



**Knoxville
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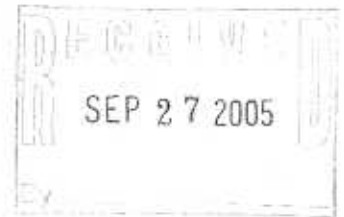


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September 26, 2005

VIA FACSIMILE & U.S. MAIL

Mr. Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407



Re: Proposed Amendment to Rule 21

Dear Mr. Catalano:

As requested, the Knoxville Bar Association's Board of Governors has reviewed and carefully considered the proposed Amendment to Supreme Court Rule 21, and respectfully states its opposition to the proposal.

The KBA Board is concerned that the use of "Board Certified" will mislead the public -- especially in light of the public's familiarity with Board Certification as it relates to the medical field, which requires special training including internship, residency and testing. The requirements for certification of a lawyer in specialty areas do not equate with Board Certification in the medical field, but the public may well assume that Board Certified lawyers receive the same rigorous training and testing as that required of doctors.

At the same time, Board Certification as proposed by the rules does not equate with the competence of a lawyer. In point of fact, the majority of lawyers in Tennessee have not found it necessary to seek specialty certification under Rule 21. The proposed Amendment suggests a drift toward encouraging and/or mandating certification, which we do not believe was the original intent of the rule allowing certification of specialists.

For these reasons, the KBA registers its opposition to the proposed Amendment to Supreme Court Rule 21. As always, we appreciate the opportunity to comment on Rule changes.

Yours truly,

Melinda Meador
On behalf of the KBA
Board of Governors

cc: David Eldridge

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: PROPOSED AMENDMENTS)
TO TENN. SUP. CT. RULE 21) M2005-1292-SCCLE-RL
) Filed October 6, 2005
)

**COMMENT OF THE TENNESSEE BAR ASSOCIATION AND
TENNESSEE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS**

The Tennessee Bar Association by and through its President, William H. Haltom, Jr.; General Counsel, Gail Vaughn Ashworth; Executive Director, Allan F. Ramsaur; joined by Tennessee Association of Criminal Defense Lawyers by and through its Immediate Past President, Stephen Young, urge the Court not to change the name of the Tennessee Commission on Continuing Legal Education and Specialization to the Tennessee Board of Legal Specialization when dealing with specialization matters because the term “board certified” in the context of legal specialization certification is misleading.

Background

On June 6, 2005, the Tennessee Commission on Continuing Legal Education and Specialization petitioned the Tennessee Supreme Court to amend Tenn. Sup. Ct. Rule 21 in several respects. Upon motion of the Tennessee Bar Association, this court published the proposed amendments and solicited written comments from the bench, bar, and the public.

1. CHANGING THE NAME OF THE SPECIALIZATION GOVERNING BODY TO THE TENNESSEE BOARD OF LEGAL SPECIALIZATION AND ALLOWING THE USE OF THE TERM “BOARD CERTIFIED” WOULD BE MISLEADING.

The term “board certified” is widely used in the medical community to denote a physician who has completed an extensive educational training program, a peer evaluation process, and a rigorous examination. After the completion of medical school, the medical board certification program begins with a three to seven year residence training and peer evaluation program. Residency is often followed by a period of independent practice for a number of years. The candidate then submits their credentials for board certification. The credentials are reviewed, a judgment is made as to whether the individual meets the requirements, and the candidate is allowed to sit for the examination. The rigorous examination is then administered.

Board certification generally lasts for some six to ten years and may require re- examination for continued credentialing.

The rationale for making the change submitted by the Commission is that the term “board certified “ is widely used in communications. Indeed, the American Board of Medical Specialties says one or more of the specialty boards certifies 89% of all licensed physicians. As indicated in the information in Exhibit “A” attached, surveying the awareness and attitudes towards board certification of physicians, there is a strong public identification about the meaning of physician credentialing. Allowing this same attitude to prevail as to attorney specialization seriously misleads the public with respect to the meaning of certification as a specialist under the Court’s certification program. The Court’s programs for certification of specialization do not require three to seven years of additional full-time graduate education beyond law school. They do not require a supervised peer evaluation. While they do require submission of credentials and examinations, none to our knowledge require re-examination for continuing credentialing. In short, the same rigor is not present.

A recent review of the Commission on Continuing Legal Education and Specialization website at www.cletn.com indicates that fewer than 3% of Tennessee lawyers are certified as a specialist. This fact is in stark contrast to the vast majority of physicians who are board certified as indicated above at 89%. Acceptance of the term “board certified” and its more rigorous meaning in the medical community means that it is deceptive to use that term in connection with the Court’s valuable but less rigorous certification program.

2. REMOVING THE REQUIREMENT FOR AN ANNUAL FINANCIAL REPORT REVIEWED BY A CPA AND THE REQUIREMENT THAT THE ATTORNEY SIGN AND RETURN AN ANNUAL REPORT STATEMENT IF THE ANNUAL REPORT STATEMENT REFLECTS SUFFICIENT HOURS TO MEET ALL REQUIREMENTS AND NO FEE IS DUE SHOULD BE ADOPTED.

Since the Commission is now fully integrated with the State’s accounting and budgeting system, an annual independent audit is no longer necessary. This expense should be dispensed with.

As to the annual report statement, this laudatory move by the Commission to dispense with needless paperwork will allow the Commission to focus on compliance rather than record-keeping and should be adopted.

By: _____ /s/
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Certificate of Service

I hereby certify that a true and exact copy of the foregoing Comment and the annexed Exhibit has been served on the attached list by placing a copy in the United States Mail, postage prepaid, this 6th day of October, 2005

Allan F. Ramsaur
Executive Director
Tennessee Bar Association