

## **27 NCAC 01D .2004      STANDARDS FOR APPROVAL OF CERTIFYING ORGANIZATIONS**

The following standards are to be considered by the board in evaluating an application for approval of a certifying organization.

- (1) Uniform Applicability of Certification Standards - In general, the standards for certification in any specialty field must be understandable and easily applied to individual applicants. Certification by the organization must be available to any attorney who meets the standards, and the organization must not certify an attorney who has not demonstrably met each standard. The organization must agree to promptly inform the board of any material changes in its standards, definitions of specialty fields or certifying procedures and must further agree to respond promptly to any reasonable requests for information from the board.
- (2) Definitions of Specialty Fields - Every field of law in which certification is offered must be susceptible of meaningful definition and be an area in which North Carolina lawyers regularly practice.
- (3) Decision Making by Recognized Experts - The persons in a certifying organization making decisions regarding applicants shall include lawyers who, in the judgment of the board, are experts in the subject areas of practice and who each have extensive practice or involvement in those areas of practice.
- (4) Certification Standards - A certifying organization's standards for certification of specialists must include, as a minimum, the standards required for certification set out in the North Carolina Plan of Legal Specialization (Section .1700 of this subchapter) 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 a determination that an applicant possesses special competence in a particular field of law, as demonstrated by the following means:
  - (a) Substantial Involvement - Substantial involvement in the area of specialty during the five-year period immediately preceding application to the certifying agency. Substantial involvement is generally measured by the amount of time spent practicing in the area of specialty. In no event may the time spent in practicing the specialty be less than 25 percent of the total practice of a lawyer engaged in a normal full-time practice;
  - (b) Peer Review - Peer recommendations from attorneys or judges who are familiar with the competence of the applicant in the area of specialty, none of whom are related to, engaged in legal practice with, or involved in continuing commercial relationships with the lawyer;
  - (c) Written Examination - Objective evaluation of the applicant's knowledge of the substantive and procedural law in the area of specialty as determined by written examination;
  - (d) Continuing Legal Education - At least 36 hours of approved continuing legal education credit in the area of specialty during the three years immediately preceding application to the certifying organization.
- (5) Applications and Procedures - Application forms used by the certifying organization must be submitted to the board for review to determine that the requirements specified above are being met by applicants. Additionally, the certifying organization must submit a description of the process it uses to review applications.
- (6) Requirements for Recertification - The standards used by a certifying organization must provide for certification for a limited period of time, which shall not exceed five years, after which time persons who have been certified must apply for recertification. Requirements for recertification must include continued substantial involvement in the area of specialty, continuing legal education, and appropriate peer review.
- (7) Revocation of Certification - The standards used by a certifying organization shall include a procedure for revocation of certification. A certification shall be revoked upon a finding that the certificate holder has been disbarred or suspended from the practice of law. The standards shall require a certificate holder to report his or her disbarment or suspension from the practice of law to the certifying organization.
- (8) Waiver - The standards used by a certifying organization may provide for waiver of the peer review and written examination requirements set forth in Rules .2004(4)(b) and (c) above for an applicant who was responsible for formulating and grading the organization's initial written examination in his or her area of specialty.

*History Note:* Authority G.S. 84-23;  
Readopted Eff. December 8, 1994.