

ANNUAL REPORT 2021

MINNESOTA BOARD OF LEGAL CERTIFICATION

BOARD OF LEGAL CERTIFICATION
2021 ANNUAL REPORT



TABLE OF CONTENTS

Year in Review 1

BLC Background 2

Accredited Agencies 3

Certified Specialists 3-4

Funding.....5

YEAR IN REVIEW - 2021

In January 2021, the Minnesota Supreme Court appointed Andrew Pratt as chair of the Board of Legal Certification. The Court also appointed MSBA-nominated Board member Sam Edmunds, and reappointed Linda Birnbaum as a public member. The Board welcomed a new Court liaison, Justice Gordon Moore. Public Board member Aimee Zweber retired from her term at the end of the year. The Board held three regular meetings throughout the year to discuss accredited agency submissions of their annual reports, recertification applications, financial updates and attorney advertisements. The Board also met to approve the FY22-23 budget recommendations to the Court.

In June, following multiple years of discussion, the Lawyers' Board of Professional Responsibility (LBPR) and the Minnesota State Bar Association (MSBA) both filed Petitions to amend the language of Rule 7 of the Minnesota Rules of Professional Conduct based on August 2018 changes made to the American Bar Association's (ABA) Model Rules of Professional Conduct regarding attorney advertising. The Board agreed at its July meeting that if the Court put the matter out for public comment, the Board would file comments emphasizing that Minnesota has long deviated from the ABA's Model Rules and the current language of the rule appropriately restricts the use of the terms "specialist" and "certified specialist." The Court put the matter out for public comment. In December, the Board filed correspondence advocating for the continuation of the current language of Rule 7.4 that protects the public, supports a strong certification program in Minnesota, and remains a narrowly focused appropriate restriction on speech. The matter will be heard by the Court in January 2022. The determination will impact the Board's monitoring of attorney advertisement, a duty delegated to the Board by the Supreme Court and completed on a monthly basis.

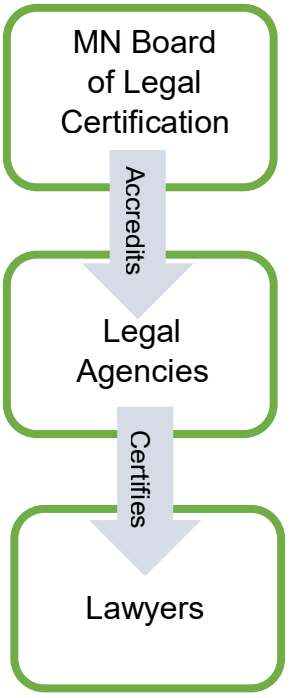
The Board approved the American Board of Certification's 2021 Recertification Application in the specialty fields of Business Bankruptcy, Consumer Bankruptcy and Creditor's Rights; and National Board of Trial Advocacy's 2021 Recertification Application in the specialty fields of Civil Trial and Criminal Law. Also, the Board approved the National Association of Counsel for Children's 2021 Recertification Application in the specialty field of Child Welfare Law.

The Board reviewed and discussed the continued decrease in the number of certified lawyers in Minnesota and revenue impact.

BLC BACKGROUND

BACKGROUND

The Minnesota State Board of Legal Certification accredits agencies to certify lawyers in Minnesota as specialists. The certification process provides the public with assurances that those who have earned the right to call themselves specialists in certain fields of law have met the necessary prerequisites for certification.



Agencies must complete a rigorous application process, which includes providing documentation verifying that the agency has complied with the Rules of the Minnesota State Board of Legal Certification. The Board reviews each agency's standards and examinations at least once every three years.

Certified lawyers must adhere to the agency's standards, which includes, at a minimum, showing substantial involvement in their specific field of law, receiving peer recommendations, and completing a written examination.

BOARD AND STAFF

The Board is comprised of 12 Board members. Nine members have licenses to practice law in the state and represent various fields of law and three are non-attorney public members. Three of the 12 attorney members are nominated by the Minnesota State Bar Association (MSBA). Board members are appointed for a three year term, and are eligible to be reappointed once.

The Board shares staff with the Board of Law Examiners, Board of Continuing Legal Education, and the Lawyer Registration Office and is comprised of a Director, two attorneys, an administrator, and an executive assistant.

2021 BOARD MEMBERS	
CHAIR: Andy J. Pratt, RBC Capital Markets, Falcon Heights	Kellie Reynolds, The American Registry of Radiologic Technologies, Woodbury
Linda S. Birnbaum, Public Member, Mendota Heights	Bruce Rivers, Rivers Law Firm, P.A., Minneapolis
Martin A. Cole, St. Paul	Brandon M. Schwartz, Schwartz Law Firm, Oakdale
Cynthia K. Daniels, Public Member, Lakeville	Janet G. Stellpflug, Stellpflug Law PLLC, Minneapolis
Samuel J. Edmunds, Sieben Edmunds Miller PLLC, Eagan	Brendan Tupa, DROEL, PLLC, Bloomington
Thomas A. Jacobson, Swenson Lervick Syverson Trosvig, Alexandria	Aimee Zweber, Public Member, Eagan
SUPREME COURT LIAISON	**DIRECTOR**
Justice Gordon Moore, MN Supreme Court	Emily Eschweiler

ACCREDITED AGENCIES

LEGAL AGENCIES THAT CERTIFY LAWYERS

Six legal agencies are accredited to certify Minnesota lawyers as specialists:

1) American Board of Certification (ABC), Alexandria, VA
2) International Association of Privacy Professionals (IAPP), Portsmouth, NH
3) Minnesota State Bar Association (MSBA), Minneapolis, MN
4) National Association of Counsel for Children (NACC), Denver, CO
5) National Board of Trial Advocacy (NBTA), Wrentham, MA
6) National Elder Law Foundation (NELF), Tucson, AZ

CERTIFIED SPECIALTY FIELDS

The accredited agencies listed above have certified lawyers in these 14 specialties:

MSBA
Civil Trial Practice
Criminal Law
Labor & Employment Law
Real Property

ABC
Business Bankruptcy
Consumer Bankruptcy
Creditors' Rights

NBTA
Civil Trial Practice
Criminal Law
Family Law
Truck Accident Law

IAPP
Privacy Law

NACC
Child Welfare Law

NELF
Elder Law

CERTIFIED SPECIALISTS

Accredited agencies submit annual reports to the Board and provide statistics on the Minnesota lawyers certified, recertified, and decertified, as well as how many new lawyers have applied for their programs. **Chart 1** shows the number of certified specialists over the last several years, and **Table 1** shows the number of certified specialists for each agency specialty field. There continues to be a decrease in the number of certified specialists as many certified lawyers are retiring and some lawyers indicate it is harder to obtain certification due to the certification requirements. The Board routinely asks agencies for information on how the agency promotes certification. Most agencies state they advertise through newsletters, social media outlets or by attending conferences.

Chart 1: Number of Certified Minnesota Specialists from 2015 - 2021

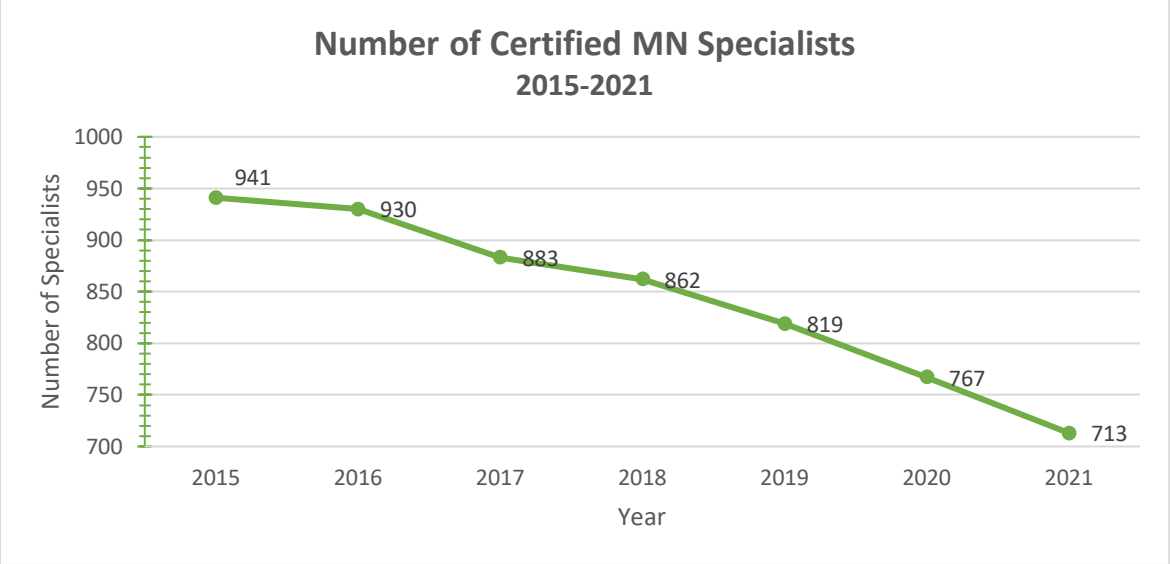


Table 1: Compiled Statistics for Minnesota Certified Specialists per Specialty Field from 2015 – 2021

AGENCY/SPECIALTY	2015	2016	2017	2018	2019	2020	2021
ABC Consumer Bankruptcy	3	3	3	3	3	3	2
ABC Business Bankruptcy	6	5	5	5	3	3	5
ABC Creditors' Rights	1	1	1	1	1	1	1
MSBA Civil Trial Practice	292	281	268	253	239	211[1]	189
MSBA Criminal Law	59	63	59	65	56	58	56
MSBA Labor & Employment Law	115	117	112	113	111	110[2]	103
MSBA Real Property	343	341	322	317	306	287[3]	272
NACC Child Welfare Law	0	0	0	0	0	0	0
NBTA Family Law Trial Advocacy	7	12	13	13	13	12	12
NBTA Civil Trial Practice	103	95	89	81	72	66	57
NBTA Criminal Law	8	8	8	8	8	8	7
NBTA Truck Accident Law	--	--	--	--	1	1	1
NELF Elder Law	4	4	3	3	3	3	3
IAPP Privacy Law	--	--	--	--	3	4	5
Total	**941**	**930**	**883**	**862**	**819**	**767**[4]	**713**

[1] Updated in 2021, initially reported as 206 due to MSBA reporting tool issues.
[2] Updated in 2021, initially reported as 109 due to MSBA reporting tool issues.
[3] Updated in 2021, initially reported as 285 due to MSBA reporting tool issues.
[4] Updated in 2021, initially reported as 759 due to MSBA reporting tool issues.

FUNDING

The Certification Board is self-funded through certified lawyers and agency fees:

- Agency application fees: $1,000
- Agency annual fees: $250 per specialty field
- Lawyer annual fee: $45
- Initial lawyer certification fee: $100

The Board's cash-carry-forward fund balance is decreasing each year due to the number of certified attorneys decreasing. The Board reviews revenue and expenditure as part of the budgeting process. In 2013, the Board's budget recommendation for FY14 included the elimination of the $900 recertification fee paid by agencies to recertify their application. The Board anticipated that the cash-carry-forward balance would be impacted by the change and advised the Court that it would continue to monitor the impact and would make recommendations for future revenue modifications, if needed. The Board will review in the spring of 2022 whether any recommendations need to be made for adjustments to the FY23 budget and will review the issue further in preparing the FY24-25 biennium budget for the Court.

Revenue: Calendar Years 2017-2021

	2017	2018	2019	2020	2021
Agency Application Fees	$0	$1,000	$1,000	$0	$0
Annual Agency Fees	$3,250	$2,750	$3,000	$3,000	$3,500
Annual Lawyer Fees	$38,250	$35,865	$36,180	$32,265	$31,815
New Lawyer Fees	$300	$3,100	$850	$150	$1,300
Total	**$41,800**	**$42,715**	**$41,030**	**$35,415**	**$38,636**

Expenses: Calendar Years 2017-2021

	2017	2018	2019	2020	2021
Salaries	$33,846	$27,026	$37,520	$35,347	$38,108
Rent	$5,370	$5,082	$5,627	$5,996	$2,693
Other (supplies, equipment, etc.)	$6,170	$4,773	$6,778	$3,356	$5,175
Total	**$45,386**	**$36,881**	**$49,925**	**$44,699**	**$45,975**

Respectfully submitted,

MINNESOTA BOARD OF LEGAL CERTIFICATION

Andrew Pratt, Chair

Emily J. Eschweiler, Director

Date: 4/5/2022