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BOARD CERTIFIED-PROVEN, TESTED EXCELLENCE®

Memo: Family Trial Advocacy Examination Information
From: Gwen Arcangelo, Assistant Director

One of the biggest concerns for our applicants is having to take another examination and many of you swore you would never do that again after your bar examination. Suddenly you find yourself in that scenario. The information below we hope will answer your questions about our examination and address your concerns about this step of the certification process.

FORMAT:

The examination is divided into two 3 hour sessions given on a Saturday. It consists of hypothetical cases and fact patterns which contain a series of questions that require knowledge of Trial Practice, Evidence and Ethics. The questions could be any combination of Essay and Multiple Choice. The questions are geared to evaluate basic knowledge of the usual legal procedures, core substantive law and trial ability that is common to specialists in the area of family trial law. It is not designed to be a bar or law school type of examination.

TIMING:

Once the online application is completed in its entirety you may sit for the examination. The examination is given twice a year. **The next dates are: October 14, 2017, April 14, 2018 and October 13, 2018.** Registration material for an examination is sent two months prior to the examination date. You will automatically receive registration material before every examination until you have actually taken and passed one (contingent upon file eligibility). There is no need to contact our office if you cannot take a particular examination.

LOCATION:

Whenever possible we arrange for local sites to administer the examination. Therefore, the examination sites rotate to accommodate most applicants. If there is a site that you would like to suggest for an upcoming examination, I will do everything I can to accommodate your suggestion. Please Note: examination administration sites cannot be added for an examination after the registration materials have been sent out, so please contact me as early as possible with your suggestions.

CONTACT:

If you have any additional questions, please call me at **774-210-6510** or email me at **garcangelo@nbtalawyers.org**. I look forward to helping you complete our examination requirement.



National Board of Trial Advocacy
200 Stonewall Boulevard, Suite 1
Wrentham, MA 02093
phone: 508-384-6565
fax: 508-384-8223

EXAMINEE INFORMATION DOCUMENT

This document is designed to assist eligible applicants prepare for an examination administered by the National Board of Trial Advocacy (NBTA). For the requirements of each specialty area, please visit www.nbtalawyers.org and click “For Attorneys” and dropdown to “Standards” and “Application & Exam Information” for Civil, Criminal, Family, SSD or Civil Pretrial Practice Certification.

The Examination Specifications provide a list of practice related information/skills that relate to the purpose of certification in the specialty area. To view the “Specifications” in our exam information packet(s) please click “For Attorneys” on our homepage and drop down to “Application & Exam Info”.

Please note that passage of the examination is one step in the application process to become a certified specialist.

Step 1	Step 2	Step 3	Step 4
<p>Complete NBTA’s online application in its entirety to become eligible for one of the next NBTA examinations.</p> <p>The following is a list of the application requirements:</p> <p>CLE, Legal Writing, Disclosure of Conduct, Substantial Involvement, Contested Matters, History of Professional Conduct, Application Agreement, and References.</p>	<p>Applicant registers and sits for an April or October NBTA examination administration.</p> <p>The examination must be successfully completed within two years from the online application submission date. E.g. If the application is received 10/20/2016, it must be completed by 10/19/2018.</p>	<p>Successful applicants are sent notice of passage of examination.</p>	<p>All requirements are satisfied and fees are paid. Applicant is certified.</p>

Registration Procedures:

- If you are eligible to sit for an up-coming examination, you will be sent an examination registration form, two months prior to each examination administration date.
- If you wish to use a Laptop Computer, NBTA will supply you with a USB flash drive to save your essay answers. Please contact Gwen Arcangelo (garcangelo@nbtalawyers.org) at the NBTA for additional information.
- Testing Accommodations are available to qualified individuals. Please contact Gwen Arcangelo

(garcangelo@nbtalawyers.org) at the NBTA for additional information.

- You must choose an examination site from a list provided to you. Sites rotate to accommodate most applicants' geographic area. However, examination sites are limited to those locations offered for a given examination administration.
- Your registration form must be received by NBTA by the deadline on the form along with payment of the \$400 examination fee. No faxed registrations are accepted without the \$400 fee.
- Registration form and fee are NOT accepted after the deadline. You must re-register for the next examination administration and pay the \$400 examination fee.
- If you cancel less than 24 hours prior to the examination day, you will be charged a \$150.00 "No Show" fee. This fee is due before any certification is granted.

Examination Administration:

- The purpose of the examination is to verify your basic knowledge of the usual legal procedures, core substantive law and ability that is common to specialists in the area of law tested. The areas examined are listed in the individual Examination Specifications for each area of law. To view the "Specifications" in our exam information packet(s) please click "For Attorneys" on our homepage and drop down to "Application & Exam Info".
- The examination consists of 60 multiple choice questions and 3 hours of essay questions. See "Examination Information" document for more details (this is also located in our exam information packet(s)).
- The examination is 6 hours long and begins promptly at 8:30 a.m. and ends at 11:30 a.m. for a lunch break. It begins promptly at 12:30 p.m. and ends at 3:30 p.m.
- At the start of the examination, you will be asked to show a photograph ID (Drivers' license, passport, or an employment badge with a photograph) to verify your identity. You must have a photo ID on your person at all times during the examination.
- Examination questions are geared toward generally applicable legal principles. If your state has a particular legal rule which is important to your answer, please indicate what state you are from and describe the rule.
- You are permitted to use designated reference materials during the examination, e.g. the Federal Rules of Evidence, the ABA Model Code of Professional Responsibility, the ABA Model Rules of Professional Conduct, etc. Please check the specific materials permitted by the individual area of law. See "Reference Materials" on the Exam Facts for more details (this is also located in our exam information packet(s)).
- You will receive an examination number that must be written on every sheet of paper used for answers. Names must NOT be written on any part of the examination. The assigned number provides anonymity. You must print your examination number on each answer to an essay question in the appropriate upper right hand corner of each page.
- Start an answer to each section of questions on a new sheet of paper. On the last page of each section write "END."
- You must supply your own paper and pens. These will NOT be provided by NBTA.
- Multiple choice questions must be answered on the Multiple Choice Answer Form provided. You

must write your examination number in the upper right hand corner of the form.

- You must keep track of time. Remain alert to the passage of time. Timing devices brought into the exam must be absolutely silent so as not to disturb others.
- Do not write on both sides of the page for essay questions.
- Write legibly- if a grader cannot read the answer you will not receive credit. Essay answers written in pencil are not acceptable.
- You will NOT be granted extra time. If you run out of time you will not be able to complete that portion of the examination.
- All examination questions and answers are collected at the end of the individual session.
- Examination materials may NOT be kept and are NOT to leave the examination room.

Grading and Review:

- A passing score is 75%.
- Approximately eight weeks after the administration of that examination's date, you will be notified of the result.
- Prior to the release of your results, all failing examinations have already been granted an automatic appeal to the members of the Examination Committee. Members of this committee review the failing examinations and make a final determination. Results are released only after all reviews have been completed.
- Your results will be mailed marked "Confidential." However, if you wish the result letter to be sent to an alternate address, notify Gwen Arcangelo (garcangelo@nbtalawyers.org) at the NBTA in writing to provide this information.
- The decision of the Examination Committee is final.
- You may retake the examination one time (contingent upon file eligibility). Upon a second failure you are procedurally denied and must wait a calendar year prior to re-applying to NBTA to sit for the examination.
- Re-applications require that a new application be opened and all standards met and documented. The examination must be re-taken in its entirety.

Please direct any Questions about the Examination to the following:

Gwen Arcangelo, NBTA Assistant Director
200 Stonewall Boulevard/Suite 1
Wrentham, MA 02093
508.384.6565 (Phone) / 508.384.8223 (Fax)
garcangelo@nbtalawyers.org

Specifications for the National Board of Trial Advocacy Family Trial Advocacy Certification Examination

Purpose of the Examination: The Family Trial Examination is designed to verify the applicant's basic knowledge of the usual legal procedures, core substantive law and trial ability that is common to specialists in the area of Family Trial Law. Family Trial Law is the practice of law dealing with legal issues arising from the family relationship of spouses and parent and child, including dealing with civil controversies arising from those relationships. In addition to actual pre-trial and trial process Family Trial Law includes evaluating, handling and resolving such controversies prior to and during the institution of suit and post judgment proceedings, litigation of family matters in all areas of substantive law before state courts, federal courts as well as the appellate processes.

An applicant is expected to demonstrate the ability to identify the issues, state and apply the applicable law, analyze and apply the law to the facts. It is recognized that the subject areas below may overlap, which may require incorporation of more than one substantive or procedural area in Family Trial Law. The order of the subject areas does not reflect their relative importance, nor does the sequence represent an implied order of their application in practice.

Subject Area 1: Professional Responsibility

- 1.1 Ethical duties to client, opposing counsel, third parties, and the court/attorney as witness
- 1.2 Basis of sanctions
- 1.3 Fee agreements/bases for fees/declining terminating representation
- 1.4 Prohibited referrals and inducements/contact with prospective clients
- 1.5 Dual representation/conflicts of interest/independent professional judgment
- 1.6 Charging and retaining liens
- 1.7 Trial publicity
- 1.8 Dealing with an unrepresented person
- 1.9 Dealing with paralegals and other non-attorney staff
- 1.10 Duties of appointed counsel for minors

Subject Area 2: Jurisdiction and Venue

- 2.1 Personal and subject matter jurisdiction
- 2.2 Federal jurisdiction/Hague Convention/Uniform Child Custody Jurisdiction and Enforcement Act/Uniform Interstate Family Support Act
- 2.3 Venue

Subject Area 3: Marital, Non-Marital Property and Financial Issues

- 3.1 Characterization of property/allocations, corporations, partnerships and agency, trusts, retirement benefits, etc
- 3.2 Property, including division, distribution and possession
- 3.3 Bankruptcy considerations (debts and obligations)
- 3.4 Partition
- 3.5 Deferred compensation and employment benefits
- 3.6 Stock options, stock, royalties and intellectual property
- 3.7 Pre-marital and post marital agreements
- 3.8 Enforcement, modification and defense of agreements entered into before during and after marriage

- 3.9 Tax and Qualified Domestic Relations Order's (QDRO's)
- 3.10 Co-habitation and rights of unmarried cohabitants

Subject Area 4: Practice and Procedures

- 4.1 Pleading
- 4.2 Discovery
- 4.3 Service of process/ restraining orders
- 4.4 Pre-trial conference and order
- 4.5 Jury instructions
- 4.6 Motions/briefs/preservation of errors
- 4.7 Voir dire
- 4.8 Judicial findings and conclusions
- 4.9 Post trial motions
- 4.10 Appealability and review
- 4.11 Restraining orders
- 4.12 Bifurcation
- 4.13 Motions for reconsideration/set aside judgments/new trial
- 4.14 Constitutional issues

Subject Area 5: Present and Object to Evidence

- 5.1 Introduction of evidence/mode and order/probative value
- 5.2 Proper use of demonstrative and other trial exhibits/writings, recordings, photographs, experimental evidence and the completeness rule
- 5.3 Remedial measures/compromise, payment of expenses and plea negotiations
- 5.4 Character evidence and related concepts
- 5.5 Qualification of expert and lay witnesses and scientific evidence
- 5.6 Judicial notice
- 5.7 Privileges and other exclusionary policies, spousal immunity and marital communications, attorney-client, work product, etc.
- 5.8 Relevancy and reasons for excluding relevant evidence
- 5.9 Refreshing recollection

Subject Area 6: Hearsay/Exceptions/Exemptions(Non-Hearsay)

- 6.1 Definition
- 6.2 Present sense impressions and excited utterances
- 6.3 Statements of mental, emotional, or physical condition
- 6.4 Statements for purposes of medical diagnosis and treatment
- 6.5 Past recollection recorded
- 6.6 Business records
- 6.7 Public records and reports
- 6.8 Learned treatises
- 6.9 Former testimony, depositions
- 6.10 Statements against interests
- 6.11 Other exceptions to the hearsay rule
- 6.12 Prior statements by witnesses
- 6.13 Admissions by party opponent

Subject Area 7: Children

- 7.1 Child support
- 7.2 All forms of temporary relief/enforcement /guardianship

- 7.3 Custody/motions to terminate jurisdiction/adoption
- 7.4 Visitation/relative placement/grandparent visitation
- 7.5 Parentage issues
- 7.6 Factors determine parenting rights
- 7.7 Termination of parental rights/voluntary relinquishment/involuntary termination
- 7.8 Guardian ad litem
- 7.9 Parenting coordinators
- 7.10 Juvenile court practice
- 7.11 Confidentiality waiver/therapists, social workers/mental health providers

Subject Area 8: Spousal Support / Alimony

- 8.1 Income
- 8.2 Amount and duration
- 8.3 Modification
- 8.4 Effect of death of one party
- 8.5 Support/recapture rules
- 8.6 Insurance (life/health/disability/state/federal)

Subject Area 9: Domestic Torts

- 9.1 Causes of action
- 9.2 Joinder of parties and actions
- 9.3 Recovery of damages as property
- 9.4 Limitations of actions
- 9.5 Legal and equitable remedies
- 9.6 Domestic violence



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Examination Waiver Information

**To: AAML Fellows
Arizona - Civil & Criminal Applicants,
Florida - Civil, Criminal and Family Applicants,
Minnesota - Civil Applicants,
New Jersey – Civil, Criminal and Family Applicants,
New Mexico - Civil Applicants and
Texas – Civil* & Criminal Applicants**

*We currently recognize both the Texas (TBLS) Personal Injury Trial Law Examination and the Civil Trial Law Examination toward our Civil Certification.

One important requirement of the National Board of Trial Advocacy certification process is passing a written examination in the area of certification. The purpose of the examination is to test your proficiency, knowledge, and experience in trial law. Since your state board examination's test those same attributes, the NBTA recognizes the examinations from the states/organizations listed above in lieu of taking our examination.

To obtain a waiver from the NBTA examination requirement, please contact the Executive Director from the state agency or organization by which you are certified and send me a letter that confirms the following:

- 1) that you have taken and passed the state or organization certification examination.
- 2) that you are currently certified, have continuously maintained your certification, and are in good standing with that agency.

Please feel free to call me at **774-210-6510** or **email Gwen Arcangelo at garcangelo@nbtalawyers.org** with any questions you may have.

CERTIFICATION EXAMINATION FACTS
NATIONAL BOARD OF TRIAL ADVOCACY

What	Examination in all specialty areas of law is designed to verify an applicant's knowledge in the usual procedures, ethical considerations and substantive law that should be common to specialists in the area of law.
Eligibility	An applicant must satisfy the requirements for eligibility in the specialty area and must complete the online application in its entirety prior to sitting for the examination. The initial application must be received 45 days prior to the examination dates for the Fall or Spring Examination administration. (I.e. for an April 16 th examination the application must be received and processed by March 1 st)
Registration procedures	Applicants choose an examination site located in their geographic area from a list provided by NBTA. Applicants will receive an examination number that MUST be used on all examination materials.
Examination Format	The examination is a six hour session (8:30 a.m. - 11:30a.m. and 12:30p.m. – 3:30p.m.) that includes both essay and multiple choice questions. There are no optional questions. Applicants must supply paper and pens, however a form will be provided for the multiple choice questions. Use of the Internet by laptop takers is strictly forbidden.
Fee	\$400.00 for both writing and laptop PC (in addition to the application fee). Cancellations 24 hours or less are assessed a \$150.00 "No show" fee.
Reference materials	The Federal Rules of Evidence and either the ABA Model Code of Professional Responsibility, Model Rules of Professional Conduct, or the ethics rules in effect in the applicant's state and if applicable the Social Security Act, Regulations and West's Federal Social Security Laws. Civil Pretrial Practice examinees may also bring the Federal Rules of Civil Procedure.
Scoring	75% is a passing score. Examination results (pass or fail) will be released 8 weeks after the administration of the examination.
Questions	Contact Gwen Arcangelo, Assistant Director, E-mail – garcangelo@nbtalawyers.org , Phone 508-384-6565 or NBTA, 200 Stonewall Boulevard, Suite 1, Wrentham, MA 02093

FAMILY EXAMINATION MANUAL

(Revised 9/2016)

Please note: your demonstration of knowledge of EVIDENCE and ETHICS are important.

Failure of the ETHICS portion will result in failure of the examination.

The following are samples of the multiple choice portion of the examination:

FAMILY EVIDENCE

1. Laurie and Hugh were at trial in their divorce case. Hugh's attorney called Hugh's co-worker, Tom, to testify that Hugh has left work late morning on three occasions in the month prior to trial in order to pick up a sick child from school. But Tom's testimony surprised Hugh's attorney. Tom testified that he has never observed Hugh leave work to pick up a sick child from school. So in an attempt to impeach Tom, Hugh's attorney asked Tom: if there were work days when Tom and Hugh were assigned to different departments, were unable to observe each other, and that Tom would not necessarily know if Hugh had left work to pick up a sick child from school. Laurie's attorney objected. **How should the Court rule?**
 - A. Overruled, because an attorney may impeach his own witness.
 - B. Sustained, because Tom was testifying on direct examination.
 - C. Sustained, because Hugh's attorney was limited to direct examination.
 - D. Overruled, because Tom had been dishonest.

ANSWER: A

2. You represent Quinn in a termination of parental rights case against his girlfriend, Rose. The state statute you are relying on requires that Rose be incarcerated for a felony, and that she be an "unfit" parent. During direct examination, to show that Rose is "unfit," you ask Quinn about specific actions Rose took to abuse her and Quinn's child. Rose's attorney objects, "Your honor, I object, this testimony is improper character evidence." **How should the judge rule?**

- A. Sustained. Evidence of Rose’s character or a trait of her character is not admissible for the purpose of proving that she acted in conformity therewith on a particular occasion.**
- B. Sustained. Evidence of Rose’s other crimes, wrongs, or acts is not admissible to prove her character to show that she is “unfit.”**
- C. Overruled. However, you may only show Rose is “unfit” through testimony as to Rose’s reputation or testimony in the form of an opinion.**
- D. Overruled. Rose’s character is an essential element of your claim to terminate her parental rights.**

ANSWER: D

FAMILY ETHICS

1. You have been contacted by a woman who requests your legal services in post-judgment enforcement proceedings regarding unpaid alimony and support against her former husband, who has substantial income and assets. She is unemployed and virtually entirely dependent upon her husband's payments as a source of income. Because she has no money to be able to pay you to represent her, she has offered to compensate you by giving you 1/3 of any amount that she is able to recover, either by settlement or court order, at the conclusion of the post-judgment proceedings.

May an attorney enter into an agreement with this prospective client to represent her under these terms?

- A. No, the arrangement would constitute an unethical transaction with a client and, unless the client first conferred with another attorney, or was informed of her right to do so, it would be unenforceable.
- B. No, under no circumstances is an attorney allowed to enter into a contingent fee agreement in a domestic relations matter.
- C. Yes, provided that there is a written agreement between the client and the attorney setting out the terms under which the attorney will be compensated, and provided that the 1/3 is a reasonable fee.
- D. Yes, but only for a ruling that relates solely to the parties' division of marital property, not including arrears in alimony or child support.

ANSWER: C

2. You represent Josh in his divorce from Jill. Jill has offered Josh a settlement wherein she keeps the marital residence and agrees to pay the mortgage. Based upon Jill's financial disclosures, you know the mortgage for the residence will cost Jill approximately 60% of her net monthly income. You advise Josh not to accept the settlement because the lender will pursue him for payment on the mortgage if Jill defaults, which is highly likely. Josh agrees to the settlement against your advice.

What should you do?

- A. Withdraw as counsel.
- B. Refuse the settlement offer because of your duty to protect Josh.
- C. Accept the settlement on Josh's behalf.
- D. Accept the settlement only if Jill agrees to sell the marital residence.

ANSWER: C

The following are samples of the essay portion of the examination:

SAMPLE 1:

John and Jane Smith were married on December 25, 2009. They had one child; James, born July 4, 2010. John filed a divorce complaint in the State of State A on April 1, 2011 and a Decree of Dissolution of Marriage was rendered on December 1, 2011. On that date the parties entered into a marital dissolution agreement which was approved by the Court and incorporated into the Judgment of Dissolution of Marriage. It provided for joint legal custody of James with physical custody to Jane and specific rights of visitation, including holiday, summer vacations and transportation for James to and from State B to State A. John had exercised his visitation rights from the date the divorce decree was rendered until around January 11, 2013.

Prior to December 1, 2011 when the divorce decree was entered, Jane and their son James, had moved from State A to State B. The driving distance between John's home in State A and Jane's home in State B is 2 hours. Jane and James have lived in State B for approximately two years and eight months. John is and has been a resident of State A since the divorce decree was entered on December 1, 2011.

On April 1, 2013, John filed a post judgment motion in State A for Contempt, claiming that Jane, the mother, has refused to allow him visitation with his son James by failing to comply with the visitation schedule, driving arrangements, and vacation time ordered by the State A Court.

- 1. As Jane's attorney, what advice should be given to Jane concerning whether or not the State of State A has maintained or lost subject matter jurisdiction?**
- 2. As John's attorney, what arguments should be given in support of John's position that State A retains subject matter jurisdiction under the UCCJEA?**

SAMPLE 2:

Facts

Wife Mary (Your client)

Husband John (Opposing Party)

Date of Marriage - July 4, 1977

Date of Separation – January 30, 2004 John was requested to leave the residence by police

Petition for Dissolution filed - February 1, 2004

Children Pat 8/16/1988
 Chris 6/6/1991
 Sam 5/14/1994

Residence Hometown, State

Background

Mary 49 years old. Bachelor's Degree in Nursing; Worked as a Registered Nurse at Children's Hospital in Hometown, State until May, 1988. Has not worked since the birth of their first child.

John 55 years old. M.D. Pediatrician. Employed in private practice as a physician in Hometown, State where he is the sole stockholder in his medical practice. Earns \$550,000.00/year.

Mary reports that she met John in Hometown, State, while she was in school. John owned a medical practice and had owned it for the 3 years prior to marrying Mary. John was born and lived most of his life in Hometown, State. Mary was born and raised in New Haven, State. Mary and John eventually married and Mary decided to remain in Hometown, State. Mary worked as a Registered Nurse for the first 11 years of their marriage and then became pregnant. By agreement of the parties, Mary quit her job and stayed home after the birth of their first child and never returned to work outside of the marital home.

Over the past two 2 years, Mary and John's relationship has deteriorated. John has become removed from active participation in the children's lives and refuses to discuss and/or communicate with Mary on those issues affecting the health, education and welfare of the children, especially, upcoming college decisions. John has become emotionally detached and Mary fears John is or has engaged in an extra marital affair. While paying last months credit card bill, Mary noticed an unusual charge to a local lingerie shop. Mary also discovered several e-mails from a woman, a pharmaceutical sales rep, to John, containing explicit descriptions of their activities. Mary questioned John about these recent discoveries and John denied them. John had been drinking excessively that night and John began yelling obscenities and threats at Mary. Mary's next-door neighbor, Jane, overheard the argument, and called 911. The police arrived,

took statements, and made a report. Neither party was arrested but John was asked to leave the marital residence for the evening. Recently, John and his parents have threatened to take the children and not return them to Mary. John's parents have not seen the children in over 90 days and are using this as a reason for their threats. Mary continues to fear for her safety and the safety of the minor children.

John has been gone from the residence for 5 weeks now and John has not given Mary any money to pay the marital expenses. Mary discovered that John has liquidated the checking and savings accounts and has canceled her credit cards. John is also trying to list the marital residence for sale and has made overtures that he intends to retire and sell his medical practice. Mary is very concerned that all of the assets will be liquidated prior to trial.

Mary reports that she is interested in moving back to New Haven, State to be closer to her family. Mary has no family in Hometown, State. John vehemently objects to any relocation. Mary reports that this move will provide free child care by her parents while she attends school to get back into the work force, and that the University of New Haven State is the one of three (3) schools in the country which has a program designed for re-certification of registered nurses, providing a curriculum which is only 3 years.

Mary also reports that she feels Hometown, State is too large of a city to raise small children and has too much crime. Mary believes that a move to New Haven will provide a safer and more family like atmosphere to be raised, and that the schools rank far superior to those in Hometown, State.

Mary has a continuing concern about her ability to pay the household expenses and have spending cash. Mary would like to immediately secure sole possession of the residence, obtain money from John and stop John's liquidation of assets, including the sale of the residence and his medical practice.

- 1. Discuss Mary's immediate options, the burden of proof, your strategy, including what witnesses should be called, the exhibits and evidence to be presented and the likelihood of success.**

Mary is greatly concerned about the children. Mary is concerned about John's threats and believes John may kidnap the children and not return them.

- 2. Discuss third party visitation rights and what, if any, protections Mary has in the event John takes the children and fails to return them after a period of visitation.**

Mary requests that you seek an order of the court granting her leave to relocate herself and the minor children to New Haven, State.

- 3. List and discuss the options for Mary, the current status of the law, and the elements for the court to consider in relocation, your strategy and the likelihood of success.**

Mary believes John has intentionally decreased the value of his medical practice by turning patients away and slowing his practice. Mary has no idea the true value of the medical practice and whether she has any interest in it whatsoever.

- 4. What evidence and testimony (including from whom) will be required regarding proof of value of this asset? What documents would need to be subpoenaed to value the practice? Discuss Mary's concerns whether the medical practice is marital or separate property and the proof you will require regarding the same?**



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NBTA POLICY DOCUMENT

POLICY: Inspection of Examination/Retention

Within 60 days after the announcement of the results of an NBTA examination, an applicant who has failed to pass a specialization certification examination may inspect his or her examination in such manner and place as the NBTA designates.

PROCEDURE:

1. Failure of Examination:

- Following the failure by an applicant of the April or October examination he or she will be notified in writing of his or her failure and informed of the examination inspection policy.
- An applicant must timely notify NBTA in writing that he or she wishes to review that examination.

2. Inspection of Examination

- NBTA upon request by an applicant will set up an inspection site at the NBTA Office or at a location geographically located as close as possible to the requesting applicant.
- Upon completion of the proctored location arrangement, NBTA will send a filled in copy of the Multiple Choice Examination, a copy of the Essay portion of the Examination and a copy of the applicant's answers.
- Only the applicant will be permitted to review his or her examination at a proctored site for an hour's time.
- The applicant is not permitted to copy or make notes of the examination in any way.
- At the end of the hour all examination materials must be returned to the proctor for transmission to the NBTA Offices.
- Upon the date marking the 60th day after the announcement for that examination, all an applicant's examination materials shall be destroyed.

3. Passage of Examination:

- Following the passage by an applicant of the April or October examination he or she shall be notified in writing of his or her passage.
- At the date of the announcement of his or her passage of the examination all his or her examination materials shall be destroyed.

4. Examination:

- NBTA shall retain a copy of each administered examination in a secure location and in a secure medium that is accessible only to authorized personnel. All confidential information as to each applicant's examination score will be deleted after 60 days and no information concerning the applicant's file will be provided to a third party.



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NBTA POLICY DOCUMENT

POLICY: Testing Accommodations

It is the Policy of the NBTA to administer a specialization certification examination in a manner that does not discriminate, on the basis of a disability, against a qualified applicant with a disability in accordance with the Americans with Disabilities Act, as amended (ADA). A qualified applicant with a disability who is otherwise eligible to take the specialization certification examination may file a Request for special testing accommodation if by virtue of a disability the applicant cannot demonstrate, under standard testing conditions, that the applicant possesses the essential skills and aptitudes that the NBTA has determined to be the basis for issuance of certification as a legal specialist.

PROCEDURE:

1. Requests:

- **A Request for an accommodation for the April or October examination shall be made in writing and must be received 21 days prior to the date of the general examination's administration.**
- **The Request shall include the following minimum information: Contact information of the requestor (name, address etc.), the date scheduled for the general administration of the examination, and a description of the applicant's disability and the special accommodation requested. The specific reason for the Request with any additional documentation in support of the Request must be submitted on a Form prescribed by NBTA.**

2. Decisions on the Requests:

- **NBTA shall take steps reasonable and necessary for it to reach a fair determination before the general examination.**
- **The Request shall be reviewed by the Staff in consultation with the Dean of Faculty.**
- **A decision on a Request shall be completed within 14 days of the receipt of the Request.**
- **A denial of a Request may be appealed to the full Examination Committee and shall be filed within 7 days of the applicant's receipt of the denial. The appeal shall be conducted on the basis of the record compiled and the applicant shall be limited to a written argument in support of the appeal.**

3. Availability of Request Forms

All forms necessary to complete a Request shall be available at no charge from the NBTA Office.



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NBTA POLICY DOCUMENT

POLICY: Alternate Examination Administration Day for Religious Reasons

It is the Policy of the NBTA to permit an applicant to take a specialization certification examination on an alternate date if the applicant for religious reasons is unable to take the examination on the date selected for general administration. This alternate examination day administration must not compromise the validity and reliability of the specialization certification examination for which it is requested.

PROCEDURE:

1. Requests:

- A Request for change of date of the April or October examination shall be made in writing and must be received 21 days prior to the date of the general examination's administration.
- The Request shall include the following minimum information: Contact information of the requestor (name, address etc.) the date scheduled for the general administration of the examination and the alternate administration date requested. The specific reason for the Request with any additional documentation in support of the Request (on a Form prescribed by NBTA).

2. Decisions on the Requests

- NBTA shall take steps reasonable and necessary for it to reach a fair determination before the examination.
- The Request shall be reviewed by the Assistant Director in consultation with the Dean of Faculty.
- A decision on a Request shall be completed within 14 days of the receipt of the Request.
- A denial of a Request may be appealed to the full Examination Committee and shall be filed within 7 days of the applicant's receipt of the denial. The appeal shall be conducted on the basis of the record compiled and the applicant shall be limited to a written argument in support of the appeal.

3. Availability of Request Forms

All forms necessary to complete a Request shall be available at no charge from the NBTA Office.



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NBTA POLICY DOCUMENT

POLICY: Completion of Examination

It is the Policy of the NBTA to permit an applicant to sit for a specialization certification examination twice (contingent upon file eligibility). If an applicant fails the second administration of the examination (any part or the entire exam) an applicant's file will be procedurally denied. Thereafter, an applicant must wait a calendar year from the date of last unsuccessful examination before re-applying to sit for a specialization certification examination, so that an applicant can demonstrate that the applicant possesses the essential skills and aptitudes that the NBTA has determined to be the basis for issuance of certification as a legal specialist.

PROCEDURE:

1. Failure of Examination:

- Following first failure by an applicant of the April or October examination he or she shall be notified in writing of his or her failure and informed of the examination completion policy.
- Following the second failure by an applicant of the April or October examination he or she shall be notified in writing that; he or she failed; and that his or her application has been procedurally denied; and the date of the next general examination's administration that he or she will be eligible to attend.
- Procedural closure of an applicant's file for failing the exam twice is final and not appealable.