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 ("LSBA") 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 Family Law Advisory Commission that amendments to the Family Law Standards are in order to revise Section II (A)(2), (3), (4), and (7) and (B)(4); Section III (B)(1); and Section VI (B) of the Family Law Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization, and Supreme Court of Louisiana Rules for Continuing Legal Education, Rule XXX (1) amended on November 27, 2018, and are of a "housekeeping" nature; the Family Law Standards presently read:

Section II. <u>BASIC REQUIREMENTS</u>

A. <u>Application</u>

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:

. . .

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.

. . .

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.

. . .

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:

. . .

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.

. . .

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

. . .

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.

Section VI. COMPLIANCE

. . .

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.

WHEREAS, a determination was made by the Louisiana Board of Legal Specialization Family Law Advisory Commission that the Family Law Standards should be amended and be consistent with the Louisiana State Bar Association Plan of Legal Specialization, and Supreme Court of Louisiana Rules for Continuing Legal Education, Rule XXX (1) amended on November 27, 2018, and are of a "housekeeping" nature; and that Section II (A)(2), (3), (4), and (7) and (B)(4); Section III (B)(1); and Section VI (B) of the Family 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 in order to apply for recognition as a family law specialist:

. . .

2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis 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 during at least 48 of the 60 months 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 one (1) 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.

   . . .

7. Each applicant is required to obtain by December 31 of the year of application, credit for 15 hours of continuing legal education (CLE) in the field of family law. All CLE credits of an applicant must be approved by the Mandatory Continuing Legal Education Committee ("MCLE Committee") and the Louisiana Board of Legal Specialization Family Law Advisory Commission. CLE earned in prior years may not be used to satisfy the 15

hours required within the year of application. An applicant will not qualify for specialization CLE exemption in the year of application.

. . .

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:

. . .

4. During each calendar year of certification, must attend a minimum of 15 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 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.

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

. . .

B. Programs Which Qualify

1. General Rule

Continuing legal education ("CLE") programs must be approved by the Mandatory Continuing Legal Education Committee ("MCLE Committee") before approval can be granted by the Family Law Advisory Commission. Mandatory Continuing Legal Education ("MCLE") is administered by the Louisiana State Bar Association (hereinafter the "LSBA"). 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 Family Law.

. . .

Section VI. COMPLIANCE

. . .

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.lsba.org/Specialization/SpecializationTranscriptsV5.aspx.

WHEREAS, it is the recommendation of the Louisiana Board of Legal Specialization that it would be appropriate to amend Section II (A)(2), (3), (4), and (7) and (B)(4); Section III (B)(1); and

Section VI (B) of the Family Law Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization, and Supreme Court of Louisiana Rules for Continuing Legal Education, Rule XXX (1) amended on November 27, 2018.

NOW, THEREFORE, BE IT RESOLVED that there should be amendments to the Family Law Standards to make them consistent with the Louisiana State Bar Association Plan of Legal Specialization, and Supreme Court of Louisiana Rules for Continuing Legal Education, Rule XXX (1) amended on November 27, 2018, and are of a "housekeeping" nature; and that Section II (A)(2), (3), (4), and (7) and (B)(4); Section III (B)(1); and Section VI (B) of the Family Law Standards should be amended as follows:

Section II. <u>BASIC REQUIREMENTS</u>

A. <u>Application</u>

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:

. . .

2. Each applicant shall have a minimum of five (5) years of actual practice of law on a full time basis 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 timework schedule in the practice of law during at least 48 of the 60 months 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 one (1) 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.

   . . .

7. Each applicant is required to obtain by December 31 of the year of application, credit for 15 hours of continuing legal education (CLE) in the field of family law. All CLE credits of an applicant must be approved by the Mandatory Continuing Legal Education Committee ("MCLE Committee") and the Louisiana Board of Legal Specialization Family Law Advisory Commission. CLE earned in prior years may not be used to satisfy the 15 hours required within the year of application. An applicant will not qualify for specialization CLE exemption in the year of application.

. . .

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:

. . .

4. During each calendar year of certification, must attend a minimum of 15 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 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.

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

. . .

B. Programs Which Qualify

1. General Rule

Continuing legal education ("CLE") programs must be approved by the Mandatory Continuing Legal Education Committee ("MCLE Committee") before approval can be granted by the Family Law Advisory Commission. Mandatory Continuing Legal Education ("MCLE") is administered by the Louisiana State Bar Association (hereinafter the "LSBA"). 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 Family Law.

. . .

Section VI. COMPLIANCE

. . .

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.lsba.org/Specialization/SpecializationTranscriptsV5.aspx.

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

Respectfully submitted,

Kevin R. Molloy, Chair
Louisiana Board of Legal Specialization

December 13, 2019
Shreveport, Louisiana

Approved by House of Delegates
January 18, 2020
Ratified by Board of Governors
January 18, 2020

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 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 during at least 48 of the 60 months 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 one (1) 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 15 hours of continuing legal education (CLE) in the field of family law. All CLE credits of an applicant must be approved by the Mandatory Continuing Legal Education Committee ("MCLE Committee") and the Louisiana Board of Legal Specialization Family Law Advisory Commission. CLE earned in prior years may not be used to satisfy the 15 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 15 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 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 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 be approved by the Mandatory Continuing Legal Education Committee ("MCLE Committee") before approval can be granted by the Family Law Advisory Commission. Mandatory Continuing Legal Education ("MCLE") is administered by the Louisiana State Bar Association (hereinafter the "LSBA"). 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 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.lsba.org/Specialization/SpecializationTranscriptsV5.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.