

The Standards must be read in conjunction with the Rules Governing the State Bar of California Program for Certifying Legal Specialists, which govern the Program requirements.

**THE STANDARDS FOR CERTIFICATION AND RECERTIFICATION IN
ESTATE PLANNING, TRUST AND PROBATE LAW**
(last revised effective 5/16/08)

1.0 DEFINITION

Estate planning, trust and probate law is the practice of law dealing with: the creation, protection and disposition of a client's assets, during life and upon and after death, in accordance with the client's expressed desires; the tax and family relationship consequences of the client's acts and desires; the preparation of wills, trusts and other documents to carry out the client's desires; the administration of estates and trusts (such as necessary court or non-court procedures; tax reporting, payment of tax and tax audits; and management and transfer of assets); and the protection of the property and provision for the personal needs of individuals unable to handle their own affairs by reason of age, illness or other incapacity.

2.0 TASK REQUIREMENT FOR CERTIFICATION

An applicant must demonstrate that, within the five years immediately preceding submission of the written application, he or she has been substantially involved in the practice of estate planning, trust and probate law. A prima facie showing of substantial involvement in the area of estate planning, trust and probate law includes the performance of the following number of tasks in any two of the five categories set forth below (task may be counted in only one category):

- 2.1 Thirty tax planning matters, tax procedures, or tax returns, for at least 20 separate clients. These may include, but not be limited to: tax opinions, memoranda, advice letters; tax-sensitive wills, trusts, or other dispositive instruments; audits or other administrative tax examinations, ruling requests; and estate, gift, fiduciary, or personal income tax returns;
- 2.2 Fifty estate and incapacity plans, at least 20 of which must include tax issues. Portions of a plan may comprise the following: wills, trusts, custodianship, documents of title, beneficiary clauses, property agreements, powers of attorney, advanced health care directives, gifts, powers of appointment, disclaimers, public benefit plans. A single document may not be sufficient to comprise an entire plan. Multiple documents for a client, or for a husband and wife together, comprise a single plan;
- 2.3 Forty administration procedures, for at least 20 separate clients, for estates, trusts (court or non-court), powers of attorney, advanced health care directives, custodianship, conservatorship, guardianships, spousal management procedures, or other procedures under the Probate Code or predecessor provisions;
- 2.4 Completed transfers, by administration or otherwise, of a decedent's assets upon deaths of 40 persons, including tax issues, tax returns or tax basis

problems in at least 10 of the completed transfers. These may include, but not be limited to: trust terminations, terminations of joint tenancy, and summary probate procedures, including spousal property petitions; and

- 2.5 Twenty litigated matters or contested hearings, relating to any of the above categories, for at least 10 separate clients. These may include, but not be limited to: will/trust contests, determinations of heirship, objections to accountings, fiduciary appointment/removal, creditors' claims, constructive trusts, family protection proceedings, asset ownership disputes, tax matters, elder abuse.

3.0 EDUCATIONAL REQUIREMENT FOR CERTIFICATION

An applicant must show that, within the three years immediately preceding the application for certification, he or she has completed not less than 45 hours of educational activities specifically approved for estate planning, trust and probate law.

4.0 TASK REQUIREMENT FOR RECERTIFICATION

An applicant for recertification must show that, during the current five-year certification period, he or she has had direct and substantial participation in the practice of estate planning, trust and probate law. Such showing shall be made by compliance with the requirements set forth in section 2.0 or, at the discretion of the Commission, by sworn statement that the applicant has engaged in the practice of estate planning, trust and probate law substantially to the same extent as described in the application for original certification.

5.0 EDUCATIONAL REQUIREMENT FOR RECERTIFICATION

An applicant for recertification must show that, during the current five-year certification period, he or she has completed not less than 60 hours of educational activities specifically approved for estate planning, trust and probate law specialists in at least three of the following five areas:

- 5.1 Incapacity planning and administration, procedures including conservatorships, guardianships, special needs trusts, public benefit planning and procedures, powers of attorney for asset management, advanced health care directives, and elder abuse;
- 5.2 Estate planning including preparation of wills and revocable and irrevocable trusts, business entities, charitable trusts and giving, life insurance trusts, marital property issues, retirement planning issues, marital deductions, qualified domestic trusts, generation-skipping tax issues, and recent developments;

- 5.3 Estate and gift tax return preparation and audit, valuation analysis and issues, business entity tax elections, stock redemptions for estate taxes, installment and hardship extensions, special use valuation;
- 5.4 Administration of decedents' estates, probate and summary proceedings, funding administration and termination of trusts, joint tenancy terminations, trust accounting and procedures;
- 5.5 Adversarial and litigated proceedings regarding any of the above areas.