

“Why In-House Corporate Counsel Should Hire a Board-Certified Lawyer” - ABA Business Law Today

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Corporate counsel is often tasked with hiring outside counsel to handle important matters for the company. Finding highly specialized and talented lawyers to match up to the issues in a given case, on short notice, can be a challenge, especially when the corporation’s “go-to counsel” may not have the level of expertise required for a given matter. In narrowing down choices, corporate counsel should consider hiring a board-certified lawyer who has already been vetted for expertise and professionalism in a specialty area.

Board certification is administered by eight national private organizations with eighteen certification programs accredited by the American Bar Association. These private certification programs include specialty areas in bankruptcy, criminal trial advocacy, patent litigation, and complex litigation. Many state bar associations also administer board certification programs. For example, Florida has the largest number of certification specialty areas, at 27, which range from marital and family law to criminal law, construction, real estate, and workers’ compensation. Texas, California, North Carolina, and other states also have robust programs. There are approximately 28,000 lawyers in the United States who are board-certified specialists.

Selecting a board-certified lawyer provides an assurance of the lawyer’s expertise. Generally, all certifying programs require a lawyer to have practiced with substantial involvement in a specialty area for at least five years and to pass a rigorous examination testing their knowledge of the law in the specialty area. A board-certified lawyer must also be vetted by their peers for professionalism and ethics through a confidential peer review process. In addition, most candidates must satisfy a continuing education requirement in a designated specialty area. Typically, board-certified lawyers must apply to be recertified every five years and through that process, must demonstrate compliance with all board certification requirements.

Board-certified lawyers pride themselves on being up-to-date on current developments and legislation that impacts their legal specialties. For example, with constantly evolving business technologies and systems, lawyers who are board certified in Privacy Law by the International Association of Privacy Professionals (IAPP) are on top of emerging privacy legislation on state and global levels. In a legal landscape where, fewer cases are actually tried to verdict, lawyers board certified in Complex Litigation by the National Board of Trial

Advocacy (NBTA) have, at a minimum, actively participated in one hundred contested matters, and NBTA lawyers board certified in Criminal Law have extensive jury trial experience and significant experience dealing with expert witnesses. Lawyers board certified in Business Bankruptcy Law by the American Board of Certification (ABC) must participate in at least thirty adversary proceedings or contested matters across a range of business areas. Thus, board-certified lawyers have focused legal acumen that is demonstrated and tested on a regular basis.

Selecting a board-certified lawyer has appeal for a number of other reasons beyond proven competency. First, board-certified lawyers have extensive experience in their jurisdiction and are familiar with local practices, the jury pool, and judges. Second, because these lawyers practice in a specific specialty area, they tend to know their colleagues on the opposing side. This type of knowledge and familiarity can be of assistance in amicably resolving disputes that could otherwise wind up in drawn-out, expensive litigation. Third, as board-certified specialists, these lawyers understand how to effectively manage the cost of litigation and can provide accurate budgets for use by **in-house counsel** when advising management. Finally, when faced with “bet the company” litigation, qualifications matter, and in-house counsel can sleep better at night knowing that board-certified counsel is capably acting in the best interest of the company.

At the very least, corporate counsel can use the board certification designation to narrow down the list of qualified candidates for consideration. On this point, corporate counsel should also consider consulting the **American Bar Association Standing Committee on Specialization’s website** for more information on board certification, specialty areas, and links to the **national private organizations with ABA-accredited certification programs** and **states that run their own certification programs** throughout the country. The ABA has been involved with board certification of lawyers for almost thirty years, and ABA accreditation is widely recognized as a valuable seal of approval for organizations conferring board certification. Additionally, the ABA has worked with states on incorporating **ABA Model Rule 7.2** (formerly 7.4) into state ethics codes, and many states permit certified specialists to publicly disclose certification without any limitation if they are certified by a program that is accredited by the ABA.

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