

# AGENDA ITEM

**144 MARCH**

**DATE: TO: February 14, 2014**

**Members, Planning, Program Development and Budget Committee; and  
Members, Board of Trustees**

**FROM: Gayle Murphy, Senior Director, Office of Admissions  
Natalie Leonard, Director, Legal Specialization Program, Office of Admissions**

**SUBJECT: Legal Specialization Program: Proposed Renumbering of Rules References in State Bar Rules Appendix A Schedule of Charges and Deadlines - Legal Specialization Fees**

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## EXECUTIVE SUMMARY

At its November 14, 2013 meeting, the Board of Trustees adopted revised and renumbered rules for both the legal specialization program (Title III, Division 2, Chapter 2, 3.90-3.126) and approval to certify legal specialists via eligible partner certifiers (Title III, Division 5, Chapter 4, Rules 3.900 – 3.906), hereinafter “legal specialization program rules.” These rules became effective on January 1, 2014.

These programs list their fees in State Bar Rules Appendix A, Schedule of Charges and Deadlines. While neither the fees nor the deadlines are requested to change, the applicable rules for each of the Charges and Deadlines refer to the prior rule numbers, and these numbers are recommended to be updated to reflect the newly revised and adopted rule numbers.

Board members with questions may contact Natalie Leonard at (415)538-2118 or [natalie.leonard@calbar.ca.gov](mailto:natalie.leonard@calbar.ca.gov).

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## BACKGROUND

At its November 14, 2013 meeting, the Board of Trustees adopted new State Bar rules governing legal specialization programs, Title 3, Division 2, Chapter 2, 3.90 – 3.126 and Title 3, Division 5, Chapter 4, 2.900 – 3.906, and repealed the prior rules governing these programs. These revised legal specialization program rules became effective on January 1, 2014. The revised rules continue to refer a reader to the Schedule of Charges and Deadlines for applicable Charges and Deadlines. This complies with a core principle of the State Bar Rules, which is stated in rule 1.20(L) (Construction): “If a

rule refers to the Schedule of Charges and Deadlines, the referenced date or amount is part of the rule.” The schedule is a central location of the Charges and Deadlines of all State Bar programs.

This agenda item requests that the existing Appendix A, Schedule of Charges and Deadlines, be updated to remove the prior now-repealed rule numbers referenced for legal specialization program rules and to replace those rule references with the newly revised rule references that became effective on January 1, 2014, as shown on the attachments to this agenda item. No change is requested for any legal specialization program fee or deadline. No public comment is needed.

## **ISSUE**

Whether to adjust the rule references in the Appendix A, Schedule of Charges and Deadlines of the Rules of the State Bar of California to reference the newly revised and renumbered legal specialization program rules related to Charges and Deadlines, as shown on the attached proposed schedule.

## **CONCLUSION**

Having adopted new legal specialization program rules on November 14, 2013, effective January 1, 2014, the Board of Trustees should now update the rule references in Appendix A, Schedule of Charges and Deadlines, to reference the correct newly revised and renumbered legal specialization program rules numbers proposed in the attached schedule.

## **DISCUSSION**

Listed below are the relevant parts of the newly revised rules that refer to Charges and Deadlines for legal specialization programs set forth in the Schedule of Charges and Deadlines.

A. Title III, Division 2, Chapter 2, 3.90-3.126 (rules related to legal specialization programs).

1. Rule 3.110 (A)(2) (Certification requirements in general) states:

An applicant for certification or recertification must submit an Application for Certification with an application fee.

2. Rule 3.112 (Charges and Deadlines) states:

(A) These rules refer to Charges and Deadlines that are set forth in the Schedule of Charges and Deadlines. [Footnote citation reads: See Rule 1.20(L).]

- (B) A certified specialist who fails to make timely payment of a required fee is notified of the delinquency and may be assessed a late charge. Certification is suspended for failure to pay the annual fee or late charge within thirty days of imposition of the late charge.

3. Rule 3.113 (Application for Certification) states:

- (A) An Application for Certification must be submitted with an application fee.
- (B) An application is deemed abandoned and ineligible for a refund of the application fee if:
  - (1) the application is not complete within sixty days of receipt by the State Bar, unless an extension has been granted;
  - (2) the application is complete but the applicant fails to provide additional information requested by the State Bar within ninety days of the request; or
  - (3) an applicant fails to complete any other certification application requirement.
- (C) Certification requirements completed for an abandoned application may be used for a subsequent application.
- (D) An applicant may apply for certification in more than one specialty.

4. Rule 3.117 (A) (Examination) states:

An applicant must pay an examination registration fee and take and pass a written examination that tests knowledge of substantive law and procedures of a legal specialty. The board determines the scope, format, topics, grading process, and passing score of the examination.

5. Rule 3.124 (A) (Recertification) states:

To be recertified, a certified specialist must comply with the requirements of these rules and any relevant standards and pay an annual fee. A specialist who fails to make timely payment of an annual fee may be assessed a late charge. Certification is suspended for failure to pay the fee and any late charge within thirty days of the imposition of the late charge.

B. Title III, Division 5, Chapter 4, 3.900-3.906.

1. Rule 3.901 (Fees) states:

These rules refer to Charges and Deadlines that are set forth in the Schedule of Charges and Deadlines.

2. Rule 3.902 (Application to Certify California Legal Specialists) states:

- (A) An entity applying for approval to certify California Legal Specialists must demonstrate to the satisfaction of the board and the Board of Trustees that the entity meets the requirements of these rules for approved entities and their specialty programs.
- (B) The entity's application must be completed in accordance with instructions and submitted with the required fee. [Footnote citation reads: Rule 1.24.]

3. Rule 3.904 (Maintaining Approval) states:

An entity approved to certify California legal specialists must at all times comply with these rules and:

- (A) annually submit a Request to Renew Approval to Certify California Legal Specialists with the appropriate fee or late fee; and
- (B) promptly report to the board any change in contact information or in the entity's qualifications as approved by the Board of Trustees.

**FISCAL / PERSONNEL IMPACT:**

None known.

**RULE AMENDMENTS:**

Legal specialization program rule references shown on the attached schedule should be added to the Schedule of Charges and Deadlines, effective retroactive to January 1, 2014.

**BOARD BOOK IMPACT:**

None known.

**RECOMMENDATION**

It is recommended that the Board add to the Appendix A Schedule of Charges and Deadlines of the State Bar Rules the revised rule numbers applicable to legal specialization program rules as shown on the attached schedule, effective retroactive to January 1, 2014.

## **PROPOSED BOARD COMMITTEE RESOLUTION:**

Should the Planning, Program Development and Budget Committee agree with the above recommendation, the following resolution would be appropriate:

**RESOLVED**, that no public comment being required, the Planning, Program Development and Budget Committee recommends that the Board add to the Appendix A, Schedule of Charges and Deadlines, the new rule numbers corresponding with the Charges and Deadlines of the legal specialization program referenced in Title 3, Division 3, Chapter 2, Rules 3.110 (A)(2), 3.112, 3.113, 3.117 (A), 3.124(A), and Title 3, Division 5, Chapter 4, Rules 3.901, 3.902, and 3.904, as shown on the attached schedule, retroactive to January 1, 2014.

## **PROPOSED BOARD OF TRUSTEES RESOLUTION:**

Should the Board concur with the Planning, Program Development and Budget Committee's recommendation, the following resolution would be in order:

**RESOLVED**, that no public comment being required and upon the recommendation of the Planning, Program Development and Budget Committee, the Board hereby adds to the Schedule of Charges and Deadlines the proper rule numbers corresponding to the Charges and Deadlines of the legal specialization program as referenced in Title 3, Division 2, Chapter 2, Rules 3.110 (A)(2), 3.112, 3.113, 3.117 (A), 3.124(A), and Title 3, Division 5, Chapter 4, Rules 3.901, 3.902, and 3.904, as shown on the proposed attachment to this item, effective January 1, 2014.

**ATTACHMENT:** Appendix A, Schedule of Charges and Deadlines, portion relating to the legal specialization program rules.