RESOLVED, That the American Bar Association reaccredits for an additional five-year term the following designated specialty certification programs for lawyers:

Social Security Disability Law program of the National Board of Trial Advocacy of Wrentham, Massachusetts;

Business Bankruptcy Law program of the American Board of Certification of Cedar Rapids, Iowa;

Consumer Bankruptcy Law program of the American Board of Certification of Cedar Rapids, Iowa; and

Creditors' Rights Law program of the American Board of Certification of Cedar Rapids, Iowa.
REPORT

Background and Synopsis of the Resolutions

At the 1993 Midyear Meeting, the House adopted Standards for Accreditation of Specialty Certification Programs For Lawyers and delegated to the Standing Committee on Specialization the task of evaluating programs sponsored by organizations that apply to the ABA for accreditation, and making recommendations to the House of Delegates about the periodic renewal of accreditation.

The adoption of the Standards in February 1993 (93MY105), followed an August 1992 (92AM128), House resolution requesting that the Association develop standards for accrediting private organizations that certify lawyers as specialists, and that the Association establish and maintain a mechanism to accredit organizations that meet those standards. The 1992 resolution affirmed that a national accreditation mechanism administered by the Association according to uniform standards would be an efficient and effective means of dealing with a multiplicity of organizations that are offering, or planning to offer, certification programs. At the 1999 Annual Meeting (99AM107A), the House extended the initial period of accreditation approved in the Standards from three to five years. In addition, the House lengthened the period of reaccreditation from every third year to every fifth year.

The Standing Committee on Specialization currently has pending applications for reaccreditation under the Standards from four programs: (1) the Social Security Disability Law program of the National Board of Trial Advocacy (NBTA) and the (2) Business Bankruptcy Law, (3) Consumer Bankruptcy Law, and (4) Creditors’ Rights Law programs of the American Board of Certification (ABC). In evaluating any programs for reaccreditation, the Standing Committee follows the procedures it adopted on March 2, 1993, as amended thereafter from time to time.

In order to ensure that each of the programs continues to comply with ABA Standards, the Standing Committee requires that the following documents accompany applications for reaccreditation:

i. Current versions of the applicant's governing documents, including articles of incorporation, bylaws, and resolutions of the governing bodies of the applicant or any parent organization, which resolutions relate to the standards, procedures, guidelines or practices of the applicant's certification programs;

ii. Biographical summaries of members of the governing board, senior staff and members of advisory panels, certification committees, examination boards and like entities involved with the certification process, including specific information concerning the degree of involvement in the specialty area of persons who review and pass upon applications for certification;
iii. All materials furnished to lawyers seeking certification, including application forms, booklets or pamphlets describing the certification program, peer reference forms, rules and procedures, evaluation guides and any other information furnished to the public or the media regarding the certification process;

iv. A copy of the last examination given to applicants for specialty certification, along with a description of how the exam was developed, conducted and reviewed; a description of the grading standards; and the names of persons responsible for determining pass/fail standards. The examinations were made available, on a confidential basis, for review by a person appointed by the Standing Committee an examination reviewer.

Furthermore, as to the application of the NBTA program, in addition to passage of the examinations it administers itself, the NBTA accepts applicants’ passage of examinations administered by the New Jersey Supreme Court’s Board on Attorney Certification, the Texas Board of Legal Specialty Certification, and the Florida State Bar’s Board of Legal Specialization and Education. Recent examinations from all of these programs were made available, on a confidential basis, for review by examination reviewers appointed by the Standing Committee to review the NBTA program.

After reviewing the application for the Social Security Disability law program, the Standing Committee requested additional materials from NBTA regarding Standards for Recertification (4.08), as well as the procedure for the revocation of certification process (4.09). The Committee reviewed the requested materials at its meeting on February 15, 2020 and unanimously voted to recommend that the ABA House of Delegates approve reaccreditation for the program for an additional five-year term with the friendly amendment that NBTA amend the revocation of certification process to include a description of the process by which a certification is revoked that would then lead to an appeal and the role of the lawyer in that process. Additionally, NBTA revised its Social Security Disability Law exam to meet the approval of the exam reviewer.

The Standing Committee is currently reviewing the application and materials for the three ABC programs. The Standing Committee anticipates approving the applications for reaccreditation prior to August 2020. The Standing Committee thus recommends that the ABA approve the three ABC programs, pending completion of the application and exam reviews and approval by the reviewers.

The Accreditation Review Panels were appointed by the Standing Committee for the Social Security Disability Law program of the National Board of Trial Advocacy and the Business Bankruptcy Law, Consumer Bankruptcy Law, and Creditors’ Rights Law programs of the American Board of Certification (ABC), and consisted of a chair and one or two other members, as well as the appointed examination reviewer. Applicants were provided notice, in writing, of the names and affiliations of the members of the Accreditation Review Panel and the examination reviewer. The reaccreditation
procedures provide certifying organizations the opportunity to object for cause to the appointment of examination reviewer.

The Accreditation Review Panel members and examination reviewers for these applications were:

1. **Applicant Organization:** National Board of Trial Advocacy
   - **Specialty Area:** Social Security Disability Law

   The NBTA was founded in 1977 to provide board certification for attorneys. It is dedicated to bettering the quality of trial advocacy in our nation’s courtrooms and helping consumers find experienced and highly qualified trial lawyers. The NBTA was originally housed, and fully supported by the Association of Trial Lawyers of American (now American Association of Justice) until 1987 when it became an independent non-profit corporation.

   The NBTA has programs accredited by the American Bar Association to certify lawyers in the specialty areas of civil practice advocacy law, criminal trial advocacy law, family law trial advocacy, social security disability law, civil trial law, and truck accident law.

**Accreditation Review Panel**

**Shannon Hartsfield.** Ms. Hartsfield is partner in the Tallahassee office of Holland & Knight. She is board certified in Health Law by The Florida Bar Board of Legal Specialization and Education. She is past Chair of the ABA Health Law Section's eHealth, Privacy & Security Interest Group, and is a member of the Standing Committee on Specialization.

**Steven Rubin.** Mr. Rubin is a solo practitioner who specializes in real estate transactions, real estate related litigation, and condominium and planned development law, and concentrates in other civil matters relating to real estate and commercial law. He is a Florida Bar Board Certified Attorney and is a member of the Standing Committee on Specialization.

**Examination Reviewer**

**Timothy Vrana.** Mr. Vrana is a solo practitioner with Timothy J. Vrana LLC in Columbus, Indiana. His practice focuses on Social Security Disability.

In addition to reviewing the applicant’s reaccreditation application materials, members of the Accreditation Review Panel considered the information on the reaccreditation evaluation forms and comments provided by the examination reviewer who evaluated the written examinations on a confidential basis. Based upon that review, the Accreditation Review Panel concluded that the applicant’s program did not comply
with the ABA Standards and requested the ABA extend its accreditation to August 2020 to allow NBTA to provide the requested materials and revise its exam. The Standing Committee requested additional materials from NBTA regarding Standards for Recertification (4.08), as well as the procedure for the revocation of certification process (4.09). The Committee reviewed the requested materials at its meeting on February 15, 2020 and unanimously voted to recommend that the ABA House of Delegates approve reaccreditation for the program for an additional five-year term with the friendly amendment that NBTA amend the revocation of certification process to include a description of the process by which a certification is revoked that would then lead to an appeal and the role of the lawyer in that process. Additionally, NBTA revised its Social Security Disability Law based on the exam reviewers’ comments and the exam now meets the approval of the exam reviewer.

By unanimous vote at its February 15, 2020 business meeting, the Standing Committee on Specialization accepted the Panel’s recommendation to approve the NBTA Social Security Disability Law program reaccreditation application and recommends reaccreditation for a five year term.

2. **Applicant Organization:** American Board of Certification

**Specialty Areas:** Business Bankruptcy Law, Consumer Bankruptcy Law, and Creditors’ Right Law

The American Board of Certification (ABC) is a non-profit organization dedicated to serving the public and improving the quality of the bankruptcy and creditors’ rights law bars. ABC has certified nearly 1,000 attorneys in consumer and business bankruptcy and creditor’s rights law nationwide. ABC certification serves the public by allowing potential clients to make an informed decision in choosing bankruptcy and creditors rights counsel. In addition, ABC certification encourages attorneys to strive toward excellence and recognizes those attorneys who have met the rigorous ABC standards.

ABC has three programs accredited by the American Bar Association to certify lawyers in the specialty area of business bankruptcy, consumer bankruptcy, and creditors’ rights.

*Business Bankruptcy, Consumer Bankruptcy, and Creditors’ Rights Law Accreditation Review Panel*

**Barbara Howard, Chair.** Ms. Howard is the Chair of the Standing Committee on Specialization. She is the principal of Barbara J. Howard Co., LPA in Cincinnati, Ohio and is a Certified Family Relations Law Specialist.

**Samuel Edmunds.** Mr. Edmunds is a member of the Standing Committee on Specialization. He is an experienced trial attorney and partner of Sieben
Edmunds Miller PLLC in Mendota Heights, Minnesota. Mr. Edmunds is a Board Certified Criminal Law Specialist.

Hon. Melissa May. Judge May was appointed to the Indiana Court of Appeals by Governor Frank O’Bannon in April of 1998. Prior to her appointment to the Court, Judge May practiced law for fourteen years in Evansville, Indiana, where she focused on insurance defense and personal injury litigation. From 1999 until December 2004, Judge May was a member of Indiana’s Continuing Legal Education Commission, where she chaired the Specialization Committee. She is currently on an Advisory Panel to the Specialization Committee and is a member of the Standing Committee on Specialization.

Examination Reviewers
Not yet assigned.

While the applications for reaccreditation for all three ABC programs were received in August, and panelists were assigned to the Accreditation Review Panel, the Standing Committee experienced a staffing change and the Accreditation Review Panel did not receive the materials in a timely manner. Therefore, by unanimous vote at an October 31, 2019, business meeting in Chicago, the Standing Committee on Specialization voted to recommend to the House of Delegates that it extend the accreditation period of the ABC Business Bankruptcy, Consumer Bankruptcy and Creditors’ Rights Law programs to the 2020 Annual Meeting. Approval was granted at the February 2020 ABA Midyear Meeting.

The review panel has now received the application, materials, and exams and expects to approve the programs prior to August 2020. The committee therefore recommends approval of all three programs for a five year period, pending the completed review and approval by the review panel.

Respectfully submitted,

Barbara J. Howard
Chair, Standing Committee on Specialization
August 2020
APPENDIX

(Excerpted provisions of the Standards for Accreditation of Specialty Certification Programs For Lawyers)
SECTION 4: REQUIREMENTS FOR ACCREDITATION OF CERTIFYING ORGANIZATIONS

In order to obtain accreditation by the Association for a specialty certification program, an Applicant must demonstrate that the program operates in accordance with the following standards:

4.01 **Purpose of Organization** -- The Applicant shall demonstrate that the organization is dedicated to the identification of lawyers who possess an enhanced level of skill and expertise, and to the development and improvement of the professional competence of lawyers.

4.02 **Organizational Capabilities** -- The Applicant shall demonstrate that it possesses the organizational and financial resources to carry out its certification program on a continuing basis, and that key personnel have by experience, education and professional background the ability to direct and carry out such programs in a manner consistent with these Standards.

4.03 **Decision Makers** -- A majority of the body within an Applicant organization reviewing applications for certification of lawyers as specialists in a particular area of law shall consist of lawyers who have substantial involvement in the specialty area.

4.04 **Uniform Applicability of Certification Requirements and Nondiscrimination**

(A) The Applicant's requirements for certifying lawyers shall not be arbitrary and shall be clearly understood and easily applied. The organization may only certify those lawyers who have demonstrably met each standard. The requirements shall be uniform in all jurisdictions in which the Applicant certifies lawyers, except to the extent state or local law or regulation imposes a higher requirement.

(B) Membership in any organization or completion of educational programs offered by any specific organization shall not be required for certification, except that this paragraph shall not apply to requirements relating to the practice of law which are set out in statutes, rules and regulations promulgated by the government of the United States, by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

(C) Applicants shall not discriminate against any lawyers seeking certification on the basis of race, religion, gender, sexual orientation, disability, or age. This
paragraph does not prohibit an Applicant from imposing reasonable experience requirements on lawyers seeking certification or re-certification.

4.05 Definition and Number of Specialties -- An Applicant shall specifically define the specialty area or areas in which it proposes to certify lawyers as specialists.

(A) Each specialty area in which certification is offered must be an area in which significant numbers of lawyers regularly practice. Specialty areas shall be named and described in terms which are understandable to the potential users of such legal services, and in terms which will not lead to confusion with other specialty areas.

(B) An Applicant may seek accreditation to certify lawyers in more than one specialty area, but in such event, the organization shall be evaluated separately with respect to each specialty program.

(C) An Applicant shall propose to the Standing Committee a specific definition of each specialty area in which it seeks accreditation to certify lawyers as specialists. The Standing Committee shall approve, modify or reject any proposed definition and shall promptly notify the Applicant of its actions.

4.06 Certification Requirements -- An Applicant shall require for certification of lawyers as specialists, as a minimum, the following:

(A) Substantial Involvement -- Substantial involvement in the specialty area throughout the three-year period immediately preceding application to the certifying organization. Substantial involvement is measured by the type and number of cases or matters handled and the amount of time spent practicing in the specialty area, and require that the time spent in practicing the specialty be no less than twenty-five percent (25%) of the total practice of a lawyer engaged in a normal full-time practice.

(B) Peer Review -- A minimum of five references, a majority of which are from attorneys or judges who are knowledgeable regarding the practice area and are familiar with the competence of the lawyer, and none of which are from persons related to or engaged in legal practice with the lawyer.

(1) Type of References -- The certification requirements shall allow lawyers seeking certification to list persons to whom reference forms could be sent, but shall also provide that the Applicant organization send out all reference forms. In addition, the organization may seek and consider reference forms from persons of the organization's own choosing.

(2) Content of Reference Forms -- The reference forms shall inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the
applicant. The form shall inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the lawyer’s dealings with judges and opposing counsel.

(C) Written Examination -- An evaluation of the lawyer’s knowledge of the substantive and procedural law in the specialty area, determined by written examination of suitable length and complexity. The examination shall include professional responsibility and ethics as it relates to the particular specialty.

(D) Educational Experience -- A minimum of 36 hours of participation in continuing legal education in the specialty area in the three-year period preceding the lawyer’s application for certification. This requirement may be met through any of the following means:

1. Attending programs of continuing legal education or courses offered by Association accredited law schools in the specialty area;

2. Teaching courses or seminars in the specialty area;

3. Participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or

4. Writing published books or articles concerning the specialty area.

(E) Good Standing -- A lawyer seeking certification is admitted to practice and is a member in good standing in one or more states or territories of the United States or the District of Columbia.

4.07 Impartial Review -- The Applicant shall maintain a formal policy providing lawyers who are denied certification an opportunity for review by an impartial decision maker.

4.08 Requirements for Re-Certification -- The period of certification shall be set by the Applicant, but shall be no longer than five years, after which time lawyers who have been certified must apply for re-certification. Re-certification shall require similar evidence of competence as that required for initial certification in substantial involvement, peer review, educational experience and evidence of good standing.

4.09 Revocation of Certification -- The Applicant shall maintain a procedure for revocation of certification. The procedures shall require a certified lawyer to report his or her disbarment or suspension from the practice of law in any jurisdiction to the certifying organization.

SECTION 5: ACCREDITATION PERIOD AND RE-ACCREDITATION

5.01 Initial accreditation by the Association of any Applicant shall be granted for five years.
5.02 To retain Association accreditation, a certifying organization shall be required to apply for re-accreditation prior to the end of the fifth year of its initial accreditation period and every five years thereafter. The organization shall be granted re-accreditation upon a showing of continued compliance with these Standards.

SECTION 6: REVOCATION OF ACCREDITATION

6.01 A certifying organization's accreditation by the Association may be revoked upon a determination that the organization has ceased to exist, or has ceased to operate its certification program in compliance with these Standards.

SECTION 7: AUTHORITY TO IMPLEMENT STANDARDS

7.01 Consistent with these Standards, the Standing Committee shall have the authority to:

(A) Interpret these Standards;

(B) Adopt rules and procedures for implementing these Standards, and amend such rules and procedures as necessary;

(C) Adopt an appropriate fee schedule to administer these Standards;

(D) Consider applications by any certifying organization for accreditation or re-accreditation under these Standards, evaluate those requests in accordance with the Standards and recommend approval by the Association of such requests when it deems the organization has met the requirements as set forth in these Standards; and

(E) Recommend the revocation of accreditation in accordance with the provisions of Section 6.01 of these Standards.

SECTION 8: ADOPTION AND AMENDMENT

8.01 These Standards become effective upon their adoption by the House of Delegates of the Association.

8.02 The power to approve an amendment to these Standards is vested in the House of Delegates; however, the House will not act on any amendment until it has first received and considered the advice and recommendations of the Standing Committee.

# # # # # # #
GENERAL INFORMATION FORM

Submitting Entity: Standing Committee on Specialization

Submitted By: Barbara J. Howard, Chair

1. Summary of the Resolutions.

The resolution will grant reaccreditation to the Social Security Disability Law program of the National Board of Trial Advocacy and the Business Bankruptcy Law, Consumer Bankruptcy Law, and Creditors' Rights Law programs of the American Board of Certification.

2. Approval by Submitting Entity.

At its meeting on February 15, 2020, the Standing Committee on Specialization voted unanimously that it submit this resolution to the House of Delegates for consideration at the 2020 Annual Meeting.

3. Has this or a similar recommendation been submitted to the House or Board previously?

Yes. NBTA’s Social Security Disability Law program was last reaccredited in February 2015. The ABC programs were last reaccredited in August 2014.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

The American Bar Association Standards for Accreditation of Specialty Certification Programs for Lawyers. They will not be affected by the adoption of this Resolution; rather, they are the policy under which any action to accredit or withhold accreditation are taken by the Association.

5. If this is a late report, what urgency exists which requires action at this meeting of the House?

N/A

Prompt action is necessary in order to prevent ABA accreditation of the programs under consideration from lapsing and to continue to assist the states in regulating private certifying organizations.
6. **Status of Legislation.**

Not applicable

7. **Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.**

Implementation will be self-executing if the programs are reaccredited by the House of Delegates.

8. **Cost to the Association.**

There are no unreimbursed costs associated with the reaccreditation of specialty certification programs as proposed in the recommendation.

9. **Disclosure of Interest.**

None.

10. **Referrals.**

None.

11. **Contact Person (Prior to the Meeting)**

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12. **Contact Person (Who will present the Report to the House)**

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EXECUTIVE SUMMARY

1. Summary of the Resolution.

The resolution will grant reaccreditation to the Social Security Disability Law program of the National Board of Trial Advocacy and the Business Bankruptcy Law, Consumer Bankruptcy Law, and Creditors’ Rights Law programs of the American Board of Certification.

2. Summary of the issue that the resolution addresses.

To respond to a need to regulate certifying organizations, the House of Delegates adopted standards for accreditation of specialty certification programs for lawyers, and delegated to the Standing Committee the task of evaluating organizations that apply to the ABA for accreditation and reaccreditation. This Resolution acquits the Standing Committee’s obligation to periodically review programs that the House of Delegates has accredited and recommend their further reaccreditation or revocation of accreditation.

3. Please explain how the proposed policy position will address the issue.

The recommendation addresses the issue by implementing previous House resolutions calling on the ABA to evaluate specialty certification organizations that apply for accreditation and reaccreditation.

4. Summary of any minority views or opposition internal and/or external to the ABA which have been identified.

None