

STATE OF MINNESOTA

IN SUPREME COURT

CX-84-1651

In re Adoption of the Plan for
the Minnesota State Board
of Legal Certification

ORDER

WHEREAS, the House of Delegates of the American Bar Association adopted a model plan of specialization for attorneys on August 15, 1979; and

WHEREAS, on June 29, 1984, the General Assembly of the Minnesota State Bar Association adopted a resolution directing the Association to petition this court for approval of a program for certification of lawyers as specialists in areas of the law by creating a Board of Legal Certification; and

WHEREAS, this court held a public hearing on January 4, 1985, regarding the amendment of the Minnesota Rules of Professional Conduct to include Rule 7.4, which provides that a lawyer may not state or imply that the lawyer is a specialist in a field of law unless that lawyer is currently certified as a specialist in that field by a board or other entity which is approved by the State Board of Legal Certification; and

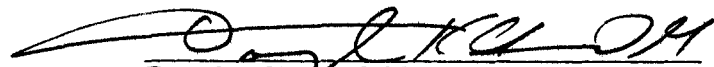
WHEREAS, the Minnesota State Bar Association created the Ad Hoc Committee on Legal Certification Rules, which committee submitted proposed rules for the operation of the State Board of Legal Certification to the Board of Governors of the Minnesota State Bar Association, which proposed rules were later approved as amended by the General Assembly of the Minnesota State Bar Association on June 22, 1985; and

WHEREAS, the Supreme Court has considered the proposed rules on August 12, 1985, and on September 26, 1985, and has made amendments thereto as contained in this Plan,

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Plan for the Minnesota State Board of Legal Certification is hereby adopted.

Dated: October 10, 1985

BY THE COURT:



Douglas K. Amdahl
Chief Justice

APPELLATE COURT
FILED

OCT 10 1985

WAYNE TSCHIRNITZ
CLERK

**PLAN FOR
THE MINNESOTA STATE BOARD
OF LEGAL CERTIFICATION**

RULE 1. PURPOSE

The purpose of the Minnesota State Board of Legal Certification (Board) is to regulate the certification of lawyers as specialists by certifying agencies, so that public access to appropriate legal services may be enhanced.

RULE 2. ESTABLISHMENT OF THE BOARD

2.01. The Board shall consist of 12 members, of whom nine shall be lawyers licensed in this state and three shall be public members, all to be appointed by the supreme court. Three of the lawyer members shall be nominated by the Minnesota State Bar Association. Lawyer members shall be representative of the various fields of legal practice, including general practice.

2.02. One of the lawyer members shall be designated by the supreme court as chairperson of the Board for such term as the court shall determine.

2.03. Of the members first appointed, four shall be appointed for one year, four for two years, and four for three years, one in each instance being a nominee of the Minnesota State Bar Association and one in each instance being a public member. Thereafter, appointments shall be for a three-year term. No member may serve more than two three-year terms.

2.04. Members shall serve without compensation but shall be paid their regular and necessary expenses.

2.05. Meetings of the Board shall be held at regular intervals at such times and places and on such notice as the Board may prescribe.

RULE 3. POWERS AND DUTIES OF THE BOARD

3.01. The Board shall approve and regulate agencies which certify lawyers practicing in this state as specialists. The Board itself will not certify lawyers as specialists.

3.02. Subject to the supervision of the supreme court, the Board has the responsibility for carrying out this Plan and, in that connection, has the following powers and duties:

3.021. To designate those areas of legal practice subject to specialty designation. The Board may make these designations on its own motion or on petition of interested parties and on such criteria as it establishes.

3.022. To approve appropriate agencies as qualified to certify lawyers as specialists in a particular field of law, and to adopt standards which certifying agencies must meet.

3.023. To adopt standards which must be met by certifying agencies in certifying lawyers as specialists.

3.024. To review and evaluate the programs of certifying agencies to assure compliance with this specialization program.

3.025. To deny, suspend, or revoke the approval of a certifying agency upon the Board's determination that the agency has failed to comply with the standards established by this Plan and the rules and standards of the Board.

3.026. To keep appropriate records of those lawyers certified as specialists by agencies approved under this Plan and to report to the Lawyers Professional Responsibility Board any lawyers who may violate the provisions of this Plan.

3.027. To cooperate with other organizations, boards, and agencies engaged in the field of lawyer specialization.

3.028. To enlist the assistance of advisory committees to advise the Board.

3.029. To adopt rules, regulations, policies, and standards reasonably needed to implement this Plan and which are not inconsistent with any of the provisions of this Plan.

RULE 4. DIRECTOR

4.01. The supreme court may appoint a Director of the Board, who shall serve for a term of two years and who shall be paid a salary as the court determines. The Director may be reappointed for successive terms. The Board may make recommendations to the court concerning the appointment, remuneration, and termination of the Director. The court may, however, remove the Director prior to the expiration of any term with or without cause.

4.02. The Director shall be responsible and accountable to the Board and through the Board to the supreme court for the proper administration of this program, and shall perform the duties assigned by the Board.

4.03. The Director may employ staff personnel if authorized to do so by the Board and the supreme court at such compensation as the court may determine.

RULE 5. STANDARDS FOR APPROVAL OF CERTIFYING AGENCIES

5.01. The persons in a certifying agency shall include lawyers who, in the judgment of the Board, are experts in the area of the law covered by the specialty and who each have extensive practice or involvement in the specialty area.

5.02. A certifying agency's standards for certification of specialists must include, as a minimum, the standards required for certification set out in this Plan and in the rules, regulations, and standards adopted by the Board from time to time. Such

standards shall not unlawfully discriminate against any lawyer properly qualified for certification as a specialist, but shall provide a reasonable basis for the determination that the lawyer possesses special competence in a particular field of law, as demonstrated by the following means:

5.021. Substantial involvement in the specialty area during the three-year period immediately preceding application to the certifying agency. "Substantial involvement" is measured by the amount of time spent practicing in the specialty area: A minimum of 25% of the practice of the lawyer must be spent in the specialty area.

5.022. Peer recommendations from attorneys or judges who are familiar with the competence of the lawyer, none of whom are related to, or engaged in legal practice with, the lawyer.

5.023. Objective evaluation of the lawyer's knowledge of the substantive and procedural law in the specialty area, to be determined by written and/or oral examination. The examination shall include a part devoted to professional responsibility and ethics as it relates to the particular specialty.

5.03. The certifying agency shall be responsible for making appropriate investigations of peer recommendations and for the obtaining of any other data that may be required to assure the lawyer is in compliance with the legal certification program.

5.04. The certifying agency shall register all lawyers whom it certifies as specialists pursuant to the Plan and shall report to the Board those lawyers who are certified, maintaining, however, the confidentiality of information on applicants as required by law.

5.05. Each certifying agency shall annually submit to the Board a report of its activities during the previous year, including a demonstration of the measures employed to ensure compliance with the provisions of this rule.

5.06. The certifying agency shall cooperate at all times with the Board and perform such other duties as may be required by the Board so that the Plan is properly administered.

RULE 6. MINIMUM STANDARDS FOR RECOGNITION OF SPECIALISTS

6.01. For a lawyer to be recognized as a certified specialist in this state, the lawyer must be duly licensed in active status and in good standing throughout the period for which specialty designation is granted and comply with the other requirements of this section.

6.02. The lawyer must be certified by an agency approved by the Board.

6.03. The lawyer must complete, every three years, a minimum of 20 hours of continuing legal education course work in the area of the lawyer's specialty. These hours shall constitute a part of the 45-hour C.L.E. requirement. Proof of completion of the required 20 hours shall be submitted to the Board at the end of the lawyer's three-year C.L.E. cycle.

RULE 7. PRIVILEGES CONFERRED AND LIMITATIONS IMPOSED

7.01. A lawyer who is certified as a specialist under this program may communicate the fact that the lawyer is certified by the particular certifying agency as a specialist in the area of the law involved. The lawyer shall not represent, either expressly or impliedly, that his or her specialty status is recognized by the Minnesota Supreme Court or the Board or by any entity other than the certifying agency.

7.02. Nothing in this Plan shall in any way limit the right of a recognized specialist to practice in all fields of law. Any lawyer shall have the right to practice in all fields of law, even though recognized as a specialist in a particular field of law.

7.03. No lawyer shall be required to be recognized as a specialist in order to practice in the field of law covered by that specialty. Any lawyer shall have the right to practice in any field of law, even though he or she is not recognized as a specialist in that field. Participation in this Plan shall be on a voluntary basis.

7.04. A lawyer may be recognized as a specialist in more than one field of law. The limitation on the number of specialties in which a lawyer may be recognized as a specialist shall be determined only by such practical limits as are imposed by the requirement of substantial involvement and such other standards as may be established by the Board in Rule 6 as a prerequisite to recognition as a specialist.

RULE 8. MINIMUM STANDARDS FOR CONTINUED RECOGNITION OF SPECIALISTS

8.01. The period of recognition as a specialist shall be five years. During this period the Board or appropriate certifying agency may require evidence from the specialist of his or her continued qualification for recognition as a specialist.

8.02. Application for and approval of continued recognition as a specialist shall be required prior to the end of each five-year period. To qualify for continued recognition as a specialist, a lawyer applicant must pay the required fee and meet the requirements for certification renewal established by Board rule.

RULE 9. FEES

9.01. To defray expenses of the State Board of Legal Certification, the Board may establish and collect reasonable fees from the certifying agencies and from the lawyers certified as specialists under this Plan.