

AGENDA ITEM

NOV 132

Proposed Consulting
Group to Explore
Possible New Specialty
in Privacy Law

DATE: October 26, 2010

TO: Members, Board of Governors
Members, Board Committee on Member Oversight

FROM: Wesley Avery, Chair, Board of Legal Specialization
Gayle Murphy, Senior Executive, Admissions
Natalie Leonard, Director, Legal Specialization

SUBJECT: Proposed Consulting Group to Explore Possible New Specialty in Privacy Law

EXECUTIVE SUMMARY

The Board of Legal Specialization (BLS) requests that the Board Committee on Member Oversight recommend that the Board of Governors create a consulting group to consider whether the California State Bar should offer legal specialization certification in the area of privacy law. If the Consulting Group determines that the new specialty should be made available, and the BLS agrees, the Consulting Group would be charged with developing the standards for certification.

The Legal Specialization program is a self-funded Supreme Court approved method of certifying attorneys as specialists in particular areas of law. Formal certification protects the public by regulating advertising of special skills by attorneys to assure that such claims are not misleading to the public. The BLS administers the program, and, as stated in the program rules, one of its duties is to propose additional fields of law to be added to the program.

Based on a request from practitioners in the area of privacy law, the BLS is recommending the creation of a consulting group to consider whether certification in this area of law is feasible and appropriate, and if it is so determined, to develop standards for a specialty in that field. This is the first step in the process to consider whether specialization certification in this particular field should be made available.

For questions on this item, please contact Gayle Murphy at gayle.murphy@calbar.ca.gov or (415) 538-2322 or Natalie Leonard at natalie.leonard@calbar.ca.gov or (415) 538-2118.

BACKGROUND

The Legal Specialization program is a Supreme Court approved method of certifying attorneys as specialists in particular areas of law. Certification validates an attorney's specialty through testing, completion of rigorous task and experience requirements, and peer review by fellow attorneys and bench officers. That validation process serves two important needs: 1) improving the level of practice for attorneys who participate in the certification program, and 2) assisting consumers in identifying lawyers whose procedural and substantive skills match a consumer's specific legal needs. Formal certification protects the public by regulating advertising of special skills by attorneys to assure that such claims are not misleading.

The BLS administers the Legal Specialization program, which is completely self-funded. Over the past 35 years, the program has been expanded to provide certification in 11 fields: Admiralty and Maritime Law, Appellate Law, Bankruptcy Law, Criminal Law, Estate Planning, Trust and Probate Law, Family Law, Franchise and Distribution Law, Immigration and Nationality Law, Legal Malpractice Law, Taxation Law and Workers' Compensation Law.

The BLS is responsible for proposing new specialties and recommends that establishment of a Privacy Law specialty be considered. If the concept is approved, members to a Consulting Group, who would be responsible for drafting standards subject to approval by the BLS and the Board of Governors, will need to be appointed.

FISCAL/PERSONNEL IMPACT

The expenses associated with meetings of the Consulting Group will be absorbed by the 2010 and 2011 budgets for the Legal Specialization department, which is funded by a separate fund.

BOARD BOOK IMPACT

None.

RULE AMENDMENTS

None.

SCHEDULE OF CHARGES AND DEADLINES

None.

PROPOSED BOARD COMMITTEE ACTION

If the Board Committee on Member Oversight agrees that the BLS' proposal to create a consulting group to consider the establishment of specialization certification in the area of privacy law and to develop standards for certification in that area should be approved, the following resolution is recommended:

RESOLVED, upon recommendation from the Board of Legal Specialization, that the Board Committee on Member Oversight recommends that the Board of Governors create a Privacy Law Consulting Group to consider the establishment of specialization certification in the area of privacy law and to develop standards for certification in that area, subject to final approval of any proposed standards by the Board of Legal Specialization and approval by the Board.

PROPOSED BOARD ACTION

Should the Board of Governors agree with the Board Committee on Member Oversight's recommendation, if adopted, regarding the establishment of a consulting group in privacy law, the following resolution would be in order:

RESOLVED, upon the recommendation of the Board Committee on Member Oversight, that the Board of Governors hereby authorizes the creation of a Privacy Law Consulting Group to consider the establishment of specialization certification in the area of privacy law and to develop standards for certification in that area, subject to final approval of any proposed standards by the Board of Legal Specialization and approval by the Board.