



# The State Bar of California

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## **OPEN SESSION**

## **AGENDA ITEM**

## **III.C. APRIL 2024**

## **CALIFORNIA BOARD OF LEGAL SPECIALIZATION**

**DATE:** April 26, 2024

**TO:** Members, California Board of Legal Specialization

**FROM:** Adrian Galang, Program Manager, Office of Admissions

**SUBJECT:** Review and Action on Applicant Request for Reinstatement of Legal Specialization Certification

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### **EXECUTIVE SUMMARY**

Title 3, Rule 3.110 of the Rules of the State Bar specifies the general requirements for certification. Staff may also waive or permit modification of a certification requirement<sup>1</sup>, if requested.

This agenda item outlines a previously certified specialist's request for reinstatement and for waiving the Legal Specialization examination requirement that was previously denied by staff. The applicant now requests additional consideration by the California Board of Legal Specialization (CBLS).

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### **BACKGROUND**

Rule 3.110 defines "applicant" as applicants for initial certification or applicants for recertification. The rule further provides that applicants must establish proficiency in the specialty area by meeting the following requirements:

- (1) be an active licensee in good standing of the State Bar and not currently in disciplinary proceedings or on disciplinary or criminal probation;
- (2) submit an application with an application fee; and
- (3) meet the requirements of these rules and any relevant standards regarding

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<sup>1</sup> Rules of the State Bar, Title 3, Division 2, Chapter 2, Article 1, Rule 3.118(B)—The State Bar may waive or permit modification of a certification requirement.

- (a) education;
- (b) practice and tasks;
- (c) examination; and
- (d) references familiar with the applicant's proficiency in performing tasks relied upon for certification in the specialty area.

Current Legal Specialization Rules and statuses only identify applicants as certified or not certified. Consequently, when an active certified specialist is removed from, or resigns from, the Legal Specialization program, they are no longer considered applicants for recertification. These applicants are viewed as applicants for initial certification and are required to retake the Legal Specialist Exam again to start the certification process over again should they decide to return to active certification. This is a de facto requirement that is not stated explicitly in the rules, but results from the relationship between various rules and definitions.

## DISCUSSION

The following table summarizes the specialist's certification history, and his request for reinstatement received by staff, along with the recommendation to grant or deny the request<sup>2</sup>. Staff's recommendation is based on their comprehensive review of the request and supporting information provided by the requesting specialist.

Name	State Bar Status	Legal Specialization Status	Request/Comments	Staff Recommendation
Waiver Applicant 1	Active	Closed (resigned)	<ul style="list-style-type: none"> <li>• Applicant originally certified in Workers' Compensation Law in 1986.</li> <li>• Applicant appointed to Workers' Compensation Law Advisory Commission in 2002.</li> <li>• Applicant appointed to Chair of Workers' Compensation Law Advisory Commission in 2003.</li> <li>• Applicant moved out of state, went Inactive with the State Bar, and retired his certification in 2020, indicating he is 'retired/no longer practicing'.</li> <li>• Most recent certification term would have otherwise ended 2021.</li> <li>• Applicant requested reinstatement in 2023.</li> <li>• Applicant requests a 'waiver to the exam requirement to restart the</li> </ul>	Deny

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<sup>2</sup> In the interest of privacy, the requestor is listed anonymously.

			<p>certification process based on his previous length of certification and experience in the area beyond practice.'</p> <ul style="list-style-type: none"> <li>• Applicant provides additional experience serving on the California Applicants' Attorneys Association Board, Education Committee, and Regulation Committee, including participation as panelist during LSCLE activities.</li> <li>• Applicant also called out his age and that the Legal Specialist Exam is only given every other year. He noted that having to wait for the next exam diminishes its value.</li> <li>• Applicant indicates that legal activity since returning to active practice (2023) has required initiating study of significant cases and changes in regulation since 2020.</li> <li>• Applicant further requests a non-exam pathway for conditional reinstatement, which could include completion of LSCLE within a specific timeframe and bringing all Legal Specialization fees that would have been assessed since 2020 be made current, or some other alternative condition(s).</li> </ul>	
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## **FISCAL/PERSONNEL IMPACT**

This item contains one recommendation for Legal Specialization certification reinstatement, and a waiver of the exam requirement for a total financial impact of \$2,150 as proposed by the applicant (\$360 Legal Specialization Program Annual Fees 2020-2024 + \$350 Legal Specialization Recertification Fee).

## **RECOMMENDATION**

Given that the applicant had a three-year period without practice, (1) the applicant does not meet the five-year practice requirement for certification, (2) if reinstated, the applicant would be three years overdue for recertification, and (3) it would not be appropriate to the public to present that the applicant is certified when we have no validation or verification that he is current in his practice tasks, experience, and education. As a result, it is recommended the CBLS

deny the request, and require the applicant to retake the exam to start the certification process.

### **PROPOSED MOTION**

Should the California Board of Legal Specialization agree with the staff recommendation, the following motion would be appropriate:

**MOVE**, that the California Board of Legal Specialization deny the certified specialist's request for reinstatement with a waiver of the exam requirement.