

**AGENDA ITEM**

**SEPTEMBER 2010  
Receipt of Report from  
Attorney Surrogacy  
Workgroup**

**DATE:** September 2, 2010  
**TO:** Members of the Board Committee on Discipline Oversight  
**FROM:** William Hebert, Chair, Discipline Oversight Committee  
**SUBJECT:** Receipt of Report from Attorney Surrogacy Committee

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**EXECUTIVE SUMMARY**

The Discipline Oversight Committee (“DOC”) appointed a committee (“Committee”) to study implementation of a program where attorneys would designate another attorney to handle their cases should they become incapacitated or otherwise unable to handle their client matters. The committee met over the course of the year and developed the “Agreement to Close Law Practice in the Future”.

This item accepts the work of the committee and thanks them for their work over the course of the year.

**BACKGROUND**

At the beginning of his term, DOC Chair William Hebert developed a list of goals for the upcoming year. On that list was the development of a program where California attorneys designate another attorney to handle their cases, should they die or become incapacitated or disabled to such an extent that they cannot attend to their client matters.

To study the potential of this program, Mr. Hebert appointed Richard Frankel, former Board Member and chair of the Regulation, Admissions and Discipline Oversight Committee, to head the study group and make recommendations for said program. The following individuals were selected to serve on the committee: Les Minkus, Marshall Oldman, Patricia Beyer, Jay Foonberg, Murray Greenberg and Paul Virgo<sup>1</sup>. The group was informally known as the Committee to Study Attorney Surrogacy (“Committee”)

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<sup>1</sup> Mr. Virgo was not originally appointed to the committee, but later asked to serve and was added to the roster.

The Committee met over the course of the committee year to hammer out issues with this program. It studied what other states were doing and with input from the Office of Professional Competence, developed the “Agreement To Close Law Practice In The Future” (attachment A), a comprehensive document which spells out the responsibilities of the primary attorney and successor attorney.

## **RECOMMENDATION**

It is the recommendation of the DOC Chair that the work of the Committee should be accepted and the committee thanked for its hard work. Should DOC agree with this, it would be appropriate to adopt the following resolution:

## **RESOLUTION**

Whereas, the Discipline Oversight Committee of the State Bar of California created the Committee to Study Attorney Surrogacy to explore implementation of a program in California where attorneys assign a designee to administer their practice should they become disabled or incapacitated; and

Whereas, the Chair of the Discipline Oversight Committee of the State Bar of California appointed the following members: Richard Frankel, Chair; Les Minkus; Marshall Oldman; Patricia Beyer; Jay Foonberg; Murray Greenberg and Paul Virgo; and

Whereas, the Committee also received invaluable input from Randall Difuntorum in the State Bar’s Office of Professional Competence; and

Whereas, the Committee to Study Attorney Surrogacy worked tirelessly to develop an “Agreement to Close Law Practice In The Future”, which comprehensively details the responsibilities of the parties;

RESOLVED that the Discipline Oversight Committee of the State Bar of California wishes to express its sincere thanks to the Committee to Study Attorney Surrogacy and each of all of its members for their expertise, their hard work, their dedication to their task, and the results they achieved; and

FURTHER RESOLVED that the Discipline Oversight Committee believes that when used correctly the “Agreement to Close Law Practice in the Future” will enhance the State Bar’s mission to protect the public.