

IN THE SUPREME COURT OF TEXAS

9191

Misc. Docket No. 04 - _____

**ORDER OF THE COURT APPROVING AMENDMENTS TO THE
STANDARDS FOR ATTORNEY CERTIFICATION OF THE
TEXAS BOARD OF LEGAL SPECIALIZATION**

After conducting a Public Hearing on proposed changes to the Attorney Standards for Certification, the Texas Board of Legal Specialization approved the following amendments on December 10, 2003 to include Workers' Compensation Law, and it appears to this Court that these Standards will advance the administration of justice.

IT IS THEREFORE ORDERED that the Standards for Attorney Certification be adopted to read:

**PART II -- SPECIFIC AREA REQUIREMENTS FOR WORKERS' COMPENSATION
LAW**

SECTION I -- SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Workers' Compensation Law is the practice of law dealing with the rights and duties of employees, employers, health care providers, and insurance carriers arising out of the Texas Workers' Compensation Act. For purposes of this certification, it also includes matters involving workers' compensation claim disputes adjudicated under the Administrative Procedure Act. This includes, without limitation, the representation of clients before the Texas Workers' Compensation Commission, the State Office of Administrative Hearings, and in suits for judicial review of the decisions of each of these agencies. Every workers' compensation law claim includes a potential right to receive income and medical benefits and each litigated case has the potential to be appealed to a civil court. For these reasons, each attorney certified in Workers' Compensation Law must understand income benefit payments and medical benefit payments, as well as the administrative obligations of claimants, employers, and insurance carriers. The practice of Workers' Compensation Law requires practitioners to demonstrate a significant knowledge of the injury process, and its effect on the human body. For the specific area requirements please refer to the sections below.

B. Substantial Involvement for Certification

Certification applicants must show substantial involvement and special competence in Texas workers' compensation practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their time practicing Texas Workers' Compensation Law as defined in Section I,A of the Specific Area Requirements for Workers' Compensation Law.
2. Certification applicants must show their substantial involvement and special competence in Texas Workers' Compensation Law during the three years immediately preceding application by providing such information as may be required by the TBLS.
 - a. Certification applicants must show that they have had primary responsibility (as a party representative or agency representative) in 3 of the following 5 categories within their entire practice:
 - (1) Lead Counsel in 30 Benefit Review Conferences that were concluded by agreement or by the report of a Benefit Review Officer;
 - (2) Lead Counsel in 18 Benefit Contested Case Hearings litigated to a final contested decision before the Texas Workers' Compensation Commission;
 - (3) Lead Counsel in 18 Contested Case Hearings litigated to a final contested decision before the State Office of Administrative Hearings;
 - (4) Lead Counsel on behalf of the appellant or the respondent in 12 appeals to the Appeals Panel of the Texas Workers' Compensation Commission following a decision of a Benefit Contested Case Hearing Officer; or
 - (5) Lead Counsel in 6 suits for judicial review litigated to a final contested decision following a decision of the Appeals Panel for the Texas Workers' Compensation Commission or the Industrial Accident Board.
 - b. Hearings listed in II(B)(2)(a)(1, 2 and 4) must arise from independent administrative claims disputes, i.e. a Benefit Review Conference, Benefit Contested Case Hearing or Appeals Panel appeal may not be listed if a hearing involving that dispute was otherwise listed on the application.

C. Substantial Involvement for Recertification

1. Except as provided for in I,C,2 below, recertification applicants must show substantial involvement and special competence in Texas Workers' Compensation law by providing such information as may be required by the TBLS, including confirmation that during each year of the five years of certification they have devoted a minimum of 30% of their time practicing Texas Workers' Compensation law as defined in Section I,A of the Specific Area Requirements for Workers' Compensation Law.

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2. A certified attorney whose certification was extended by reason of service as a full-time judge (as detailed in Part I, Section VI,C,1,b) must satisfy all requirements for recertification except that, for initial recertification only, the substantial involvement requirement shall be waived.

SECTION II -- REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of Workers' Compensation Law.

- A. One Texas attorney who practices in the applicant's geographic area and is familiar with applicant's Workers' Compensation Law practice.
- B. Two Texas attorneys with whom or against whom applicant has tried a Workers' Compensation Law matter.
- C. Two of the following (present or former) before whom applicant has appeared as an advocate in a Texas Workers' Compensation Law matter: judges of any court of record in Texas, court of appeals in Texas, or the Supreme Court of Texas; Benefit Contested Case Hearing Officers or Appeals Panel Judges with the Texas Workers' Compensation Commission; or hearing examiners with the State Office of Administrative Hearings.

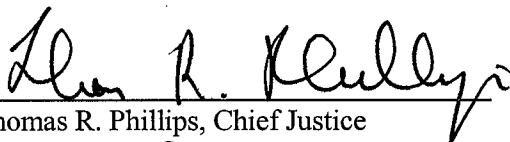
IT IS THEREFORE ORDERED that the Texas Plan for Recognition and Regulation of the Law be amended to read:

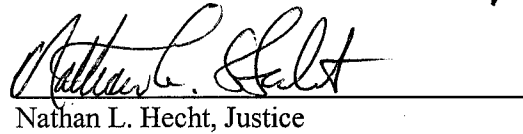
SECTION XII RETAINED JURISDICTION OF SUPREME COURT


The jurisdiction of the TBLS shall be limited to ~~sixteen~~ seventeen areas of law: Criminal Law; Labor and Employment Law; Family Law; Estate Planning and Probate Law; Civil Trial Law; Personal Injury Trial Law; Immigration and Nationality Law; Real Estate Law; Tax Law; Bankruptcy Law; Oil, Gas and Mineral Law; Civil Appellate Law; Administrative Law; Consumer and Commercial Law; Juvenile Law; ~~and~~ Health Law; and Workers' Compensation Law and to the development and operation of the program in the recognition and regulation of specialization in the law, provided, however, that the number and type of areas included in the program and the jurisdiction of the TBLS may be enlarged, altered, or terminated from time to time by the Supreme Court of Texas.

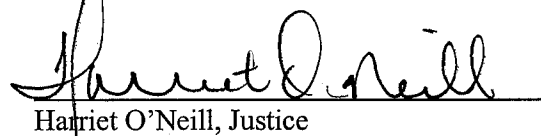
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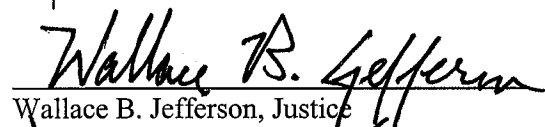
Signed this 4 day of August, 2004.


Thomas R. Phillips, Chief Justice

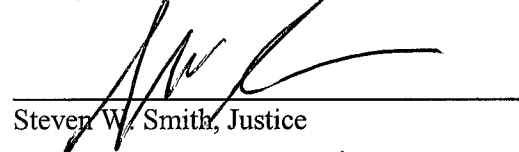

Nathan L. Hecht, Justice


Priscilla R. Owen, Justice

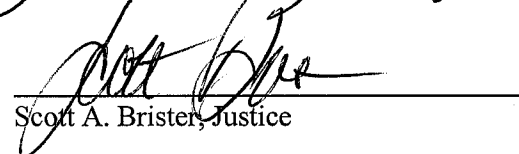

Harriet O'Neill, Justice


Wallace B. Jefferson, Justice


Michael Schneider, Justice


Steven W. Smith, Justice


J. Dale Wainwright, Justice


Scott A. Brister, Justice

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