

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 04 - **9190**

**ORDER OF THE COURT APPROVING AMENDMENTS TO THE
ATTORNEY STANDARDS FOR CERTIFICATION OF THE
TEXAS BOARD OF LEGAL SPECIALIZATION**

After conducting a Public Hearing on proposed changes to the Attorney Standards for Certification in Estate Planning and Probate Law, the Texas Board of Legal Specialization approved the following amendments on December 10, 2003, and it appears to this Court that these Standards will advance the administration of justice.

IT IS THEREFORE ORDERED that the Attorney Standards for Certification be amended to read:

**PART II -- SPECIFIC AREA REQUIREMENTS FOR ESTATE PLANNING AND
PROBATE LAW
SECTION I -- SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE**

- A. Definition. The practice of estate planning and probate law means practice within the area of law involving the Texas Probate Code, the Internal Revenue Code and other federal, state and local statutes and interpretive material in connection with matters in which issues of estate planning and probate are significant factors. The practice of estate planning and probate law includes, but is not limited to,
1. consulting with clients and giving advice regarding estate planning, probate and guardianship law;
 2. analyzing, planning and making recommendations for the conservation and disposition of clients' estates in accordance with the clients' expressed desires, including tax effects and consequences;
 3. drafting legal instruments to effectuate the clients' estate plans, e.g., wills, trusts and other legal documents;
 4. representing clients before courts which hear and decide cases involving decedent's estates and guardianships;
 5. representing clients by litigating contested probate and guardianship issues in trial and appellate courts;
 6. representing clients in cases before the Internal Revenue Service and other taxing authorities and courts with respect to proposed, completed and ongoing

- transactions and other matters involving tax issues which are related to estate planning and probate law; and
7. representing clients in the administrative appeal and litigation of tax issues involving transfers of assets during lifetime and at death.

For the specific area requirements please refer to the sections below.

B. Substantial Involvement for Certification

Certification applicants must show substantial involvement and special competence in estate planning and probate law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

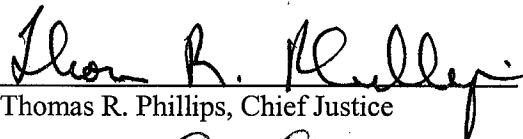
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing estate planning and probate law as defined in Section I,A of the Specific Area Requirements for Estate Planning and Probate Law.
2. Certification applicants must show their substantial involvement and special competence in estate planning and probate law during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS regarding both of the following categories. This requires an adequate involvement in a substantial portion of the activities described in both I,B,2,a(1-2) and I,B,2, b,(1-2).


a. **Estate Planning**


- (1) Counseled persons in estate planning, including giving advice with respect to gifts, life insurance, wills, trusts, business arrangements and agreements, and other estate planning matters.
- (2) Prepared or supervised the preparation of estate planning instruments, e.g., simple and complex wills, including provisions for testamentary trusts, marital deductions and elections; revocable and irrevocable inter vivos trusts; business planning agreements; powers of attorney and other estate planning instruments; and gift and generation-skipping transfer tax returns including representation before the Internal Revenue Service in connection with such tax returns.

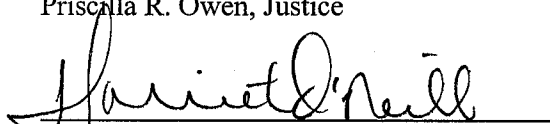
b. **Estate Administration. Handled or advised with respect to the probate and/or administration of decedents' estates and trusts, including dependent and independent administration and muniments of title, guardianships, determinations of heirships, and will and trust litigation; preparation, review or supervision of the preparation of federal estate tax returns, Texas inheritance tax returns, and U.S. Fiduciary income tax returns; and representation before the Internal Revenue Service, state taxing authorities, or the courts, in connection with such tax returns and related controversies.**

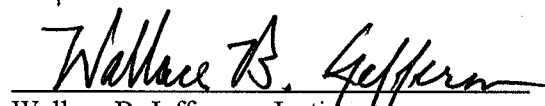
Signed this 24 day of August, 2004.

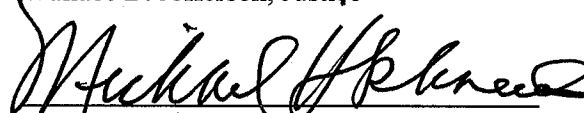

Thomas R. Phillips, Chief Justice

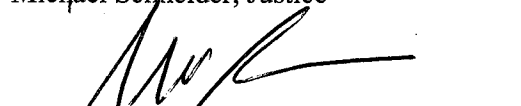

Nathan L. Hecht, Justice


Priscilla R. Owen, Justice

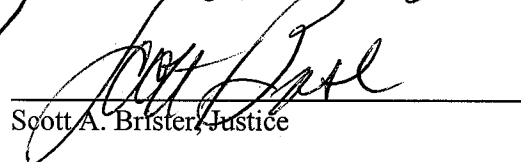

Harriet O'Neill, Justice


Wallace B. Jefferson, Justice


Michael Schneider, Justice


Steven W. Smith, Justice


J. Dale Wainwright, Justice


Scott A. Brister, Justice