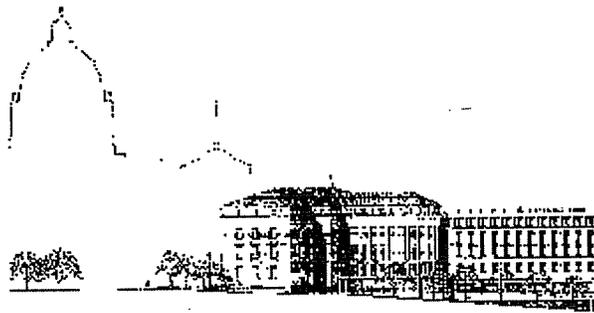


State of Minnesota

**Board
of
Legal Certification**



**ANNUAL REPORT
CALENDAR YEAR 2008**

MINNESOTA BOARD OF LEGAL CERTIFICATION ANNUAL REPORT: 2008

Since 1986, the Minnesota Board of Legal Certification ("Board") has accredited agencies that certify Minnesota lawyers as specialists in certain fields of law. The purpose of the Board is to enhance public access to appropriate legal services and to provide information about certification of lawyers as specialists for the benefit of the profession and the bar. The Board is comprised of twelve members. Nine of the members are Minnesota lawyers, while three are non-attorney public members. The primary duties of the Board are to review applications from legal organizations seeking to be accredited to certify lawyers as specialists in Minnesota in a field of law and to monitor the accredited agencies and the certified lawyers.

The Board's accreditation functions include reviewing the proposed definitions of fields of law and the agency's standards for qualifying and testing attorneys before the Board accredits the agency to certify specialists. The Board also monitors lawyers' public statements on specialty status.

In order to be certified as a specialist in Minnesota, a certifying agency must verify that the lawyer: a) is licensed to practice law and on active status in Minnesota; b) has "substantial involvement" in the field of law during the three-year period immediately preceding certification; c) has at least three verified peer recommendations in addition to references from lawyers and judges unrelated to and not in legal practice with the lawyer; d) successfully completes an examination of the lawyer's knowledge of the substantive, procedural and related ethical law in the field of law; and e) has provided evidence of completion of approved 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.

In Minnesota, lawyers may be certified as specialists in the following areas of law: civil trial practice; criminal law; real property; business bankruptcy; consumer bankruptcy; creditors' rights; elder law; and family law.

Four organizations are accredited by the Board to certify specialists in those 8 fields of law. Those organizations are:

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

As of December 31, 2008, these organizations certified 860 Minnesota lawyers as specialists.

I. CERTIFYING ORGANIZATIONS

A. National Board of Legal Specialty Certification

The National Board of Legal Specialty Certification (NBLSC) is a non-profit organization founded in 1977 and located in Boston, Massachusetts. NBLSC was the first organization accredited to certify lawyers as specialists in Minnesota.

In Minnesota, NBLSC certifies lawyers as specialists in the areas of Civil Trial Practice, Criminal Law, and Family Law Trial Advocacy. As of December 31, 2008, 139 lawyers were certified as Civil Trial specialists, 13 were certified as Criminal Law specialists, and four were certified as Family Law Trial Advocacy specialists. These numbers represent a slight decrease from previous years. (See Table 2 below.)

B. Minnesota State Bar Association

The Minnesota State Bar Association (MSBA) certifies attorneys as specialists in the areas of Civil Trial Practice and Real Property. Under the terms of a cooperative agreement with the NBLSC, the MSBA uses the NBLSC's Civil Trial Practice examination as its test instrument. Lawyers are tested simultaneously for certification by either or both agencies. The Real Property Section administers a multiple-choice test instrument every other year; 2008 was an examination year.

Over 75% of the Minnesota attorneys certified as specialists are certified by the MSBA. As of December 31, 2008, the MSBA had a total of 685 certified specialists. (See also Table 2 below.)

In 2008, the MSBA General Assembly authorized the Criminal Law Section to apply for accreditation with the Board to certify lawyers as criminal trial specialists. The Board anticipates receiving the application in 2009. In addition, the MSBA's labor and employment law section has indicated that they intend to seek authorization to submit an application during the April 2009 MSBA General Assembly. The Board looks forward to the possibility of additional certification specialties in 2009.

C. American Board of Certification

The American Board of Certification (ABC), of Cedar Falls, 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."

As of December 31, 2008, there were 15 Minnesota lawyers certified as specialists by ABC. (See also Table 2 below.)

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 the areas of probate law and public benefits law, as well as in the social aspects of working with elderly clients. The number of certified Elder Law Specialists doubled in Minnesota in 2008. As of December 31, 2008, 4 Minnesota lawyers were certified as Elder Law specialists.

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	Lawyers Newly Certified in 2008	Total Number of Certified Lawyers as of 12/31/08
NBLSC	Civil Trial Practice	1	139
NBLSC	Criminal Law	0	13
NBLSC	Family Law Trial Advocacy	0	4
MSBA	Civil Trial Practice	9	323
MSBA	Real Property	31	362
ABC	Consumer Bankruptcy	0	5
ABC	Business Bankruptcy	0	7
ABC	Creditors' Rights	0	3
NELF	Elder Law	2	4
TOTAL	All Specialty Areas	43	860

Table 2 shows the total number of certified specialists in the past 8 years and indicates an increase of the overall number of certified specialists in 2008. However, the table shows that the number of certified lawyers in Minnesota is the same as it was in 2001.

Table 2: Total Number of Certified Specialists (2001-2008)

	2001	2002	2003	2004	2005	2006	2007	2008
NBLSC Family Law Trial Advocacy	3	4	4	4	6	6	5	4
NBLSC Civil Trial Practice	157	157	160	156	159	154	145	139
NBLSC Criminal Law	18	18	18	15	13	14	13	13
MSBA Civil Trial Practice	333	336	339	336	326	326	320	323
MSBA Real Property	334	343	339	348	344	356	349	362
ABC Consumer Bankruptcy	3	4	5	6	6	4	5	5
ABC Business Bankruptcy	7	7	7	7	8	7	7	7
ABC Creditors' Rights	3	3	3	3	3	3	3	3
NELF Elder Law	1	1	1	2	2	2	2	4
TOTAL	859	873	876	877	867	872	849	860

III. FISCAL SUMMARY

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

A. Revenue

Agencies applying for accreditation pay an initial application fee of \$1,000. Thereafter, accredited agencies are required to pay an annual fee of \$250, as well as an annual fee of \$45 per certified lawyer. In addition, every 3 years, each agency is assessed a re-certification fee in the amount of \$900. The board conducts a thorough review of all agency processes every 3 years.

Because the number of certified specialists in Minnesota has remained relatively stable since 2001, revenue has not changed significantly. The current fee structure is expected to generate sufficient revenue to meet the expenses for next year.

Table 3 below shows the Board's sources of revenue and compares 2008 receipts with previous years. Revenue fluctuates from year to year based on the number of specialty areas that are due for recertification in any given year. Agencies are required to apply for recertification every 3 years. The number of additional certified specialists also influences the revenue stream. The Real Property section tests and certifies new specialists every other year, rather than every year. This tends to result in fluctuations in revenue.

Table 3: BLC Receipts for Calendar Years 2003-2008

	2003	2004	2005	2006	2007	2008
Agency Fees						
Application Fee	\$0	\$0	\$0	\$1,000	\$0	\$0
Recertification	\$6,300	\$1,800	\$0	\$6,300	\$900	\$900
Annual Fee	\$2,500	\$2,000	\$2,250	\$2,000	\$2,250	\$2,500
Lawyer Fees						
Initial Fee	\$1,300	\$2,600	\$600	\$3,300	\$500	\$3,900
Annual Fee	\$41,083	\$12,060	\$38,250	\$37,530	\$37,800	\$36,990
Total	\$51,183	\$18,460*	\$41,000	\$50,130**	\$41,450	\$44,290

*In 2004, the MSBA asked to submit the \$45 per attorney annual fee in January rather than December. The lower revenue received in 2004 reflects that the payment was made by the MSBA in January 2005.

**The revenue figures for 2006 and 2007 have been corrected.

B. Expenses

The Board shares facilities with the Board of Law Examiners and the Board of Continuing Legal Education and contributes 5% to overhead expenses.

The Board also shares personnel with the Board of Law Examiners and the Board of Continuing Legal Education. In 2008, the allocation of salary to the Certification Board was as follows: Director: 3%; Staff Attorney: 10%; Office Administrator: 2%; full-time Staff Assistant position: 15%; full-time Staff Assistant position: 5%; and part-time Office Assistant: 5%. Between 2007 and 2008, the salary allocation for the Staff Attorney was reduced from 15% to 10%.

The Board operates on a conservative budget and anticipates generating sufficient revenue to meet the Board's expenses for 2009.

IV. MISCELLANEOUS

A. Lawyer Advertising

The Board's staff continues to monitor lawyer advertisements in Minnesota telephone directories and other publications in an effort to identify lawyer advertisements that may violate Rule 7.4(d) of the Minnesota Rules of Professional Conduct. Rule 7.4(d) prohibits all but certified lawyers from advertising as specialists or certified specialists. The Board reviews violations of Rule 7.4(d), notifies the attorney that the advertisement appears to violate 7.4(d) 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 in this way, the Board forwards the information to the Lawyers Professional Responsibility Board for investigation.

B. 2008 Highlights

During 2008, the Board reviewed and approved 9 annual reports from accredited agencies. The Board also reviewed and approved the 2007 application for recertification of the NBLSC's Family Law Trial Advocacy specialty field of law which was received in December 2007. No recertification applications were due in 2008.

In May 2008, Minnesota Lawyers Mutual began offering a 5% credit towards malpractice insurance premiums paid by individual lawyers who are certified as specialists by organizations currently accredited by the Minnesota State Board of Legal Certification.

In 2008, the Board again reviewed its expenses to find ways to minimize the cost of administering the Certification Board while continuing to encourage the growth of certification in Minnesota. The Board determined that it would be possible to decrease costs without having a detrimental effect on certification if the Board authorized the Director to annually review and approve agencies' specialty examinations but limit the full committee review of those examinations to the issues the Director identified as presenting issues or concerns. The Board would continue to review the examinations in detail at least once every 3 years during the agency's recertification process. This will save staff time in preparing the exam reviews, holding the exam review committee meetings, and corresponding with the agencies concerning the committees' impressions of the exams.

The Board adopted a policy providing that lawyers directly involved in designing, writing and grading the agency's initial written specialty examination may be deemed to have passed the written examination referenced in Rule 114d. The Board concluded that drafting the examination and writing the answers would be equivalent

to taking the examination. The policy requires that the lawyers have 15 years practice experience in the specialty field of law, devote no fewer than 20 hours to designing, writing, and/or grading the initial examination, and meet the minimum standards for specialty certification as set forth in Rule 114.

No new applications for accreditation were received in 2008; however, as of December 31, the application for "Social Security Disability Law" is pending. The Board anticipates receiving two applications from the MSBA in 2009.

V. CONCLUSION

During 2008, the number of certified lawyers in Minnesota has increased by 11 lawyers, from 849 to 860. Although the number of certified lawyers is the same at the end of 2008 as it was in 2001, the increase, and the anticipation of applications for two new specialty fields, indicates that interest in specialty status in Minnesota is increasing. The Board and the MSBA are cooperating in finding ways to encourage Minnesota attorneys to become certified as specialists.

The Board continues to operate a strong program for accrediting organizations that certify lawyers as specialists. The Board is committed to enforcing high standards among accredited agencies thus ensuring the public that those who are qualified to use the designation "specialist" or "certified specialist" in Minnesota have significant legal experience and a high level of legal expertise.

Respectfully submitted,

MINNESOTA BOARD OF LEGAL CERTIFICATION



James M. Sherburne
Chair



Margaret Fuller Corneille
Director

Dated: 3-10-09