Health Law Section Executive Council Meeting Agenda
Thursday, June 23, 2011
4:00 p.m. – 6:00 p.m.
Gaylord Palms Resort, Orlando; Meeting Room: Miami ½

I. Call to Order – Lester Perling, Chair

II. Opening Remarks – Lester Perling, Chair

III. Approval of Previous Meeting Minutes – Monica Rodriguez

IV. Financial Report – Bernabe Icaza

V. Committee Reports
   a. Communications & Technology
      i. Newsletter – Tom Clark
      ii. Website – William Dillon
   c. Legislative Committee (2011 Legislative Update) – Steve Grigas
   d. Health Care Reform Committee – Troy Kishbaugh
   e. Education Committee – Grant Dearborn
   f. Publications Committee – Allen Grossman

VI. Old Business
   a. Sponsorships – Monica Rodriguez
   b. Bylaw Revisions – Lew Fishman
   c. Handbook – Jack Buchanan
   d. State and Federal Government & Administrative Practice Subspecialty
      Request to Review Track Proposal – Allen Grossman

VII. New Business
   a. BOG Report – Troy Kishbaugh

VIII. Chair-Elect Comments – Cynthia Mikos

IX. Awards

X. Next Executive Council Meeting/Retreat
   Thursday, September 15, 2011
   Shula’s Hotel & Golf Club, Miami Lakes
MINUTES
EXECUTIVE COUNCIL
THE FLORIDA BAR HEALTH LAW SECTION
January 27, 2011

I. Call to Order

The meeting was called to order by Chair, Lester Perling, at 3:00 p.m. at the Hyatt Regency, Orlando, Florida.

Executive Council members who attended in person were: Lester Perling, Cynthia Mikos, Bernabe Icaza, Monica Rodriguez, Lewis Fishman, Rodney Johnson, Bill Dillon, Grant Dearborn, Sandra Greenblatt, Thomas Clark, Jay Wolfson, George Inest, III, Nicholas Romanello and Jennifer Smith. Executive Council members in attendance by phone were Walter Carfora, Mildred Beam, Susan Tuit, and Robert Nicholson.

Others in attendance in person were Harold Kaplan, Bruce Lamb, Christine Whitney, Laurie Levin, Katharine Van Tassel and Ashlea Wiley. Others in attendance by phone were Allen Grossman, Chet Barclay, and Steven Grigas.

II. Opening Remarks—Lester Perling, Chairman

Mr. Perling stated that last night he, Ms. Mikos and Mr. Grigas attended the Legislative Reception in Tallahassee. There was a good turnout of Legislators, including those from the Health Care Committee. They felt attendance was very helpful, and appreciated the opportunity to meet with the lawmakers, and to offer the assistance of the Health Law Section in the future.

III. Approval of Previous Meeting Minutes –Monica Rodriguez, Secretary

The minutes of the September 23, 2010, regular meeting of the Executive Council of the Health Law Section, was moved by motion, seconded, and unanimously approved, with only a change to show Lewis Fishman was a member of the Executive Committee.

IV. Financial Report – Bernabe Icaza, Treasurer

Mr. Icaza reviewed the financial report, noting that almost 100% of the section membership budget has been met. The fund balance is healthy. Mr. Perling noted that some of the fund balance was being used for officer’s expenses for the Legislative meeting.
V. Committee Reports

A. Communication and Technology

Website – Rodney Johnson

Mr. Johnson presented the website report for Troy Kishbaugh, who was not present. The website, at www.flabarhls.org, has been completely revamped by Mr. Kishbaugh, with the assistance of other committee members Rodney Johnson, Chet Barclay, and Ashlea Wiley. The website is currently up and running. The website contains HLS CLE programs, newsletters, news and events and is fully searchable. Ms. Wiley is currently handling addition of information to the website, with approval from Mr. Kishbaugh.

Newsletter – Tom Clark

Mr. Clark stated the Fall newsletter was published in December, and he is looking for new articles for the spring or summer. The newsletter should be published twice this year (as it has been in the past).

B. Health Information and Technology Committee - William Dillon

Mr. Dillon reported that this committee has been fairly inactive, but that should change as the Harris Corporation recently received a contract from the state (AHCA) to develop a master participation agreement for everyone dealing with health information and the state to use once it is developed. Mr. Dillon indicated the Health Law Section has an opportunity to participate in development of this agreement.

C. Public Health – Walter Carfora and Rodney Johnson

Mr. Johnson stated that this year’s educational sessions were being planned, and that they planned to have four sessions. The first will be on the model public health laws, June 15 will be on Medicaid by Mr. Carfora, August 17 should be on Health Care Reform, and October Mr. Johnson will compare FL health laws to model public health laws. The plan is to continue for these programs to be offered without charge as a service for section members. Mr. Johnson noted that many of those who attend work for the government. Ms. Wiley referred to the costs of audiocasts and telephone seminars, and offered the assistance of the Bar for these programs. Ms. Rodriguez proposed offering the audiocasts at no charge for government employees, but charging others.

Mr. Lamb was present and asked if the Health Law Section wanted to co-chair a seminar on SB 1786 with the Administrative Law Section for criminal lawyers to educate them on the ramifications of certain criminal
convictions for health care providers. The Committee voted to co-chair that seminar.

D. Legislative Committee – Steve Grigas, Cynthia Mikos

Mr. Grigas discussed the meeting with the Legislature he attended with Mr. Perling and Ms. Mikos. Mr. Grigas prepared a list of healthcare bills presented this session for consideration. He noted hospitals were likely to fight over rates, and there would be discussion of Medicaid reform, and a move towards HMOs. He said the reception was helpful, and they let Legislators know they were a resource for any health care law questions. Mr. Perling noted he would be sending letters to key Legislators reiterating the Section’s willingness to help with any health law issues. Mr. Grigas will provide his bill summary to Ms. Wiley for distribution to members. Mr. Perling asked the Council be kept apprised of the status of bills, and that he be notified if there are any bills anyone feels the Section should take a position on.

E. Health Care Reform Committee – Sandra Greenblatt

Ms. Greenblatt, Committee Co-Chair, presented the report on behalf of Mr. Kishbaugh. The Committee has worked diligently with the Elder Law Section educating members mostly on how the reform bill impacts beneficiaries. A joint CLE was put together that was to take place in February, but there were very few registrants, so that program has been moved until later in the year.

F. Education Committee – Grant Dearborn, Nicholas Romanello

Mr. Dearborn asked to discuss again a CLE in Tallahassee for government lawyers to be offered next year, possibly about HB115, as proposed by Mr. Barclay earlier. Mr. Dearborn asked if a surveyor at AHCA would be willing to speak, and she was.

Mr. Perling asked if there was a CLE planned for the Annual Meeting. Ashley reminded the Council that the Section does not make money off this CLE. Ms. Rodriguez stated that at the last meeting, the Council discussed not having a CLE at that meeting. If a program were to be offered, it could be at a different location. Mr. Romanello stated that he would prefer not to have a program at the Annual Meeting. Ms. Mikos suggested we could have the Health Care Reform meeting at the Annual Meeting, although we would have to coordinate that with the Elder Law Section.

Ms. Mikos recalled that Ed Tellechea had offered to go a webcast on the pain clinic rules, and even though they are stalled, that would likely still be of interest. Ms. Wiley noted that lunch webcast CLEs are very popular.
Mr. Romanello stated that the Advanced Topics/Certification Review Course would be in March, and he recommended the FUNdamentals program be continued, but that it be moved to South Florida. He offered to Chair that program this year.

Mr. Perling suggested an e-mail blast to members asking for topics they would like presented via webcast, as well as for any members who would like to provide a webcast presentation.

Ms. Wiley noted that registration for “Representing the Physician” is approximately 60 live registrants and 12 webcast registrants.

G. Publications Committee – Allen Grossman

Mr. Grossman noted that a decision was made that spending $21,000 per issue for the journal was exorbitant, but that he discussed publication of the Journal on the website with the website publishers. It would contain the cover page, be searchable, and be exportable as a PDF file. We could make it so that only those that subscribe would have access to it. The initial cost for this would be about $3400, and future editions would be about $1200 to post. The website designers said it would be up within two months, and then 30-45 days of receipt of the articles. It could also contain advertising, if desired. Mr. Barclay indicated he would be willing to continue working on the Journal, including circulating second edition articles to authors for updating. Ms. Mikos noted that this year’s budget included $4000 for the Journal, which would cover the costs for the next publication, and likely for the entire year. Mr. Grossman discussed posting the first volume of the Journal also, the cost of which is included in the initial costs.

Discussion ensued on whether access to the Journal should be free to everyone, free to members, or solely for a fee. A motion was made to move forward with the Journal, offering it to members without charge, and to others for a fee. The motion was seconded and passed.

Mr. Grossman was asked about a recommendation for the Health Law Handbook, but he had not considered that. Total revenue for this edition of the Handbook is about $4000. Mr. Perling asked that the Committee provide that recommendation at the next meeting. Mr. Johnson suggested doing a new version of the Handbook every 10 years, with updates each year.
VI. Old Business

AHLLA Florida Lawyer Listserve – Cynthia Mikos

Ms. Mikos reiterated that AHLLA has offered to do a listserve for Florida attorneys, and her concern that we could lose members to AHLLA. Ms. Wiley stated that we can add a listserve to our website at no additional charge. Council members all felt we did not want AHLLA running a Florida listserve. Bill Dillon and Monica Rodriguez offered to help set up the listserve and moderate.

Sponsorships – Sandra Greenblatt, Monica Rodriguez

Ms. Rodriguez discussed the proposal for sponsorship opportunities. She asked whether law firms should be able to purchase sponsorships. Mr. Kaplan noted concern about advertising and making money, and that the fund balance is already sufficient. Ms. Mikos noted that the money would allow the Section to offer services to Section members at lower prices. Mr. Wolfson suggested we table the decision to offer sponsorships to law firms, but go forward with offering sponsorships. A motion was made to go forward with sponsorships. It was seconded and approved.

Bylaw Revisions – Lewis Fishman

Mr. Fishman explained that the changes were primarily to effectuate the changes recommended at the Long Range Planning Retreat. If accepted, the changes must go to the Board of Governor’s for approval. The Committee discussed whether certain changes should be made, such as regarding the logo and tagline, because of the approval requirement. Ms. Greenblatt suggested that language be changed to state only that the Section adopt a logo and tagline, and not specifically note that tagline. Mr. Fishman noted that changes may need to be made if the Council does not meet at the annual meeting, including when elections occur. The Council moved to approve the Bylaws as amended, with the above-noted change regarding the tagline and meetings. The issue of term limits was also discussed. A motion was made to remove term limits from the revised Bylaws, but that motion was defeated.

Mr. Perling discussed whether participation at Council meetings by telephone should be allowed, and recommended that everyone be required to participate in person. A motion was made to amend the Bylaws to require personal attendance at meetings and to discontinue telephone access to meetings. The motion was seconded and approved.

A discussion occurred regarding the Bylaws amendment to prohibit more than one EC member from each firm. A motion was made to remove that provision, which was seconded and approved.
With the changes noted above, the revisions to the Bylaws as presented to the Executive Committee were approved.

VII. New Business

A. Webinars, Teleconference Calls – John Buchanan

This was covered earlier in the meeting.

B. Budget Amendment for Midyear Meeting – Ashlea Wiley

Ms. Wiley noted that having the phone line and extra food caused the Section to go over budget at the Midyear meeting. A motion was made to approve the budget amendment submitted by Ms. Wiley, which was seconded and approved.

C. 2011 Midyear Meeting Retreat – Cynthia Mikos

Ms. Mikos reiterated the discussion at the last meeting about moving the location of the Midyear retreat. She said Gray Robinson and Broad and Cassel offered to have the meeting at their offices in Orlando. She said if the meeting was in conjunction with the FUNdamentals program, we could look for an office in Ft. Lauderdale where we can hold the meeting. Ms. Mikos will discuss when the retreat should be and will inform the Council about the date and location at the next meeting.

D. St. Thomas Health Law Program – Professor Katharine Van Tassel

Ms. Van Tassel introduced herself, having just moved from Massachusetts. She was hired at St. Thomas to start a Health Law Program, and asked for assistance in how to set up the program. She was interested in what health law firms were looking for when hiring a new lawyer, and in creating a mentoring program for students and expanding internships for students. She asked anyone interested in helping e-mail her at kvantassel@stu.edu.

E. Center for Innovative Collaboration in Medicine & Law, FSU – Lester Perling

The ICML is asking for attorneys to fill out a survey on brain injuries during birth. It was just presented in case anyone wanted to complete it.

F. State Healthcare Reform – Nicholas Romanello

Mr. Romanello discussed that the election of Rick Scott would have some effects on health care. The first was suspending rulemaking. The second is
the creation of a Health and Human Services Transition Team, which is chaired by former AHCA head Alan Levine. Some of the proposals are to consolidate DOH and AHCA, and to convene a panel to discuss the necessity for public hospitals. Mr. Grossman said he participated in a transition meeting at DOH, and it appeared they already thought AHCA and DOH would be consolidated. HB115 is the bill that combines AHCA, DOH and DCF. Ms. Mikos noted the importance of putting up-to-date information about the bills on the website to keep our members informed of recommended changes. Ms. Mikos noted that the Attorney General’s office took the position that the Governor’s rulemaking prohibition does not apply to them, so some Boards will continue rulemaking.

G. Telephone Attendance at Executive Council Meetings – Lester Perling

This was addressed earlier.

VIII. Chair-Elect Comments – Cynthia Mikos

Ms. Mikos had no comments.

IX. Next Meeting – Lester Perling

The next meeting of the Section Executive Committee is on June 23, 2011, at the Gaylord Palms Resort, Orlando.

X. Adjournment.

The Meeting was adjourned at approximately 6:00 pm.

\[ \text{Monica Rodriguez, Secretary} \]

\[3-16-11\]

Date
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Public Health Interest Group Schedule of Activities 2011 - 3 scheduled programs,
Call in number at 1-888-808-6959 code 595-6688:

Medicaid: How Safe a Net? completed June 15, 2011 - Walter R. Carfora, J.D., M.P.H.,

Model Public Health Laws, is set for August 17, 2011, 3:00 to 4:00 PM Eastern by Rodney M. Johnson.

Patient Protection and Affordable Care act - Public health opportunities, is tentatively scheduled for October 19, 2011, 3:00 to 4:00 PM Eastern

Walter Carfora and I as co-chairs of the Public Health Interest Group look forward to hearing from you at the upcoming presentations.

Rodney M. Johnson
Health Law Section 2010 – 2011 CLE Numbers

2nd Annual FUNdamentals of Florida Health Care
Renaissance Orlando Airport Hotel
September 17, 2010
Speaker Dinner on September 16, 2010
Course #1108
Live: 47
Webcast: 18

Representing the Physician 2011
Hyatt Regency Orlando Int’l Airport Hotel
January 28, 2011
Course # 1157
Live: 51
Webcast: 18

Health Law Certification Review 2011
Hyatt Regency Orlando Int’l Airport Hotel
March 4-5, 2011
Course #1173
Live: 54
Webcast: 9

May 3rd Webinar
“A.H.C.A. Change of Ownership”
49

June 7th Webinar
“Accountable Care Organizations”
23
YOUR OPPORTUNITY TO REACH OVER 1400 HEALTH LAW SECTION MEMBERS!

The Health Law Section of The Florida Bar is the principal state membership organization for attorneys engaging in all aspects of health law, including those attorneys Board Certified in the specialty of Health Law. The Section advocates and provides numerous educational and networking opportunities for Florida health lawyers in law firms, solo practice, government and in-house counsel, to enhance the quality and ethics of legal services offered to health care clients. Our over 1400 members represent hospitals, other health care facilities, health care payors and provider groups, health care professionals, patients and other health care consumers in business transactions, regulatory matters, litigation and administrative actions.

Our Section puts on an average of three (3) major in-person continuing legal education (CLE) programs each year (some of which are co-sponsored with other Florida Bar Sections), as well as webinars and telephone seminars. We also have an up-to-date Website, a quarterly Newsletter which is sent via e-mail to all Section members, and a Health Law Practitioner’s Handbook providing guidance to attorneys practicing or interested in the specialty of health law. Each of these seminars and publications provides an excellent opportunity for Sponsors to promote their businesses and interact with our Section members. Whether you are a health care provider, facility, payor, or a consultant, publication, or other business or professional serving the health care and/or legal industries, becoming a Sponsor of our Health Law Section is a wise business investment as well as a way to support The Florida Bar Health Law Section, a non-profit organization. We invite you to become a Sponsor at one of the levels described below. Each category is limited, so please contact us as soon as possible to assure your Sponsorship position.

SPONSORSHIP PACKAGES

★ GOLD LEVEL: $8,500

- Mailing labels and email addresses of entire Health Law Section membership;
- Attendance for two (2) at an Executive Council Meeting, including the opportunity to provide a presentation to our Executive Council;
- Attendance for two (2) at the Health Law Section Executive Council reception (will coincide with the Executive Council Meeting the Sponsor chooses above) with table signage;
- Attendance for two (2) at the Health Law Section Executive Council dinner (will coincide with the Executive Council Meeting the Sponsor chooses above);
- Opportunity to introduce your company at each Health Law Section CLE seminar;
- Webpage ad and link on Section Website: www.flabarhls.org;
- Full-page ad in each Newsletter (2 issues annually);
- Email blast to entire Section membership recognizing Sponsor and providing Sponsor contact information to Section members.

★ BRONZE LEVEL: $2,500

- Attendance for one (1) at an Executive Council reception or dinner of the Sponsor’s choice* with table signage;
- Webpage ad and link on Section Website: www.flabarhls.org;
- Quarter (1/4) page ad in each Newsletter (2 issues annually).

★ MEAL OR RECEPTION SPONSORS: $1,500

- Opportunity to sponsor a CLE breakfast or lunch; Past Chairs lunch or an Executive Council lunch, dinner or reception offered in conjunction with either an Executive Council meeting or a Section CLE program;
- Visibility includes table signage, recognition of company at meeting, program, or meal (at the discretion of the program chair) with opportunity to introduce company and network with attendees;
- Webpage ad and link on Section Website: www.flabarhls.org;
- Attendance for one (1) at meal at sponsoring event.

★ WEBINAR SPONSOR: $500

- Recognition by program chair at beginning of program;
- Recognition of company on program brochure and materials;
- Webpage ad and link on Section Website: www.flabarhls.org.

TO RESERVE YOUR SPONSORSHIP, PLEASE COMPLETE THE ATTACHED SPONSORSHIP FORM OR CONTACT ASHEA WILEY AT (850) 561-6624 WITH ANY QUESTIONS YOU MAY HAVE. YOUR SPONSORSHIP WILL COMMENCE WHEN APPROVED BY OUR EXECUTIVE COUNCIL AND PAYMENT IN FULL IS RECEIVED. THANK YOU FOR YOUR SUPPORT. WE LOOK FORWARD TO OUR COLLABORATION.
*Gold Sponsor choices for receptions and dinners take priority over Silver and Bronze Sponsor choices; Silver Sponsor choices for receptions and dinners take priority over Bronze choices.

Sponsors - please note your first choice (by marking a 1 below), your second choice (by marking a 2 below) and your third choice (by marking a 3 below) of the Executive Council reception or dinner you would like to be the Sponsor of and attend. **When hosting receptions, please choose if you would rather be the host of the Bar or the Food served at the reception.

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**2011 – 2012 Fiscal Year Calendar of Health Law Section Events**

**September 22, 2011** – Health Law Executive Council Retreat, Shula’s Hotel & Golf Club, Miami Lakes

- Reception ** choose one of the following:
  - Host the Bar at Reception
  - Host the Hors d’oeuvres and Food Display at Reception
- Dinner

**September 23, 2011** – CLE – 3rd Annual FUNdamentals of Florida Healthcare Law, Shula’s Hotel & Golf Club, Miami Lakes

- Lunch

**January 26, 2012** – January Executive Council Meeting, Location TBD

- Reception ** choose one of the following:
  - Host the Bar at Reception
  - Host the Hors d’oeuvres and Food Display at Reception
- Dinner

**January 27, 2012** – CLE – Representing the Physician 2012, Location TBD

- Lunch

**March 9-10, 2012** – CLE – Advanced Health Law Topics and Certification Review 2012, Location TBD

- Lunch (day 1)
- Lunch (day 2)


- Reception ** choose one of the following:
  - Host the Bar at Reception
  - Host the Hors d’oeuvres and Food Display at Reception
- Dinner
Health Law Section Sponsorship

Company Name: ________________________ Contact: ( ) ____________________
(Print name exactly as you want it to appear on sign)
Phone: ( ) ___________________________ E-mail: ____________________________
Address: ______________________________________________________________
(All event information will be sent to this address unless otherwise indicated)
City/State/Zip: _________________________________________________________

Please enroll our company for sponsorship at the following level:

☐ GOLD LEVEL — $8,500 [8130022]
☐ SILVER LEVEL — $5,000 [8130023]
☐ BRONZE LEVEL — $2,500 [8130024]
☐ INDIVIDUAL EVENT SPONSORSHIP — $1,500 [8130025]
☐ WEBINAR SPONSOR — $500 [8130026]

METHOD OF PAYMENT (CHECK ONE):

☐ Check enclosed made payable to The Florida Bar

☐ Credit Card
   ☐ MASTERCARD  ☐ VISA  ☐ DISCOVER  ☐ AM. EXPR.  Exp. Date: ____/____ (MO./YR.)

Signature: ______________________________________________________________

Name on Card: ____________________________ Billing ZIP code: ______________________

Card No. ______________________________________________________________

MAIL TO: Ms. Ashlea Wiley, Program Administrator
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

OR FAX: 850/561-9427
AMENDED BYLAWS OF THE HEALTH LAW SECTION
of
The Florida Bar

ARTICLE I
NAME

Section 1. Name. The name of this Section of The Florida Bar is the "Health Law Section" (the "Section").

Section 2. Logo/Tag Line. The Section shall adopt a logo and a tag line, by determination of the Executive Council.

ARTICLE II
PURPOSES

Section 1. Purposes. The purposes of the Section are to provide:

(a) An organization within The Florida Bar (the "Bar") open to members thereof in good standing who have an interest in health law;

(b) An organization within The Florida Bar open, on a limited basis, to individuals practicing a profession related to health care who have an interest in health law; and

(c) A forum for communication and education leading to the improvement and development of the field of health law, and to serve the public generally, as well as the Bar, in interpreting and carrying out the professional needs and objectives in this area of law.

Section 2. Mission Statement. The mission of the Health Law Section of The Florida Bar is To serve as a forum for Members to interact and develop expertise in Health Law and to provide education and resources emphasizing Health Law issues in Florida.

ARTICLE III
MEMBERSHIP

Section 1. Eligibility. Any member of the Bar, in good standing and interested in the purposes of this Section, is eligible for Section membership upon application and payment of the Section's annual dues. Any member who ceases to be a member in good standing of the Bar may no longer be a member of the Section, unless they qualify as an affiliate member as set forth in Section 3.4.

Section 2. Administrative Year. The Section's administrative year will run concurrently with the fiscal year of the Bar (currently July 1st through June 30th).

Section 3. Annual Dues. The annual dues of the Section shall be determined by the Executive Council and approved by the Board of Governors of The Florida Bar. After an applicant has become a member, dues shall be payable in advance of each membership year and shall be billed by the Bar at the time that regular dues of the Bar are billed. Any member whose
dues are in arrears for a period of 3 calendar months after the first calendar month of any membership year will not be afforded member rights or privileges for such time that the member's dues remain in arrears.

**Section 4. Affiliate Membership.** The Executive Council may enroll, upon request and upon payment of the prescribed dues, as affiliate members of the Section, other persons who can show a dual capacity of interest in and contribution to the Section's activities as defined herein below. The purpose of affiliate membership is to foster the development and communication of multi-disciplinary information utilized in health law, but not to encourage the unlicensed practice of law. The number of affiliate members shall not exceed one-third of the Section membership. An affiliate member is a member of this Section only.

(a) "Affiliate" or "Affiliate Member" means any person who practices a profession dealing with health care including but not limited to physicians, nurses, administrators, allied health practitioners, risk managers, students of any of the foregoing professions, accountants, students currently enrolled in an accredited school of law, law school graduates, in-house corporate counsel not admitted to The Florida Bar, paralegals, legal administrators or other persons who hold positions directly related to the health care industry and its involvement in health law.

(b) Affiliates shall have all the privileges accorded to members of the Section except that affiliates shall not be entitled to vote, to hold office, or to participate in the election of officers or members of the Executive Council or to advertise affiliate membership in any way. Affiliates may serve in an advisory, nonvoting capacity, which the Executive Council may from time to time establish in its discretion.

(c) Affiliate members shall pay dues determined as set forth in these Bylaws.

(d) The Section shall reimburse the Bar for expenses incurred by the Bar in administering this Section's affiliate membership.

**ARTICLE IV**

**EXECUTIVE COUNCIL**

**Section 1. Governing Body.** There shall be an Executive Council, which shall be the governing body of this Section. The Executive Council shall have general supervision and control of the affairs of the Section, subject to the provisions of the Rules Regulating The Florida Bar and the Bylaws of the Section, and shall serve as the long range planning committee of the Section. It shall, pursuant to this right, authorize all commitments or contracts that entail the payment of money and authorize the expenditure of all Section funds. It shall not, however, authorize commitments, contracts or expenditures involving amounts of money in excess of the total amount that is anticipated as receipts from dues during the fiscal year plus the amount that has been previously collected from dues and remains unexpended. The Executive Council shall be vested with power and authority to formulate, fix, determine and adopt matters of policy concerning the affairs and purposes of the Section.

**Section 2. Section Recommendations.** All recommendations of the Section to The Florida Bar and/or its Board of Governors, any branch of the judiciary, legislative committee, or
to any other group or body to which recommendations by the Section are authorized to be made must have the prior approval of the Executive Council. Any recommendation made to other than the Board of Governors of The Florida Bar shall have the prior approval of the Bar.

Section 3. Membership. The Executive Council shall be comprised of 18 elected members of the Section, in addition to the chair, chair-elect, immediate past chair, secretary and treasurer (collectively, the "ex-officio members") of the Section. Such ex-officio members shall be voting members of the Executive Council. In the event any ex-officio member is concurrently an elected member of the Executive Council, said ex-officio member shall neither be required to relinquish the member's elected seat nor be counted twice as a member of the Executive Council. Additionally, all former chairs of the Executive Council shall be considered an ex-officio member of the Executive Council, without vote, for four (4) years after their term of office as immediate past chair has expired.

Section 4. Term of Office. All elected members of the Executive Council shall serve for a term of 3 years, the terms being staggered such that approximately one-third of the elected membership of the Executive Council is elected each year. The terms commence at the conclusion of the annual meeting of the Section at which the member is elected and shall end at the conclusion of the annual meeting of the Section 3 years thereafter. No member shall serve more than two consecutive full terms on the Executive Council without an intervening three year period before being eligible for re-election. This provision shall not preclude any member who has served two full terms from being elected as an Officer in accordance with Article IV, Section 3 and Article V, nor shall preclude any member who is appointed to fill a vacancy in accordance with Article IV, Section 7 from being eligible for being elected to two full terms of his/her own accord.

Section 5. Election. The nomination and election of members of the Executive Council shall occur at the time of the annual meeting of the Section, as more fully set forth in Article VII.

Section 6. Meetings. The Executive Council shall conduct its business at regular and special meetings as provided for in Article VI; provided, however, the business of the Executive Council between regular or special meetings may be conducted by correspondence, telephone, facsimile, or other electronic means to the extent authorized by the chair. In the absence of action by the Executive Council as permitted herein, the executive committee as defined in Article IX, Section 1(a), shall be responsible for the daily operations of the Section and all action taken by the executive committee pursuant to this right shall be subject to ratification by the Executive Council at its next regular or special meeting.

Section 7. Vacancy. If at any time during a term of office of an elected member of the Executive Council such seat shall become permanently vacant by reason of death, resignation, ineligibility or other reason, such seat on the Executive Council shall be filled for the balance of its term by a majority vote of the members of the Executive Council present at the next scheduled meeting of the Executive Council.

Section 8. Meeting Absences. In the event any elected member of the Executive Council is absent from 2 or more meetings during the Section's administrative year without being excused by the chair, such member's office may be declared vacant by the Executive Council and such vacancy shall be filled as provided in Article IV, Section 7 hereinafore.
ARTICLE V
OFFICERS

Section 1. Officers. The officers of this Section shall be a chair, a chair-elect, a secretary and a treasurer.

Section 2. Duties of Officers. The duties of the officers shall be as follows:

(a) Chair. The chair shall preside at all meetings of the Section, the Executive Council and the executive committee. The chair shall appoint, upon the advice and consent of the Executive Council, and unless otherwise specified elsewhere in these Bylaws, all committee chairs, and shall prepare all reports to be submitted to The Florida Bar or to its board of governors and shall perform such other duties as customarily pertaining to the office of the chair. The chair shall be an ex-officio member, with vote, of each committee of the Section.

(b) Chair-elect. The chair-elect shall become chair in the event of the death, resignation or failure of the chair to serve for whatever reason; provided, however, that in case of the temporary disability or absence of the chair, the chair-elect shall serve as acting chair only for the duration of the chair's disability or absence. The chair-elect shall be responsible for the public relations activities of the Section, including liaison with the public relations committee of the Bar, and for such duties as the chair may designate. The chair-elect shall be an ex-officio member, with vote, of each committee of the Section.

(c) Secretary. The secretary shall be responsible for all permanent files and records of the Section, including the minutes of the Section, of the Executive Council, and of all committees. The secretary shall furnish copies of said minutes to the executive director of The Florida Bar and to the Section administrator.

(d) Treasurer. The treasurer shall have the responsibility of accounting for all funds of the Section, shall approve all disbursements, and shall prepare annual financial statements under the supervision of the Executive Council.

Section 3. Term of Office. The term of office for each officer shall be for 1 year, commencing at the conclusion of the annual meeting of the Section at which the officer was elected, and concluding at the end of the next succeeding annual meeting, except that the chair-elect shall then automatically ascend to the office of the chair.

Section 4. Election. The nomination and election of officers shall occur at the time of the annual meeting of the Section, as more fully set forth in Article VII.

Section 5. Vacancy. Any vacancy in the office of the secretary or treasurer by reason of death, resignation, ineligibility, or other reason shall be filled by the Executive Council for the balance of the term, at its next regular or special meeting. Any vacancy in the office of chair-elect due to either the death, resignation or ineligibility of the chair-elect, or the chair-elect's elevation to the office of the chair, shall not be filled and shall remain vacant until the next annual meeting at which officers are elected.
ARTICLE VI
MEETINGS

Section 1. Section Meetings.

(a) Annual Meeting. The annual meeting of the Section shall be at the time of
and in conjunction with the annual meeting of The Florida Bar.

(b) Special Meetings. Special meetings of the entire Section membership may be
called by the Executive Council, provided not less than 30 days prior written notice thereof shall
be given to each member of the Section as to the time, date, location and purpose of the meeting,
with notice being deemed to have been given on the day mailed or on the date of publication in
The Florida Bar News.

(c) Quorum. The members of the Section, other than affiliate members, attending
any regular or special meeting of the Section, shall constitute a quorum for the transaction of
business at said meeting and a majority vote of those present shall be deemed the action of the
Section.

Section 2. Executive Council Meetings.

(a) Regular Meetings. There shall be not less than 3 regular meetings of the
Executive Council annually, 1 of which shall be held in conjunction with the annual meeting of
the Section, at the time of the annual meeting of The Florida Bar. The date and location of all
other regular meetings shall be determined by the chair of the Section in conjunction with the
Executive Council and the Florida Bar Section administrator.

(b) Special Meetings. Special meetings of the Executive Council may be called
by the chair of the Section, and shall be scheduled when requested by a majority of the
membership of the Executive Council, upon giving not less than 3 days' prior written notice to
the Executive Council membership to said effect, with notice being deemed to have been given
on the day mailed or sent by facsimile transmission.

(c) Quorum. A majority of the Executive Council membership shall constitute a
quorum, and the majority vote of those so attending shall be binding and be deemed the action of
the Executive Council, except as set forth in Article VIII, Section 3 hereinbelow, as regards the
Section's adoption of a legislative policy which greater quorum shall be required. All attendance
shall be in person, and there shall be no telephonic attendance.

(d) Manner of Action. In lieu of an actual meeting, the Executive Council may
act or transact authorized business at a duly called regular or special meeting by either written,
email or facsimile approval of a majority of the Executive Council membership; or by
telephonic or other verbal communication and approval by a majority of the Executive Council
membership, which approval is subsequently confirmed in writing.

Section 3. Agendas.

(a) Regular Meetings. At all regular meetings of the Section and the Executive
Council, the chair shall prepare and distribute an agenda as to the conduct of the meeting. The Section and the Executive Council shall consider, respectively, all such matters that may properly be brought before it, time permitting.

(b) Special Meetings. At all special meetings of the Section and the Executive Council, the call of the meeting shall prescribe the purpose and nature of the business to be transacted at the special meeting, and no business shall be conducted at a special meeting of either the Section or the Executive Council other than as is designated in the call or notice of the respective meeting.

ARTICLE VII
NOMINATION AND ELECTION OF OFFICERS AND EXECUTIVE COUNCIL MEMBERS

Section 1. Nominations. Not less than 90 days prior to the date of the annual meeting of the Section, the nominating committee, comprised as set forth in Section 4 of this Article VII, shall submit its nominations consisting of a slate of 1 name for each office available, to the chair, for the following offices:

(a) chair, but only if for any reason, the office of chair-elect is vacant;

(b) chair-elect;

(c) secretary;

(d) treasurer;

(e) Such number of seats on the Executive Council as whose members’ terms are expiring. The nominating committee shall take into consideration the geographic distribution and practice setting of the Executive Council membership and proposed nominees, it being the specific policy of the Section that the membership of the Executive Council be geographically balanced.

Section 2. Nominating Committee Report. The nominating committee shall submit its report to the Section chair, who shall cause such report to be published in The Florida Bar News or in the Section newsletter, or otherwise publish the nominating committee report to the Section membership at least 60 days prior to the date of the annual meeting.

Section 3. Substituted or Additional Nominations. If, after submission of the nominating committee report to the chair and prior to the annual meeting of either the Section and/or the Executive Council,

(a) any person nominated to office shall die or otherwise become unable or unwilling to serve; or

(b) any new office shall be created;

then the nominating committee shall, within 30 days of notice of such event to the chair of the
nominating committee, make such substituted or additional nominations as are appropriate. If practicable, notice of such additional nominations shall be published to Section members before the annual meeting; otherwise such nominations shall be announced to the Section at the annual meeting.

Section 4. Other Nominations. Other nominations may be made by petition signed by at least 15 voting members of the Section and filed with the chair, not later than 30 days prior to the date of the annual meeting. If there are any substituted or additional nominations made pursuant to Article VII, Section 3., a petition nominating a person for such position may be filed in the herein manner anytime prior to the annual meeting. If practicable, any such nominations shall be announced to the Section promptly upon receipt; otherwise such nominations shall be announced to the Section at the annual meeting.

Section 5. Executive Council Membership Elections. Election of the Executive Council membership shall occur at the annual meeting of the Section and shall be by voice or hand vote of all Section membership in attendance and eligible to vote, unless there are other nominations in accordance with Article VII, Section 4, in which event election shall be by written ballot of all Section membership in attendance and eligible to vote. In the event of a contested election, the candidates receiving the highest number of votes for the number of seats up for election shall be deemed elected.

Section 6. Officer Elections. Election of officers shall be by the members of the Executive Council, at the Executive Council meeting held in conjunction with the annual meeting of the Section. Voting shall be by voice or hand vote, unless there are other nominations in accordance with Article VII, Section 4, in which event election shall be by written ballot, with the candidate receiving the highest number of votes for each office being deemed elected. Any ballot on which more than one vote is cast for the same office shall be void.

ARTICLE VIII
LEGISLATIVE POLICY

Section 1. General Purpose. The Section is authorized to become involved in legislative (or judicial or administrative) action that is significant to the judiciary, the administration of justice, the fundamental legal rights of the public, or the interests of the Section consistent with the policies outlined hereinbelow.

Section 2. Legislative Position. Any legislative, judicial or administrative position of the Section (hereinafter referred to as "legislative position") is to be adopted in accordance with the herein Article VIII. These positions will be clearly identified at all times before legislative bodies and members as positions of the Section only, unless otherwise authorized by the Board of Governors of The Florida Bar.

Section 3. Adoption of Legislative Position. The Executive Council, by a two-thirds vote of the membership at a meeting at which a quorum is present, must find that the proposed legislative position is within the scope of the purposes for which positions may be taken, and must also approve the substance of the position proposed by a two-thirds vote. No legislative position may be taken which is contrary to the legislative policies of the Board of Governors of
The Florida Bar. Once adopted, the Section's secretary shall immediately notify the executive
director of The Florida Bar, in writing, of the Section's adoption of the legislative position. The
legislative position of the Section may not be advanced until the Board of Governors of The
Florida Bar, at its next regularly scheduled meeting after notification to the executive director of
The Florida Bar, has reviewed the position of the Section and has not disapproved same. When
time constraints require prompt action, the executive committee of The Florida Bar may act in
lieu of the board of governors. In an emergency, the president of The Florida Bar may act
consistent with applicable Bar policy. If not disapproved by The Florida Bar, a legislative
position of the Section shall remain for the full biennial session during which the board of
governors acted on the position, unless otherwise reversed or rescinded by them or by a two-
thirds vote of the Executive Council of the Section.

Section 4. Legislative Committee Authority. At any time that the Executive Council
of the Section cannot meet to adopt a legislative position prior to the time when legislative (or
judicial administrative) action is requested by the Section chair, the executive committee of the
Section has the authority to adopt a position of the Section with respect to pending legislation.
Any position thus taken must be reported to The Florida Bar in conjunction with its review of the
Section's request. Such action shall also be reported to the Executive Council at its next
scheduled meeting and may be approved or rescinded in accordance with the provisions of
Article VIII, Section 3 hereinabove.

ARTICLE IX
COMMITTEES

Section 1. Standing Committees. The following shall be the standing committees of
the Section with their attendant duties and responsibilities:

(a) Executive Committee. The executive committee shall be comprised of the
chair, who shall serve as chair of this Committee, chair-elect, secretary, treasurer and immediate
past chair of the Section. The executive committee shall be responsible for the daily operations
of the Section between the regular or special meetings of the Executive Council and shall
conduct its business from time to time by correspondence, meetings facsimile, telephone or other
electronic means, to the extent authorized by the Section chair. All actions of the executive
committee taken on behalf of the Executive Council shall be subject to ratification by the
Executive Council at its next regular or special meeting. The executive committee shall also
serve as the budget committee, and shall prepare proposed budgets and amendments, if any, for
submission to the Executive Council for approval.

(1) Nominating Subcommittee. The nominating subcommittee shall be
comprised of 5 members of the Section, 3 of whom shall be appointed by the chair-elect and 2 of
whom shall be appointed by the chair. No more than 2 members of this committee shall be
members on the Executive Council, and no member may serve on the Nominating Subcommittee
for more than two consecutive years without having at least one year absence before being
eligible to be again appointed to the Subcommittee. Subcommittee composition shall be
appointed not less than 6 months prior to the Section's annual meeting and, when so appointed,
the chair shall promptly announce the names and mailing addresses of the nominating committee
members by publication to Section membership in either The Florida Bar News or the Section
newsletter or the Section website. The nominating committee shall be responsible for submitting
nominations for officers and Executive Council membership seats as more fully set forth in Article VII.

(2) Bylaws Subcommittee. The Bylaws subcommittee shall be an ad hoc committee, appointed by the chair of the Section, on an as needed basis, to review and recommend amendments to the Bylaws,

(b) Communications and Technology Committee. The committee shall promote communications; maximize technical assistance to members, public interest groups, and the public; create effective archival and delivery/retrieval of health case law, board and disciplinary board decisions; promote and publicize the Section's activities, programs, and achievements; and inform members how to use and benefit from the Section's technological offerings. The committee shall consist of such subcommittees as the chair of the Section shall determine from time-to-time, and shall initially include the following subcommittees, which can be expanded or reducted without the necessity of amending these Bylaws:

(1) Website Subcommittee.

(2) Listserve Subcommittee.

(3) Member Update Subcommittee.

(4) Law School Outreach Subcommittee.

(5) Social Networking Subcommittee

(c) Education and Publication Committee. The education and publication committee shall be responsible for procuring articles for publication in The Florida Bar Journal and other scholarly journals; for procuring articles and new development updates for publishing and disseminating in a Section newsletter and on its website; for organizing, presenting and sponsoring continuing legal education programs; and for communicating issues of interest in health law, all as set forth in the policies of the committee as they shall be promulgated by the Executive Council from time to time. The committee shall consist of such subcommittees as the chair of the Section shall determine from time-to-time, and shall initially include the following subcommittees, which can be expanded or reducted without the necessity of amending these Bylaws:

(1) CLE Subcommittee. The CLE subcommittee shall be responsible for identifying, scheduling, and planning the various in-person CLE programs and webinars or teleconference CLE programs, either sponsored by the Section or co-sponsored with other Florida Bar Sections.

(2) Handbook Subcommittee. The handbook subcommittee shall be responsible for procuring authors, editing, and final sign-off on the Section's Florida Practitioner's Health Law Handbook publication, as same shall be published and revised from time-to-time as determined by the Executive Council.

(3) Newsletter Subcommittee. The newsletter subcommittee shall be
responsible for soliciting articles, soliciting case law updates, soliciting advertisements, and for the compilation and publication of the Section newsletter.

(4) **Journal Subcommittee.** The journal subcommittee shall be responsible for soliciting authors and topics, identifying copy editors, and for the sign-off, formatting and publication of the Section's scholarly journal publication.

(d) **Legislative Committee.** The legislative committee shall from time to time make recommendations to the Executive Council regarding requests for the Section to adopt a legislative position, which position shall be taken in accordance with the requirements adopted by the Board of Governors of The Florida Bar and in accordance with the legislative policy adopted by this Section as set forth in Article VIII.

**Section 2. Special Committees.** The chair of the Section may appoint any special committees deemed necessary with the concurrence of the Executive Council.

**Section 3. Committee Composition.** The chair of each standing and special committee and subcommittee, except the executive committee, shall be appointed by the chair of the Section upon the concurrence of the Executive Council, and shall be a member of the Executive Council. The membership of each standing and special committee, except the executive committee, the nominating subcommittee and the legislative committee, shall be appointed by the chair of the Section. At the June annual meeting of the Executive Council, the chair-elect shall make known his/her selection of committee chairs for the coming Section year, which appointments shall be approved and office taken at the conclusion of the annual meeting.

**Section 4. Committee Meetings.** Committee meetings may be called, as necessary, by the chair of the Section or the committee chair. Committee meetings may be held in person, by telephonic conference, by facsimile or other electronic means or by unanimous written waiver and consent of the committee membership.

**Section 5. Quorum.** A majority of the members of any committee shall constitute a quorum for the transaction of business of the committee, and the majority vote of those present shall be deemed the action of the committee.

**ARTICLE X**
**MISCELLANEOUS**

**Section 1. Action of The Florida Bar.** No action of the Section shall be represented or construed as the action of the Bar until the same has been approved by the Board of Governors of The Florida Bar.

**Section 2. Financial Obligations.** Before payment, all financial obligations must be approved in the manner specified by the Executive Council.

**Section 3. Compensation and Expenses.** No salary or other compensation shall be paid to any member of the Section for performance of services for the Section, but the chair may authorize the payment of reasonable out-of-pocket expenses resulting from performance of such services, consistent with the Section's policies.
Section 4. Amendments. These Bylaws may be amended only by the Board of Governors of The Florida Bar, upon recommendation made by the Executive Council of the Section.

Section 5. Compliance with Policies of The Florida Bar. No action of the Section shall be contrary to the policies of The Florida Bar as such policy is established by its board of governors.

Section 5. Effective Date. These Amended Bylaws are adopted by the Executive Council as of January 27, 2011, and shall be effective upon approval by the Board of Governors of the Florida Bar.
AMENDED BYLAWS OF THE HEALTH LAW SECTION
of
The Florida Bar

ARTICLE I
NAME

Section 1. Name. The name of this section of The Florida Bar is the "Health Law Section" (the "section").

Section 2. Logo/Tag Line. The section shall adopt a logo and a tag line, by determination of the executive council.

ARTICLE II
PURPOSES

Section 1. Purposes. The purposes of the section are to provide:

(a) An organization within The Florida Bar (the "bar") open to members thereof in good standing who have an interest in health law;

(b) An organization within The Florida Bar open, on a limited basis, to individuals practicing a profession related to health care who have an interest in health law; and

(c) A forum for communication and education leading to the improvement and development of the field of health law, and to serve the public generally, as well as the bar, in interpreting and carrying out the professional needs and objectives in this area of law.

Section 2. Mission Statement. The mission of the Health Law Section of The Florida Bar is to provide as a forum for interaction; Members to interact and information exchange to enable members to serve clients effectively; to produce the highest quality educational programs; materials; develop expertise in Health Law and services; to provide education and to
ARTICLE III
MEMBERSHIP

Section 1. Eligibility. Any member of the bar, in good standing and interested in the purposes of this section, is eligible for section membership upon application and payment of the section's annual dues. Any member who ceases to be a member in good standing of the bar may no longer be a member of the section, unless they qualify as an affiliate member as set forth in Section 3.4.

Section 2. Administrative Year. The section's administrative year will run concurrently with the fiscal year of the bar (currently July 1st through June 30th).

Section 3. Annual Dues. The annual dues of the section shall be determined by the executive council and approved by the Board of Governors of The Florida Bar. After an applicant has become a member, dues shall be payable in advance of each membership year and shall be billed by the bar at the time that regular dues of the bar are billed. Any member whose dues are in arrears for a period of 3 calendar months after the first calendar month of any membership year will not be afforded member rights or privileges for such time that the member's dues remain in arrears.

Section 4. Affiliate Membership. The executive council may enroll, upon request and upon payment of the prescribed dues, as affiliate members of the section, other persons who can show a dual capacity of interest in and contribution to the section's activities as defined herein below. The purpose of affiliate membership is to foster the development and communication of multi-disciplinary information utilized in health law, but not to encourage the unlicensed practice of law. The number of affiliate members shall not exceed one-third of the section membership. An affiliate member is a member of this section only.

(a) "Affiliate" or "Affiliate Member" means any person who practices
profession dealing with health care including but not limited to physicians, nurses,
administrators, allied health practitioners, risk managers, students of any of the foregoing
professions, accountants, students currently enrolled in an accredited school of law, law school
graduates, in-house corporate counsel, not admitted to The Florida Bar, paralegals, legal
administrators or other persons who hold positions directly related to the health care industry and
its involvement in health law.

(b) Affiliates shall have all the privileges accorded to members of the section
except that affiliates shall not be entitled to vote, to hold office, or to participate in the
election of officers or members of the executive council or to advertise affiliate membership in
any way. Affiliates may serve in an advisory, nonvoting capacity, which the executive council
may from time to time establish in its discretion.

(c) Affiliate members shall pay dues determined as set forth in these bylaws.

(d) The section shall reimburse the bar for expenses incurred by the bar in
administering this section's affiliate membership.

ARTICLE IV
EXECUTIVE COUNCIL

Section 1. Governing Body. There shall be an executive council, which shall be
the governing body of this section. The executive council shall have general supervision and
control of the affairs of the section, subject to the provisions of the Rules Regulating The Florida
Bar and the bylaws of the section, and shall serve as the long range planning committee of
the section. It shall, pursuant to this right, authorize all commitments or contracts that entail
the payment of money and authorize the expenditure of all section funds. It shall not,
however, authorize commitments, contracts or expenditures involving amounts of money in
excess of the total amount that is anticipated as receipts from dues during the fiscal year plus the
amount that has been previously collected from dues and remains unexpended. The executive
council shall be vested with power and authority to formulate, fix, determine and adopt
matters of policy concerning the affairs and purposes of the section.
Section 2. Section Recommendations. All recommendations of the section to The Florida Bar and/or its Board of Governors, any branch of the judiciary, legislative committee, or to any other group or body to which recommendations by the section are authorized to be made must have the prior approval of the executive council. Any recommendation made to other than the Board of Governors of The Florida Bar shall will have the prior approval of the bar.

Section 3. Membership. The executive council shall will be comprised of 1218 elected members of the section in addition to the chair, chair-elect, immediate past chair, secretary and treasurer (collectively, the "ex-officio members") of the section. Such ex-officio members shall will be voting members of the executive council. In the event any ex-officio member is concurrently an elected member of the executive council, said ex-officio member shall will not be required to relinquish the member's elected seat nor be counted twice as a member of the executive council, it being the specific intent of this section that the total composition of the executive council be not less than 12 members nor more than 17 members. Additionally, all former chairs of the executive council shall will be considered an ex-officio member of the executive council, without vote, for 4 years after their term of office as immediate past chair has expired.

Section 4. Term of Office. All elected members of the executive council shall serve for a term of 3 years, the terms being staggered such that approximately one-third/3 of the elected membership of the executive council is elected each year. The terms commence at the conclusion of the annual meeting of the section at which the member is elected and shall will end at the conclusion of the annual meeting of the section 3 years thereafter. No member shall will serve more than two consecutive full terms on the executive council without an intervening three year period before being eligible for re-election. This provision shall not preclude any member who has served two full terms from being elected as an officer in accordance with Article IV, Section 3 and Article V, nor shall will preclude any member who is appointed to fill a vacancy in accordance with Article IV, Section 7 from being eligible for being elected to two full terms of his/her own accord.

Section 5. Election. The nomination and election of members of the executive council
shall will occur at the time of the annual meeting of the section, as more fully set forth in Article VII.

Section 6. Meetings. The executive council shall will conduct its business at regular and special meetings as provided for in Article IV, provided, however, the business of the executive council between regular or special meetings may be conducted by correspondence, telephone, facsimile, or other electronic means to the extent authorized by the chair. In the absence of action by the executive council as permitted herein, the executive committee as defined in Article IX, Section 9.1.1.(a), shall will be responsible for the daily operations of the section and all action taken by the executive committee pursuant to this right shall will be subject to ratification by the executive council at its next regular or special meeting.

Section 7. Vacancy. If at any time during a term of office of an elected member of the executive council such seat shall will become permanently vacant by reason of death, resignation, ineligibility or other reason, such seat on the executive council shall will be filled for the balance of its term by a majority vote of the members of the executive council present at the next scheduled meeting of the executive council.

Section 8. Meeting Absences. In the event any elected member of the executive council is absent from 2 or more meetings during the section’s administrative year without obtaining the prior excuse being excused by the chair, such member’s office shall may be declared vacant by the executive council and such vacancy shall will be filled as provided in Article IV, Section 4.7 hereinabove.

ARTICLE V
OFFICERS

Section 1. Officers. The officers of this section shall will be a chair, a chair-elect, a secretary and a treasurer.

Section 2. Duties of Officers. The duties of the officers shall will be as follows:
(a) Chair. The chair shall will preside at all meetings of the section, the executive council and the executive committee. The chair shall will appoint, upon the advice and consent of the executive council, and unless otherwise specified elsewhere in these bylaws, all committee chairs, and shall will prepare all reports to be submitted to The Florida Bar or to its Board of Governors and shall will perform such other duties as customarily pertaining to the office of the chair. The chair shall will be an ex-officio member, with vote, of each committee of the section.

(b) Chair-elect. The chair-elect shall will become chair in the event of the death, resignation or failure of the chair to serve for whatever reason; provided, however, that in case of the temporary disability or absence of the chair, the chair-elect shall will serve as acting chair only for the duration of the chair's disability or absence. The chair-elect shall will be responsible for the public relations activities of the section, including liaison with the public relations committee of the bar, and for such duties as the chair may designate. The chair-elect shall will be an ex-officio member, with vote, of each committee of the section.

(c) Secretary. The secretary shall will be responsible for all permanent files and records of the section, including the minutes of the section, of the executive council, and of all committees. The secretary shall will furnish copies of said minutes to the executive director of The Florida Bar and to the section administrator.

(d) Treasurer. The treasurer shall will have the responsibility of accounting for all funds of the section, shall will approve all disbursements, and shall will prepare annual financial statements under the supervision of the executive council.

Section 3. Term of Office. The term of office for each officer shall will be for 1 year, commencing at the conclusion of the annual meeting of the section at which the officer was elected, and concluding at the end of the next succeeding annual meeting, except that the chair-elect shall will then automatically ascend to the office of the chair.

Section 4. Election. The nomination and election of officers shall will occur at the time of the annual meeting of the section, as more fully set forth in Article VII.
Section 5. Vacancy. Any vacancy in the office of the secretary or treasurer by reason of death, resignation, ineligibility, or other reason shall be filled by the executive council for the balance of the term, at its next regular or special meeting. Any vacancy in the office of chair-elect due to either the death, resignation or ineligibility of the chair-elect, or the chair-elect's elevation to the office of the chair, shall not be filled and shall remain vacant until the next annual meeting at which officers are elected.

ARTICLE VI
MEETINGS

Section 1. Section Meetings.

(a) Annual Meeting. The annual meeting of the section shall be at the time of and in conjunction with the annual meeting of The Florida Bar.

(b) Special Meetings. Special meetings of the entire section membership may be called by the executive council, provided not less than 30 days prior written notice thereof shall be given to each member of the section as to the time, date, location and purpose of the meeting, with notice being deemed to have been given on the day mailed or on the date of publication in The Florida Bar News.

(c) Quorum. The members of the section, other than affiliate members, attending any regular or special meeting of the section, shall constitute a quorum for the transaction of business at said meeting and a majority vote of those present shall be deemed the action of the section.

Section 2. Executive Council Meetings.

(a) Regular Meetings. There shall be not less than 3 regular meetings of the executive council annually, 1 of which shall be held in conjunction with the annual meeting of the section, and at the time of which the annual meeting of The Florida Bar. The date and location of all other regular meetings shall be determined by the chair of the section in
conjunction with the midyear meeting of executive council and The Florida Bar section administrator.

(b) Special Meetings. Special meetings of the executive council may be called by the chair of the section, and shall be scheduled when requested by a majority of the membership of the executive council, upon giving not less than 3 days' prior written notice to the executive council membership to said effect, with notice being deemed to have been given on the day mailed or sent by facsimile transmission.

(c) Quorum. A majority of the executive council membership shall constitute a quorum, and the majority vote of those present and attending shall be binding and be deemed the action of the executive council, except as set forth in Article VIII, Section 8-3: herein and below, as regards the section's adoption of a legislative policy which greater quorum shall be required. All attendance shall be in person, and there shall be no telephonic attendance.

(d) Manner of Action. In lieu of an actual meeting, the executive council may act or transact authorized business at a duly called regular or special meeting by either written, email or facsimile approval of a majority of the executive council membership; or by telephonic or other electronic communication and approval by a majority of the executive council membership, which approval is subsequently confirmed in writing.

Section 3. Agendas.

(a) Regular Meetings. At all regular meetings of the section and the executive council, the chair shall prepare and distribute an agenda as to the conduct of the meeting. The section and the executive council shall consider, respectively, all such matters that may properly be brought before it, time permitting.

(b) Special Meetings. At all special meetings of the section and the executive council, the call of the meeting shall prescribe the purpose and nature of the business to be transacted at the special meeting, and no business shall be conducted at a special meeting of
either the section or the executive council other than as is designated in the call or notice of the respective meeting.

ARTICLE VII
NOMINATION AND ELECTION OF OFFICERS AND EXECUTIVE COUNCIL MEMBERS

Section 1. Nominations. Not less than 90 days prior to the date of the annual meeting of the section, the nominating committee, comprised as set forth in Section 9.4.4 of this Article VII, shall will submit its nominations consisting of at least a slate of 1 name for each office available, to the chair, for the following offices:

(a) chair, but only if for any reason, the office of chair-elect is vacant;

(b) chair-elect;

(c) secretary;

(d) treasurer;

(e) Such number of seats on the executive council as whose members’ terms are expiring. The nominating committee shall will take into consideration the geographic distribution and practice setting of the executive council membership and proposed nominees, it being the specific policy of the section that the membership of the executive council be geographically balanced.

Section 2. Nominating Committee Report. The nominating committee shall will submit its report to the section chair, who shall will cause such report to be published in The Florida Bar News or in the section newsletter, or otherwise publish the nominating committee report to the section membership at least 60 days prior to the date of the annual meeting.

Section 3. Substituted or Additional Nominations. If, after submission of the
nominating committee report to the chair and prior to the annual meeting of either the section and/or the executive council,

(a) any person nominated to office shall will die or otherwise become unable or unwilling to serve; or

(b) any new office shall will be created;

then the nominating committee shall will, within 30 days of notice of such event to the chair of the nominating committee, make such substituted or additional nominations as are appropriate. If practicable, notice of such additional nominations shall will be published to section members before the annual meeting; otherwise such nominations shall will be announced to the section at the annual meeting.

Section 4. Other Nominations. Other nominations may be made by petition signed by at least 15 voting members of the section and filed with the chair, not later than 30 days prior to the date of the annual meeting. If there are any substituted or additional nominations made pursuant to Article VII, Section 7.3, a petition nominating a person for such position may be filed in the herein manner anytime prior to the annual meeting. If practicable, any such nominations shall will be announced to the section promptly upon receipt; otherwise such nominations shall will be announced to the section at the annual meeting.

Section 5. Executive Council Membership Elections. Election of the executive council membership shall will occur at the annual meeting of the section and shall will be by voice or hand vote of all section membership in attendance and eligible to vote, unless there are other nominations in accordance with Article VII, Section 4, in which event election shall will be by written ballot of all section membership in attendance and eligible to vote. The candidate in the event of a contested election, the candidates receiving the highest number of votes for each contested seat the number of seats up for election shall will be deemed elected. Any ballot on which more than one vote is cast for the same contested seat shall will be void.

Section 6. Officer Elections. Election of officers shall will be by the members of the
executive council, at the executive council meeting held in conjunction with the annual meeting
of the section. Voting shall be by voice or hand vote, unless there are other nominations in
accordance with Article VII, Section 4, in which event election shall be by written ballot,
with the candidate receiving the highest number of votes for each office being deemed elected.
Any ballot on which more than one vote is cast for the same office shall be void.

ARTICLE VIII
LEGISLATIVE POLICY

Section 1. General Purpose. The section is authorized to become involved in
legislative (or judicial or administrative) action that is significant to the judiciary, the
administration of justice, the fundamental legal rights of the public, or the interests of the section
consistent with the policies outlined hereinbelow.

Section 2. Legislative Position. Any legislative, judicial or administrative position of
the section (hereinafter referred to as "legislative position") is to be adopted in accordance with
the herein Article VIII. These positions will be clearly identified at all times before legislative
bodies and members as positions of the section only, unless otherwise authorized by the Board of
Governors of The Florida Bar.

Section 3. Adoption of Legislative Position. The executive council, by a two-thirds\(^2/3\)
vote of the membership at a meeting at which a quorum is present, must find that the proposed
legislative position is within the scope of the purposes for which positions may be taken, and
must also approve the substance of the position proposed by a two-thirds\(^2/3\) vote. No legislative
position may be taken which is contrary to the legislative policies of the Board of Governors of
The Florida Bar. Once adopted, the section's secretary shall immediately notify the
executive director of The Florida Bar, in writing, of the section's adoption of the legislative
position. The legislative position of the section may not be advanced until the Board of
Governors of The Florida Bar, at its next regularly scheduled meeting after notification to the
executive director of The Florida Bar, has reviewed the position of the section and has not
disapproved same. When time constraints require prompt action, the executive committee of
The Florida Bar may act in lieu of the Board of Governors. In an emergency, the president of
The Florida Bar may act consistent with applicable bar policy. If not disapproved by The Florida
Bar, a legislative position of the section shall will remain for the full biennial session during
which the Board of Governors acted on the position, unless otherwise reversed or rescinded by
them or by a two-thirds (2/3) vote of the executive council of the section.

Section 4. Legislative Committee Authority. At any time that the executive council of
the section cannot meet to adopt a legislative position prior to the time when legislative (or
judicial administrative) action is requested by the section chair, the executive committee of the
section has the authority to adopt a position of the section with respect to pending legislation.
Any position thus taken must be reported to The Florida Bar in conjunction with its review of the
section's request. Such action shall will also be reported to the executive council at its next
scheduled meeting and may be approved or rescinded in accordance with the provisions of
Article VIII, Section 8.3. hereinafter.

ARTICLE IX
COMMITTEES

Section 1. Standing Committees. The following shall will be the standing committees
of the section with their attendant duties and responsibilities:

(a) Executive Committee. The executive committee shall will be comprised of the
chair, who shall will serve as chair of this committee, chair-elect, secretary, treasurer and
immediate past chair of the section. The executive committee shall will be responsible for the
daily operations of the section between the regular or special meetings of the executive council
and shall will conduct its business from time to time by correspondence, meetings facsimile,
telephone or other electronic means, to the extent authorized by the section chair. All actions of
the executive committee taken on behalf of the executive council shall will be subject to
ratification by the executive council at its next regular or special meeting. The executive
committee shall will also serve as the budget committee, and shall will prepare proposed budgets
and amendments, if any, for submission to the executive council for approval.

(1) Nominating Subcommittee. The nominating subcommittee shall will
be comprised of 5 members of the section, 3 of whom shall be appointed by the chair-elect
and 2 of whom shall be appointed by the chair. No more than 2 members of this committee
shall be members on the executive council, and no member may serve on the nominating
subcommittee for more than 2 consecutive years without having at least 1 year absence before
being eligible to be again appointed to the Subcommittee. Subcommittee composition shall
be appointed not less than 6 months prior to the section’s annual meeting and, when so
appointed, the chair shall promptly announce the names and mailing addresses of the
nominating committee members by publication to section membership in either The Florida Bar
News or the section newsletter or the section website. The nominating committee shall be
responsible for submitting nominations for officers and executive council membership seats as
more fully set forth in Article VII.

(2) Bylaws Subcommittee. The bylaws subcommittee shall be an ad
hoc committee, appointed by the chair of the section, on an as needed basis, to review and
recommend amendments to the bylaws.

(b) Communications and Technology Committee. The committee shall
promote communications; maximize technical assistance to members, public interest groups, and
the public; create effective archival and delivery/retrieval of health case law, board and
disciplinary board decisions; promote and publicize the section’s activities, programs, and
achievements; and inform members how to use and benefit from the section’s technological
offerings. The committee shall consist of such subcommittees as the chair of the section
shall determine from time-to-time, and shall initially include the following
subcommittees, which can be expanded or reduced without the necessity of amending these
bylaws:

(1) Website Subcommittee.

(2) Listserv Subcommittee.

(3) Member Update Subcommittee.
(4) **Law School Outreach Subcommittee.**

(5) **Social Networking Subcommittee.**

(c) **Education, Training, and Information Publication Committee.** The education, training, and information publication committee shall will be responsible, through its various divisions: for procuring articles for publication in *The Florida Bar Journal* and other scholarly journals; for procuring articles and new development updates for publishing and disseminating in a section newsletter and on its website; for organizing, presenting and sponsoring continuing legal education programs; and for communicating issues of interest in health law—all as set forth in the policies of the committee as they shall will be promulgated by the executive council from time to time. The committee shall will consist of such subcommittees as the chair of the section shall will determine from time-to-time, and shall will initially include the following subcommittees, which can be expanded or reduced without the necessity of amending these bylaws:

(d) **Section Effectiveness Committee.** The section effectiveness committee shall will provide, through its various divisions, services to the section membership including: compilation and publication of the section directory; organizing the mid-year and annual meetings of the section; including coordination of social activities; encouraging membership growth and activity; and periodic review of section bylaws—all as set forth in the policies of the committee as they shall will be promulgated by the executive council from time to time. The section effectiveness committee shall will include nominating and legislative subcommittees as follows:

(1) **CLE Subcommittee.** The CLE subcommittee shall will be responsible for identifying, scheduling, and planning the various in-person CLE programs and webinars or teleconference CLE programs, either sponsored by the section or co-sponsored with other bar sections.

(2) **Handbook Subcommittee.** The handbook subcommittee shall will be responsible for procuring authors, editing, and final sign-off on the section's *Florida Practitioner's Health Law Handbook* publication, as same shall will be published and revised.
from time-to-time as determined by the executive council.

(3) *Newsletter Subcommittee*. The newsletter subcommittee shall be responsible for soliciting articles, soliciting case law updates, soliciting advertisements, and for the compilation and publication of the section newsletter.

(4) *Journal Subcommittee*. The journal subcommittee shall be responsible for soliciting authors and topics, identifying copy editors, and for the sign-off, formatting and publication of the section’s scholarly journal publication.

(1) *Nominating Subcommittee*. The nominating subcommittee shall be comprised of 5 members of the section, 3 of whom shall be appointed by the chair-elect and 2 of whom shall be appointed by the chair. No more than 2 members of this committee shall be members on the executive council. Subcommittee composition shall be appointed not less than 6 months prior to the section’s annual meeting and, when so appointed, the chair shall promptly announce the names and mailing addresses of the nominating committee members by publication to section membership in either The Florida Bar News or the section newsletter or the section website. The nominating committee shall be responsible for submitting nominations for officers and executive council membership seats as more fully set forth in Article VII.

(2) *Legislative Subcommittee*. The legislative subcommittee shall be comprised of 6 members. The chair-elect shall annually appoint 3 members to serve 2-year terms.

(d) *Legislative Committee*. The legislative subcommittee shall make recommendations to the executive council regarding requests for the section to adopt a legislative position, which position shall be taken in accordance with the requirements adopted by the Board of Governors of The Florida Bar and in accordance with the legislative policy adopted by this section as set forth in Article VIII.

Section 2. Special Committees. The chair of the section may appoint any special committees deemed necessary with the concurrence of the executive council.
Section 3. Committee Composition. The chair of each standing and special committee and subcommittee, except the executive committee, shall be appointed by the chair of the section, upon the concurrence of the executive council. There, and shall be vice-chairs of the legislative and section administration committees, who shall be appointed by the chair-elect of the section. A member of the executive council. The membership of each standing and special committee, except the executive committee, the nominating subcommittee and the legislative committee, shall be appointed by the chair of the section. At the annual meeting of the executive council serving as a liaison to each standing and special committee. In May of each year, the chair-elect shall make known the chair-elect's selection of committee chairs for the coming section and administrative year, which appointments shall be approved and office taken at the conclusion of the next annual meeting of the section.

Section 4. Committee Meetings. Committee meetings may be called, as necessary, by the chair of the section or the committee chair. Committee meetings may be held in person, by telephonic conference, by facsimile or other electronic means or by unanimous written waiver and consent of the committee membership.

Section 5. Quorum. A majority of the members of any committee shall constitute a quorum for the transaction of business of the committee, and the majority vote of those present shall be deemed the action of the committee.

ARTICLE X
MISCELLANEOUS

Section 1. Action of The Florida Bar. No action of the section shall be represented or construed as the action of the bar until the same has been approved by the Board of Governors of The Florida Bar.

Section 2. Financial Obligations. Before payment, all financial obligations must be approved in the manner specified by the executive council.
Section 3. Compensation and Expenses. No salary or other compensation shall be paid to any member of the section for performance of services for the section, but the chair may authorize the payment of reasonable out-of-pocket expenses resulting from performance of such services, consistent with the section's policies.

Section 4. Amendments. These bylaws may be amended only by the Board of Governors of The Florida Bar, upon recommendation made by the executive council of the section.

Section 5. Compliance with Policies of The Florida Bar. No action of the section shall be contrary to the policies of The Florida Bar as such policy is established by its Board of Governors.

Section 5. Effective Date. These amended bylaws are effective as of January 24, 2005 or 2011, and shall be effective upon approval by the Board of Governors of The Florida Bar.

Comment [rab47]: Delete "as of" and insert "on". To me "adopted by" means implemented so wouldn't we rather say "approved by"?
SUMMARY OF PROPOSED CHANGES TO THE BYLAWS
OF THE HEALTH LAW SECTION

Article: I

Section: 1
Summary of Change(s): Capitalized the term “section.”

Section: 2
Summary of Change(s): Added the adoption of a Section logo and tagline.
Justification: The capitalization of the term “section” is grammatical; and the reference to a logo and tagline identifies that the Section on all its correspondence and website will have a logo and tagline to identify the Section and make it more recognizable.

Article: II

Section: 1
Summary of Change(s): Capitalized the terms “section” and “bar.”

Section: 2
Summary of Change(s): Set forth the new mission statement of the Section.
Justification: The capitalization of the terms “section” and “bar” are grammatical; and the revised mission statement reflects an updated mission statement adopted by the Executive Council.

Article: III

Section: 1
Summary of Change(s): Capitalized the terms “section” and “bar.”

Section: 2
Summary of Change(s): Capitalized the terms “section” and “bar.”

Section: 3
Summary of Change(s): Capitalized the terms “section,” “bar” and “executive council.”

Section: 4
Summary of Change(s): Capitalized the terms “section,” “bar” and “executive council.”
Justification: All changes are merely grammatical.
Article: IV

Section: 1
Summary of Change(s): Capitalized the terms “section,” “bar,” “bylaws” and “executive council.”

Section: 2
Summary of Change(s): Capitalized the terms “section,” “bar,” “board of governors” and “executive council.” Add reference to the legislative committee.

Section: 3
Summary of Change(s): Capitalized the terms “executive council” and “section.” Increased the number of elected members. Added the addition of all former chairs as ex-officio members of the Council without vote.

Section: 4
Summary of Change(s): Capitalized the terms “executive council” and “section.” Implemented term limits for service on the Executive Council.

Section: 5
Summary of Change(s): Capitalized the terms “executive council” and “section.”

Section: 6
Summary of Change(s): Capitalized the terms “section” and “executive council.” Corrected reference to appropriate Article/Section referring to the Executive Committee.

Section: 7
Summary of Change(s): Capitalized the term “executive council.”

Section: 8
Summary of Change(s): Capitalized the terms “section” and “executive council.” Changed the requirement that consecutive absences from meetings require mandatory removal as a council member to optional removal.

Justification: The majority of the changes are grammatical. The Executive Council increased the number of elected council members to further participation by its general membership; sought to encourage the participation and historical perspective brought by past chairs of the Council; implemented terms limits to foster continued new member participation; and sought to recognize that there could be extenuating circumstances for members to miss meetings and that absence should not automatically result in removal as an Executive Council member.

Article: V

Section: 1
Summary of Change(s): Capitalized the term “section.”
Section: Capitalized the terms “section,” “bar” and “executive council.”

Summary of Change(s):

Section: Capitalized the term “section.”

Summary of Change(s):

Section: Capitalized the term “section.”

Summary of Change(s):

Section: Capitalized the term “executive council.”

Summary of Change(s):

Justification: All changes are merely grammatical.

Article: VI

Section: Capitalized the terms “section,” “bar” and “executive council.” Placed reference to “Florida Bar News” in italics.

Summary of Change(s):

Section: Capitalized the terms “section” and “executive council.” Eliminated the requirement that an Executive Council meeting be held in conjunction with the mid-year meeting of the Florida Bar, concurrently granting the Executive Council the authority to set the time of such regular meeting. Required attendance at Executive Council meetings for purposes of determining a quorum to be in person.

Summary of Change(s):

Section: Capitalized the terms “section” and “executive council.” Recognized that non-agenda business could be precluded due to time constraints of the meeting.

Summary of Change(s):

Justification: The majority of the changes are grammatical. Gave more flexibility to the Executive Council to schedule the time of its meetings to accommodate its business needs and attendance availability of its members. Eliminated participation at Council meetings by telephone due to the inefficiency of telephone systems and the inability to be heard. Recognized that there are defined time constraints for meetings.

Article: VII

Section: Capitalized the terms “section” and “executive council.” Provided for a slate of nominees. Added the practice setting as a consideration for identification of nominees.

Summary of Change(s):
Section: 2
Summary of Change(s): Capitalized the terms “section” and “bar.”

Section: 3
Summary of Change(s): Capitalized the terms “section” and “executive council.”

Section: 4
Summary of Change(s): Capitalized the term “section.”

Section: 5
Summary of Change(s): Capitalized the terms “section” and “executive council.” Provided for voice or hand vote for election of Council members, unless an election is contested. Provided that in a contested election the number of candidates eligible for election receiving the highest number of votes would be elected.

Section: 6
Summary of Change(s): Capitalized the terms “section” and “executive council.” Provided that vote be by voice or hand unless elections were contested.

Justification: The majority of the changes are grammatical. Provided for the Nominating Committee to provide a slate of Council member nominees and officers, rather than contested elections for each position, in order to conform to recent practice as well as to eliminate “popularity” contests and reward deserving participatory members. Provided for voice or hand vote of elections rather than by written ballot, for efficiency and speed, in the event there were no contested seats or offices by virtue of the petition process.

Article: VIII

Section: 1
Summary of Change(s): Capitalized the term “section.”

Section: 2
Summary of Change(s): Capitalized the terms “section” and “bar.”

Section: 3
Summary of Change(s): Capitalized the terms “section,” “bar” and “executive council.”

Section: 4
Summary of Change(s): Capitalized the terms “section” and “executive council.” Referenced the appropriate Section.
Justification: The majority of the changes are grammatical. Referenced the correct Section number.

Article: IX

Section: 1
Summary of Change(s): Capitalized the terms “section,” “bar” and “executive council.” Clarified that the nominating subcommittee was a subcommittee of the Executive Committee and its composition and obligations. Set forth that the bylaws subcommittee is a subcommittee of the Executive Committee, and that it is ad hoc and meets on an as needed basis. Identified standing subcommittees to the Communications and Technology Committee. Changed the name of the Education Committee, and set forth its increased responsibility regarding publications and its composition. Identified subcommittees of the Education and Publication Committee and their function.

Section: 2
Summary of Change(s): Capitalized the terms “section” and “executive council.”

Section: 3
Summary of Change(s): Capitalized the terms “section” and “executive council.” Added reference to the standing subcommittees and the appointment of their chairs.

Section: 4
Summary of Change(s): Capitalized the term “section.”

Justification: Many of the changes are grammatical. Clarified the distinction between committees and subcommittees; delineated which committee’s subcommittees where attached to; updated the identity of the current committees and subcommittees and deleted defunct committees and subcommittees and set forth the purposes/functions of each.

Article: X

Section: 1
Summary of Change(s): Capitalized the terms “bar” and “section.”

Section: 2
Summary of Change(s): Capitalize the term “executive council.”

Section: 3
Summary of Change(s): Capitalized the term “section.”
Section: 4
Summary of Change(s): Capitalized the terms “bar” and “executive council.”

Section: 5
Summary of Change(s): Capitalized the terms “bar” and “executive council.”

Section: 6
Summary of Change(s): Set forth the date the amended bylaws were adopted by the Executive Council and made them effective upon approval by the Board of Governors.

Justification: The majority of the changes are grammatical. Set forth the adoption date of the revised bylaws and clarifies they require Board of Governor approval to take effect.
VIA ELECTRONIC MAIL
AND U.S. MAIL

June 6, 2011

Mr. Lester Perling,
Chair, Health Law Section
The Florida Bar
Broad & Cassel
100 S.E. 3rd Avenue
Suite 2700
Fort Lauderdale, FL 33394

Re: State and Federal Government and Administrative Practice Certification Draft Amendments to Rule 6-25, Rules Regulating The Florida Bar Authorizing Establishment of Subspecialty Tracks

Dear Mr. Perling:

At last year’s Bar Convention, members of the State and Federal Government and Administrative Practice ("SFGAP") Certification Committee ("Committee") addressed the executive councils of the Health Law Section and other Bar sections to provide information regarding amendments to the SFGAP Certification that the Committee was considering in concept. These amendments would create subspecialty tracks within the SFGAP Certification, in State and Federal Administrative Law and State and Federal Government Litigation. To refresh this issue, please find attached as Exhibit 1 a white paper setting forth the facts and circumstances justifying the subspecialty tracks proposal. At that time, the Committee requested comments from the Health Law Section and other sections, and we appreciated the thoughtful responses we received.

Based on these responses, the Committee has moved forward with the subspecialty tracks proposal and prepared draft amendments to Rule 6-25 of the Rules Regulating the Florida Bar, entitled “Standards For Certification of a Board Certified State and Federal Government and Administrative Practice Lawyer” to authorize SFGAP subspecialty tracks. Please find those draft amendments attached as Exhibit 2. Also, please find attached as Exhibits 3 (administrative practice) and 4 (government practice) the draft revisions to the SFGAP Certification Exam Specifications showing the proposed division of content into the subspecialty tracks.
As before, the Committee is seeking comments from the Bar sections whose members likely would be most affected by these amendments. Many sections are holding executive council meetings in connection with the Bar Convention. We hope the Health Law Section will consider these draft amendments at its meeting then, and provide comments to us by July 15, 2011. Your Section’s comments are very important to us and will be seriously considered as we move forward with the subspecialty tracks proposal.

If you or any members of your executive council have any questions about the subspecialty tracks proposal or draft rule amendments, please feel free to contact me. My contact information is listed above on the letterhead.

We appreciate the Health Law Section’s interest in and consideration of these amendments and look forward to receiving the Section’s comments.

Sincerely,

Cathy M. Sellers
Vice Chair,
SFGAP Certification Committee

Attachments: Exhibit 1 - State and Federal Government and Administrative Practice Basis for Establishing Subspecialty Tracks

Exhibit 2 - Draft Amendments to Rule 6-25 of the Rules Regulating the Florida Bar, Standards For Certification of a Board Certified State and Federal Government and Administrative Practice Lawyer

Exhibit 3 - Revised SFGAP Certification Examination Specifications for State and Federal Administrative Practice

Exhibit 4 - Revised SFGAP Certification Examination Specifications for State and Federal Government Practice

cc: F. Scott Boyd
Chair,
SFGAP Certification Committee

Allen Grossman
Incoming Vice-Chair,
SFGAP Certification Committee
EXHIBIT 1

State and Federal Government and Administrative Practice Certification
Basis for Establishing Subspecialty Tracks

The State and Federal Government and Administrative (SFGAP) Certification field was established in 2006. From its inception, the SFGAP Certification field has encompassed a very broad range of topics. These topics and the relative weight assigned each topic on the SFGAP Certification Exam, are set forth in the State and Federal Government and Administrative Practice Certification Exam Specifications, accessible at:


In the five years since SFGAP Certification was established, it has become clear to the SFGAP Certification Committee ("Committee") that the SFGAP Certification field breaks down into two general practice areas: state and federal administrative law, and state and federal government litigation. Attorneys who practice state and federal administrative law focus primarily on rulemaking, licensing, and administrative hearings and typically have had minimal experience with the law relating to sovereign immunity, government tort claims acts, or civil rights litigation that are generally within the domain of State and Federal government litigators. Conversely, state and federal government litigators typically have minimal experience in administrative law areas and proceedings. It has become clear that very few attorneys have a significant level of practice that encompasses the entire range of topics covered on the SFGAP Certification exam.

Consequently, the number of applicants for SFGAP certification by examination has been low and is decreasing over time. Initially, a large number of experienced attorneys (having practiced a minimum of 20 years) were exempted from the Certification Exam pursuant to "grandfather" provisions in the certification rules that have since expired. However, the number of Certification Exam applicants always has been low, particularly when compared to other Board certification areas. To illustrate, only three applicants took the May 2011 SFGAP Certification Exam. Of the 102 SFGAP-certified attorneys, 84 are certified by virtue of the grandfather. To date, only 12 have actually taken and passed the Certification Exam. Committee experience, along with input from examinees and others who have chosen not to take the exam, shows that attorneys are reluctant to take an exam on subjects outside of their practice area, and even more importantly, do not wish to hold themselves out as having special expertise in an area in which they do not have strong experience and do not practice. The Committee is concerned that as the "grandfathered" SFGAP-certified attorneys retire and leave practice, without having more attorneys seeking to become certified through taking the Certification Exam, the number of SFGAP-certified attorneys will decline to a point that the continued viability of the SFGAP certification program is called into question.

The Committee has determined that the creation of Certification Exam subspecialty tracks likely would remedy these problems, and has proposed creating subspecialty tracks consisting of State and Federal Administrative Law and State and Federal Government
Litigation. These subspecialty tracks would enable us to maintain the rigorous examination standards expected for Board certification without deterring experienced and qualified colleagues from applying for certification. Further, the subspecialty tracks would more accurately reflect the reality of law practice within the SFGAP Certification area, better serving the public in search of expert representation in either State and Federal Administrative Law or State and Federal Government Litigation.
Exhibit 2

6 LEGAL SPECIALIZATION AND EDUCATION PROGRAMS

6-25 STANDARDS FOR CERTIFICATION OF A BOARD CERTIFIED STATE AND FEDERAL GOVERNMENT AND ADMINISTRATIVE PRACTICE LAWYER

RULE 6-25.1 GENERALLY

A lawyer who is a member in good standing of The Florida Bar and who meets the standards prescribed below may be issued an appropriate certificate identifying the lawyer as a "Board Certified State and Federal Government and Administrative Practice Lawyer," a "Board Certified State and Federal Government Practice Lawyer," or a "Board Certified State and Federal Administrative Practice Lawyer." An applicant may qualify for certification if the applicant meets the standards for the area of practice for which the application is made. The purpose of the standards is to identify those lawyers who practice law before or on behalf of state and federal government entities and have the special knowledge, skills, and proficiency, as well as the character, ethics, and reputation for professionalism to be properly identified to the public as certified in the area of practice for which the application is approved, state and federal government and administrative practice lawyers.

RULE 6-25.2 DEFINITIONS

(a) State and Federal Government and Administrative Practice. "State and federal government and administrative practice" is the practice of law on behalf of public or private sector clients in administrative or civil actions on matters including but not limited to (i) rulemaking or adjudication associated with state or federal government entity actions such as contracts, licenses, orders, permits, policies, or rules; and (ii) civil rights, statutory challenges, and torts. State and federal government and administrative practice also includes appearing before or presiding as an administrative law judge, arbitrator, hearing officer, or member of an administrative tribunal or panel or state or federal judge or magistrate over a dispute involving an administrative or government action.
(b) Government Entity. "Government entity" means any state agency, political subdivision, special district, or instrumentality of the state of Florida, and any federal agency, bureau, corporation, instrumentality or other government body of the United States, including the United States armed forces. This definition shall be broadly construed.

(c) Lead Advocate. "Lead advocate" means a person who acts serving as the primary attorney, whether as a team leader or as sole counsel alone, working on behalf of either a private party or a government entity. Acting Service as a supervisor and signatory of legal documents, but without substantial participation in the preparation of those documents, does not constitute acting service as a lead advocate. Acting Service in the role of as a lead advocate also includes presiding as an administrative law judge, arbitrator, hearing officer, or member of an administrative tribunal or panel over a dispute involving an administrative or government action.

(d) Practice of Law. The "practice of law" is defined as set forth in rule 6-3.5(c)(1).

(e) State and Federal Government and Administrative Practice Certification Committee. It is desirable for the members of the State and Federal Government and Administrative Practice (committee) to reflect the broad certification practice areas. The committee may consist of more than nine members. While aspirational, the state and federal government and administrative practice certification committee shall include at least 2 attorneys employed by government entities in Florida; at least 2 attorneys in private practice; at least 1 attorney with substantial experience in Federal APA; at least 2 attorneys with substantial experience in Florida APA; and at least 2 attorneys with substantial experience in government practice litigation.

RULE 6-25.3 MINIMUM STANDARDS FOR CERTIFICATION

(a) Minimum Period of Practice. The applicant must have been engaged in a state or federal government and administrative practice for at least 5 years before preceding the date filing of the application. The years of that law practice need not be consecutive.

(b) Practice Requirements. The practice requirements shall be as follows:

(1) Substantial Involvement. The applicant must demonstrate substantial involvement in a state and federal government and administrative
practice during 3 of the last 5 years before immediately preceding filing the application. Any applicant who meets the practical experience requirements in subdivisions 6-25.3(b)(2)(A)-(I) below is presumed to meet this requirement.

(2) Practical Experience. The applicant must demonstrate broad substantial practical experience in state or federal government and administrative practice by providing specific examples of activity service as the lead advocate on behalf of a private sector client or a government entity or instrumentality. Using the point values and limitations assigned below, the applicant’s experience examples from the following actions must total at least 100 points and shall have been performed within 20 years before preceding the filing the application:

(A) administrative hearings, involving disputed issues of material fact [Section 120.57(1), Florida Statutes] and adjudicated through final order pursuant to the Florida Administrative Procedure Act, Chapter 120, Florida Statutes (5 points each);

(B) fully-adjudicated administrative actions or rulemaking proceedings pursuant to the Federal Administrative Procedure Act, 5 U.S.C. §§ 551-559, and other federal APA proceedings, including record review proceedings, pursuant to 5 U.S.C. §§ 701-706 (5 points each);

(C) any other fully-adjudicated state or federal administrative or civil proceeding before an administrative forum, hearing officer, magistrate, arbitrator, state or federal district, circuit or supreme court, or other forum, in which the applicant represents a party in a lawsuit brought by or against a government entity. Applicants shall are encouraged to specifically identify cases involving state or federal constitutional or statutory issues matters, state or federal regulations, ethics, open government, public records, or sovereign, qualified, judicial, legislative, prosecutorial, and immunity issues. Experience working on matters exclusively involving city, county, and local government law (such as code enforcement, municipal financing and licensing, local referenda, ordinances, and zoning) does not constitute practical experience for purposes of obtaining state and federal government and administrative practice certification (5 points each);

(D) rulemaking proceedings through rule adoption pursuant to the
Florida Administrative Procedure Act, Chapter 120, Florida Statutes (3 points each);

(E) state or federal government or administrative actions as follows:

1. activity in actions involvement in actions that are considered, pursuant to the Florida Administrative Procedure Act or the Federal Administrative Procedure Act, to provide a point of entry or otherwise create an opportunity for a person to seek to adjudicate legal rights in state or federal courts, or in an administrative forum. Examples may include, but are not limited to, policies, orders, emergency orders, permits, licenses, contracts, or other agency decisions, or intended decisions of state and federal government entities. Examples may not include documents—requiring—merely clerical completion of documents (2 points each);

2. activity involvement as lead advocate in an administrative proceeding of the type identified herein, in which a written settlement agreement was negotiated and upon which the proceeding was terminated (2 points each);

3. activity involvement as lead advocate in an administrative proceeding of the type identified herein, in which a proposed administrative or government action or the challenge to the action was formally withdrawn (2 points each);

(F) other actions on behalf of state or federal government agencies, including military adjudicatory or rulemaking proceedings, that are, as determined by the committee, the substantial equivalent of the practical experience categories identified herein, as determined at the sole discretion of the state and federal government and administrative practice certification committee after review of the application (1 to 4 points each);

(G) an advisory opinion issued by the Florida Commission on Ethics, Florida or United States Attorney General, or Supreme Court of Florida (1 point each);
(H) experience as legislative legal staff on a bill passed by the Florida Legislature and enacted into law within Chapters 119 (Public Records), 120 (Administrative Procedure Act), 286 (Open Meetings), or 287 (Procurement), Florida Statutes, or as staff for the Florida Legislature’s Joint Administrative Procedures Committee on completed rulemaking initiatives (1 point each); or

(I) experience as judicial staff, or staff to an administrative law judge, arbitrator, hearing officer, or other administrative panel on fully-adjudicated cases consistent with this rule (1 point each).

The applicant may have a maximum of 40 points from examples within (F) through (I). If the applicant has no points within (A), (B), or (C), the applicant must have points from a minimum of 2 different categories within (D) through (I). The state and federal government and administrative practice certification committee may increase the number of points granted for activities of the type identified in subdivisions (b)(2)(A), (B), or (C), above, for good cause shown, such as an applicant’s involvement as lead advocate in an administrative hearing or civil trial that lasted more than 6 days.

(c) Peer Review. The applicant shall submit the names and addresses of 5 individuals, at least 4 of whom are attorneys and 1 of whom is a federal, state, or administrative law judge before whom the applicant has appeared within the 5 years before immediately preceding filing the application. Individuals who currently practice in the applicant’s law firm or government entity may not be used as references. In lieu of a judicial reference, the applicant may provide the name and address of the head of a government entity (or a member of a collegial board that serves as the head of a government entity) if the applicant has advised or appeared before the person within the 5 years immediately preceding application. Administrative law judges or hearing officers applying for certification may offer the reference of an attorney who has appeared before them more than once, or, if appropriate, the reference of the chief administrative law judge or hearing officer. In all cases, at least 2 of the attorney references must be members of The Florida Bar. Individuals serving as references shall be sufficiently familiar with the applicant to attest to the applicant’s special competence and substantial involvement in the field of state and federal government and administrative practice, as well as the applicant's character, ethics, and reputation for professionalism in the practice of law. The board of legal specialization and education and the state and federal government and administrative practice certification committee may authorize references from persons other than attorneys and may also make such
additional inquiries as they deem appropriate to determine the applicant’s qualifications for certification pursuant to this rule and rule 6-3.5(c)(6).

(d) Education. The applicant must demonstrate that during the 3-year period before immediately preceding filing date the application, the applicant has met the continuing legal education requirements in state and federal government and administrative practice. The required number of hours shall be established by the board of legal specialization and education and shall in no event be less than 50 hours for the 3 years before immediately preceding filing the application for certification. Credit for attendance or speaking appearances at continuing legal education seminars shall be given only for programs that are directly related to state and federal government and administrative practice. In addition, the state and federal government and administrative practice certification committee may conclude that the education requirement is satisfied, in part, by 1 or more of the following:

(1) lecturing at continuing legal education seminars;

(2) authoring or editing articles or books published in professional periodicals or other professional publications;

(3) teaching courses directly related to state and federal government and administrative practice at an approved law school or other graduate level program presented by a recognized professional education association;

(4) completing such home study programs as may be approved by the board of legal specialization and education or the state and federal government and administrative practice certification committee, subject to the limitation that no more than 50 percent of the required number of hours of education may be satisfied through home study programs; or

(5) such other methods as may be approved by the board of legal specialization and education and the state and federal government and administrative practice certification committee.

The board of legal specialization and education or the state and federal government and administrative practice certification committee shall establish policies applicable to this rule including but not limited to the method of establishment of the number of hours allocable to any of the above-listed subdivisions. Such policies shall provide the hours that shall be allocable to each separate but substantially different lecture, article, or other activity described in subdivisions (1), (2), (3), and (4) above.
(e) **Examination.** The applicant must pass an examination applied uniformly to all applicants to demonstrate sufficient knowledge, proficiency, and experience in state and federal government and administrative practice to justify the representation of special competence to the legal profession and the public.

(f) **Exemption.** An applicant who has been substantially involved in state and federal government and administrative practice for a minimum of 20 years and who otherwise fulfills the standards set forth in rules 6-3.5(d) and 6-25.3(a)-(d), shall be exempt from the examination. This exemption is only applicable to those applicants who apply within the first 2 application filing periods from the effective date of these standards and who meet all other requirements for certification.

**RULE 6-25.4 RECERTIFICATION**

Recertification shall be pursuant to the following standards:

(a) **Substantial Involvement.** A satisfactory showing, as determined by the board of legal specialization and education and the state and federal government and administrative practice certification committee, of continuous and substantial involvement in state and federal government and administrative practice, state and federal government practice, and/or state and federal administrative practice throughout the period since the last date of certification or recertification. Any applicant who meets the practical experience and education requirements in paragraphs (b) and (c) below is presumed to meet this requirement.

(b) **Practical Experience Requirement.** An applicant seeking recertification must demonstrate involvement as the lead advocate on behalf of a private sector client or a government entity in state and federal government and administrative practice, state and federal government practice, and/or state and federal administrative practice since certification or the last recertification, totaling at least 10 points as described in rule 6-25.3(b)(2)(A)-(I). For good cause shown, subject to approval by the board of legal specialization and education and the state and federal government and administrative practice certification committee, the 10-point requirement above may be waived for applicants who possess other extraordinary legal experience related to state and federal government and administrative practice, state and federal government practice and/or state and federal administrative practice as the case may be. Examples of extraordinary experience may include: service as an administrative law judge; agency general counsel or other senior government
attorney with supervisory responsibilities; representation of or membership on a committee working on substantial matters of state and federal government and or administrative practice; and other appropriate legal experience described by the applicant.

(c) **Education.** The applicant must demonstrate completion of at least 90 hours of continuing legal education since the last application for certification or recertification. The continuing legal education hours must logically be expected to enhance the proficiency of attorneys who are board certified in state and federal government and administrative practice, state and federal government practice, and/or state and federal administrative practice. If the applicant has not attained 90 hours of continuing legal education but has attained more than 60 hours during such period, successful passage of the examination given to new applicants shall satisfy the continuing legal education requirements. However, an applicant seeking recertification may also reduce the educational requirements in this subsection to 60 hours by demonstrating involvement as the lead advocate on behalf of a private client or a government entity in state and federal government and administrative practice, state and federal government practice, and/or state and federal administrative practice since certification or the last recertification, totaling at least 25 points as described in rule 6-25.3(b)(2)(A)-(I).

(d) **Peer Review.** The applicant shall submit the names and addresses of 3 individuals, at least 2 of whom are attorneys and 1 of whom is a federal, state, or administrative law judge before whom the applicant has appeared within the past 5 years preceding the application. Individuals who currently practice in the applicant’s law firm or government entity may not be used as references. In lieu of a judicial reference, the applicant may provide the name and address of the head of a government entity (or a member of a collegial board that serves as the head of a government entity) if the applicant has advised or appeared before the person within the 5 years before filing preceding the application. At least 1 attorney reference must be a member of The Florida Bar. Individuals serving as references shall be sufficiently familiar with the applicant to attest to the applicant’s special competence and substantial involvement in the field of state and federal government and administrative practice, as well as the applicant’s character, ethics, and reputation for professionalism in the practice of law. The board of legal specialization and education and the state and federal government and administrative practice certification committee may authorize references from persons other than attorneys and may also make such additional inquiries as they deem appropriate to determine the applicant’s qualifications for certification pursuant to this rule and rule 6-3.5(c)(6).
(e) Waiver of Compliance. Any applicant for recertification who at the time of application is serving and has served full time for 3 or more years as an administrative law judge, arbitrator, hearing officer, or member of an administrative tribunal or panel is deemed to meet the recertification criteria.

RULE 6-25.5 MANNER OF LISTING AREA OF CERTIFICATION

A member having received a certificate in state and federal government and administrative practice, state and federal government practice, and/or state and federal administrative practice, may list the area in the manner set forth under rule 6-3.9(a) or the listing may be abridged to indicate that the member is board certified in (1) state and federal government practice; or, (2) state and federal administrative practice, or (3) Florida administrative practice. A member who is certified pursuant to rule 6-25.3(f) and elects to have his or her listing limited to certification in state and federal administrative practice or state and federal government practice shall have been certified with a minimum of 25 total points from examples in rule 6-25.3(b)(2)(A), (B), and (D).
Exhibit 3

STATE AND FEDERAL ADMINISTRATIVE PRACTICE
2013 Certification Examination Test Specifications

I. PURPOSE OF THE EXAMINATION.

The purpose of the State and Federal Administrative Practice Certification Examination ("Exam") is to determine whether the examinee possesses:

A. The substantive and procedural knowledge expected of an experienced state and federal administrative law practitioner; and

B. The skill to proficiently apply the knowledge to situations encountered by state and federal administrative law practitioners.

The examinee must pass a written examination that is designed to demonstrate the examinee's proficiency in the knowledge and skills required in state and federal administrative law justifying the representation of special competence in this practice area to the public and the legal profession. These skills are the ability to: identify pertinent issues; understand pertinent factual information; analyze issues through the application of knowledge and understanding of state and federal administrative law practice; and evaluate and propose resolution of the issues through the application of state and federal administrative law.

Not all subjects in the following list will appear on all exams.

II. CONTENT OF THE EXAM AND CONTENT ALLOCATION PLAN.

A. Content Topic List for the Exam

The following topics **MAY** be tested on the State and Federal Administrative Practice Exam.

1. FLORIDA ADMINISTRATIVE LAW

   A. Adjudication

      1. Point of Entry
      2. Standing
      3. Proceedings Involving Disputed Issues of Material Fact
         a. Choice of Forum
         b. Division of Administrative Hearings Procedures
c. Evidentiary Matters
d. Burden of Proof
e. Record
g. Post-hearing Submittals
g. Recommended Orders
h. Final Orders
   i. Timeframes for Issuance
   ii. Standard of Review of Recommended Order
   iii. Summary Hearings

4. Proceedings Not Involving Disputed Issues of Material Fact
5. Alternative Dispute Resolution
6. Attorney's Fees

B. Rulemaking and Rule Challenges

1. Authority to Adopt Rules
2. Duty to Adopt Rules
3. Rule Adoption Procedures
4. Emergency Rulemaking
5. Rule Challenges
   a. Types - Existing, Proposed, Unadopted, Emergency
   b. Standing
   c. Forum and Hearing Procedures
   d. Standards for Invalidation
6. Legislative Oversight
7. Attorney's Fees

C. Declaratory Statements

1. Purpose and Limitations
2. Standing to Request
3. Hearing Procedures

D. Competitive Procurement Disputes

1. Time Limits
2. Points of Entry
3. Standing
4. Purpose, Use and Types of Competitive Solicitation (Chapter 287 and Chapter 337, Florida Statutes)

E. Exceptions to and Exemptions from Applicability of APA
F. Variances and Waivers

G. Exhaustion of Administrative Remedies and Primary Jurisdiction

H. Judicial Review of Agency Action
   1. Judicial Review under Section 120.68, Florida Statutes
      a. Requirements to Seek
      b. Final Orders and Nonfinal Orders
      c. Standing
      d. Forum and Venue
      e. Time to Seek
      f. Record on Review
      g. Stay of Agency Action
      h. Standards of Review
      i. Attorney's Fees and Costs
   2. Judicial Review Outside of Chapter 120, Florida Statutes
      a. Extraordinary Writs
      b. Circuit Court Jurisdiction

I. Licensing

J. Uniform Rules of Procedure

K. Enforcement of Agency Action

2. FEDERAL ADMINISTRATIVE LAW

   A. APA Adjudication
      1. Due Process Principles
      2. 5 U.S.C. §§ 554, 556, 557 and 558
      3. Type A Adjudication
      4. Type B Adjudication

   Note: This subsection will not cover agency-specific proceedings.

   B. Federal APA Litigation/Scope of Judicial Review
      1. APA §706 Standards
      2. Deference and *Chevron, Mead, Skidmore*
         *Chevron* Two-Step
      3. Administrative Records
a. Content of Records  
b. Privileges/Vaughn Index  
c. De Novo Review  
d. Adequacy of Agency Explanation  
e. Appropriateness of Discovery  
4. Agency Delay/Unreasonable Delay Claims  
5. Federal Statute of Limitations  

C. Federal APA Litigation/Availability of Judicial Review  
1. Federal Jurisdiction  
   a. Federal Question  
   b. Declaratory Judgments  
   c. Committed to Agency Discretion / Enforcement  
   d. Article III Standing  
2. Special Courts and Forums  
3. Federal Circuit Jurisdiction  

D. Federal APA Rulemaking  
1. Authority  
2. Information Quality Act  
3. Supplemental Non-APA Requirements  
4. Notice and Comment  
5. Logical Outgrowth  
6. Adequacy of Record/Reversal of Course  
7. Formal and Informal Rulemaking  
8. Non-legislative Rules/Guidance  

E. Attorney's Fees  
2. Fee Recovery Based on Statutory Citizen Suit Provisions  

3. FEDERAL PROCUREMENT LAW  

Note: Covers parallel topics to Chapter 120, Florida Statutes, procurement disputes.  

A. Contracts Disputes Act  
1. De Novo Jurisdiction  
2. Appellate Jurisdiction  

B. Truth in Negotiations Act
1. Sole Source Contract Awards
2. Justifying Cost and Pricing Data

C. Bid Protests

1. GAO Bid Protest Rules

4. FLORIDA CONSTITUTIONAL LAW

Note: Covers language of Constitutional provisions and Florida Supreme Court decisions only.

A. Executive Powers
B. Legislative Powers
C. Judicial Powers
D. Privacy, Open Meetings and Public Records

5. FEDERAL CONSTITUTIONAL LAW

Note: Covers language of Constitutional Provisions and U.S. Supreme Court decisions only.

A. Separation of Powers
B. Due Process
C. Equal Protection

6. FLORIDA AND FEDERAL ETHICS, SUNSHINE, AND PUBLIC RECORDS

A. Chapter 112, Part III, Florida Statutes
B. Chapter 119, Florida Statutes
C. Chapter 286, Florida Statutes
E. Federal Advisory Committee Act -- 5 U.S.C. app. II.
B. Content Allocation Plan -- State and Federal Administrative Practice Exam

State and Federal Administrative Practice Certification Exam
Multiple Choice Question Content Allocation Plan
100 Questions (50% of Exam)

Topic (%) Florida/Federal: Description

APA
(60%)
36 Florida/ 24 Federal - Coverage of all Florida Administrative Law topics listed in Content Topic List. Coverage of all Federal Administrative Law topics listed in Content Topic List, including Article III Standing

Constitutional Law
(16%)
10 Florida/ 6 Federal - Federal: Separation of Powers; Due Process; Equal Protection; Florida Executive Powers; Legislative Powers; Judicial Powers; Privacy, Open Meetings, and Public Records

Ethics, Sunshine, Public Records
(13%)
8 Florida 5 Federal - Chapters 112 (Part III), 119, and 286, Florida Statutes; Federal Freedom of Information Act; Government in the Sunshine Act; Federal Advisory Committee Act

Attorney's Fees
(7%)

Public Contracts
(4%)
2 Florida/ 2 Federal - Chapter 120, Florida Statutes, Competitive Procurement Disputes; Federal Procurement Law

Totals 60 Florida/ 40 Federal
60% Florida Law, 40% Federal Law; 100% Administrative Law

State and Federal Administrative Practice Certification Exam
Essay Question Content Allocation Table
100 Points (50% of Exam)
III. DESCRIPTION OF THE EXAM.

A. Format and Mandatory/Optional Questions. The Exam will cover Florida and Federal Administrative Law topics. The Exam will consist of 100 multiple choice questions and 2 essay questions. The multiple choice questions are worth 1 point each, for a total of 100 points. The essay questions are worth 50 points each, for a total of 100 points.

B. Time Period for Law Covered on Exam. The Exam will cover the law for the time period through up to 90 days prior to administration of exam.

C. Relative Emphasis of Florida and Federal Law. Approximately 60% of the Exam will cover Florida topics, and approximately 40% of the Exam will cover Federal topics. 100% of the Exam will cover Administrative Law topics.

IV. DIRECTIONS TO THE EXAMINEES

A. Time Allocated for Entire Exam and Parts. The entire Exam is 6 hours long. Three hours are allocated for first part of the Exam, which consists of 100 multiple choice questions. Three hours are allocated for the second part of the Exam, which consists of two essay questions.

B. Materials/Equipment Allowed in Examination Room. Copies of the Florida Administrative Procedure Act and the Federal Administrative Procedure Act will
be provided for use on the Exam. All necessary materials will be given to the examinees, and will include the Exam booklets, scantron answer sheets and #2 pencils for the multiple choice portion of the exam, and answer booklets for the essay portion of the exam. You may bring your own pens for use in answering the essay portion of the exam. Examinees may elect to use computers to answer the essay portion of the Exam. All examination materials must be turned in at the end of the exam. Examinees will not be penalized for misspelled words. Examinees may be penalized for illegible handwriting.

V. SCORING PROCEDURES

A. Passing Standard. In order to receive a passing score on the Exam, examinees must score a minimum of 67% of the total points on the Exam. Accordingly, the passing standard is 134 points out of a total of 200 points.

B. Score Scale and Exam Scoring. The Exam will consist of a total of 200 points; accordingly, the score scale will range from 0 to 200 points.

The multiple choice section of the Exam comprises 100 of the total 200 points on the Exam. The multiple choice portion of the Exam will be scored by awarding 1 point for each correct answer.

The essay section of the Exam will be scored using the holistic method. Holistic scoring is a method of scoring essays in which a score is determined based on a 6 point scoring rubric that defines the quality level of the responses. The holistic score will range from 1 to 6, with a grade of 6 assigned to the highest quality answers, and a grade of 1 assigned to the lowest quality answers. The holistic scores will be converted to the point score scale using the following algorithm: Maximum total points on essay portion of Exam = 100. Each essay = maximum total of 50 points.

C. Essay Scores: Essays will be scored by the State and Federal Government and Administrative Practice Certification Committee. Each essay will be read and scored by two readers.
Exhibit 4

STATE AND FEDERAL GOVERNMENT PRACTICE
2013 Certification Examination Test Specifications

I. PURPOSE OF THE EXAMINATION.

The purpose of the State and Federal Government Practice Certification Examination ("Exam") is to determine if the examinee possesses the substantive and procedural knowledge expected of an experienced and competent state and federal government law practitioner and the skill to proficiently apply that knowledge to situations encountered by state and federal government law practitioners.

The examinee must pass a written examination that is designed to demonstrate the examinee's proficiency, knowledge, and skills that warrant the examinee's representation to the public and the legal profession of special competence in state and federal government law.

These qualities include the ability to: identify pertinent issues; understand pertinent factual information; analyze issues through the application of knowledge and understanding of state and federal government law practice; and evaluate and resolution of the issues through the application of state and federal government law. Not all subjects in the following list will appear on all examinations.

II. CONTENT OF THE EXAM AND CONTENT ALLOCATION PLAN.

A. Content Topic List for the Exam.

The following topics MAY be tested on the State and Federal Government law Exam.

1. STATE CIRCUIT COURT JURISDICTION
2. FEDERAL COURT JURISDICTION, PRIMARY JURISDICTION, ALL WRITS ACT
3. FEDERAL QUESTIONS
4. STANDING: STATE AND FEDERAL COURT
5. DECLARATORY JUDGMENTS
6. ABSTENTION, PREEMPTION, AND REMOVAL
7. ATTORNEY FEE AND ATTORNEY FEE SANCTIONS IN STATE AND FEDERAL COURT e.g. Fla.Stat. 57.105; Rule 11; 42 USC § 1988; and inherent authority

8. FLORIDA CONSTITUTIONAL LAW

Note: Covers only language of Constitutional provisions and Florida Supreme Court decisions.

A. Executive Powers
B. Legislative Powers
C. Judicial Powers
D. Privacy
E. Open Meetings and Public Records

9. FEDERAL CONSTITUTIONAL LAW

Note: Covers only language of Constitutional Provisions and U.S. Supreme Court decisions.

A. Immunities: eleventh amendment, sovereign, judicial, prosecutory, legislative, and qualified
B. Federalism
C. Separation of Powers
D. Due Process
E. Equal Protection
F. Bill of Rights

10. FLORIDA AND FEDERAL GOVERNMENT LITIGATION

A. Constitution challenges to statutes, both facial and as applied
   1. Pleading requirements
   2. Jurisdiction and venue
   3. Standing
   4. Presumptions and enforcing authority’s constructions.
   5. Due Process challenges
6. Equal Protection challenges
7. Title defect and single subject challenges

B. Tort suits in state court:
   1. Conditions precedent
   2. Jurisdiction and venue
   3. Pleading requirements
   4. Defenses; sovereign and other immunities
   5. Proprietary / Governmental functions

C. Tort claims in federal court:
   1. Conditions precedent
   2. Jurisdiction and venue
   3. Pleading requirements
   4. Defenses; sovereign, governmental and qualified immunities
   5. Proprietary / Governmental functions

D. 42 USC § 1983 Civil Rights

Note: Covers only text in this act and U.S. Supreme Court cases
   1. Pleading requirements--sufficiency of allegations
   2. Elements of cause of action
   3. Private rights of action for violations of Federal laws
   4. Jurisdiction and venue
   5. Status/capacity of Defendant(s) / suable entity
   6. Defenses and Immunities

E. Takings, physical and inverse

11. FLORIDA AND FEDERAL ETHICS, SUNSHINE, AND PUBLIC RECORDS

A. Chapter 112, Fla. Stat. (Part III)
B. Chapter 119, Fla. Stat.
E. Federal Advisory Committee Act -- 5 U.S.C. app. II.
G. Florida Bar Rules of professional conduct
12. ENFORCING MONETARY JUDGMENTS, INJUNCTIONS AND CONSENT DECREES.

B. Content Allocation Plan -- State and Federal Government Practice Exam.

State and Federal Government Practice Certification Exam
Multiple Choice Question Content Allocation Plan
100 Questions (50% of Exam)

Topic (%) Description

State Circuit Court Jurisdiction
(20%)
Federal court jurisdiction; federal questions; state and federal court standing; declaratory judgments; abstention, preemption and removal

Attorney’s Fee and Attorney Fee Sanctions in State and Federal Court
(10%)
e.g. Fla. Stat. 57.105; Rule 11; 42 USC § 1988; and inherent authority

Florida Constitutional Law
(10%)
Executive/legislative/judicial powers; privacy; open meetings; and public records

Federal Constitutional Law
(10%)
Immunities; federalism; separation of powers; due process; equal protection; Bill of Rights

Florida and Federal Government Litigation
(10%)
Constitution challenges to statutes; pleading requirements; jurisdiction and venue; standing; presumptions; due process; equal protection; title defect; and single subject challenges

Tort Claims in State and Federal Court
(10%)
Conditions precedent; jurisdiction and venue; pleading requirements; sovereign and other immunities; defenses; proprietary/governmental function

42 USC § 1983 Civil Rights
(10%)
Pleading requirements; sufficiency of allegations; elements of a cause of action; jurisdiction and venue; status/capacity of defendants; defenses and Immunities
Florida and Federal Ethics, Sunshine and Public Records
(6%)

Takings, Physical and Inverse
(4%)

Enforcing Money Judgments and Injunctions, Consent Decrees
(4%)

Florida Bar Rules of Professional Conduct
(6%)

State and Federal Government Practice Certification Exam
Essay Question Content Allocation Table
100 Points (50% of Exam)

The essay question content allocation is 100 Points, representing 50% of the Exam.
The five essay questions will be multi topic. The approximate topic percentiles within the
essay questions are as stated above.

III. DESCRIPTION OF THE EXAM.

A. Format and Questions. The Exam will cover only Florida and Federal
Government Law topics. The Exam will consist of 100 multiple choice and 5
essay questions. The multiple choice questions have 1 point each, for a total of
100 points. The essay questions have 10 points each, for a total of 100 points.

B. Time Period for Law Covered on Exam. The Exam will cover the law 90 days
prior to date of administration of exam.

C. Relative Emphasis of Florida and Federal Law. Approximately 50% of the
Exam will cover Florida topics, and approximately 50% of the Exam will cover
Federal topics.

IV. DIRECTIONS TO THE EXAMINEES.

A. Time Allocated. The Exam must be completed within six hours. Three hours
are allocated for 100 multiple choice questions first part of the Exam and three
hours are allocated for 5 essay questions as the second part of the Exam.
B. Materials/Equipment Allowed in Examination Room. All necessary materials will be provided, e.g. the exam booklets, scantron answer sheets and #2 pencils for the multiple choice portion of the exam, and answer booklets for the essays. However examinees may bring pens and may – with prior notice – use computers to answer the essay portion of the exam. All examination materials must be returned at the end of the exam. Examinees will not be penalized for misspelled words, however examinees may be penalized for illegible handwriting.

V. SCORING PROCEDURES.

A. Passing Standard. A passing score is a minimum of 67% of the total points. Accordingly, the minimum passing standard is 134 points of the 200 point total.

B. Score Scale and Exam Scoring. The exam will consist of a total of 200 points; accordingly, the score scale will range from 0 to 200 points.

The multiple choice section of the exam is 100 of the total 200 points on the exam. The multiple choice portion of the exam will be scored by awarding 1 point for each correct answer.

The essay section of the exam will be scored using the holistic method. Holistic scoring is a method of scoring essays in which a score is determined based on a 6 point scoring rubric that defines the quality level of the responses. The holistic score will range from 1 to 6, with a grade of 6 assigned to the highest quality answers, and a grade of 1 assigned to the lowest quality answers. The holistic scores will be converted to the point score scale using the algorithm: Maximum total points on essay portion of Exam = 100. Each essay = maximum total of 10 points.

C. Essay scores: Essays will be read and scored by two members of the State and Federal Government and Administrative Practice Certification Committee with state and federal government practice experience.
From: Cathy Sellers

Sent: Monday, June 06, 2011 5:10 PM

To: Lester Perling

Cc: 'BOYD.SCOTT'; 'Allen Grossman'

Subject: Health Law Section - State and Federal Government and Administrative Practice Subspecialty Tracks Information

Hello Lester,

Please find attached a package of information that the Florida Bar State and Federal Government and Administrative Law Certification Committee (SFGAP) has prepared addressing the Committee's proposal to establish subspecialty tracks for the SFGAP certification area. Specifically, the proposal would create a subspecialty track in State and Federal Administrative Law and a subspecialty track in State and Federal Government Law, and each subspecialty would have its own certification exam. The attached materials include a cover letter explaining the subspecialty tracks proposal, an exhibit with specific information demonstrating justification for the proposal, the draft rule changes to reflect subspecialty tracks, and the revised certification exam test specifications for each subspecialty track.

We would greatly appreciate it if the Health Law Section could consider this proposal at its meeting at the Bar Convention and to provide any comment that the Section wishes to provide. If you think it would help to have a member of the SFGAP certification committee attend your meeting to explain the proposal, I believe Allen Grossman likely will be there, and if he is not attending, I can be available to address the Section.

Thanks so much and we look forward to receiving the Health Law Section's input on this proposal.

Best Regards,
Cathy
MINUTES
EXECUTIVE COUNCIL
THE FLORIDA BAR HEALTH LAW SECTION

June 24, 2010

I. Call to Order

The meeting was called to order by Chair, Troy Kishbaugh, at 3:10 p.m. at the Boca Raton Golf and Resort, Boca Raton, Florida.

Executive Council members who attended in person were: Troy Kishbaugh, Lester Perling, Cynthia Mikos, Bernabe Icaza, Monica Rodriguez, Lewis Fishman, Steven Grigas, Tom Clark, Robert Nicholson. Executive Council member in attendance by phone were Sandra Greenblatt, George Indest, Jodi Lifshutz Laurence, Rodney Johnson, Charmaine Chiu, Walter Carfora, Jennifer Smith, Nicholas Romanello. Chet Barclay, Grant Dearborn, Lynn Barrett, Allen R. Grossman, Mark Thomas, John Buchanan, Harold E. Kaplan, and Ashlea Wiley of The Florida Bar were also present.

Opening Remarks—Troy Kishbaugh, Chairman

Mr. Kishbaugh welcomed the attendees. Mr.Kishbaugh recognized and thanked Al Robinson and Sue Allen of Navigant Consultant for sponsoring the meeting and the reception.

II. Approval of Previous Meeting Minutes –Bernabe Icaza, Secretary

The minutes of the January 21, 2010, regular meeting of the Executive Council of the Health Law Section was moved by motion, seconded, and unanimously approved. Executive Council agreed to review the minutes from the March 4, 2010 teleconference at the next regularly scheduled meeting.

III. Proposed Rule Change-Manner of Listing: State and Federal Government Administrative Practice Board Certification Committee

The manner of listing Board Certification in State and Federal Government and Administrative Practice came up for discussion. Troy Kishbaugh reminded the Executive Council that it did not object to the SFGAP Certification Committee Composition change (Sec.6-25.2(e)) and had communicated same via e-mail with no objection. However, he reminded the Executive Council that the Health Law Section did not take a position regarding the proposed change in Section 6-25.5 regarding the manner of listing of certification by certified attorneys.

The Committee was requested to obtain approval from the Executive Council allowing attorneys to designate themselves as Board Certified in Florida Administrative Practice. A request was made to allow attorneys who are certified as ‘State and Federal Government and Administrative Practice’ who do not practice for instance in federal government or administrative law to list themselves consistent with attorney’s main area
of practice. Some attorneys who had obtained board certification were not comfortable with designating themselves in state and federal government and administrative law since these attorneys may not necessarily practice in all these areas.

Mr. Grossman reminded the Health Law Section that the Committee had already approved two manners for attorneys to designate themselves and was here to request that the Section approve a third manner of designation. The request is to allow attorneys to shorten the designation to ‘Board Certified in Florida Administrative Practice.

A motion was made by the Section to approve this third manner of designation, seconded, discussed, and ultimately passed by a vote of 7 in favor and 5 against. Voting in favor were: Troy Kishbaugh, Cynthia Mikos, Lester Perling, Monica Rodriguez, Lew Fishman, Nick Romanello, Bernabe Icaza. Voting against were: Sandra Greenblatt, George Indest, Rodney Johnson, Walter Carfora, Jodi Lawrence.

IV. Election of Officers and Executive Council Members

Troy Kishbaugh thanked the Nominating Committee. The following persons were nominated for officer positions:

Chair Elect-Cynthia A. Mikos
Treasurer-Bernabe A. Icaza
Secretary-Monica Rodriguez

A motion was made, seconded and unanimously passed to approve slate of new executive council members:

2011 Mildred Beam (to replace Monica Rodriguez; Robert Nicholson (new seat)
2012 Susan Tuite (new seat)
2013 Sandra Greenblatt; Rodney Johnson; Jodi Laurence; Ed Tellechea; Grant Dearborn (new seat); Tom Clark (new seat)

A new motion was made to add to slate for 2011 Mildred Beam and Robert Nicholson and for 2012 Susan Tuite.

V. Financial Report – Cynthia Mikos

Ms. Mikos reviewed the financial report. Motion to approve financial report was made, seconded and unanimously approved.

VI. Board of Governors Meeting Report-Allen Grossman

Mr. Grossman spoke on his trip to New York and mentioned that he was well received by the Board of Governors.
VII. Committee Reports

A. Education, Training and Information Committee – Charmaine Chiu

Ms. Chiu indicated that the same CLE slate for this year will repeat next year to include Representing Physician and Health Law Certification Review Course.

Ms. Chiu indicated that she would work an additional year as Chair of Committee but that she was looking to transition. Troy Kishbaugh suggested a co-chair during this year to help her transition to the new chair. New Committee chair would take over next year.

Sandra Greenblatt recognized Ms. Chiu’s for the featured article in Super Lawyers.

B. Communication and Technology

Troy Kishbaugh mentioned that he was working with Chat Barclay to update website. Mr. Kishbaugh presented power point containing new website. A motion was made, seconded and unanimously adopted to get new website up and running within 30 days.

C. Newsletter-Tom Clarke

Mr. Clarke mentioned that so far 3 attorneys have offered to submit articles for next newsletter and that four additional articles were needed.

D. Public Health Committee-Rodney Johnson and Walter Carfora

Mentioned that there were two very successful CLEs held in recent months. A request was made of Health Law Section Administrator to find out how many lawyers attended.

E. Legislative Committee- Steve Grigas

Mr. Grigas gave a brief summary of about 10-15 bills that were recently approved. Mr. Grigas provided the Executive Council with a summary of all the bills that were considered during the last session dated June 24, 2010. He gave a summary update of the most substantive legislation impacting health care.

VIII. Old Business

A. Health Law Section Logo

Motion made, seconded and passed by a vote of 6 in favor and 4 against approving the third design that was presented. A second motion was made, seconded, and approved adopting the color blue.
IX. New Business

A. Executive Council Meeting in January 20011

Lester Perling asked Executive Council if there was an interest in having a live Executive Council meeting in Orlando during January. Motion was made, seconded and passed unanimously approving an Executive Council meeting in Orlando during January.

B. Health Law Section Numbers-Troy Kishbaugh

There are approximately 1400 Health Law Section members.

C. Reimbursement Policy-Troy Kishbaugh

There was discussion and unanimous consensus over Health Law Section continuing to pick up the expense of government employees attending Executive Council meetings.

D. Handbook Policy-Troy Kishbaugh

Mr. Kishbaugh reminded Executive Council that authors and articles submitted and approved for publication needed to be in accordance with established policies.

E. Health Law Journal & CLE State Health Care Licensing-Chet Barclay

Next edition will be distributed during November. Mr. Barclay announced that seven articles were going to be published.

There was discussion over having a CLE on State Health Care licensing. Motion was made, seconded and unanimously passed to present a slate of speakers, a budget and date for CLE at the next Executive Council meeting.

F. Sunsetting Legislative Position

There was discussion regarding sunsetting legislative position. Mr. Barclay said that previous sections have rolled over their legislative position each year. Ms. Mikos suggested adding IPN to the legislative position proposal so that IPN can be considered in addition to PRN. She also suggested removing the 4 year statute of limitation since a 6 year SOL was already adopted. Ms. Mikos agreed to work on drafting new language regarding new proposed legislative position and to work directly with Mr. Grigas. Motion was made, seconded and unanimously adopted.

G. Practice Group Committee

Nick Romanello and Troy Kishbaugh updated the Executive Council on the meeting with the former Chairs.

H. DOH Subpoenas and Search Warrant
George Indest had an open dialogue with the Executive Council regarding whether DOH was using subpoena power as search warrants. He said that a DOH investigator had shown up to a client’s office and demanded that copies of medical records be provided within one hour. He asked whether anyone had had any similar experiences.

XI. **Health Law Section Appreciation Awards**

The Chris Rolle Award is given each year to members who have shown exemplary services to the Health Law Section. The Executive Council awarded the Chris Rolle Award to:

Chet Barclay
Troy Kishbaugh

The Executive Council gave Certificates of Appreciation to the following members:

Rodney Johnson
Walter Carfora
Jeanne Helton
John Buchanan
Tom Clark
Allen Grossman
Chet Barclay
Lester Perling

Charmaine Chiu (awarded two Certificates of Appreciation)

XII. **Chair-Elect Comments-Lester Perling**

Mr. Perling suggested that the Executive Council follow-up with the following pending items:

1) Executive Council Restructuring;

2) Bylaws Amendment; and

3) Website

XIII. **Adjournment.**

The Meeting was adjourned at approximately 5:30 p.m.

__________________________________________
Bernabe Icaza, Secretary

__________________________________________
Date
The Florida Bar

Board of Governors Meeting

March 25, 2011

Health Law Section Report

1. Introduction

2. The New Website – goal – make it HLS members’ home page.


4. CLE Webinars – preparing schedule for monthly webinars
   - Make CLEs more convenient for the membership
   - More responsive to the membership – subject matter
   - Affordable

5. Revised the Bylaws – currently in the process to be reviewed and approved by the Board of Governors.

6. Publications – currently reviewing all publications to ensure that we are staying current and providing responsive and substantive material for our membership. Journal – still pursuing the Journal, but developing ways to make it more cost effective.

7. Sponsorships – developing sponsorships for seminars and meetings. Identifying potential sponsors through a committee that reaches out to the membership.

8. Membership – recent Executive Council nominations – increasing every year. This year: 22 nominations for seven spots.

9. Joint CLE with Elder Law Section