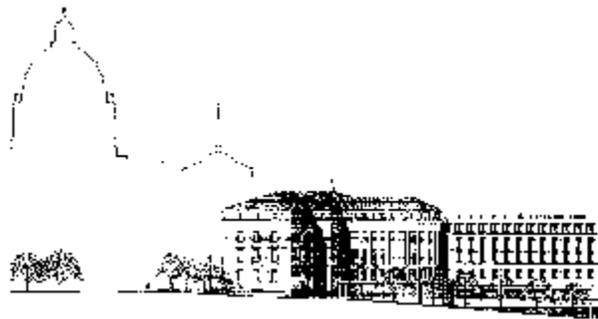


State of Minnesota

**Board
of
Legal Certification**



**ANNUAL REPORT
CALENDAR YEAR 2013**

MINNESOTA BOARD OF LEGAL CERTIFICATION ANNUAL REPORT: 2013

The Minnesota Board of Legal Certification was established by the Minnesota Supreme Court in October 1985 to accredit agencies that certify Minnesota lawyers as specialists in defined fields of law. The Board's purpose in accrediting agencies is to provide the public an additional way to assess the knowledge and expertise of a prospective attorney. The Board's work in accrediting certifying agencies benefits the profession, individual members of the bar, and the public as a whole.

The Board's primary duties are to:

- identify, define, and approve definitions for fields of law;
- review new applications from legal organizations seeking to be accredited to certify lawyers as specialists in Minnesota in a specific field of law;
- monitor the accredited agencies and review agencies' applications for recertification; and
- monitor the public statements of certified lawyers to determine whether these statements are consistent with the provisions of the Rules of Professional Conduct that address advertisements by lawyers who state they are certified specialists.

The process of accrediting an agency begins when a prospective certifying agency prepares a detailed application proposing a definition of a specialty field of law and defining the standards by which practitioners in that field could become qualified as specialists. An applicant agency must have at least three legal practitioners among its permanent staff, operating officers, or Board of Directors who have the expertise to evaluate the qualifications of prospective specialist lawyers. The agency must submit with the application the written examination used to test applicants' knowledge of the substantive, procedural and related ethical law in each particular field of law. The agency must also articulate the proposed definition of the field of law and the standards by which lawyers seeking certification in that field of law will be judged. Once the Board approves the definition and the standards, the agency is accredited to certify lawyers as specialists in Minnesota.

In order to be accredited, a certifying agency must verify that it will require its applicant lawyers to meet the following standards:

- be licensed to practice law and on active status in Minnesota;
- have "substantial involvement" in the field of law during the three-year period immediately preceding certification;
- obtain at least three verified peer recommendations in addition to references from lawyers and judges unrelated to and not in legal practice with the lawyer;
- successfully complete an examination of the lawyer's knowledge of the substantive, procedural and related ethical law in the field of law; and

- provide evidence of completion of approved continuing legal education (CLE) activity in the certified specialist's field of law as well as compliance with the CLE credit requirements of every state of active licensure.

Once approved for accreditation, the Board reviews each agency's examinations, standards, and procedures once every three years. It is the agency's responsibility to report to the Board the names of all lawyers that they certify. In addition, if an agency intends to change its standards, those changes must be submitted to the Board 60 days prior to the effective date, along with a written summary of the changes.

As of December 31, 2013, lawyers in Minnesota may be certified as specialists in the following nine fields of law:

- Business Bankruptcy
- Civil Trial Practice
- Criminal Law
- Consumer Bankruptcy
- Creditors' Rights
- Elder Law
- Family Law Trial Advocacy
- Labor and Employment Law
- Real Property

Four organizations are accredited by the Board to certify specialists in those nine fields of law:

- Minnesota State Bar Association (MSBA)
- American Board of Certification (ABC)
- National Board of Legal Specialty Certification (NBLSC) (the parent organization of the National Board of Trial Advocacy (NBTA))
- National Elder Law Foundation (NELF)

As of December 31, 2013, the four organizations listed above report having certified 940 Minnesota lawyers as specialists, compared to 959 as of December 31, 2012, a decrease of 2.02%.

I. CERTIFYING ORGANIZATIONS

A. Minnesota State Bar Association

The Minnesota State Bar Association (MSBA) is the largest accrediting body in Minnesota. The MSBA, through several of its sections, certifies lawyers as specialists in the areas of Civil Trial Practice, Criminal Law, Labor and Employment Law, and Real Property Law.

Over 84% of the Minnesota attorneys certified as specialists are certified by the MSBA. As of December 31, 2013, the MSBA had a total of 798 certified specialists, a slight decrease from 2012.

Pursuant to a cooperative agreement with NBLSC, the MSBA Civil Trial Section uses the same test instrument, permitting lawyers to test simultaneously for certification by either or both agencies. As of December 31, 2013, there were 295 MSBA-certified Civil Trial Practice specialists, two fewer than in 2012. The MSBA reported that specialists have been struggling to meet the substantial involvement requirements for trial experience because civil matters are frequently settled rather than going to trial.

The MSBA's Real Property Section has the largest number of certified lawyers, totaling 352 as of December 31, 2013, a decrease of 10 from the previous year.

Seven additional lawyers were certified as Criminal Law specialists by the MSBA in 2013, bringing the total number of certified Criminal Law specialists to 52, an increase of six from the previous year.

The Labor and Employment Law Section is the newest of the MSBA sections accredited to certify lawyers. The Section did not certify any new Labor and Employment Law specialists in 2013, and saw their total number of specialists decrease from 101 in 2012 to 99 in 2013.

B. American Board of Certification

The American Board of Certification (ABC), of Cedar Rapids, Iowa, is accredited to certify Minnesota lawyers in three areas: Consumer Bankruptcy, Business Bankruptcy, and Creditors' Rights. ABC is "dedicated to serving the public and improving the quality of the bankruptcy and creditors' rights law bars." Nearly 1,000 lawyers were certified nationwide by ABC. Sponsored by the American Bankruptcy Institute and the Commercial Law League of America, ABC's goal is to provide information to consumers on bankruptcy law services and assist consumers with finding qualified lawyers. ABC also produces a Directory of Board Certified Attorneys.

As of December 31, 2013 there were 14 Minnesota lawyers certified as specialists by ABC, the same number as 2012 (see **Table 2**). No Minnesota lawyers applied for certification or took ABC's certification examination in 2013.

C. National Board of Legal Specialty Certification

The National Board of Trial Advocacy, now a division of the National Board of Legal Specialty Certification (NBLSC), was founded in 1977 and has been certifying lawyers as specialists in Minnesota since 1987. NBLSC certifies lawyers as specialists in the areas of Civil Trial Practice, Criminal Law, and Family Law Trial

Advocacy. As of December 31, 2013, NBLSC listed 111 lawyers as certified Civil Trial specialists, nine Criminal Law specialists, and three Family Law Trial Advocacy specialists. These numbers represent a slight decrease from previous years (see **Table 2**). In June 2012, the Board of Legal Certification received an application from the Board of Civil Pretrial Practice Advocacy (NBCPPA), a subsidiary of the National Board of Legal Specialty Certification (NBLSC). The NBCPPA seeks to certify lawyers as Civil Pretrial Specialists. As of December 31, 2013, that application is pending.

D. National Elder Law Foundation

The National Elder Law Foundation (NELF) of Tucson, Arizona, was accredited in 1997 to certify specialists in Minnesota in the field of Elder Law. Elder Law specialists have expertise and experience in areas such as probate law and public benefits law, and familiarity with the social services aspect of working with elderly clients. As of December 31, 2013, five Minnesota lawyers are certified as Elder Law specialists, the same number as in 2012.

II. STATISTICAL PROFILE

Table 1 shows the number of certified specialists associated with each of the certifying agencies.

Table 1: Certified Specialists by Certifying Agency and Specialty Type

Certifying Agency	Specialty	Total Number of Certified Lawyers as of 12/31/12	Lawyers Newly Certified in 2013	Lawyers who did not renew in 2013	Total Number of Certified Lawyers as of 12/31/13
ABC	Consumer Bankruptcy	5	0	0	5
ABC	Business Bankruptcy	7	0	0	7
ABC	Creditors' Rights	2	0	0	2
MSBA	Civil Trial Practice	297	6	9	295
MSBA	Criminal Law	46	7	1	52
MSBA	Labor & Employment Law	101	0	2	99
MSBA	Real Property	362 ¹	0	10	352
NBLSC	Civil Trial Practice	120	1	10	111
NBLSC	Criminal Law	11	0	2	9
NBLSC	Family Law Trial Advocacy	3	0	0	3
NELF	Elder Law	5	0	0	5
TOTAL	All Specialty Areas	959	70	36	940

¹ The 2012 Real Property Annual Report incorrectly reported 364 certified specialists; the correct number is 362.

Table 2 shows the total number of certified specialists in the past eight years.

Table 2: Total Number of Certified Specialists (2006-2013)

	2006	2007	2008	2009	2010	2011	2012	2013
ABC Consumer Bankruptcy	4	5	5	5	5	5	5	5
ABC Business Bankruptcy	7	7	7	7	7	7	7	7
ABC Creditors' Rights	3	3	3	3	2	2	2	2
MSBA Civil Trial Practice	326	320	323	318	315	308	297	295
MSBA Criminal Law ²	-	-	-	0	12	27	46	52
MSBA Labor & Employment Law ³	-	-	-	0	6	76	101	99
MSBA Real Property	356	349	362	351	355	355	362 ⁴	352
NBLSC Family Law Trial Advocacy	6	5	4	4	4	3	3	3
NBLSC Civil Trial Practice	154	145	139	138	131	126	120	111
NBLSC Criminal Law	14	13	13	13	11	12	11	9
NELF Elder Law	2	2	4	5	5	5	5	5
TOTAL	872	849	860	844	854	923	959	940

III. FISCAL SUMMARY

The Minnesota Board of Legal Certification is funded by fees paid to the Board by accredited agencies. Agencies pay an annual fee that is determined by the number of certified lawyers in each of its specialty fields.

A. Revenue

Agencies applying for accreditation pay an initial application fee of \$1,000; thereafter, accredited agencies pay an annual fee of \$250, as well as an annual fee of \$45 per certified lawyer.

The Board conducts a thorough review of each agency's program every three years and recertifies each program. In May 2013, the re-certification fee of \$900 was discontinued. This decision was based on the fact that several agencies reported that they were experiencing difficulty in generating adequate funding to pay the

² The MSBA Criminal Law Section was accredited to certify lawyers in the specialty field of Criminal Law in November 2009.

³ The MSBA Labor and Employment Law Section was accredited to certify lawyers in the specialty field of Labor and Employment Law in November 2009.

⁴ The 2012 Real Property Annual Report incorrectly reported 364 certified specialists; the correct number is 362.

recertification fee. After studying the issue, the Board determined that under the current fee structure, it could eliminate the recertification fee and still generate sufficient revenue to meet its expenses for the future. For that reason, the Board voted to amend its fee schedule to eliminate the recertification fee. This change was made effective May 23, 2013.

Table 3 below shows the Board's sources of revenue and compares 2013 receipts with receipts of previous years. Revenue fluctuates from year to year as the number of applicants for initial certification fluctuates. The revenue in 2013 decreased by \$5,970 compared to 2012 revenue.

Table 3: BLC Receipts for Calendar Years 2008-2013

	2008	2009	2010	2011	2012	2013
Agency Fees						
Application Fee	\$0	\$2,000	\$0	\$0	\$1,000	\$0
Recertification Fee	\$900	\$6,300	\$1,800	\$2,700	\$3,600	\$900
Annual Fee	\$2,500	\$2,000	\$2,500	\$2,750	\$2,500	\$3,000
Lawyer Fees						
Initial Fee	\$3,900	\$1,000	\$2,900	\$9,200	\$6,900	\$1,700
Annual Fee	\$36,990	\$37,045	\$36,720	\$37,935	\$40,050	\$42,480
Total	\$44,290	\$48,345	\$43,920	\$52,585	\$54,050	\$48,080

B. Expenses

The Board shares resources and facilities with the Board of Law Examiners, Board of Continuing Legal Education, and the Lawyer Registration Office. The Board of Legal Certification contributes 3% to overhead expenses. The Board also shares personnel with the other three offices. In 2013, the salary allocation for the Board of Legal Certification staff was as follows: Director: 7%; Assistant Director and Counsel: 8%; Part time Attorney: 5%; Director's Assistant: 7%; and Staff Assistant: 5%.

The Board continues to operate conservatively and anticipates generating sufficient revenue to meet the Board's expenses for 2014.

IV. LAWYER ADVERTISING

The Board's staff monitors lawyer advertisements found on Minnesota lawyers' websites, online directories, and other publications. This monitoring is intended to identify lawyers who may be improperly advertising a specialty or certified status in possible violation of Rule 7.4(d) of the Minnesota Rules of Professional Conduct.

Rule 7.4(d) prohibits all but certified lawyers from referring to themselves as “specialists” or “certified specialists.” When they advertise their specialty status, certified lawyers must list the name of the certifying agency.

When the Board identifies a possible violation of Rule 7.4(d), it contacts the lawyer and asks the lawyer to conform the advertisement to the requirements of Rule 7.4(d) or discontinue the use of the advertisement. If the matter is not resolved voluntarily, the Board forwards the information to the Lawyers Professional Responsibility Board for investigation.

In 2013, the Board contacted 28 lawyers who appeared to be inappropriately advertising themselves as specialists or certified specialists or who had failed to disclose the certifying agency in their advertisement. All contacted lawyers agreed to discontinue use of the inappropriate advertisement or to modify the language of the advertisement to include the name of the certifying agency.

V. BOARD MEMBERS

The Board of Legal Certification is comprised of 12 Board members, including nine lawyer members and three public members. The Minnesota State Bar Association nominates three of the nine lawyer members to the Board. The Minnesota Supreme Court appoints each member to a 3-year term. No member may serve more than two 3-year terms, with the exception of the sitting chairperson, who may serve for a longer period. In 2013, the membership of the Board included:

- M. William O’Brien, Miller, O’Brien, Jensen, P.A., Chair
- Charles H. Andresen, Hanft Fride, P.A.
- Patricia Beety, League of Minnesota Cities
- Howard L. Bolter, Fishman, Carp, Bescheinen, Bolter & Van Berkomp, Ltd.
- Candace Dale, Dale Law, PLLC
- Justice Ericson Lindell, Winthrop & Weinstine
- Marc J Manderscheid, Briggs and Morgan
- Hon. Kathryn Davis Messerich, First Judicial District
- Raj Pillai, Public Member
- Rick Preston, Public Member
- Lawrence Rocheford, Jardine, Logan & O’Brien, P.L.L.P.
- Ralph Scorpio, Public Member

Justice Christopher Dietzen is the current Supreme Court liaison to the Board.

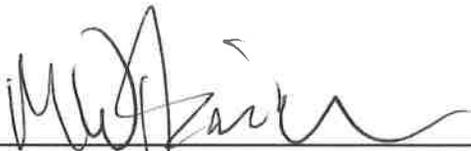
In addition to the Board’s quarterly meetings, Board members also sit on committees that meet on a regular basis. The standing committees in 2013 included: Bankruptcy/Creditors Rights, Criminal Law, Civil Trial Advocacy, Civil Pretrial, Elder Law, Family Law, Labor & Employment, Operations & Finance, and Real Property.

VI. CONCLUSION

While the Board saw a slight decrease (2.02%) in the number of certified lawyers in 2013, it continues to operate a strong accreditation program, reviewing and accrediting organizations that certify lawyers as specialists. Accredited agencies are held to high standards, thus ensuring that those who are qualified to use the designation "specialist" or "certified specialist" in Minnesota have significant legal experience and proven legal expertise.

Respectfully submitted,

MINNESOTA BOARD OF LEGAL CERTIFICATION



M. William O'Brien
Chair



Margaret Fuller Corneille
Director

Dated: May 23, 2014