

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

**OVERVIEW:**

The Legal Specialization program was created to provide a method for attorneys to earn the designation of certified legal specialist in particular areas of law for the purposes of increasing public protection and encouraging attorney competence. As part of the certification process, an applicant must pass a written examination in the specialization area. Certification is the process that is designed to identify the highly qualified attorneys in the practice area.

**FORMAT:**

The examination consists of a combination of multiple choice and essay questions and is a total of 6 hours: A Morning Section (8:30 a.m. – 11:30 a.m.) and an Afternoon Section (12:30 p.m. – 3:30 p.m.) given on a Saturday. The 3-hour morning section is entirely multiple choice and the 3-hour afternoon section is made up of essays that contain subparts of hypothetical cases and fact patterns which contain a series of questions that require knowledge of Trial Practice, Evidence and Ethics. 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 criminal trial law. It is not designed to be a bar or law school type of examination.

Multiple Choice questions are 40% of the score and Essays are 60%. A combined score of 75% must be achieved in order to pass the examination. There are 60 multiple choice questions. You must answer 45 of the questions correctly to pass the multiple choice section. A failing score in the Multiple Choice ETHICS portion of the examination results in a failure of the entire examination.

**TIMING:**

The examination is given twice a year. 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:**

Due to COVID-19, the NBTA Board Certification Examination in all areas of law will be offered only as an online examination that can be taken from your home or office using software from Examsoft called Examplify. You must sign up at least 17 days prior to the date of the administration of the examination and NO EXCEPTIONS can be made.

**COST:**

The application fee is \$400. The Examination fee is \$400. Please click [here](#) for the entire NBTA Fee Schedule.

**CONTACT:**

If you have any additional questions, please call me at **508-384-6565** or email me at **[garcangelo@nbtalawyers.org](mailto:garcangelo@nbtalawyers.org)**. I look forward to helping you complete our examination requirement.

## 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](http://www.nbtalawyers.org) and click “For Attorneys” and scroll down to “Standards” and “Exam Information”.

The Examination Specifications provide a list of practice related information/skills that relate to the purpose of certification in the specialty area that maybe assessed. **To view “Specifications” please refer to pages 7-9 of this packet.**

### PROCESS:

**Step 1** Complete NBTA’s online application in its entirety to become eligible for one of the next NBTA examinations. If you would like to take the Examination first please contact Gwen Arcangelo: [garcangelo@nbtalawyers.org](mailto:garcangelo@nbtalawyers.org) for further instructions. The following is a list of the application requirements: CLE, Legal Writing, Disclosure of Conduct, Substantial Involvement, Contested Matters, History of Professional Conduct, Application Agreement, and References.

**Step 2** Applicant registers and sits for a Spring or Fall NBTA examination administration. The entire application process must be successfully completed within two years from the online application submission date OR two years from signing up to sit for the Examination (whichever date comes first). E.g. If the application is received 10/20/2020, it must be completed by 10/20/2022.

**Step 3** Once all requirements are satisfied (completion of continuing education in the area of specialty greater than required by general members of the bar, demonstration of a broad-based experience in the specialty area, favorable evaluation by other attorneys and judges familiar with your work in the specialty area and review of your written work) and fees are paid then the Applicant is certified. Please click [here](#) for the entire NBTA Fee Schedule.

### 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.
- You MUST use an Apple Mac Computer or Windows Computer (Windows 10 Operation System) that is not older than 3-4 years. Your computer MUST have a functioning webcam. Please CLICK on the [FAQ's](#) for further details or contact Gwen Arcangelo ([garcangelo@nbtalawyers.org](mailto: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 the form or for additional information.
- You may take the examination from your home or office. The Examinees are monitored remotely through your webcam. Artificial Intelligence and NBTA Staff will review your examination sessions for any violations in examination rules. Please CLICK on NBTA's Online Examination [FAQ's](#).

### **COSTS/FEEES:**

- Your registration form must be received by NBTA by the deadline on the form along with payment of the \$400 examination fee. All registration forms MUST be accompanied by 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" please refer to Pages 7-9 of this packet.**
- The examination is a total of 6 hours: A Morning Section (8:30 a.m. – 11:30 a.m.) and an Afternoon Section (12:30 p.m. -3:30 p.m.). The Morning Section consists of 60 multiple choice questions. The Afternoon Section consists of 3 hours of essay questions. **To see the "Examination Information" details please refer to page 1 of this packet.**
- Two weeks prior to the date of the examination, you will be required to take a mandatory 2-part mock examination. Mock Examination 1 is an administrative process that teaches you how to use various features of software for the examination and it will have you take a baseline photo of yourself. Mock Examination 2 will compare your baseline photo and verify that your computer meets the minimum system requirements for taking the examination (<https://examsoft.com/resources/examplify-minimum-system-requirements>).

- 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 Page 11 of this packet.**
- Names must NOT be written on any part of the examination.
- You must supply your own computer that meets the minimum system requirements for the Examssoft Software.
- Multiple choice questions must be answered by selecting the correct choice within the testing software application (Exemplify).
- You must keep track of time. Remain alert to the passage of time. Timing devices can be activated as part of Exemplify.
- You will type answers within Examssoft which operates much like Microsoft Word.
- 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 answers should be uploaded at the end of the individual session.

#### **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 Specialty Program Commission. Members of this commission review the failing examinations and make a final determination. Results are released only after all reviews have been completed.
- Results are sent “Confidentially” to your address of record. However, if you wish the results 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 Specialty Program Commission 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.

**AFTER CERTIFICATION:**

- Each year certified attorneys must return a Disclosure Statement and pay a fee of \$295 (and \$50 for each additional specialty). By signing the statement, you are verifying that you continue to meet the requirements for certification. Every 5 years a Recertified attorney must again show that he or she has satisfied the Continuing Education, the Substantial Involvement in the specialty area experience and receive favorable references. **NO EXAMINATION IS REQUIRED.**

**Please direct any questions about the examination to the following:**

**Gwen Arcangelo, NBTA Assistant Director  
850 Franklin Street, Suite 8  
Wrentham, MA 02093  
508.384.6565 (Phone) / 508.384.8223 (Fax)  
garcangelo@nbtalawyers.org**

## **Specifications for the National Board of Trial Advocacy Criminal Trial Certification Examination (Revised January 13, 2021)**

Purpose of the Examination: The Criminal Trial Examination consists of a combination of multiple choice and essay questions. It is designed to verify the applicant's basic knowledge of the usual legal procedures, core substantive law (*including recent changes in law and regulations*) and trial ability that is common to specialists in the area of Criminal Trial Law. Criminal Trial Law is the practice of law dealing with litigation of criminal matters in all areas of substantive law before state courts and federal courts. In addition to the pre-trial and the trial process criminal trial includes evaluating, handling, and resolving criminal matters prior to the initiation of a prosecution as well as the appellate processes.

An applicant is expected to demonstrate the ability to identify and resolve the issues, state and apply the applicable law, analyze and apply the law to the facts given and show knowledge and understanding of the pertinent principles and theories of law, their relationship to each other and their qualifications and limits. Of primary importance in the essay questions will be the quality of the analysis and explanation. It is recognized that the subject areas below may overlap, which may require incorporation of more than one substantive or procedural area in Criminal Trial Law which may apply to several skills in responding to a single question.

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. Knowledge of the following fundamental lawyering skills may be assessed.

### **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 Unauthorized practice of law
- 1.7 Trial publicity/client property
- 1.8 Dealing with paralegals and other non-attorney staff

### **Subject Area 2: Evaluation and Defenses**

- 2.1 Homicide/special circumstances
- 2.2 Sex crimes and related consequences
- 2.3 Tactics/strategies
- 2.4 Mental health issues and related consequences
- 2.5 Crimes against property
- 2.6 Crimes against persons
- 2.7 Narcotics

- 2.8 Vicarious liability, aiding and abetting, duress, entrapment
- 2.9 "Victimless" crimes
- 2.10 Conspiracy/RICO
- 2.11 Intent, recklessness, self-defense, necessity

**Subject Area 3: Jurisdiction and Venue**

- 3.1 Arrest and bench warrants, summons/subpoenas
- 3.2 Arraignment
- 3.3 Grand jury proceedings

**Subject Area 4: Practice and Procedures**

- 4.1 Preliminary hearings/bail and other forms of release from custody pending finality of judgment
- 4.2 Discovery
- 4.3 Pre-trial motion practice/constitutional issues
- 4.4 Jury instructions
- 4.5 Motions/briefs/preservation of errors
- 4.6 Voir dire
- 4.7 Judicial findings and conclusions
- 4.8 Informants
- 4.9 Post-trial motions/expungement
- 4.10 Appealability and review/making a record
- 4.11 Sentencing and plea bargaining
- 4.12 Deferred entry of judgment and diversion
- 4.13 Immigration Consequences
- 4.14 Opening Statements/Closing Arguments

**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 Character evidence and related concepts
- 5.4 Qualification of expert and lay witnesses and scientific evidence
- 5.5 Judicial notice
- 5.6 Privileges and other exclusionary policies, spousal immunity and marital communications, attorney-client, work product, etc.
- 5.7 Relevancy and reasons for excluding relevant evidence
- 5.8 Refreshing recollection
- 5.9 Impeachment

**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
- 6.10 Other exceptions to the hearsay rule
- 6.11 Prior statements by witnesses
- 6.12 Admissions by party opponent

## **Examination Waiver Information**

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.

However, there may be some situations in which you qualify for an examination waiver. If your state/applicable organization tests those same attributes, NBTA may recognize the examinations in lieu of taking its examination. See below for those states/organizations that qualify:

### **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**

**North Carolina – Criminal\*\*, Family\*\* and SSD\*\* Applicants and**

**Texas – Civil\*\*\* & Criminal Applicants**

**\*In addition to taking New Jersey’s Examination, NBTA’s New Jersey Applicants must also take the Ethics section of the NBTA Examination.**

**\*\*In addition to taking North Carolina’s Examination, NBTA’s North Carolina applicants must also take the Ethics section of the NBTA Examination.**

**\*\*\*NBTA currently recognizes both the Texas (TBLS) Personal Injury Trial Law Examination and the Civil Trial Law Examination toward our Civil Certification.**

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 provide a letter on official stationery 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 **Gwen Arcangelo** at **508-384-6565** with any questions you may have or email her at [\*\*garcangelo@nbtalawyers.org\*\*](mailto:garcangelo@nbtalawyers.org).

## **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 Spring or Fall Examination administration. (I.e. for an April 16<sup>th</sup> examination the application must be received and processed by March 1<sup>st</sup>)

### **REGISTRATION PROCEDURES**

You will receive an email invitation from [exambot@examsoft.io](mailto:exambot@examsoft.io) to activate an ExamSoft Account. Within the email you will be prompted to create a personal account password. Once you create your password you will follow the prompts to the ExamSoft Student (Examinee) portal. Within that portal you can download Examplify. Once the download is complete you will want to install and then launch Examplify. Your institution ID is **National Board of Trial Advocacy**. Once entered in the text field, select your institution from the dropdown menu, then click the green next button. Next enter your ID and password and sign in. You should now be able to use Examplify for your examination!

### **EXAMINATION FORMAT**

The examination is six hours long from 8:30 a.m. - 11:30 a.m. and 12:30 p.m. – 3:30 p.m. The morning section is all multiple choice and the afternoon section is all essay. There are no optional questions.

### **FEE**

There is a \$400.00 Examination Fee in addition to the \$400.00 application fee for a total of \$800.00 to obtain your initial certification. 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 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, 850 Franklin  
Street, Suite 8, Wrentham, MA 02093**

## **CRIMINAL 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:**

### **CRIMINAL EVIDENCE**

1. You were in trial in the City of Pleasantville Municipal Court, and your client was charged with drug possession resulting from a traffic stop by the Pleasantville Police Department. You were moving to suppress the drugs and to dismiss the case because the traffic stop occurred outside of city limits. The arresting officer testified as to the exact location of the traffic stop during the suppression hearing, and testified that the location is within city limits. Following his testimony, you presented to the court a print-out from an internet mapping company, a print-out from internet Maps, a map from the tax assessor's office, and a city map published by the City of Pleasantville, all of which showed that the location is outside of the city limits. You asked the judge to take judicial notice of the fact that the location is not within city limits. **How should the Court rule? The Court should-**
  - A. deny your request, because judicial notice applies only to the Court's instructions to the jury and does not apply in pre-trial proceedings.**
  - B. deny your request, because the officer's testimony that the location was within city limits creates a question of fact.**
  - C. grant your request, because it is within the judge's personal knowledge that the location is not within the city limits.**
  - D. grant your request, because it is a fact that is easily determined by sources whose accuracy cannot reasonably be questioned.**

**ANSWER: D**

2. During a trial for possession of child pornography, Officer Jones began to testify that your client's wife told him that she saw child pornography on your client's computer. Your client's wife is on the witness list and will testify later in the government's case. You object on grounds of hearsay. **The Court should:**
  - A. Sustain the objection, because the client's wife is not the one testifying to the statement in question, and the statement is offered to prove the truth of the matter asserted.**

- B. Sustain the objection, because the wife is a coconspirator and the statement was made during and in furtherance of the conspiracy.**
- C. Overrule the objection, because the wife will testify and will be subject to cross examination on the statement.**
- D. Overrule the objection, because the statement is not hearsay.**

**ANSWER: A**

**CRIMINAL ETHICS**

1. You accepted payment of attorney fees from a third party to represent John in a multi-defendant drug case. You reviewed your fee agreement with the third party in detail, had him sign the fee agreement and provided him a copy. You also reviewed the agreement with your client John, had him sign the agreement, and provided him a copy. In the agreement is language that expressly states that John is your client, that you have a duty of confidentiality with John and cannot discuss his case with third parties, that you will receive direction in John's case from John only and that third parties have no control over John's case. The prosecutor learned that a third party had paid the defense attorney's fees and reported the matter to the bar disciplinary body. **What will the disciplinary body do?**
  - A. Find that you violated the duty of loyalty to your client.**
  - B. Find that the prosecutor violated his oath of civility to fellow attorneys.**
  - C. Nothing, because your duty to your client was communicated to both client and the third party before accepting the case.**
  - D. Nothing, because it is acceptable to protect a third party's interests if they pay your legal fees.**

**ANSWER: C**

2. Prior to a high-profile murder trial, you are approached by a reporter outside of the courthouse. The reporter asked if you had any comment and you responded, "My client is innocent of the charges and DNA evidence will prove it at the trial." You declined any further comment. **Have you violated any ethics rules?**
  - A. Yes, because it was an extra-judicial statement that will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing the state's case.**
  - B. Yes, unless the prosecutor had previously made statements to the media about your client's guilt and your response was necessary to protect your**

**client from substantial undue prejudice resulting from the prosecutor's extra-judicial statements.**

**C. No, because your client has the right to have his case tried in the media.**

**D. No, because a lawyer may state the claim, offense, or defense involved in a case without violating the rule against extra-judicial statements.**

**ANSWER: D**

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

**SAMPLE 1:**

### **CRIMINAL TRIAL ETHICS**

You are the senior partner of a law firm whose junior associate was representing a man accused of multiple sexual assaults of his 10-year-old niece, which had allegedly occurred in her bedroom during the period of time the defendant was living with his sister and her husband. Shortly after the last and most serious sexual assault, the niece told her mother what the defendant had done to her, and showed her mother as well as the girl's brother the physical effects of the assault. The mother, in turn, told her husband, and the two confronted the wife's brother, who moved out of state that very night. No reports were made to authorities at that time. In the next few years, the behavior of the little girl deteriorated significantly, to the point that the parents took her to a psychotherapist. Immediately after the girl related the assault to the therapist, police were notified and statements were taken from all involved parties.

The police investigator tried to contact the defendant, who had remained out-of-state, in order to obtain a statement from him. The defendant referred the investigator to his attorney, who indicated that an interview could take place in his office in the state where the defendant was then living. The investigator contacted the attorney several more times to try to establish a time for the interview, and was finally told that the attorney was no longer able to reach the defendant.

At trial, the defendant testified and denied that any sexual contact had taken place. When cross-examined extensively as to why he failed to keep the appointment with the investigator, the defendant testified that his attorney had advised him not to speak to the authorities. You had not been attending the trial, but you came to court to hear the final arguments. The prosecutor argued in summation that all the other parties had cooperated with the police and had given statements, but that the defendant instead had gone out and hired an attorney and had not given a statement. The prosecutor further argued that the key issue in the case was the credibility of the witnesses, and that the jury should give more weight to the witnesses who had given statements and otherwise cooperated with the police.

You are stunned and outraged to learn that your associate had not objected to the trial testimony concerning the defendant's consultation of an attorney. You are just as upset

to have watched your associate fail to object to the prosecutor's final argument that the defendant's credibility should be discounted because he had consulted an attorney and had not given a statement.

Since your firm had entered an appearance in the file, you are able to speak and you request the trial judge to grant a recess to allow you to speak to the junior associate. The request is granted. You are not familiar enough with the evidence at trial to take over the defense and deliver an argument to the jury.

**Discuss what advice to give to the junior associate as to:**

- 1. What objections should trial counsel have made?**
- 2. What constitutional rights of his client had been violated?**
- 3. How to proceed given the above facts?**
- 4. What, if any, rules of professional conduct apply to the prosecutor, the junior associate and the senior partner?**

**SAMPLE 2:**

### **CRIMINAL TRIAL PRACTICE**

Because of prior knowledge, police officers Kelly and Goldberg knew Larry Lewis (Larry) had a suspended driver's license. Kelly and Goldberg also knew there was an outstanding arrest warrant for Larry for driving with a suspended license.

Kelly and Goldberg were present at a house involved in suspected criminal activity. While standing outside the residence, Kelly and Goldberg saw Larry driving a car and turning off the street and into the private driveway of the residence. Larry was the sole occupant of the vehicle. Larry continued to the end of the driveway, parked the vehicle and got out of the car. Larry was walking away from the car. When he had gone approximately 10 feet, Officer Kelly stopped Larry and arrested him on the outstanding warrant. Larry was handcuffed and placed in the back seat of the police car.

Kelly and Goldberg ran the license plate on the vehicle and discovered it was owned by AAA Car Rentals, an agency located in a neighboring jurisdiction. Contact with AAA revealed that the vehicle had been rented to Larry some two weeks ago, and its return date had passed last week with no return of the car. No request for extension of the rental period had been received. AAA had sent a letter to Larry at the address he gave them demanding the immediate return of the vehicle. No response from Larry had been received by AAA. The rental agency had contacted the police in their jurisdiction to make a criminal complaint, but had not yet heard back from the department.

- 1. List what arguments you would make at the suppression hearing?**



- 2. List what arguments you would expect the prosecutor to make at the suppression hearing?**
- 3. Based on the assumption that your judge makes the proper legal ruling, will your motion be granted or denied? Explain your answer.**
- 4. Would any of your answers be different if a gun was found underneath the jacket in the back seat of Larry's car? Please state why or why not.**
- 5. During the suppression hearing, Larry has testified and is being cross-examined. The prosecutor asks him about his misdemeanor theft of property conviction. You object and the judge wants you to state what Federal Rules of Evidence (FRE) are the basis for your objection. Please list possible objections by FRE Number and description.**

**NBTA POLICY DOCUMENT: Inspection of Examination/Retention  
(Board Approved– November 4, 2014)**

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 Spring or Fall 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 Spring or Fall 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.

**NBTA POLICY DOCUMENT: Testing Accommodations**  
***(Board Approved– February 16, 2013)***

**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 Spring or Fall 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.**

## **NBTA POLICY DOCUMENT:**

### **Alternate Examination Administration Day for Religious Reasons (Board Approved– February 16, 2013)**

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 Spring or Fall 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.

**NBTA POLICY DOCUMENT: Completion of Examination  
(Board Approved– February 16, 2013)**

**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 examination) 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 Spring or Fall 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 Spring or Fall 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 examination twice is final and not appealable.**