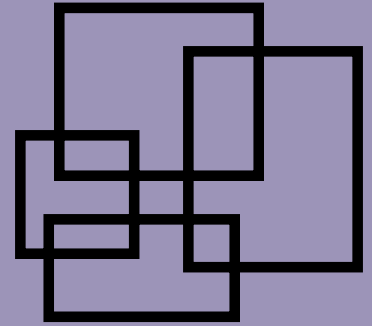


# CERTIFICATION LINK

Your Quarterly ABA Specialization Connection



OCTOBER 2002

## Stories from the Front

Delivering levity to the application process since 2002



In this issue, we are featuring **Stories From the Front** in place of our regular feature **Newslink**. If you have an amusing anecdote, send it to us at [wiblet@staff.abanet.org](mailto:wiblet@staff.abanet.org).

Thanks to **Gary McNeil** of the **Texas Board of Legal Specialization** in Austin, TX for these submissions:

◆ A person responding to a peer review form had this quote on the form: "The main problem with this person is that he has no common sense. As proof of that, he asked me if I would be a reference for him and I said no. He sent me a reference form anyhow!"

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## Children's Law: A Legal Specialty Comes of Age

By **Marvin Ventrell**, Executive Director, National Association of Counsel for Children

The legal representation of children is a relatively recent development in American law. Although children were occasionally provided some form of legal counsel throughout our history, it was not until the 1960s and 70s that we began to see something that could be considered a practice of law for children. A lot has happened in the last 40 years, however, and what was once an activity that only a handful of lawyers dabbled in, is becoming a legitimate legal specialty. And that is good news for children.

Lawyers represent children in economic, property, tort, and private custody, visitation and support cases, but the primary areas of representation are child welfare (abuse and neglect) and juvenile justice (delinquency) cases. Whether in juvenile justice or child welfare cases, children need dedicated and competent lawyers. Our legal system is an advocate driven adversarial process. Quality legal representation is essential to obtaining good outcomes. Courts' decisions are only as good as the information upon which they are based. A process dependent on individual advocacy for information will not produce

good outcomes for individuals who lack skilled independent legal counsel. While this is true for adults in our legal system, it is even more important for children, who are least able to speak for themselves. In cases involving children, parents are represented, the state and its agency is represented; children must be represented too.

As the profession of practicing law for children has developed, we have seen a move away from volunteer attorneys who took time from their busy schedules to represent a child, toward full time professionals devoting all or a substantial amount of their practices to children. This is a sign of the professionalization of a discipline. Although volunteer attorneys continue to play an important role, children deserve full time specialized advo-

cates, just as they deserve full time specialized physicians.

We do not know precisely how many lawyers devote all or a substantial amount of their practices to children, but there are many thousands. There are over 1 million juvenile justice cases in the country every year and the lawyer's role in these cases is as full and active legal counsel, similar to the role of criminal defense counsel.

At the same time, there are even more child welfare cases each year. Congress has provided that in every case involving an abused or neglected child, a guardian

**Children deserve the full benefit of competent legal counsel and we must continue to improve standards, training, and funding for children's lawyers.**



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## Stories from the Front (continued)

◆ An applicant who had peer review problems came before TBSL one day with a letter from one of his local judges supporting his application. This was interesting because the same judge had completed a peer review form on which he indicated that the applicant should not be certified. One of our board members first asked the applicant very casually if the letter was one Judge X had composed on his own and the applicant said that it was. After a few minutes of questions from other board members, the first board member said, "You know, I tried a case before Judge X and he and his office were very helpful and accommodating. What is his secretary's name again?" The applicant responded the judge's secretary's name was Evie Johnston. The applicant then realized that the board member knew that the initials on the favorable letter from the judge were not Evie's. The applicant had to admit that the initials were those of his own secretary and that the letter was indeed prepared in the applicant's office at his direction. He waited a few years before reapplying, but was successful and had obviously changed his trial behavior for the better. So the story does have a happy ending.

# Florida Certification Plan turns 20

By **Dawna G. Bicknell, Director  
Legal Specialization & Education,  
The Florida Bar**



The Florida Certification Plan will celebrate the 20th anniversary of its first class of certified lawyers in 2003.

To highlight this historic milestone, the Board of Legal Specialization and Education has received approval from the bar's Editorial Board to produce a theme issue of *The Florida Bar Journal* dedicated to the Certification program. The issue is slated for publication in April 2003.

The BLSE is particularly pleased that Florida Supreme Court Chief Justice Harry Lee Anstead has agreed to write an introductory letter to be published in the *Journal* to all the members of The Florida Bar and judiciary on the merits of board certification and the professionalism standards it exemplifies.

Under the leadership of BLSE Communications Committee Chair Judge Ralph Artigliere, advancing awareness about board certification in Florida has gained renewed momentum. According to Judge Artigliere, "Board certification is a hallmark in a lawyer's career. It is evidence of a lawyer's commitment to high standards, not only within a particular field of practice, but to a manner

of practice as well. Competence is critical, but just as important is professionalism, courtesy and civility. No other bar program examines the credentials and character of a lawyer more closely than does board certification and no other program offers legal consumers more information to assess the qualifications of a lawyer for their particular needs."

The BLSE's Communications Committee will also be working with the bar's Citizens Forum over the coming year to enhance public awareness and is also considering a means to better identify certified lawyers such as permitting the use of initials, e.g., F.B.C. (Florida Bar Certified) to appear after an attorney's name. The BLSE has also endorsed and will be working with the ABA's Strategic Communications Plan. BLSE Chair Norman Vaughan-Birch found the plan to be a "grand initiative on the part of the Standing Committee on Specialization" and credits former BLSE member and Committee Chair Jack Brumbaugh for his outstanding leadership.

Approximately 3,800 members of The Florida Bar have attained board certification in the 19 available practice areas. This represents almost 10 percent of the bar's active, in-state members in good standing with five or more years of experience. ◆

## Small Town Specialists On Rise

By **Frank Bazler**

**M**any of us practice law in small towns throughout America. While we all like to claim that we are general practitioners and can provide legal services to our clients in a multitude of legal areas, we generally fall into limited areas of practice and could be considered "specialists" in one or more of those areas. Yet when the topic of certified specialist comes up, many small town lawyers react negatively believing that law firms in the larger cities will use the certified specialist designation to attract clients from the smaller town lawyers.

In our semi-rural county we already have two certified specialists, one in a community of about 9,000. With the advent of a new probate specialty in Ohio, it is likely that at least two

more certified specialists will appear in our county. Ohio has only offered the opportunity for specialty certification since 1996 and the areas of specialization continue to grow. With small town lawyers spending more time in limited fields of practice, many are ready to take the steps necessary to become certified specialists.

The Ohio State Bar Association has been accredited by the Ohio Supreme Court's Commission on Certification of Attorneys as Specialists to designate specialists in several areas. Members of the Association work in the accreditation process through section and committees, which helps bring together small city and big city attorneys to seek accreditation. This encourages those lawyers, whether from big or small cities, to learn the availability and advantages of

## Children's Law - Continued from page 2

*ad litem*, who may be an attorney, be appointed to represent the child, and the majority of jurisdictions appoint attorneys in this or similar roles. The job of the attorney in child welfare cases is time consuming and complex, equal in degree of difficulty to any legal specialty.

Twenty-five years ago, the profession of children's law lacked definition and skilled advocates. In 2002, the profession has begun to come of age. Where there was once a void of guidelines for children's attorneys, there is now national guidance in the form of practice standards. Additionally, sound scholarship and practice guides have been developed.

Twenty-five years ago, a law school class in delinquency law was rare and a child welfare law class unheard of. Both are now routinely taught in law schools throughout the country and at least one school has developed a full curriculum in children's law including a masters level program.

Leadership has been provided for the development of the profession by groups including the National Association of Counsel for Children (NACC). These groups work to train lawyers in substantive law, trial skills, and child development, while also working to build the profession systemically.

Yet, despite the establishment of children's law as a distinct area of practice, all is not well. There still lingers the view from the early days of children's law that children are somehow less entitled to the full benefit of legal counsel than other individuals, and that their lawyers are second class attorneys. Some argue that children's needs can be fully served by part time volunteers. Worse still is the view from inside the children's law community, by lawyers themselves, that children's lawyers should be content to remain at the bottom of the lawyer food chain, struggling nobly to provide proper service with inadequate resources.

Children deserve a first rate profession. Their lives depend on it. But something more is needed for the profession to fully come of age: status and accountability. We must take steps to elevate the practice of law for children and reward those lawyers who are willing and able to provide the best services for their child clients. Toward that goal, the NACC is building a Juvenile Law Attorney Certification Program. Once operational, the program will designate attorneys who have completed the certification requirements as certified practitioners in Juvenile Law - Child Welfare and Juvenile Law - Delinquency.

The NACC has applied to the ABA's Standing Committee on Specialization to be recognized as a national certifying agency in the field of Juvenile Law. On July 21, 2001, the ABA approved the NACC proposed certification areas and invited the NACC to submit a full application.

Certification is a sure sign of the coming of age of a legal specialty and provides recognition and status to the lawyers who practice the specialty. States and agencies certify lawyers as specialists in, among other things, bankruptcy, taxation, elder law, estate planning, criminal law, medical malpractice, and family law. By so doing, they encourage, measure, and recognize skills that benefit clients. Certification measures and rewards competence, and establishes the practice area as an important and legitimate field. It is time that children's lawyers and a child advocacy community take the next step in the evolution of the profession.

The practice of law for children is coming of age. As we continue to develop it as the important legal specialty it is, children will be the ultimate beneficiaries. ♦

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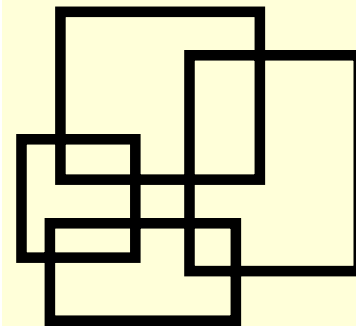
## Small Town - Continued from page 2

becoming a certified specialist. This reduces the anxiety of rural lawyers and hopefully will bring about a change in attitudes of many small city lawyers toward becoming certified specialists.

Specialization Committees and accredited Agency staffs should develop plans to visit smaller counties and their respective bar associations and explain the availability and advantages of becoming a certified specialist. Most lawyers fear having to take an examination to become certified. Take along someone who has taken one of the exams and let them

alleviate the fear. As long as there are those with a negative attitude toward certified specialists it can poison the attitude of many and deter the advancement of a program that is best for the public and the lawyers.

Be sure to check the number of certified specialists in the smaller counties in your state. You may be surprised to find that percentage-wise they equal the bigger cities. The small city lawyers concern is one in which we may be able to overcome. ♦



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