

**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 the Board of Governors of the Louisiana State Bar Association, the Board on the recommendation of the Estate Planning and Administration Advisory Commission prescribes 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 Rules and Regulations of the Louisiana Board of Legal Specialization.

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. Estate planning and administration (hereinafter "EP&A") 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 client's desires after considering the tax and family relationship consequences of the client's acts and wishes. It includes providing advice with respect to donations, wills, trusts, life insurance, business arrangements and agreements, income and transfer taxes, the estate planning aspects of qualified and non-qualified plans and deferred compensation agreements, and other estate planning matters; and 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), business planning agreements (including buy-sell and other shareholder agreements), powers of attorney, and other estate planning instruments. Estate planning and administration also includes advising clients and handling matters with respect 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 inheritance and estate transfer tax returns, and federal and Louisiana gift tax returns, and legal representation before the Internal Revenue Service, the Louisiana Department of Revenue and Taxation, and the Court in connection with such tax returns and related controversies.
- C. Certification as a specialist shall be effective the date the Louisiana Board of Legal Specialization authorizes recognition and shall remain effective for five years from January 1 of the year of recognition. (See Section VI regarding recertification.)

SECTION II. BASIC REQUIREMENTS

- A. Each applicant must at the time of application for certification be an active member, in good standing, of the Louisiana State Bar Association, who has practiced law in the field of estate planning and administration for a continuous period of at least five (5) years immediately preceding the year of certification, at least three (3) of which years shall have been as an attorney practicing in the state of Louisiana, and who regularly devotes at least 35% of his or her practice to estate planning and administration, including substantial involvement in a significant portion of the tax and non-tax-related activities enumerated in Section I., B. Each applicant must certify under oath to having met these requirements.
- B. Pursuant to the Plan of Legal Specialization and the Rules and Regulations of the Louisiana Board of Legal Specialization, each applicant must have five favorable reference statements from at least five attorneys or law professors, at least one of whom is a Board Certified Estate Planning and Administration Specialist, none of whom are:
 - 1. Related by blood or marriage to the applicant;

2. A partner, associate or co-worker of applicant within one year immediately preceding the filing of the application, or otherwise affiliated with the applicant;
 3. An attorney who is presently serving on the Louisiana Board of Legal Specialization or the Estate Planning and Administration Advisory Commission.
- C. Each applicant is required to obtain by December 31 of the year of application a minimum of eighteen (18) hours of estate planning continuing legal education pursuant to the Rules and Regulations of the Louisiana Board of Legal Specialization. **CLE earned in prior years may not be used to satisfy the eighteen (18) hour requirement.**
- D. A written examination will be administered to all applicants.
- E. Each applicant must carry malpractice insurance in the minimum amount of \$1,000,000, unless waived for good cause by the Louisiana Board of Legal Specialization.
- F. During each year of certification, a Board Certified Estate Planning and Administration Specialist must attend a minimum of eighteen (18) hours of approved estate planning continuing legal education programs in compliance with Section III below and pursuant to the Supreme Court of Louisiana Rules for Continuing Legal Education. **CLE carry forward of eight (8) hours will be permitted, but may not be carried forward from the application year.**

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 and seventy (70%) percent or more of the program or that portion of the program for which credit is claimed (which portion is hereinafter referred to as the "program") must be related to estate planning and administration law subjects.
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 number of participants and physical facilities should be consistent with the teaching method(s) specified.
8. 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 (CLE) Programs must first be approved by the Mandatory Continuing Legal Education ("MCLE") Department of the Louisiana State Bar Association before approval can be granted in the EP&A specialization area. 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 EP&A law.

2. Presumptively Approved Programs

The advisory commission has determined that programs sponsored by the following entities shall be presumptively approved for CLE credit in EP&A law provided seventy (70) per cent or more of the program is related to EP&A law and the MCLE Department has granted course approval:

ABA approved law schools, including but not limited to:
Tulane, Loyola and LSU Estate Planning Seminars and the
University of Miami Philip E. Heckerling
Institute on Estate Planning
American College of Trust & Estate Counsel
American Institute of Federal Taxation
American Law Institute-American Bar Assn. (ALI-ABA)
Corbel, Inc.
ERISA
Georgetown University Law Center Advanced Estate Planning Institute
Lorman Business Center, Inc.
Louisiana State Bar Association
National Business Institute
Pension Publications of Denver (subsidiary of Corbel, Inc.)
Planning for the Future, L.L.C.
Practising Law Institute (PLI)
Probate and Trust Division of the Real Property,
Probate and Trust Section of the American Bar
Association
Section of Taxation of the American Bar Association
Southern Federal Tax Institute
Southwest Legal Foundation

Note: All other CLE providers must first receive approval of the MCLE Department and the Estate Planning and Administration Advisory Commission before credit will be given.

3. Program Approval

Programs not presumptively approved under Section III, B. 2 hereof 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.

4. Dinner Meetings and Firm Meetings

Generally, credit will not be awarded for attendance at a lunch and/or dinner meeting unless it is sponsored by one of the entities listed in Section III, B. 2, after satisfying the criteria for CLE credit, although exceptions may be permitted in the discretion of the advisory commission on a case-by-case basis. Also, no credit shall be awarded for firm meetings or "in house" CLE programs.

5. Other Methods of Earning Credit

(a) CLE credit will be awarded for teaching of an approved CLE program pertinent to the

specialization subject matter at the rate of six (6) hours credit for every hour of teaching. 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.

- (b) CLE credit may be awarded for writing of articles and other publications directed primarily to attorneys specializing in the EP&A field of law and published in professional periodicals and publications, not to exceed six (6) hours of credit per article or publication. Applications for credit shall be submitted to the MCLE Department and ruled upon by the advisory commission within a reasonable time after publication.
- (c) Teaching of law courses in EP&A law in a law school or other graduate level program presented by a recognized professional educational association shall earn credit as determined by the advisory commission on a case-by-case basis. As a general rule, one hour of credit shall be awarded for each hour or class presentation, up to the maximum allowed under MCLE rules.
- (d) Credit will be allowed 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.

SECTION IV. CREDIT HOURS GRANTED

- A. Only credit hours or the equivalent (and not hours dedicated to preparation) will be counted.
- B. One hour of continuing legal education credit will be awarded for each sixty (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 such total number of minutes is divided by sixty (60).
- C. A participant who is not present for an entire program may claim credit only for the portion he attended.
- D. The credit hours assigned to a program by its sponsor will generally be accepted by the advisory commission unless the hours are clearly inaccurate under the standards for computing credit under the rules of the Mandatory Continuing Legal Education Department.

SECTION V. COMPLIANCE

- A. General Rule
 - 1. CLE credits will be computed on a calendar year basis and all attendance information shall be delivered to the Louisiana State Bar Association Mandatory Continuing Legal Education Department. Deadline for filing annual CLE is January 31 of the following year. Failure to timely report specialization CLE hours may result in a \$150.00 penalty assessment.
 - 2. The advisory commission will notify each Board Certified EP&A Specialist of the credits he or she has earned during the preceding calendar year. The attorney will have thirty (30) days from the notification to appeal the award of hours.

SECTION VI. RECERTIFICATION

- A. Each applicant for recertification shall present an affidavit meeting the requirements of Section II hereof.
- B. Each applicant shall meet the CLE requirements of the Rules and Regulations of the Louisiana Board of

Legal Specialization.

- C. If an applicant has been certified as a specialist in EP&A law and has left the practice of law to become a teacher or public official, and such teaching or other position involves specialized experience in EP&A law, then the requirements of Section II, A, hereof, shall be waived.

SECTION VII. ADMINISTRATION

The advisory commission may delegate its responsibility to rule on all matters pertaining to the CLE requirements of the Rules and Regulations of the Board to a committee consisting of at least three (3) members of the advisory commission. The advisory commission shall at all times retain the right to review, modify, or supersede the decisions of any such committee.