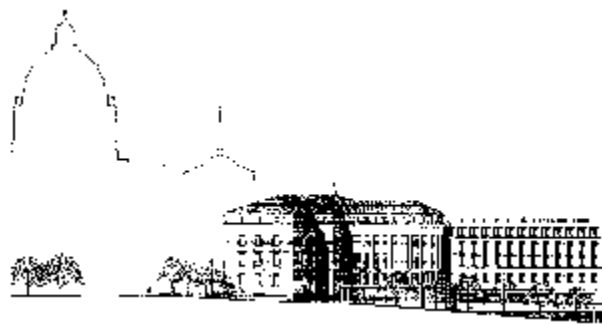


**State of Minnesota**

**Board  
of  
Legal Certification**



**ANNUAL REPORT  
CALENDAR YEAR 2015**

## **MINNESOTA BOARD OF LEGAL CERTIFICATION ANNUAL REPORT: 2015**

The Minnesota Board of Legal Certification authorizes legal agencies to certify Minnesota lawyers as specialists in defined fields of law. The purpose of this activity is to provide the public with enhanced information regarding lawyers and to ensure that lawyers identified as specialists have the appropriate knowledge and expertise associated with the designation of specialist.

The Minnesota Supreme Court established the Board in October 1985. By accrediting certifying agencies, the Board benefits the profession, individual members of the bar, and the legal consumers.

The Board's primary duties include the following:

- 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 and lawyers who claim to be specialists to ensure that those statements are consistent with the requirements of the Rules of Professional Conduct on certified specialists' advertisements.

The agency accreditation process begins with a prospective certifying agency submitting 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 expertise in the proposed field of law. At least three legal practitioners who are experts in the field must be among the agency's permanent staff, operating officers, or Board of Directors. The agency must have the expertise to evaluate the qualifications of prospective specialist lawyers.

When the agency submits an application it must also submit the written examination that it intends to use to test applicants' knowledge of the substantive, procedural and related ethical law in a particular field of law.

The Board members review the application and conduct an investigation of any of the agency's claims that appear to require verification. If the agency's application meets all the requirements of the Rules of Legal Certification, the Board will approve the definition and the standards, and the agency is accredited to certify lawyers as specialists in Minnesota.

In order to be accredited, a certifying agency must verify that it will certify as specialists only those lawyers who 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.

After approved for accreditation, once every three years the Board reviews the agency’s examinations, the standards the agency uses to certify specialists, and the procedures it intends to use. The Rules of the Board of Legal Certification state that it is the agency’s responsibility to report to the Board the names of all lawyers that they certify on an annual basis and to submit an annual fee for each certified lawyer. The Rules also require that the agency advise the Board within 30 days if any lawyer is decertified. If an agency intends to change its standards, the Rules also require that those changes must be submitted to the Board 60 days prior to the effective date.

As of December 31, 2015, lawyers in Minnesota may be certified as specialists in the following ten fields of law:

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

Five organizations are accredited by the Board to certify specialists in those ten fields of law:

- American Board of Certification (ABC)
- Minnesota State Bar Association (MSBA)
- National Association of Counsel for Children (NACC)
- National Board of Trial Advocacy (NBTA)
- National Elder Law Foundation (NELF)

As of December 31, 2015, the five organizations listed above reported having certified 941 Minnesota lawyers as specialists, compared to 958 as of December 31, 2014, a decrease of 1.8% compared to 2014.

## **I. CERTIFYING ORGANIZATIONS**

### **A. 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's purpose statement provides that ABC is "dedicated to serving the public and improving the quality of the bankruptcy and creditors' rights law bars." 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, 2015 there were ten Minnesota lawyers certified as specialists by ABC, the same number as 2014 (see **Table 2**). No Minnesota lawyers applied for certification or took ABC's certification examination in 2015.

### **B. 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 85% of the Minnesota attorneys certified as specialists are certified by the MSBA. As of December 31, 2015, the MSBA had a total of 809 certified specialists, a decrease from 823 in 2014.

The NBTA and the MSBA Civil Trial Section have entered into a cooperative agreement through which they use the same test instrument prepared by the NBTA. This permits lawyers to test simultaneously for certification by either or both

agencies. As of December 31, 2015, there were 292 MSBA-certified Civil Trial Practice specialists, one more than in 2014.

The MSBA's Real Property Section has the largest number of certified lawyers, which totals 343 as of December 31, 2015. This is a decrease of 18 from the previous year.

The MSBA's Criminal Law Section reported a total of 59 Criminal Law specialists in 2015, an increase of four from 2014.

The Labor and Employment Law Section is the newest of the MSBA sections accredited to certify lawyers. The total number of Labor and Employment Law specialists in 2015 was 115, one fewer than in 2014.

### **C. National Association of Counsel for Children**

The Board received an application in November 2014 to accredit the National Association of Counsel for Children (NACC) to certify lawyers in the specialty field of Child Welfare. The Board approved the NACC's application in July 2015. There were no Minnesota lawyers certified by the NACC in 2015.

### **D. National Board of Trial Advocacy**

The National Board of Trial Advocacy (NBTA) was founded in 1977 and has been certifying lawyers as specialists in Minnesota since 1987. NBTA certifies lawyers in Minnesota as specialists in the areas of Civil Trial Practice, Criminal Law, and Family Law Trial Advocacy. As of December 31, 2015, NBTA listed 103 Minnesota lawyers as certified Civil Trial specialists, eight Criminal Law specialists, and seven Family Law Trial Advocacy specialists. These numbers represent a slight decrease from previous years (see **Table 2**).

### **E. 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, 2015, four Minnesota lawyers are certified as Elder Law specialists, the same as in 2014.

## 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	Number of Certified Lawyers as of 12/31/14	Lawyers Newly Certified in 2015	Lawyers who did not renew in 2015	Number of Certified Lawyers as of 12/31/15
ABC	Consumer Bankruptcy	3	0	0	3
ABC	Business Bankruptcy	6	0	0	6
ABC	Creditors' Rights	1	0	0	1
MSBA	Civil Trial Practice	291	9	8	292
MSBA	Criminal Law	55	6	2	59
MSBA	Labor & Employment Law	116	0	1	115
MSBA	Real Property	361	1	19	343
NACC	Child Welfare Law	0	0	0	0
NBTA	Civil Trial Practice	109	1	7	103
NBTA	Criminal Law	8	0	0	8
NBTA	Family Law Trial Advocacy	4	3	0	7
NELF	Elder Law	4	0	0	4
<b>TOTAL</b>	<b>All Specialty Areas</b>	<b>958</b>	<b>20</b>	<b>37</b>	<b>941</b>

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

**Table 2: Total Number of Certified Specialists (2008-2015)**

	2008	2009	2010	2011	2012	2013	2014	2015
ABC Consumer Bankruptcy	5	5	5	5	5	5	3	3
ABC Business Bankruptcy	7	7	7	7	7	7	6	6
ABC Creditors' Rights	3	3	2	2	2	2	1	1
MSBA Civil Trial Practice	323	318	315	308	297	297	291	292
MSBA Criminal Law <sup>1</sup>	-	0	12	27	46	52	55	59
MSBA Labor & Employment Law <sup>2</sup>	-	0	6	76	101	99	116	115
MSBA Real Property	362	351	355	355	362	353	361	343
NACC Child Welfare Law <sup>3</sup>	-	-	-	-	-	-	-	0
NBTA Family Law Trial Advocacy	4	4	4	3	3	3	4	7
NBTA Civil Trial Practice	139	138	131	126	120	111	109	103
NBTA Criminal Law	13	13	11	12	11	9	8	8
NELF Elder Law	4	5	5	5	5	5	4	4
<b>TOTAL</b>	<b>860</b>	<b>844</b>	<b>853</b>	<b>926</b>	<b>959</b>	<b>943</b>	<b>958</b>	<b>941</b>

As can be seen from the charts above, the total number of certified lawyers in Minnesota decreased slightly in 2015, compared to 2014. This is due primarily to the fact that the Real Property Section of the MSBA administers its examination every

<sup>1</sup> The MSBA Criminal Law Section was accredited to certify lawyers in the specialty field of Criminal Law in November 2009.

<sup>2</sup> The MSBA Labor and Employment Law Section was accredited to certify lawyers in the specialty field of Labor and Employment Law in November 2009.

<sup>3</sup> The NACC was accredited to certify lawyers in the specialty field of Child Welfare Law in July 2015.

other year. Comparing the total number of specialists in 2013, there is a slight decrease in total numbers of certified specialists.

### 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 as well as a per lawyer fee. No Lawyer Registration fee revenue is allocated to the support of the Board of Legal Certification.

#### A. Revenue

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

**Table 3** shows the Board's sources of revenue and compares 2015 receipts with receipts of previous years. Revenue fluctuates from year to year as the number of applicants for initial certification fluctuates. The revenue in 2015 decreased by \$6,185 compared to 2014 revenue.

**Table 3: BLC Receipts for Calendar Years 2012-2015**

	2012	2013	2014	2015
<b>Agency Fees</b>				
Application Fee	\$1,000	\$0	\$1,000	\$0
Recertification Fee	\$3,600	\$900	\$0 <sup>4</sup>	\$0
Annual Fee	\$2,500	\$3,000	\$2,750	\$2,500
<b>Lawyer Fees</b>				
Initial Fee	\$6,900	\$1,700	\$5,100	\$1,200
Annual Fee	\$40,050	\$42,480	\$39,870	\$38,835
<b>Total</b>	<b>\$54,050</b>	<b>\$48,080</b>	<b>\$48,720</b>	<b>\$42,535</b>

#### 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 2015, the salary allocation for the Board of Legal Certification staff was as follows: Director: 5%; Assistant Director and Counsel: 8%; Director's Assistant: 8%; two office assistants: 1% each; Receptionist: 1%; Office Manager: 2%; two Judicial Finance Staff Accountants: .3% and .1%.

<sup>4</sup> The Board reduced the recertification fee from \$900 to \$0 as of May 2013.

**Table 4** shows the Board's expenditures for the past four years.

**Table 4: BLC Expenditures for Calendar Years 2012-2015**

	2012	2013	2014	2015
Salaries	\$33,454.46	\$33,462.04	\$29,678.68	\$27,802.54
Rent	\$6,497.71	\$4,715.58	\$5,732.75	\$5,390.27
Other expenses	\$8,416.96	\$7,547.14	\$6,194.62	\$10,751.97
<b>Total</b>	<b>\$48,369.13</b>	<b>\$45,724.76</b>	<b>\$41,606.05</b>	<b>\$43,944.78</b>

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

#### **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 2015, the Board contacted one law firm that appeared to be inappropriately advertising themselves as specialists or certified specialists. The firm agreed to discontinue their use of the inappropriate advertisement.

#### **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. The 2015 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, Bolter Law, LLC
- Candace Dale, Dale Law, PLLC
- V. John Ella, Jackson Lewis P.C.
- Justice Ericson Lindell, Winthrop & Weinstine
- Marc J. Manderscheid, Briggs and Morgan
- 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 was the 2015 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 2015 included: Bankruptcy/Creditors Rights, Criminal Law, Civil Trial Advocacy, Elder Law, Family Law, Labor & Employment, Operations & Finance, Real Property, Rules and Policy, and Child Welfare.


## VI. CONCLUSION

In 2015 there was a slight decrease (1.8%) in the number of certified lawyers compared to the total number in 2014. The Board continues to operate a strong accreditation program as it reviews and accredits 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



Emily J. Eschweiler  
Assistant Director and Counsel

Dated: 9/7/16