

## **Memo: Immigration Examination Information**

**From: Elizabeth Collins, Director of Examinations and State Accreditations**

### **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 the Specifications listed below. The questions test knowledge of the current law and are geared to evaluate basic knowledge of the usual legal procedures, core substantive law and ability that is common to specialists in the area of Immigration law. **NBTA's examination is nationally administered. Questions are to be answered by applying the permitted reference materials below:**

**-ABA Model Rules of Professional Conduct - FOR MULTIPLE CHOICE & ESSAYS OR ONLY FOR THE ESSAY SECTION OF THE EXAMINATION - If an applicant's state laws differ from Federal Law, an applicant may indicate the state and the applicable state law but is to respond using Federal Law as it applies to a given set of facts in the outcome of the issues presented**  
**-INA (Immigration and Nationality Act) and corresponding regulations at 8 CFR, 20 CFR and 22 CFR**

It is not designed to be a bar or law school type of examination.

- **Multiple Choice Questions**

The Multiple-Choice questions test an applicant's knowledge of federal law. It is open-book and allows an applicant to use the federal rules during the administration of the examination as a reference if needed. Individual state law is not tested on the Multiple-Choice section of the examination.

- **Essay Questions**

The examination's essay questions are also designed to be answered under federal law. However, if an applicant's state laws differ from federal law an applicant may indicate the state and the applicable state law but is to respond using federal law as it applies to a given set of facts in the outcome of the issues presented.

- **A passing score is 75%.**

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 75 multiple choice questions. A failing score in the Multiple-Choice ETHICS portion of the examination results in a failure of the entire examination. However, only the ETHICS portion of the examination must be retaken and passed.

**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:**

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 Exemplify. You must sign up at least 30 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 **386.986.7590** or email me at [ecollins@nbtalawyers.org](mailto:ecollins@nbtalawyers.org). I look forward to helping you complete our examination requirement.

## **Specifications for the National Board of Trial Advocacy Immigration Law Certification Examination**

Purpose of the Examination: The Immigration Law 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 Immigration Law. Immigration Law is the practice of law that refers to the rules established by the federal government for determining who is allowed to enter the country, and for how long. The main types are family-based immigration, employment-based immigration, and humanitarian immigration. It also governs the naturalization process for those who desire to become U.S. citizens.

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 Immigration 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 clients, opposing counsel, administrative agencies and the Court
- 1.2 Fee agreements/basis for fees/declining, terminating representation
- 1.3 Prohibited referrals and inducements/Contact with prospective clients
- 1.4 Dual representation/Independent professional judgment
- 1.5 Conflict of Interest
- 1.6 Dealing with paralegals and other non-attorneys

### **Subject Area 2: Immigrant and Non-Immigrant Eligibility**

- 2.1 Work Related Visas
- 2.2 Student and Exchange Visitors
- 2.3 Miscellaneous Non Immigrant Visas
- 2.4 Consular Processing and Change of Status
- 2.5 Employment Based and Labor Certification
- 2.6 Family Based including marriage, children, parents, siblings, widows, VAWA and orphans.
- 2.7 Waivers of inadmissibility and removal
- 2.8 Conditional Permanent Resident status

- 2.9 Priority Dates
- 2.10 Criminal activity
- 2.11 Misrepresentation
- 2.12 Unlawful presence
- 2.13 Other inadmissibility grounds
- 2.14 Marriage fraud (including 204(c))
- 2.15 Adjustment of Status
- 2.16 Violence Against Women Act
- 2.17 Child Status Protection Act
- 2.18 Employer Compliance

### **Subject Area 3: Processing and Procedures**

- 3.1 Consular processing including waivers
- 3.2 Arriving aliens and seeking admission
- 3.3 Affidavits of support and public charge
- 3.4 Reentry permits and abandonment of LPR status
- 3.5 Application to apply for admission after removal
- 3.6 Burden of proof

### **Subject Area 4: Removal and Relief**

- 4.1 Pleading
- 4.2 Service of Notice to Appear and other notices
- 4.3 Pre-trial conference and order
- 4.4 Criminal grounds of removability Other grounds of removability
- 4.5 Mandatory Detention
- 4.6 Voluntary Departure
- 4.7 Cancellation of Removal
- 4.8 Asylum
- 4.9 Withholding and Deferral of Removal
- 4.10 Expedited Removal
- 4.11 Deferred Action and prosecutorial discretion
- 4.12 Reinstatement of removal orders
- 4.13 Temporary Protected Status
- 4.14 Bond eligibility, jurisdiction, custody re-determinations

### **Subject Area 5: Motions and Review**

- 5.1 In absentia hearings and orders
- 5.2 Motions to reopen/reconsideration/remand/terminate in removal proceedings
- 5.3 Other agency actions (Social Security and Driver's License issues)
- 5.4 Administrative Appeals (BIA, AAO,)
- 5.5 Judicial deference to administrative actions and orders (Chevron and Brand X)
- 5.6 Federal Court jurisdiction
- 5.7 Federal District Court actions
- 5.8 Federal Court of Appeals review

**Subject Area 6: Naturalization and Citizenship**

- 6.1 Good Moral Character
- 6.2 Maintenance of residence and physical presence
- 6.3 Nationality and Citizenship
- 6.4 Citizenship at birth, Child Citizenship Act and pre-CCA derivative naturalization
- 6.5 Loss of Citizenship/Expatriation
- 6.6 Denaturalization/Naturalization procedure (including administrative, judicial, and criminal)