



Oregon

Office of Public Defense Services

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CERTIFICATE OF ATTORNEY QUALIFICATION FOR APPOINTMENT TO CAPITAL CASES

**ALL CERTIFICATES MUST BE TYPED – HANDWRITTEN
SUBMISSIONS WILL NOT BE ACCEPTED**

I. INSTRUCTIONS

By signing and submitting this certificate of attorney qualification, you are certifying that you have read the Public Defense Services Commission's [Qualification Standards for Court-Appointed Counsel to Represent Financially Eligible Persons at State Expense](#) (hereafter, *Qualification Standards*); that you meet the qualifications for the capital case types you select in Section II below; that the information you provide is true and complete; and that you agree to comply with the continuing obligations of counsel approved for appointment in capital cases described in Section VI below.

The *Qualification Standards* authorize the Office of Public Defense Services to request the detailed information sought on this form. *Qualification Standard IV(5)(A)(h)*. The questions in Section VI below correspond to the minimum qualifications for the specific case types identified there and are identified as such. In addition to providing the information requested on this form, you must also submit the attachments identified in Section VIII below. Your certification will not be considered until all requested attachments are received.

Not all attorneys who meet the minimum qualifications will be approved for the reasons set out in *Qualification Standard V(4)(A)*.

You must sign and date this certificate as provided in Section IX below.

If you have questions regarding this certificate, please contact General Counsel at the Office of Public Defense Services.

II. CERTIFICATION OF QUALIFICATION FOR:

Trial Level: lead counsel co-counsel
 Appellate level: lead counsel co-counsel
 Post-conviction: lead counsel co-counsel

III. ATTORNEY INFORMATION

Name of Attorney:
 Business Address:
 City/State/Zip:
 Office Telephone:
 Mobile Telephone:
 E-Mail Address:
 Bar Number:

IV. CAPITAL CASE EXPERIENCE

a) If you have served as defense counsel in a capital case, please provide the information requested below on the five most recent cases.

<i>Case Name</i>		<i>Dates of Representation</i>	
<i>Case #</i>	<i>Judge(s)</i>	<i>Prosecutor(s)</i>	<i>Co-Counsel</i>
<i>Any appellate decisions</i>			
<i>Role in case, Posture of case and Result of representation</i>			

<i>Case Name</i>		<i>Dates of Representation</i>	
<i>Case #</i>	<i>Judge(s)</i>	<i>Prosecutor(s)</i>	<i>Co-Counsel</i>
<i>Any appellate decisions</i>			
<i>Role in case, Posture of case and Result of representation</i>			

<i>Case Name</i>		<i>Dates of Representation</i>	
	<i>Judge(s)</i>	<i>Prosecutor(s)</i>	<i>Co-Counsel</i>
<i>Any appellate decisions</i>			
<i>Role in case, Posture of case and Result of representation</i>			

<i>Case Name</i>		<i>Dates of Representation</i>	
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<i>Any appellate decisions</i>			
<i>Role in case, Posture of case and Result of representation</i>			

<i>Case Name</i>		<i>Dates of Representation</i>	
	<i>Judge(s)</i>	<i>Prosecutor(s)</i>	<i>Co-Counsel</i>
<i>Any appellate decisions</i>			
<i>Role in case, Posture of case and Result of representation</i>			

List of other involvement with capital cases:

- i. Observation of capital trials or other capital case proceedings (include case identifying information and stages of case observed):

- ii. Other participation in the field of capital defense, including research, motion writing, non-attorney support services:

- iii. Other relevant experience:

b) References:

Attach written statements from at least three persons, including at least one judge whom you have appeared before in a legal proceeding and one attorney who is currently providing representation in capital cases, which describe why that person believes you will provide high quality representation in capital cases.

If you wish to name *additional* references who can describe your qualifications to provide high quality representation in capital cases, please do so here:

c) Legal writing samples:

Attach two samples of substantial legal writing that include an analysis of complex legal issues, preferably filed in a capital case. Writing samples should be your own written work or include a statement describing the extent of your authorship and a clear acknowledgement of any other person's authorship of any drafts, sections of the document or editorship. Writing samples that are not substantially authored by you should not be submitted.

d) Oregon State Bar MCLE Attendance Report

Attach the most recent Minimum Continuing Legal Education (MCLE) Compliance Report that you have submitted to the Oregon State Bar, and your current MCLE transcript (available at member login at osbar.org).

e) Other information relating to professional qualifications

- i) Describe the nature of your current law practice and the workload that you are currently handling:

ii) List the courts and judges you have regularly appeared before in the last two years:

iii) Have you ever been convicted of a crime in any state? If yes, provide the crime(s) of conviction, date and jurisdiction. (Do not answer yes or provide information for convictions that have been sealed or expunged.)

iv) Are there any criminal charges currently pending against you? If yes, identify the charges, the jurisdiction and the status of the proceedings.

v) Is there any complaint concerning you now pending with the Office of Client Assistance or Disciplinary Counsel of the Oregon State Bar, or otherwise pending formal charges, trial or decision in the bar disciplinary process? If so, please explain.

vi) Has the Oregon Supreme Court, Oregon State Bar or any other bar association ever found you in violation of a Disciplinary Rule or Rule of Professional Conduct, including matters resolved by stipulation or admonition? If yes, please explain.

- iv) Has a former client ever successfully obtained post-conviction relief based upon a finding that you provided inadequate or ineffective representation? If yes, please explain and cite to court order or opinion, if there is one.

V. STATEMENT OF RELEVANT PROFICIENCIES

Provide a written statement describing the extent and source of your proficiencies in the following categories (from *Qualification Standards*, section IV(5)(g)):

- a) a commitment to providing zealous advocacy and high quality representation in the defense of capital cases;
- b) substantial knowledge and understanding of the relevant state, federal, and international law, both procedural and substantive, governing capital cases;
- c) skill in the management and conduct of complex negotiations and litigation;
- d) skill in legal research, analysis, and the drafting of litigation documents;
- e) skill in oral advocacy;
- f) skill in the use of expert witnesses and familiarity with common areas of forensic investigation, including fingerprints, ballistics, forensic pathology, and DNA evidence;
- g) skill in the investigation, preparation and presentation of evidence bearing upon mental status;
- h) skill in the investigation, preparation, and presentation of mitigating evidence; [and]
- i) skill in the elements of trial advocacy, such as jury selection, cross-examination of witnesses, and opening and closing arguments[.]

If seeking approval for appointment in direct appeal cases, in addition to the above proficiencies, also describe the extent and source of your proficiency and commitment necessary for high quality representation in capital murder cases (from *Qualification Standards*, section IV(9)(C)). *Space below will expand as necessary, or attach additional pages.*

VI. MINIMUM EXPERIENCE REQUIREMENTS FOR CERTIFICATION

Complete the section below for the role to which you are certifying qualification for appointment.

a) Minimum Qualifications for Trial Lead Counsel

(i) Have you read the current version of the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, and the Supplemental Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases? *Qualification Standards*, section IV(5)(A)(a).

(ii) Have you represented clients in major felony cases for at least five years? *Qualification Standards*, section IV(5)(A)(c).

(iii) Have you served as lead counsel or co-counsel in at least five major felony cases tried to a jury, which include at least one murder case that was tried to a jury? If yes, identify the cases. *Qualification Standards*, section IV(5)(A)(d).

(iv) Have you served as lead counsel or co-counsel in a death penalty case?

(v) Have you completed comprehensive in-person training in the defense of capital cases? If yes, identify the program and date of completion. *Qualification Standards*, section IV(5)(A)(e).

(vi) Have you attended and successfully completed within the last two years at least 18 hours of specialized training on current issues in capital cases through an established training program awarding CLE credits? If yes, identify the programs and dates of attendance. *Qualification Standards*, section IV(5)(A)(f).

(vii) If you cannot answer “yes” to one of the above questions, list here or provide as an attachment any equivalent alternative skills and experience that you believe demonstrates that you will provide competent representation in capital cases. *Qualification Standards*, section IV(5)(C).

b) Minimum Qualifications for Trial Co-Counsel

(i) Have you read the current version of the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, and the Supplemental Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases? *Qualification Standards*, section IV(5)(B); *Qualification Standards*, section IV(5)(A)(a).

(ii) Have you represented clients in major felony cases for at least five years? *Qualification Standards*, section IV(5)(B); *Qualification Standards*, section IV(5)(A)(c).

(iii) Have you served as lead counsel or co-counsel in at least five major felony cases tried to a jury, which include at least one homicide case that was tried to a jury? If yes, identify the cases. *Qualification Standards*, section IV(5)(B); *Qualification Standards*, section IV(5)(A)(b).

(iv) Have you served as lead counsel or co-counsel in a death penalty case?

(v) Have you completed comprehensive in-person training in the defense of capital cases? If yes, identify the program and date of completion. *Qualification Standards*, section IV(5)(B); *Qualification Standards*, section IV(5)(A)(e).

(vi) Have you attended and successfully completed within the last two years at least 18 hours of specialized training on current issues in capital cases through an establish training program awarding CLE credits? If yes, identify the programs and dates of attendance. *Qualification Standards*, section IV(5)(B); *Qualification Standards*, section IV(5)(A)(f).

(vii) If you cannot answer “yes” to one of the above questions, list here or provide as an attachment any equivalent alternative skills and experience that you believe demonstrates that you will provide competent representation in capital cases. *Qualification Standards*, section IV(5)(C).

c) Minimum Qualifications for Appellate Counsel (lead and co-counsel)

(i) Have you read the current edition of *Criminal Law* (Oregon State Bar), *Appeal and Review* (Oregon State Bar), and the Oregon Rules of Appellate Procedure? *Qualification Standards*, section IV(9)(A).

(ii) Do you have at least three years of criminal defense experience as an active trial or appellate lawyer? If yes, describe your experience relevant to appellate practice. *Qualification Standards*, section IV(5)(B).

(iii) Number of cases within the last three years in which you served as lead counsel in the direct appeal of felony convictions in federal or state court (please identify the three most recent appeals filed):

(iv) Number of cases within the last three years in which you served as lead counsel or co-counsel in the appeal, in federal or state court, of a case(s) where a sentence of death was imposed (please identify the three most recent appeals filed):

(v) Have you attended and successfully completed within the last two years a legal training or educational program on defending capital cases at which a substantial portion of the program was directly relevant to appeals in capital cases? If yes, identify the program(s) and date(s) of attendance. *Qualification Standards*, section IV(5)(E).

(vi) Have you attended and successfully completed within the last two years a legal training or educational program on appellate advocacy in criminal cases? If yes, identify the program(s) and date(s) of attendance. *Qualification Standards*, section IV(5)(F).

(vii) If you do not meet the minimum qualifications for appointment as lead or co-counsel, list here or provide as an attachment any equivalent alternative skills and experience that you believe demonstrates that you will provide competent representation in capital case appeals. *Qualification Standards*, section IV(5)(G).

d) Minimum Qualifications for Post-Conviction Cases (lead and co-counsel)

(i) Have you read the Oregon Post-Conviction Hearing Act, ORS 138.510 – 138.686, and the Oregon State Bar’s performance standards for counsel representing petitioners in post-conviction relief proceedings and the authorities cited therein? *Qualification Standards*, section IV(11)(B).

(ii) Have you attended and successfully completed within the last two years a legal training or educational program on post-conviction relief cases? If yes, identify the program(s) and date(s) of attendance. *Qualification Standards*, section IV(11)(B).

(iii) Do you have prior experience as post-conviction counsel in at least three major felony cases? If yes, please identify the three most recent cases in which you have served. If no, please describe the extent of your prior experience and training in post-conviction cases. *Qualification Standards*, section IV(11)(C).

(iv) Do you meet the minimum qualifications for co-counsel in trial level capital cases? If yes, please complete the section 5(b) above. *Qualification Standards*, section IV(11)(D).

(iv) If you do not meet the minimum qualifications for appointment as lead or co-counsel, list here or provide as an attachment any equivalent alternative skills and experience that you believe demonstrates that you will provide competent representation in capital post-conviction relief cases. *Qualification Standards*, section IV(11)(E).

VII. CONTINUING OBLIGATIONS OF ATTORNEYS APPROVED FOR APPOINTMENT TO CAPITAL CASES

By submitting this certificate, I also certify I will comply with the continuing obligations of counsel approved for appointment in capital murder cases identified below:

- a. Fulfill the obligations and expectations of counsel described in the American Bar Association Guidelines for the Performance of Defense Counsel in Death Penalty Cases (Revised 2003), and fulfill other applicable state and national performance standards.
- b. If seeking to remain on the roster of attorneys approved for appointment to capital cases, attend and successfully complete 18 hours of specialized training on current issues in capital cases through an established training program awarding CLE credits every two years.
- c. Promptly respond to requests for information from the Office of Public Defense Services, including completion of a Capital Case Representation Plan following a new appointment to a capital case.
- d. Upon request of the Office of Public Defense Services, confer with the death penalty resource attorney under contract with the Public Defense Services Commission regarding available assistance with the representation of capital trial level, direct appeal and post-conviction cases.
- e. Preserve all documents, notes, files, physical evidence or any other items created or received in the course of the representation in an orderly and organized manner such that it can readily be made available to successor counsel, if one is appointed or retained.

VIII. ATTACHMENTS

Checklist of Required Attachments:

Legal writing sample 1

Legal writing sample 2

(include statement of authorship if not your sole work product)

At Least 3 Letters of Reference regarding qualification to serve as defense counsel in a capital case, including from at least one judge and one defense attorney who is currently providing representation in capital cases.

Copies of the most recent MCLE compliance report submitted to the Oregon State Bar and your current MCLE transcript.

IX. CERTIFICATION AND SIGNATURE

I certify that I have read the PDSC Qualification Standards and that I meet the requirements of those standards and request appointment to capital cases in the role I have selected in Section II above. I further certify that I have provided complete and accurate response above, and that I will fulfill the continuing obligations of attorneys described in Section VII above.

Signature

Date