

PERSONAL INJURY SPECIALIZATION Certification Process, Rules and Qualifications

Section IV. Requirements for Attorney Certification

In order to qualify for certification in Personal Injury, an Applicant must demonstrate that they meet the requirements for specialization prior to the date the application was submitted, and that they meet the following minimum standards:

- A.** Applicant shall have been admitted to the active practice of law for a minimum of seven (7) consecutive years.
- B.** Applicant must have practiced law within the state of Nevada for a minimum of three (3) years immediately preceding the application.
- C.** Applicant must be an active member in good standing with the State Bar of Nevada, not have ever had any trust claim paid nor any recovery fund paid by the Bar and not have had any discipline more severe than a private reprimand.
- D.** Applicant shall have been engaged in legal service as defined in Section I as follows:
 - 1. If Applicant resides and practices in Clark County, Washoe County or Carson City, Applicant shall have been engaged in Personal Injury law to the equivalent of 33.3% (being at least 480 hours each year) of a full time practice.
 - 2. If Applicant resides and practices in any place in Nevada other than Clark County, Washoe County, or Carson City, Applicant shall have been engaged in Personal Injury law to the equivalent of at least 25% (being at least 360 hours each year) of a full time practice.
- E.** Applicant must make a satisfactory showing of substantial involvement in the Personal Injury field during five (5) years immediately preceding the application. Substantial involvement may be measured by several standards such as the percentage of time devoted to work in the Personal Injury specialty area, the number or type of matters handled within a certain period of time, or any combination of these or other appropriate factors. If any of the Applicant's substantial involvement in Personal Injury law occurred outside the state of Nevada, then such Applicant has the burden to demonstrate to the satisfaction of the Board of Personal Injury Legal Specialization that he or she had such substantial

involvement in Personal Injury and for five (5) years immediately preceding application.

- F.** Applicants must verify that they maintain time records which demonstrate compliance with the required time engaged in Personal Injury law, such records required pursuant to Rule 7.4 of the Nevada Rules of Professional Conduct, and that such records shall be available to the State Bar of Nevada and the Board of Continuing Legal Education on request.
- G.** Applicant must demonstrate that he or she has at all times a minimum of (\$500,000), but is encouraged to have a least (\$1,000,000), in professional liability insurance from a Nevada Insurance Division approved and/or authorized insurer. The Applicant shall provide proof of liability coverage by providing the declaration page and policy with his or her application.
- H.** Applicant must demonstrate honesty and integrity, professionalism as defined by the Nevada Rules of Professional Conduct and a high degree of competence in the practice of the field of Personal Injury and law. The required degree of competence is substantially higher than that possessed by a general practitioner who regularly handles Personal Injury cases. For purposes hereof, a “high degree of competence” shall meet the following standards:
 - 1. The Applicant demonstrate a substantially complete knowledge of substantive law and rules of practice, procedure, evidence and ethics pertaining to Personal Injury.
 - 2. The Applicant demonstrate a high degree of skill, thoroughness, preparation, effectiveness, professionalism, and judgment in Personal Injury law.
 - 3. The Applicant possess a substantially complete knowledge of, and can demonstrate a high degree of skill in, the use of alternative dispute resolution as it applies to Personal Injury law.
 - 4. The Applicant satisfactorily complete an examination in the topics specified in paragraphs (1), (2) and (3) above.
 - 5. Legal competence is measured by the extent to which an attorney: (1) is specifically

knowledgeable about Personal Injury law, (2) performs the techniques of such Personal Injury and practice with skill, (3) manages such Personal Injury and practice efficiently, (4) identifies issues beyond their competence relevant to the matter undertaken, bringing these to the client's attention, and (5) properly prepares and carries through on legal matters concerning Personal Injury.

- I. Applicant must pay all application, investigation and testing fees as specified in these Rules and Regulations.
- J. Applicants must agree in writing that they will file no civil action predicated on information communicated to the Board of Personal Injury Legal Specialization relating to the Applicant's qualifications for specialization certification including, but not limited to, any legal action that may be instituted or maintained against any evaluator, staff or witness who communicates with the Board of Personal Injury Legal Specialization.
- K. Applicants must agree in writing that if they obtain certification as a Personal Injury specialist that they will bring no civil action predicated on information communicated to the Board of Personal Injury Legal Specialization relating to such person's qualifications to maintain his or her specialization certification including but not limited to any legal action that may be instituted or maintained against any evaluator, staff or witness who communicates with the Board of Personal Injury Legal Specialization.
- L. Applicants must submit to the PI Board concerning their competency, qualifications and ethics demonstrating that he or she should be certified as a specialist in Personal Injury. The PI Board may require an in person interview with a member of the Board of Personal Injury Legal Specialization in which the Applicant may be examined and questioned concerning any matters required for certification in Personal Injury. Before an Applicant may be certified, he or she must obtain approval as an appropriate specialist candidate by the PI Board.
- M. Applicants must have handled a minimum of eight contested civil trials, each involving substantial legal or factual issues, in a court of general jurisdiction. Of the eight trials:
 - Four must be jury trials lasting at least two full days (14 hours of actual court room time).
 - Four must have been as lead counsel.
 - Four must have been submitted to the trier of fact.

- No more than two trials under the Nevada Short Trial Program shall count towards the eight trial requirement
- If an Applicant is unable to submit evidence of having had eight trials, the Board may consider other matters as substitutes for trial. The Board may consider the following as a substitute for one of the eight trials required:
- Any adversarial proceeding that is binding on the parties.
- Completion of, or participation in, a trial advocacy program approved by the State Bar of Nevada, either through teaching or attendance, that includes as part of the curriculum participation by the Applicant in simulated courtroom proceedings.

The Board of Governors may recommend, and the Board of Personal Injury Legal Specialization may establish, additional or higher standards.

Section V. Procedure for Initial Attorney Certification and Attorney Recertification

- A. Applications.** Applications shall be submitted on forms provided electronically by the Board of Personal Injury Legal Specialization. The content of the applications shall conform to the standards established for certification of lawyers in the field of Personal Injury and shall be substantial as set forth in Exhibit A. Applications are to be submitted to the Board of Personal Injury Legal Specialization c/o the Nevada Justice Association and must be accompanied by all applicable fees, specifically the application fee (\$200.00) and testing fee (\$200.00) payable to the Nevada Justice Association.

For purposes of determining when an application or supplemental information is timely, the application or supplemental information shall be deemed submitted when actually received by Nevada Justice Association.

- B. Application Dates.** Applications are only accepted twice a year either, on or before the third Monday in February or on or before the third Monday in September.
- C. Withdrawal of Applications.** If an application is withdrawn, the application and testing fees shall **not** be refunded.
- D. Expiration of Applications.** Applications not completed, including examination, within one year of the filing date, unless the application is pending recommendation or decision by the Board of Personal Injury Legal Specialization, will expire. An application can be denied at any time within the one year

application period for failure to successfully meet the requirements.

E. Late Applications. If any application is not complete to the satisfaction of the Board of Personal Injury Legal Specialization, an application may be completed after the deadline provided the Applicant pays required late fees of (\$100.00) and the application is completed to the satisfaction of the Board of Personal Injury Legal Specialization within twenty (20) days before the testing date. If supplemental materials and information are provided after the deadline, and is not accompanied by the required late fee of(\$100.00), the application will not be accepted for that application cycle.

F. Confidentiality

1. **Applications.** The contents of the application except, for those contents required by the Nevada Rules of Professional Conduct and which are required to be provided upon request to the State Bar of Nevada and statements of references, shall be confidential and privileged from disclosure, unless the Board of Personal Injury Legal Specialization, the Board of Governors of the State Bar of Nevada or the Board of Governors of the Nevada Justice Association determines that disclosure of certain materials is necessary to permit the Applicant to appeal from an adverse decision with respect to his or her application for certification or recertification.
2. **Investigations.** Investigations, hearings, evidence, findings, and recommendations shall be confidential and privileged from disclosure unless the Board of Legal Specialization, the Board of Governors of the State Bar of Nevada or the Board of Governors of the Nevada Justice Association determines that disclosure of certain materials is necessary to permit the Applicant to appeal from an adverse decision with respect to his or her application for certification or recertification.
3. **Scope.** The provisions on confidentiality and non-disclosure contained in this section shall also extend to investigations and hearings before the Board of Personal Injury Legal Specialization or its designees. When confidential information is to be discussed in a session, then that session is closed.
4. **Waiver of all Rights to Pursue a Civil Suit.** Every Applicant and every person certified as a Personal Injury Specialist must agree in writing that no civil action predicated on information communicated to the Board of Personal Injury Legal

Specialization relating to Applicant's qualifications for specialization certification may be instituted or maintained against the Board of Personal Injury Legal Specialization, Members of the Board of Personal Injury Legal Specialization, and others involved in the specialization certification including, but not limited to, any evaluator, staff or witness who communicates with the Board of Personal Injury Legal Specialization.

G. Initial Review. Applications shall be examined promptly upon receipt by Board of Personal Injury Legal Specialization staff to determine whether the application is complete. The Applicant shall be notified, and if the application is provided before the deadline date, and shall be given either 20 days or the amount of time remaining until the deadline date to supplement any missing information. If the missing information is provided after the deadline, then the application shall be considered late and the Applicant must comply with Section V(E).

H. Review by Board of Personal Injury Legal Specialization. A completed application shall be reviewed in order to ascertain eligibility for certification. The Board of Personal Injury Legal Specialization may also request a waiver of confidentiality from the Applicant in order to review an investigative charge pending before the State Bar of Nevada. An Applicant may also be required to submit information in addition to that called for on the application form including the following:

1. Specific information indicating the percentage of time devoted by the Applicant to the practice of Personal Injury law that complies with the requirements of Rule 7.4(g) of the of the Nevada Rules of Professional Conduct;
2. The nature, number, and dates of specific matters handled, and the nature of the Applicant's participation;
3. The nature, number of, and examples of documents filed or prepared for use in Personal Injury matters;
4. Specific information concerning a dismissed disciplinary charge, or a charge resulting in any form of disciplinary sanction, if necessary;
5. Information concerning a charge pending before the State Bar of Nevada, if necessary; and
6. Such other non-privileged information relating to Applicant's law

practice as the Board of Personal Injury Legal Specialization may require.

In the event the Board of Personal Injury Legal Specialization determines that the Applicant has not provided sufficient information to make a determination, the Applicant shall be given written notice of the additional or supplemental information required. The notice shall specifically identify the scope and nature of the information required. The notice shall advise the Applicant how many days from the date the notice was mailed to supplement the application. If the supplemental information is not received within the prescribed time, then the application will, at the option of the PI Board, either be not accepted or deferred until the next application period.

I. Investigation Fee. In the event that adverse allegations require further investigation by the Board of Personal Injury Legal Specialization, the Applicant shall be assessed a reasonable investigation fee. In the event the Applicant is relying upon practice outside the state of Nevada for demonstrating practice in Personal Injury law, the Applicant may be assessed a reasonable investigation fee.

J. Peer Review

1. With each application, the Applicant will submit the names of at least five (5) Nevada attorneys, other professionals who practice in the field, and/or judges before whom the Applicant has appeared, familiar with the Applicant's practice, and not including current partners or associates. (Other professionals may only be included in the list of references where approval has been authorized in the Standards for Certification in Personal Injury). The PI Board will select at least five (5) additional Nevada lawyers, judges, or qualified professionals as references from cases/matters/projects submitted by the Applicant. The references will be requested to provide written comments concerning the Applicant, not only on such specific topics as knowledge, skill, thoroughness, preparation, effectiveness and judgment, but also concerning the Applicant's ethics and professionalism.

References who provide negative and/or adverse comments concerning an Applicant should be requested to provide the factual basis and any substantiating information for them. Reference names supplied by the Applicant shall not include members of the Board of Personal Injury Legal Specialization. Documentation of all matters and comments considered by the PI Board shall be contained in the Applicant's file.

Applicant may be asked to supplement the record with additional names for Peer Review if necessary.

2. The Board of Personal Injury Legal Specialization may investigate, research, substantiate, and corroborate any information provided in Peer Review letters which may help them make a determination.
3. If negative and/or adverse information concerning an Applicant is provided by a reference or any other source, the basis and the identity of the source of the information shall be retained in confidence and not be disclosed, an investigation will be conducted to attempt to substantiate or corroborate the accuracy of information. If the information is corroborated or substantiated, then it may be considered by the Board of Personal Injury Legal Specialization. If the investigation is unable to substantiate or corroborate the adverse information provided by the source requesting confidentiality, then the information may not be considered by the Board of Personal Injury Legal Specialization.
4. An applicant, at a time and place set by the PI Board, shall appear in person at a Peer Review where he or she will be inquired about their Personal Injury and legal experience, inquired about the law of Personal Injury and inquired about anything required for certification to be a Personal Injury Specialist.

K. Exam

The exam must be taken by initial Applicants only.

1. Applicant must pay all applicable exam fees.
2. Written examinations will be offered at least twice each year at a date, time, and location determined by the Board of Personal Injury Specialization.
3. If the Applicant does not pass the exam, an intent to deny notice will be mailed. The Applicant may elect to retake the exam and may request to appear before the PI Board to discuss the results of the exam, or may take no action.
 - a. If the Applicant elects to retake the exam, he/she must include the application fee and supplement his/her original application with information regarding his/her continued substantial involvement in Personal Injury and

law. The PI Board may elect to conduct an additional peer review. This option is limited to one time only.

- b. If the Applicant requests to appear before the PI Board, the Applicant will be allowed to review the Applicant's exam questions and answers. Model answers will not be provided.
- c. If the Applicant takes no action, the PI Board will deny the applicant.

If the Board of Personal Injury Legal Specialization determines at any time to use an outside exam testing service, the appeal process utilized by the outside testing agency will apply.

L. Determination

- 1. The PI Board and its designee will review the complete record to determine whether the Applicant has established to its satisfaction that the Applicant meets the requirements for certification as stated in this Section V. If the Applicant has successfully met the burden, the PI Board will approve the Applicant as a Personal Injury Legal Specialist. If the Applicant has not successfully met the burden, the PI Board will issue an intent to deny.

M. Intent to Deny

- 1. **Notice.** In the event that the PI Board makes a determination and decides to deny the application for certification, it shall notify the Applicant, in writing, of its recommendation. Subject to the confidentiality provisions in section V(F) above, the Notice of Intent to Deny shall set forth the reasons, and the factual basis for, the decision.
- 2. **Request to Appear Before.** The Applicant shall have twenty (20) days after the date of receipt of the Notice of Intent to Deny to file with the PI Board a Request to Appear before the PI Board.

A Request to Appear may be filed even if the Applicant does not wish to dispute the recommendation. If the Applicant wishes to dispute the recommendation, the request must set forth the reasons for disputing the recommendation and may contain additional supporting documentation. The Applicant must electronically file the Request to Appear and all supporting documentation with the Personal Injury Specialization Administrator at the offices of the Nevada

Justice Association. A Request to Appear is a prerequisite to appearing for oral argument before the Board of Personal Injury Legal Specialization. Upon receipt of a Request to Appear, the PI Board shall issue a Notice of Appearance as soon as practicable. The Notice of Appearance shall set forth the date and time when the Applicant may appear before the PI Board for a maximum of thirty (30) minutes, subject to enlargement for good cause, at the discretion of the Chair, Vice Chair, or designee.

3. **Consent.** Failure of the Applicant to file a Request to Appear shall constitute consent to the recommendation.

N. Board of Personal Injury Legal Specialization Oral Argument

1. At the time of the appearance hearing, oral argument is permitted. The Applicant shall have a maximum of 30 minutes to make his or her entire presentation to the Board of Personal Injury Legal Specialization.
2. As soon as practicable after oral argument, the Board of Personal Injury Legal Specialization shall notify the Applicant in writing of its decision, including the reasons for the decision, to grant, deny or remand the application.
3. The decision of the PI Board is final.
4. There are no appeal rights to the State Bar of Nevada Board of Governors or the Nevada Justice Association Board of Governors.
5. The applicant is not prevented from re-applying.