NYSBA

Staff Memorandum

EXECUTIVE COMMITTEE
Agenda Item #2(a)
(Consent Calendar)

REQUESTED ACTION: Approval of proposed amendments to the Bylaws of the Elder Law Section.

The Elder Law Section has proposed amendments to the section Bylaws to change the section's name to "Elder Law and Special Needs" Section and reference special needs practice in the purposes of the section. As with all section Bylaws, your approval is required in order for the amendments to take effect.

Baxter, Kathy

From: Frances M. Pantaleo <FPantaleo@bpslaw.com>
Sent: Wednesday, January 08, 2014 8:54 PM
To: Baxter, Kathy
Cc: David M. Schraver; Bataille, Lisa
Subject: Proposed changes to the Elder Law Section Bylaws
Attachments: REDLINE OF PROPOSED BYLAWS REVISION FOR ELDER LAW SECTION.docx

Kathy: At the fall meeting of the Elder Law Section, our Executive Committee voted to change the name of our Section to the "Elder Law and Special Needs Section." After the meeting, Lisa Bataille advised me that the Section had voted on a few minor revisions to our By-Laws in 2009 which were never presented to the Executive Committee of NYSBA for approval. These prior revisions changed our Bylaws to reflect the addition of a thirteenth judicial district and added a section to the descriptions of the members of our Executive Committee to describe the duties of the District Delegate.

I have attached a proposed draft of the changes to the By-laws of our Section which reflect all of these changes. I will be discussing this draft with the other Officers of the Elder Law Section during a telephone conference on Friday January 10th. It is possible that there may be some "tweaks" to this draft based after our call. However, I wanted to get this draft to you in time to request that the proposed bylaws amendment be added to the agenda of the Executive Committee. I would like to put these revisions to the By-laws to a vote by our Executive committee on January 27th, followed by a vote by our general membership at the Annual meeting. If both votes are successful, we would ask for approval by the NYSBA executive committee.

Please let me know if there is anything specific that I need to do to add this item to the Executive Committee agenda. (I assume a short memorandum in support of the proposal would be appropriate.) Please also excuse my delay in presenting this issue to you. I had hoped to send you the proposed Bylaws amendment several weeks ago, but I changed law firms on January 1st and have been struggling to keep pace with my many urgent priorities while packing up my practice, moving, and handling client matters.

Best Regards, Fran Pantaleo

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PROPOSED AMENDMENTS

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NEW YORK STATE BAR ASSOCIATION
BYLAWS OF THE SECTION ON ELDER LAW

Approved as Amended by the Section Membership on January 23, 2007
Approved as Amended by the NYSBA Executive Committee on March 30, 2007

ARTICLE I
General

SECTION 1. This Section shall be known as the Section on Elder Law and Special Needs of the New York State Bar Association.

SECTION 2. The purposes of this Section shall be (a) to bring together for furtherance of their mutual interests such members of the New York State Bar Association as are interested in Elder Law and the special needs of individuals with disabilities; (b) to plan and conduct such continuing legal education programs, collect, publish and distribute such educational and professional materials and undertake such other and diverse activities authorized from time to time by the Association and the officers and Executive Committee of the Section as shall enhance the competence and skill of lawyers engaged in the practice of Elder Law and the special needs of individuals with disabilities and improve their ability to deliver the most efficient and highest quality services to their clients and thereby (c) to establish a clearing house for the Bar and the public on legal issues relating to the elderly and the special needs of individuals with disabilities.

ARTICLE II
Membership

SECTION 1. Any member of the New York State Bar Association shall be eligible for membership in this Section and shall be enrolled as a member of the Section upon application to the Association and payment of such annual dues as shall be determined by the Executive Committee of this Section.

SECTION 2. Law students may be non-voting members of the Section and may serve as adjunct members of Section committees to the extent that each committee Chair shall determine.

ARTICLE III
Officers and Executive Committee
and Section Delegate(s) to House of Delegates

SECTION 1. The officers of this Section shall be a Chair, Chair-Elect, Vice-Chair, Secretary and Treasurer, to be elected at the Section Annual Meeting which shall be held in the calendar year in which the term of any officer shall expire. The term of all officers shall commence on June 1 of the year of election and shall continue for one year as provided in Section 4 of this Article. The Chair-Elect then serving, upon completion of the Chair's term of office, shall automatically succeed to the office of Chair for the next one year, and each succeeding Chair-Elect shall automatically succeed to the office of Chair upon completion of the term of office of the Chair preceding such Chair-Elect.

SECTION 2. There shall be an Executive Committee of the Section consisting of the officers of the Section, its Delegates to the House of Delegates, the past Chairs of the Section, Chairs and Vice-Chairs of the Section Standing Committees, the Financial Officer, one member from each of the ~~twelve~~ thirteen judicial districts within the State of New York (hereinafter referred to as district members) and three members-at-large. Members-at-large shall be elected as provided in Section 5 of this Article. All members of the Executive Committee shall be voting members.

SECTION 3. The Executive Committee may appoint such other officers and delegate such duties to them consistent herewith as the Executive Committee shall deem appropriate.

SECTION 4. Except as provided in Sections 1, 2 and 5 of this Article III, and Section 2 of Article VI, all officers and all members of the Executive Committee shall hold office for one-year terms beginning June 1. No officer shall hold the same office for more than two successive terms. No Chair of a Section Standing Committee and no Vice Chair of a Section Standing Committee shall serve as such Chair or Vice Chair of the same Committee for more than three successive terms.

SECTION 5. The members-at-large of the Executive Committee shall serve for a term of one but not more than three years, as determined by the Nominating Committee.

SECTION 6. The members of the Executive Committee from each Judicial District shall be divided into three classes: Class I - members elected to represent the first, third, seventh and tenth judicial districts; Class II - members elected to represent the fourth, sixth, ninth and eleventh judicial districts; and Class III - member elected to represent the second, fifth, eighth, ~~and~~ twelfth and thirteenth judicial districts. The original judicial district members shall serve terms as follows: Class I - term ending May 31, 1992; Class II - term ending May 31, 1993; and Class III - term ending May 31, 1994. Thereafter, as the term of each Class shall expire, the judicial district members shall be replaced by election, as below provided, for term of three years. Each district member shall reside or practice law in the district represented by such member. Each district member shall serve no more than two successive terms and shall not hold any other office on the Section Executive Committee. Any member elected to complete the term of another District Delegate for one year or less shall be entitled to serve an additional two (2) successive terms. Any member elected to complete the term of another District Delegate for more than one year shall be entitled to serve one (1) additional

successive term.

SECTION 7. The Section Delegate(s) to the House of Delegates of the Association shall be appointed annually by the Section Chair for a one-year term commencing on June 1 of the year of appointment. The Section Chair shall appoint as such delegates(s) himself/herself and the Chair-Elect then serving if the Section shall be entitled to two delegates or himself/herself if the Section shall be entitled only to one delegate. If, in accordance with the Association's By-Laws a third delegate shall serve, the past Chair shall serve as such delegate. If a fourth delegate shall serve in accordiance with the By-Laws of the Association, the Vice-Chair of the Elder Law Section shall serve as such delegate. Should any delegate be unable or decline to serve, then the Chair shall name a replacement. The Chair shall name an Alternate Delegate to represent the Section should any delegate be unable to attend any meeting of the House of Delegates. The Section Delegate(s) to the House shall serve subject to such conditions as may be prescribed by the Bylaws of the Association.

ARTICLE IV
Nominating Committee

SECTION 1. Not less than ninety days prior to each Annual Meeting of the Section, the Chair shall appoint a Nominating Committee consisting of five members of the Section plus the preceding Section Chair (if there be one) who shall chair the Committee.

The Nominating Committee shall make and report to the Secretary not less than twenty days prior to the Section Annual Meeting, nominations of Section members for the offices of the Section and for the members of the Executive Committee whose terms of Section office or Executive Committee membership will expire in the fiscal year of the appointment of the Nominating Committee. Additional nominations may be made upon the petition of at least fifteen members of the Section filed with the Secretary at least fifteen days prior to its Annual Meeting. Nomination not so made shall not be considered or voted upon at the Annual Meeting.

ARTICLE V
Duties of the Officers and the Executive Committee

SECTION 1. Chair: The Chair shall preside at all meetings of the Section and shall be ex officio member of all its committees. He/She shall implement such policy directives as may be presented by the Section's Executive Committee and shall submit to it from time to time such recommendations as he/she may deem appropriate in the interests of the Section. In addition, he/she shall perform such other and related duties as ordinarily are incident to his/her office.

SECTION 2. Chair-Elect: The Chair-Elect, in the absence of the Chair, shall preside at all meetings of the Section and its Executive Committee. On the death, resignation or during the disability of the Chair, the Chair-Elect shall perform the duties of the Chair for the remainder of the Chair's term, except in the case of the Chair's disability, and then only for so much of the term as the disability continues. Upon the expiration of the term of office of the then Chair, the then Chair-Elect shall assume the duties of Chair for the term of one year. The Chair-Elect shall assist the Chair in the discharge of his/her responsibilities and shall perform such other and related duties as may be

assigned to him/her by the Chair of the Section's Executive Committee and as ordinarily are incident to his/her office.

SECTION 3. Vice-Chair: The Vice-Chair shall perform Section duties as directed by the Chair.

SECTION 4. Secretary: The Secretary shall be the custodian of all books, papers, documents and other property of the Section, except money. The Secretary shall prepare the minutes of the annual and special meetings of the Section and its Executive Committee, prepare, forward and receive appropriate notices and correspondence, and maintain such other non-financial records, papers and data as may be necessary or appropriate from time to time. He/She shall serve as administrative assistant to the Chair, and the Chair-Elect and the Section Committee Chairs in the discharge of their responsibilities. In addition, he/she shall perform such other and related duties as may be assigned to him/her by the Chair or the Section's Executive Committee as ordinarily are incident to his/her office. Immediately upon being succeeded in office, he/she shall deliver all Section records, correspondence and other property in his/her possession to his/her successor.

SECTION 5. Treasurer: The Treasurer shall be the custodian of all financial records of the Section, which shall be open at all times to the inspection of any member of the Executive Committee, or to that of the Association's officers, Executive Committee, or financial staff. The Treasurer shall prepare the Section's annual budget. The Treasurer shall maintain liaison with appropriate fiscal officers of the Association and shall report upon the Section's finances at each meeting of the Executive Committee, at the Section's Annual Meeting and at such other times as the Chair, the Executive Committee or the President of the Association shall direct. In addition, he/she shall perform such other related duties as may be assigned to him/her by the Section Chair and as ordinarily are incident to his/her office. Immediately upon being succeeded in office, he/she shall deliver all Section records, correspondence and other property in his/her possession to his/her successor.

SECTION 6. Financial Officer: The Financial Officer shall be charged with reviewing the financial status of the Section and advising the Section Chair, Treasurer and Executive Committee with regard to the finances. The Financial Officer will be appointed by the Chair and serve at the pleasure of the Chair. It is anticipated that the Financial Officer will continue in that position for several years, giving continuity and greater experience to the interpretation of and communication with the Fiscal Officers of the Association. The Financial Officer shall, in all respects, be treated as a member of the Executive Committee of the Section.

SECTION 7. The Executive Committee: The Executive Committee shall have general supervision and control of the affairs of the Section subject to the Bylaws of the New York State Bar Association and the Bylaws of this Section. The Executive Committee may adopt its own rules of procedure. Prior to the submission to the Association of commitments and contracts which shall entail the payment of money or the expenditure of moneys collected by the Section or appropriated for the use and benefit of the Section, it shall review and approve all such financial transactions and submit them for the action of the Association.

SECTION 8. A quorum of the Executive Committee shall consist of twelve (12) members

for any meeting convened and twelve (12) Members of the Executive Committee for any vote taken by e-mail and fax.

SECTION 9. The Executive Committee, by a majority vote of the quorum present and during the interim between the Annual Meetings of the Section, may fill vacancies in the office of Chair, Chair-Elect, Vice-Chair, Secretary and Treasurer, or in the event of a vacancy in the office of Chair and Chair-Elect, then in the office of Chair, for the balance of the term. The Executive Committee shall fill any vacancy amongst Section officers by a majority vote of a quorum present, for the balance of the unexpired term. The Section Chair, with the approval of the Executive Committee, shall fill any vacancy amongst district delegates for the balance of the term being filled. Officers and Executive Committee members so elected or appointed shall serve terms in accordance with Article III. The Executive Committee may also, by a two-thirds vote of the entire Executive Committee, remove an elected member thereof. The failure of a district delegate or Chairs of Standing Committees to attend three consecutive meetings, without excuse deemed adequate by the Section Chair, shall result in automatic termination of his/her position as a district delegate or as a Chair of a Standing Committee.

The Executive Committee shall meet at least three times annually at such times and places as the Chair may designate. The Executive Committee also may meet upon the call of the Chair or any four members of the Executive Committee. The Executive Committee shall meet in conjunction with the Annual Meeting of the Section. Members of the Executive Committee shall vote in persona when present at any meeting, but when absent may communicate their vote, in writing or by e-mail, telefax or telecopier, upon any proposition, to the Secretary and have it counted with the same effect as if cast personally at such meeting.

SECTION 10: The district member shall serve as the liaison between the section and local attorneys. Each district member shall identify attorneys who practice in the areas of Elder Law and the special needs of individuals with disabilities in the judicial district, notify them of activities of the Section, extend invitations to them to join the section, chair local continuing legal education programs, host at least one Section activity, convey local concerns to the Executive Committee, arrange for at least one pro bono Clinic regarding Elder Law or the special needs of individuals with disabilities and comply with the Guidelines to District Members.

ARTICLE VI
Committees

SECTION 1. The Executive Committee of the Section shall create or eliminate such Standing Committees or other committees in the Section as shall from time to time be determined. The Chairs and members of each committee shall be appointed by the Section Chair commencing with June 1 of the year of appointment subject to modification by the incoming Section Chair. The Chair of the Section may fill any vacancy in the Chair of any committee. The Chair of any committee, in consultation with the Chair of the Section, shall fill any vacancy or make additional appointments to his/her committee during his or her term in office.

SECTION 2. The Chair of the Section may from time to time create such Special

Committees as he or she may deem necessary or desirable and appoint Chairs and members thereof to serve as provided in this Article VI.

SECTION 3. Any committee may make recommendations to the Section Chair or the Executive Committee for action as they may deem appropriate. No committee shall transmit its views as those of the Section unless approved by the Executive Committee of the Section.