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The Connecticut Bar Association Standing Committee on Workers' Compensation Certification

2042 Standards Procedures And Rules

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Standards

Section 1: Policy Statement

1.1 This document establishes Standards by which the Standing Committee on Workers' Compensation Certification, hereinafter referred to as SCWCC, will certify and re-certify lawyers as specialists in the field of workers' compensation. In addition SCWCC will promulgate Rules and Procedures to implement the Standards. The Standards should be read and interpreted in conjunction with the Rules and Procedures.

1.2 SCWCC shall not discriminate against any lawyer seeking certification or re-certification on the basis of race, religion, gender, sexual orientation, disability or age. This paragraph does not prohibit SCWCC from imposing reasonable experience, select educational requirements and stated other requirements on lawyers seeking certification or re-certification.

Section 2: Definitions

2.1 "Applicant" means any lawyer who applies to the Standing Committee on Workers' Compensation Certification for certification or re-certification.

2.2 "Otherwise qualifies" means meeting all eligibility criteria for certification except that the applicant has not yet taken and passed the written examination.

2.3 "Standards" means the SCWCC Standards for Board certification as a workers' compensation specialist.

2.4 "Rules" means the SCWCC Rules for Certification as a workers' compensation specialist.

2.5 "Procedures" mean the SCWCC Procedures for certification as a workers' compensation specialist.

2.6 "Activity" means a course or program of instruction in continuing legal education and shall include self-study.

2.7 "Board Certified Workers' Compensation Specialist" means any lawyer who has met all the evaluation criteria and successfully passed the written examination and who continues to comply with the Standards, Rules and Procedures.

2.8 "SCWCC" means the Standing Committee on Workers' Compensation Certification.

Section 3: Authority

3.1 (a) There shall be established the SCWCC which shall consist of eight (8) members. The members shall be appointed or re-appointed by the Chair of the Workers' Compensation Section of the Connecticut Bar Association. The members shall elect a chair. Except as provided in Section 3.1(b) of these Standards, at least fifty percent (50%) of the members shall be certified specialists in workers' compensation law and the remaining fifty percent (50%) shall have substantial involvement in workers' compensation law. It is not a requirement that any member be a member of the Connecticut Bar Association.

Of the members first appointed four (4) shall serve for one (1) year, two (2) shall serve for two (2) years, and two (2) shall serve for three years. Thereafter members shall serve for a term of two (2) years. Vacancies shall be filled for the unexpired term only.

(b) Initial Appointments to the SCWCC. The provisions of this section of these Standards requiring at least fifty percent (50%) of the members to be certified specialists in workers' compensation law shall not apply to the members first appointed to the SCWCC. Until the first certificates are issued to workers' compensation specialists pursuant to section 10.3 of the procedures, eight members shall have substantial involvement in workers' compensation law.

After the first certificates are issued to Board Certified Workers' Compensation Specialists pursuant to Section 10.3 of the Procedures, the Chair of the Workers' Compensation Section of the Connecticut Bar Association shall adjust the membership of the SCWCC to insure that at least fifty percent (50%) of the members shall be Board Certified Workers' Compensation Specialists.

3.2 The SCWCC shall formulate written Standards, Procedures and Rules and prepare forms and examinations consistent with its functions and may modify or amend the same from time to time. All such written Standards, Procedures, Rules and forms, and any modifications or amendments thereto, shall be submitted to the Legal Specialization Screening Committee, Judicial Department, State of Connecticut for approval.

3.3 The authority to grant and withdraw certification and re-certification is vested in the SCWCC. SCWCC is vested with the authority to:

- (a)** develop and interpret these Standards, Rules and Procedures;
- (b)** recommend to the Legal Specialization Screening Committee revisions to the Standards, Rules and Procedures;
- (c)** adopt and implement fee schedules to administer the certification program;

- (d) consider those applications for certification or re-certification in accordance with the Standards, Rules and Procedures and approve such applications when it deems the individual has met the requirements as set forth in the Standards and has complied with all Rules and Procedures;
 - (e) suspend a lawyer's certification in accordance with the provisions of these Standards;
 - (f) promulgate an annual budget in consultation with the Staff Advisor appointed pursuant to section 5.1 of the Procedures to implement and maintain the certification program; and
 - (g) determine whether a continuing legal education activity qualifies as being in the area of workers' compensation for the purposes of satisfying the requirements of section 4.6 of these Standards, and as non-"basic" (i.e. advanced) for purposes of re-certification under section 7 of these Standards.
- 3.4 (a)** Meetings of the entire SCWCC may be called at any time upon notice given by the chairperson. Notice of the meeting shall be given to all members at least one week prior to the meeting by mail, facsimile transmission or telephone to the member at his or her office. A member may waive notice of the meeting by letter addressed to the chairperson.
- (b)** Four members of the SCWCC shall constitute a quorum at any meeting duly called.

Section 4: Requirements

4.1 Substantial Involvement

The Applicant shall demonstrate substantial involvement in the practice of workers' compensation law throughout the five year period immediately preceding application for certification or re-certification; provided however, that an interruption in continuous practice of up to one year for a sabbatical or leave of absence shall be permitted so long as the applicant has otherwise demonstrated such substantial involvement in the continuous practice of workers' compensation law for at least five years exclusive of the interruption. Substantial involvement is measured by the type and number of informal or formal hearings attended and CRB appeals argued or briefed and the amount of time spent practicing in the workers' compensation area which must be no less than twenty-five percent (25%) of the total practice of the Applicant engaged in a normal full-time practice or an equivalent percentage of the total practice of an applicant engaged in a part-time practice. An applicant who has served as a State of

Connecticut Workers' Compensation Commissioner during the five-year period preceding application for certification or recertification shall be deemed to have satisfied the substantial involvement requirement of this section during such service; provided that no Commissioner shall be eligible for certification or recertification during his or her term of service as a Commissioner.

4.2 Good Standing

The Applicant seeking certification or re-certification shall have been engaged in the practice of law in Connecticut for at least five (5) years preceding application for certification or re-certification. The applicant shall be a member in good standing of each jurisdiction in which the Applicant is admitted. Confirmation of same must accompany the application. SCWCC does not require that a lawyer seeking certification or re-certification be a member of the Connecticut Bar Association (CBA). For purposes of this section "engaged in the practice of law" shall mean substantive legal work done primarily for the purposes of rendering legal advice or representation. Employment by the government or a corporation or other business, shall constitute the practice of law if (1) the work performed was legal in nature and was performed primarily for the purpose of rendering legal advice to, or representation of, such governmental agency, corporation or other business; and the applicant was required as a condition of such employment to be admitted to the bar of any state; or (2) the applicant was serving as a State of Connecticut Workers' Compensation Commissioner.

4.3 Insurance

The Applicant seeking certification or re-certification must have and maintain a lawyer's professional liability insurance policy issued by a licensed liability insurance company authorized to carry such risks in the State of Connecticut with minimum limits of \$300,000 per claim. Confirmation of same by way of a properly executed certificate of insurance must accompany the application. The certificate shall name the Connecticut Bar Association Standing Committee on Workers' Compensation Certification as the certificate holder. Said insurance must be maintained throughout the successful Applicant's period of certification or re-certification. The Standing Committee, in its discretion, may waive the requirements of this section, if they determine there is suitable alternative coverage or demonstration of financial responsibility for the protection of the applicant's clients. Applicants who are not engaged in the private practice of law but are employed by municipal, state or federal governments; and applicants employed as staff or house counsel; must demonstrate by some reliable evidence that they have adequate financial protection for their professional acts, through their employers or otherwise.

4.4 Professional Ethics and Disciplinary Review

The applicant seeking certification or recertification shall verify by affidavit the following information for each jurisdiction in which the applicant is admitted: (1) any grievances filed against the applicant or disciplinary action taken against the applicant as the result of any such grievance or for any other reason, including any sanctions or conditions imposed pursuant to Sections 2-35 or 2-36 of the Connecticut Rules for the Superior Court; and (2) any malpractice actions brought against the applicant. The Standing Committee shall consider the seriousness of the underlying facts of the grievance or malpractice action and will consider the passage of time since the grievance or malpractice action was filed or such discipline was imposed, as well as the applicant's experience since that time. The information contained in the affidavit shall be stated with sufficient particularity to enable the SCWCC to conduct its investigation. Failure to disclose any information required by this section shall be a material misrepresentation and may be cause for denial of an application, suspension or revocation of certification, or any other appropriate action.

4.5 Peer Review

- (a) Each applicant for certification shall provide the names of seven qualified attorneys, as defined by subsection (d) of this section, who may serve as references. In addition, the Examining Committee may seek and consider references of its own choosing. The Examining Committee of the SWCC shall send out all reference forms.
- (b) Each applicant shall have favorable references from qualified attorneys, who affirm that the applicant should be certified and attest to the applicant's competence and substantial involvement in the area of Workers' Compensation Law; as well as the applicant's character, ethics and reputation for professionalism. At least one reference must be from a board certified attorney.
- (c) When evaluating the references, the Examining Committee of the SWCC shall consider: (1) the knowledge, experience, competence and reputation for ethical behavior and professionalism in the field of Workers' Compensation Law of the attorney providing the reference; and (2) the nature and extent of the dealings between the reference and the applicant.
- (d) For purposes of this section "qualified attorney" means an attorney who:

- (1) Is admitted to the practice of law in Connecticut and is currently in good standing;
- (2) Has a substantial involvement in the practice of Workers' Compensation Law;
- (3) Is not related to the applicant;
- (4) Is not currently, and has not been, engaged in legal practice with the applicant at any time during the three year period preceding the filing of the application;
- (5) Is familiar with the applicant's practice, knowledge, experience, competence and reputation for ethical behavior and professionalism, in the field of Workers' Compensation Law.

4.6 Education

(a) A minimum of 36 hours of participation in continuing legal education in workers' compensation in the three (3) year period preceding the lawyer's application for certification is required. At least three (3) of the preceding 36 hours shall have been earned in the area of legal ethics or professional responsibility. This requirement may be met through any of the following means:

- (1) attending programs of continuing legal education, or courses offered by accredited law schools, in the area of workers' compensation;
- (2) participating as panelist, speaker or work-shop leader at educational or professional conferences which are approved by the Continuing Legal Education (CLE) Committee of the CBA covering the area of workers' compensation;
- (3) teaching courses or seminars in the area of workers' compensation which are approved by the CLE Committee of the CBA or given at accredited colleges, universities or law schools and;
- (4) writing published books or published articles in the area of workers' compensation.

(b) Credit may be accorded individuals as follows:

- (1) for actual attendance at a course or program of instruction approved by the CLE Committee of the CBA. For all courses or programs attended on or after June 30, 2009 applicants shall provide a uniform

certificate of attendance for each course or program submitted for credit under this subsection.

- (2) for video, motion picture or sound tape presentation which meet the criteria of the CLE Committee of the CBA. Persons seeking credit for individual self study for these types of activity must submit an affidavit attesting to the completion of the course of study, including review and study of the accompanying course material;
 - (3) through teaching or participating (panel discussion, participant, seminar chairperson, etc.) in an approved legal or judicial education activity. Credit shall be based on one hour of credit for each two hours of preparation, and one hour of credit for each one hour of presentation. The maximum amount of credit which may be assigned for preparation in a single seminar is six (6) hours.
 - (4) as the author of a published legal writing, with approval by the CLE Committee of the CBA. Credits to be earned will be assigned by the CLE Committee after review and evaluation in writing.
- (c) unless the activity is approved by the CLE Committee of the CBA, credit will not normally be given:
 - (1) for speeches given at luncheons or banquets;
 - (2) for presentation to clients;
 - (3) for activities directed primarily to persons preparing for admission to practice law but this provision shall not apply to presentations to persons seeking certification or re-certification;
 - (4) when the activity involves correspondence work or other informal self-study.
- (d) Credit may be assigned, retroactively, for attendance and or participation in a CLE Committee approved activity held during the three-year period preceding the filing of the application for certification. No credit will be assigned for any activity prior to that date.
- (e) The burden of establishing entitlement to credit for a particular activity rests with the Applicant, either initially or upon appeal.

- (f) The hours to be credited for a re-certification must have been gained after, and separate and distinct from, the period for which a prior certification was issued.
- (g) SCWCC does not require a lawyer seeking certification or re-certification to complete educational programs offered by any specific organization.

Section 4.7: Written Examination

- (a) There shall be an evaluation of the applicant's knowledge of the substantive and procedural law in the area of workers' compensation which shall contain written essay questions and multiple choice questions. The examination shall include professional responsibility and ethics as it relates to the workers' compensation area.
- (b) The written examination shall be administered according to section 9 of the Procedures and shall comply with section 8 of the Rules.

Section 5: Grounds For Denial Of Application

Grounds for denying an application for certification or recertification include, but are not limited to the following:

- (a) applicant's failure to meet the substantial involvement requirement;
- (b) applicant's failure to be engaged in the practice of law for 5 years;
- (c) applicant is not a member in good standing in any court to which he is admitted;
- (d) applicant's failure to maintain a lawyer's professional liability policy outlined in section 4.3 of the Standards;
- (e) information received through the references pursuant to section 4.5 of the Standards;
- (f) applicant's failure to meet the continuing legal education requirement;
- (g) applicant's failure to pass the written examination;
- (h) applicant's disciplinary history or other information received pursuant to section 4.4 of the Standards; or

- (i) applicant's failure to furnish requested information or the misrepresentation of any material facts requested by the SCWCC or the Examining Committee.

Section 6: Requests For Additional Information

The Examining Committee may request additional information from the applicant for certification or recertification and/or ask to meet personally with the applicant should the Examining Committee feel it necessary in order to make its recommendation. Failure to respond to a request for information may be taken into account by the Examining Committee when making its final decision.

Section 7: Certification Period and Re-Certification

7.1 Certification shall be granted for five (5) years, except that if a certified attorney is appointed to be a State of Connecticut Workers' Compensation Commissioner during a period of certification, the running of his or her certification period shall be suspended during the term(s) of service as a Commissioner. The balance of the attorney's certification period shall recommence upon cessation of service as a Commissioner. During appointment as a Commissioner annual reporting, continuing legal education requirements and payment of fees shall also be suspended.

7.2 To retain certification an individual shall be required to apply for re-certification prior to the end of the fifth year of his or her initial certification and every five (5) years thereafter.

An individual shall be granted re-certification upon a showing of continued compliance with the Standards, Rules and Procedures including substantial involvement, peer review, educational experience and good standing.

7.3 A lawyer seeking recertification shall have earned no fewer than sixty hours of continuing legal education in the area of workers compensation during the certification period. At least six of the sixty hours shall have been earned in the area of legal ethics or professional responsibility. No credit may be claimed for any basic course in workers' compensation law. At least 50% of the sixty hours must be in courses related to workers' compensation law or medical related issues, with a maximum of 40 hours in medical related issues; the balance of the sixty hours may be in trial practice or litigation skills. In order to qualify for consideration in a re-certification application, the lawyer must have earned the credits for legal education after the beginning date of his or her most recent certification period; and no later than thirty (30) days prior to the end of his or her most recent certification period.

Section 8: Suspension of Certification

8.1 Any certified lawyer shall immediately report to SCWCC: (a) his or her resignation, disbarment or suspension from the practice of law in any jurisdiction to which s/he is admitted; (b) any cancellation or non-renewal of his or her legal malpractice policy which policy is not immediately replaced without lapse of coverage; (c) any conviction of a crime involving moral turpitude; (d) any entry of a judgment involving legal malpractice against the lawyer; (e) any presentment or prosecution by the grievance or disciplinary authority of any jurisdiction to which s/he is admitted; or (f) any imposition of sanctions or conditions imposed against the lawyer pursuant to Sections 2-35 and 2-36 of the Connecticut Superior Court Rules .

8.2 Upon the happening of any event listed in subsection (a), (b) or (c) of section 8.1 of these Standards, the lawyer's certification shall be immediately suspended. Any such suspension shall be subject to the lawyer's right of appeal pursuant to section 9 below.

8.3 The SCWCC may, after investigation, suspend the certification of any lawyer who has had: (a) a judgment involving legal malpractice entered against him; (b) presentment or other prosecutorial proceedings filed against him by the grievance or disciplinary authority in any jurisdiction in which the lawyer is admitted; or (c) sanctions or conditions imposed against him pursuant to Sections 2-35 and 2-36 of the Connecticut Superior Court Rules. Any such suspension shall be subject to the lawyer's right to appeal pursuant to section 9 of these Standards.

Section 9: Appeals

(a) A lawyer whose application for certification or recertification has been denied either for (1) deficiency of the application or failure to fulfill the requirements for certification, including failure of the written examination, or (2) whose certification as a specialist has been suspended, may appeal any such decision in accordance with the provisions of this section.

(b) (1) Any notice of a decision to deny an application for certification or recertification or to suspend the certification of a workers' compensation specialist shall be sent by certified mail. A lawyer wishing to appeal any such decision shall file a petition for appeal to the SCWCC within 30 days of receipt of such decision. The petition shall be filed with the Staff Advisor at the CBA office in New Britain. The petition may be informal, but shall be in writing and must adequately identify (A) the determination for which reconsideration or review is requested; (B) the date on which notice thereof was received; (C) the reasons for which the petitioner believes the determination should be altered; (D) the relief requested; and (E) whether a hearing before the SCWCC is requested.

(2) If the petition alleges that an error or errors have been made in grading of his examination, the petition shall also set out in detail the area which, in the opinion of the applicant, has been incorrectly graded. Supporting information shall be filed with the petition to substantiate the applicant's claim.

(3) If the petition alleges that an error or errors have been made in grading of his examination, the applicant may request that all information concerning the petition for appeal shall be submitted to the SCWCC in blind form. In any such case, the staff advisor shall delete any identifying information on the examination, petition for appeal, and any other related documents.

(c) (1) If the petitioner does not request a hearing, the SCWCC shall consider the petition for appeal within 45 days of receiving such petition. The Examining Committee may file a response to a petition for appeal of the denial of an application for certification or recertification. At least five members of the SCWCC shall be present to consider any such petition. The SCWCC shall consider the petition, and any response filed by the Examining Committee, and render a decision confirming, reversing or modifying the earlier decision by a majority vote of the members in attendance. If the petition for appeal concerns the grading of the applicant's application, the SCWCC shall render a decision that the grade on the examination remain the same or be changed. Any such decision shall be made by a majority vote of those in attendance. The SCWCC shall send a copy of the decision to the lawyer by certified mail.

(2) If the petitioner requests a hearing, the SCWCC shall hold a hearing within 45 days of receipt of the petition for appeal. The SCWCC shall send notice of the hearing to the lawyer by certified mail. Any hearing by the SCWCC shall be conducted by not less than 5 members of the committee. If the petitioner fails to attend or fails to request and obtain an alternate hearing date, the SCWCC shall act on the petition without the presence of the petitioner. Except for good cause shown, which shall be strictly construed, only one request for an alternate hearing date shall be granted.

Within a reasonable amount of time after the conclusion of the hearing, the SCWCC shall render a decision, confirming, reversing or modifying the earlier decision by a majority vote of the members in attendance. If the petition for appeal concerns the grading of the applicant's examination, the SCWCC shall render a decision that the grade on the examination remain the same or be changed. The SCWCC shall send a copy of the decision to the lawyer by certified mail.

(d) Hearing Process

(1) The SCWCC may, but is not required to, appoint an examiner who may be a member of the Standing Committee to investigate, gather, prepare and present evidence and to aid in conducting hearings.

(2) At the hearing, the petitioner and the examiner may present sworn testimony and documentary evidence and shall have the right to cross examine adverse witnesses.

(3) The SCWCC will not be bound by a strict application of the rules of evidence, other than those related to privileges, in considering information that it deems reliable and relevant. The petitioner shall bear the burden of proof.

(4) The hearing shall be recorded by means of a tape recording which shall be kept as an official record of the hearing. Transcripts shall be made available to the petitioner at his or her expense.

(e) Appeal to the Workers' Compensation Executive Committee

(1) Within 30 days of receiving notice that a petition for appeal has been denied under subsection (c) of this section, a lawyer may appeal such adverse decision to a panel of the Workers' Compensation Executive Committee. The lawyer shall file any such appeal with the Staff Advisor at the CBA office in New Britain, CT. The chair of the Workers' Compensation Section of the CBA shall appoint a panel of 5 members of the Workers' Compensation Executive Committee, none of which shall be a member of the SCWCC, to hear and decide the appeal.

(2) Within 45 days of receiving the notice of appeal under subdivision 1 of this subsection, the Staff Advisor shall prepare and certify to the panel a record of the SCWCC hearing or if no hearing was held a record of the proceedings below. The record shall consist of all evidence offered at the hearing or if no hearing was requested all evidence submitted pursuant to subdivision (1) of subsection (c) of this section. The examiner, or if there is no examiner a member of the Standing Committee designated by the chair, shall file an answer on behalf of the SCWCC.

(3) Parties may file written briefs and the panel may hear oral arguments. The burden of proof is on the appellant. The panel shall consider only the record on appeal, briefs, and oral argument.

(4) Within a reasonable amount of time after the panel concludes its deliberations, the panel shall render a decision confirming, reversing, or modifying the decision of the SCWCC by a majority vote of the panel. The decision of the panel shall be final.

(f) The petitioner or appellant may exercise the right to excuse a board member or panel member because of a conflict of interest.

(g) Examination Pending Appeal

Any lawyer who has filed a petition for appeal under this section and such petition is not acted upon prior to the date fixed for the written examination may

elect to take the written examination pending the appeal. The lawyer shall be required to pay the fee for such written examination and shall be notified that he is paying such fee at his own risk because of the pending appeal, since the fee is non-refundable. If the petition for appeal is finally denied, he shall not receive any credit for having taken the examination if he reapplies at a later date.

Section 10: Adoption And Amendment

10.1 These Standards, Rules and Procedures become effective upon the approval of the Legal Specialization Screening Committee, c/o Director of Legal Services, Judicial Department, State of Connecticut, 100 Washington Street, Hartford, Connecticut 06106.

10.2 The power to approve an amendment to these Standards, Rules and Procedures is vested in the Legal Specialization Screening Committee, however, the Legal Specialization Screening Committee will not act on any amendment until it has first received and considered the advice and recommendation of the SCWCC.

10.3 The SCWCC may recommend revising or amending the Standards by a majority vote of those members then in attendance at a regular meeting duly called. The SCWCC shall report any such proposed revision or amendment to the Legal Specialization Screening Committee in accordance with the provisions of section 3.2 of the Rules.

Procedures

Section 1: Introduction

1.1 These Procedures are intended to describe the process used by SCWCC to certify or re-certify lawyers as specialists in Workers' Compensation. These Procedures should be read and interpreted in conjunction with the Standards and Rules.

Section 2: Authority

2.1 These Procedures were promulgated pursuant to section 3.2 of the Standards by SCWCC and further pursuant to authority granted by the Board of Governors of the Connecticut Bar Association and the Legal Specialization Screening Committee.

2.2 As these Procedures may be revised periodically, pursuant to section 12.1 of these Procedures, applicants are advised to check with the SCWCC to make sure they are working with the current version.

Section 3: Examining Committee

3.1 The Examining Committee of SCWCC is responsible for conducting an independent evaluation of the qualifications of Applicants for certification and re-certification in accordance with the Standards, Procedures and Rules and recommending any action to be taken by the SCWCC on applications for certification and recertification.

3.2 Appointment and Composition

- (a)** Members of the Examining Committee are appointed by the Chair of the SCWCC in sufficient number to administer the taking of the examination. Each Examining Committee shall have a Chair, elected by the members of the committee and include: (1) at least one member of SCWCC; (2) an experienced practitioner with substantial involvement in the area of workers' compensation; (3) an individual experienced in the administration and operation of the program which certifies lawyers as workers' compensation specialists; (4) an individual experienced in educational tests and measurements who holds at least a masters degree in the field; and (5) a current faculty member of an ABA accredited law school knowledgeable in the area of workers' compensation or a workers' compensation commissioner. The provisions of this section requiring one member of the Examining Committee to be experienced in the administration and operation of the program which certifies workers compensation specialists shall not apply to the first appointments made under this section. Notwithstanding the

provisions of section 3.3 of these Procedures, the SCWCC may retain a paid consultant experienced in educational tests and measurements to assist the Examining Committee in matters relating to the written examination. The retention of such consultant shall satisfy the requirements of subdivision (4) of this subdivision.

- (b) The term of each member shall be two (2) years. Vacancies shall be filled by the SCWCC Chair for unexpired terms only.
- (c) Meetings of the entire Examining Committee may be called at any time upon notice given by the chairperson. Notice of the meeting shall be given to all members at least one week prior to the meeting by mail, facsimile transmission or telephone to the member at his or her office. A member may waive notice of the meeting by letter addressed to the chairperson.
- (d) Fifty percent of the members then serving shall constitute a quorum at any meeting duly called.

3.3 Compensation and Expenses

Members of the Examining Committee serve without compensation. As circumstances and budget permit, the Chair of the SCWCC has authority to approve reimbursement of expenses in connection with travel to meetings or testing sites considered essential to the functioning of the certification program. Other reasonable expenses relative to work of the Examining Committee may be authorized by the Chair of the SCWCC in consultation with the Staff Advisor, as circumstances and budget permit.

3.4 Subcommittee on Non-Standard Testing

- (a) There shall be a subcommittee on non-standard testing for each examination, which shall have the power to act for the Examining Committee, to be appointed by the Chair of the Examining Committee, which subcommittee shall have the duty, power and authority to consider and act upon all petitions for non-standard testing and to determine the terms and conditions upon which non-standard testing will be provided to Applicants in compliance with The Americans With Disabilities Act.
- (b) Petitions for non-standard testing shall be in writing on a form prescribed by the subcommittee and shall be filed, together with such attachments as the subcommittee may

require, with the Staff Advisor, on or before the filing deadline for applications for certification or recertification.

- (c) The subcommittee may, in its discretion, hold a hearing on any petition for non-standard testing. The subcommittee shall notify the Applicant of its decision in writing and include a copy of the appeal procedures as outlined in section 9 of the Standards if a petition for nonstandard testing is denied.

3.5 The Examining Committee shall be responsible for development of an Applicant's Bulletin which will describe the examination content, administration and scoring in sufficient detail to provide applicants with information to be used to prepare for the examination.

3.6 The Examining Committee shall be responsible for development of a Test Administration Manual that outlines policy for (a) applicant admission to the test site, (b) entry and exit during examination, (c) dismissal of examinees at the conclusion of the examination, (d) procedures to follow in the event of irregularities during examination, (e) printing, shipping and distributing test materials, and (f) pre and post examination security.

3.7 The Examining Committee shall implement appropriate post-examination statistical analysis and necessary research which shall include a "question" analysis to determine how effectively each question functions and a "test" analysis to determine how effectively the test as a whole functions. The Examining Committee shall report its findings to the SCWCC.

3.8 Upon the recommendation of the Examining Committee of SCWCC, the SCWCC grants or denies certification or re-certification to an Applicant, except in the event the Examining Committee deems the applicant not otherwise qualified. In any such case, the Examining Committee shall determine that the applicant is not otherwise qualified and notify the applicant of the adverse determination and the appeal procedure in accordance with the provisions of subsection (c) of section 7.5 of these Procedures.

Section 4: Communications

4.1 In order to assure fairness and consistency, communications between the Applicant and any member of the Examining Committee or SCWCC must be conducted through the respective Chair or the Staff Advisor.

Section 5: Staff Advisor

5.1 A Connecticut Bar Association Staff Advisor shall be designated by and report to the Director of the Connecticut Bar Association to assist the SCWCC and Examining Committee.

5.2 Duties of the Staff Advisor include, but are not limited to:

- (a) acting as coordinator of all aspects of the certification process for SCWCC and the Examining Committee;
- (b) being available to the SCWCC and Examining Committee to discuss the certification process;
- (c) assembling and distributing all materials required by the SCWCC or Examining Committee to conduct its business within the time frames specified under section 8.1 of the Procedures;
- (d) coordinating and attending meetings of the SCWCC or Examining Committee, and maintaining accurate minutes of the business undertaken;
- (e) rendering advisory services and supplying appropriate material to any individual requesting an application or information regarding the certification of lawyers as workers' compensation specialists;
- (f) supplying a copy of the Applicant Bulletin and other pertinent data as outlined in Section 6.1(b) of these Procedures to each individual requesting same;
- (g) conducting a review of the Applicant's materials for application as described in Section 7.2 of the Procedures;
- (h) collecting and properly accounting for all fees collected which are submitted by the Applicants; and
- (i) disbursing in consultation with the SCWCC Chair all authorized expenses.

Section 6: Notice of Intent to Apply for Certification Or Recertification And Contents Of The Application Packet.

6.1 (a) Prior to making a formal application for certification or re-certification, an Applicant is required to file with SCWCC through the Staff Advisor a Notice of Intent to Apply Form and in addition pay a nonrefundable pre-application fee in the amount of \$50.00. The Notice of Intent to Apply serves the purpose of providing basic information about the applicant in advance to expedite processing of the formal application when it is submitted and to defray the costs of inquiries regarding the certification process. Upon receipt of the Notice and Fee, the Applicant will be sent an official application packet as specified in subsection (b) of this section containing the forms and instructions to be used in filing the application. In addition the Applicant will be assigned a control number.

(b) The application packet includes, but is not limited to the following:

- Applicant's Bulletin Form
- Acknowledgment Letter Form
- Instruction Sheet Form
- Application Form
- Specimen of Handwriting Form
- Amendment to Applicant Form
- Additional Response Page Form; and
- Petition for Non-Standard Testing Form

6.2 If the Applicant files a formal application, the pre-application fee will be applied to the application fee.

Section 7: Application for Certification or Re-certification

7.1 Subject to the Notice of Intent to File requirement described in Section 6 of these Procedures, an Applicant can file a formal application for certification or re-certification with SCWCC on forms provided by the SCWCC together with payment of the basic application fee to SCWCC, subject to the time guidelines listed in Section 8.1 of these Procedures.

7.2 (a) Upon receipt of a formal application from the Applicant the Staff Advisor shall review all materials submitted by the Applicant for completeness and conformance with the requirements of the Standards, Rules and Procedures.

(b) If omissions are noted or clarification of responses is needed, the Staff Advisor shall contact the Applicant and request additional information.

(c) The Staff Advisor shall notify the applicant once the materials are deemed complete.

7.3 Applications that are not accompanied by all of the supporting documentation or the appropriate fee will not be processed. The Staff Advisor will promptly notify the Applicant of the omissions pursuant to Procedure section 7.2(b). The Applicant will have thirty (30) days from the time of such notice to submit the required materials or request an extension. In the event that the materials are not submitted within this period and a request for an extension has not been granted, the application will be deemed to have lapsed and no longer eligible for consideration. In this case the Applicant will receive a refund in the amount of fifty percent (50%) of the application fee.

7.4 Withdrawal of an application either by the Applicant or because it has lapsed does not preclude a subsequent application but the Applicant must

still comply with all applicable deadlines as outlined in Section 8 of the Procedures.

7.5 (a) As soon as reasonably practical after receipt of a completed application for certification or re-certification the Staff Advisor shall select a member of the Examining Committee to review the completed application for certification or recertification. If such member deems the individual otherwise qualified s/he shall direct the Staff Advisor to send the notice of examination form to the applicant providing said applicant with the time and place of the examination. An examination fee of \$250.00 shall be due and payable after an applicant has been notified of their eligibility to take the examination. The payment of such fee is a prerequisite to the taking of the examination. Upon receipt of the \$250.00 examination fee, the staff advisor shall forward an entrance pass form to the applicant.

(b) If such member deems the applicant not otherwise qualified, s/he shall refer the completed application to the entire Examining Committee who shall conduct a de novo review of the application. A majority vote of the Examining Committee then serving shall be necessary to deem the Applicant otherwise qualified.

(c) If the Examining Committee deems the applicant not otherwise qualified, it shall notify the applicant of its decision and provide the applicant with a copy of the appeal procedure by certified mail. Any appeal shall be heard pursuant to section 9 of the Standards.

Section 8: Time Guidelines

8.1 Completion Dates

	First day to File for Examination
30 DAYS LATER	Non-standard testing petition deadline
30 DAYS LATER	Application Filing Deadline
45 DAYS LATER	Deadline for SCWCC to issue letter concerning eligibility of applicant to take exam
15 DAYS LATER	Examination
90 DAYS LATER	Deadline for completion of grading by Examining Committee of examination results
15 DAYS LATER	SCWCC certification meeting
7 DAYS LATER	Release of results

8.2 Notwithstanding these guidelines, the SCWCC and/or the Examining Committee are not bound to any specific schedule in processing, evaluating or deciding on an application for certification or re-certification.

8.3 Applications and the evaluation process will be handled as expeditiously as conditions will allow. An Applicant who has submitted all required materials when and as requested and has otherwise complied with the provisions of the Standards, Rules and Procedures may generally expect to have his or her application acted upon by the Examining Committee in time to have a recommendation submitted to SCWCC. However, the SCWCC reserves the right to modify the schedule of making its recommendation on an individual's certification should circumstances warrant.

Section 9: Written Examination

9.1 The examination shall be prepared under the direction of the Examining Committee pursuant to the Standards, Rules and Procedures and shall be based upon Chapter 568 of the Connecticut General Statutes, as amended, and shall include all aspects of the practice including informal, formal and CRB practice and procedure.

Each Applicant will be given the relevant bulletins as issued by The Workers' Compensation Commission for reference, which bulletins, shall be redeemed at the conclusion of the examination. No other materials shall be allowed in the test center.

9.2 The Examining Committee shall hold examinations on a bi-annual basis for the certification of applicants as workers' compensation specialists. The examination shall be held at such place or places within the State of Connecticut as the SCWCC may designate. Such examination shall last for one day. However, should the number of qualified applicants be fewer than six (6), the examination will not be administered at that time, but will be administered at the next scheduled test date. If the examination is postponed, previously qualified applicants need not reapply; but shall submit such additional or updated information, references, proof of insurance, affidavits and/or additional information that the Examining Committee may require.

9.3 The examination shall be in writing. Applicants shall bring pens. Other writing materials will be furnished. Special circumstances may, with prior written approval of the non-standard testing subcommittee warrant a waiver, in whole or in part, of the requirements of this paragraph 9.3

9.4 The examination shall be composed of two parts designated Part A and Part B. There shall be a two to one ratio in the value of part B (essay) to part A (multiple choice).

- (a) The Essay Examination (Part B of the Certification Examination) consists of at least four (4) thirty (30) minute

essay type questions which are scored on a scale from 0-7. Unless otherwise instructed, these questions, are to be answered using principles of general statutory construction and general applicability. An applicant's Part B score is the sum of the scaled scores on each question.

- (b) The Multiple Choice examination (Part A of the Certification Examination) consists of at least twenty (20) multiple-choice questions each with one correct answer. An applicant's Part A score is the sum of the correct answers.

9.5 The Examining Committee shall administer and grade the examination uniformly. Scoring of the examination shall be set forth in sufficient detail in the applicant's bulletin in accordance with the provisions of section 3.5 of the procedures. A passing score on the examination shall be established in a manner generally accepted as being fair.

9.6 Failure of Applicant to Attend Examination

(a) It is the applicant's sole responsibility to make all necessary travel and other related plans in due course to arrive at the examination site at the prescribed date and time. Once the examination has commenced, there will be no admittance of late arriving applicants.

(b) Should unforeseen circumstances occur that prevent an applicant from attending the examination, the applicant shall immediately contact the current chairperson of the Examining Committee at the Connecticut Bar Association and provide the reason(s) for the applicant's inability to sit for the examination. Within 48 hours of the original examination date the applicant shall deliver to the Chairperson, or designated alternate at the Connecticut Bar Association, an "Affidavit of No-Contact" on the form appended to these Procedures. Failure to provide the affidavit within the prescribed time shall prohibit the applicant from taking the examination.

(c) Should the applicant be unable to sit for the examination due to injury or illness, and should the applicant wish to re-schedule the examination, the applicant shall be required, no later than five (5) business days after the date of the original examination, to submit to the Examining Committee a "Physicians Statement of Medical Necessity" confirming the nature and extent of the applicant's impairment caused by injury or illness using the form appended to these Procedures.

(d) At the sole discretion of the Examining Committee, the applicant may be allowed to sit for the examination at a time and place chosen by the Chairperson of the Committee. A re-testing fee of \$125.00 shall be paid by the applicant. Should the Applicant request a re-examination date within thirty (30) days of the original date, there shall be no additional test fee required.

Section 10: Development of SCWCC Recommendation on Individual Certification

10.1 The Chair of the Examining Committee will advise the SCWCC of those names representing individuals who successfully passed the examination and those individuals who were unsuccessful. The recommendation is transmitted in a written report to the SCWCC Chair within the time guidelines outlined in section 8 of these Procedures.

10.2 (a) The SCWCC Chair shall notify each Applicant of a pass or fail status on the examination. Any applicant who fails shall be notified of the examination results and of their appeal rights by certified mail.

(b) Any applicant who has satisfied all requirements for certification, but has failed the written examination, may elect to take the examination the next time it is offered. In any such case, the usual application fee shall be waived. The applicant shall be required to pay the examination fee. In addition, the applicant shall only be required to provide updated information concerning continuing legal education activities and to affirm all other information on the original application.

(c) Within fifteen days of the mailing of the notice from the chair of the SCWCC that the applicant has failed the written examination, the applicant may review a copy of his examination at the office of the Connecticut Bar Association at a time designated by the Staff Advisor. The applicant shall not remove the examination from the Bar's office.

(d) If, after reviewing the examination, the applicant believes that an error or errors were made in the grading, he may file an appeal in accordance with the provisions of Section 9 of the Standards.

10.3 The Staff Advisor shall forward the appropriate certificate to all successful Applicants. The Staff Advisor shall retain and file a copy of the certificate by serial number assigned. No individual can use the wording "board certified workers' compensation specialist" without having been issued a serialized certificate.

Section 11: Schedule of Fees and Annual Reporting Requirements¹

11.1	Pre-Application Fee	\$ 50.00
	Application Fee	\$250.00
	Examination Fee	\$250.00
	Annual Fee	\$150.00
	(Except in last year of any certification period)	
	Re-certification Fee	\$250.00
	LATE FEE	\$ 50.00

11.2 If the Applicant has paid the \$50.00 pre-application fee to receive the application and then files a formal application, the \$50.00 shall be deducted from the application fee. In all other cases the fee is non-refundable.

11.3 The non-refundable pre-application fee accompanies the "Notice of Intent to Apply" form which Applicants must file prior to receiving an application package.

11.4 The application fee is paid at the time of filing of the formal application. Fifty percent (50%) of this fee will be refunded should the Applicant withdraw his or her application prior to examination or should the application be deemed to have lapsed in accordance with the provisions of Section 7.3 of the Procedures.

11.5 (a) An annual fee of \$150 shall be assessed against any lawyer who has been certified. The first annual fee is due on January first of the year following the issuance of the certificate. Thereafter the fee is due annually, in January, except for the calendar year during which the attorney's certification or re-certification will expire, when no annual fee is due.

(b) The staff advisor shall send a form annually to each certified attorney requesting:

- (1)** The attorney's continuing legal education data since the attorney's last reporting;
- (2)** An affidavit reporting any grievances filed against the attorney and any disciplinary action taken against the attorney, including any sanctions, discipline or conditions imposed;
- (3)** An affidavit reporting any malpractice actions brought against the attorney;
- (4)** A properly executed Certificate of Insurance confirming the existence of a professional liability insurance policy issued by a licensed liability insurance company authorized to insure such risks in the State of Connecticut with minimum

¹ This revision modifies the subject heading of this section to be consistent with the contents of the section..

coverage of \$300,000.00 per claim, and in the aggregate;
and

- (5) Any other information the Committee may require to insure that the certified attorney continues to satisfy all of the requirements for certification .

One purpose of this form is to help attorneys who will be applying for recertification to keep track of their continuing legal education activities. The certified attorney shall return the completed form with the \$150 annual fee. If the certified attorney does not file the form in a timely manner, the Standing Committee may assess a late fee of \$50.00 and notify the attorney that his or her certification shall be suspended unless the fee and form is properly filed within thirty (30) days of receipt of the notification.

Section 12: Amendments

12.1 The SCWCC may recommend revising or amending the Procedures by a majority vote of those members then in attendance at a regular meeting duly called. SCWCC shall report any such proposed revision or amendment to the Legal Specialization Screening Committee in accordance with section 3.2 of the Rules.

Rules

Section 1: Purpose and Definitions

1.1 Purpose: These Rules are intended to implement the Standards and Procedures by which the SCWCC certifies or re-certifies specialists in workers' compensation and suspends such certifications. These Rules should be read and interpreted in conjunction with the Standards and Procedures.

Section 2: Certification Process

2.1 The process of certifying and re-certifying Workers' Compensation specialists will proceed as specified in the Procedures, as amended from time to time. The Applicant will be measured against the requirements of the Standards and compliance with the Rules and Procedures, as may be amended.

Section 3: Reporting

3.1 SCWCC shall be responsible for reporting in writing to the Legal Specialization Screening Committee by July 1 of each calendar year a report describing the current status of the certification program including the names and current addresses of lawyers certified or re-certified as workers' compensation specialists.

3.2 THE SCWCC shall report to the Legal Specialization Screening Committee c/o Director of Legal Services any proposed changes in the Standards, Rules, or Procedures for certification or re-certification at least sixty (60) days before they would become effective.

Section 4: Communication of Certification

4.1 Upon certification or re-certification and after receipt of a serialized certificate issued pursuant to section 10.3 of the Procedures as a specialist in the area of workers' compensation, a lawyer may state that s/he is a "Board Certified Workers' Compensation Specialist" pursuant to Rule 7.4A of the Rules of Professional Conduct.

Section 5: Disclosure Of Information

All materials and information received or used by the SCWCC in connection with the certification process, including, but not limited to, the application form and statements of reference, shall be confidential and shall not be subject to disclosure to any person, including the applicant. The applicant agrees to this by the waiver signed on the application form.

Section 6: Conflict of Interest

6.1 General Guidelines

- (a) A person with a conflict of interest must be disqualified from any involvement in any certification matter being considered.
- (b) It is the duty of any person involved in the certification process to disclose any present or previous affiliation that might lead to the appearance of a conflict of interest.

6.2 Guidelines for SCWCC and Examining Committee members

- (a) Members of SCWCC and Examining Committee have significant responsibility in the process of certification and re-certification of lawyers and serve a vital and important function on behalf of the legal profession. It is essential to the fair and effective functioning of the certification and re-certification process and to the maintenance of public and professional respect for the system and those who act in it to act impartially and to avoid even the appearance of impropriety.
- (b) A member or former member of either the SCWCC or Examining Committee is disqualified from sitting for any examination for a period of one year after the expiration of his term or after his resignation from the committee.

Section 7: Non-compliance with Rules or Procedures

7.1 An Applicant for certification or re-certification or any current holder of a serialized certificate of certification granted by SCWCC who does not comply with the Standards, Rules or Procedures may be denied certification or re-certification or may have his or her certification suspended. In addition, non-compliance with the Procedures or deadlines set out in the Procedures may cause a delay in the disposition of an application for certification or re-certification.

Section 8: Written Examination

8.1 SCWCC shall insure that each written examination:

- (a) substantially consists of questions not previously used on other examinations;
- (b) has a pass/fail criteria established in a manner that is generally accepted as being fair;

- (c) is reliable and valid. Reliability is the consistency or replicability of test results. Validity requires that the content and emphasis of the examination proportionately reflects the knowledge and skills needed for an enhanced level of skill and expertise in workers' compensation;
- (d) is periodically reviewed to ensure relevance to knowledge and skills needed in workers' compensation as the law and practice methods develop over time; and
- (e) is the subject of appropriate measures to protect the security of all examinations.

Section 9: Indemnification and Hold Harmless

9.1 An Applicant for certification or re-certification agrees to hold and save the Connecticut Bar Association, SCWCC, its volunteers, officers, agents and employees harmless from any liability or damage of any kind claimed brought by the Applicant for any activity relating to the certification process.

Section 10: Amendments

10.1 The SCWCC may recommend revising or amending the Rules by a majority vote of those members then in attendance at a regular meeting duly called. SCWCC shall report any such proposed revision or amendment to the Legal Specialization Screening Committee in accordance with section 3.2 of these Rules.

AFFIDAVIT OF NO-CONTACT

The undersigned, being duly sworn, subject to the penalties of perjury and false statement, makes oath to the truth of the following:

1) That I was unable to attend the examination for Certification as a Specialist in Workers' Compensation on _____ due to unforeseen occurrences beyond my control.

2) That such circumstances were:

3) That I represent, promise and covenant:

- a) that I have not engaged in any oral or written discussion, correspondence or other contact with any individual who took or administered the examination;
- b) that I have no knowledge of the content of the examination; and
- c) that I will not engage in any oral or written discussion, correspondence or other contact with any individual who took or administered the examination in the future.

4) That I understand, acknowledge and agree that any breach of this no-contact affidavit, as determined in the sole discretion of the Examining Committee, shall prevent me from sitting for this or any future examination; and that any such breach shall be reported to the Statewide Grievance Committee.

Signature: _____

Date: _____

OATH AND AFFIRMATION

STATE OF CONNECTICUT }

ss. _____

CONTY OF _____ }

Before me personally appeared _____ known or satisfactorily proven to me to be the person described herein and who, having been duly sworn, made oath or affirmation to the truth of the aforesaid facts, representations and promises; and executed the foregoing instrument as his or her free act and deed, having read, accepted, understood and affirmed the truth of the foregoing affidavit.

In witness wherefore, I have hereto set my hand and official seal on this _____ day of _____, 200 .

Notary Public/Commissioner of Superior Court
My Commission Expires: _____

PHYSICIAN'S STATEMENT OF MEDICAL NECESSITY

Patient's Name: _____ Address: _____
Date of Birth: _____
Date of Issuance: _____

I hereby certify and confirm, based upon a timely physical examination and evaluation of the patient identified above, that this person was unable to attend and complete an eight hour written examination on _____ due to injury or illness.

The nature of the injury or illness that prevented his/her attendance was:

I further certify that this person has recovered to the extent that he/she will be able to attend and complete an eight hour written examination on or after _____.

List here any special medical requirements that you feel will be necessary for the patient to be able to sit for an eight (8) hour written examination:

Date of Onset of Injury/Illness: _____

ICD-9 Code(s):

Date of each exam/evaluation personally performed: _____

Date of Recovery from Injury/Illness: _____

I hereby certify that the medical necessity information stated above is true, accurate and complete to the best of my knowledge and belief.

Physician's Name (print): _____
Address: _____
Telephone Number: _____

Physician's Signature: _____ Date: _____