in the year of application.
10. Maintain professional liability insurance in the minimum amount of \$1,000,000 and the policy must be offered by a company reasonably acceptable to the Board. Evidence of insurance shall be provided with the application.
11. Take and pass a written examination.
12. Certify under oath to having met these requirements.

B. Maintenance

Those bar members certified in the Appellate Practice specialty must satisfy the following requirements to maintain their certifications:

1. Be an active member in good standing of the Louisiana State Bar Association;
2. Certify under oath, on a form provided by the Board, that they engage in the actual practice of law on a full time basis;
3. Certify under oath, on a form provided by the Board, that they have devoted a minimum of 25% of a full time work schedule in the practice of law annually in the field of appellate practice, as defined in Section I.C herein.

4. During each year of certification, must attend a minimum of 15 hours of approved appellate law continuing legal education programs that comply with Section III below and the Supreme Court of Louisiana Rules for Continuing Legal Education. Up to eight (8) hours of approved appellate law specialization CLE earned in excess of the 15 hour minimum required per year will be permitted to carry forward to the subsequent year, but may not be carried forward from the application year.
5. Maintain professional liability insurance in the minimum amount of \$1,000,000, unless waived for good cause by the Board. The policy must be offered by a company reasonably acceptable to the Board. Proof of insurance shall be provided annually with payment of the annual and dues upon request.
6. Pay all fees required by the Rules.

C. Recertification

1. Recertification as a Board Certified Appellate Practice Specialist shall be required every five (5) years from the date of certification or recertification, as the case may be.
2. Each Board Certified Appellate Practice Specialist shall present an application every five (5) years, on a form furnished by the Board, certifying that he or she has met the requirements of Section II.B above.

**Section III. STANDARDS FOR CONTINUING LEGAL EDUCATION PROGRAMS**

A. Program Development and Presentation

1. The program should contribute to the professional competence of a Board Certified Appellate Practice Specialist and should be open for attendance by all such attorneys;
2. Programs should be developed by individual(s) qualified in the subject matter;
3. Program content should be current, and 70% or more of the program must be related to appellate practice subjects. No specialization continuing legal education credit will be awarded for attending a program that does not satisfy the 70% requirement.
4. Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation (if required), and teaching methods to be used;
5. Instructors or discussion leaders should be qualified with respect to program content and teaching method used;
6. Program sponsors should encourage participation only by individuals with appropriate education and/or experience;
7. The program sponsor must maintain registration and/or attendance records and such other records as may be necessary to substantiate compliance of the program with the above criteria.



## B. Program Qualification

### 1. General Rule

Continuing legal education programs must be approved by the Louisiana Supreme Court Committee on Mandatory Continuing Legal Education (MCLE) before approval can be granted by the Advisory Commission. The overriding consideration in determining if a specific program qualifies as acceptable continuing legal education is that it be a formal program of learning which contributes directly to the professional competence of an attorney who specializes in the field of Appellate Practice.

### 2. Program Approval

Programs shall be approved on a case-by-case basis by the Advisory Commission provided the program meets the general standards set forth in Section III, A and B1.

No credit shall be awarded for firm meetings or "in house" CLE programs.

## Section IV. OTHER METHODS OF EARNING SPECIALIZATION CLE CREDIT

### A. General Rules

1. Any other method of earning specialization CLE credit must be approved by MCLE before approval can be granted by the Advisory Commission, who shall then consider each request on a case-by-case basis.
2. All credit earned shall be calculated by MCLE in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.
3. All requests for CLE credit shall be submitted to MCLE and the Advisory Commission within a reasonable period of time but no later than January 31 of the calendar year following the activity for which CLE credit is being sought.

### B. Teaching

1. CLE credit may be awarded for teaching an approved CLE program pertinent to the specialization subject matter. If an individual teaches at a program and attends the balance of the program, then he or she shall receive credit for that portion of the program he or she did not teach in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education. No credit will be given for repetitious presentations of a program.
2. Teaching of academic courses in appellate practice in a law school or other graduate level program presented by a recognized professional educational association may earn CLE credit.
3. CLE credit may be awarded for teaching an appellate practice course at any seminar, provided the presentation meets all criteria contained in Section III, A and B, other than Section III.A 3.

### C. Writing

CLE credit may be awarded for writing articles and other publications directed primarily to attorneys specializing in the field of appellate practice and published in professional periodicals and publications. Credit will not be awarded for authorship of articles and other publications until the writing has been published.

D. Louisiana State Law Institute Committee meetings

CLE credit may be awarded for attendance at Louisiana State Law Institute Committee meetings pertinent to the field of appellate practice.

E. Pro Bono

CLE credit may be awarded for providing uncompensated pro bono legal representation related to an appellate law matter, as defined in Section I C herein, to an indigent or near-indigent client or clients. CLE credit shall not be granted until the representation has been assigned, completed and verified by the assigning organization as defined by and in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section V. CREDIT HOURS GRANTED**

- A. Only credit hours or the equivalent (and not hours dedicated to preparation) will be counted.
- B. One (1) hour of continuing legal education credit will be awarded for each 60 minutes of instruction. Where the program is several periods of instruction with intervening breaks, the number of minutes of instruction is summed for the entire program for which the credit is claimed and then the total number of minutes is divided by 60.
- C. A participant who is not present for an entire program may claim credit only for the portion he or she attended.
- D. The credit hours assigned to a program by MCLE will be accepted by the Advisory Commission unless the hours are clearly inaccurate under the standards for computing credit in accordance with the Supreme Court of Louisiana Rules for Continuing Legal Education.

**Section VI. COMPLIANCE**

A. General Rule

Specialization CLE credit hours will be computed on a calendar year basis and all attendance information for CLE credits earned shall be delivered to MCLE by January 31 of the following year.

B. Notification

The Board will notify each non-compliant Board Certified Appellate Practice Specialist of the credit hours he or she has earned during the preceding calendar year. The specialist shall have 30 days from the date of notification to appeal the award of credit hours.

A specialization transcript may be obtained from the Board website located at <https://www.lascmcle.org/specialization/index.aspx>.

**Section VII. ADMINISTRATION**

The Advisory Commission may delegate its responsibility to rule on all matters pertaining to appellate practice CLE requirements to a committee consisting of at least three (3) Advisory Commission members. Any such committee shall report to the Advisory Commission, and the Advisory Commission shall, at all times, retain the right to review, modify, or supersede the decisions of any such committee.