



National Board of Trial Advocacy (NBTA)  
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## General Principles for NBTA Certification of Criminal Trial Advocates

- (A) No standards shall in any way limit the right of a certified criminal trial advocate to practice law in all fields.
- (B) No attorney shall be required to obtain a certificate in criminal trial advocacy before he or she can practice in the field.
- (C) Certification is individual and voluntary. Certification is open to all who qualify.
- (D) An attorney may have more than one certification from other specialty areas of the National Board of Trial Advocacy ("NBTA"), or other attorney board certification programs accredited by any state or the American Bar Association.
- (E) Certification shall be for five years, after which time the certificate cannot be used unless the attorney is recertified. Certification may be revoked at any time for violations of these General Principles or Standards.
- (F) Application will be made to the NBTA, on the forms supplied by the NBTA, and accompanied by the appropriate fee.
- (G) Applicant must complete all requirements, including the examination, within two years of application. If the certification process is not satisfactorily completed within the two-year period, the applicant will need to reapply and re-submit all required fees. An application can be denied at any time within the two-year application period for failure to successfully meet the requirements for certification.
- (H) A certificate will be issued upon a showing by the applicant, and by the Specialty Commission and NBTA's own investigation, that the applicant complies with the standards and regulations for certification.
- (I) All applications and other information submitted to the NBTA shall be privileged and confidential, except as compelled by law and, except that the NBTA may reveal the fact of an application for the purpose of verifying information submitted by the applicant, and for the purpose of making such inquiries with respect to the character and professional reputation of the applicant as may be authorized by its rules.
- (J) The NBTA does not discriminate against any attorney seeking certification on the basis of race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression, religion, age, pregnancy, disability, covered veteran status, political ideology, genetic information, marital status, any other factor, or other status protected by applicable national, federal, state or local law.
- (K) The NBTA is dedicated to the identification of attorneys who possess an enhanced level of skill and expertise in trial advocacy, and have demonstrated integrity and dedication to the interests of their clients, thereby improving the professional competence of attorneys.

## Standards for Criminal Trial Certification-rev. 7/2021

### (A) Good Standing and Period of Practice

- (1) The applicant shall furnish evidence of his or her good standing in the state of his or her admission, or if admitted in more than one state, in the state of his or her principal practice.
- (2) Immediately preceding application, the applicant must have spent five years in the actual practice of Criminal law.

### (B) Substantial Involvement

- (1) The applicant must make a satisfactory showing of substantial involvement relevant to the particular specialty certification the person is seeking, with at least thirty percent of his or her time spent practicing criminal trial law, during the three years preceding the filing of the application.
- (2) Within the applicant's career, the applicant must make a satisfactory showing of substantial involvement relevant to the particular specialty certification by personal participation in at least thirty days of jury trial (a day of trial is not less than six hours) during which the applicant examined or cross-examined witnesses, delivered an opening statement or closing argument or conducted a voir dire jury examination. During the thirty or more trial days the applicant must personally have:
  - (a) served as lead counsel in at least five jury cases;
  - (b) substantially participated in at least ten jury cases which have proceeded to verdict;
  - (c) conducted direct examination of at least fifteen lay witnesses;
  - (d) conducted cross-examination of at least fifteen lay witnesses;
  - (e) conducted at least 15 total direct and cross examinations of expert witnesses, with a break-down of either at least 10 directs and 5 crosses (for prosecutorial based experience) or 10 crosses and 5 directs (for public defender/criminal defense experience)
  - (f) presented at least eight opening statements;
  - (g) presented at least four closing arguments;
  - (h) conducted at least five voir dire jury examinations or (in courts which do not permit counsel to conduct voir dire examination) submitted proposed jury questions for the court in at least five trials or a combination of examinations and submissions acceptable to the Criminal Trial Advocacy Specialty Program Commission (Commission) and Standards Committee.

The Commission and the Standards Committee may allow a lesser number of performances in categories (c) through (h) if additional involvement in other categories clearly constitutes sufficient active trial participation to demonstrate an enhanced level of skill and experience.

- (3) Within the applicant's career, the applicant shall also have actively participated in seventy-five additional contested matters (cases included in your substantial involvement may not be included as part of your contested matters). This may include trials (jury or non-jury); evidentiary hearings or depositions; sentencing hearings, bond reviews, and motions heard before, during, or after trial (including limine, 404, etc). This may include juvenile delinquency hearings.
- (4) Within the applicant's substantial involvement and contested matters, *one* of the following four conditions must be met three years prior to application:
  - (a) substantial trial involvement in ten days of trial with personal participation in the categories listed in Section (B)(2)(a) through (h) or,
  - (b) active personal participation in twenty-four litigated matters, either directly handled to conclusion as lead counsel or in a supervisory capacity to lead counsel, or
  - (c) participation in thirty-six performances (evidentiary hearings or depositions which either oral argument was made or testimony was taken, or motions heard before or after trial), or
  - (d) a combination of trial days, participation in litigated matters or performances which demonstrates substantial involvement in the specialty equivalent to one of the three subsections above as approved by the Commission and the Standards Committee.

### (C) Educational Experience

- (1) The applicant must demonstrate substantial participation in continuing legal education and the development of the law with respect to the specialty, in the three-year period immediately preceding application either:

- (a) By attendance and/or electronic participation in not less than forty-five hours in programs of continuing legal education in the specialty or ethics, approved by the Commission and the Standards Committee, or
- (b) By equivalent participation through, but not limited to, the following means, approved by the Commission and the Standards Committee:
  - (I) Teaching courses or seminars in Criminal trial law or ethics;
  - (II) Participation as panelist, speaker, or workshop leader, at educational or professional conferences;
  - (III) Authorship of books, or of articles published in professional journals, on trial law;
  - (IV) By combination of the three subsections above.

**Please note: Florida, South Carolina and Ohio require a higher number of Continuing Legal Education (CLE) credit hours in order to advertise or communicate the National Board of Trial Advocacy (NBTA) certification. Check with your local rules or the NBTA for more details.**

**While NBTA does not recognize an age or years in practice exemption for CLE, under our Senior Status program less CLE is required of members who are part of that program.**

#### **(D) Peer Review**

- (1) The applicant shall submit with application the names of ten to twelve references, not present partners, associates, or relatives of the applicant. These references shall be substantially involved in the relevant field of trial law, and familiar with the applicant's practice in that field. References satisfactory to the NBTA must be received from at least three judges before whom the applicant has tried a matter in the relevant field, not more than three years before application; and at least three shall be attorneys with whom, or against whom, the applicant has tried a matter in that field within three years of application.
- (2) NBTA will solicit confidential statements from all persons listed as references and may solicit confidential statements of reference from other persons, familiar with the applicant's practice, not specifically named by the applicant. All reference statements received will be reviewed by the NBTA to assess whether the applicant has demonstrated an enhanced level of skill and expertise in the practice area, integrity and consideration for the interests of clients.

#### **(E) Examination**

The applicant must pass a written examination to test his or her proficiency, knowledge, and experience in criminal trial law, so that the applicant may justify his or her representation of specialization to the public. This Examination will be administered by the NBTA, unless the applicant has passed the criminal trial advocacy written examination by Florida, New Jersey and Texas. The NBTA has reviewed and accepts these examinations as a functional equivalent of the NBTA Examination.

**Note concerning special agreement with The Florida Bar Board of Legal Specialization & Education: If you are contemplating applying for NBTA Board Certification in Criminal Trial Advocacy and you are a member of the Florida Bar, please DO NOT apply unless you are already Board Certified by the Florida Bar in their similar specialty area. If you are interested in applying for certification with the Florida Bar they can be reached at: 850-561-5850.**

**Note to applicants from New Jersey: In addition to taking New Jersey's Examination, NBTA's New Jersey applicants must also take the Ethics section of the NBTA Examination.**

#### **(F) Legal Writing Document**

The applicant shall submit three legal writing documents, prepared no more than three years before the date of application which he or she has prepared, but not necessarily published. These must be in the area for which the applicant seeks certification, containing concise and accurate writing, stating facts (either actual or hypothetical), stating applicable law, analysis of how the law applies to the facts, written in an appropriately argumentative manner and well constructed (i.e. organized, grammatical, demonstrative of good syntax and usage). Acceptable documents include, but are not limited to: briefs (evidentiary, trial or appellate), sentencing memoranda, bar journal, law review and legal magazine articles, motions in limine, etc. Each document must be at least three pages in length. The quality of the legal document will be evaluated on those criteria and will determine whether the applicant is qualified for certification.

#### **(G) Disclosure of Conduct**

- (1) In order to assist the evaluation of whether the applicant possesses an enhanced level of skill and expertise in trial advocacy and has demonstrated integrity and dedication to the interest of clients, the applicant shall, to the extent known, disclose to the NBTA as soon as permitted by law:
  - (a) The filing of any criminal charges against the applicant together with all details called for by the Disclosure of Conduct Form;
  - (b) The filing or submission of any allegation of unethical or inappropriate professional conduct with any court, grievance committee or disciplinary board or body together with all details called for by the Disclosure of Conduct Form.
  - (c) The assertion of any claim of professional negligence or professional liability, whether or not suit has been filed, which is based in any part on alleged acts or omissions of the applicant or member or on the acts or omissions of any other attorney over whom the applicant or member had any responsibility together with all details called for by the Disclosure of Conduct Form.
- (2) The NBTA shall determine, in accordance with its standards and procedures whether the conduct is such that certification should be granted, denied, suspended or revoked, or whether action should be deferred pending receipt of additional information. The NBTA will take into consideration any findings made by other bodies concerning such conduct, but is not bound by any such findings and will make its own independent assessment concerning how such conduct bears on whether an attorney is qualified to obtain or maintain certification.
- (3) The failure of an applicant to disclose such conduct is a material misrepresentation and may be cause for rejecting an application or refusing to grant certification, or for suspending or revoking a certificate. The applicant shall have a continuing duty to disclose such matters to the board.

### **Annual Reporting**

Annually, members will be required to submit a Disclosure of Conduct form and annual dues. The member's annual dues and Disclosure of Conduct must be current before an application for recertification will be granted. Disclosures of Conduct/Liability shall be submitted to the Commission and Standards Committee to determine if certification should be continued.

### **Denial or Revocation of Certification**

- (A) An application for certification may be denied for failure to comply with any of the requirements relating to good standing, substantial involvement, educational experience, peer review, examination, legal writing document, disclosure of conduct, financial responsibility, or any other failure to demonstrate possession of an enhanced level of skill and expertise in trial advocacy and demonstrated integrity and dedication to the interests of clients.
- (B) An application for recertification may be denied for failure to comply with any of the requirements relating to good standing, substantial involvement, educational experience, peer review, disclosure of conduct or any other failure to demonstrate possession of an enhanced level of skill and expertise in trial advocacy and integrity and dedication to the interests of clients.
- (C) An existing certification may be revoked for failure to demonstrate maintenance of an enhanced level of skill and experience in trial advocacy and integrity and dedication to the interests of clients as required for certification or for failure to maintain compliance with the financial responsibility requirements.

- (D) Decisions of the Commission and the Examination Committee are final and not subject to further review or appeal. An attorney who is refused certification for any other reason, or who is refused recertification or whose certification is revoked may pursue review under the Appeal Procedures of the NBTA. Exhaustion of this right shall be a condition precedent to judicial review.
- (E) An attorney who is refused certification or recertification, or whose certification is revoked, may not apply for certification until one year after the date of such refusal, denial or revocation.
- (F) Suspension of the license to practice law shall operate as an automatic revocation of certification.
- (G) An attorney who publicizes a certification or application for certification prior to its being granted or continues to publish a certification after it has been revoked or suspended, may be barred from certification or recertification.