

**PROPOSED AMENDMENTS TO THE SUPREME COURT
RULES FOR THE GOVERNMENT OF THE BAR OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until May 27, 2015, on the following proposed amendments to the Supreme Court Rules for the Government of the Bar of Ohio.

Comments on the proposed amendments should be submitted in writing to: Susan Christoff, Director of Attorney Services, Supreme Court of Ohio, 65 South Front Street, 5th Floor, Columbus, Ohio 43215-3431, or Susan.Christoff@sc.ohio.gov not later than May 27, 2015. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

1 SUPREME COURT RULES FOR THE GOVERNMENT OF THE BAR OF OHIO

2
3 RULE XIV. CERTIFICATION OF ATTORNEYS AS SPECIALISTS.

4
5 Section 1. Purpose.

6
7 The purpose of this rule is to enhance public access to appropriate legal services by
8 regulating the certification of lawyers as specialists.

9
10 Section 2. Supreme Court Commission on Certification of Attorneys as
11 Specialists; Establishment of the Commission.

12
13 (A) Membership.

14
15 (1) There is hereby created the Supreme Court Commission on Certification of
16 Attorneys as Specialists, consisting of ~~seventeen~~ eighteen members appointed by the Chief
17 Justice and Justices of the Supreme Court, as follows:

18
19 (a) Twelve attorneys admitted to the practice of law in Ohio, one from each appellate
20 district; The appellate district of each of the twelve attorneys shall be determined by the
21 location of the attorney's principal office.

22
23 (b) Three law faculty members from separate Ohio law schools engaged in full-time
24 legal education;

25
26 (c) Two judges;

27
28 (d) An attorney admitted to the practice of law in Ohio who is certified as a specialist
29 in an area recognized as a specialty by the Supreme Court.

30
31 ~~The appellate district of each of the twelve attorneys will be determined by the location~~
32 ~~of the attorney's principal office.~~

33
34 (2) ~~Except as provided in division (A)(4) of this section, members~~ Members of the
35 Commission ~~shall~~ serve three year terms ~~beginning on the first day of January.~~ Members shall be
36 eligible for reappointment, but shall not serve more than ~~two~~ three consecutive terms of three
37 years.

38
39 (3) Vacancies on the commission shall be filled in the same manner as ~~original~~
40 appointments provided in division (A)(1) of this section. A member appointed to fill a vacancy
41 occurring prior to the expiration of the term for which the appointee's predecessor was serving
42 ~~shall hold~~ holds office for the remainder of the term. If an attorney member no longer has ~~his or~~
43 ~~her~~ the attorney's principal office in the district from which ~~he or she~~ the attorney was appointed,
44 if a faculty member is no longer engaged in full-time legal education in an Ohio law school, ~~or~~ if
45 a judicial member leaves office, or if the attorney member who is certified as a specialist is no
46 longer certified, the member ~~shall be~~ is disqualified and a vacancy ~~shall occur~~ occurs.

47 (4) ~~Initial appointments to the Commission shall be as follows:~~

48

49 (a) ~~Five shall be for terms beginning on the date of appointment and ending~~
50 ~~December 31, 1994;~~

51

52 (b) ~~Six shall be for terms beginning on the date of appointment and ending December~~
53 ~~31, 1995;~~

54

55 (c) ~~Six shall be for terms beginning on the date of appointment and ending December~~
56 ~~31, 1996.~~

57

58 (5) ~~At its first meeting, the Commission shall elect a chair and a vice chair, and other~~
59 ~~officers as are necessary, who shall each serve for the remainder of 1993. Thereafter, the The~~
60 ~~Commission shall elect a chair, vice-chair, and other officers. The officers shall serve for two~~
61 ~~years and may be reelected, but a member shall not serve as chair or vice-chair for more than ~~two~~~~
62 ~~three consecutive two year terms.~~

63

64 (6) ~~After the first meeting, the (5) The Commission shall meet at the call of the chair~~
65 ~~or upon written request of a majority of the members. A majority of the members constitutes a~~
66 ~~quorum. No action shall be taken by the Commission without the concurrence of a majority of~~
67 ~~the members attending and constituting a quorum at that meeting.~~

68

69 (7)(6) ~~Members shall~~ serve without compensation, but shall be reimbursed for expenses
70 incurred in the performance of their official duties.

71

72 (B) **Secretary of the Commission.** The Administrative Director of the Supreme
73 Court, or ~~his or her~~ the director's designee, ~~shall serve~~ serves as the Secretary of the
74 Commission.

75

76 (C) **Powers and Duties of the Commission.** The Commission shall approve and
77 regulate ~~agencies~~ organizations that certify lawyers practicing in Ohio as specialists and shall do
78 the following:

79

80 (1) Recommend to the Supreme Court the fields of law subject to specialization
81 designation on the Commission's own motion or on petition of interested parties and on the
82 criteria as it may establish. In identifying a field of law as a specialty area, the Commission shall
83 consider whether:

84

85 (a) The public interest would be served;

86

87 (b) There is sufficient interest manifested to warrant the designation of a specialty
88 field and the expense of its administration;

89

90 (c) Appropriate standards of proficiency can be established for the specialty field;

91

92 (d) There is satisfactory evidence of the existence or prospect of an adequate program
93 of continuing legal education in the specialty field;

94
95 (e) Designation of the specialty field would fulfill the objectives and further the
96 orderly growth of specialization by lawyers in Ohio.

97
98 (2) Approve ~~agencies~~ organizations as qualified to certify lawyers as specialists in a
99 particular field of law and adopt standards that ~~must be satisfied by certifying agencies.~~
100 organizations shall satisfy;

101
102 (3) Adopt standards that certifying ~~agencies~~ organizations shall establish in certifying
103 attorneys as specialists, in addition to those standards set forth in Section 3 of this rule.;

104
105 (4) Review and evaluate the programs of certifying ~~agencies~~ organizations to ensure
106 compliance with this rule.;

107
108 (5) Deny, suspend, or revoke the approval of a certifying ~~agency~~ organization upon
109 the Commission's determination that the ~~agency~~ organization has failed to comply with the
110 standards established by this rule and the regulations and standards of the Commission.;

111
112 (6) Maintain records of attorneys certified as specialists by ~~agencies~~ organizations
113 approved under this rule and report to the Disciplinary Counsel or a Certified Grievance
114 Committee any attorney who the Commission believes has violated this rule.;

115
116 (7) Cooperate with other organizations; and boards, ~~and agencies~~ engaged in the field
117 of attorney specialization.;

118
119 (8) Enlist the assistance of advisory committees to advise the Commission.;

120
121 (9) By the first day of January of each year, submit a report to the Supreme Court
122 concerning the activities of the Commission and the status of attorney specialization and
123 certification in the state.;

124
125 (10) Enhance public access to appropriate legal services by informing the general
126 public of the meaning of the certification of an attorney as a specialist.;

127
128 (11) Subject to the approval of the Supreme Court, adopt regulations reasonably
129 needed to implement this rule that are not inconsistent with this rule.

130
131 **Section 3. Standards for Approval of Certifying ~~Agencies~~ Organizations.**

132
133 (A) A certifying ~~agency~~ organization shall be a not-for-profit organization. A majority
134 of the governing board or governing committee of a certifying ~~agency~~ organization shall include
135 attorneys who, in the judgment of the Commission, are experts in the field of law covered by the
136 specialty and have extensive practice or involvement in the specialty.

137

138 (B) The standards for certification of specialists of a certifying agency organization
139 shall include, as a minimum, the standards required for certification set out in this rule and in the
140 regulations and standards adopted by the Commission. The standards shall provide a reasonable
141 basis for determining that the attorney possesses special competence in a particular field of law
142 as demonstrated by all of the following:

143
144 (1) Substantial involvement in the specialty field during the three-year period
145 immediately preceding application to the certifying agency organization, measured by the type
146 and number of cases or matters handled, the amount of time spent practicing in the specialty
147 field, or other appropriate criteria;

148
149 (2) Recommendations from attorneys or judges who are familiar with the competence
150 of the attorney, none of whom are related to, or engaged in legal practice with, the attorney;

151
152 (3) Objective evaluation of the attorney's knowledge of the substantive and
153 procedural law in the specialty field, to be determined by examination.

154
155 (C) The certifying agency organization shall investigate recommendations and obtain
156 any data that may be required to ensure the attorney is in compliance with this rule.

157
158 (D) The certifying agency organization shall report to the Commission all attorneys it
159 certifies as specialists under this rule.

160
161 (E) Each certifying agency organization shall submit annually to the Commission
162 reports as the Commission directs to ensure compliance with this rule.

163
164 (F) The certifying agency organization shall cooperate with the Commission and
165 perform other duties as may be required by the Commission.

166
167 **Section 4. Prerequisites for Certification of Specialists.**

168
169 To be certified as a specialist, an attorney shall satisfy both of the following
170 requirements:

171
172 (A) Be registered as active pursuant to Gov.Bar R. VI;

173
174 (B) Be certified by an agency organization approved by the Commission.

175
176 **Section 5. Privileges Conferred and Limitations Imposed.**

177
178 (A) A specialist certified under this rule may communicate the fact that ~~he or she~~ the
179 specialist is certified by the certifying agency organization as a specialist in the field of law
180 involved. A specialist shall not represent, expressly or impliedly, that ~~he or she~~ the specialist is
181 certified by the Supreme Court or the Commission or by an entity other than the certifying
182 agency organization. A specialist may represent that the certifying agency organization is

183 approved by the Commission, but shall not represent that the certifying ~~agency~~ organization is
184 approved by the Supreme Court of Ohio.

185
186 (B) This rule shall not limit the right of a certified specialist to practice in any field of
187 law.

188 (C) An attorney shall not be required to be certified as a specialist in order to practice
189 in any field of law.

190
191 (D) An attorney may be certified as a specialist in more than one field of law.

192
193 **Section 6. Minimum Standards for Continued Certification of Specialists.**

194
195 (A) The period of certification as a specialist shall be set by the certifying ~~agency~~
196 organization, but shall be not less than three or more than seven years. During the certification
197 period, the Commission may require directly, or through the certifying ~~agency~~ organization,
198 evidence from the specialist of continued qualification for certification as a specialist.

199
200 (B) Application for and approval of continued certification as a specialist shall be
201 required prior to the end of each certification period. To qualify for continued certification as a
202 specialist, an attorney applicant ~~must~~ shall pay the required fee and satisfy the requirements for
203 certification renewal established by the Commission and the certifying ~~agency~~ organization.

204
205 (C) In addition to the requirements of Gov.Bar R. X, a specialist shall complete
206 twelve hours of continuing legal education every two years in each specialty area for which ~~he or~~
207 she the specialist is certified. Proof of completion shall be submitted in the manner required by
208 Gov.Bar R. X.

209
210 **Section 7. Fees; Miscellaneous.**

211
212 (A) The Commission shall establish and collect reasonable fees from the certifying
213 ~~agencies~~ organizations and certified specialists under this rule.

214
215 (B) Initial funds for the operation of the Commission shall be appropriated by the
216 Supreme Court from the Attorney Registration Fund. Thereafter, the Commission shall be
217 funded from the fees established pursuant to this rule.

218
219 (C) At the request of the Administrative Director of the Supreme Court, the
220 Commission shall prepare and submit a proposed annual budget for approval by the Supreme
221 Court.

222
223 (D) Records of the Commission shall be available for public records ~~and shall be~~
224 ~~made available for inspection to any member of the general public during regular business hours.~~
225 ~~Upon request, the person responsible for such records shall make copies available at cost, within~~
226 ~~a reasonable period of time, and such records shall be maintained in such a manner that they can~~
227 ~~be made available for inspection in accordance with this rule~~ access pursuant to Sup. R. 44
228 through 47.

229 **Section 8. Effective Date.**

230
231 [Effective: January 1, 1993; amended effective November 17, 1993; May 8,
232 2000;_____.]

233
234
235 **APPENDIX IV: STANDARDS FOR ACCREDITATION OF SPECIALTY**
236 **CERTIFICATION PROGRAMS FOR LAWYERS**

237
238 **POLICY STATEMENT AND DEFINITIONS**

239
240
241 **SECTION ASCP Std. 1: POLICY STATEMENT**

242
243 **1.01.** This document establishes standards by which the Supreme Court of Ohio Commission
244 on Certification of Attorneys as Specialists will accredit specialty certification programs for
245 lawyers in particular fields of law and recommend fields of law for specialization to the Supreme
246 Court. The Standards require that an ~~accredited organization~~ Accredited Organization
247 demonstrate that lawyers certified by it possess an enhanced level of skill and expertise as well
248 as substantial involvement in the specialty area of certification and also that ~~accredited~~
249 ~~organizations foster~~ the Accredited Organization fosters professional development. The
250 Standards also require that the public interest be served by identifying fields of law as specialty
251 areas and that designation of a specialty field will further the orderly growth of specialization by
252 lawyers in Ohio. The Standards are designed to enable the Commission to evaluate thoroughly
253 the objectives, standards, and procedures of Applicants and to facilitate public access to
254 appropriate legal services. The Commission exercises its authority to make, interpret, and apply
255 the Standards as adopted and set forth in these Standards in accordance with Gov.Bar R. XIV.
256 All decisions of the Commission shall be made by majority vote.

257
258
259 **SECTION ASCP Std. 2: DEFINITIONS**

260
261 **2.01.** As used in these Standards:

262
263 ~~(A)~~(A) "Accredited Organization" means an ~~entity organization~~ entity organization that is ~~accredited~~ authorized by
264 the ~~Supreme Court of Ohio Commission on Certification of Attorneys as Specialists~~ to certify
265 lawyers as specialists.

266
267 ~~(B)~~(B) "Applicant" means a ~~certifying an~~ certifying an organization that applies to the ~~Supreme Court of Ohio~~
268 ~~Commission on Certification of Attorneys as Specialists~~ for accreditation or re-accreditation
269 ~~under these Standards to certify lawyers as specialists or an organization that applies to the~~
270 Commission for recommendation that a new area of law be designated as a specialty.

271
272 ~~(C)~~(C) "Commission" means the Supreme Court Commission on Certification of Attorneys as
273 Specialists.

274

275 ~~(D)~~(D) "Review Panel" means three or more members of the ~~Supreme Court of Ohio~~
276 ~~Commission on Certification of Attorneys as Specialists~~ designated by the Chair of the
277 Commission, ~~taking into consideration the expertise of the Commission members,~~ to either
278 review the application of a Certifying Organization an Applicant and make a recommendation to
279 the full Commission concerning the application ~~as to whether that application should be~~
280 approved or denied, or to or review an Accredited and ~~make recommendation to the full~~
281 Commission on whether a Certifying Organization and make a recommendation to the full
282 Commission as to whether the authority of the Accredited Organization should be have its
283 accreditation revoked.

284
285 ~~(E)~~(E) "Certifying Organization Specialty" means an entity area of law that ~~certifies or intends~~
286 to certify has been identified and approved by the Supreme Court in which lawyers may be
287 certified as specialists by an Accredited Organization.

288
289 ~~(F)~~(F) "Standards" means the ~~Supreme Court Commission on Certification of Attorneys as~~
290 Specialists Standards for Accreditation of Specialty Certification Programs for Lawyers.

291
292
293 **STANDARDS FOR ACCREDITATION OF SPECIALTY CERTIFICATION**
294 **PROGRAMS**

295
296 **SECTION ASCP Std. 3: AUTHORITY PROCEDURE FOR ACCREDITATION**

297
298 **3.01.** ~~Consistent with Gov.Bar R. XIV and these Standards, the Commission, by majority vote,~~
299 ~~may do any or all of the following:~~ **Notice of Intent.**

300
301 (A) ~~Interpret these Standards;~~ **Filing of Notice.** ~~Before submitting a formal application to~~
302 ~~the Commission, an Applicant shall file with the Commission a notice of intent to apply for~~
303 ~~accreditation on a form approved by the Commission and pay a non-refundable pre-application~~
304 ~~fee. The notice of intent shall specify each specialty for which accreditation is sought. If the~~
305 ~~proposed specialty has been approved as a specialty by the Supreme Court, the Secretary shall~~
306 ~~send the Applicant an application form approved by the Commission.~~

307
308 (B) ~~Adopt an appropriate fee schedule to administer these Standards;~~ **Accreditation in More**
309 **Than one Specialty Area.** ~~An Applicant may seek accreditation to certify lawyers in more than~~
310 ~~one specialty area. The organization shall be evaluated separately with respect to each specialty~~
311 ~~program.~~

312
313 (C) ~~Grant and withdraw accreditation and grant re-accreditation to Certifying Organizations.~~

314
315 **3.02.** ~~Consistent with Gov.Bar R. XIV and these Standards, the Review Panel by majority vote~~
316 ~~may do any or all of the following:~~ **Application for Accreditation.**

317
318 (A) ~~Consider applications by any Certifying Organization for accreditation or re-accreditation~~
319 ~~under these Standards;~~ **Filing of Application.** ~~An Applicant that has satisfied the notice of intent~~
320 ~~requirement of Section 3.01 of these Standards may file an application for accreditation with the~~

321 Commission by completing an application provided by the Commission and paying the required
322 application fee.

323
324 ~~(B) Evaluate applications by any Certifying Organization for accreditation or re-accreditation~~
325 ~~under these Standards;~~ **Required Supporting Documentation.** An application for accreditation
326 shall be accompanied by all of the following documents:

327
328 (1) The Applicant's governing documents, including articles of incorporation,
329 bylaws, resolutions, and other documents setting forth the standards, procedures,
330 guidelines, or practices of the Applicant's certification program;

331
332 (2) Documents demonstrating the financial stability of the Applicant and, if
333 necessary, any supporting parent organization;

334
335 (3) Biographical summaries of members of the governing board and members of the
336 advisory panels and governing committee, including specific information concerning the
337 degree of involvement in the specialty area of persons who review and pass upon
338 lawyers' applications for certification;

339
340 (4) Materials furnished to the lawyers seeking certification, including application
341 forms, booklets, or pamphlets describing the certification program, peer reference forms,
342 rules and procedures, and evaluation guides;

343
344 (5) Copies of examinations given by the Applicant in the past two years, or in the
345 case of an Applicant with a new certification program, copies of proposed examinations.
346 In those cases in which an Applicant accepts examinations by another entity, copies of
347 examinations given by such entity shall be provided. In addition to examinations
348 themselves, the Applicant shall provide evidence of the examinations' validity and
349 reliability, an explanation of how the examinations are developed, conducted, and
350 reviewed, and an explanation of the standards employed for grading and evaluating the
351 examinations. The factors used to judge the suitability and rigor of any examination shall
352 include all of the following:

353
354 (a) Evidence that the method by which pass/fail levels are established is a true
355 measure of expertise in the specialty area;

356
357 (b) Evidence of both reliability and validity for each form of the examination;

358
359 (c) Evidence of periodic review of the examination to ensure relevance to
360 knowledge and skills needed in the specialty area as the law and practice methods
361 develop over time;

362
363 (d) Evidence that the law of Ohio, when different from the general law, is a
364 part of the examination;

365

366 (e) Evidence that effective measures are taken to protect the security of the
367 examination;

368
369 (f) Evidence that the written examination includes professional responsibility
370 and ethics.

371
372 ~~(C) Recommend approval by the Commission of applications by any Certifying Organization~~
373 ~~for accreditation or re-accreditation under these Standards when the Review Panel determines~~
374 ~~that the organization has met the requirements of these Standards;~~

375
376 ~~(D) Recommend disapproval by the Commission of applications by any Certifying~~
377 ~~Organization for accreditation or re-accreditation under these Standards when the Review Panel~~
378 ~~determines that the organization has not met the requirements of these Standards;~~

379
380 ~~(E) Recommend revocation of accreditation of any Certifying Organization that ceases to~~
381 ~~meet the requirements of these Standards.~~

382
383 **3.03. Preliminary Review of Application.**

384
385 **(A) Review by Commission Staff.** Upon receipt of an application for accreditation, the
386 Commission's staff shall review materials submitted by the Applicant for conformance with
387 these Standards. The Commission is not bound by any specific schedule in processing an
388 application.

389
390 **(B) Incomplete Application.** If an application is incomplete or if other documents or
391 information are required, the Commission's staff shall notify the Applicant. The Applicant shall
392 comply with the staff request within sixty days from the receipt of the notice or request an
393 extension. If the application is not completed within this period, and if no extension is requested,
394 the application shall be considered lapsed and ineligible for consideration. The staff shall give
395 notice to the Applicant once an application is complete. Withdrawal of an application does not
396 preclude a subsequent application by the Applicant.

397
398 **3.04. Commission Review of Application.**

399
400 **(A) Evaluation by Review Panel.** The Chair of the Commission shall designate a Review
401 Panel of not fewer than three members of the Commission for each completed application. The
402 application and supporting materials shall be provided to the Review Panel for independent
403 review and consideration. The Review Panel may seek comment and information from whatever
404 sources it deems appropriate, including other lawyers admitted to practice in Ohio and
405 professionals who practice in or are knowledgeable concerning the specialty.

406
407 **(B) Report.** The Review Panel shall prepare a written report to the Commission concerning
408 the application. The written report shall recommend that the application be approved, denied, or
409 deferred and shall state the reasons for the recommendation.

410

411 **(C) Receipt of Report Required.** The Commission shall not approve or deny an application
412 until a written report from the Review Committee for that application has been presented to the
413 Commission.

414
415 **(D) Materials.** In making a final decision regarding an application, the Commission shall
416 consider all materials relating to an application. These materials include the final report of the
417 Review Panel, copies of the application and supporting documents originally submitted by the
418 Applicant, and any further materials that the Applicant has submitted for consideration.

419
420 **(E) Decision.** The Commission shall consider applications for accreditation as follows:

421
422 (1) If the Commission determines that the Applicant and its application satisfy all
423 criteria required for the certification of specialists in an approved area of specialization,
424 the application shall be approved, and the Applicant shall be designated an Accredited
425 Organization for the Specialty.

426
427 (2) If the Commission determines that the Applicant or the application do not satisfy
428 all criteria required for the certification of specialists in an approved area of
429 specialization, the application shall be denied.

430
431 (3) When an application is denied by the Commission, the Applicant may request
432 reconsideration of the denial within thirty days following its receipt of the Commission's
433 decision. Requests for reconsideration must be made in writing to the Commission and
434 should demonstrate why the Commission's denial was unreasonable.

435
436 **(F) Notice of Decision.** The Commission shall promptly notify the Applicant in writing of
437 the decision of the Commission regarding an application for accreditation or a request for
438 reconsideration.

439
440 **3.05. Coordination with the American Bar Association.**

441
442 **(A) Prior Accreditation.** The Commission may consider an Applicant's prior approval for
443 accreditation by the American Bar Association.

444
445 **(B) Applicants.** If the specialty certification program of an Applicant has been previously
446 accredited by the American Bar Association and if the requirements of the association are
447 substantially identical to the requirements of the Commission, the Commission may consider the
448 association's accreditation in determining whether the Applicant satisfies these Standards. In
449 those areas where the requirements are not substantially identical, the Applicant shall meet those
450 requirements of the Commission in the same manner as any other Applicant not having received
451 the association's accreditation. The determination of the Commission with respect to
452 "substantially identical" shall be final.

453
454 **(C) Ohio Law Requirements.** Certain specialty areas require substantial expertise in Ohio
455 law as opposed to general national law. If this is the case, the Commission shall provide for
456 additional or separate requirements for Applicants in those specialty areas.

457 **(D) Time Periods for Accreditation and Re-Accreditation.** If an Applicant has been
458 granted approval of certain requirements of the Standards based on prior accreditation by the
459 American Bar Association, the period of initial accreditation by the Commission shall be the
460 time remaining in the current period of accreditation by the association.

461
462 **SECTION ASCP Std. 4: CRITERIA FOR ACCREDITATION OF CERTIFYING**
463 **ORGANIZATIONS**

464
465 **4.01** ~~The accreditation process is designed to compare an Applicant's organizational features,~~
466 ~~operational methods, and certification standards against the requirements of the Standards. In~~
467 ~~conducting this comparison, the Commission and Review Panel utilizes the criteria specified~~
468 ~~below to make the examination of the Applicant as objective and fair as possible.~~

469
470 **4.02. Program Operations.** In order to obtain accreditation by the Commission for a specialty
471 certification program, an Applicant shall demonstrate that the program operates in accordance
472 with the following standards:

473
474 **(A) Purpose of Organization.** The Applicant shall demonstrate that its primary
475 purpose includes the identification of lawyers who possess an enhanced level of skill and
476 expertise in the area of law or practice for which ~~specialists~~ specialist certification is
477 being issued. The Applicant also shall show that its certification program ~~has a goal of~~
478 ~~developing~~ develops and ~~improving~~ improves the professional competence of lawyers.
479 The Applicant shall be a not-for-profit organization.

480
481 **(B) Organizational Capabilities.** Any program designed to certify lawyers as
482 specialists must have a continuing responsibility to those it certifies to maintain the
483 integrity and the value of the specialty designation. An Applicant seeking accreditation
484 shall establish that it possesses and will continue to maintain the governance and
485 organizational structures, a reliable source of adequate financial resources, and the
486 established administrative processes needed to carry out a certification program in an
487 unbiased, professional, and ethically responsible manner. The primary criteria that will be
488 used in determining organizational capabilities are the following:

489
490 (1) The existence of management, administrative, and business practices that
491 allow the Applicant to operate its certification program effectively and provide
492 efficient service to lawyers who submit applications for certification. The
493 processes and procedures used in the certification process should include
494 safeguards to ensure unbiased consideration of lawyers seeking certification.

495
496 ~~1.~~(2) A history of adequate financing during the three years preceding the filing
497 of the application. If the Applicant is newly formed, this criteria will be applied
498 to a parent or sponsoring organization or to the individual founders, if no
499 founding organization is involved.

500
501 ~~2.~~(3) The existence of a budget and financial plan for three years following a
502 grant of accreditation should it be made. If an Applicant has previously been

503 accredited, and has been in existence for at least five years, the existence of a
504 budget and financial plan for the year following accreditation is sufficient.

505
506 ~~3-(4)~~ The presence of persons retained by or on the governing board, evaluation
507 committees, or staff of the organization who are qualified by experience,
508 education, and background to carry out the program of certification ~~operated by~~
509 ~~the Applicant~~, including persons with a background in evaluating the validity and
510 reliability of examinations and experienced practitioners in the areas of law in
511 which the organization conducts certification programs;

512
513 4. ~~The existence of management, administrative, and business practices that~~
514 ~~allow the Applicant to operate its certification program effectively and provide~~
515 ~~efficient service to lawyers who submit applications for certification. The~~
516 ~~processes and procedures used in the certification process should include~~
517 ~~safeguards to ensure unbiased consideration of lawyers seeking certification;~~

518
519 ~~5-(5)~~ The existence of a handbook, guide, or manual that outlines the standards,
520 policies, procedures, guides for self-study, and application procedures.

521
522 ~~(C) **Decision Makers** The Standards require that a majority of any Applicant's~~
523 ~~governing board be composed of lawyers who, in the judgment of the Commission, are~~
524 ~~experts in the field of law covered by the specialty and have extensive practice or~~
525 ~~involvement in the specialty. For the purpose of this criterion, a person meets the~~
526 ~~"extensive practice or involvement" requirement if he or she meets the qualifications set~~
527 ~~out in the Standards. **Governing Committee.** The Applicant shall designate a standing~~
528 ~~committee to implement and supervise each specialty program. The committee for any~~
529 ~~specialty program need not be a board of trustees or the governing board of the Applicant~~
530 ~~itself. A majority of the Applicant's committee of the specialty program shall be~~
531 ~~attorneys who have expertise in the area for which accreditation is sought. By submitting~~
532 ~~an application, an Applicant represents to the Commission that the majority of the~~
533 ~~committee consists of attorneys who have expertise in the specialty area, and proof of the~~
534 ~~qualifications of the committee members shall be submitted as part of any application.~~

535
536 ~~(D) **Uniform Applicability of Certification Requirements and Non-**~~
537 ~~**Discrimination.** The Applicant's documents and records submitted in conjunction with~~
538 ~~its application for accreditation will be examined to ensure that the requirements for~~
539 ~~granting certification are clearly stated and that any applying lawyer who meets the~~
540 ~~requirements is granted certification., to wit:~~

541
542 ~~4-(1)~~ The materials published by the Applicant shall not state or imply that
543 membership in, or the completion of education programs offered by, any specific
544 organization are required for certification. This ~~paragraph does prohibition shall~~
545 ~~not apply to requirements relating to the practice of law that are set out in statutes,~~
546 ~~rules, and regulations promulgated by the government of the United States, by the~~
547 ~~government of any state or political subdivision thereof, or by any agency or~~
548 ~~instrumentality of any of the foregoing.~~

549
550 2.(2) The description of the program shall indicate that the Applicant does not
551 discriminate against lawyers seeking certification on the basis of race, color,
552 national origin, religion, gender, sexual orientation, disability, or age. Experience
553 requirements for lawyers seeking certification or recertification that may
554 indirectly have an effect on a particular age group shall be reasonable.
555

556 3.(3) Every Certifying Agency Applicant shall develop and administer a full
557 certification program that includes its measurement of extensive practice or
558 involvement, its own peer review, its own written examination, and its
559 requirements regarding education experience, as those criteria are described in ~~the~~
560 these Standards.
561

562 (E) ~~Definition and Number of Specialty Areas:~~ An Applicant specifically shall
563 define the specialty area or areas in which it proposes to certify lawyers as specialists
564 **Impartial Review.** The Applicant shall provide evidence that it maintains and publishes
565 a policy providing an appeal procedure for a lawyer seeking certification to challenge the
566 decision of the persons who review and pass upon the applications of lawyers seeking
567 certification. The policy shall provide a lawyer seeking certification with the opportunity
568 to present the lawyer's appeal to an impartial decision-maker in the event of denial of
569 eligibility or denial of certification. Impartial decision-makers may include persons
570 associated with the Applicant.
571

572 1. ~~Each specialty area in which certification is offered shall be an area in~~
573 ~~which significant numbers of lawyers regularly practice. Specialty areas shall be~~
574 ~~named and described in terms that are understandable to the potential users of~~
575 ~~legal services and in terms that will not lead to confusion with other specialty~~
576 ~~areas.~~
577

578 2. ~~An Applicant may seek accreditation to certify lawyers in more than one~~
579 ~~specialty area. The organization shall be evaluated separately with respect to each~~
580 ~~specialty program.~~
581

582 3. ~~An Applicant shall propose to the Commission a specific definition of~~
583 ~~each specialty area in which it seeks accreditation to certify lawyers as specialists.~~
584 ~~The Commission shall approve, modify, or reject any proposed definition and~~
585 ~~promptly shall notify the Applicant of its actions.~~
586

587 4. ~~The Commission shall recommend to and secure the approval of the~~
588 ~~Supreme Court of Ohio for the fields of law subject to specialization designation.~~
589

590 (F) **Substantial Involvement:** ~~The Applicant shall require that a lawyer seeking~~
591 ~~certification make a satisfactory showing of experience through substantial involvement~~
592 ~~in the specialty area during the three year period immediately preceding application to~~
593 ~~the Certifying Organization. Substantial involvement includes, but is not limited to, the~~
594 ~~type and number of cases or matters handled and the amount of time spent practicing in~~

595 the specialty area. In order to meet this Standard, the Applicant's certification criteria
596 shall require that the time spent practicing the specialty be at least twenty five percent of
597 the total practice of a lawyer engaged in a normal full-time practice throughout the three-
598 year period immediately preceding the lawyer's application **Requirements for**
599 **Recertification.** A period of certification shall be not less than three or more than seven
600 years. Lawyers may apply for recertification. Applications for recertification shall
601 satisfy the standards set forth in Gov.Bar R. XIV, Section 6, and shall require, at a
602 minimum, documentation of substantial involvement, compliance with continuing legal
603 education requirements, peer review references, and documentation of good standing. In
604 addition to the requirements of Gov.Bar R. X, a specialist shall complete twelve hours of
605 continuing legal education every two years in each specialty area for which the specialist
606 is certified.

607
608 **(G) Peer Review:** The Applicant shall require that a lawyer seeking certification
609 submit the names of at least five references from attorneys or judges who are
610 knowledgeable regarding the practice area and are familiar with the competence of the
611 lawyer **Revocation of Certification.** In its policies and procedures, the Applicant shall
612 provide for the revocation of certification and specialization, including the mandatory
613 requirement that a lawyer that is certified as a specialist shall immediately report the
614 attorney's disbarment or suspension from the practice of law in any jurisdiction.

615
616 1. The Applicant's procedures shall provide that the Applicant, not the
617 lawyer seeking certification, sends the reference forms to potential references.

618
619 2. The reference forms shall inquire into the respondent's areas of practice,
620 the respondent's familiarity with both the specialty area and with the lawyer
621 seeking certification, and the length of time that the respondent has been
622 practicing law and has known the lawyer seeking certification. The form also
623 shall inquire about the qualifications of the lawyer seeking certification in various
624 aspects of the practice and, as appropriate, that lawyer's dealings with judges and
625 opposing counsel.

626
627 3. The materials provided to a lawyer seeking certification shall specify that
628 the lawyer may not submit as a reference the name of any lawyer or judge who is
629 related to the lawyer seeking certification or currently engaged in legal practice
630 with that lawyer.

631
632 4. The Applicant shall reserve the right to seek and consider references from
633 persons of the applicant's own choosing.

634 635 **4.02. Certification Standards for Lawyers as Specialists.**

636
637 **(A) Substantial Involvement.** Because the purpose of accrediting lawyers as specialists is to
638 assist the public in evaluating and selecting lawyers, a lawyer seeking certification shall
639 demonstrate substantial involvement in the specialty area in the representation of clients during
640 the three-year period immediately preceding application to an Accredited Organization. Whether

641 a lawyer has had such substantial involvement during the period in question shall be determined
642 by evaluating all factors, including the type and number of cases or matters in which the lawyer
643 provided representation to clients and the percentage of the lawyer's professional time devoted to
644 the practice of law in the specialty area. At a minimum, however, a lawyer seeking certification
645 shall demonstrate that during the three-year period immediately preceding the lawyer's
646 application the time the lawyer devoted to the representation of clients in the specialty area
647 during each of the three years was not less than twenty-five percent of the time a typical lawyer
648 devotes to a normal, full-time legal practice. Notwithstanding the foregoing, no sitting judge or
649 magistrate shall be eligible to apply for specialty certification.

650

651 **(B) Peer Review.**

652

653 (1) A lawyer seeking certification as a specialist shall submit the names of at least
654 five references from lawyers or judges who are knowledgeable regarding the practice
655 area and are familiar with the competence of the lawyer.

656

657 (2) The Accredited Organization shall send the reference forms to potential
658 references.

659

660 (3) The reference forms shall inquire into the respondent's area of practice, the
661 respondent's familiarity with both the specialty area and the lawyer seeking certification,
662 and the length of time that the respondent has been practicing law and has known the
663 lawyer seeking certification. The form also shall inquire about the qualifications of the
664 lawyer seeking certification in various aspects of the practice and, as appropriate, the
665 lawyer's dealings with judges and opposing counsel.

666

667 (4) The lawyer may not submit as a reference any lawyer or judge who is related to
668 the lawyer seeking certification or currently engaged in legal practice with a lawyer or
669 who has the same employer.

670

671 (5) The Accredited Organization may seek and consider other references.

672

673 ~~(H)(C) Written Examination:~~ The Applicant shall require that a A lawyer seeking
674 certification as a specialist shall pass a rigorous written examination of suitable length and
675 complexity. The examination shall test testing at the highest level the knowledge and skills of the
676 substantive and procedural law in the specialty area, substantially consist of questions not
677 previously used on other examinations used by the Applicant for certification of lawyers, and
678 include professional responsibility and ethics as it relates to the particular specialty. The
679 following factors shall be used to judge the suitability of the examination used by the Applicant:

680

681 1. Evidence that the method by which pass/fail levels are established is reasonable;

682

683 2. Evidence of both reliability and validity for each form of the examination.
684 Reliability is the consistency or replicability of test results. Validity requires that the
685 content and emphasis of the examination proportionately reflect the knowledge and skills
686 needed for an enhanced level of skill and expertise in the specialty area;

- 687
688 3. Evidence of periodic review of the examination to ensure relevance to knowledge
689 and skills needed in the specialty area as the law and practice methods develop over time;
690
691 4. Evidence that the law of Ohio, when different from the general law, is a part of
692 the examination;
693
694 5. Evidence that effective measures are taken to protect the security of all
695 examinations.
696

697 **(H)(D) Educational Experience:** ~~The Applicant shall require that a lawyer seeking certification~~
698 ~~has completed a minimum of thirty-six hours of participation in continuing legal education in the~~
699 ~~specialty area in the three-year period preceding the lawyer's application for certification. The~~
700 ~~Applicant shall impose requirements that are satisfactory to the Commission and permit the~~
701 ~~continuing legal education requirement to be met through the following means:~~
702

- 703 1. ~~Attending programs of continuing legal education, which are approved by the~~
704 ~~Certifying Organization as appropriate for credit toward the continuing legal education~~
705 ~~requirement in the specialty area. The Certifying Organization shall not refuse to approve~~
706 ~~a program solely because it is offered by an organization other than the Certifying~~
707 ~~Organization~~ (1) A lawyer seeking certification as a specialist shall complete a minimum
708 of thirty-six hours of continuing legal education in the specialty area in which the lawyer
709 is seeking certification within the three-year period preceding the lawyer's application for
710 certification.
711
712 2. ~~Teaching or participating as a panelist, speaker, or workshop leader in a~~
713 ~~continuing legal education course approved by the Certifying Organization. In cases~~
714 ~~considered appropriate by the Certifying Organization, three hours credit may be awarded~~
715 ~~for each hour of actual teaching or presentation time under this subparagraph. Additional~~
716 ~~credit shall not be awarded for subsequent presentations of substantially the same~~
717 ~~material~~ (2) For purposes of Standard 4.02(D), the continuing legal education shall
718 fully comply with Gov.Bar R. X and the CLE Regulations.
719
720 3. ~~Teaching at a law school that is approved by the American Bar Association. Up to~~
721 ~~eight hours of credit per year may be awarded for the teaching of a course or seminar in~~
722 ~~the specialty area as a faculty or adjunct faculty member in a law school approved by the~~
723 ~~American Bar Association~~ (3) The lawyer seeking certification shall provide proof that
724 the continuing legal education contains sufficient intellectual and practical content so as
725 to increase a lawyer's knowledge and ability in the specialty area chosen.
726
727 4. ~~Writing a book or [substantial] law review article. Up to eight hours credit may be~~
728 ~~awarded for writing a book or a [substantial] law review article in the specialty area.~~
729 ~~Credit shall be awarded for the year in which the book or article actually appears in print.~~
730
731 5. ~~Taking courses at a law school that is approved by the American Bar Association.~~
732 ~~Credit hours may be awarded for courses taken at a law school approved by the American~~

733 ~~Bar Association consistent with Gov.Bar R. X and Regulation 402 adopted by the~~
734 ~~Supreme Court Commission on Continuing Legal Education. The Applicant shall require~~
735 ~~a lawyer seeking certification to provide evidence that the programs, courses, seminars,~~
736 ~~conferences, and publications listed above contain sufficient intellectual and practical~~
737 ~~content so to increase a lawyer's knowledge and ability in the specialty area.~~
738

739 ~~(J)~~(E) **Good Standing:** The applicant shall require that a

740
741 (1) A lawyer seeking certification furnish satisfactory evidence of as a specialist shall
742 provide proof of each of the following:
743

744 1. ~~The (a) That the lawyer is registered for active status and in good standing~~
745 ~~pursuant to Gov.Bar R. VI of the Supreme Court of Ohio and is in good standing~~
746 ~~with the Supreme Court; and the lawyer's fitness to practice is not in question by~~
747 ~~virtue of disciplinary action in another state has no current or pending disciplinary~~
748 ~~matter in Ohio or another state;~~

749
750 2. ~~Coverage (b) That the lawyer is covered by professional liability insurance~~
751 ~~continually maintained through a reputable company admitted in Ohio in an~~
752 ~~amount not less than Five Hundred Thousand Dollars five hundred thousand~~
753 ~~dollars per loss and demonstrated ability to pay all claims that fall within the~~
754 ~~liability insurance deductible, except that lawyers who meet the following criteria~~
755 ~~may be exempted from this requirement:~~
756

757 (i) Lawyers who can demonstrate that their employment relationship
758 as a lawyer will fully cover any professional liability claim or provide
759 immunity therefrom;
760

761 3. ~~The lawyer has demonstrated the ability to pay all claims that fall~~
762 ~~within the deductible amount selected by the attorney under the insurance~~
763 ~~policy;~~
764

765 4. ~~Professional liability insurance in an amount of not less than Five~~
766 ~~Hundred Thousand Dollars (\$500,000.00 US), shall be required for all~~
767 ~~lawyers seeking certification, with the exception of the following lawyers~~
768 ~~who can demonstrate to the Applicant's (Certifying Organization)~~
769 ~~satisfaction that their employment relationship as a lawyer will fully cover~~
770 ~~any professional liability claim or provide immunity there from:~~
771

772 ~~(a)~~(ii) Counsel employed by an entity, other than a law firm, whose sole
773 professional practice is for that entity;

774
775 ~~(b)~~(iii) Counsel employed by a governmental entity which would be
776 immune from liability claims.
777

778 ~~5.(2)~~ The lawyer shall notify the Applicant Accredited Organization immediately of
779 any cancellation or change in the lawyer's professional liability insurance coverage.
780

781 ~~6. The Applicant and Certifying Organization shall require each attorney who is or~~
782 ~~makes application to become certified by the organization to sign and submit an Attorney~~
783 ~~Certification and Acknowledgment, on a form promulgated by the Commission. This~~
784 ~~form and all documents required to be submitted by the attorney therewith (a) shall be~~
785 ~~collected by the organization from each attorney not less frequently than annually, and~~

786
787 ~~(b) shall be stored and maintained by the organization for not less than seven years.~~
788 ~~Any Applicant or Certifying Organization which complies with this Standard, shall be~~
789 ~~presumed by the Commission to be in compliance with Sec. 4.02(J)(1) through (5)~~
790

791 **(F) Attorney Acknowledgement.** A lawyer seeking certification as a specialist shall sign
792 and submit an Attorney Certification and Acknowledgement on a form promulgated by the
793 Commission. Once the lawyer is certified, this form shall be collected annually by the
794 Accredited Organization from the lawyer, and shall be stored and maintained by the organization
795 for the length of the lawyer's current certification period.
796

797 ~~**(K) Impartial Review:** The Applicant shall provide evidence that it maintains and publishes~~
798 ~~a policy providing an appeal procedure for a lawyer seeking certification to challenge the~~
799 ~~decision of the persons who review and pass upon the applications of lawyers seeking~~
800 ~~certification. The policy shall provide a lawyer seeking certification with the opportunity to~~
801 ~~present his or her case to an impartial decision maker in the event of denial of eligibility or~~
802 ~~denial of certification. Impartial decision makers may include person associated with the~~
803 ~~Applicant.~~
804

805 ~~**(L) Requirements for Recertification:** The period of certification shall be set by the~~
806 ~~Applicant but shall be not less than three or more than seven years, after which time lawyers who~~
807 ~~have been certified must apply for recertification. Recertification shall satisfy the minimum~~
808 ~~standards set forth in Gov.Bar R. XIV Section 6 and shall require similar evidence of~~
809 ~~competence as that required for initial certification in the areas of substantial involvement, peer~~
810 ~~review, education experience, and evidence of good standing. The Applicant shall have in~~
811 ~~existence or be in the process of developing a plan for periodic recertification at the time of~~
812 ~~application for accreditation.~~
813

814 ~~1. The plan for periodic recertification shall be designed to measure continued~~
815 ~~competence and enhance the continued competence of certified lawyers.~~
816

817 ~~2. Application for and approval of continued certification as specialists shall be~~
818 ~~required prior to the end of each certification period. To qualify for continued~~
819 ~~certification as a specialist, an attorney seeking recertification shall pay the required fee~~
820 ~~and satisfy the requirements for certification renewal established by the Commission and~~
821 ~~the Certifying Organization.~~
822

823 3. In addition to the requirements of Gov. R. X, a specialist shall complete twelve
824 hours of continuing legal education every two years in each specialty area for which he or
825 she is certified. Proof of completion shall be submitted in the manner required by
826 Gov. Bar R. X.

827
828 **(M) Revocation of Certification:** The Applicant shall maintain a procedure for revocation of
829 certification, including a requirement that a certified lawyer report his or her disbarment or
830 suspension from the practice of law in any jurisdiction to the Applicant.

831
832 **4.03** The Commission will consider an Applicant's prior approval for accreditation by the
833 American Bar Association consistent with the following:

834
835 **(A) Applicants:** If the specialty certification program of an applicant has been
836 previously accredited by the American Bar Association (ABA) and if the requirements of
837 the ABA are substantially identical to the requirements of the Commission, the
838 Commission shall consider the accreditation in determining whether the applicant
839 satisfies these Standards. In those areas where the requirements are not substantially
840 identical, the Applicant shall meet those requirements of the Commission in the same
841 manner as any other Applicant not having received ABA accreditation. The
842 determination of the Commission with respect to "substantially identical" shall be final
843 and binding.

844
845 **(B) Ohio Law Requirements:** Certain specialty areas require substantial expertise in
846 Ohio law as opposed to general national law. The Commission shall provide for
847 additional or separate requirements for Applicants in those specialty areas.

848
849 **(C) Time Periods for Accreditation and Re-accreditation:** If an Applicant has been
850 granted approval of certain requirements of the Standards of the Commission based on
851 prior accreditation by the ABA, the period of initial accreditation of the Certifying
852 Organization by the Commission shall be the time remaining in the time period of current
853 accreditation by the ABA. Thereafter, the Certifying Organization shall be required to
854 seek re-accreditation by the Commission at the same time as that organization seeks re-
855 accreditation by the ABA.

856
857 **(D) Fees:** If prior accreditation by the ABA reduces the requirements of the Applicant
858 to be reviewed, the Commission may impose a reduced fee for the Applicant

859
860 **(G) Specialists Who Become Judges.** No sitting judge or magistrate shall represent or hold
861 the judge's or magistrate's self out as a certified specialist nor shall any Accrediting
862 Organization represent or hold out a sitting judge or magistrate as a specialist. When a certified
863 specialist assumes a position of judge or magistrate, the date on which the specialist's
864 certification would otherwise expire shall be noted by the Accrediting Organization. If the
865 specialist's tenure as a judge or magistrate concludes before that expiration date, and provided
866 the specialist has in the interim continued to satisfy the continuing legal education requirements
867 of Gov. Bar R. XIV, the judge's or magistrate's certification may resume upon request, subject to

868 any reasonable requirements of the Accrediting Organization, and continue until the next
869 expiration date.

870

871

872 **SECTION ASCP Std. 5: ACCREDITATION AND REACCREDITATION PERIODS**

873

874 **5.01. Initial Accreditation Period.** Any period of accreditation granted pursuant to the
875 Standards herein contained and under Gov.Bar R. XIV, shall be for a period of five years, unless
876 otherwise determined by the Commission of any Applicant will be granted for not less than three
877 or more than seven years.

878

879 **5.02. To retain Commission accreditation, Application to Continue Accreditation.** If an
880 Accredited Organization shall be required to apply for re-accreditation desires to continue its
881 accreditation, said organization shall submit an application to the Commission, on a form
882 approved by the Commission, within six months prior to the end of its initial termination of the
883 present term of accreditation. This process of continuous accreditation shall be the same as for
884 the initial period and at the end of the re-accreditation of accreditation period. The Accredited
885 Organization shall be granted re-accreditation upon a showing of continued compliance with as
886 set forth in these Standards.

887

888

889 **SECTION ASCP Std. 6: REVOCATION OF ACCREDITATION**

890

891 **6.01. Grounds for Revocation of Accreditation:** The Commission may revoke an Accredited
892 Organization's organization's accreditation upon a determination that the organization has ceased
893 to exist, has failed to operate its certification program in compliance with these Standards, or has
894 materially changed its structure, operating standards, guidelines, or criteria for certification or
895 recertification without giving prior notice to the Commission as required by these Standards.

896

897 **6.02. Hearing:** The Commission, on its own or acting upon a complaint from a third party,
898 may determine that reasonable grounds exist for considering the revocation of accreditation of an
899 Accredited Organization. The Commission shall schedule the matter for deliberation at one of
900 the Commission's regularly scheduled meetings and promptly shall provide the Accredited
901 Organization organization with written notice of the meeting and an opportunity to be heard at
902 that meeting.

903

904 **6.03. New Application for Accreditation: A Certifying Organization.** An organization whose
905 accreditation has been revoked may reapply for accreditation in accordance with the Commission
906 decision revoking accreditation and as set forth in these Standards and Rule XIV.

907

908 **6.04. Voluntary Withdrawal from Accredited Status:** An Accredited Organization may
909 request that its accreditation by the Commission be withdrawn by providing written notice to the
910 Secretary of the Commission.

911

912

913

914 **SECTION ASCP Std. 7: ACCREDITATION PROGRAM COMPONENTS**

915

916 ~~**7.01 Commission:** The Commission grants, denies, and revokes accreditation and re-~~
917 ~~accreditation.~~

918

919 ~~**7.02 Review Panel:** The Review Panel appointed by the Chair of the Commission for each~~
920 ~~Applicant shall submit its recommendation to the Commission to grant or deny accreditation or~~
921 ~~re-accreditation to the Certifying or Accredited Organization. Upon a finding that an Accredited~~
922 ~~Organization has ceased to exist or has failed to operate its certification program in compliance~~
923 ~~with the Standards; the Review Panel may recommend to the Commission that the accreditation~~
924 ~~of the Accredited Organization be revoked. The Review Panel also is responsible for conducting~~
925 ~~an independent evaluation of the qualifications of Applicants for accreditation and re-~~
926 ~~accreditation in accordance with Gov.Bar R. XIV and these Standards and recommending any~~
927 ~~action to be taken by the Commission on applications for accreditation.~~

928

929 ~~**7.03 Pre-Application Advisory Services:** An entity considering filing an application for~~
930 ~~accreditation of a program to certify lawyers as specialists may obtain information [and advice]~~
931 ~~from the Commission prior to filing a formal application. Inquiries shall be addressed to the~~
932 ~~Secretary of the Commission, who shall supply a copy of these Standards, fee schedules, and~~
933 ~~other pertinent data, and may respond to questions regarding the establishment of a lawyer~~
934 ~~specialty certification program and accreditation by the Commission.~~

935

936 ~~**7.04 Notice of Intent to Apply for Accreditation:** Prior to making a formal application for~~
937 ~~accreditation, an Applicant shall file with the Commission a notice of intent to apply for~~
938 ~~accreditation form and, pay a non-refundable pre-application fee. The notice shall specify each~~
939 ~~definition of specialty for which accreditation is sought. Upon receipt of the form and fee by the~~
940 ~~Commission, and upon preliminary approval of the definition of the specialty, the Secretary shall~~
941 ~~send the Applicant an official application packet containing the forms and instructions to be used~~
942 ~~in filing the application. This requirement serves the purpose of providing basic information~~
943 ~~about the Applicant to the Commission in advance to expedite processing of the formal~~
944 ~~application when it is submitted.~~

945

946 ~~**7.05 Application for Accreditation:** Subject to the notice of intent to file requirement~~
947 ~~described above, an Applicant may file a formal application for accreditation with the~~
948 ~~Commission at any time on forms provided by the Commission, together with payment of a basic~~
949 ~~application fee and a certificate fee for each specialty certificate issued by the Applicant.~~

950

951 ~~(A) **Time Guidelines:** The Commission is not bound to any specific schedule in processing,~~
952 ~~evaluating, or deciding on the application of an Applicant for accreditation. Applications and the~~
953 ~~evaluation process will be handled as expeditiously as possible.~~

954

955 ~~(B) **Supporting Documents:** The application for accreditation shall be accompanied by all of~~
956 ~~the following supporting documents:~~

957

958 ~~1. The Applicant's governing documents, including articles of incorporation, bylaws,~~
959 ~~and resolutions of the governing bodies of the Applicant or any parent organization that~~

960 relate to the standards, procedures, guidelines, or practices of the Applicant's certification
961 program;

962
963 2. ~~Financial information about the Applicant and any supporting parent organization~~
964 ~~as specified on forms provided by the Commission;~~

965
966 3. ~~Biographical summaries of members of the governing board, senior staff, and~~
967 ~~members of advisory panels, including specific information concerning the degree of~~
968 ~~involvement in the specialty area of persons who review and pass upon applications for~~
969 ~~certification;~~

970
971 4. ~~Materials furnished to lawyers seeking certification, application forms, booklets~~
972 ~~or pamphlets describing the certification program, peer reference forms, rules and~~
973 ~~procedures, and evaluation guides;~~

974
975 5. ~~Copies of examinations given in the past two years, or in the case of a new~~
976 ~~organization, copies of proposed examinations, or in those cases in which an agency~~
977 ~~accepts examination by another entity, copies of such examinations, with evidence of~~
978 ~~their validity and reliability, such as written examination procedures, including a~~
979 ~~description of how examinations are developed, conducted, and reviewed; a description~~
980 ~~of the grading standards used; and the names of persons responsible for determining~~
981 ~~pass/fail standards. Actual or proposed written examinations shall be made available on a~~
982 ~~confidential basis for review by a person designated by the Commission, with the~~
983 ~~understanding that the Applicant may rule the person who reviews the examination~~
984 ~~ineligible for certification by the Applicant for a period of three years from the time of~~
985 ~~the designation;~~

986
987 6. ~~The definition of the specialty or specialties in which the Applicant certifies~~
988 ~~specialists;~~

989
990 7. ~~Other materials or information considered necessary by the Review Panel or the~~
991 ~~Commission.~~

992
993 **7.06 Preliminary Review by Staff Designee:** ~~Upon receipt of a notice of intent to apply or an~~
994 ~~application for accreditation, the Commission staff shall review all materials submitted by the~~
995 ~~Applicant for completeness and conformance with the basic requirements of these Standards.~~

996
997 ~~(A) If omissions are noted or clarification of responses is needed, the staff designee shall~~
998 ~~contact the Applicant and request additional information. The staff designee's request will be~~
999 ~~followed up by written confirmation. The staff designee shall notify the Applicant once the~~
1000 ~~materials are considered complete.~~

1001
1002 ~~(B) Applications that are not accompanied by all of the supporting documents specified in~~
1003 ~~these Standards shall not be processed. The staff designee promptly shall notify the Applicant of~~
1004 ~~the omissions. The Applicant shall have sixty days from the receipt of the notice to submit the~~
1005 ~~required materials or request an extension. If the required materials are not submitted within this~~

1006 ~~period and a request for extension has not been granted, the application shall be considered~~
1007 ~~lapsed and ineligible for consideration. The Applicant will receive a refund in the amount of fifty~~
1008 ~~percent of the basic application fee.~~

1009
1010 ~~(C) If the staff designee notes any obvious deficiencies in the Applicant's program or~~
1011 ~~capabilities as compared with these Standards, the staff designee shall notify the Applicant and~~
1012 ~~discuss possible modifications in the Applicant's program that may remedy the noted~~
1013 ~~deficiencies.~~

1014
1015 ~~(D) An Applicant who is notified during preliminary review about apparent deficiencies in its~~
1016 ~~program may do either of the following:~~

- 1017
1018 1. ~~Request that its application, without modification, be given full review;~~
1019
1020 2. ~~Withdraw the application without prejudice either permanently or for the purpose~~
1021 ~~of making suggested modifications in its program.~~

1022
1023 ~~(E) An Applicant's request that consideration of its application be suspended pending~~
1024 ~~modification of its program may cause presentation of a recommendation for accreditation to the~~
1025 ~~Commission to be deferred until a later meeting.~~

1026
1027 ~~(F) An application shall be considered lapsed and ineligible for consideration, and the~~
1028 ~~Applicant will receive a refund of fifty percent of the application fee if the applicant does either~~
1029 ~~of the following:~~

- 1030
1031 1. ~~Withdraws its application permanently;~~
1032
1033 2. ~~Withdraws its application for the purpose of making modifications and does not~~
1034 ~~file an amended application form with one hundred twenty days of the filing of the~~
1035 ~~original application.~~

1036
1037 ~~(G) Withdrawal of an application does not preclude a subsequent application.~~

1038
1039 ~~**7.07 Evaluation by Review Panel:** After the receipt of a completed application for~~
1040 ~~accreditation, the Chair of the Commission shall designate a Review Panel for that application~~
1041 ~~and forward the application to that Review Panel. The completed application form and~~
1042 ~~supporting materials shall be divided among Review Panel members and provided to them for~~
1043 ~~their independent review. The Review Panel Chair shall assign areas of review among Review~~
1044 ~~Panel members so as to best utilize each Review Panel member's background and expertise. The~~
1045 ~~Review Panel may seek expertise from other lawyers admitted to practice in Ohio who practice~~
1046 ~~in or are knowledgeable about the specialty. The materials shall be accompanied by evaluation~~
1047 ~~guidelines and checklists to aid in the analysis and provide consistency to the process of~~
1048 ~~reviewing the application. Each Review Panel member shall receive a copy of a complete set of~~
1049 ~~the Applicant's materials for reference.~~

1050

1051 ~~(A) Each Review Panel member shall complete his or her review of the Applicant's materials~~
1052 ~~and make a finding as to whether the Applicant meets the Standards within the scope of his or~~
1053 ~~her assigned area.~~

1054
1055 ~~(B) Members of the Review Panel shall submit the evaluation forms and supporting materials~~
1056 ~~to the Commission staff. The staff shall compile these materials for distribution to all Review~~
1057 ~~Panel members.~~

1058
1059 ~~1. At the call of the Chair of the Review Panel, the Review Panel shall hold a meeting in~~
1060 ~~person or via telephone conference call at which time each Review Panel member shall present~~
1061 ~~his or her findings. If the Chair of the Review Panel is satisfied that the Review Panel has~~
1062 ~~sufficient information to make an overall judgment concerning the extent to which the Applicant~~
1063 ~~has met the Standards, the Review Panel shall develop a recommendation as to granting or~~
1064 ~~denying of accreditation by the Commission.~~

1065
1066 ~~2. If the Review Panel concludes that more information is necessary to make a~~
1067 ~~recommendation concerning an application, the Chair of the Review Panel shall notify the~~
1068 ~~Applicant and provide a reasonable time for the Applicant to respond. Once the response is~~
1069 ~~received, the Review Panel shall meet and develop a recommendation. If the Review Panel does~~
1070 ~~not receive a satisfactory response within the specified time, it may make its recommendation to~~
1071 ~~the Commission at that time or grant additional time for the Applicant to respond.~~

1072
1073 ~~3. The Review Panel Chair may authorize a site visit to the place of business of the~~
1074 ~~Applicant to gather additional information. All costs associated with any site visits shall be borne~~
1075 ~~by the Applicant.~~

1076
1077 ~~(C) The Review Panel Chair, with assistance of the staff, shall prepare the draft and report to~~
1078 ~~the Review Panel. The Review Panel Chair, shall circulate a draft report to other members of the~~
1079 ~~Review Panel for comment.~~

1080
1081 ~~1. The final report shall be prepared by the Chair of Review Panel, incorporating comments~~
1082 ~~and recommendations received from other Review Panel members.~~

1083
1084 ~~2. A copy of the final report will be sent to the Applicant for factual verification and~~
1085 ~~comment. The final report, with any Applicant comment attached, shall be sent to all members of~~
1086 ~~the Review Panel.~~

1087
1088 ~~3. Consideration of the final report of the Review Panel shall be placed on the agenda of the~~
1089 ~~next meeting of the Commission, consistent with the time periods for Commission action~~
1090 ~~specified below.~~

1091
1092 **7.08 Commission Action on Applications:** ~~The Commission shall act on applications for~~
1093 ~~accreditation and hear any appeals from Applicants regarding any proposed adverse action~~
1094 ~~regarding accreditation.~~

1095

1096 ~~(A) **Receipt of Report Required:** In order for the Commission to consider an application at a~~
1097 ~~meeting, the Commission shall have received a final report containing the recommendation from~~
1098 ~~the Review Panel at least three weeks prior to the date of that meeting.~~

1099
1100 ~~(B) **Materials:** In making a final recommendation regarding the accreditation of an~~
1101 ~~Applicant, the Commission shall consider all materials relating to an application. These materials~~
1102 ~~include the final report of the Review Panel, copies of the application and supporting documents~~
1103 ~~originally submitted by the Applicant, and any further materials that the Applicant submits for~~
1104 ~~consideration.~~

1105
1106 ~~(C) **Decision:** The Commission shall rule on applications for accreditation as follows:~~

1107
1108 ~~1. If the Commission determines that the Applicant complies with the requirements~~
1109 ~~of these Standards, the Applicant shall be granted accreditation.~~

1110
1111 ~~2. If the Commission determines that the Applicant does not meet the requirements~~
1112 ~~of these Standards, the application will be considered closed within thirty days after the~~
1113 ~~decision of the Commission, unless the Applicant files a petition for reconsideration. The~~
1114 ~~Applicant may reapply for accreditation without prejudice.~~

1115
1116 ~~(D) **Notice of Decision:** The Applicant shall be notified in writing of the decision of the~~
1117 ~~Commission regarding an application for accreditation.~~

1118
1119 ~~(E) Factual determinations shall be based solely upon the record presented consistent with~~
1120 ~~these Standards, and not on any information extrinsic to the process specified in these Standards.~~

1121
1122 ~~**7.09 Reconsideration of Decision by Commission:** An Applicant that is adversely affected~~
1123 ~~by a decision of the Commission as specified below may petition the Commission for~~
1124 ~~reconsideration of its action.~~

1125
1126 ~~(A) **Decisions Subject to Reconsideration:** Only the following decisions of the Commission~~
1127 ~~are subject to a petition for reconsideration:~~

1128
1129 ~~1. In the case of a program applying for accreditation, a decision not to accredit the~~
1130 ~~Certifying Organization;~~

1131
1132 ~~2. In the case of a program applying for re-accreditation, a decision not to reaccredit~~
1133 ~~the Accredited Organization;~~

1134
1135 ~~3. In the case of a program accredited a decision to revoke the accreditation of an~~
1136 ~~Accredited Organization.~~

1137
1138 ~~(B) **Petition and Procedure:** An Applicant or Accredited Organization shall file with the~~
1139 ~~Commission a petition for reconsideration within thirty days after the decision of the~~
1140 ~~Commission. The petition shall demonstrate that, on reconsideration, the petitioner would submit~~
1141 ~~information or undertakings that have not been communicated adequately to the Commission. In~~

1142 his or her discretion, the Chair of the Commission shall determine whether the showing has been
1143 made, and if so, grant the petition for reconsideration.

1144
1145 ~~(C) **Lapse of Application:** Upon a denial of a petition for reconsideration, the application~~
1146 ~~shall be considered closed. The Applicant may reapply for accreditation without prejudice.~~

1147
1148 **SECTION 8: REPORTING**

1149
1150 ~~**8.01** An Accredited Organization shall be responsible for reporting both of the following in~~
1151 ~~writing to the Commission:~~

1152
1153 ~~(A) **7.01.** By April 1 of each calendar year, on a form promulgated by an Accredited~~
1154 ~~Organization shall report both of the following in writing to the Commission, a report describing~~
1155 ~~the current status of each accredited program, including the names and current addresses of Ohio~~
1156 ~~lawyers certified or recertified as specialists;:~~

1157
1158 (A) A report describing the current status of each accredited program, including the
1159 names, attorney registration numbers, and current addresses of Ohio lawyers certified or
1160 recertified as specialists on a form promulgated by the Commission;

1161
1162 (B) Any proposed material changes in the Accredited Organization's structure,
1163 operating standards, guidelines, or criteria for certification or recertification, at least sixty
1164 days before those changes are to become effective.

1165
1166
1167 ~~**SECTION 9 ASCP Std. 8: COMMUNICATION OF ACCREDITATION**~~
1168 ~~**REPRESENTATION OF ACCREDITATION**~~

1169
1170 ~~**9.01 8.01.** An Accredited Organization state that it is~~ may hold itself out as "Accredited by
1171 the Supreme Court of Ohio Commission on Certification of Attorneys as Specialists to certify
1172 lawyers in the ~~specialty~~ Specialty area(s) of _____" under the following conditions:

1173
1174 (A) An Accredited Organization using this announcement or otherwise referring to its
1175 accreditation by the Commission shall provide notice to lawyers applying for certification
1176 that accreditation by the Commission indicates solely that the Accredited Organization's
1177 certification program has met the Standards: and Gov.Bar R. XIV;

1178
1179 (B) ~~This announcement shall indicate the specialty areas in which accreditation has~~
1180 ~~been granted by the Commission.~~

1181
1182 ~~(C)~~ (C) An Accredited Organization shall not permit certified lawyers to state or imply
1183 that they are certified or accredited by the Commission or by the Supreme Court of Ohio.
1184 The certified lawyers may represent that the Accredited Organization is approved by the
1185 Commission but not the Supreme Court of Ohio. Accredited Organizations shall actively
1186 enforce this prohibition.

1187

1188 **SECTION 10 ASCP Std. 9: DISCLOSURE OF INFORMATION**

1189
1190 **10.01 9.01. General.** Except as provided below, the files, records, and documents submitted by
1191 an Applicant as part of the accreditation process shall be public information.

1192
1193 **10.02 9.02. Limiting Public Access.** An Applicant may request that distribution of its
1194 materials by ~~the Commission or by any person acting as a Review Panel member or advisor at~~
1195 ~~the request of~~ the Commission be limited to those persons who need the information to fulfill
1196 obligations specified in these rules. In such cases, the Commission shall take reasonable steps to
1197 honor such a request, but the Commission shall not be responsible for disclosure due to
1198 circumstances beyond its immediate control.

1199
1200 **10.03 9.03.** ~~Notwithstanding other provisions of these Standards,~~ actual **Examinations.**
1201 Actual or proposed written examinations submitted to the Commission shall be kept confidential
1202 and handled in accordance with Section 7.05 (B) of these Standards.

1203
1204
1205 **SECTION 11 ASCP Std. 10: NON-COMPLIANCE WITH STANDARDS**

1206
1207 **11.01 10.01.** An Applicant or an Accredited Organization that does not comply with these
1208 standards may be denied accreditation or re-accreditation or may have its accreditation revoked.
1209 Non-compliance with these Standards and Rules or deadlines set out in the Standards may delay
1210 the disposition of an application for accreditation ~~or re-accreditation.~~

1211
1212
1213 **SECTION 12 ASCP Std. 11: INDEMNIFICATION AND HOLD HARMLESS**

1214
1215 **12.01 11.01.** Accredited Organizations and Applicants shall ~~agree to~~ hold and save the
1216 Commission and the Supreme Court of Ohio, its member volunteers, officers, agents, and
1217 employees harmless from liability of any kind, including costs, expenses and attorney fees, for
1218 any suit or damages sustained by any person or property arising out of an Accredited
1219 Organization's or Applicant's application for accreditation by the Commission or arising out of
1220 any actions of the Accredited Organization or lawyers to whom specialization is granted or
1221 denied.

1222
1223
1224 **DESIGNATION OF SPECIALTY AREAS**

1225
1226 **ASCP Std. 12: PROCEDURE FOR REQUESTING SPECIALTY DESIGNATION**

1227
1228 **12.01. Notice of Intent.**

1229
1230 **(A) Filing of Notice.** An Applicant shall file with the Commission a Notice of Intent to
1231 Apply on a form approved by the Commission and pay a non-refundable pre-application fee.
1232 The notice of intent shall specify each specialty for which designation is sought.

1233

1234 **(B) Definition of Specialty Areas.**

1235

1236 (1) An Applicant shall propose to the Commission a specific definition of each
1237 specialty in which it seeks accreditation to certify lawyers as specialists.

1238

1239 (2) Each specialty in which certification is offered shall be an area in which
1240 significant numbers of lawyers regularly practice. Specialty areas shall be names and
1241 described in terms that are understandable to the potential users of legal services and in
1242 terms that will not lead to confusion with other specialty areas.

1243

1244 **(C) Required Supporting Documents.** The Notice of Intent shall be accompanied by the
1245 following documents:

1246

1247 (1) A written explanation as to how the proposed specialty area meets the criteria for
1248 consideration by the Commission as set forth in Gov.Bar R. XIV, Section 2(C)(1);

1249

1250 (2) Evidence of an adequate program of continuing legal education in the specialty
1251 area;

1252

1253 (3) Criteria for establishing appropriate standards of proficiency in the specialty.

1254

1255 **12.02. Review of Application.**

1256

1257 **(A) Review by Commission Staff.**

1258

1259 (1) Upon receipt of a notice of intent to apply, the Commission staff shall review
1260 materials submitted by the Applicant for conformance with these Standards. The
1261 Commission is not bound by any specific schedule in processing a notice.

1262

1263 (2) If the notice is incomplete or if other documents or information are required, the
1264 staff shall notify the Applicant. The Applicant shall comply with the staff request within
1265 sixty days from the receipt of the notice or request an extension. If the notice is not
1266 completed within this period, and if no extension is requested, the notice shall be
1267 considered lapsed and ineligible for consideration. The staff shall give notice to the
1268 Applicant once a notice is complete, and forward the materials to the Commission for
1269 consideration.

1270

1271 **(B) Review by the Commission.**

1272

1273 (1) The Commission shall review and consider the notice and materials, and issue its
1274 decision in accordance with the process set forth in Section 3.04 of these Standards.

1275

1276 (2) The Commission may modify or reject any proposed definition and shall accept
1277 any proposed definition subject to the approval by the Supreme Court. The Commission
1278 shall promptly notify the Applicant of its action.

1279

1280 **SECTION ASCP Std. 13 ADOPTION AND AMENDMENT OF STANDARDS**

1281

1282 **13.01.** These Amendments to these Standards ~~and any subsequent amendments~~ become
1283 effective upon their adoption by the Commission and approval by the Supreme Court of Ohio.