

Louisiana's Plan of Legal Specialization

Section 1. Purpose and Objective

1.1 The objective of the Louisiana State Bar Association Plan of Legal Specialization ("Plan") is to promote the availability, accessibility and quality of the services of lawyers in particular fields of the law in order to better serve the public interest and improve public access to appropriate legal services and to advance the standards of the legal profession by encouraging specialized education in various fields of practice.

1.2 The purpose of the Louisiana Board of Legal Specialization ("Board") is to regulate and administer all matters pertaining to specialization in the practice of law and to regulate the certification of lawyers as specialists in accordance with rules and regulations promulgated by the Board and to regulate the certification of lawyers as specialists by certifying agencies.

Section 2. Establishment of The Board

2.1 The Louisiana Supreme Court hereby establishes the Board, which shall be the authority having jurisdiction under state law over the subject of specialization of lawyers. The Board shall be composed of nine members appointed by the Supreme Court from nominations submitted by the Board of Governors of the Louisiana State Bar Association. The Board shall be representative of the legal profession in Louisiana and shall consist only of lawyers licensed and currently in good standing to practice law in this state, some of whom specialize and some of whom are in general practice. One of the members shall be a full-time faculty member of a Louisiana law school. All members shall hold office for three years and until their successors are appointed. Members shall be appointed to staggered terms of office, and the initial appointees shall serve as follows: three members shall serve until June 30th next following their appointment; three members shall serve until the second June 30th following their appointment; and three members shall serve until the third June 30th following their appointment. Any vacancies shall be filled in the manner provided for original appointments. All members of the Board shall be eligible for reappointment for no more than one additional term. One of the members of the Board shall be designated as Chairperson of the Board for such term as the Supreme Court shall determine.

2.2 Members shall serve without compensation, but shall be paid their regular necessary expenses.

2.3 Meetings of the Board shall be held at regular intervals at such times and places and on such notice as the Board may prescribe.

Section 3. Powers And Duties Of The Board

3.1 Subject to the continuing jurisdiction of the Board of Governors of the State Bar of Louisiana and the Louisiana Supreme Court, the Board shall have general jurisdiction of all matters pertaining to specialization in the practice of law and shall have the authority and the duty to supervise and regulate all aspects of specialization in the practice of law. The Board has the responsibility for carrying out this Plan and, in that connection, has the following powers and duties:

A. Administer the program for the recognition and regulation of specialization in the practice of law;

B. To make recommendations to the House of Delegates of the Louisiana State Bar Association, after appropriate petition, to define and designate fields of law in which certificates of special competence

may be granted and provide procedures by which such field may be determined, redefined or eliminated. Such recommendations shall be submitted in the form of a resolution to the House of Delegates, which resolution shall require approval by a simple majority of those present and voting at the time the question is called.

C. To make recommendations to the House of Delegates of the Louisiana State Bar Association after appropriate petition concerning 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, after public hearings on due notice have been held. Such recommendations shall be submitted in the form of a resolution to the House of Delegates, which shall require approval by a simple majority of those present and voting at the time the question is called.

D. Provide procedures for the investigation and testing of the qualifications of applicants and certificate holders and to award certificates of special competence in a form approved by the Board.

E. To make recommendations to the House of Delegates of the Louisiana State Bar Association concerning reasonable and non-discriminatory standards for continuing proficiency, recertification or renewal of certificates of special competence after public hearings on due notice. Such recommendations shall be submitted in the form of a resolution to the House of Delegates, which shall require approval by a simple majority of those present and voting at the time the question is called.

F. Encourage law schools, the State Bar Committee on Continuing Legal Education, local bar associations and other agencies of continuing legal education to develop and maintain a program of legal education and continuing legal education to meet the standards prescribed by the Board.

G. Cooperate with other agencies of the Louisiana State Bar in establishing and enforcing standards of professional conduct necessary for the recognition and regulation of specialization in the law in the manner determined by the Board.

H. Cooperate with the Standing Committee on Specialization of the American Bar Association and with the agencies in other states engaged in the regulation of legal specialization.

I. Report as required, but at least annually, to the Board of Governors of the Louisiana State Bar and to advise such Board concerning appointment of advisory commissions.

J. To make recommendations to the House of Delegates of the Louisiana State Bar Association concerning standards, rules and regulations to implement this authority, all in accordance with the limitations on the power of the Board and the minimum standards prescribed by the Board. Such recommendations shall be submitted in the form of a resolution to the House of Delegates, which shall require approval by a simple majority of those present and voting at the time the question is called.

K. To make recommendations to the House of Delegates of the Louisiana State Bar Association concerning the approval of appropriate agencies as qualified to certify lawyers as specialists in a particular field of law, and to adopt standards which certifying agencies must meet. Such recommendations shall be submitted in the form of a resolution to the House of Delegates, which shall require approval by a simple majority of those present and voting at the time the question is called.

L. To deny, suspend, or revoke the approval of a certifying agency upon the Board's determination that the agency has failed to comply with the standards established by the Plan and the rules and regulations of the Board.

M. To keep appropriate records of those lawyers certified as specialists under this Plan or by certifying agencies, and to report to the Disciplinary Board any lawyers who may violate the provisions of this Plan.

Section 4. Retained Jurisdiction Of The Supreme Court

4.1 The Louisiana Supreme Court retains jurisdiction with respect to the following matters:

(1) Amending this Plan;

(2) Hearing appeals taken from action by the Board or the Board of Governors; and

(3) Establishing or approving fees to be charged in connection with this Plan.

Section 5. Limitations On Power Of The Board

5.1 The following limitations on the power of the Board are established:

A. No standards shall be approved which shall in any way limit the right of a certificate holder to practice law in all fields. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law even though he or she is certified in a particular field of law.

B. No lawyer shall be required to be certified before he can practice law in any particular field of law. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law, even though he or she is not certified as a specialist in any particular field.

C. All requirements for and all benefits to be derived from certification are individual and may not be fulfilled by or attributed to a law firm of which the specialist may be a member.

D. Participation in the Plan shall be on an entirely voluntary basis.

E. The limit on the number of fields of law in which a lawyer may be certified shall be determined by such practical limits as are imposed by the requirement of "substantial involvement" and such other standards as may be established by the Board.

F. No rules or standards shall be adopted in contravention of the rules of the Louisiana State Bar Association.

Section 6. Privileges Conferred

6.1 Any lawyer recognized as a specialist under this Plan shall be entitled to advertise that he or she is a "Board Certified Specialist" in his or her specialty to the extent permitted by the Rules of Professional Conduct of this State.

6.2 A lawyer who is certified as a specialist by a certifying agency approved by the Board may communicate the fact that he or she is certified as a specialist in the area of law involved. If the certifying agency has not been approved by the Board, the lawyer must so state in any advertising materials used by the specialist.

Section 7. Advisory Commissions

7.1 Advisory commissions to the Board shall be established for each field of law in which certificates of special competence are to be issued. These commissions shall advise and assist the Board in carrying out its objectives and in the conduct and development of the program for the recognition and regulation of specialization in the practice of law. Standards for the issuance of certificates of special competence shall be established by the Board, but it will be advised in this and other relevant matters by the advisory commission for each field of practice. The advisory commission for each field of practice shall be charged with actively administering the program in its particular field in cooperation with and under the general policy guidance of the Board.

7.2 Members of the advisory commission shall be appointed by the Board in such number and for such terms as the Board shall direct.

Section 8. Minimum Standards For Certification

8.1 The minimum standards for certification under this program are prescribed below. Each advisory commission may recommend, and the Board may establish, additional or higher standards.

8.2 A lawyer (1) who is an active member in good standing of the Louisiana State Bar Association, and (2) who meets the requirements prescribed by the Board, shall be granted a certificate in a form approved by the Board which shall certify, under the name of the Board, the lawyer's special competence in a particular field of law designated by the Board as a field of law in which certificates of special competence may be granted.

8.3 Requirements for qualifying for certification are:

(1) A minimum of five (5) years of actual practice of law on a full-time basis.

(2) A satisfactory showing, as determined by the Board after advice from the appropriate advisory commission, of a substantial involvement in the particular field of law for which certification is sought for such reasonable period of time immediately preceding certification, as may be determined by the Board after advice from the appropriate advisory commission.

(3) A satisfactory showing, as determined by the Board after advice from the appropriate advisory commission, of such educational experience in the particular field of law for which certification is sought as the Board deems advisable.

(4) Passing a written examination applied uniformly to all applicants before certification to demonstrate sufficient knowledge, proficiency and experience in the field of law for which certification is sought and in the various fields of law relating to such field as is necessary to justify the representation of special competence to the legal profession and to the public.

(5) Passing an oral examination, if determined to be advisable by the Board, with the advice of the appropriate advisory commission.

(6) Payment of any fee required by the Board.

(7) A satisfactory showing of professional liability insurance in such amount as may be required by the Board for the particular field of law for which certification is sought.

"Substantial involvement", as used in these standards, shall be defined by the Board as to each particular field of law from a consideration of its complexity and distinction from other fields, and from consideration of the time and extent of involvement required in the particular field of practice.

8.4 A certificate of special competence shall be issued for a period not exceeding five years, and the term shall be stated on its face.

Section 9. Standards For Recertification

9.1 No certificate of special competence shall be renewed for a period longer than five years, and the term of any certificate shall be stated on its face.

9.2 Each advisory commission may recommend, and the Board may establish additional requirements and safeguards to insure the continued proficiency of any holder of a certificate of special competence, but recertification shall be required at least every five years under the following minimum standards:

A. A satisfactory showing, as determined by the Board with the advice of the appropriate advisory commission, of a substantial involvement in the particular field of law for which certification was granted, during the period of certification; and

B. A satisfactory showing, as determined by the Board after advice from the appropriate advisory commission, of such continuing educational experience in the field of law for which certification was granted, during the period of certification as the Board deems advisable; and

C. The payment of any fee prescribed by the Board. In the event a lawyer's previous certificate is not effective at the time application is made for recertification or he fails to meet the requirements for recertification, he shall be entitled to seek certification by examination as provided in Section 8 above.

Section 10. Revocation Of Certification

10.1 A certificate of special competence may be revoked by the Board if the program for certification in that field is terminated or if it is determined after hearing on appropriate notice that:

A. The certificate was issued contrary to the rules and regulations of the Board; or

B. The certificate was issued to a lawyer who was not eligible or became ineligible to receive a certificate or who made any false representation or misstatement of material fact to the Board; or

C. The certificate holder has failed to abide by all rules and regulations covering the program promulgated by the Board as amended from time to time including any requirement or safeguard for continued proficiency; or

D. The certificate holder has failed to pay any fees established by the Board; or

E. The certificate holder no longer meets the qualifications established by the Board.

Upon revocation of the certificate, the certificate holder shall immediately return the certificate to the office of the Executive Director of the Board.

Section 11. Right Of Appeal

11.1 A lawyer who is refused certification, recertification or whose certificate is revoked by the Board, or any person who is aggrieved by a ruling or determination of the Board, shall have the right to appeal the ruling of the Board to the Board of Governors of the Louisiana State Bar Association under such rules and regulations as it may prescribe. The exhaustion of this right of appeal shall be a condition precedent to judicial review by the Supreme Court of Louisiana.

11.2 After consideration by the Board of Governors of the Louisiana State Bar Association, a lawyer who is aggrieved by the actions of the Board of Governors shall have the right to appeal the ruling made thereon by the Board of Governors to the Louisiana Supreme Court, under such rules and regulations as the Supreme Court may prescribe.

Section 12. Responsibilities Of Certified Lawyers

A .When a client is referred to a lawyer who is certified under this Plan on a matter within the lawyer's specialty field, the lawyer so certified shall not take advantage of his position to enlarge the scope of the representation, and shall encourage a referred client to return to the referring lawyer for the handling of future legal needs.

B. Each participant in the Plan, as a part of the application for participation in the Plan, shall agree to abide by all rules and regulations promulgated by the Board covering the Plan, as amended from time to time. During the operation of the Plan, no individual lawyer or group of lawyers shall have any vested rights thereunder.

C. During the operation of this Plan, any lawyer holding a current certificate of special competence, or who is certified as a specialist by an approved certifying agency, shall be entitled to:

(1) State that the lawyer is certified by the Board or by an approved certifying agency in a particular field in the following words:

"Board Certified Specialist (e.g., Labor Law) - Louisiana Board of Legal Specialization" or "Certified by [name of agency] as a [Labor Law] Specialist." In all other respects any advertisement of such certification shall be in accordance with the Rules of Professional Conduct of this State and shall contain the disclaimer required by section 6.2 of the Plan, if applicable.

(2) Display in the lawyer's office the certificate issued by the Board or approved agency.

Section 13. Executive Director

13.1 The Board shall appoint an Executive Director to hold office at the pleasure of the Board and at such salary as shall be fixed by the Board. The Executive Director shall be responsible for the execution of the policies and directives of the Board with reference to all activities. The Executive Director shall also serve as Secretary to the Board, performing all duties required of a Secretary and such other duties as may be assigned from time to time by the Board. The Executive Director, with the approval of the Board, may employ such administrative and clerical assistance as the work of the office may require, with salaries to be fixed by the Executive Director with the approval of the Board.

Section 14. Financing Of The Program

14.1 A fee as established by the Board shall be charged for filing an application for certification or recertification. An additional fee may be established by the Board for the granting of the certificate payable in annual installments or in such other manner determined by the Board. Said fees shall be reasonable and in an amount as may be necessary to defray the expense of administering the program, and may be adjusted from time to time.

Section 15. Retained Jurisdiction Of Supreme Court

15.1 The jurisdiction of the Board shall be limited to the following fields of law:

Tax Law
Family Law
Business Bankruptcy Law
Consumer Bankruptcy Law
Labor and Employment Law
Estate Planning and Administration
Environmental Law

The Board shall continue to be responsible for the development and operation of the program for the recognition and regulation of specialization in other fields of practice and the number and type of specialty certifications included in the program and the jurisdiction of the Board may be enlarged, altered or terminated from time to time by the Supreme Court of Louisiana.