

# TEXAS BOARD OF LEGAL SPECIALIZATION

## STANDARDS FOR PARALEGAL CERTIFICATION

**The Standards for Paralegal Certification are divided into two parts:**

**PART I, GENERAL REQUIREMENTS:** These requirements apply to all specialty areas.

**PART II, SPECIFIC AREA REQUIREMENTS:** These are specific requirements that apply to each of the individual specialty areas listed below. Included are the definitions, substantial involvement, reference, and other certification and recertification requirements for each specialty area. You will also need to refer to Part I, General Requirements portion of the Standards for requirements that apply to all specialty areas.

<u>Section Number</u>	<u>Specialty Area</u>	<u>Area ID</u>	<u>Year Started</u>
Section I	Civil Trial Law	CT	1994
Section II	Family Law	FM	1994
Section III	Personal Injury Trial Law	PI	1994
Section IV	Criminal Law	CR	1997
Section V	Estate Planning and Probate Law	EP	1998
Section VI	Real Estate Law	RE	1998

### **Definitions as used in these Standards:**

“**TBLS**” refers to the Texas Board of Legal Specialization.

“**SBOT**” refers to the State Bar of Texas.

“**TXPD**” refers to the Paralegal Division of the State Bar of Texas.

“**Rules**” refers to the TBLS Paralegal Rules and Regulations.

“**CLE**” refers to continuing legal education.

“**Applicant**” refers to either a certification or recertification applicant unless specifically stated otherwise.

“**Standards**” refers to the Standards for Paralegal Certification. The Standards are composed of both the General Requirements and the Specific Area Requirements.

# PART I GENERAL REQUIREMENTS

## SECTION I - PREFACE

**Pursuant to the authority vested in TBLS by the Supreme Court of Texas, TBLS prescribes the following requirements for paralegals seeking board certification in accordance with the Texas Plan for Recognition and Regulation of Specialization in the Law.**

- A. The purpose of these Standards is to recognize those paralegals having special competence in one or more of the specialty areas included within these Standards. In making the determination of special competence, TBLS will consider the following:
  - 1. The substance and complexity of the tasks submitted to show the required substantial involvement in the specialty area;
  - 2. The paralegal's professional and educational accomplishments in the specialty area;
  - 3. The paralegal's skill and ability in the specialty area;
  - 4. The paralegal's knowledge of significant legal concepts and corresponding skills in the specialty area as shown on the specialty area examination; and
  - 5. The paralegal's character and fitness.
- B. No standard shall in any way limit the right of a paralegal to work in any area of law, even though he or she is certified by TBLS in a specific specialty area of law.
- C. No paralegal shall be required to obtain certification by TBLS in a specialty area of law before working under the supervision of a duly licensed attorney in Texas. A paralegal shall have the right to work in all areas of law.
- D. Certification by TBLS is individual and voluntary. Requirements for and benefits derived from certification may not be fulfilled by or attributed to either the attorney under whose supervision the paralegal is working or to a law firm by whom such paralegal may be employed.

## SECTION II - GENERAL REQUIREMENTS

- A. **Definition of a Paralegal and Supervising Attorney.**
  - 1. For purposes of certification by TBLS, a paralegal is a person, qualified through various combinations of education, training, or work experience, who is employed or engaged by an attorney, law office, governmental agency, or other entity in the State of Texas in a capacity or function which involves the performance, under the ultimate direction and supervision of a Texas licensed attorney doing business in the State of Texas, of specifically delegated substantive legal work, which work, for the most part, requires a substantial and comprehensive knowledge of legal principles and procedures that, absent such person, the attorney would be required to perform the task.
  - 2. The terms "paralegal" and "legal assistant" are considered synonymous.
  - 3. A paralegal will not be eligible to apply for certification if the current supervising attorney is not in good standing with the SBOT or the current supervising attorney has been sanctioned for professional misconduct as defined in Rule 8.04 of the Texas Disciplinary Rules of Professional Conduct, by any authorized disciplinary authority, including a court which prohibits him or her from practicing law.

- B. Forms.** Documents, applications, questionnaires, and examinations involved in the certification, recertification, and annual reporting process shall be prescribed and approved by TBLS.
- C. Fees.** An applicant and certified paralegal shall timely pay the required fees as established by TBLS.
- D. Expiration of Certification.** Certification shall be for a period of 5 years at the end of which time recertification shall be permitted upon the terms and conditions established by TBLS.
- E. Revocation of Certification.** A certificate of special competence issued by TBLS may be revoked for good cause as determined by TBLS.
- F. Failure to Furnish Information and Misrepresentation.** Certification or recertification may be denied, revoked, or other appropriate action taken because of an applicant's or certified paralegal's failure to furnish the information requested by TBLS or because of his or her misrepresentation of any material fact to TBLS.
- G. Required Professional and Educational Experience.** A certification applicant shall meet the following professional and educational experience:
1. A certification applicant must have met a minimum of 5 years of actual experience as a paralegal by December 31st in the year of application.
  2. A certification applicant must have actual Texas experience in the particular specialty area during each of the 3 years immediately preceding application.
  3. In addition to meeting Section II, G, 1-2 above, a certification applicant must meet one of the following by the application filing deadline:
    - a. Successful completion of the NALA (National Association of Legal Assistants) Certification examination; or
    - b. A baccalaureate or higher degree in any field; or
    - c. An ABA approved program of education and training for paralegals; or
    - d. A paralegal program that consists of a minimum of 60 semester credit hours (or equivalent quarter hours) of which at least 18 such credit hours are in substantive legal courses; or
    - e. A paralegal program that consists of at least 18 semester credit hours of substantive legal courses, plus at least 45 semester credit hours (or equivalent quarter hours) of general college curriculum courses; or
    - f. Two (2) additional years of actual experience working as a paralegal under the ultimate direction and supervision of a Texas licensed attorney doing business in the State of Texas, for a total of 7 years of actual experience.

### **SECTION III - DISCLOSURE OF CONDUCT**

- A. Disciplinary Review.**
1. An applicant or certified paralegal shall furnish satisfactory evidence of his or her good character, reputation, knowledge and active responsibility to follow the provisions of the attorneys' Texas Disciplinary Rules of Professional Conduct. He or she shall also furnish a statement as to whether or not he or she now or has ever been subject to an unauthorized practice of law complaint by an authorized Unauthorized Practice of Law Committee of the State of Texas or ever been disbarred by SBOT or any other state law licensing entity; and if so, provide details of such complaint or disbarment including whether or not he or she had ever been sanctioned by the committee or any court.

2. TBLS may deny certification or recertification, revoke certification, or take other appropriate action on a finding by the TXPD Professional Ethics Committee or any paralegal organization, an unauthorized practice of law committee, or a court that an applicant or certified paralegal has been found guilty of professional misconduct. In deciding what action is appropriate, TBLS will consider the seriousness of the underlying facts included in the findings, the passage of time since the misconduct, and the conduct of the applicant or certified paralegal since the findings were made.
3. Failure to disclose an investigation or sanction or the failure to respond to a request for information from TBLS on such matters will be considered a material misrepresentation and may be cause for denial, revocation, or other appropriate action by TBLS.

**B. Criminal Conviction.**

1. An applicant or certified paralegal shall disclose whether he or she has ever been convicted of, or given probation or fined for, a serious crime as hereinafter defined, whether the above resulted from a plea of guilty or *nolo contendere*, or from a verdict after trial or otherwise and regardless of the pendency of an appeal. The term "serious crime" includes barratry; any felony; any lesser offense involving dishonesty, misappropriation of money or other property or conduct that adversely affects the administration of justice; and any attempt, conspiracy or solicitation of another to commit any of the foregoing crimes.
2. TBLS may deny certification or recertification, revoke certification, or take other appropriate action if an applicant or certified paralegal has been convicted, given probation, or fined for a serious crime as defined above in Section III, B, 1.

## **SECTION IV - PEER REVIEW**

**A. Reference Requirements.**

1. An applicant must submit a minimum of 3 names and addresses of persons to be contacted as references to attest to his or her competence as a paralegal in the specialty area ("Statements of Reference"). For the types of references required for each specialty area, refer to appropriate Specific Area Requirements in Part II of these Standards. These persons shall be:
  - a. Knowledgeable in the subject matter of the specialty area.
  - b. With respect to a certification applicant, peers with whom the applicant has had dealings within the 3 years immediately preceding application.
  - c. With respect to a recertification applicant, peers with whom the applicant has had dealings since certification or the most recent recertification.
2. TBLS may, at its option, request references from other attorneys, judges, or non-attorney professionals.
3. A Confidential Statement of Reference Form approved by TBLS will be submitted by TBLS directly to persons serving as a reference for the applicant and such form must be returned directly to TBLS.

**B. Evaluation of Peer Review Information.** In evaluating peer review information on an applicant, TBLS shall consider the knowledge and experience of the references in the applicant's specialty area and the nature of the dealings between the references and the applicant.

**C. Confidentiality.** All Statements of Reference received by TBLS shall be confidential.

**D. Denial.** TBLS may deny certification or recertification based on information received through the peer review process. General information concerning the denial shall be provided to the applicant subject to the confidentiality rule.

## SECTION V - CONTINUING LEGAL EDUCATION

- A. **CLE Requirement.** For TBLS purposes, CLE is calculated on a calendar year basis.
1. **Certification.** A certification applicant must complete 30 hours of CLE in the specialty area within the 3 years immediately preceding application, through December 31st in the year of application.
  2. **Recertification.** A recertification applicant must complete 75 hours of CLE in the specialty area by December 31st of each 5th year of certification.
- B. **Qualifying CLE.** An applicant or certified paralegal must obtain CLE credit in the specialty area in which certification or recertification is sought by the following methods:
1. Attendance at a live CLE program, including live video conferences.
  2. Viewing or listening to an online CLE program.
  3. Participating in a CLE teleconference.
  4. Attendance at a showing of a CLE video.
  5. Self-study such as reading cases or legal periodicals, subject to the following limitation:
    - a. A certification applicant may receive a maximum of 10 hours self-study credit during the 3 years immediately preceding application.
    - b. A recertification applicant may receive a maximum of 5 hours of self-study credit during each year of certification.
  6. Other activities in the specialty area, to be determined on an individual basis, such as:
    - a. Teaching a CLE course for attorneys or paralegals;
    - b. Participation as a panelist or speaking on a symposium or similar program;
    - c. Attendance at a lecture series or similar program sponsored by a qualified education institution or bar group;
    - d. Authorship of a book or article published in a professional publication or journal; and
    - e. Active participation in the work of a professional committee dealing with a specific problem in the specialty area.

## SECTION VI - SUBSTANTIAL INVOLVEMENT

- A. **Percentage of Substantial Involvement in the Specialty Area.** An applicant or certified paralegal must devote the minimum required percentage of his or her paralegal activities in a specialty area in Texas during each calendar year as set forth in the Specific Area Requirements in Part II of the Standards which are unique to each specialty area.
1. A certification applicant must devote the required percentage of his or her paralegal activities during each year of the 3 years immediately preceding application.
  2. A certified paralegal must devote the required percentage of his or her paralegal activities during each year of certification. Refer to the applicable Specific Area Requirements in Part II of the Standards for the recertification requirements.
  3. Failure to meet the required percentage of substantial involvement in the specialty area may be grounds for denial or revocation.
- B. **Specific Task Requirements.** An applicant must provide information as required by TBLS regarding specific tasks he or she has performed in the applicable specialty area. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by an applicant in the specialty area.

## SECTION VII - EXAMINATION

- A. **Passing of an Examination.** A certification applicant must pass a written examination applied uniformly to all certification applicants to demonstrate substantial knowledge of significant legal concepts and corresponding paralegal skills in the specialty area, proficiency, and expertise in the specialty area to justify the representation of special competence to the legal profession and to the public.
- B. **Failure of an Examination.** After a certification applicant has taken and failed an examination 3 times in a specialty area, the applicant is ineligible to apply for the next 3 years' for TBLS certification in that specialty area.

## PART II

### SPECIFIC AREA REQUIREMENTS

#### SECTION V – ESTATE PLANNING AND PROBATE LAW

*(Area ID: EP / Year Started: 1998)*

- A. DEFINITION.** Estate planning and probate law involves responsibilities and duties related to assisting in analyzing, planning and recommendations for the conservation and disposition of client's estates in accordance with the client's expressed desires, including tax effects and consequences of such planning; the drafting and preparation of legal instruments to effectuate the client's estate plans, e.g., wills, trusts and other legal documents; and the administration of estates.
- B. SUBSTANTIAL INVOLVEMENT.** An applicant must show substantial involvement and special competence in estate planning and probate law paralegal activities in Texas by providing such information as may be required by TBLS.
- 1. Certification.**
- a. Percentage of Substantial Involvement. A certification applicant must have devoted a minimum of 50% of his or her paralegal activities to estate planning and probate law in Texas during each year of the 3 years immediately preceding application as defined in Section V, A of the Specific Area Requirements for Estate Planning and Probate Law.
- b. Tasks Requirements. A certification applicant must provide information regarding the following tasks he or she has performed as a paralegal in estate planning and probate law matters in Texas during the 3 years immediately preceding application:
- (1) Wills (Simple & Complex);
  - (2) Trusts [e.g., Management, Living, Irrevocable 2503(c)];
  - (3) Independent/Dependent Administration;
  - (4) Gifts;
  - (5) Creation of Business Entities, (e.g., Corp., F.L.P., L.L.P., L.L.C.);
  - (6) Pre-marital Agreements;
  - (7) Powers of Attorney (Business, Health Care, and Funeral);
  - (8) Estate and Gift Tax Returns (IRS 706 and 709);
  - (9) Classification of Marital Property;
  - (10) Multiple Party Accounts;
  - (11) Life Insurance;
  - (12) Disclaimers;
  - (13) Probate of Will as Muniment of Title;
  - (14) Preparation of Real Estate Documents;
  - (15) Guardianships; and
  - (16) Heirship Proceedings.
- b. A certification applicant must provide information regarding the following tasks he or she has performed as a paralegal in estate planning and probate law matters in Texas during the 3 years immediately preceding application:
- (1) Estate Planning. An applicant must have had adequate involvement in a substantial portion of the activities described in each of the following paragraphs:
- (a) Assisting an attorney in counseling persons in estate planning matters with respect to gifts, life insurance, wills, trusts, business arrangements and agreements and other estate planning matters.

(b) Drafting estate planning instruments, e.g., simple and complex wills, including provisions for testamentary trusts, marital deductions and elections; revocable and irrevocable inter vivos trusts, including short-term and minors trusts; business planning agreements, including stock agreements, health and accident plans, and employment contracts; powers of attorney and other estate planning instruments; and gift tax returns.

(2) **Estate Administration.** An applicant must have had adequate involvement in a substantial portion of the activities described in each of the following paragraphs:

(a) Assisting with the probate and/or administration of decedent's estates, including dependent and independent administration and muniments of title; trusts; guardianships; determinations of heirships; will contests; construction suits; and equity proceedings.

(b) Participation in the preparation of Federal Estate Tax Returns, Texas Inheritance Tax Returns, and U.S. Fiduciary Income Tax returns.

2. **Recertification.** A recertification applicant must have devoted a minimum of 50% of his or her paralegal activities to estate planning and probate law in Texas during each year of the 5 year period of certification as defined in Section V, A of the Specific Area Requirements for Estate Planning and Probate Law.

C. **REFERENCE REQUIREMENTS.** An applicant must submit a minimum of 3 names and addresses of persons to be contacted as references to attest to his or her competence as a paralegal in estate planning and probate law. These persons shall be knowledgeable in the subject matter dealing with estate planning and probate law and familiar with the applicant's performance as a paralegal.

1. **Certification.** An applicant must submit names of person with whom he or she has had dealings involving estate planning and probate law within the 3 years immediately preceding application.

2. **Recertification.** An applicant must submit names of person with whom he or she has had dealings involving estate planning and probate law since certification or the most recent recertification.

3. **Reference Types.** An applicant must submit the following types of references:

a. The current Texas supervising attorney, or an attorney who has supervised the applicant's work for at least 1 year; and

b. Any 2 of the following with whom the applicant has had contact in his or her estate planning and probate law work:

(1) A county, probate, or other judge of a court of record in Texas,

(2) A Texas non-attorney professional, or

(3) A Texas supervising attorney.