

STANDARDS FOR ATTORNEY CERTIFICATION OF THE TEXAS BOARD OF LEGAL SPECIALIZATION

These Attorney Standards for Certification are established by Texas Board of Legal Specialization after approval of the Supreme Court of Texas.

*The Standards for Attorney Certification
are divided into two parts.*

PART I

GENERAL REQUIREMENTS -- These requirements apply to all specialty areas.

PART II

SPECIFIC AREA REQUIREMENTS -- These are specific requirements that apply to individual specialty areas. Included are the definition and the substantial involvement and reference requirements for certification and recertification.

DEFINITIONS

"TBLS" refers to the Texas Board of Legal Specialization.

"SBOT" refers to the State Bar of Texas.

"CLE" refers to continuing legal education.

"Plan" refers to the Texas Plan for Recognition and Regulation of Specialization in the Law.

"Rules" refers to the Rules and Regulations of the TBLS.

"Applicant(s)" refers to both the certification or recertification applicant(s) unless otherwise specifically stated.

"Standards" refers to the Standards for Attorney Certification. The Standards are composed of BOTH the General Requirements and the Specific Area Requirements.

"General Requirements" refers to the first part of the Standards, which lists the requirements that apply to all specialty areas.

"Specific Area Requirements" refers to the second part of the Standards, which includes the definition, the substantial involvement and reference requirements for each specialty area. For example, "Specific Area Requirements for Criminal Law" refers to the specific requirements for certification and recertification in Criminal Law.

PART I
GENERAL REQUIREMENTS
(This applies to all specialty areas)

SECTION I
PREFACE

- A. Pursuant to the authority vested in the TBLS by the Supreme Court of Texas, the TBLS prescribes the following requirements for board certification in accordance with the Plan.
- B. No standard shall in any way limit the right of a board certified attorney to practice in all areas of law. Any attorney, alone or in association with any other attorney, shall have the right to practice in all areas of law, even though board certified in a specific area of law.
- C. No attorney shall be required to obtain board certification before practicing in any area of law. Any attorney, alone or in association with any other attorney, shall have the right to practice in any area of law, even though not board certified in that area.
- D. Board certification is individual and voluntary. Requirements for and benefits derived from certification may not be fulfilled by or attributed to a law firm of which the board certified attorney is a member.

SECTION II
GENERAL REQUIREMENTS

- A. **State of Texas**
 - 1. **SBOT Membership.** All applicants and board certified attorneys must be active members in good standing of the SBOT.
 - 2. **Texas Office and Practice.**
 - a. Certification Applicants. For the three years immediately preceding application, a certification applicant must have maintained a Texas office from which the applicant personally conducts business an average of at least 3 days per week, until certification is achieved. Failure to meet this requirement will result in denial of application.
 - b. Board Certified Attorneys and Recertification Applicants. All board certified attorneys and recertification applicants must continue to meet the substantial involvement requirements pertinent to each applicable specialty area whether or not an office is maintained in Texas. These are found in the Specific Area Requirements.
- B. **Forms.** Documents, applications, questionnaires, and examinations involved in the certification and recertification process shall be approved by the TBLS.
- C. **Fees.** Applicants and board certified attorneys shall timely pay the fees as established by the TBLS.

- D. **Expiration of Certification.** Certification shall be for a period of 5 years at the end of which time recertification shall be permitted upon the terms and conditions established by the TBLS.
- E. **Revocation of Certification.** A certificate of special competence issued by the TBLS may be revoked for good cause as determined by the TBLS.
- F. **Failure to Furnish Information: Misrepresentation.** Certification or recertification may be denied, revoked, or other appropriate action taken because of an applicant's or board certified attorney's failure to furnish the requested information or because of his or her misrepresentation of any material fact requested by the TBLS.
- G. **Required Period of Law Practice.** Applicants for certification shall have been engaged in the practice of law for a period of at least 5 years on a full-time basis. Practice of law is as defined in the individual specialty area's Specific Area Requirements attached to these General Requirements. "Practice of law" means full-time legal work done primarily for the purpose of legal advice or representation. Service, after admission to the bar of any state or the District of Columbia, or as a judge or associate judge of any court of record shall be considered practice of law. Corporate or government service, including military service, after admission to the bar of any state or the District of Columbia, shall be considered practice of law if the work done was legal in nature and primarily for the purpose of legal advice to, or representation of, the corporation or government agency or individuals connected therewith. Practice of law which otherwise satisfies these requirements but which is on a part-time basis will satisfy the requirement if the balance of certification applicant's activity is work such as law teaching or legal editorial duty which is legal in nature although not the practice of law. Years of practice need not be consecutive.
- H. **Examination.** Certification applicants must pass a written examination applied uniformly to all applicants to demonstrate sufficient knowledge, proficiency and expertise in the specialty area to justify the representation of special competence to the legal profession and to the public. After a certification applicant has taken and failed an examination 3 times in a specialty area, the applicant is ineligible to apply for the next 3 years' examination in that specialty area.

SECTION III CHARACTER AND REPUTATION

- A. **Disciplinary Review**
 - 1. Applicants and board certified attorneys shall furnish satisfactory evidence of their good character and reputation. They shall also furnish a statement as to whether or not they are now subject to an investigation, complaint, inquiry or other disciplinary proceedings by any organized bar, including any local, state or district grievance committee of an organized bar. Applicants and board certified attorneys shall submit the details of such investigation, complaint, inquiry or proceedings including whether or not they have ever been reprimanded, suspended, disbarred or otherwise disciplined by any court or grievance committee.

2. The TBLS may deny certification or recertification, revoke certification, or take other appropriate action on a finding of a grievance committee or court that an applicant or board certified attorney has been guilty of professional misconduct or upon notice of the pendency of such proceedings. However, the TBLS will consider the seriousness or the underlying fact of the grievance and will consider the passage of time since such discipline and applicant's or board certified attorney's experience since that time. Failure to disclose such information is a material misrepresentation and may be cause for rejection, revocation, or other appropriate action.

B. Review of Serious Crime.

1. Applicants and board certified attorneys shall furnish a statement as to whether or not they have ever been convicted, given probation or fined for a serious crime as hereinafter defined, whether the above resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise and regardless of the pendency of an appeal. The term "serious crime" shall include any felony. It shall also include any lesser crime, a necessary element of which as determined by the statutory or common law definition of such crime, involved improper conduct of an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit or bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime.
2. The TBLS may deny certification or recertification, revoke certification, or take other appropriate action if the applicant or board certified attorney has been convicted, given probation or fined for a serious crime as defined in this Section.

**SECTION IV
REFERENCES**

- A. References in Specialty Area.** Applicants shall submit references to attest to applicant's competence in the specialty area. The references, themselves, shall be substantially involved in the specialty area in which applicant is seeking certification or recertification.
- B. Qualification of References.**
1. The TBLS shall consider the knowledge and experience of references in the applicant's specialty area and the nature of the dealings between the references and the applicant in evaluating applications.
 2. Applicants shall not submit partners or associates to serve as references.
- C. Length of Time.** Applicants shall submit references for the following length of time:
1. Certification applicants shall submit references they have dealt with in the 3 years immediately preceding application.
 2. Recertification applicants shall submit references they have dealt with since certification or most recent recertification.

- D. **Types of References.**
1. Applicants shall submit a list of five names and addresses of persons to be contacted as references to attest to applicant's competence in the specialty area. For the types of references required for each specialty area, refer to the appropriate Specific Area Requirements.
 2. Applicants shall submit a representative list of judges and/or attorneys (in addition to those listed in IV,D,1 above) they have dealt with in their specialty area.
 3. The TBLS may, at its option, send references to other attorneys and/or judges.
- E. **Confidentiality.** References concerning applicants shall be submitted on forms approved and furnished by the TBLS. All Statements of Reference received by the TBLS are confidential.
- F. The TBLS may deny certification or recertification based on information received from references.

SECTION V CONTINUING LEGAL EDUCATION

- A. **Required Hours / Time Period**
1. **Certification** - Certification applicants must complete 60 hours of CLE in the specialty area within the three years immediately preceding application, through December 31 of the year of application. Certification applicants may not receive credit for more than 30 hours of CLE in a calendar year.
 2. **Recertification** - Recertification applicants must complete 100 hours of CLE in the specialty area by December 31 of each 5th year of certification. Recertification applicants may not receive credit for more than 30 hours of CLE in a calendar year.
- B. **Self Study.** Applicants are allowed 5 hours of self-study credit during each calendar year. All self-study must be in the specialty area.
- C. **Demonstration of CLE.** Applicants must demonstrate their CLE by either:
1. Attendance at and completion of CLE courses approved by the TBLS; or
 2. Other activity in the specialty area to be determined on an individual basis, such as:
 - a. Teaching a CLE course for attorneys or legal assistants;
 - b. Participation as a panelist or speaking on a symposium or similar program;
 - c. Attendance at a lecture series or similar program sponsored by a qualified education institution or Bar group;
 - d. Authorship of a book or article published in a professional publication or journal; and
 - e. Active participation in the work of a professional committee dealing with a specific problem in the specialty area.

SECTION VI SUBSTANTIAL INVOLVEMENT

The General Requirements listed below are the same for each specialty area. Refer to the appropriate Specific Area Requirements unique to each specialty area.

- A. **Substantial Involvement and Special Competence.** Certification applicants and board certified attorneys must devote the minimum required percentage of time practicing in a specialty area each year as set forth in the Specific Area Requirements. Failure to meet this requirement will result in denial of application or revocation of certification.
1. Certification applicants must devote the required percentage during each year of the 3 years immediately preceding application.
 2. Board certified attorneys must devote the required percentage during each year of certification. Failure to maintain the required percentage of practice may be grounds for revocation at any time during certification.
- B. **Demonstration of Experience.** Applicants must provide information concerning specific tasks required by the TBLS, as specified in the appropriate Specific Area Requirements. The TBLS may take into consideration the nature, complexity and duration of matters handled by applicants in the specialty area in evaluating experience.
- C. **Exceptions.** Certification applicants are expected to meet the Specific Area Requirements in the specialty area. The TBLS may permit exceptions for an applicant who does not meet the task requirements specified in an individual specialty area. For the substantial involvement required for each specialty area, please refer to the appropriate Specific Area Requirements.
1. **Judicial Experience.**
 - a. **Certification.** The TBLS may permit a certification applicant to substitute judicial experience appropriate to each specialty area. In making this determination, the TBLS may take into consideration the nature, complexity, and duration of the matters the certification applicant has handled in the specialty area. The judicial experience shall at least be equivalent to the Specific Area Requirements of the specialty area, and the determination of equivalency shall be in the sole discretion of the TBLS.
 - b. **Certified Attorneys and Recertification Applicants.** The TBLS may permit a board certified attorney or recertification applicant who is serving as a full-time county, state or federal trial, appellate, probate, family or bankruptcy judge (including a U.S. magistrate judge or Texas associate judge) to remain certified during his or her judicial service.
 - (1) The annual and recertification fees for attorneys affected by this provision shall be the same as the fees for other certified attorneys. All requirements for the attorney's recertification, other than the payment of fees, shall be suspended until December 31 of the calendar year following the date on which the certified attorney ceases to serve as a full-time judge.

- (2) If the certified attorney desires to continue certification after December 31 of the calendar year which he or she ceases to serve as a full-time judge, the attorney shall timely file an application for recertification with the TBLS and shall comply with the TBLS Rules. A certified attorney whose certification was extended by reason of service as a full-time judge must satisfy all the requirements for recertification except that, for purposes of the initial recertification only, the substantial involvement requirement shall be waived.
2. Unusual or Exceptional Experience. TBLS may permit a certification applicant to substitute unusual or exceptional experience for one or more of the specific area requirements in the specialty area. In making this determination, the TBLS may take into consideration the nature, complexity, and duration of the matters the certification applicant has handled in the specialty area. The unusual or exceptional experience shall at least be equivalent to the Specific Area Requirements of the specialty area, and the determination of equivalency shall be in the sole discretion of the TBLS.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
BANKRUPTCY LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

A. Definition.

Bankruptcy law is the practice of law dealing with representation of parties in matters primarily involving the Bankruptcy Code, but also involving other aspects of debtor creditor relations as they affect or are affected by bankruptcy or insolvency. For the Specific Area Requirements please refer to the sections below.

CONSUMER BANKRUPTCY LAW

Definition: Consumer bankruptcy law is the practice of law dealing with representation of non-business debtors and/or their creditors in all areas of bankruptcy. It includes primarily representation in matters involving the Bankruptcy Code, and homestead and exemption laws, and also, without limitation, all aspects of consumer debtor-creditor relations as they affect or are affected by bankruptcy.

BUSINESS BANKRUPTCY LAW

Definition: Business bankruptcy law is the practice of law dealing with representation of business debtors and/or their creditors in all areas of bankruptcy. It includes primarily representation in matters involving the Bankruptcy Code, and also, without limitation, all aspects of business debtor-creditor relations as they affect or are affected by bankruptcy or insolvency. The term "business bankruptcy law" includes the representation of debtors, creditors or other parties in cases under Chapters 7, 9, 11, 12 and 13 of the Bankruptcy Code.

B. Substantial Involvement for Certification

Certification applicants must show substantial involvement and special competence in consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their total time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
2. Certification applicants must show they have engaged directly and substantially in the practice of consumer bankruptcy law, business bankruptcy law, and debtor and creditor rights as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.

3. Certification applicants shall be certified in either one or both of the following categories of bankruptcy law:

a. **CONSUMER BANKRUPTCY LAW**

- (1) Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their total time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights. Twenty percent of an applicant's total time must have been in consumer bankruptcy law as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
- (2) Certification applicants shall have represented during their entire practice debtors or creditors in a minimum of 15 contested matters which have involved a hearing in State or Federal court in connection with bankruptcy or debtor or creditor rights disputes. 8 of the 15 contested matters and/or adversary proceedings shall have involved the presentation of evidence in Bankruptcy Court (other than in support of a default judgment or a settlement agreement).

b. **BUSINESS BANKRUPTCY LAW**

- (1) Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their total time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights. Twenty percent of an applicant's total time must have been in business bankruptcy law as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
- (2) Certification applicants shall have met, during their practice, 12 of the following 30 categories listed below. Regardless of which categories are selected by an applicant, the applicant must have participated in at least 8 contested matters and/or adversary proceedings which shall have involved the presentation of evidence in Bankruptcy Court (other than in support of a default judgment or a settlement agreement).
 - (a) 2 objections to discharge or determinations of dischargeability;
 - (b) 2 avoidance actions under the Bankruptcy Code including any combination of the following:
 - (i) fraudulent conveyances;
 - (ii) preferential transfers;
 - (iii) 1 avoidance of an unperfected or unrecorded transfer by a hypothetical bona fide purchaser or lien creditor;
 - (iv) 1 recovery of a setoff; and
 - (v) post-petition transfers;
 - (c) 1 complaint for subordination;
 - (d) 4 modifications of automatic stay;
 - (e) 4 sales, use (including cash collateral) or leases of property;

- (f) 3 assumptions or rejections of a lease or other executory contract;
- (g) 2 post-petition extensions of secured or unsecured credit;
- (h) 2 involuntary petitions;
- (i) 4 contested objections to the allowance of claims;
- (j) 2 contested appointments of a trustee or examiner;
- (k) 3 contested conversions or dismissals;
- (l) 3 contested turnovers of property;
- (m) 1 reclamation;
- (n) 5 motions for abandonment;
- (o) 3 examinations under Rule 2004;
- (p) 1 revocation of an order of confirmation of a plan under either Chapters 9, 11, 12 or 13;
- (q) 1 contested modification of a plan under either Chapters 9, 11, 12 and 13 of a Debtor engaged in business;
- (r) 5 voluntary petitions with schedules and statements of Debtors engaged in business, under Chapter 7;
- (s) 5 voluntary petitions, with schedules and statements, under Chapters 9, 11, 12 or 13, of Debtors engaged in business;
- (t) 5 confirmation hearings of plans under Chapters 9, 11, 12 or 13, of a Debtor engaged in business;
- (u) Preparation of 3 disclosure statements and plans of reorganization under Chapter 11;
- (v) 3 contested requests for allowance and/or payment of an administrative priority of claim;
- (w) Preparation of 3 reorganization plans under Chapters 9, 12 or 13 of a Debtor engaged in business;
- (x) 2 proceedings to determine the validity, priority or extent of a lien or other interest in property of a Debtor engaged in business;
- (y) 1 complaint for injunctive or declaratory relief;
- (z) 3 representations of the trustee of a Debtor engaged in business;
- (aa) 3 bankruptcy related adversary proceedings or contested matters of a type other than as above described, of a Debtor engaged in business;
- (bb) 2 appeals from the Bankruptcy Court;
- (cc) Representation of official committees in 2 business bankruptcy cases; and
- (dd) The preparation and presentation of a paper at a State Bar approved seminar or institute dealing with a business bankruptcy topic.

C. Substantial Involvement for Recertification

1. Except as provided for in I,C,2 below, recertification applicants must show substantial involvement and special competence in consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights by providing such information as may be required by the TBLS, including confirmation that during each year of the five years of certification they have devoted a minimum of 30% of their total time practicing Texas consumer bankruptcy law, business bankruptcy law, or debtor and creditors rights as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law in one or a combination of the following methods listed in Section (a) and (b) below. Twenty percent of a recertification applicant's total time must have been in each category of bankruptcy in which they are certified (Consumer or Business).
2. A certified attorney whose certification was extended by reason of service as a full-time judge (as detailed in Part I, Section VI,C,1,b) must satisfy all requirements for recertification except that, for initial recertification only, the substantial involvement requirement shall be waived.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of bankruptcy law.

- A. Three attorneys who practice in the applicant's geographic area and are familiar with applicant's bankruptcy law, or debtor and creditor rights practice.
- B. One attorney against whom applicant has been an adversary in a bankruptcy law, or debtor and creditors rights matter.
- C. One judge of any bankruptcy court before whom applicant has appeared as an advocate in a bankruptcy law, or debtor and creditor rights matter.