

# TEXAS BOARD OF LEGAL SPECIALIZATION

## STANDARDS FOR ATTORNEY CERTIFICATION

### PART II

#### SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

#### SECTION XVII

#### WORKERS' COMPENSATION LAW

*(Area ID: WC / Year Started: 2004)*

- 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 Department of Insurance; Workers' Compensation Division, Texas Workers' Compensation Commission, the State Office of Administrative Hearings, and in suits for judicial review of the decisions of each of these agencies. 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 that practitioners demonstrate a significant knowledge of the injury process, and its effect on the human body.
- B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in Texas workers' compensation law practice by providing such information as may be required by TBLS.
1. **Certification.**
- a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas workers' compensation law during each year of the 3 years immediately preceding application as defined in Section XVII, A of the Specific Area Requirements for Workers' Compensation Law.
- b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas workers' compensation law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
- (1) Applicant must have been lead counsel (as a party representative or agency representative) in 3 of the following 5 categories. Hearings listed in each of the categories must arise from independent administrative claims disputes and may not be listed if a proceeding involving that dispute was otherwise listed on the application. Claims with the same Division or Commission numbers cannot be repeated.
- (a) Thirty-six (36) Benefit Review Conferences concluded by agreement or by the report of a Benefit Review Officer within the 3 years immediately preceding application.

- (b) Thirty-six (36) Benefit Contested Case Hearings litigated to a final contested decision before the Texas Department of Insurance; Workers' Compensation Division or the Texas Workers' Compensation Commission within the 3 years immediately preceding application.
  - (c) Thirty-six (36) Contested Case Hearings under Chapter 413 litigated to a final contested decision before the State Office of Administrative Hearings or substantial evidence review at a trial court level within the 3 years immediately preceding application.
  - (d) Twenty-four (24) appeals to the Appeals Panel of the Texas Department of Insurance; Workers' Compensation Division or the Texas Workers' Compensation Commission following a decision of a Benefit Contested Case Hearing Officer within the 3 years immediately preceding application.
  - (e) Six (6) suits for judicial review of decisions of the Texas Department of Insurance; Workers' Compensation Division, the Texas Workers' Compensation Commission, or the Industrial Accident Board litigated to a decision within the 10 years immediately preceding application.
2. **Recertification.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas workers' compensation law during each year of the 5 year period of certification as defined in Section XVII, A of the Specific Area Requirements for Workers' Compensation Law except as provided for in Part I—General Requirements, Section VI, C,1(b).

**C. REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in workers' compensation law. These persons must be substantially involved in workers' compensation law, and be familiar with applicant's workers' compensation law practice.

- 1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving workers' compensation law matters within the 3 years immediately preceding application.
- 2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving workers' compensation law matters since certification or the most recent recertification.
- 3. **Reference Types.** Applicant must submit the following types of references:
  - a. Three Texas attorneys who are substantially involved in workers' compensation law. Applicant shall have tried a workers' compensation law matter with or against two of these attorneys.
  - b. Two of the following (present or former) before whom applicant has appeared as an advocate in a Texas workers' compensation law matter:
    - (i) Judges of any court of record in Texas, courts of appeals in Texas, or the Supreme Court of Texas;
    - (ii) Benefit Contested Case Hearing Officers or Appeals Panel Judges with the Texas Department of Insurance; Workers' Compensation Division, or the Texas Workers' Compensation Commission; or
    - (iii) Hearing examiners with the State Office of Administrative Hearings.