

STATE OF MINNESOTA

IN SUPREME COURT

Petition of State Board of
Law Examiners for Amendment
to the Rules for Admission
to the Bar of the State of
Minnesota

COMES NOW the State Board of Law Examiners and petitions the
Supreme Court of Minnesota to amend the Rules for Admission to the
Bar of the State of Minnesota to read as follows:

RULES FOR ADMISSION TO THE BAR

RULE I

State Board of Law Examiners

The State Board of Law Examiners shall consist of nine members who shall be appointed by the Supreme Court each for a term of three years or until his or her successor is appointed and qualifies. Two of the members shall be lay people. The terms of office may be staggered by the Court by any method it deems appropriate. From among its members the Board shall elect a president and the Supreme Court shall designate a secretary. The Board shall be charged with the duty of administering these Rules and shall have authority to make its own rules not inconsistent herewith.

RULE II

General Requirements for Admission

A. No person shall be admitted to practice law who has not established to the satisfaction of the State Board of Law Examiners:

- (1) That he or she is at least 18 years of age;

(2) That he or she is a person of good moral character;*

(3) That he or she has graduated from an approved law school;**

(4) That he or she has passed a written examination for admission to the bar of Minnesota.

B. Prior to admittance an applicant must be a resident of this state; or maintain an office in this state; or designate the Clerk of the Supreme Court as his or her agent for the service of process for all purposes.

*Character traits that are relevant to a determination of good moral character must have a rational connection with the applicant's present fitness or capacity to practice law, and accordingly must relate to the State's legitimate interest in protecting prospective clients and the system of justice.

**An approved law school is a law school that is provisionally or fully approved by the Section of Legal Education and Admissions to the Bar of the American Bar Association.

RULE III

Admission by Examination

A. Except as otherwise provided, no person shall be admitted to practice law until he or she shall have satisfactorily passed a written examination. The examination shall test the following subjects:

- Administrative Law
- Constitutional Law
- Contracts
- Criminal Law and Procedure
- Equity Jurisprudence
- Evidence
- Federal Taxation
- Legal Ethics and Attorney and Client
- Minnesota Practice and Pleading
- Negotiable Instruments
- Private Corporations
- Real Property
- Sales
- Torts
- Wills and Administration

Effective July 1, 1980, every applicant must make arrangements to take an examination on the Code of Professional Responsibility given under the auspices of the Multistate Bar Examination Committee of the National Conference of Bar Examiners and receive thereon a minimum grade as determined by the Minnesota Board of Law Examiners. After July 1, 1980, this examination will not be held in conjunction with the Minnesota bar examination nor will the subject matter be included therein.

B. Two examinations will be held each year: one in February and one in July, the exact days and place to be determined by the Board of Law Examiners.

C. An applicant who fails to pass the examination may take a re-examination at any regular examination date within the next two years. The applicant shall give the Board notice of his or her desire to take such examination on or before January 15* for the February examination and on or before June 15* for the July examination by making a new application on forms provided by the Board, accompanying the application with a fee of \$75.00 in the form of a certified check, bank draft, or money order, payable to the State Board of Law Examiners and presenting any additional information as the Board may require. An applicant who has failed three examinations shall not be permitted to take a further examination except that a fourth and final examination may be authorized by the Board of Law Examiners upon proof of adequate additional preparation therefor.

*If this date falls on a Saturday, Sunday or holiday, the deadline shall be the first working day thereafter.

RULE IV

Educational Qualifications

The educational qualifications of all applicants desiring to take the examination shall be established by evidence satisfactory to the Board showing graduation with a Bachelor of Laws, Juris Doctor or equivalent degree, within a period of four years prior to making the application, from a law school which is approved by the Section of Legal Education and Admissions to the Bar of the American Bar Association.

The four year limitation shall not apply to applicants previously admitted to practice in another jurisdiction.

RULE V

Application for Examination

A. Every person desiring permission to take the examination shall make written application to the Board in the manner prescribed by the Board. Such application shall be filed in duplicate in the office of the Director of Bar Admissions on or before November 15* for the February examination and on or before April 15* for the July examination, and shall be accompanied by:

*If this date falls on a Saturday, Sunday or holiday, the deadline shall be the first working day thereafter.

(1) A fee of \$125.00 in the form of a certified check, bank draft, or money order payable to the State Board of Law Examiners.

(2) Affidavits of at least two persons unrelated to the applicant by blood or marriage, who have known the applicant for at least one year, setting forth the duration of time, the circumstances under which they have known the applicant, details respecting the applicant's habits and general reputation, and such other information as may be proper to enable the Board to determine the moral character of the applicant.

The Board in its discretion may require any applicant to furnish at the applicant's expense a Character Investigation Report of the National Conference of Bar Examiners.

B. Every person desiring permission to take the examination shall also file or cause to be filed with the Board at least 10 days prior to the examination a certificate from an approved law school showing that such person has graduated, or that such person has officially fulfilled all requirements for graduation and will be graduated prior to the next examination. Certification for admission will not be made to the Supreme Court until such time as proof of graduation has been filed.

C. If an application is filed late, but not later than 10 days after the last day for filing a timely application, an additional late filing fee of \$25.00 shall be paid. No application shall be accepted thereafter, except upon order of the Supreme Court and any application filed pursuant to such order shall be accompanied by an additional late filing fee in the sum of \$100.00.

D. An applicant may withdraw his or her application and be refunded \$50.00 by giving notice of withdrawal to the Board. Such notice shall be in writing and must be received in the office of the Board of Law Examiners not later than four days prior to the examination. An applicant who fails to take or complete the examination shall not be entitled to any refund.

E. An applicant who is denied permission to take the examination will be refunded the sum of \$50.00 which represents the portion of the application fee charged for taking the examination.

RULE VI

Access to Examination Data

Any applicant who is unsuccessful on a bar examination shall be furnished the scores assigned to each of the various portions of the examination and may obtain copies of his or her answers to the essay questions by ordering them from the office of the Board of Law Examiners accompanying such order with a certified check, bank draft or money order payable to the State Board of Law Examiners in the sum of \$25.00. All

such orders for copies must be made within sixty days after the scores are released. The copies shall be mailed as soon as prepared to the address of the examinee as it appears in the records of the office of the Board of Law Examiners.

RULE VII

Examination - Authority of the Board

For the purpose of aiding the State Board of Law Examiners in the preparation, administration and prompt grading of bar examinations, the Board is authorized:

(a) Subject to the approval of the Supreme Court, to employ a Director of Bar Admissions on a full-time or part-time basis; to prescribe his or her duties; and to fix his or her compensation;

(b) To secure examination questions, together with analyses of the questions, from qualified law teachers outside the State of Minnesota, and to pay a reasonable compensation for such questions; and may use as a portion of the examination the Multistate Bar Examination prepared under the auspices of the National Conference of Bar Examiners;

(c) To employ from among the members of the bar of the State of Minnesota lawyers of high ability to serve as readers to grade the answers to examinations upon the basis of standards determined by the Board for each question after consultation with the Director, the reader concerned with the particular question and representatives of the approved law schools within the state;

(d) To fix the minimum satisfactory grade for success on the examination;

(e) To appoint a Review Committee whose function will be to review the examination papers of not less than the top 20 percent of the applicants who fail to achieve a passing grade on the examination. Such review shall be accomplished without prior knowledge of the grades initially assigned. An applicant shall be considered as having passed the examination if his or her final grade as determined by the Review Committee is equal to or exceeds the minimum passing grade fixed by the State Board of Law Examiners.

RULE VIII

Attorneys from Other States - How Admitted

Any attorney at law duly admitted to practice in another state, territory or the District of Columbia desiring admission to the practice of law in this state shall make written application to the Board in the manner prescribed by the Board. Such application shall be filed in duplicate in the office of the Director of Bar Admissions and shall be accompanied by the following:

A. (1) A certified copy of his or her application for admission to the bar in the state, territory or the District of Columbia in which he or she has been admitted to the practice of law.

(2) A certificate of his or her admission to the bar in said state, territory or the District of Columbia.

(3) A certificate from the proper court or body therein that he or she is in good standing and not under pending charges of misconduct.

(4) A certificate of a judge of a court of record and affidavits of two practicing attorneys of said state, territory or the District of Columbia, stating how long and under what circumstances they have known the applicant and what they know of applicant's character and his or her experience in the practice or teaching of law.

(5) (a) A fee in the amount prescribed by the provisions of Rule V hereof, or

(b) If the applicant has been admitted more than one year in such other state, territory or the District of Columbia or seeks admission under the provisions of Paragraph D. of this Rule, a fee of \$325.00 in the form of a certified check, bank draft, or money order payable to the State Board of Law Examiners, no part of which shall be refunded should the application be denied.

B. If the Board doubts the character or qualifications of the applicant it may impose such other tests as in its discretion may seem proper.

C. When an application for admission is made by a person admitted for more than one year to practice law in other states, territories or the District of Columbia the Board shall employ the National Conference of Bar Examiners to make investigation and report upon said application, and to pay a reasonable fee to said National Conference of Bar Examiners in making the investigation and report.

D. The Supreme Court may waive the Minnesota examination requirement and admit to practice law in this state any individual who has established to the satisfaction of the Board of Law Examiners:

(1) That he or she has met the requirements of Rule II (1), (2) and (3);

(2) That he or she has passed a written examination for admission and is duly admitted to practice in another state, territory or the District of Columbia;

(3) That he or she has been admitted to practice in the highest court of such other jurisdictions and has as his or her principal occupation been actively engaged in the

practice of law or has been engaged in full-time law teaching in an approved law school* or schools or a combination of both for at least five of the seven years next preceding his or her application.

(4) No person who has failed the Minnesota State Bar Examination shall be eligible for admission under the provisions of this Rule.

*An approved law school is a law school that is provisionally or fully approved by the Section of Legal Education for Admissions to the Bar of the American Bar Association.

RULE IX

Limited Practice

A. The Supreme Court may, upon certification by the Board of Law Examiners, issue a Special Temporary License to practice law in this state to any individual who has established to the satisfaction of the Board:

(1) That he or she is duly admitted to practice in another state, territory or the District of Columbia;

(2) That he or she is employed as ~~house~~ counsel by a person, firm, association, or corporation engaged in business in this state, which business does not include the selling or furnishing of legal advice or services to others, or that he or she is employed as a full-time faculty member of an approved law school of this state.

B. Any person who has been issued a Special Temporary License shall limit his or her professional activities to counseling and practice for his or her employer, and shall not offer legal services or advice to the public.

C. Application shall be made upon forms provided by the Board and shall be accompanied by the following:

(1) A certified copy of his or her application for admission to the bar in the state, territory or the District of Columbia in which he or she has been admitted to the practice of law.

(2) A certificate of his or her admission to the bar in said state, territory or the District of Columbia.

(3) A certificate that he or she is in good standing, and not under pending charges of misconduct in said state, territory or the District of Columbia.

(4) A certificate of a judge of a court of record and affidavits of two practicing attorneys of said state, territory or the District of Columbia, setting forth the

duration and the circumstances under which they have known the applicant and details respecting the applicant's character and his or her experience in the practice of law.

(5) A fee of \$325.00 in the form of a certified check, bank draft or money order payable to the order of the State Board of Law Examiners, no part of which shall be refunded should the application be denied.

(6) An affidavit from his or her employer stating that the applicant is employed by him or her as house counsel.

D. When an application for admission is made by a person under this section the Board shall employ the National Conference of Bar Examiners to make investigation and report upon said application, and pay a reasonable fee for such services.

RULE X

Hearings Before Board and Review by Court

Before the Board shall deny an application for permission to take the bar examination upon the ground that the applicant has not established his or her good moral character as required by Rule II, it shall give the applicant an opportunity to appear and answer questions of the Board and to make such explanation as he or she may choose.

If the Board denies an application it shall so notify the applicant by certified mail directed to him or her at the mailing address appearing in his or her application, specifying the grounds of its determination. Within ten days of his or her receipt of such notification the applicant may, by written request directed to the Board at the office of the Director of Bar Admissions, demand a formal hearing. The hearing may, at the discretion of the Board, be held before the Board or before a hearing examiner appointed by the Board to conduct the hearing.

At least thirty days prior to the hearing the Board shall notify the applicant of the time and place thereof, and that he or she may be represented by counsel and present such witnesses as he or she may choose. Similar notice shall be given the President of the Minnesota State Bar Association and any other person or organization who or which, in the judgment of the Board, may be aggrieved by its determination. The Board may require ten days written notice of intention to participate in the hearing of all parties aggrieved.

Upon the conclusion of such hearing the Board shall prepare and file with the Clerk of the Supreme Court of the State of Minnesota its findings of fact, conclusions of law and determination. A copy of the findings of fact and decision shall be served upon the applicant and all parties to the proceedings. Service upon the applicant shall be made in the same manner as service of the summons in a civil

action. Service upon all other parties shall be by registered or certified mail with return receipt requested.

The applicant may appeal to the Supreme Court from any adverse decision of the Board by serving upon and filing with the Director of Bar Admissions and filing in the office of the Clerk of the Supreme Court of the State of Minnesota, within twenty days of receipt by the applicant of the findings, conclusions of law and decision of the Board, a petition for review. The procedure upon the filing of such a petition shall conform to the Rules of this Court, so far as applicable, for review of charges of the Lawyers Professional Responsibility Board. The Board of Law Examiners may employ counsel to present evidence and argument relating to the issues raised by the petition for review in the same manner, within the same times and to the same extent as the Director of Lawyers Professional Responsibility in proceedings pursuant to the Rules of this Court on Professional Responsibility may do.

RULE XI

Additional Investigation of Applicants

As to any and all persons who apply to take the examination, or who apply for admission without examination, the Board may make such further inquiry and investigation, and require such further evidence regarding moral character and educational qualifications as it deems proper. In obtaining the required or desired information, the Board will obtain the aid of the officers of or committees of bar associations whenever available.

RULE XII

Appeal to the Supreme Court

Any applicant who is adversely affected by any final decision of the Board of Law Examiners or by the provisions of any of these Rules, may appeal to the Supreme Court of the State of Minnesota by serving upon and filing a petition for review with the Director of Bar Admissions and in the office of the Clerk of the Supreme Court of the State of Minnesota within 20 days of receipt by the applicant of such final decision of the Board or adverse effect of the provisions of any of these Rules.

RULE XIII

State Bar Advisory Council

The State Bar Advisory Council shall consist of the following:

(1) The chairperson of the Legal Education Committee of the Minnesota State Bar Association.

(2) A past president of the Minnesota State Bar Association, to be designated and appointed by the President of the Minnesota State Bar Association.

(3) Two members of the State Board of Law Examiners, to be designated and appointed by the Supreme Court.

(4) The deans (or representatives appointed by them) of each of the approved law schools within the State of Minnesota.

(5) The Secretary of the State Board of Law Examiners, who shall serve as the secretary of the State Bar Advisory Council.

Said Council shall consider matters of general policy concerning admission to the bar, including proposed amendments to the Rules for Admission to the Bar, and other matters either specifically referred to it or deemed worthy of consideration by it, and shall make such recommendations to the Supreme Court concerning matters under consideration as it deems advisable.

The Secretary of the State Board of Law Examiners shall call a joint meeting of the Council and the Board at least once each year. In addition thereto, the Council shall meet at such other time as it may be called together by the Supreme Court, the State Board of Law Examiners, or on its own motion.

The members of the State Bar Advisory Council shall receive no compensation by way of fees or expenses.

RULE XIV

Admission of Attorneys in Legal Services Program

A. An attorney who, after graduation from an approved law school, is admitted to practice in a court of last resort of another state or the District of Columbia and is employed by or associated with an organized legal services program providing legal assistance to indigents in civil or criminal matters or who is employed as a member of the faculty of any approved or provisionally approved law school in Minnesota, and who had practiced as a licensed attorney in a legal assistance program for a period of not less than eighteen months or if a member of the faculty of any such law school had equivalent experience and training* shall be admitted to practice before the courts of Minnesota in all causes in which he or she is associated with an organized legal services program which is sponsored, approved, or recognized by the local county bar association or such law schools. Admission to practice under this Rule shall be

*Equivalent experience and training shall be determined by the Board of Law Examiners.

limited to the above causes and shall be effective upon filing with the Clerk of this Court (1) a certificate of the court of last resort of any state certifying that the attorney is a member in good standing of the bar of that court, and (2) an affidavit by the attorney attesting to his or her full-time practice as a licensed attorney in a legal assistance program for a period of at least eighteen months, or a finding by the Board of Law Examiners that the attorney or the faculty member of such law school has had equivalent experience and training,* and (3) a statement signed by a representative of the organized legal services program or the dean of such law school that the attorney is currently associated with their program.

B. Admission to practice under this Rule shall cease to be effective whenever the attorney ceases to be associated with such program. When an attorney admitted under this Rule ceases to be so associated a statement to that effect shall be filed with the Clerk of this Court by the attorney and by a representative of the legal services program or the dean of the law school. In no event shall admission to practice under this Rule remain in effect longer than fifteen months for any individual so admitted.

C. The temporary license granted hereunder may be revoked at any time by order of this Court.

D. This Rule is applicable notwithstanding (1) any Rule of the Court governing admission to the bar which is in effect on the date this Rule becomes effective, and (2) any Rule of this Court governing admission to the bar which becomes effective after the effective date of this Rule, except a Rule which expressly refers to this Rule.

*Equivalent experience and training shall be determined by the Board of Law Examiners.

Dated: July 18, 1979

Respectfully submitted,



Richard E. Klein
Director

PROPOSED CHANGES - RULES FOR ADMISSION TO THE BAR

recommended by State Board of Law Examiners and
the State Bar Advisory Council

All references to "he" have been changed to reflect members of both sexes.

References to law degree has been expanded to include Juris Doctor as well as LL.B.

Rule I - No change

Rule II - Rewritten - residency is now subparagraph B (the responsibility in meeting residency requirements is taken by the Clerk of Supreme Court and the Board of Law Examiners no longer has to certify eligibility as to residency.)

Paragraph A (4) has been expanded by adding "for admission to the bar of Minnesota." This change was necessitated in order to clarify Rule VIII making it mandatory that anyone being admitted must have passed a written examination.

Rule III - A. Negotiable Instruments has been included in the list of subjects tested. It had been omitted in printing the Rules in 1978.

Deadlines for filing applications have been changed to alleviate the difficulty in obtaining proper facilities and to accommodate the Multi-state Bar Examination, if adopted.

A paragraph has been added to indicate the change with respect to the examination on Professional Responsibility which now will be tested by the Multistate Bar Examination Committee. This examination will be given three times a year to anyone who has completed the course on the Code of Professional Responsibility. At the present time, the proposed times for the examination will be in November, April and August so that any student will have at least four chances to pass the examination before his or her admission date.

Rule IV - No change

Rule V - The order of the paragraphs has been changed for clarity.

Deadlines for filing applications have been changed to alleviate the difficulty in obtaining proper facilities and to accommodate the Multi-state Bar Examination, if adopted.

B. - has been revised in order to clarify the requirement of the certificate of graduation.

Rule VI - No change

Rule VII - use of Multistate Bar Examination as a portion of the examination

Rule VIII - Reworded in order to clarify the meaning of the Rule.

Paragraph D (2) requires having passed a written examination.

Paragraph D (4) is added to reflect the feeling of the Board and the State Bar Advisory Council that no person who has failed the Minnesota Bar Examination should be eligible to go to another state and be admitted and then come back to apply for admission on motion. (The Court could be reminded of the case of Bruce Britton who did just this and then returned and when allowed to take the examination he was unsuccessful.)

Rule IX - reworded for clarity.

Rule X - Service changed to include "or certified mail with return receipt requested." (Considerably cheaper than registered mail.)

Rule XI - No change

Rule XII - Appeal to the Supreme Court becomes Rule XII (is new and permits appeal from the decision of the Board to the Supreme Court).

Rule XIII - was formerly Rule XII and has not been changed.

Rule XIV - was formerly Rule XIII as it was recommended for reinstatement several months ago.