

FEATURE, KIDDIE LAW IS GROWING UP BOARD CERTIFICATION IN CHILD WELFARE LAW

April/May, 2008

Reporter

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Highlight

CAREER OPPORTUNITY: Lawyers needed as experts in a new, dynamic, and rewarding legal specialty. Apply now.

Text

[*53] Few areas of the law are as personally rewarding as child welfare--that is, representing children, parents, or a government agency in cases of alleged child abuse and neglect. Few areas of the law provide a greater opportunity to make a tremendous difference in the lives of individuals. Few areas of the law are as intellectually challenging, fast developing, and dynamic as child welfare. Until recently the child welfare field was demeaned as "kiddie law"--not worthy of the intellectual and advocacy talents of the best of America's lawyers. The field is steadily being transformed, however, from a sleepy, assembly-line processing of cases to real problem solving and advocacy on behalf of children or their parents.

Although not universal, widespread dissatisfaction remains regarding the performance of lawyers in child protection and foster care cases. Virtually every critique of the child welfare system calls for improved lawyer performance and lawyer training. Typical is an American Bar Association (ABA) call for improving the quality of legal counsel for children, issued in *America's Children at Risk: A National Agenda for Legal Action* (1993): "Even when children are represented, the representation they receive is sometimes inadequate--children's cases are often 'processed' not advocated, and too frequently children's interests are poorly represented."

This dissatisfaction can provide an opportunity for lawyers interested in improving their own skills and applying them to this area. The fate of children in need of protection depends on a smooth interaction between traditional child welfare agencies and the courts. Lawyers and judges must not only know an increasingly complex body of law well, but they also must be able to draw on interdisciplinary knowledge from psychology, sociology, social work, and medicine. A sophisticated bench and bar are essential to provide children and families the justice they deserve.

A New Certification Program

Reflecting the coming of age of this field, in 2003 the ABA added "Child Welfare Law" to the list of specialty legal areas for which it formally recognizes board certification. The ABA has accredited the National Association of Counsel for Children (NACC), based in Denver, Colorado, to certify lawyers as specialists in the field. (The NACC is the nation's premier child and the law membership organization, with more than 2,000 members nationwide.) After a successful pilot program in California, Michigan, and New Mexico, the NACC certified the first Child Welfare Law Specialist in 2006.

Specialty certification, nearly universal in medicine, reflects the reality of today's complex law practice. Many if not most lawyers today specialize or limit their practice. The overarching goal of the NACC certification program is to

attract competent and committed lawyers to children's law and in that way improve the process and outcomes for children and families.

The NACC is systematically making its Child Welfare Law Specialist program available throughout the nation. State regulation of specialization varies, and the NACC obtains the necessary authorization before offering the program in a given jurisdiction. (For a listing of when certification will be available in your state, see www.naccchildlaw.org/training/documents/State_StatusChart2008QI_000.pdf. If you want to help make child welfare certification a reality in your state, contact the NACC. They will be pleased to have your help.)

The Certification Process

The official definition of the NACC Child Welfare Law Specialization is:

The practice of law representing children, parents or the government in all child protection proceedings including emergency, temporary custody, adjudication, disposition, foster care, permanency planning, [*54] termination, guardianship, and adoption. Child Welfare Law does not include representation in private child custody and adoption disputes where the state is not a party. Lawyers certified in Child Welfare Law must be knowledgeable in the state and federal laws applicable to child protection and foster care. A specialist must also understand relevant principles from child development and psychology regarding individual and family dynamics and appropriate treatment modalities for child abuse and neglect and be capable of recognizing the professional responsibility and ethical issues that arise out of the client's status. Lawyers certified as specialists in Child Welfare Law should also be proficient in the skills of interviewing and counseling child clients.

Before certifying a lawyer as a specialist, and consistent with the ABA's certification requirements, the NACC requires that the lawyer meet these standards:

1. good standing as a member of the bar in one or more states or territories of the United States;
2. substantial involvement in the field, with at least 30 percent of the lawyer's time involved in child welfare law during the three years immediately preceding application;
3. a minimum of 36 hours of continuing legal education in child welfare law in the three years preceding application for certification;
4. peer review with a minimum of five references, a majority of which are from attorneys or judges knowledgeable in child welfare law and familiar with the applicant's work; and
5. writing sample demonstrating legal analysis in the field of child welfare law.

Once an applicant satisfies these standards, he or she is authorized to sit for the final step, which is to pass a four-hour written examination in child welfare law.

To prepare applicants for the exam, the NACC has produced a book, *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Proceedings*. The book further defines the new specialty and presents the knowledge base that the applicants need to master to become certified. The "Red Book," as it is commonly known, is the study guide for the NACC examination. It describes the child welfare court process step-by-step and the role of all parties in achieving safety, permanence, and well-being for children. It includes important federal legislation and constitutional law concerning the relationship among parents, children, and the state. The book describes the role and duties of attorneys in child welfare cases--from initiating court action to reunification or termination and adoption--and how to prepare for trial, examine witnesses, present expert testimony, and make and meet objections. The NACC offers a one-day child welfare law survey course and exam preparation (The Red Book Training) at its national conference each year. The Red Book Training can be available as part of group certification in any state as well.

Certification costs \$ 600 (\$ 300 application fee and \$ 300 exam fee), plus annual dues of \$ 100. The fee includes a copy of the Red Book. Groups within a state may be eligible for group rates. An initiative to pursue certification for a

number of attorneys in a state may also be eligible for certain state or federal funds administered by the state, including court improvement funds and children's justice act funds.

Career Opportunities

According to Donald N. Duquette and Marvin Ventrell's article "Certification of Child Welfare Attorneys" (*Children's Legal Rights Journal* volume 23, 2003, page 53), there are roughly 50,000 to 75,000 lawyers involved in child welfare legal proceedings in the United States. Federal law requires that children receive an advocate in child protection cases, and parents and state agencies are nearly always represented by counsel as well. A large percentage of these lawyers spend a substantial amount of their time in child welfare and could become certified as specialists in the field. Nearly all of these lawyers are publicly supported; very few are privately retained.

At recent NACC national conferences, formal and informal surveys of children's lawyers have revealed overwhelming support [*55] for becoming certified in this field. Lawyers seem to have many reasons to support certification. Certification is seen as a means of improving the quality of performance of those who practice in the field. Improved professional competence, many believe, translates into better outcomes for children. For those who enter this field for largely altruistic reasons, better outcomes for children is a meaningful incentive.

There are more personal incentives for lawyers, too. Attorney certification brands attorneys as specialists, thereby identifying them to clients, peers, and court systems as proficient practitioners. Increasing the quality of legal representation in child welfare may raise the status and compensation of all those who specialize in the field. Interestingly, the ABA reports that over time, the lawyers who seek certification the most and gain the most from it are small firm, young, or minority lawyers who can use certification as a means of moving up in the legal profession. That profile fits a significant number of the attorneys who may be interested in this program.

Certification may be a means of preparing for the marketplace and making oneself more attractive to employers. Despite the unmet need for sophisticated child welfare lawyers, there are many lawyers who would like to specialize in child law because of the personal rewards of the profession but cannot find positions. In a practice area that needs to attract the best and brightest American lawyers, it is hard to break into the field, find that first job, and build a career in child law. Unlike other areas of the law, there are few "institutionalized slots" for child law specialists. A new lawyer wishing to concentrate in other legal specialties, such as labor law, international law, or criminal law, can find entry-level positions that allow him or her to begin climbing a ladder of professional development within the specialty, leading to higher levels of competence and compensation. A career ladder also has a natural effect of providing role models and mentors for the new professionals in the field. There are very few similar career paths for the best lawyers who wish to become sophisticated child and family legal advocates.

Another hope is that training and certification will change the culture in the field and lead to a greater emphasis on non-adversarial means of conflict resolution. A more sophisticated bar might be more sharply focused on solving children's problems quickly and developing case plans and implementing them effectively and promptly.

Employers--such as parents, child welfare agencies, or the courts who appoint counsel, as well as offices that represent children and parents--will have an incentive to seek out attorneys who are certified in the field. Many courts or potential employers will be attracted to certification as a means of ensuring the quality and expertise of a lawyer and simply improving the way children and their families are treated in the increasingly complex legal and agency foster care processes.

The NACC wants to certify only those lawyers who are truly competent as specialists. The goal is for the "branding" of the NACC certification to be understood by the courts, employers, and other consumers as equated with "added value"--credibility and effectiveness quite separate from lawyers not so qualified to claim this specialty status.

For more information on Child Welfare Law Attorney Specialty Certification, contact the NACC toll-free at 888/828-NACC, via e-mail at advocate@NACCchildlaw.org, or via its website at www.naccchildlaw.org/training/certification.html

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