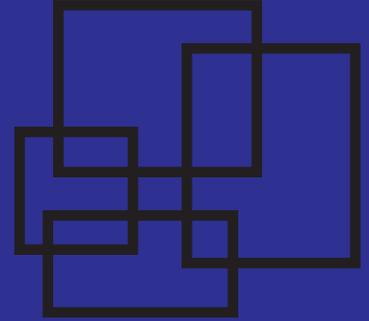


CERTIFICATION LINK

Your ABA Specialization
Connection



SPRING 2005

NewsLink

What's
new from
programs
across the
country



National Board of Trial Advocacy

Fall administration of the national trial certification examination will be **October 15, 2005**. Attorneys interested in achieving national trial certification in the specialties of civil, criminal, family law trial advocacy and social security disability advocacy should open an NBTA application prior to September 1, 2005 to be eligible to sit for the October 15th examination.

Proctor sites for the October examinations will include Fairbanks, AK; Phoenix, AZ; Little Rock, AR; Colorado Springs, CO; New Haven, CT; Atlanta, GA; Honolulu, HI; Terre Haute, IN; Des Moines, IA; Wichita, KS; Louisville, KY; Portland, ME; Wrentham, MA; Minneapolis, MN; Jefferson City, MO; Billings, MT; Syracuse, NY; Cincinnati, OH; Pittsburgh, PA; Charleston, SC; Nashville, TN; and Milwaukee, WI.

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Psychometric Services in Support of Lawyer Specialty Certification in Indiana

Howard R. Mzumara, Ph.D.
Psychometric Consultant
Indiana Commission for Continuing Legal Education

This article provides a description of psychometric consulting services that are an integral part of the lawyer specialty certification program, which is administered by the Supreme Court of Indiana Commission for Continuing Legal Education (ICCLE). In the context of enhancing the quality of legal services and professionalism in the administration of attorney specialization programs, ICCLE hired a psychometric consultant to serve as a member of the Advisory Panel. A primary responsibility of the Advisory Panel is to advise the Commission regarding the relevance, reliability and validity of certification examinations that are submitted by *Independent Certifying Organizations (ICOs)* in support of their application for accreditation or re-accreditation. Currently, Indiana has several organizations that certify in the practice areas of business and consumer bankruptcy, civil trial advocacy, criminal trial advocacy, elder law and family law. (In this article, the two terms "ICO" and "applicant" will be used interchangeably.)

In Indiana, one of the requirements for attorney specialization is that an attorney must pass a written (certification) examination in the practice area of law. Thus, my primary role as a psychometric consultant (with expertise in the areas of educational/psychological measurement, statistics and program evaluation) is to assist the Advisory Panel in ensuring that applicants (or Independent Certifying Organizations) develop and administer certification examinations that are in compliance with ICCLE's Standard 4.06(C). The Standard enumerates specific factors for evaluating suitability of written examinations that are part of the specialty certification requirements. Specific requirements that are enumerated in Standard 4.06(C) require applicants to provide the following information that may assist the Advisory Panel in reviewing appropriateness of the examinations:

- 1) Evidence justifying pass/fail levels;
- 2) Evidence of both reliability and validity of examination scores (or ratings); and
- 3) Evidence of periodic review to ensure relevance of certification examinations.

In reviewing certification examinations that ICOs submit as part of their application packet, members of the Advisory Panel (which includes content specialists or experienced and well qualified individuals in the respective specialty areas of law) determine the extent to which each examination meets the Standard for attorney specialization as well as the *Standards for Educational and Psychological Testing* (AERA, 1999). In particular, advisory panel members evaluate each certification examination with respect to its general and psychometric characteristics including appropriateness of empirical evi-

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American Board of Certification

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 expressly authorizes bankruptcy judges to base their fee awards on whether the lawyer has met the high objective standards needed to become board certified. ABC administers the only national business and consumer bankruptcy programs and is accredited by the American Bar Association.

American Board of Professional Liability Attorneys

The ABPLA's next Annual meeting is **October 20 to 22, 2005**, at the Breakers in Palm Beach, FL. Planned events include the board of directors meeting, Professional Liability seminars, and an administration of the qualifying exam on 10/21.

National Association of Counsel for Children

NACC 28th National Children's Law Conference, at the Renaissance Hollywood Hotel, Los Angeles, CA on **August 25-28, 2005**. Go on-line to learn more at www.naccchildlaw.org

National College for DUI Defense

2005 Summer Session in Cambridge, MA on **JULY 20-23, 2005**. Presented at Harvard Law School. NACDL Seminar 9th Annual DUI Seminar

Caesar's Palace Hotel, Las Vegas, **September 29-Oct 1, 2005**

2006 NCDD Winter Session
Amelia Island Ritz Carlton,
January 19-21, 2006

Certification Test Given **January 19, 2006**

For more information, go to www.ndcc.com

National Elder Law Foundation

Exams:
June 3, 2005, various regional locations

October 3, 2005, Sheraton New Orleans

Review Course:
September 29, 2005,
Sheraton, New Orleans

For more information, go to www.nelf.org

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Psychometric

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dence (if any) of the *validity* and *reliability* of examination scores (or ratings). [A comprehensive description of reliability, validity, and other psychometric criteria for judging the adequacy and appropriateness of tests is described elsewhere (see, e.g., AERA's (1999) *Standards for Educational and Psychological Testing* or Rudner's (1994) article entitled "Questions To Ask When Evaluation Tests" at the following Web site: <http://pareonline.net/getvn.asp?v=4&n=2>.)]

Evidence of *reliability* (i.e., consistency of examination results) and *validity* (i.e., appropriateness, meaningfulness, accuracy, and usefulness of information for decision-making) is important in providing a basis to evaluate the efficacy and utility of certification examinations. For instance, evidence in support of applicants' pass/fail levels is helpful in addressing potential concerns that might raise validity issues, for instance, in situations where pass rates are inconsistent or not comparable from one exam administration to another or where average pass rates are too low for any given exam administration. The following list provides specific examples of the kinds of questions or psychometric evidence that ICOs may submit in an effort to address compliance with ICCLE's Standard 4.06(C):

· **Evidence of Validity.** To what extent does the examination provide an adequate coverage of important topics in the specialty area of practice? Are the examination questions engaging and/or focused on measuring important topics? To what extent do the examination questions require examinees to use "higher-order abilities" in order to obtain a "correct" response? How do we know that the questions on the examination reflect current best practices in the field of law (e.g., trial advocacy, bankruptcy and creditors' rights law, etc.)? Generally speaking, appropriate evidence to address these questions may be reported using a table of specifications (also known as a "test blueprint") and other empirical evidence that may indicate that candidates who do well on the examination also demonstrate appropriate skills in the areas of expertise. ICOs may also demonstrate validity evidence if they have significantly fewer examination-related complaints filed against them.

· **Evidence of Scorer Reliability.** With respect to open-ended examination questions (e.g., short answer or essay questions), do independent graders of the same exam questions assign similar scores (or ratings) to a given response or essay? To maintain consistency in the grading process, the Commission encourages ICOs to submit model answers and/or appropriate scoring guides (or "rubrics") that may facilitate consistent grading of essays and other open-ended questions. Evidence in consistency of grading essays and other open-ended questions could be accomplished by calculating the percentage of agreement of two or more raters on all or a sample of the examination question responses.

· **How are cutoffs for passing scores determined?** Often the actual cutoff score is mandated externally, but test developers are required to ensure that the difficulty level from one administration of the examination is the same as in subsequent exam administrations. For instance, when reviewing appropriateness of cutoff scores, we may ask the following question: Is there evidence to suggest that the cutoff score differentiates between "high ability" and "low ability" lawyers? Where adequate examination data are available, appropriate evidence may be accomplished through use of psychometric procedures such as *test equating*, *item analysis*, and other test-related procedures.

· **Is there a procedure to establish that the examination does not discriminate against particular demographic groups?** From time to time, for example, many ICOs do employ college or university professors and other academic administrators as a source for generating examination questions. Individuals in academic settings, who are often on the "cutting

Continued on page 4 **2**

The next meeting of the Standing Committee on Specialization will be held November 11-12, 2005 at the Catamaran Resort in San Diego.

To book your hotel reservation, go on-line at : www.LegalSpecialists.org or call 800.422.8286

All are welcome to attend!

Roundtable Wrap-Up

The 2005 Roundtable in Ft. Lauderdale was the most well attended Roundtable in the past 5 years. There were 55 registered attendees and speakers. Sixteen of those were first time attendees.

The attendees were treated to a Welcome Reception sponsored by the State Bar of Florida on Thursday evening. The sessions started bright and early on Friday morning and broke for lunch with a key note address by Florida Board of Legal Specialization member, Judge Ralph Artigliere. The social event was a trip back in time to Old Fort Lauderdale and a fabulous meal al fresco at the New River Inn.

On Saturday, the group was right back in action with sessions and wrapped up with the ever-popular Specialization Players.

In terms of the numerical evaluation, all of the sessions averaged out to be of high value to the participants. Ranging from 4.6 out of 5.0 for the Florida-California-Minnesota report on branding to 3.7 for the Anatomy of a Board of Legal Specialization. The social events, the welcome reception and the ticketed event were highly rated.

Participants found the Roundtable to be worth the time and expense (4.6), enjoyed holding the event in different locations (4.5), and felt they made good contacts (4.5) at the event.

There was not much call for outside speakers (2.8), longer in-depth working sessions, or producing a bound book of materials (2.4). There was interest in sessions on program management issues (3.8).

We will put all the suggestions into place for the 2006 Roundtable, tentatively set for San Antonio,

Fresh Eyes Look at the Roundtable

Catherine O'Connell
State Bar of Michigan

The 2005 National Roundtable on Lawyer Specialty Certification was held on March 11th and 12th in Ft. Lauderdale, Florida. I am from Michigan, a state which does not have a specialty certification program. I was a first time attendee at the roundtable, there to gather as much information as possible to bring back to my state.

The Roundtable offered a lot of useful information for someone like me, who had no first hand knowledge of any specialty certification program and was just there to gather information. There were representatives from 13 states, 2 Canadian provinces and several private certification organizations. It was very interesting to see how the various states and agencies handle certification and recertification issues.

The Roundtable offered a wide variety of information including: discussion of procedural matters related to certification, denial of certification or recertification issues; partnerships with universities and other resources to assist in testing; professionalism; and marketing. Learning the different approaches taken by the various states and agencies was extremely useful.

One of the most valuable things I got out of attending the Roundtable was meeting the "specialization players" from the various states. Michigan is currently considering a specialty certification program and having access to individuals with such a wealth of information regarding specialty certification will be invaluable if Michigan does decide to develop a spe-

Kelly Reeves
Law Society of Upper Canada

During my visit to Florida, I met a number of representatives from across the United States. As the representative from the only Canadian certification program I felt very fortunate to be able to learn from those dealing with larger programs with more certification experience. While it was easy to see at the outset that there are distinct differences between my program and those across the United States (we do not have any exams or appeals), many of the issues discussed were very relevant such as the Emeritus designation, the interview process and program marketing.

It was easy to see at the conference that I was one of the new kids on the block. That being said, it showed that those that work in this area remain devoted to certification. That fact alone gave me a great deal of hope regarding the future of our certification program. Everyone I met at the conference was very nice and welcomed me into the certification family. I had a wonderful dinner with representatives from New Mexico, Virginia and North Carolina. I came back to Toronto after enjoying the sunshine and the company of new found friends both relaxed and eager to put so many of the ideas from the conference into action. I look forward to the opportunity to attend the conference next year.



**Ask an
Expert**

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"Ask an Expert"?**

**Write to Tori Wible at
WibleT@staff.abanet.org**

Psychometric Continued from page 2

edge” of their professions, tend to use the most recent examples from their fields as an inspiration for their examination questions. Thus, with varying degrees of “creativity” or expertise among test developers, it may be worth investigating the extent to which recent graduates from university or professional schools are at a relevant advantage over individuals who graduated years ago even though empirically there may be no difference with respect to agreed upon criterion measures. Traditional types of differential validity comparisons may involve conducting *differential item functioning (DIF)* studies to check if the examination yields any differential impact in performance based ethnicity, gender, or other demographic characteristics. Whenever possible, ICOs are encouraged to compile and maintain a record of examination performance based on appropriate sub-group analyses.

· **What plan does the ICO have to monitor how effective the examination is over time?** As establishing an examination’s psychometric property is not a “one shot” effort, the Commission requires that ICOs implement validation procedures that also include continuous monitoring of certification criteria to ensure a high degree of validity.

A major difficulty experienced in evaluating certification examinations is that in many situations ICOs have very small numbers of examinees who take the examinations at any one given administration. Thus, with very few examinees taking certification examinations, ICOs may not have examination data sets that are large enough to allow one to conduct psychometric studies that require fairly large sample sizes ($n = 30$ or more examinees) to obtain statistically stable results. Although it would be very helpful for ICOs to collaborate with psychometricians in compiling appropriate evidence in support of certification examinations, it is also important to bear in mind that inadequate numbers of examinees may make it very difficult for one to employ psychometric procedures such as item analysis, differential item functioning, test equating, and other test-related procedures. Consequently, when reviewing applications, advisory panel members have to be sensitive enough and encourage validation efforts that are “doable” under these circumstances. For instance, in the absence of psychometric data, it is reasonable for advisory panel members to assess the examination by giving more weight to the process the ICO follows in developing, administering, and grading the examinations. Other important evidence that ICOs submit for review may include the following: the percentage of test takers who failed to pass each section of the examination on the first attempt and on subsequent attempts; the distribution of scores for each year’s examinations; a comprehensive set of directions for each component of the examination and amount of time allowed for applicants to take each section of the certification examination; and any available data concerning correlation between examination scores and other measures of competence (e.g., years of experience). Even in situations where there are only a

handful of candidates taking the certification examination, the Commission encourages ICOs to make every effort in submitting empirical data that would help evaluation of the psychometric properties of the examination. A few examples of questions or evidence that may guide the examination review process are as follows:

- Has the ICO established a process under which qualified and experienced practitioners in appropriate specialty areas are involved and/or are in charge of developing (or at least supervising the development of) appropriate examinations for identifying practitioners of “extraordinary competence and proficiency”?
- How adequate is the information provided by the ICO with regards to procedures employed in test development, standards, pass rates, data to demonstrate reliability and validity of the examination scores, item difficulty, item discrimination, and appropriateness of cutoff scores for determining pass or failure of candidates)?
- Has the ICO developed specific guidelines for the content and format of the examinations including articulation of specific procedures and standards to be followed in grading the examination?
- Are the examinations graded by persons with appropriate qualifications and experience?

It is worth mentioning that psychometric consulting services are not limited to evaluating psychometric qualities of written examinations. Professional services of a psychometric consultant could equally be extended to include collaboration with accreditation review panels in identifying and evaluating the efficacy and utility of alternative assessment approaches (e.g., interviews, portfolios, peer review, etc.) in the development and administration of a high quality specialty certification program.

References:

American Educational Research Association, American Psychological Association, & National Council on measurement in Education (1999). Standards for educational and psychological testing. Washington, DC: American Educational Research Association.

Rudner, L. M. (1994). Questions to ask when evaluating tests. Practical Assessment, Research & Evaluation, 4(2). (Retrieved April 11, 2005 from <http://PAREonline.net/getvn.asp?v=4&n=2>)

Florida Board of Legal Specialization

Florida Board of Legal Specialization has posted a resource kit for certified lawyers on their website at www.flabar.org. Click on "Member Services" and then on Certification. You will find the link to the resource kit on the first page. Highlights include, How to get Media Coverage, Public Relations Tool, Media Relations 101, Certification One-Pager and an order form for Certification Area Pamphlets.

New Mexico Board of Legal Specialization

The Board of Legal Specialization is pleased to announce the approval of two new areas of law eligible for specialization certification by the Supreme Court of New Mexico.

Federal Indian Law

Local Government Law

Tennessee Commission on Continuing Legal Education and Specialization

The Commission filed a petition with the Tennessee Supreme Court on June 3, 2005, to create new certification programs to recognize specialists in Social Security Disability Law, Juvenile Law — Child Welfare, and DUI Defense.

Included in the Commission's requests for changes to Rule 21 filed with the Tennessee Supreme Court on Friday, June 3, 2005, is a request to operate as the "Tennessee Commission on Continuing Legal Education" for CLE purposes and as the "Tennessee Board of Legal Specialization" for purposes of the certification program.

Texas Board of Legal Specialization

The Texas Board of Legal Specialization's 30th Anniversary Dinner was February 24, 2005, at the Bob Bullock Texas State History Museum. The original Supreme Court Order established the attorney program in July 1974, and in 1975 the first criminal, family, and labor law Certificates of Special Competence were awarded.

Have an idea for a future Certification Link article?

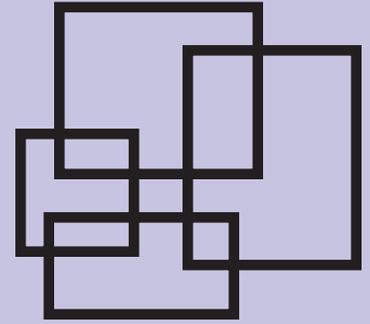
Does your program have news you want to share?

**Send any submissions to: specialization@abanet.org
or contribute by sending an email to the ListServ at
Specialization@mail.abanet.org**

Not on the ListServ?

**It's free and open to anyone interested in lawyer
specialty certification.**

Email Tori Wible at WibleT@staff.abanet.org to join.



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