



Certified
Certificate
Certify
Certification
Certifiable

Presented by:

Michelle Hanson, Esq.

Michael McCabe, Esq.

Dorn & Hanson, PC

Jeffrey F. Kenney, AIA

Nat'l Council for Interior

Design Qualification, Inc.

What's The Difference?

A

Education

+ Experience

+ Examination

Certificate

B

Education

+ Experience

+ Examination

+ Monitoring

Certification

What's The Difference?

A

Education

+ Experience

+ Examination

Certificate

- **One-time look at the individual**
- **No ongoing tracking**
- **Over time the public can rely less on the credential**
- **Other systems required to assure public safety**

What's The Difference?

- Limited time credential
- Must be renewed by showing ongoing competence
- Public can rely on the credential

B

Education
+ Experience
+ Examination
+ Monitoring
Certification

What's The Difference?

A

Education

+ Experience

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Certificate

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Education

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Certification

What's The Difference?

A

Certificate

**Demonstrates Exposure
to Knowledge at One
Point in Time**

B

Certification

**Demonstrates Actual
Knowledge at One
Point in Time and
Protects the Public
Continuously**

NCIDQ Story

- **Founded in 1974**
- **Examination used for licensure**
- **Examination used to satisfy personal goals**
- **Interior Design ≠ Decoration**
- **Education + Experience + Examination**
- **Certificate? Or Certification?**

Certification

- Focus on public protection
- Results from assessment process that recognizes skills, knowledge, and experience
- Indicates mastery/competency based on defensible set of standards
- Typically results in credential
- Ongoing maintenance standards

Certificate

- **Primary benefit is education to individuals**
- **Results from educational process**
- **Often awarded after completion of course or series of courses with specific focus**
- **Course content not standardized**
- **No ongoing maintenance requirements**

Federation of State Boards

- Serves state and provincial boards, whose mission is to protect public
- Provides validated exam for state and provincial boards
- Can provide other services to state boards
 - forum for communication among state boards
 - disciplinary databank
 - research policy issues and trends

Theories of Liability

- **Antitrust**
- **American With Disabilities Act**
- **Common Law Due Process**
- **Contract**
- **Negligence/Third Party Reliance**
- **Title VII (42 U.S.C. 2000 et seq.)**

Antitrust

- **Certification can be barrier to entry to employment**
- **Avoid requiring membership in a related organization as certification pre-requisite - tying claim**

Americans with Disabilities Act

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

42 USC § 12189

Common Law Due Process

- Certification boards are judged under “fairness” standard and must provide basic due process standards (*i.e.* fair and impartial procedures, use of evidence for decisions, avoid arbitrary and capricious decisions)
- Judicial nonintervention applies as long as there is (1) due process; and (2) compliance

Negligence/Third Party Reliance

- **Certification board's "control" over certificants**
- **Whether the certification board appeared to assume responsibility for ongoing review of certificants**
- **Whether the certification corporation had negligently granted certification**
- **What, if any, reliance on certification was made by the injured party and whether the reliance caused any injury**
- **Nature of injury (*i.e.* physical or purely monetary)**

Negligence/Third Party Reliance

Restatement of Torts (2d)

§311. Negligent Misrepresentation Involving Risk of Physical Harm

§324A. Liability to Third Person for Negligent Performance of Undertaking

§551. Liability for Nondisclosure

§552. Information Negligently Supplied for the Guidance of Others

Title VII

- **Federal non-discrimination law - classes:**
 - race
 - color
 - religion
 - sex
 - national origin
- **Could apply in event of claim by person denied state licensure**

Liability Discussion

- Tree Trimming Certification Board
- CUTTER credential





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